

106TH CONGRESS  
1ST SESSION

# S. 1267

To require that health care providers inform their patients of certain referral fees upon the referral of the patients to clinical trials.

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## IN THE SENATE OF THE UNITED STATES

JUNE 23, 1999

Mr. SCHUMER introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To require that health care providers inform their patients of certain referral fees upon the referral of the patients to clinical trials.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Clinical Trials Disclo-  
5       sure Act of 1999”.

6       **SEC. 2. REQUIRED DISCLOSURE OF REFERRAL FEES.**

7       (a) THROUGH CONTRACTS WITH INSURERS.—

8               (1) AMENDMENT TO ERISA.—

9                       (A) IN GENERAL.—Subpart B of part 7 of  
10                       subtitle B of title I of the Employee Retirement

1           Income Security Act of 1974 (29 U.S.C. 1185  
2           et seq.) is amended by adding at the end the  
3           following new section:

4   **“SEC. 714. REQUIRED DISCLOSURE OF REFERRAL FEES.**

5           “The provisions of any contract or agreement, or the  
6   operation of any contract or agreement, between a group  
7   health plan or health insurance issuer in relation to health  
8   insurance coverage (including any partnership, associa-  
9   tion, or other organization that enters into or administers  
10   such a contract or agreement) and a health care provider  
11   (or group of providers) shall require that, if the provider  
12   refers a patient to a clinical trial, the provider shall dis-  
13   close (orally and in writing) to the patient (at the time  
14   of such referral) any payments or other compensation that  
15   the provider receives (or expects to receive) from any enti-  
16   ty in connection with such referral.”.

17           (B) CLERICAL AMENDMENT.—The table of  
18           contents in section 1 of the Employee Retire-  
19           ment Income Security Act of 1974 (29 U.S.C.  
20           1001 note) is amended by inserting after the  
21           item relating to section 713 the following new  
22           item:

“Sec. 714. Required disclosure of referral fees.”.

23           (2) AMENDMENTS TO PHSA.—

24           (A) GROUP MARKET.—Subpart 2 of part A  
25           of title XXVII of the Public Health Service Act

1 (42 U.S.C. 300gg–4 et seq.) is amended by  
 2 adding at the end the following new section:

3 **“SEC. 2707. REQUIRED DISCLOSURE OF REFERRAL FEES.**

4 “The provisions of any contract or agreement, or the  
 5 operation of any contract or agreement, between a group  
 6 health plan or health insurance issuer in relation to health  
 7 insurance coverage (including any partnership, associa-  
 8 tion, or other organization that enters into or administers  
 9 such a contract or agreement) and a health care provider  
 10 (or group of providers) shall require that, if the provider  
 11 refers a patient to a clinical trial, the provider shall dis-  
 12 close (orally and in writing) to the patient (at the time  
 13 of such referral) any payments or other compensation that  
 14 the provider receives (or expects to receive) from any enti-  
 15 ty in connection with such referral.”.

16 (B) INDIVIDUAL MARKET.—Part B of title  
 17 XXVII of the Public Health Service Act (42  
 18 U.S.C. 300gg–41 et seq.) is amended—

19 (1) by redesignating the first subpart 3 (relat-  
 20 ing to other requirements) as subpart 2; and

21 (2) by adding at the end of subpart 2 the fol-  
 22 lowing new section:

23 **“SEC. 2753. REQUIRED DISCLOSURE OF REFERRAL FEES.**

24 “The provisions of section 2707 shall apply to health  
 25 insurance coverage offered by a health insurance issuer

1 in the individual market in the same manner as they apply  
2 to health insurance coverage offered by a health insurance  
3 issuer in connection with a group health plan in the small  
4 or large group market.”.

5 (b) OTHER PROVIDERS.—A health care provider who  
6 provides services to beneficiaries under the medicare pro-  
7 gram under title XVIII of the Social Security Act (42  
8 U.S.C. 1395 et seq.) shall, with respect to any patient that  
9 such provider refers to a clinical trial, disclose (orally and  
10 in writing) to the patient (at the time of such referral)  
11 any payments or other compensation that the provider re-  
12 ceives (or expects to receive) from any entity in connection  
13 with such referral.

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