CHIP SHIELDS
STATE SENATOR
DISTRICT 22
N/NE PORTLAND
OREGON STATE LEGISLATURE

May 28, 2013

Re: SB 683A, related to health care practitioner referrals to health care entities

Colleagues,

I respectfully ask for your support of Senate Bill 683A with the <u>-13 amendment.</u> This bill, with the -13 amendment, is vitally important to protect patient choice in receiving medical services and to address current medical self-referral abuses.

As you heard in public testimony, there is a growing body of evidence of the problems with medical self-referral. This practice: 1) threatens the financial stability of many small ancillary service businesses that may offer better service and care; 2) encourages monopolistic behavior, and 3) threatens patient choice and care.

Some states like Maryland have completely banned self-referral. While the base bill brought by Epic Imaging attempted this, there were strong concerns from the Oregon Medical Association, the hospitals, and other stakeholders. The -13 amendment is a compromise that addresses stakeholders' concerns. On the patient and small business protection side, the -13 amendment still requires that all patients be notified: 1) if the practitioner has financial interest in the referred service (financial interest narrowly defined as at least 5% ownership interest in the company), and 2) that the patient has a choice in where they receive care. The -13 also prohibits denying, limiting, or pulling back a referral if a person wants to go elsewhere for services.

The -13 amendment also prohibits the Oregon Health Authority from imposing any other restrictions on referrals; excludes employed physicians in the definition of those who have financial interest; and punts the details of what the patient choice notification will look like to the rule-making committee except to say that the rules must be simple to administer and accommodate electronic recording keeping. These aspects were important to PAC West and its client, the Urology Institute, as well as the hospitals.

The -13 differs from the -12 amendment, however, in one simple but very meaningful way. The -13 ***retains the language currently in law***, which requires that notification be given both ***orally*** and in writing. The -12 removes the requirement for oral notification. It is my belief that the legislature should continue to encourage meaningful patient interaction and notification, not repeal it.

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This language is essential if we are to provide guidance to the rulemaking committee, to protect this bill from getting too watered down to become meaningless when operationalized. It is the legislative intent to keep oral disclosure about patient choice AND financial disclosure. I would also like to clarify the legislative intent of subsection 8 of the -13 amendment: page 3 line 7-15 is designed to address emergencies and it is designed to reduce redundancies and unintended inefficiencies.

a) Creates an exemption if the test or treatment is performed in the emergency room or while receiving inpatient services at a hospital
b) Reduces redundancy so that if you are referred to the same facility for a second time, you do not have to receive the disclosure again or patient choice
c) If a provider A refers to provider B, B does not also have to make the disclosure about their relationship with A or give notification, because A already made the disclosure and notification.

To be clear: a referral should NOT be taken back, denied, or limited if the patient wants to go elsewhere for services, except if they are in the emergency room or while receiving inpatient services.

Furthermore, if there are unintended consequences of the legislation, I commit to working with stakeholders on clarifying legislation in 2014. In summation, I ask that you adopt the -13 amendment and pass SB 683A to the House floor with a do-pass recommendation.

Sincerely,

Sen. Chip Shields