

1-1 By: Vo (Senate Sponsor - Johnson) H.B. No. 4454  
1-2 (In the Senate - Received from the House April 30, 2025;  
1-3 May 19, 2025, read first time and referred to Committee on Health &  
1-4 Human Services; May 23, 2025, reported favorably by the following  
1-5 vote: Yeas 9, Nays 0; May 23, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to solicitation of patients and other prohibited marketing  
1-20 practices, the establishment of the task force on patient  
1-21 solicitation, and the prosecution of certain related criminal  
1-22 offenses.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle E, Title 2, Health and Safety Code, is  
1-25 amended by adding Chapter 110 to read as follows:

1-26 CHAPTER 110. TASK FORCE ON PATIENT SOLICITATION

1-27 Sec. 110.001. DEFINITION. In this chapter, "task force"  
1-28 means the task force on patient solicitation created under this  
1-29 chapter.

1-30 Sec. 110.002. PURPOSE. The task force is established to  
1-31 study and make recommendations on preventing conduct that violates  
1-32 Chapter 164 of this code or Chapter 102, Occupations Code, and to  
1-33 improve enforcement of those chapters.

1-34 Sec. 110.003. MEMBERSHIP. (a) The task force is composed of  
1-35 eight members as follows:

1-36 (1) four members the executive commissioner appoints;  
1-37 and

1-38 (2) four members the attorney general appoints.

1-39 (b) Each task force member must have expertise in the field  
1-40 of health care or advertising.

1-41 (c) Task force members serve without compensation.

1-42 Sec. 110.004. ADMINISTRATIVE ATTACHMENT. The task force is  
1-43 administratively attached to the commission.

1-44 Sec. 110.005. ACCESS TO INFORMATION; CONFIDENTIALITY OF  
1-45 PROVIDED INFORMATION. The attorney general and the commission shall  
1-46 provide the task force with information the task force requests to  
1-47 allow the task force to fulfill its duties. Information provided  
1-48 under this section is confidential and is not subject to disclosure  
1-49 under Chapter 552, Government Code.

1-50 Sec. 110.006. REPORT. Not later than December 1 of each  
1-51 even-numbered year, the task force shall submit to the legislature  
1-52 a report that includes:

1-53 (1) a summary of civil or criminal actions brought on  
1-54 behalf of the state and administrative actions by state regulatory  
1-55 agencies in the preceding biennium for conduct that violates  
1-56 Chapter 164 of this code or Chapter 102, Occupations Code; and

1-57 (2) legislative recommendations for preventing  
1-58 conduct that violates Chapter 164 of this code or Chapter 102,  
1-59 Occupations Code, and improving enforcement of those chapters.

1-60 SECTION 2. Section 164.002, Health and Safety Code, is  
1-61 amended to read as follows:

2-1           Sec. 164.002. LEGISLATIVE PURPOSE. The purpose of this  
 2-2 chapter is to safeguard the public against fraud, deceit, and  
 2-3 misleading marketing practices and to foster and encourage  
 2-4 competition and fair dealing by mental health facilities and  
 2-5 chemical dependency [~~treatment~~] facilities by prohibiting or  
 2-6 restricting practices by which the public has been injured in  
 2-7 connection with the marketing and advertising of mental health  
 2-8 services and the admission of patients. Nothing in this chapter  
 2-9 should be construed to prohibit a mental health facility or  
 2-10 chemical dependency facility from advertising its services in a  
 2-11 general way or promoting its specialized services. However, the  
 2-12 public should be able to clearly distinguish between the marketing  
 2-13 activities of the facility and its clinical functions.

2-14           SECTION 3. Section 164.003(1), Health and Safety Code, is  
 2-15 amended to read as follows:

2-16           (1) "Advertising" or "advertise" means a solicitation  
 2-17 or inducement, through print or electronic media, including radio,  
 2-18 television, the Internet, or direct mail, to purchase the services  
 2-19 provided by a treatment facility.

2-20           SECTION 4. Section 164.006, Health and Safety Code, is  
 2-21 amended to read as follows:

2-22           Sec. 164.006. SOLICITING AND CONTRACTING WITH CERTAIN  
 2-23 REFERRAL SOURCES. A treatment facility or a person employed or  
 2-24 under contract with a treatment facility, if acting on behalf of the  
 2-25 treatment facility, may not:

2-26           (1) contact a referral source or potential client for  
 2-27 the purpose of soliciting, directly or indirectly, a referral of a  
 2-28 patient to the treatment facility without disclosing its soliciting  
 2-29 agent's, employee's, or contractor's affiliation with the treatment  
 2-30 facility;

2-31           (2) offer to provide or provide mental health or  
 2-32 chemical dependency services to a public or private school in this  
 2-33 state, on a part-time or full-time basis, or the services of any of  
 2-34 its employees or agents who make, or are in a position to make, a  
 2-35 referral, if the services are provided on an individual basis to  
 2-36 individual students or their families. Nothing herein prohibits a  
 2-37 treatment facility from:

2-38           (A) offering or providing educational programs  
 2-39 in group settings to public schools in this state if the affiliation  
 2-40 between the educational program and the treatment facility is  
 2-41 disclosed;

2-42           (B) providing counseling services to a public  
 2-43 school in this state in an emergency or crisis situation if the  
 2-44 services are provided in response to a specific request by a school;  
 2-45 provided that, under no circumstances may a student be referred to  
 2-46 the treatment facility offering the services; or

2-47           (C) entering into a contract under Section  
 2-48 464.020 with the board of trustees of a school district with a  
 2-49 disciplinary alternative education program, or with the board's  
 2-50 designee, for the provision of chemical dependency treatment  
 2-51 services;

2-52           (3) provide to an entity of state or local government,  
 2-53 on a part-time or full-time basis, the mental health or chemical  
 2-54 dependency services of any of its employees, agents, or contractors  
 2-55 who make or are in a position to make referrals unless:

2-56           (A) the treatment facility discloses to the  
 2-57 governing authority of the entity:

2-58           (i) the employee's, agent's, or  
 2-59 contractor's relationship to the facility; and

2-60           (ii) the fact that the employee, agent, or  
 2-61 contractor might make a referral, if permitted, to the facility;  
 2-62 and

2-63           (B) the employee, agent, or contractor makes a  
 2-64 referral only if:

2-65           (i) the treatment facility obtains the  
 2-66 governing authority's authorization in writing for the employee,  
 2-67 agent, or contractor to make the referrals; and

2-68           (ii) the employee, agent, or contractor  
 2-69 discloses to the prospective patient the employee's, agent's, or

3-1 contractor's relationship to the facility at initial contact; ~~[or]~~  
 3-2 (4) in relation to intervention and assessment  
 3-3 services, contract with, offer to remunerate, or remunerate a  
 3-4 person who operates an intervention and assessment service that  
 3-5 makes referrals to a treatment facility for inpatient or outpatient  
 3-6 treatment of mental illness or chemical dependency unless the  
 3-7 intervention and assessment service is:

3-8 (A) operated by a community mental health and  
 3-9 intellectual disability center the commission funds ~~[funded by the~~  
 3-10 ~~department and the Department of Aging and Disability Services]~~;

3-11 (B) operated by a county or regional medical  
 3-12 society;

3-13 (C) a qualified mental health referral service as  
 3-14 defined by Section 164.007; or

3-15 (D) owned and operated by a nonprofit or  
 3-16 not-for-profit organization offering counseling concerning family  
 3-17 violence, help for runaway children, or rape; or

3-18 (5) contract with a marketing provider who agrees to  
 3-19 provide general referrals or leads for the placement of prospective  
 3-20 patients with a service provider or in a recovery residence through  
 3-21 a call center or Internet website presence, unless the terms of that  
 3-22 contract are disclosed to the prospective patient.

3-23 SECTION 5. Section 164.010, Health and Safety Code, is  
 3-24 amended to read as follows:

3-25 Sec. 164.010. PROHIBITED ACTS. It is a violation of this  
 3-26 chapter, in connection with the marketing of mental health  
 3-27 services, for a person to:

3-28 (1) advertise, expressly or impliedly, the services of  
 3-29 a treatment facility through the use of:

3-30 (A) promises of cure or guarantees of treatment  
 3-31 results that cannot be substantiated; or

3-32 (B) any unsubstantiated claims;

3-33 (2) advertise, expressly or impliedly, the  
 3-34 availability of intervention and assessment services unless and  
 3-35 until the services are available and are provided by mental health  
 3-36 professionals licensed or certified to provide the particular  
 3-37 service;

3-38 (3) fail to disclose before soliciting a referral  
 3-39 source or prospective patient to induce a person to use the services  
 3-40 of the treatment facility an affiliation between a treatment  
 3-41 facility and its soliciting agents, employees, or contractors;

3-42 (4) obtain or disclose information considered  
 3-43 confidential by state or federal law regarding a person for the  
 3-44 purpose of soliciting that person to use the services of a treatment  
 3-45 facility unless and until consent is obtained from the person or, in  
 3-46 the case of a minor, the person's parent, managing conservator, or  
 3-47 legal guardian or another person with authority to give that  
 3-48 authorization; ~~[or]~~

3-49 (5) represent that a referral service is a qualified  
 3-50 mental health referral service unless and until the referral  
 3-51 service complies with Section 164.007;

3-52 (6) make a false or misleading statement or provide  
 3-53 false or misleading information about the treatment facility's  
 3-54 services or location in the treatment facility's advertising media  
 3-55 or on its Internet website; or

3-56 (7) provide a link on the treatment facility's  
 3-57 Internet website that redirects the user to another Internet  
 3-58 website containing false or misleading statements or information  
 3-59 described by Subdivision (6).

3-60 SECTION 6. Section 164.011(a), Health and Safety Code, is  
 3-61 amended to read as follows:

3-62 (a) If it appears that a person is in violation of this  
 3-63 chapter, the attorney general, a district attorney, or a county  
 3-64 attorney may institute an action for injunctive relief to restrain  
 3-65 the person from continuing the violation and for civil penalties of  
 3-66 not less than \$2,000 ~~[\$1,000]~~ and not more than \$25,000 per  
 3-67 violation.

3-68 SECTION 7. Section 102.001(a), Occupations Code, is amended  
 3-69 to read as follows:

4-1 (a) A person commits an offense if the person knowingly  
4-2 offers to pay or agrees to accept, directly or indirectly, overtly  
4-3 or covertly any remuneration in cash or in kind or any benefit or  
4-4 commission to or from another for securing or soliciting a patient  
4-5 or patronage for or from a person licensed, certified, or  
4-6 registered by a state health care regulatory agency.

4-7 SECTION 8. Section 102.004, Occupations Code, is amended to  
4-8 read as follows:

4-9 Sec. 102.004. APPLICABILITY TO ADVERTISING. Section  
4-10 102.001 does not prohibit advertising, unless the advertising is:

- 4-11 (1) false, misleading, or deceptive; [~~or~~]
- 4-12 (2) not readily subject to verification, if the
- 4-13 advertising claims professional superiority or the performance of a
- 4-14 professional service in a superior manner; or
- 4-15 (3) prohibited under Chapter 164, Health and Safety
- 4-16 Code, as applicable.

4-17 SECTION 9. Section 102.006(a), Occupations Code, is amended  
4-18 to read as follows:

4-19 (a) A person commits an offense if:

4-20 (1) the person, in a manner otherwise permitted under  
4-21 Section 102.001, accepts remuneration, a benefit, or a commission  
4-22 to secure or solicit a patient or patronage for a person licensed,  
4-23 certified, or registered by a state health care regulatory agency;  
4-24 and

4-25 (2) does not, at the time of initial contact and at the  
4-26 time of referral, disclose to the patient:

4-27 (A) the person's affiliation, if any, with the  
4-28 person for whom the patient is secured or solicited; and

4-29 (B) that the person will receive, directly or  
4-30 indirectly, remuneration, a benefit, or a commission for securing  
4-31 or soliciting the patient.

4-32 SECTION 10. Sections 102.051(a) and (b), Occupations Code,  
4-33 are amended to read as follows:

4-34 (a) A person commits an offense if the person:

4-35 (1) practices the art of healing with or without the  
4-36 use of medicine; and

4-37 (2) employs or agrees to employ, pays or promises to  
4-38 pay, or rewards or promises to reward or provide any benefit or  
4-39 commission to another for soliciting or securing a patient or  
4-40 patronage.

4-41 (b) A person commits an offense if the person accepts or  
4-42 agrees to accept anything of value or any benefit or commission for  
4-43 soliciting or securing a patient or patronage for a person who  
4-44 practices the art of healing with or without the use of medicine.

4-45 SECTION 11. The changes in law made by this Act apply only  
4-46 to an offense committed on or after the effective date of this Act.  
4-47 An offense committed before the effective date of this Act is  
4-48 governed by the law in effect on the date the offense was committed,  
4-49 and the former law is continued in effect for that purpose. For  
4-50 purposes of this section, an offense was committed before the  
4-51 effective date of this Act if any element of the offense occurred  
4-52 before that date.

4-53 SECTION 12. This Act takes effect September 1, 2025.

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