

AN ACT relating to solicitation of a person involved in a motor vehicle accident for healthcare services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act:

(1) "Healthcare provider" means an individual licensed by any of the following:

(a) The Kentucky Board of Medical Licensure, pursuant to KRS Chapter 311;

(b) The Kentucky Board of Chiropractic Examiners, pursuant to KRS Chapter 312;

(c) The Kentucky Board of Nursing, pursuant to KRS Chapter 314;

(d) The Kentucky Board of Physical Therapy, pursuant to KRS Chapter 327;

(e) The Kentucky Board of Occupational Therapy, pursuant to KRS Chapter 319A; or

(f) The Kentucky Board for Massage Therapy, pursuant to KRS 309.350 to 309.364;

(2) "Intermediary" means an individual, including but not limited to a telemarketer, agent, employee, or contractor, who solicits a person, on behalf of a healthcare provider, for the provision of reparation benefits, as defined by KRS 304.39-020(2);

(3) "Person" means an individual who was involved in an automobile accident; and

(4) (a) "Solicit" means the initiation of communication with a person involved in a motor vehicle accident, including but not limited to any face-to-face contact with the person, in writing, electronically, or by any form of telephonic communication, in anticipation of financial gain or remuneration for the communication itself or for prospective charges for healthcare services.

(b) "Solicit" does not mean:

1. Advertising directed to the general public;
2. Telemarketing, which is:
 - a. Taken from a general list of phone numbers;
 - b. Not targeted at motor vehicle accident victims; and
 - c. Not in violation of the state's prohibition on telephone solicitation under KRS 367.46951 to 367.46999 and 367.990; or
3. Contact between a healthcare provider and an individual with whom the healthcare provider had a preexisting provider-patient relationship.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) During the first thirty (30) days following a motor vehicle accident a healthcare provider or an intermediary, at the request or direction of a healthcare provider, shall not solicit or knowingly permit another individual to solicit a person involved in a motor vehicle accident for the provision of reparation benefits, as defined by KRS 304.39-020(2).
- (2) A healthcare provider shall not:
 - (a) Pay or receive compensation for the referral or solicitation of reparation benefits for a person involved in a motor vehicle accident;
 - (b) Provide monetary compensation or other consideration to any individual for the purpose of inducing, enticing, or directing the provision of reparation benefits for a person involved in a motor vehicle accident; or
 - (c) Contact, request, or direct an intermediary to contact, for the purpose of solicitation, a person involved in a motor vehicle accident during the first thirty (30) days following a motor vehicle accident.
- (3) A healthcare provider shall be responsible for the content of any contact, made at the direction or request of the healthcare provider, by an intermediary with a

person involved in a motor vehicle accident within the first thirty (30) days following the motor vehicle accident involving a person.

(4) Any healthcare provider having knowledge of facts, actual or direct, of a violation of this section by another healthcare provider, an intermediary, or on behalf of the healthcare provider within their scope of practice, shall report the suspected violation to the appropriate board listed in subsection (1) of Section 1 of this Act.

(5) An individual licensed or certified as a healthcare provider, who violates this section, shall be subject to the disciplinary process of the respective licensing or regulatory authority.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any charges owed by, or on behalf of, a person involved in a motor vehicle accident for health services rendered by a healthcare provider to the person, in violation of Section 2 of this Act, shall be void.

(2) Any charges billed and paid by, or on behalf of, a person of a motor vehicle accident for health services rendered by a healthcare provider to the person, in violation of Section 2 of this Act, shall be returned to the reparations obligor or other payor. The healthcare provider who violates Section 2 of this Act shall not pursue collection from the person.

➔Section 4. KRS 21A.310 is amended to read as follows:

- (1) Notwithstanding KRS 21A.160, any person violating any provision of KRS 21A.300 shall, upon conviction, be guilty of a Class A misdemeanor.
- (2) The Kentucky Supreme Court may discipline any attorney who violates any provision of KRS 21A.300.
- (3) A penalty may be imposed on an attorney pursuant to subsection (1) of this section, subsection (2) of this section, or both subsections.

~~[(4) In addition to any penalties imposed pursuant to subsections (1) and (2) of this section, the penalties provided under KRS 367.409(4)(b) and (c) shall be imposed.]~~

➔Section 5. The following KRS section is repealed:

367.409 Business solicitation following motor vehicle accident prohibited -- Exceptions
-- Penalty -- Additional sanctions by state regulating authority.