

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

Short Title: Stop Addiction Fraud Ethics Act (SAFE Act)
Sponsors: Senator Jim Burgin

A BILL TO BE ENTITLED: AN ACT ESTABLISHING THE STOP ADDICTION FRAUD ETHICS ACT (SAFE ACT) OF 2021.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Stop Addiction Fraud Ethics Act of 2021" or the "SAFE Act."

SECTION 2. Chapter 90 of the General Statutes is amended by adding a new Article to read:

Article 5H.
Stop Addiction Fraud Ethics Act.

§ 90-113.150. Definitions.

- a. Patient. – An individual who will potentially be admitted to or receive services from, or is admitted to or receiving services from, or has been admitted to or received services from a treatment provider or recovery residence.
- b. Recovery residence. – A shared living environment that is, or is intended to be, free from alcohol and illicit drug use and centered on peer support and connection to services that promote sustained recovery from substance use disorders.
- c. Referral. – A person or entity shall be considered to have made a referral if the treatment provider or operator of a recovery residence has informed a patient by any means of the name, address, or other identifying information for a licensed treatment provider or recovery residence.
- d. Treatment facility. – A facility or program that is, or is required to be, licensed, accredited, or certified to provide substance use disorder treatment services.
- e. Treatment provider. – A person or entity that is, or is required to be, licensed, accredited, or certified to provide substance use disorder treatment services. For purposes of this Article, the term includes treatment facilities.

§ 90-113.151. Patient brokering and kickbacks.

- a. It is unlawful for any person, including but not limited to any treatment provider, treatment facility, recovery residence, laboratory, or third party providing services to any of these entities, to knowingly and willfully do any of the following:
 - 1. Offer or pay anything of value, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of a patient or patronage to or from a treatment provider or laboratory.
 - 2. Solicit or receive anything of value, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring a patient or patronage to or from a treatment provider or laboratory.
 - 3. Solicit or receive anything of value, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a health care provider or health care facility.
 - 4. Aid or abet any conduct that violates subdivisions (1) through (3) of this section.
- b. This section does not apply to either of the following:
 - 1. Any discount, payment, waiver of payment, or payment practice that is expressly authorized by 42 U.S.C. § 1320a-7b(b)(3) or any regulation adopted under that statute.
 - 2. A reasonable contingency management technique or other reasonable motivational incentive that is part of the treatment provided and documented by an accredited, licensed, or certified treatment provider.
- c. Liability under this section exists regardless if a person has actual knowledge of this section or specific intent to commit a violation of this section.
- d. A person who violates this section shall be guilty of a class I felony. Each violation of this section constitutes a separate offense."

§ 90-113.152. Truth in marketing.

- a. Any marketing or advertising materials published or provided by any treatment provider, treatment facility, recovery residence, or third party providing services to any treatment provider, treatment facility, or recovery residence, shall convey accurate and complete information, in plain language that is easy to understand, and shall include all of the following:

1. Information about the types and methods of services provided or used, and information about where they are provided, using the categories of treatment and levels of care described in the American Society of Addiction Medicine, Patient Placement Criteria, Revised.
 2. The average lengths of stay at the treatment facility during the preceding twelve-month period for each of the categories of treatment and levels of care referenced in subdivision (1) of this subsection.
 3. The treatment facility's name and brand.
 4. A brief summary of any financial relationships between the treatment facility and any publisher of marketing or advertising.
- b. Each operator of a recovery residence or licensed residential treatment facility that also provides separate licensed outpatient substance use disorder services shall clearly label each facility and service separately in any marketing or advertising material published or provided by the operator and shall clearly distinguish the recovery residence or licensed residential treatment facility from the licensed outpatient substance use disorder services.
- c. It is unlawful for any treatment provider, treatment facility, recovery residence, or third party providing services to any treatment provider, treatment facility, or recovery residence, to do either of the following:
1. To make a materially false or misleading statement, or provide false or misleading information about, the nature, identity, or location of substance use disorder treatment services or a recovery residence, in advertising materials, on a call line, on an Internet Website, or in any other marketing materials.
 2. To make a false or misleading statement about the treatment provider's status as an in-network or out-of-network provider; about whether the provider accepts Medicaid payments; about the credentials, qualifications, or experience of persons providing treatment; or about the rate of recovery or success.
- d. It is unlawful for any person or entity to do any of the following:
1. To provide, or direct any other person or entity to provide, false or misleading information about the identity of, or contact information for, any treatment provider.
 2. To include false or misleading information about the Internet Website of any treatment provider, or to surreptitiously direct or redirect the reader to another Internet Website.
 3. To suggest or imply that a relationship with a treatment provider exists, unless the treatment provider has provided express, written consent to indicate such a relationship.

4. To make a materially false or misleading statement about substance use disorder treatment services.
- e. A violation of subsection (c) or (d) of this section constitutes an unfair or deceptive trade practice under G.S. 75-1.1.
- f. Any person or entity that knowingly and intentionally violates subsection (c) or (d) of this section shall be guilty of a class I felony. Each violation of subsection (c) or (d) of this section constitutes a separate offense.

SECTION 3. This act becomes effective January 1, 2022, and applies to offenses committed on or after that date.