

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2023

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HOUSE BILL 415

Committee Substitute Favorable 4/4/23

Short Title: Stop Addiction Fraud Ethics Act of 2023.

(Public)

Sponsors:

Referred to:

March 21, 2023

1 A BILL TO BE ENTITLED

2 AN ACT ESTABLISHING THE STOP ADDICTION FRAUD ETHICS (SAFE) ACT OF 2023.

3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** This act shall be known and may be cited as the "Stop Addiction Fraud  
5 Ethics Act of 2023" or the "SAFE Act of 2023."

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

8                   "Article 5H.

9                   "Stop Addiction Fraud Ethics Act.

10 **§ 90-113.150. Definitions.**

11                  The following definitions apply in this Article:

12                 (1) Patient. – An individual who will potentially be admitted to or receive services  
13                   from, or who is admitted to or receiving services from, or has been admitted  
14                   to or received services from, a treatment provider or recovery residence.

15                 (2) Recovery residence. – A shared living environment that is, or is intended to  
16                   be, free from alcohol and illicit drug use and centered on peer support and  
17                   connection to services that promote sustained recovery from substance use  
18                   disorders.

19                 (3) Referral. – A person or entity shall be considered to have made a referral if  
20                   the provider or operator of a recovery residence has informed a patient by any  
21                   means of the name, address, or other identifying information for a licensed  
22                   treatment provider or recovery residence.

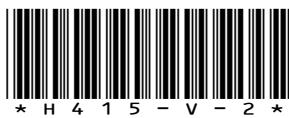
23                 (4) Treatment facility. – A facility or program that is, or is required to be, licensed,  
24                   accredited, or certified to provide substance use disorder treatment services.

25                 (5) Treatment provider. – A person or entity that is, or is required to be, licensed,  
26                   accredited, or certified to provide substance use disorder treatment services.  
27                   For purposes of this Article, the term includes treatment facilities.

28 **§ 90-113.151. Truth in marketing.**

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

33                 (1) Information about the types and methods of services provided or used, and  
34                   information about where they are provided. Treatment providers and facilities  
35                   shall also identify the categories of treatment and levels of care described in



1                   the American Society of Addiction Medicine, Patient Placement Criteria,  
2                   Revised.

3                   (2) The average lengths of stay at the residence, provider site, or facility during  
4                   the preceding 12-month period for each of the categories of treatment and  
5                   levels of care referenced in subdivision (1) of this subsection.

6                   (3) The residence, provider site, or facility's name and brand.

7                   (4) A brief summary of any financial relationships between the residence,  
8                   provider site, or facility and any publisher of marketing or advertising.

9                   (b) Each operator of a recovery residence or licensed residential treatment facility that  
10                  also provides separately licensed outpatient substance use disorder services shall clearly (i)  
11                  disclose the nature of those relationships, (ii) label each facility and service separately in any  
12                  marketing or advertising material published or provided by the operator, and (iii) distinguish the  
13                  recovery residence or licensed residential treatment facility from the licensed outpatient  
14                  substance use disorder services.

15                  (c) It is unlawful for any treatment provider, treatment facility, recovery residence, or  
16                  third party providing services to any treatment provider, treatment facility, or recovery residence  
17                  to do any of the following:

18                   (1) Make a materially false or misleading statement, or provide false or  
19                  misleading information, about the nature, identity, or location of substance use  
20                  disorder treatment services or a recovery residence in advertising materials,  
21                  on a call line, on an internet website, or in any other marketing materials.

22                   (2) Make a false or misleading statement about the following:

23                   a. The treatment provider's status as an in-network or out-of-network  
24                  provider.

25                   b. The credentials, qualifications, or experiences of persons providing  
26                  treatment or services.

27                   c. The rate of recovery or success in providing services.

28                   (d) It is unlawful for any person or entity to do any of the following:

29                   (1) To provide, or direct any other person or entity to provide, false or misleading  
30                  information about the identity of, or contact information for, any treatment  
31                  provider.

32                   (2) To include false or misleading information about the internet website of any  
33                  treatment provider, or to surreptitiously direct or redirect the reader to another  
34                  internet website.

35                   (3) To suggest or imply that a relationship with a treatment provider exists, unless  
36                  the treatment provider has provided express, written consent to indicate such  
37                  a relationship.

38                   (4) To make a materially false or misleading statement about substance use  
39                  disorder treatment services.

40                   (e) A violation of subsection (c) or (d) of this section constitutes an unfair or deceptive  
41                  trade practice under G.S. 75-1.1.

42                   (f) Any person or entity that knowingly violates subsection (c) or (d) of this section shall  
43                  be guilty of a Class G felony. Each violation of subsection (c) or (d) of this section constitutes a  
44                  separate offense.

#### **"§ 90-113.152. Patient brokering and kickbacks.**

46                   (a) It is unlawful for any person or entity, including a treatment provider, treatment  
47                  facility, recovery residence, or third party providing services to any of these persons or entities,  
48                  to do any of the following:

49                   (1) Offer or pay anything of value, directly or indirectly, in cash or in kind, or  
50                  engage in any split-fee arrangement, in any form whatsoever, to induce the  
51                  referral of a patient or patronage to or from a treatment provider or laboratory.

- 1           (2) Solicit or receive anything of value, directly or indirectly, in cash or in kind,  
2           or engage in any split-fee arrangement, in any form whatsoever, in return for  
3           referring a patient or patronage to or from a treatment provider or laboratory.  
4           (3) Solicit or receive anything of value, directly or indirectly, in cash or in kind,  
5           or engage in any split-fee arrangement, in any form whatsoever, in return for  
6           the acceptance or acknowledgment of treatment from a health care provider  
7           or health care facility.

- 8           (4) Aid or abet any conduct that violates subdivisions (1) through (3) of this  
9           subsection.

10          (b) This section does not apply to either of the following:

11           (1) Any discount, payment, waiver of payment, or payment practice that is  
12           expressly authorized by 42 U.S.C. § 1320a-7b(b)(3) or any regulation adopted  
13           under that statute.

14           (2) A reasonable contingency management technique or other reasonable  
15           motivational incentive that is part of the treatment provided by an accredited,  
16           licensed, or certified treatment provider.

17          (c) Liability under this section exists regardless of if a person has actual knowledge of  
18          this section or specific intent to commit a violation of this section.

19          (d) A person who violates this section shall be guilty of a Class G felony. Each violation  
20          of this section constitutes a separate offense.

21          **"§ 90-113.153. Exemptions.**

22          This Article does not apply to any of the following:

23           (1) A general hospital licensed under Article 5 of Chapter 131E of the General  
24           Statutes.

25           (2) A hospital authority organized under Article 2 of Chapter 131E of the General  
26           Statutes."

27          **SECTION 3.** This act becomes effective January 1, 2024, and applies to offenses  
28          committed on or after that date.