



**MEMORANDUM IN SUPPORT**  
**S.6544 Akshar/A.7689-A Rosenthal**

*Prohibits certain practices by providers of substance use disorder services*

The NYS Council, representing 100 behavioral health (mental health and substance use disorder) prevention, treatment, and recovery organizations across New York, **supports this legislation, S.6544 Akshar/A.7689-A Rosenthal**, to amend the mental hygiene law and the penal law, in relation to prohibiting the practice of substance use disorder patient brokering in New York.

This bill would “prohibit any individual, addiction professional, credentialed professional, health care provider, health care facility or substance abuse program from giving or receiving a commission, bonus, rebate, or kickback, directly or indirectly, to induce the referral of a potential service recipient in connection with the performance of substance abuse services.” In addition, the bill would expand "healthcare fraud in the fifth degree" to include an individual who knowingly and willfully gives or receives a kickback in exchange for a referral of an individual in connection with substance abuse services.

The members of the NYS Council know it is a privilege to be a trusted and integral part of a person’s recovery from addiction. Our members take this responsibility seriously, and are fully invested in, and dedicated to, the recovery of our clients, as well as their families and loved ones. Profiteering through pay-for-referral schemes is unacceptable and betrays the trust and confidence clients and families must feel in order to seek treatment. The individuals and families we serve deserve to feel confident their recovery is our first and only concern.

The opioid crisis has ravaged communities across New York State. While some individuals enter drug treatment by court order, others enter voluntarily or with the support of friends and family. Recently, numerous reports and investigations have shown that some drug treatment centers are being offered payment for patient referrals. Though not illegal, these referral-for-payment schemes raise serious ethical and quality of care issues, and patient brokers need to know this practice will not be tolerated.

Addiction treatment and recovery should not be motivated by profit. If payment is offered for a patient referral it raises the question as to whether the referral is being made because it is in the best interest of the client or because the referring organization is being remunerated. Patient health and well-being must always come first when important treatment decisions are being made, and removing the profit incentive from the referral process will help to ensure that patients are receiving the highest quality of care. While Federal law already prohibits paying for referrals for treatment covered by Medicaid, patient referrals for care covered by private insurance or paid for out-of-pocket is not similarly regulated in New York.

This bill seeks to stop the unethical patient brokering occurring throughout the state by prohibiting payment for patient referrals in drug treatments centers. It extends the prohibition to private insurers and ensures that New Yorkers and their families who are seeking treatment from New York’s substance use disorder/addiction system of care centers are working in the best interest of the patient, rather than monetary gain. **For these reasons, the NYS Council urges enactment of S.6544 Akshar/A.7689-A Rosenthal this session.**

June 11, 2018