

**SELF-REFERRAL ACT ADVISORY OPINION**  
**RE: The Therapy Network, L.C.**

On January 13, 2011, The Therapy Network, L.C. (“TTN”) submitted an application to the Board of Health Professions for an advisory opinion under the Virginia Practitioner Self-Referral Act (“Act”), Sections 54.1-2410 through 54.1-2414 of the Code of Virginia (1950), as amended (“Code”).

TTN is a Virginia limited liability company that provides professional physical therapy services to patients in the Commonwealth of Virginia. Its managing member is a physical therapist licensed by the Virginia Board of Physical Therapy. TTN proposes to enter into an arrangement with various orthopedic group practices (“Group Practice”) whereby TTN would provide all physical therapy services to patients of the Group Practice within TTN’s office, which would be leased to the Group Practice on an as-needed, non-exclusive basis. During the time that TTN is providing services to patients of the Group Practice as an independent contractor, the Group Practice would be leasing TTN’s space, staff, and equipment. The services provided by TTN would be billed by the Group Practice using the Group Practice billing number. The method by which TTN would be reimbursed for its services to Group Practice patients has not yet been determined. No Medicaid or Medicare patients of the Group Practice would be served as part of the proposed arrangement. The Group Practice would have no ownership or other controlling interest in TTN. TTN would have no ownership or other controlling interest in the Group Practice.

**VIRGINIA PRACTITIONER SELF-REFERRAL ACT**

Under the Act, a health care practitioner is prohibited from referring a patient for health services to an entity outside his or her office or group practice if he or she or any immediate

family member is an investor in such an entity, unless the Board of Health Professions grants an exception or unless certain other conditions are met. Pursuant to Section 54.1-2411(A) of the Code, if the practitioner “directly provides health services within the entity and will be personally involved with the provision of care to the referred patient,” the prohibition will not apply. The following definitions, found in Section 54.1-2410 of the Virginia Code, are pertinent to this discussion:

“Entity” means any person, partnership, firm, corporation, or other business ... that delivers health services.

“Investment interest” means the ownership or holding of an equity or debt security, including, but not limited to, shares of stock in a corporation ...

“Investor” means an individual or entity directly or indirectly possessing a legal or beneficial ownership interest, including an investment interest.

“Legal or beneficial ownership interest” is not defined by the Act. Black’s Law Dictionary defines a “legal owner,” in contrast to an equitable owner, as one who has title to property even if the title may actually carry no rights to the property other than a lien. It defines a “beneficial owner” as “one who does not have title to property but has rights in the property which are the normal incident of owning the property.”

Based on the information provided in the application, it appears that TTN will not have an investment interest in the Group Practice, nor will the Group Practice have an investment interest in TTN. In addition, neither will have any legal ownership interest in the other. Inasmuch as the Group Practice will lease TTN’s space, staff, and equipment only on a non-exclusive basis, it does not appear that it would have a beneficial ownership interest in TTN, nor would TTN have any beneficial ownership interest in the Group Practice. Accordingly, neither would be considered an investor in the other under the Act. Therefore, the Act does not apply to the proposed arrangement.