Physician self-referral involves a physician ordering a service for a patient that is performed either by that individual physician or by a facility from which the physician derives a financial benefit for the referral. Due to the inherent financial incentive to self-refer, a law was passed to restrict the practice of physician self-referral. However, the self-referral law’s in-office ancillary services (IOAS) exception allows physicians to bill Medicare for the self-referral of certain services, including radiation oncology. This exception was originally intended to facilitate the rapid diagnosis and initiation of treatment during a patient’s office visit. Over the years, however, some physicians have begun structuring business arrangements that avoid the law’s prohibitions and meet the technical requirements of the exception, but not its intent. In most cases, the patient is not aware that the referring physician is financially benefiting from the referral. One of the areas of most concern is prostate cancer treatment.

Under these arrangements, the quality of cancer care suffers.

• Practices steer patients toward the services they wish to offer, rather than those that might be best for the patient.
• Given the financial return that a urology group can realize on intensity modulated radiation therapy (IMRT), there is considerable risk that active surveillance, surgery or brachytherapy will not be thoroughly presented to the patient as possible treatment options.
• Patients who may not need treatment could be treated, putting them at unnecessary risk for side effects.

The Wall Street Journal investigated several group practices in 2010 that have used the self-referral exception to bring radiation therapy services into their offices. The article revealed two major findings:

• Urology groups that brought a radiation therapy machine into their practices had utilization rates well above national norms for IMRT treatment of prostate cancer. Moreover, the practice patterns for these groups showed dramatic utilization increases after they purchased the equipment.
• These practices treated a higher than average number of men over the age of 80 with IMRT for their low-risk prostate cancer. Experts agree that in most instances, 80+ year old men with low-risk prostate cancer do not need aggressive treatment.

In 2011, The Washington Post featured a story that exposed self-referral abuses in radiation oncology. The article quotes world-renowned Johns Hopkins urologist, Dr. Patrick Walsh as criticizing the “for-profit motive” that is affecting treatment decisions for some physicians involved in self-referral arrangements.

A Baltimore Sun article in 2012 described how a Maryland urology clinic’s prostate cancer referrals for IMRT tripled after they purchased a radiation therapy machine. As the article states, “The more patients the Baltimore-area urologists referred for that expensive therapy alternative, the more revenue and profits they would generate.”

• The Maryland data is part of a national study by Georgetown University being released in mid-2012. It is expected to show that urology practices across the country drastically increased IMRT referrals after they acquired a radiation therapy machine.

We urge Congress to end these abuses by closing the loophole that allows these arrangements. ASTRO is working to limit the use of the exception so that only robust, integrated and truly collaborative multi-specialty group practices can offer radiation therapy services through the exception.