

By: Davis

H.B. No. 3389

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of assisted living facilities and
3 referral of clients to the facilities by referral agencies;
4 authorizing a civil penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter D, Chapter 247, Health and Safety
7 Code, is amended by adding Section 247.072 to read as follows:

8 Sec. 247.072. PROHIBITED SALE OR TRANSFER OF CLIENT
9 INFORMATION. (a) In this section, "client" has the meaning
10 assigned by Section 247.151.

11 (b) An assisted living facility may not sell or transfer a
12 client's contact information to a third party without the client's
13 written consent.

14 SECTION 2. Chapter 247, Health and Safety Code, is amended
15 by adding Subchapter F to read as follows:

16 SUBCHAPTER F. REFERRAL AGENCIES

17 Sec. 247.151. DEFINITIONS. In this subchapter:

18 (1) "Client" means a prospective resident of an
19 assisted living facility or a prospective resident's
20 representative seeking assistance with entering into an
21 arrangement with the facility through a referral agency.

22 (2) "Referral agency" means a person who for
23 compensation provides client referral services to individuals or
24 assisted living facilities.

1 (3) "Referred assisted living facility" means an
2 assisted living facility to which a client of a referral agency has
3 been referred by the agency.

4 Sec. 247.152. FORM AND TERMS OF AGREEMENT. (a) An
5 agreement for referral services between a referral agency and
6 client must be in writing, dated, and signed by the client and
7 agency.

8 (b) The agreement must include:

9 (1) a statement of the client's right to terminate the
10 referral agency's services for any reason and at any time; and

11 (2) a provision requiring the referral agency to
12 communicate the cancellation of the agreement to all assisted
13 living facilities to which the agency referred the client.

14 Sec. 247.153. DISCLOSURE STATEMENT. (a) At the time a
15 client enters into an agreement for referral to an assisted living
16 facility, a referral agency shall provide a written disclosure
17 statement to the client containing:

18 (1) a statement on whether the referral agency or
19 agency personnel have a relationship with the referred assisted
20 living facility, including:

21 (A) common ownership in or control of the
22 facility; or

23 (B) a financial, business, management, or
24 familial relationship between the referral agency or agency
25 personnel and the facility;

26 (2) a statement that the referral agency receives a
27 fee from the referred assisted living facility; and

1 (3) a copy of the written agreement for services
2 between the referral agency and client.

3 (b) The client and referral agency shall sign and date the
4 disclosure statement.

5 (c) The referral agency shall provide a written or
6 electronic copy of a disclosure statement that complies with this
7 section to the referred assisted living facility on or before the
8 date the client is admitted as a resident to the facility.

9 (d) The assisted living facility shall maintain a copy of a
10 disclosure statement provided under Subsection (c) until at least
11 the first anniversary of the date the resident is admitted to the
12 facility.

13 Sec. 247.154. CLIENT REFERRAL SERVICES FEE. (a) An
14 assisted living facility to which a client of a referral agency has
15 been referred by the agency may only pay the referral agency a fee
16 for those referral services:

17 (1) after the facility receives a copy of the
18 disclosure statement required by Section 247.153(c); or

19 (2) if applicable, on or after the date on which the
20 agreement between the referral agency and client is canceled.

21 (b) A referral agency may not charge a referral services fee
22 to an assisted living facility if:

23 (1) the referral agency refers the client to the
24 assisted living facility, but the client does not select the
25 facility; or

26 (2) the referral agency does not refer the client to
27 the assisted living facility.

1 Sec. 247.155. CIVIL PENALTY. (a) A referral agency that
2 violates this subchapter is liable to this state for a civil penalty
3 not to exceed \$500 for each violation. Each day of a continuing
4 violation constitutes a separate violation.

5 (b) At the request of the commission, the attorney general
6 may bring an action in the name of the state to recover a civil
7 penalty under this section.

8 (c) A civil penalty collected under this section shall be
9 deposited in the state treasury to the credit of the general revenue
10 fund.

11 SECTION 3. The changes in law made by this Act apply only to
12 an agreement for referral services entered into on or after the
13 effective date of this Act. An agreement for referral services
14 entered into before the effective date of this Act is governed by
15 the law in effect on the date on which the agreement was entered
16 into, and the former law is continued in effect for that purpose.

17 SECTION 4. This Act takes effect September 1, 2021.