

By: Campos

H.B. No. 1867

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of referral agencies for assisted living facilities; providing a civil penalty.

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

SECTION 1. Chapter 247, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. REFERRAL AGENCIES

Sec. 247.151. DEFINITIONS. In this subchapter:

(1) "Client" means an individual seeking assistance with entering into an arrangement with an assisted living facility through a referral agency.

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

Sec. 247.152. DISCLOSURE REQUIRED. (a) A referral agency shall provide a written disclosure statement to each client before referring the client to an assisted living facility. A referral agency that only provides information to an individual is not required to provide the statement to the individual.

(b) The disclosure statement must contain the following information:

(1) the name, address, and telephone number of the referral agency;

(2) the services the referral agency provides to the

1 client;

2 (3) the fee amount the referral agency charges to the
3 client;

4 (4) the fee amount the referral agency charges to the
5 referred assisted living facility;

6 (5) the date of the most recent visit by referral
7 agency personnel to the referred assisted living facility;

8 (6) a statement on whether the referral agency or its
9 personnel have an ownership interest in the referred assisted
10 living facility;

11 (7) a statement acknowledging the client may cease
12 using the services of the referral agency without the agency
13 assessing a penalty or cancellation fee against the client;

14 (8) a statement that the client is not required to
15 enter into an agreement with the referred assisted living facility;
16 and

17 (9) lines for the client's name and the date on which
18 the referral agency provided the disclosure statement to the
19 client.

20 Sec. 247.153. INTAKE FORM. (a) A referral agency shall
21 complete a standardized intake form for each client before
22 referring the client to an assisted living facility. A referral
23 agency that only provides information to an individual is not
24 required to complete the intake form for the individual.

25 (b) The executive commissioner by rule shall prescribe a
26 standardized intake form for use under this section.

27 (c) The intake form must ask a client to provide the

1 following information regarding the client:

2 (1) recent medical history relevant to the referral
3 process;

4 (2) known medications and medication management
5 needs;

6 (3) known medical diagnosis, health concerns, and
7 reasons for seeking a referral to an assisted living facility;

8 (4) behaviors or symptoms that may cause concern or
9 require special care;

10 (5) any mental illness, dementia, or developmental
11 disability diagnosis;

12 (6) daily living assistance needs, activity
13 preferences, and sleeping habits;

14 (7) particular cultural or language access needs and
15 accommodations;

16 (8) geographic location preferences;

17 (9) any special dietary needs and food preferences;

18 (10) a description of the client's daily routine; and

19 (11) basic financial information and any available
20 long-term care insurance or financial assistance, including
21 Medicaid, that may be helpful in defining assisted living facility
22 options for the client.

23 Sec. 247.154. GENERAL FACILITY INFORMATION. (a) Before
24 referring a client to an assisted living facility, a referral
25 agency shall consult with a representative of the facility and
26 obtain the following general information:

27 (1) the type and number of the facility's license;

1 (2) whether the facility's license authorizes the
2 facility to provide care to individuals with a mental illness,
3 dementia, or a developmental disability;

4 (3) sources of payment the facility accepts, including
5 whether the facility accepts Medicaid;

6 (4) general level of medication management services
7 the facility provides;

8 (5) general level and types of personal care services
9 the facility provides;

10 (6) particular cultural needs the facility
11 accommodates or may accommodate;

12 (7) primary and secondary languages spoken by the
13 facility's care providers;

14 (8) activities the facility typically provides;

15 (9) client behavioral problems or symptoms the
16 facility is or is not equipped to address;

17 (10) food preferences and special dietary needs the
18 facility accommodates or may accommodate; and

19 (11) other available special care or services.

20 (b) A referral agency at least annually shall consult with
21 and obtain from an assisted living facility the information
22 required under Subsection (a).

23 Sec. 247.155. FACILITY VIOLATION STATUS. (a) Before
24 referring a client to an assisted living facility, a referral
25 agency shall conduct a search of the commission's Internet website
26 and inform the client in writing whether the assisted living
27 facility is listed on the website for a violation of licensing

1 requirements.

2 (b) A referral agency must conduct the search described by
3 Subsection (a) not earlier than 30 days before the date the agency
4 provides the information to the client.

5 Sec. 247.156. REFERRAL OF CLIENT TO ASSISTED LIVING
6 FACILITY. To the extent practicable, a referral agency shall refer
7 a client to an assisted living facility that appears, in the best
8 judgment of the agency, to meet the client's identified needs.

9 Sec. 247.157. CIVIL PENALTY. (a) At the request of the
10 commission, the attorney general shall bring an action to collect a
11 civil penalty from a referral agency that violates this subchapter.

12 (b) The civil penalty may not exceed \$1,000 for each
13 violation. Each day of a continuing violation constitutes a
14 separate violation.

15 Sec. 247.158. RULES. The executive commissioner may adopt
16 rules necessary to implement this subchapter.

17 SECTION 2. As soon as practicable after the effective date
18 of this Act, the executive commissioner of the Health and Human
19 Services Commission shall adopt rules necessary to implement
20 Subchapter F, Chapter 247, Health and Safety Code, as added by this
21 Act.

22 SECTION 3. This Act takes effect September 1, 2023.