

By: Middleton, et al.
(King, et al.)

S.B. No. 1383

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of referral agencies for senior living communities.

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

SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 121 to read as follows:

CHAPTER 121. REFERRAL AGENCIES FOR SENIOR LIVING COMMUNITIES

Sec. 121.001. DEFINITIONS. In this chapter:

(1) "Consumer" means an individual seeking a referral to a senior living community.

(2) "Referral agency" means an entity that provides referrals of senior living communities to consumers for a fee collected from a consumer or community. The term does not include:

(A) a senior living community or its employees;
or

(B) a resident, resident's family member, or patron of a senior living community who refers a consumer to the community regardless of any discount or other remuneration the community pays to that individual.

(3) "Senior living community" means an adult foster care facility, life care facility, assisted living facility licensed under Chapter 247, Health and Safety Code, retirement home, memory care facility, retirement village, home for the aging, or other facility that provides shelter, food, social activities,

1 or other personal services specifically for elderly individuals.

2 Sec. 121.002. REFERRAL AGENCIES; REQUIRED DISCLOSURE. (a)
3 At the time of a referral, a referral agency shall provide a
4 disclosure statement to the consumer that includes:

5 (1) a description of the referral agency's services;

6 (2) a statement on whether the consumer or the senior
7 living community to which the consumer is referred is responsible
8 for paying the referral fee; and

9 (3) a statement that the consumer may stop using the
10 referral agency at any time without cause or penalty.

11 (b) A referral agency shall provide the disclosure
12 statement described by Subsection (a) to a consumer in the form of a
13 written physical or electronic document.

14 (c) A referral agency shall consider the consumer's
15 preferences in selecting the senior living community to which the
16 agency refers the consumer, and a referral agency may not use cost
17 as the sole factor in that selection.

18 (d) A senior living community may not be required to
19 contract with or otherwise use a referral agency.

20 (e) If a consumer decides to stop using a referral agency,
21 the referral agency shall communicate the consumer's decision to
22 all senior living communities to which the referral agency has
23 referred the consumer. A consumer's decision to stop using a
24 referral agency does not affect a contractual agreement, if any,
25 between the referral agency and a senior living community.

26 Sec. 121.003. REFERRAL AGENCY PROHIBITED CONDUCT. A
27 referral agency may not:

1 (1) refer a consumer to a senior living community in
2 which the referral agency has an ownership, management, or
3 financial interest;

4 (2) hold a power of attorney for a consumer or hold a
5 consumer's property in any capacity;

6 (3) knowingly refer a consumer to a senior living
7 community that is unlicensed and is not exempt from licensing under
8 applicable law;

9 (4) collect a referral fee when a consumer transfers
10 from one property of a senior living community to another property
11 of the same senior living community unless the consumer has engaged
12 the referral agency to help facilitate the consumer's transfer to
13 another property and the referral agency provided the consumer more
14 than one referral; or

15 (5) collect a referral fee after the expiration of the
16 referral according to the contract between the referral agency and
17 the senior living community.

18 Sec. 121.004. DUTIES. A referral agency shall:

19 (1) use a nationally accredited service provider to
20 obtain criminal history record information of:

21 (A) a new employee of the referral agency who
22 will have direct contact with a consumer; and

23 (B) a referral agency employee who physically
24 enters a senior living community for the purpose of making a
25 referral to a consumer;

26 (2) maintain liability insurance coverage for
27 negligent acts or omissions by the referral agency or its

1 employees;

2 (3) audit each senior living community with respect to
3 which the referral agency provides referrals to ensure that any
4 applicable license is in good standing and maintain a record of that
5 audit;

6 (4) provide training to all referral agency employees
7 whose job responsibilities require direct contact with a consumer,
8 including training on the referral agency's code of conduct, before
9 the employee begins performing those responsibilities;

10 (5) if a referral agency refers a consumer to a senior
11 living community, notify the senior living community of the
12 referral by a written physical or electronic document that includes
13 the time and date of the referral, on or before the date the
14 consumer is admitted to the senior living community; and

15 (6) if a referral agency enters into a contract with a
16 senior living community, specify in the contract the period within
17 which the senior living community must pay the referral agency, not
18 to exceed three years after the date the referral agency provided a
19 consumer a referral to the senior living community.

20 Sec. 121.005. COMPENSATION. (a) A written contract
21 entered into between a referral agency and a senior living
22 community may provide for the compensation of a referral agency for
23 all referrals made with respect to a senior living community, and
24 the amount of compensation may be based on the volume or value of
25 referrals made by the referral agency or business generated between
26 the parties.

27 (b) Notwithstanding any other law, compensation paid to a

1 referral agency that is in compliance with this section is not
2 grounds for disciplinary action against a senior living community.

3 (c) A referral agency may not offer or enter into a contract
4 authorized under this section for compensation prohibited under 42
5 U.S.C. Section 1320a-7b or any other federal law or rule.

6 Sec. 121.006. EFFECT OF LAW. This chapter does not:

7 (1) affect the application of any other law that
8 regulates a senior living community; or

9 (2) abrogate any other defense, remedy, immunity, or
10 privilege available under the Constitution of the United States or
11 this state or as provided by any statute, case, or common law or
12 rule.

13 SECTION 2. Section 102.005, Occupations Code, is amended to
14 read as follows:

15 Sec. 102.005. APPLICABILITY TO CERTAIN ENTITIES. Section
16 102.001 does not apply to:

17 (1) a licensed insurer;

18 (2) a governmental entity, including:

19 (A) an intergovernmental risk pool established
20 under Chapter 172, Local Government Code; and

21 (B) a system as defined by Section 1601.003,
22 Insurance Code;

23 (3) a group hospital service corporation;

24 (4) a health maintenance organization that
25 reimburses, provides, offers to provide, or administers hospital,
26 medical, dental, or other health-related benefits under a health
27 benefits plan for which it is the payor; ~~or~~

(5) a health care collaborative certified under Chapter 848, Insurance Code; or

(6) a referral agency as defined by Section 121.001, Business & Commerce Code.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2025.