

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 390
103RD GENERAL ASSEMBLY

0278H.02C

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 198, RSMo, by adding thereto one new section relating to referrals to facilities that offer care or services to residents, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 198, RSMo, is amended by adding thereto one new section, to be
2 known as section 198.700, to read as follows:

198.700. 1. As used in this section, the following terms mean:

2 **(1) "Facility", an independent living facility or a long-term care facility, as those**
3 **terms are defined in this section;**

4 **(2) "Independent living facility", a communal living structure in which at least**
5 **fifty percent of the residents are fifty-five years of age or older that provides its residents**
6 **with on-site access to dining, transportation, medical care, and basic housekeeping and**
7 **laundry services and that is not licensed by the state;**

8 **(3) "Long-term care facility", any facility licensed under this chapter;**

9 **(4) "Referral agency", an individual or entity that provides referrals to a facility**
10 **for a fee that is collected from the facility. The term "referral agency" shall not include**
11 **a facility or its employees, a family member of a resident of a facility, or a resident of a**
12 **facility regardless of whether the resident who refers a prospective resident to a facility**
13 **receives a discount or other remuneration from the facility.**

14 **2. A referral agency shall disclose or provide, as applicable, to a prospective**
15 **resident or the representative of the prospective resident referred to a facility:**

16 **(1) Written or electronic documentation of the existence of any relationships**
17 **between the referral agency and the facility, including common ownership or control of**

EXPLANATION — Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 the facility and financial, business, management, or familial relationships between the
19 referral agency and the facility;

20 (2) That the referral agency receives a fee from the facility for the referral; and

21 (3) Written or electronic documentation of the agreement between the referral
22 agency and the prospective resident or representative of the prospective resident. The
23 agreement shall include:

24 (a) A detailed description of the services provided by the referral agency in
25 exchange for the fee paid by the facility;

26 (b) The right of the prospective resident or representative of the prospective
27 resident to terminate the referral agency's services for any reason at any time without a
28 fee or other penalty for such termination;

29 (c) A requirement that the referral agency communicate the cancellation of the
30 agreement to all facilities to which the prospective resident has been referred;

31 (d) The right of the prospective resident or representative of the prospective
32 resident to request not to be contacted in the future by the referral agency; and

33 (e) The right of the prospective resident or representative of the prospective
34 resident to receive the referral agency's privacy policy upon request to the referral
35 agency.

36 3. (1) The referral agency and the prospective resident or representative of the
37 prospective resident shall sign and date, in writing or electronically, the agreement
38 required in subsection 2 of this section. The referral agency shall provide a written or
39 electronic copy of the signed agreement to the facility on or before the date the resident
40 becomes an occupant of or is admitted to the facility. No referral agency shall charge a
41 fee or other penalty to any facility resulting from the termination of an agreement by a
42 prospective resident or representative of a prospective resident.

43 (2) The facility shall:

44 (a) Not pay the referral agency a fee until such facility receives the written or
45 electronic agreement required in subsection 2 of this section and the resident becomes
46 an occupant of or is admitted to the facility; and

47 (b) Not sell or transfer the prospective resident's or prospective resident's
48 representative's contact information to a third party without the written consent of the
49 prospective resident or representative of the prospective resident.

50 4. A referral agency that violates this section is subject to a civil penalty of up to
51 five hundred dollars per violation.

52 **5. The attorney general or a circuit attorney may bring a civil action on behalf of**
53 **the state to seek the imposition of a civil penalty for a violation of this section or to**
54 **enjoin the continuance of the violation by the referral agency.**

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