

SECOND REGULAR SESSION

HOUSE BILL NO. 2463

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE AMATO.

5835H.01I

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 known as section 198.700, to read as follows:

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

(1) "Facility", an independent living facility or a long-term care facility;

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

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

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

2. A referral agency shall provide to a prospective resident or the legal representative of the prospective resident referred to a facility:

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.

17 (1) Written or electronic documentation of any agreement, including any
18 agreement to terms and conditions, or acknowledgment or consent for services between
19 the referral agency and the prospective resident or legal representative of the
20 prospective resident; and

21 (2) Written or electronic disclosure of:

22 (a) Any existing relationship between the referral agency and the facility,
23 including common ownership or control of the facility and financial, business,
24 management, or familial relationships between the referral agency and the facility;

25 (b) Any fee that the referral agency receives from the facility for the referral and
26 a detailed description of the services provided by the referral agency in exchange for the
27 fee paid by the facility;

28 (c) The right of the prospective resident or legal representative of the prospective
29 resident to terminate the referral agency's services for any reason at any time without a
30 fee or other penalty for such termination and with notice of the termination provided by
31 the referral agency to all facilities to which the prospective resident has been referred;

32 (d) The right of the prospective resident or legal representative of the
33 prospective resident to request not to be contacted in the future by the referral agency
34 or any entity to which the referral agency has distributed the prospective resident's
35 information;

36 (e) The right of the prospective resident or legal representative of the prospective
37 resident to receive the referral agency's privacy policy upon request to the referral
38 agency; and

39 (f) The referral agency's possible distribution of the prospective resident's
40 information to other entities that may call and solicit the prospective resident to
41 purchase goods and services.

42 3. The referral agency and the prospective resident or legal representative of the
43 prospective resident shall sign and date, in writing or electronically, the disclosure
44 required in subdivision (2) of subsection 2 of this section. The referral agency shall
45 provide a written or electronic copy of the signed disclosure to the facility on or before
46 the date the resident becomes an occupant of or is admitted to the facility.

47 4. No referral agency shall charge a fee or other penalty to any facility resulting
48 from the termination of an agreement by a prospective resident or legal representative
49 of a prospective resident.

50 5. The facility shall:

51 (1) Not pay the referral agency a fee until such facility receives the written or
52 electronic disclosure required in subdivision (2) of subsection 2 of this section and the
53 resident becomes an occupant of or is admitted to the facility;

54 **(2) Not pay the referral agency a fee after the date on which the agreement**
55 **between the referral agency and the prospective resident or legal representative of the**
56 **prospective resident is terminated; and**

57 **(3) Not sell or transfer the prospective resident's or prospective resident's legal**
58 **representative's contact information to a third party without the written consent of the**
59 **prospective resident or legal representative of the prospective resident.**

60 **6. A referral agency that violates this section is subject to a civil penalty of up to**
61 **five hundred dollars per violation.**

62 **7. The attorney general or a circuit attorney may bring a civil action on behalf of**
63 **the state to seek the imposition of a civil penalty for a violation of this section or to**
64 **enjoin the continuance of the violation by the referral agency.**

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