

Department of Legislative Services  
Maryland General Assembly  
2020 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 966

(Senator Hettleman)

Finance

Health and Government Operations

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**Health Facilities - Assisted Living Programs - Referrals and Licenses**

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This bill requires an “assisted living referrer” to register with the Office of Health Care Quality (OHCQ) within the Maryland Department of Health (MDH) and take specified actions. The bill prohibits a person from willfully and knowingly referring another person to an assisted living program that is operating without a license. A violation is subject to a civil penalty of up to \$1,000 for a first offense, \$2,000 for a second offense, and \$3,000 for a third or subsequent offense. The Secretary of Health must remit all civil penalties collected to OHCQ to enforce these registration and referral provisions. The bill also specifies that an individual who knowingly and willfully operates, maintains, or owns an assisted living program without a license is in violation of the Maryland Consumer Protection Act (MCPA).

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**Fiscal Summary**

**State Effect:** The bill’s requirements can generally be handled with existing budgeted resources. The bill’s penalty provisions are not anticipated to have a material impact on State finances or operations.

**Local Effect:** The bill’s penalty provisions (and presumably the possible imposition of existing penalties under MCPA) are not anticipated to have a material effect on local government finances or operations.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** “Assisted living referrer” means an individual or agency that (1) makes referrals to assisted living programs without cost to the person receiving the referral and

(2) is compensated by an assisted living program or other third party for referring individuals to a licensed assisted living program.

Each assisted living referrer (1) must register with OHCQ; (2) must disclose to a client or potential client of the assisted living referrer all financial relationships the assisted living referrer has with assisted living programs; (3) must affirm that an assisted living program is licensed if referring a client or potential client; (4) may refer the client or potential client only to a licensed assisted living program if referring a client or potential client; and (5) must notify OHCQ immediately on learning that an assisted living program is operating without a license.

An assisted living referrer may not (1) receive funding from MDH if the referrer violates these requirements or (2) make referrals only to licensed assisted living programs from which the referrer receives compensation. If requested by any person or on its own initiative, the Office of Attorney General (OAG) may investigate whether an assisted living referrer violated the bill's provisions and may seek appropriate relief.

**Current Law/Background:** In Maryland, assisted living programs are licensed by OHCQ. A person may not knowingly and willfully operate, maintain, or own an assisted living program without a license. A violation is a felony subject to (1) for a first offense, a fine of up to \$10,000 and/or imprisonment for up to five years or (2) for a subsequent offense, a fine of up to \$20,000 and/or imprisonment for up to five years.

In 2020, there are 1,558 licensed assisted living programs in the State, of which 1,129 have between one and nine beds. OHCQ regularly updates an online [list](#) of licensed assisted living programs in the State.

Placement agencies may offer assistance to individuals, families, or health care facilities when an individual requires alternative living accommodations as a result of increased care needs. Currently, placement agencies are not required to be licensed or regulated and may knowingly or unknowingly recommend unlicensed assisted living programs to an individual.

#### *Maryland Consumer Protection Act*

An unfair, abusive, or deceptive trade practice under MCPA includes, among other acts, any false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. The prohibition against engaging in any unfair, abusive, or deceptive trade practice encompasses the offer for or actual sale, lease, rental, loan, or bailment of any consumer goods, consumer realty, or consumer services; the extension of consumer credit; the collection of consumer debt; or the offer for or actual purchase of

consumer goods or consumer realty from a consumer by a merchant whose business includes paying off consumer debt in connection with the purchase of any consumer goods or consumer realty from a consumer.

The Consumer Protection Division of OAG is responsible for enforcing MCPA and investigating the complaints of aggrieved consumers. The division may attempt to conciliate the matter, issue a cease and desist order, or file a civil action in court. A merchant who violates MCPA is subject to a fine of up to \$10,000 for each violation and up to \$25,000 for each repetition of the same violation. In addition to any civil penalties that may be imposed, any person who violates MCPA is guilty of a misdemeanor and, on conviction, is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 1615 (Delegate Kelly) - Rules and Executive Nominations.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland Department of Health; Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2020  
rh/jc Third Reader - March 16, 2020  
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