

SB 952/HB 1263 - Assisted Living Programs - Assisted Living Referrers - Requirements and Prohibitions - OPPOSE

A Place for Mom (“APFM”) and Caring.Com (“Caring”) oppose SB 952 and HB 1263 (Assisted Living Programs - Assisted Living Referrers - Requirements and Prohibitions) for the reasons set forth below. The information provided here explains why SB 952 and HB 1263 should not become law in Maryland.

Senior Living Referral Agencies

When seniors can no longer perform activities of daily living nor care for themselves, and their family caregivers are not in the position to provide care, the decision to move into assisted living can be complex and overwhelming. Most caregivers in the United States do not proactively prepare for a day when their aging loved ones need such assistance. This burden typically falls on the senior’s adult children.

For some families, the process to identify and transition to senior living can be long, often months and years. However, urgent life events such as falls or a dementia diagnosis can result in sudden and drastic need for care when seniors are no longer able to safely age in place at home.

Senior living referral agencies provide unmatched expertise and knowledge to both caregivers and their families, all at no cost. These agencies deliver education, information and resources aligned to families’ care, financial, location and amenity needs. Referral agencies provide practical information to allow families to objectively compare their options. The referral agencies also provide empathy and comfort so families can confidently evaluate their options and make the right decisions.

The vast majority of families who work with referral agencies say they wish they started working with the agencies earlier in the process, and that without the agencies’ guidance and advice, the family would not have the tools and information to effectively navigate the care journey.

Referral Agency Facts

National Senior Living Referral Agencies like A Place for Mom and Caring:

- **Do not charge seniors and their families for their services.** The agencies are paid by their participating, contracted community providers. These payments only occur after a senior moves into a community following the referral to that community. At no time are families charged a fee by APFM or Caring. In fact, the agencies explicitly require in their contractual agreements with the communities that a referred family will not be charged extra or treated any differently than those families that come through other channels. Senior living communities are not required to enter into agreements with APFM or Caring, and they are able to negotiate terms and conditions, reject leads, and terminate their agreement.
- **Are not biased to the communities to which they direct families.** Referral agencies’ only goal is to provide the options that meet each family’s needs. The fees that referral agencies receive are often less than 3% of the total revenue the communities generate when a senior moves in.

- **Provide expert advice and information** to seniors and their families through their extensive network of advisors, including those in Maryland. In addition to matching families to the communities that fit their needs, referral agencies provide tools and guidance on topics ranging from how to compare local communities, questions to ask when touring facilities, ways to compare and understand different fee structures of local communities, how to maximize budgets, ways to best transition a loved one to the community of choice, and much more.
- **Make significant investments** to provide extensive updated information on their websites, and, via dedicated staff, to ensure that prospective families can hear feedback from current residents via first-party reviews. Referral agencies provide extensive training for their advisors who typically spend anywhere from 30 minutes to several hours talking to families, all at no cost to the families. In addition, as the majority of senior living communities are not national in nature, referral agencies provide useful and educational advertising for the entire industry so that caregivers are aware of how to objectively compare options, despite the relative absence of national benchmarks.
- **Are non-exclusive** so seniors and their families looking for a community may engage multiple referral agencies and choose any option – or none at all – without having to review, negotiate, execute or terminate a contract.
- **Manage a national network of assisted living communities** to help find the best place for the senior based on a number of factors. Referral agencies take much of the guesswork out of choosing a community by fully vetting all their partner communities, auditing licenses, and managing the family review process.
- **Refer a senior to an average of about four assisted living communities** and do not share any of a senior’s information with an assisted living community until the family consents to the sharing of their information. Without referral agencies, many families would not be able to quickly and effectively compare options, which leaves them vulnerable to not negotiating the best price or identifying the best community.
- **Have a mission to enable caregivers to make the best senior care decisions.** These agencies help hundreds of thousands of families a year navigate through this crucial and complex process, all at no cost to the family.

Many Maryland families like the ones below have already benefited from APFM and Caring’s services. These time-intensive and valuable services are provided free of charge to seniors and their families, but the full value and impact of these services can only benefit Maryland seniors if SB 952 and HB 1263 are not enacted.

Family Testimonials

“I cannot begin to thank YOU for all you've done. You went above and beyond the call of duty in helping me get over the finish line.”

– Family Caregiver, Bowie Maryland

"I just wanted to send a note to share the wonderful experience I had working with my advisor regarding my father's placement in assisted living. I spoke with my advisor first when I was in a place of crisis and her calm, knowledgeable and empathic approach put me at ease instantly. She worked quickly and thoroughly to suggest informed options, provide seasoned guidance that saved me time and money, and followed up regularly until my Dad was safely placed and settled into a great group home. A Place for Mom is an invaluable service and I am indebted to the service for helping me and my family during a very difficult time. Thank you."

– Family Caregiver, Baltimore Maryland

"I wanted to let you know of what a great experience I had working with A Place for Mom. My father, who was recently diagnosed with Alzheimer's, needed to be relocated from his home in Delaware to an assisted living facility here in Maryland where I live. Without my advisor, I don't know if I would have made the choices I did and I am so grateful. She walked me through the process, she aided me and narrowed down different choices. She calmed me down and let me know that I was not alone in the process of dealing with someone with Alzheimer's."

– Family Caregiver, Linthicum Maryland

"Thank you for following up. My father-in-law was discharged from the hospital yesterday. He is now in the memory unit at Brighton Gardens in Columbia...at least for a 30-day respite period and further evaluation with OT and PT. You and your colleagues were a great help and a life preserver in a very rough period for the family. It was wonderful to have someone to turn to for help and answers. We sincerely appreciate all your assistance and concern."

– Family Caregiver, Columbia Maryland

A Place for Mom and Caring oppose the proposed legislation

The proposed legislation, SB 952 and HB 1263, introduces a number of regulations on senior living referral agencies that are detrimental to the Maryland families and the Maryland senior living communities that we serve.

SB 952 and HB 1263:

- **Requires a senior living agency to sign a "federal Health Insurance Portability and Accountability Act Agreement [HIPAA]" with the senior or their family.** This bill seems to inaccurately describe a Business Associate Agreement, executed between a Covered Entity (exclusively defined as a provider, insurer or healthcare clearinghouse) and a vendor performing services that involve use, access, maintenance or transmittal of Protected Health Information (PHI). Not only does a "federal HIPAA agreement" not exist, but assisted living facilities are not covered entities, and no PHI is exchanged between the referral agencies and assisted living facilities.
- **Requires that each referral made by an agency must also include a scheduled tour.** Referral agencies can and routinely do arrange tours of communities if the family is ready for that next step. Requiring an agency to arrange the tour of every facility just to make a referral is not only contrary to the referral agencies' effective referral model, but takes the choice over the next steps and timeline of the family's selection process away from the family and places unduly

burdensome requirements on facilities that rely on referral agencies to sustain their business. Finally, because the proposed legislation also requires that a senior living agency make referrals to communities both inside and outside its network, the requirement to arrange and attend tours to communities with which the referral agency has no relationship is impossible to comply with, and could result in facilitating tours to places where the referral agency has not conducted diligence.

- **Requires that a representative of an agency must be present at every tour that the agency schedules for a family.** While referral agencies remain a resource for families and communities throughout the selection process, the community representatives are generally better suited to conduct family tours and assess potential residents. In addition, while referral agencies provide content, education and recommendations, the decision ultimately resides with the family. Attendance on tours by referral agencies interrupts families' ability to spend time with the community director. Based on experience from two decades of operations, we know that families prefer for tours to be conducted with communities in a more intimate setting without others in attendance. Finally, the proposed legislation also requires that a senior living agency make referrals to communities both inside and outside its network--the requirement to attend tours to communities with which the referral agency has no relationship is impossible to comply with, and could result in facilitating tours to places where the referral agency has not conducted diligence.
- **Requires a senior living agency and family to enter into an agreement "outlining the terms of the agreement provided by the assisted living referrer."** The core of APFM's and Caring's services is that these services are provided for no fee to the family and no commitment to continue the relationship. Requiring a written agreement between the family and the referral agency is not only unnecessary, but creates a restriction on family choice that does not otherwise exist and an additional cumbersome task for a caregiver during a time of crisis. It also makes it far more difficult for families to switch referral agencies as desired, or to work with more than one referral agency.
- **Prohibits the referral agency from collecting its fee from the communities if the senior moves in more than one (1) year after the referral is made.** While many families require senior living assistance immediately, others are only starting their journey and will not move in until more than a year after the referral. In many cases, A Place for Mom and Caring work closely with families for well over a year. Limiting referral agencies' ability to collect fees from communities in their network interferes with a contractual relationship between businesses, with no benefit to families. Communities are free to negotiate the terms of their agreements with referral agencies, and may terminate relationships with referral agencies as desired.

For these reasons, SB 952 and HB 1263 should not become law in Maryland. A Place for Mom and Caring are prepared to work with stakeholders to devise legislation that best serves Maryland families and businesses.