

# HOUSE BILL 1263

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CF SB 952

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By: ~~Delegate Pasteur~~ Delegates Pasteur, Alston, Bagnall, Bhandari, Chisholm, Cullison, Guzzone, Hill, Hutchinson, S. Johnson, Kaiser, Kerr, Kipke, R. Lewis, Lopez, Martinez, M. Morgan, Pena-Melnyk, Reilly, Rosenberg, Szeliga, Taveras, and White Holland

Introduced and read first time: February 8, 2024

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2024

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Assisted Living Programs – Assisted Living Referrers – Requirements and**  
3 **Prohibitions**

4 FOR the purpose of establishing certain requirements for assisted living referrers,  
5 including requirements related to the maintenance of general liability insurance,  
6 criminal history records checks, and the ~~maintenance and~~ provision of certain  
7 agreements and ~~documents, and assisted living program tours~~ descriptions of  
8 services; prohibiting an assisted living referrer from requesting payment for a  
9 referral after a certain time period; requiring the Office of Health Care Quality to  
10 maintain a certain database of approved assisted living programs ~~for a certain~~  
11 ~~purpose~~; requiring an assisted living referrer to comply with certain data privacy  
12 requirements on certain dates; and generally relating to assisted living referrers and  
13 assisted living programs.

14 BY repealing and reenacting, with amendments,

15 Article – Health – General

16 Section 19–1813

17 Annotated Code of Maryland

18 (2023 Replacement Volume)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

20 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



## Article – Health – General

19–1813.

(a) In this section, “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.

(b) Each assisted living referrer:

(1) Shall register with the Office of Health Care Quality;

(2) Shall 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) If referring a client or potential client to an assisted living program, shall affirm that the assisted living program is licensed;

(4) If referring a client or potential client to an assisted living program, may refer the client or potential client only to a licensed assisted living program; [and]

**(5) SHALL MAINTAIN GENERAL LIABILITY INSURANCE;**

**(6) SHALL REQUIRE EMPLOYEES TO OBTAIN A CRIMINAL HISTORY RECORDS CHECK;**

~~**(7) SHALL SIGN A FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT AGREEMENT WITH THE CLIENT OR THE CLIENT’S REPRESENTATIVE;**~~

~~**(8) SHALL MAINTAIN A SIGNED, WRITTEN, AND DATED DOCUMENT BETWEEN THE ASSISTED LIVING REFERRER AND THE CLIENT OR THE CLIENT’S REPRESENTATIVE OUTLINING THE TERMS OF ASSISTANCE PROVIDED BY THE ASSISTED LIVING REFERRER; AND**~~

**(7) SHALL PROVIDE TO THE CLIENT OR THE CLIENT’S REPRESENTATIVE A DESCRIPTION OF THE SERVICES THAT WILL BE PROVIDED BY THE REFERRER;**

**(8) IF THE REFERRER HAS A FINANCIAL AGREEMENT WITH THE CLIENT OR THE CLIENT’S REPRESENTATIVE, SHALL PROVIDE THE AGREEMENT TO**

1 THE CLIENT OR THE CLIENT'S REPRESENTATIVE IN WRITING OR BY ELECTRONIC  
 2 MEANS; AND

3 [(5)] (9) Shall notify the Office of Health Care Quality immediately on  
 4 learning that the assisted living program is operating without a license.

5 ~~(c) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN ASSISTED~~  
 6 ~~LIVING REFERRER MAKING A REFERRAL TO AN ASSISTED LIVING PROGRAM SHALL~~  
 7 ~~ARRANGE AND FACILITATE A TOUR OF THE ASSISTED LIVING PROGRAM FOR THE~~  
 8 ~~CLIENT AND THE CLIENT'S FAMILY.~~

9 ~~(2) DURING THE TOUR REQUIRED UNDER PARAGRAPH (1) OF THIS~~  
 10 ~~SUBSECTION, A REPRESENTATIVE OF THE ASSISTED LIVING REFERRER AND A~~  
 11 ~~REPRESENTATIVE OF THE ASSISTED LIVING PROGRAM SHALL BE PRESENT.~~

12 ~~{(c)} (d)~~ An assisted living referrer may not:

13 (1) Receive funding from the Department if the assisted living referrer is  
 14 in violation of this subtitle; [or]

15 (2) Make referrals only to licensed assisted living programs from which the  
 16 assisted living referrer receives compensation as described in subsection (a)(2) of this  
 17 section; OR

18 (3) REQUEST PAYMENT OF A REFERRAL FEE FROM AN ASSISTED  
 19 LIVING PROGRAM MORE THAN ~~1 YEAR~~ 2 YEARS AFTER THE ASSISTED LIVING  
 20 REFERRER PROVIDED THE REFERRAL.

21 ~~{(d)} (e)~~ If requested by any person or on its own initiative, the Office of the  
 22 Attorney General may investigate whether an assisted living referrer violated this subtitle  
 23 and may seek appropriate relief.

24 ~~(f) (e)~~ THE OFFICE OF HEALTH CARE QUALITY SHALL MAINTAIN A  
 25 USER-FRIENDLY DATABASE OF LICENSED ASSISTED LIVING PROGRAMS ~~AND~~  
 26 ~~ENSURE THAT EACH ASSISTED LIVING REFERRER HAS ACCESS TO THE DATABASE.~~

27 (F) (1) ON OR BEFORE SEPTEMBER 30, 2025, AN ASSISTED LIVING  
 28 REFERRER:

29 (I) SHALL KEEP A CLIENT'S OR POTENTIAL CLIENT'S MEDICAL  
 30 RECORD, AS DEFINED IN § 4-301 OF THIS ARTICLE, CONFIDENTIAL AND MAY  
 31 DISCLOSE THE MEDICAL RECORD ONLY FOR THE PURPOSE OF MAKING A REFERRAL  
 32 IF THE CLIENT OR POTENTIAL CLIENT GIVES INFORMED WRITTEN, ELECTRONIC, OR  
 33 AUDIO RECORDED CONSENT; AND

1                    **(ii) MAY NOT SELL THE PERSONAL DATA OF A CLIENT,**  
 2 **POTENTIAL CLIENT, OR CLIENT’S REPRESENTATIVE TO ANOTHER PERSON UNLESS**  
 3 **THE CLIENT OR THE CLIENT’S REPRESENTATIVE GIVES INFORMED WRITTEN,**  
 4 **ELECTRONIC, OR AUDIO RECORDED CONSENT.**

5                    **(2) ON OR AFTER OCTOBER 1, 2025, AN ASSISTED LIVING REFERRER**  
 6 **SHALL COMPLY WITH ALL APPLICABLE DATA PRIVACY LAWS.**

7                    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
 8                    October 1, 2024.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.