

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1263

(Delegate Pasteur, *et al.*)

Health and Government Operations

Finance

Assisted Living Programs - Assisted Living Referrers - Requirements and Prohibitions

This bill establishes additional requirements for an assisted living referrer. An assisted living referrer must (1) maintain general liability insurance; (2) require employees to obtain a criminal history records check; (3) provide to the client or the client's representative a description of the services that will be provided by the referrer; and (4) if the referrer has a financial agreement with the client or the client's representative, provide the agreement to the client or client's representative in writing or by electronic means. An assisted living referrer may not request payment of a referral fee from an assisted living program more than two years after the assisted living referrer provided the referral. By September 30, 2025, an assisted living referrer (1) must keep a client's or potential client's medical record confidential and may disclose the medical record only for the purpose of making a referral if the client or potential client gives informed written, electronic, or audio recorded consent and (2) may not sell the personal data of a client, potential client, or client's representative to another person unless the client or client's representative gives informed written, electronic, or audio recorded consent. By October 1, 2025, an assisted living referrer must comply with all applicable data privacy laws. The Office of Health Care Quality (OHCQ) must maintain a user-friendly database of licensed assisted living programs.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: Chapter 589 of 2020 defines an “assisted living referrer” as 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 within the Maryland Department of Health (MDH); (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 may investigate whether an assisted living referrer violated the bill’s provisions and may seek appropriate relief.

OHCQ currently maintains an assisted living program licensee directory on its public [website](#) that includes the name of the assisted living program, full address, county, license number, date licensed, contact person, phone number, electronic mail address, and website. This information is updated monthly and is available as an Excel spreadsheet.

Medical Records

Pursuant to § 4-301 of the Health-General Article, “medical record” means any oral, written, or other transmission in any form or medium that (1) is entered in the record of a patient or recipient; (2) identifies or can readily be associated with the identity of a patient or recipient; and (3) relates to the health care of the patient or recipient. “Medical record” includes any (1) documentation of disclosures of a medical record to any person who is not an employee, agent, or consultant of the health care provider; (2) file or record maintained by a pharmacy, as specified, or may be readily associated with the identity of a patient; (3) documentation of an examination of a patient regardless who requested the examination or is making payment for the examination; and (4) file or record received from another health care provider that relates to the health care of a patient or recipient received from that health care provider and identifies or can be readily associated with the identity of the patient or recipient.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See SB 624 of 2022.

Designated Cross File: SB 952 (Senator Hettleman) - Finance.

Information Source(s): Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2024
rh/jc Third Reader - April 8, 2024
Revised - Amendment(s) - April 8, 2024

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