

Department of Legislative Services
Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1615 (Delegate Kelly)
Rules and Executive Nominations

Health Facilities - Assisted Living Programs - Referrals and Licenses

This bill also 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 Office of the Attorney General (OAG) may seek appropriate injunctive or other relief to prevent a person from continuing to operate, maintain, or own an assisted living program without a license for a third violation of operating without a license. The person must immediately cease operating the assisted living program and is prohibited from operating, maintaining, or owning an assisted living program in the future. 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.

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 is not anticipated to have a material effect on circuit courts.

Small Business Effect: Minimal.

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; (2) is

compensated by an assisted living program or other third party for referring individuals to a licensed assisted living program; and (3) makes referrals only to licensed assisted living programs for which the referrer receives compensation.

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 receive funding from MDH if the person violates these requirements. If requested by any person or on its own initiative, 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.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 966 (Senator Hettleman) - Finance.

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

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rh/jc

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