



## *The Senate of Maryland* ANNAPOLIS, MARYLAND 21401

### TESTIMONY OF SENATOR SHELLY HETTLEMAN

#### SB 624-Assisted Living Programs – Assisted Living Referrers – Requirements and Prohibitions

Assisted Living Facilities have become the fastest-growing sector of the US long-term care market.<sup>1</sup> The U.S. Census Bureau estimates that 22% of Maryland's population will be 60 and older by the year 2030, an increase of 26 percent from 2012.<sup>1</sup> It is expected that there will be increased demand for senior living communities as the population ages.<sup>1</sup>

Many of the residents in Assisted Living have chronic health issues and may have serious cognitive and physical disabilities, making them vulnerable to abuse, neglect, and exploitation. In 2020, the Maryland Long Term Care Ombudsman Program received 283 abuse allegations.<sup>2</sup> National data demonstrates that abuse in long-term facilities is frequently underreported, indicating that these numbers may be lower than the actual incidents of abuse across the state.<sup>1</sup> Increased oversight among assisted living facilities is correlated with lower incidents of abuse, neglect, and exploitation.<sup>1</sup> **The goal of SB 624 is to build on the prior work of the General Assembly and enact effective means of protecting and preventing the exploitation and abuse of Maryland's older adults.**

Many families seeking information about Assisted Living communities reach out to referral agencies – entities that connect older adults with senior living communities. This bill seeks to professionalize the practice of referral agencies and to prevent abuse and misconduct. Our hope is to create a floor of standards to which those who refer older adults to assisted living communities must adhere:

- Require criminal background checks of employees
- Be transparent about when a contractual relationship between referrer and client exists
- Enable clients to terminate a relationship with a referrer at any time
- Maintain general liability insurance
- Prohibit the agency from having power of attorney over the client (unless they are family)
- Affirm that the facility they are referring the client to is licensed
- Prevent the sale of client personal information without their consent

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<sup>1</sup> Magruder, Karen J., Noelle L. Fields, and Ling Xu. 2019. "Abuse, Neglect and Exploitation in Assisted Living: An Examination of Long-Term Care Ombudsman Complaint Data." *Journal of Elder Abuse & Neglect* 31 (3): 209–24. <https://doi.org/10.1080/08946566.2019.1590275>.

<sup>2</sup> "Ombudsman Program." n.d. Maryland Department of Aging. Accessed February 17, 2022. <https://aging.maryland.gov/Pages/state-long-term-care-ombudsman.aspx>.

- Prevent referrals to assisted living facilities that the referrer owns
- Adhere to HIPPA requirements when sharing medical information

Frequently, families will place their trust in referral agencies at what might be a desperate time. The referral agencies' services range from a brief call and sending a list of communities to completing a full medical and financial assessment, presenting a list of safe communities, in person touring and assisting with all medical paperwork and follow up after placement.

Referral agencies in Maryland are largely unregulated; employees of these agencies are not subjected to background checks, nor are they required to carry liability insurance, and potential conflicts of interest abound.

The Maryland Office of Healthcare Quality has investigated several cases where the practice of placing individuals in assisted living facilities through referral agencies resulted in elder abuse and neglect.<sup>3</sup> Additionally, they received several incident reports detailing how families were falsely informed by referral agencies that their loved ones were being placed in an assisted living facility that was licensed. Researchers have reported to the Department of Health and Human Services that unlicensed homes are “abusive, financially exploitative, and neglectful of residents’ basic needs, even depicting scenarios where residents were falsely imprisoned and moved from one facility to another, even across state lines.”<sup>4</sup>

The purpose of this bill is to protect older adults and their families in what can be a very stressful time. These protections are critical to preventing the exploitation of Maryland families and I ask for your support of SB624. Thank you.

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<sup>3</sup> CNS Staff. 2016. “Why Do People End up in Unlicensed Assisted Living Homes?” CNS Maryland. September 27, 2016. <https://cnsmaryland.org/2016/09/27/why-do-people-end-up-in-unlicensed-nursing-homes/>.

<sup>4</sup> Jefferson, Robin Seaton. 2018. “Abusive Unlicensed Care Homes Are ‘hidden in Plain Sight’ in America, Researcher Says.” Forbes. July 27, 2018. <https://www.forbes.com/sites/robinseatonjefferson/2018/07/27/abusive-unlicensed-care-homes-are-hidden-in-plain-sight-in-america-researcher-says/?sh=76486b2f61fa>.