

# **SB 624 Testimony.pdf**

Uploaded by: Alle Andresen

Position: FAV



**MARYLAND  
LEGAL AID**

*Advancing*  
**Human Rights and  
Justice for All**

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February 24, 2022

The Honorable Delores G. Kelley  
Chair, Senate Finance Committee  
3 East Wing  
Miller State Office Building  
Annapolis, MD 21401

**Re: Support for Senate Bill 624: Assisted Living Referrers - Requirements and Prohibitions**

Dear Chair and Members of the Committee:

Thank you for the opportunity to testify in support of SB 624. An Assisted Living Referrer is a fee-paid individual or an agency that refers sick and/or disabled individuals to a licensed Assisted Living Facility.[1] This bill will establish vital protections for vulnerable adults exploring assisted living facilities as a place to live while receiving long-term care.

SB 624 will prevent fee-paid Assisted Living Referrers from exerting improper influence over these individuals. MLA is submitting written testimony in support of SB 624 at the request of Senator Hettleman.

Maryland Legal Aid (MLA) is a non-profit law firm that provides free legal services to the State's low-income and vulnerable residents. MLA handles civil legal cases involving a wide range of issues, including family law, housing, public benefits, consumer law, and criminal record expungements. Maryland Legal Aid frequently represents and advocates for older adults and people with disabilities in accessing Medicaid, long-term care, and their rights concerning nursing homes and assisted living facilities.

Clients of Assisted Living Referrers are sick persons or persons with disabilities seeking residence in an Assisted Living Facility. These individuals deserve common-sense protections that ensure their safe transition and safe placement. The protections in SB 624 will add safeguards to the referral process. These clients and their families rely on Referrers to navigate the Assisted Living Facility marketplace, which may include hundreds of facilities that offer a spectrum of sizes, services, and levels of care.

Assisted Living Facility residents live with disabilities, whether cognitive, mental, and/or physical. An Assisted Living Referrer has power over the selection process, even if the client has a support system in place. These protections in the

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Bill include criminal background checks on all Referrer employees and specific contract requirements that protect vulnerable Marylanders when accessing the care they need. SB 624 adds protections to the relationship between a disabled person and a Referrer that will impact and safeguard older adults and individuals living with disabilities.

MLA's clients rely on these services for emergency placements. The emergency can open vulnerable adults to unscrupulous individuals that enter the relationship under false pretenses and who may exert undue influence. For example, one MLA client, Mr. J, was facing an eviction from his current assisted living facility. He received a notice, but it did not meet Maryland's minimum legal requirements.

The MLA attorney remedied this issue and negotiated an extension for Mr. J's move-out date. Mr. J did not have family or friends to support him and was overwhelmed with the process of finding a new Assisted Living Facility that would meet his unique needs. An Assisted Living Referrer helped him to expedite and organize his search process. The attorney noted that the Referrer offered a vital service but had substantial influence and control over Mr. J's selection process. By enacting SB 624, individuals like Mr. J could feel confident that they are aware of their rights and receive impartial, objective information from the Assisted Living Referrer.

Maryland Legal Aid supports SB 624. The Bill would add common-sense protections for individuals seeking long-term care services at an assisted living facility. These protections safeguard older adults and people with disabilities from receiving improper or undue influence by an Assisted Living Referrer.

Thank you for considering this written testimony. For the reasons stated above, **MLA urges a favorable report on SB 624.**

Sincerely,

/s/Alle Andresen

Alle Andresen

Long Term Assistance Project Attorney

[1] The fee is paid by an Assisted Living Facility.

**SB 624 1.pdf**

Uploaded by: Beth Wiseman

Position: FAV

## **TESTIMONY IN FAVOR OF SENATE BILL 624**

### **Assisted Living Programs - Assisted Living Referrals - Requirements and Prohibitions**

As an advocate for seniors and people with disabilities, I was very pleased to see this bill.

Assisted living programs have not been revisited for a number of years. This bill will update certain much needed requirements for the facilities.

Please give this Bill a favorable vote so future problems can be averted.

Thank you.

Beth Wiseman

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# **SB0624\_FAV\_LifeSpan\_AL Programs - AL Referrers - R**

Uploaded by: Danna Kauffman

Position: FAV



*Keeping You Connected...Expanding Your Potential...  
In Senior Care and Services*

TO: The Honorable Delores G. Kelley, Chair  
Members, Senate Finance Committee  
The Honorable Shelly Hettleman

FROM: Danna L. Kauffman  
Pamela Metz Kasemeyer

DATE: February 24, 2022

RE: **SUPPORT** – Senate Bill 624 – *Assisted Living Programs – Assisted Living Referrers – Requirements and Prohibitions*

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On behalf of the LifeSpan Network, the largest and most diverse senior care provider association in Maryland representing nursing facilities, assisted living providers, continuing care retirement communities, medical adult day care centers, senior housing communities and other home and community-based services, we **support** Senate Bill 624.

In 2020, Maryland enacted a requirement in which entities that refer individuals to assisted living programs for compensation are to be registered with the Office of Health Care Quality and, among other requirements, to only refer individuals to a licensed assisted living program. Senate Bill 624 tightens the requirements on assisted living referrers by requiring them to have liability insurance, perform employee criminal background checks, and maintain and distribute certain information between a referrer, a client, and an assisted living program.

LifeSpan views Senate Bill 624 as a consumer protection bill which is ensuring that individuals who seek the services of an assisted living referrer can do so safely and with assurance in the process. We urge a favorable vote.

**For more information call:**

Danna L. Kauffman  
Pamela Metz Kasemeyer  
410-244-7000

# Maryland SB624.pdf

Uploaded by: john benbrook

Position: FAV



Dear Chairman, Vice Chairman, and Members of the Finance Committee,

I am the President of Oasis Senior Advisors and a Board Member of the National Placement and Referral Alliance and in support of SB624. We support thousands of families annually through their stressful and complicated journeys providing the right solution for the seniors in their life.

I understand that there are two business models being represented here today. The Online Referral Model and the Local Placement Agency model. However, this is not a "turf war", you owe nothing to one model or the other. We owe everything to what's in the best interest of seniors and their families. Models aren't constituents, people are.

With that said, the Online model is going to suggest that because they have an agreement that states if they send a community a LEAD first, they are owed payment if the senior moves in. Again, we're not talking about LEADS here today, we're talking about people. People who are in crisis and people who are vulnerable. And let's be clear here, this Bill is about doing the right thing to protect our seniors and their families. Giving them the right of choice.

Using a Real Estate model, if an agent sends a family an MLS listing of 15 new homes in their area and the family wants to work with another agent who offers a higher level of service by personally touring with the family, helping them with paperwork, and eventually using their expertise to consult with them regarding their final decision, the idea of only sending an MLS list to someone is NOT completing the act of the sale.

The procuring agent, in that case, would be the agent who personally met with the family, toured them AND brought the client to completion of the sales process. I would also argue if one were to ask the family who represented them from start to finish, they would name the touring agent the procuring agent. Again, its all about Family Chioce

You may also hear the online agencies state they have a contract to be paid first and the state can't get in between the two parties.

There are several scenarios that may make it objectively impossible to perform a contract. One type of situation that would lead to the "Impossibility of Performance" of a contract is if there is a "Supervening Impossibility."

For instance, a contracting party may be able to raise the defense of Supervening Impossibility if after the contract was already created, legislation was passed that would make it impossible to perform the contract to completion.

If this legislation were to be passed and the State of Maryland gave families a choice of who they wanted to work with, it would be a Supervening Impossibility event for the senior housing community to satisfy their agreement with the online agency and stay within the guidelines of the state law.

Thank you for your time and I support Senator Hettleman's efforts and urge you to pass SB624

# **SB624 Testimony.pdf**

Uploaded by: Kim Smith

Position: FAV

SB624 – Favorable  
Finance Committee  
February 24, 2022

Dear Chairman, Vice Chairman and Members of the Finance Committee

My name is Kim Smith and I am Vice President of Operations for Sagelife. I am writing in support of SB624. I have been in the senior living industry for eleven years, been an Executive Director of a community and currently the Vice President of Operations for Sagelife.

As an operator, I have worked with many different kinds of referral partners in placing residents in our communities who need and are looking for assistance. I applaud Senator Hettleman's efforts in trying to bring more transparency for this vulnerable population. I have had many referrals from APFM, some of whom have known they were working with them, but many who do not. This is about transparency and education for people who are searching the internet trying to be as educated and informed when they walk in our doors. If they choose to utilize the services of a Place for Mom, great. But lets make sure our customers are informed and thoroughly understand that in fact they are entering into a contract and agree to what they are doing.

Plain and simply put, there are many potential residents and their families who come to our doors, needing help, not even knowing that they are being represented or referred to us by A Place For Mom. SB264 helps to clarify to potential residents and their families that they understand and agree to be represented, and not just doing research to learn about the industry and/or searching for options in their area. Transparency in all areas of our industry is a good thing, especially for a group of consumers who are often times stressed, in crises and under tight time constraints to find solutions.

I applaud and support Senator Hettleman's regulation, what she is trying to accomplish, and urge your support of SB624 to help protect our vulnerable seniors.

**SB624\_FAV\_Windchimes LLC.pdf**

Uploaded by: Kristen Zihmer

Position: FAV

SB624 - SUPPORT  
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SB624 - Favorable  
Finance Committee  
February 23, 2022

Dear Chair Kelley, Vice Chair Feldman and Members of the Finance Committee:

My name is Kristen Zihmer, I own Windchimes LLC, a private referral and placement agency in Carroll County, and I am in support of Senate Bill 624. By providing guidance, education, and advocacy, Windchimes assists seniors and their families in Carroll, Baltimore and Howard Counties find the most appropriate assisted living communities. I hold a bachelor's degree from Salisbury University, am a Certified Senior Advisor®, hold a Senior Living Counselor Certificate® and have completed the Certificate on Aging Program at Johns Hopkins University. To further support local senior initiatives, I serve as the President of the Senior Provider Information Network and sit on the Healthy Aging Leadership Team in Carroll County.

I was born and raised in Carroll County: I live just three miles from the family home I grew up in and about thirteen miles from the orchard that my father's mother, Thelma Mae Ditman a.k.a. Mommom, grew up on in New Windsor. While close in proximity, our childhoods were vastly different. She grew up one of eight children, whose main objective was to work their father's land. Only receiving an 8<sup>th</sup> grade formal education, what Thelma actually learned was the value of hard work and true grit. The kind of grit that later allowed her to work 2 full-time jobs while raising her sons (including one at Black and Decker—3<sup>rd</sup> shift factory work while her young boys were at home sleeping.)

My childhood memories of Thelma are synonymous. Work. Work. Church. And more work. While watching me and my siblings, it was common for her to put us to work – jarring fruits and vegetables, washing dishes, watering the garden, etc. Truth be told, I did not like going to her house as a child. However, as I grew into adolescence and young adulthood, my outlook changed completely. Behind all of the work, I could see her strength, determination and value system. While in high school and attending the local Community College, I would stop by her house daily to get a home cooked meal and talk to her about my life. Thelma's life had been much harder than mine, but she always listened and provided strong, yet loving feedback to all of my woes. Slowly but surely, I no longer saw her as a taskmaster. I saw her for who she truly was, a **Titan**.

I was in my mid-twenties when Thelma started to decline. Inching toward her nineties, her body and mind started to slip away. Her once strong frame now began to sway. Her sharp reasoning started to waiver. Over the course of the next 5 years, the grit that once gleaned out of every fiber of her being was hard spot. Thelma relied on my father and uncle for all of her personal affairs. Further, she relied on an assisted living community for most all of her physical activities. This once mighty woman was now dependent on others for everything.

My family was exceptionally grateful for each professional that helped Thelma along the way. Each caring professional that was both vetted and held to ethical standards. From the doctors who proscribed her medications, to the aids who helped maintained her hygiene, to the financial planners who were

managing her finances—each required to adhere to a level of honesty and decency. However, had my family used a referral agency to help find Thelma assisted living—that agency would not have been held to any standards.

Assisted Living Referrers are no different than other healthcare professionals and should be held to standards as such. Senate Bill 966 in 2020 was a wonderful start, however, the nature and intimacy that Referral Agencies have with aging clients necessitates much more. It demands a level of professionalism that:

- Requires referrers and employees to obtain a criminal history check
- Requires referrers hold general liability insurance
- Prevents referrers from referring clients to unlicensed facilities
- Prevents the referrer from becoming a client's Power of Attorney
- Prevents the referrer from moving a client into an assisted living that the referrer owns

Why? Why is this important? Because even Titans grow old and become vulnerable. Even Titans need protections in place. I urge the Senate to pass SB624 to help protect our once Titans, our vulnerable seniors.



# **SB624\_FAV\_Springwell.pdf**

Uploaded by: Maria Heckman

Position: FAV

SB624 – Support  
Nina Heckman  
Springwell Senior Living  
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SB624 – Favorable  
Finance Committee  
February 24, 2022

Dear Chairman, Vice Chairman and Members of the Finance Committee

Thank you for your time today. My name is Nina Heckman, and I am one of two Community Sales Directors from Springwell Senior Living who are here today in support of SB 624. Springwell is a retirement community located in Baltimore City. We offer Independent Living, Assisted Living, and secure Memory Care. I have been working with seniors to transition to the Springwell for over 10 years. As a Community Sales Director, I have worked with many of the local referral advisors present here today, as well as many on-line referral agencies. Both are valuable resources as this can be a stressful time for a family as they navigate this transition.

The demand for community-based care is growing. Seniors and families are waiting longer to make this type of move and it can be an overwhelming undertaking to understand all the options that are available. It is more than just picking a great apartment. They need to understand care levels, services offered, associated costs, and community culture just to name a few.

Local referral advisors meet with the family in advance of community visits. Most are keenly aware of the senior's healthcare needs, family dynamics, financial resources, and expectations. They accompany the families on tours and help them to compare locations. These local referral advisors know the communities that they serve very well. They understand not only the physical layout of the property, but also the financial requirements. They also understand the character, strengths, and the subtle difference that each community offers which can make a huge difference to the seniors' quality of life.

Many qualified prospects are also sent to us through on-line referral agencies. In my experience, not all families are aware that they have entered into a contractual agreement with the on-line agency. Often, they describe doing an internet search for a community phone number, and suddenly they are inundated with phone calls they were not expecting. Many families indicate to us that they would prefer a more specialized service as described above because of the more intimate knowledge local advisors can provide. Rarely has a representative from an online agency been to our community and they are simply not in the same position to provide the same level of detail. We strongly believe that the consumer should understand fully the process of entering into any referral agreement. The terms should be transparent, and it should be their right to choose who represents them in this process.

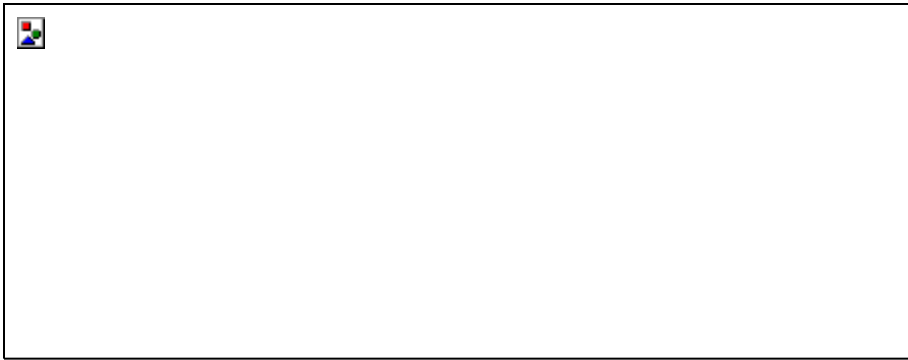
I urge the Senate to pass SB624 to help protect our vulnerable seniors.



# **M4A Testimony for SB624.pdf**

Uploaded by: Michele Douglas

Position: FAV



*Catherine R. Willis, LMSW  
President  
Representing Queen Anne's County  
Department of Community Services*

*Gina Valentine, Vice President  
Representing Carroll County  
Bureau of Aging & Disabilities*

*Gary Gunther, Treasurer  
Representing Upper Shore Aging, Inc.,  
Talbot, Caroline & Kent Counties*

*Karrisa Gouin, Secretary  
Representing Anne Arundel County  
Department of Aging and Disabilities*

**Senate Finance Committee  
February 24, 2022**

**Legislation: SB 624 Assisted Living Programs - Assisted Living Referrers - Requirements and Prohibitions**

**Sponsor: Senator Hettleman**

**Position: Support**

The nineteen member organizations of Maryland Association of Area Agencies on Aging (M4A) serve Maryland's older and disabled citizens, providing a range of cost-effective state, federal and locally funded programs that help individuals remain secure in the community with dignity, independence, and choice as they age. M4A and its associated Area Agencies on Aging (AAAs) represent the "front line" in Maryland's challenge to meet the complex and varied needs of well over 1 million older adults statewide. M4A's goal is to ensure coordination and communication with all partners on all aspects of senior service planning to enhance opportunity and availability to all eligible citizens.

*AAAs are guided by the federal Older Americans Act "to provide services with preference given to older individuals with the greatest economic and social need with particular attention to low-income minority individuals with limited English proficiency and older adults residing in rural areas."*

Senate Bill 624 will require assisted living referrers to maintain and provide certain assisted living programs documents written signed and dated between the referrer and the client that include the right of the client to terminate the referrer's services for any reason at any time, and a requirement that the referrer communicate a cancellation of the agreement to all assisted living programs involving a client; requiring assisted living referrers to maintain certain insurance, and obtain criminal history records checks of employees; etc.

Each of these requirements are a beneficial addition to the assisted living referral law we supported that passed a few years ago and strengthen consumer protections. For these reasons, M4A supports SB 624 and urges a favorable report on the bill.

**SB624\_FAV\_SeniorCare.pdf**

Uploaded by: patricia haw

Position: FAV

SB624 – Support  
Patty Haw  
Senior Care Partners, LLC  
[phaw@srcarepartners.com](mailto:phaw@srcarepartners.com) 443-743-3555

SB624 – Favorable  
Finance Committee  
February 24, 2022

Dear Chairman, Vice Chairman and Members of the Finance Committee

I am the owner of Senior Care Partners, LLC and in support of SB 624. Senior Care Partners is a private placement and consulting company established in 2009. For the past 13 years, I have consulted with over 1500 families and older adults as they have needed to consider care for loved ones and asked me for assistance in understanding in home care, assisted living and/or memory care options. My mission is to help families understand safe solutions for their loved ones. My company and my reputation were built on a personalized-approach for families. I am also the President of the Baltimore County Provider Council, a membership organization committed to building a professional community that improves the lives of older adults.

Senator Hettleman's efforts bring into perspective something that has been overlooked as the Placement and Referral industry has grown significantly: the need for requirements and guidelines. When I first started, 13 years ago, I am pretty certain the number of individuals involved in this business was much less than it is now. I know this anecdotally for 2 reasons. First, I remember walking into a well-established senior living community and educating the Director on how my personal services were valuable to the families and to the senior living facility because I believed that by completing the discovery and pre-screening process up front, I could help families be more efficient with the search process. By the reaction on her face, I knew it was a concept she had not explored thus confirming my suspicion that I was one of the few. Second, up until 2020, there was not even a central registration process for Placement and Referrals Professionals. SB966, introduced in 2020, required the registration with the Office of Health Care Quality, among other key criteria. Senator Hettleman's current bill, SR624 strengthens that foundation at a time when key changes can be made before the industry expands farther, potentially putting vulnerable adults at risk.

Every business and industry have requirements and guidelines that need to be followed, especially when interfacing with clients (consumers). My industry, the Placement and Referral Professional Industry, should not be different. As Senator Hettleman has indicated, this industry has two service models: on-line service referral agencies, and placement agencies that act more directly with the client. Regardless of the service model, standard requirements and guidelines need be adopted to govern the general practices. Implementing guidelines on general liability Insurance, criminal background checks, HIPPA compliance/consent, the client right to choose the provider of service and information, and transparency between the provider and client are a few of the points within this bill that strengthen the profession. I believe the transparency created, will create a stronger relationship between the service provider and the client during what is typically a very difficult and stressful time in their life. People seek professionals in this industry as trusted advisors and resources to provide guidance. It is about time structure be put in place to ensure all providers are following the same protocols thus raising the

standards of the industry which will directly benefit the very people we are wanting to serve – the older adult.

For these reasons I urge the Senate to pass SB624.

# **SB624\_CarePatrolBaltimore\_FAV**

Uploaded by: Paula Sotir

Position: FAV

SB624 – Support

Paula Sotir

CarePatrol

[psotir@carepatrol.com](mailto:psotir@carepatrol.com) 410 494 9400

SB624 – Favorable  
Finance Committee  
February 24, 2022

Dear Chairman, Vice Chairman and Members of the Finance Committee

I am the owner of CarePatrol Baltimore and in support of SB 624. I have been helping seniors find assisted living and memory care for over 8 years. During this time, my team and I has placed over 1500 seniors in Baltimore and Harford County and Baltimore City. I have a Bachelor in Science of Nursing from Duke University for over 40 years, Master in General Administration - Health Care at the University of Maryland, Certified Senior Advisor and Certified in completing safety assessment in the home and teaching Dementia care. Our mission is to find safe communities for the seniors so that they can age in place.

I specifically want to support Senator Hettleman's efforts to require adherence to Hipaa law when sharing medical information. Why is this important now? The industry is growing both in the number of seniors that need this service and the number of companies helping seniors. The seniors and families are waiting longer to make this move into assisted living and their health care needs are increasing. This change has been happening over the past 4 and I have increased health needs for the seniors who have been isolated and not getting medical care during the past 2 years with covid.

A reputable referral advisor needs to fully understand the senior's healthcare in much more detail to refer those care options today but in the future also. Hospital and Nursing Home Social workers and care managers are now sharing with us information such as history and physician, physician therapy records, psychiatric history and medication lists through their electronic health records. We are then sharing that information with the assisted living and memory care communities to make the optimal recommendations and match their capabilities with the client's needs. Any other day of the week, it would seem preposterous for a hospital or nursing home to voluntarily give this information out to anyone outside the family without a HIPAA release.

Having the HIPPA release signed will guarantee that the information is protected according to established law. This would also guarantee that the referral advisor was either speaking with the senior themselves, their power of attorney, or a recognized responsible party. There will be full transparency on who is looking out for their best interest and it would stop the questionable practice of selling the senior's information to the highest 3rd party bidder such as hearing aid companies to hospital bed suppliers and a whole other host of unsolicited vendors.

I applaud and support Senator Hettleman's regulation which protects Maryland seniors by legally giving us the information we need to make a safe placement and to stop the selling of their private healthcare information.

I urge the Senate to pass SB624 to help protect our vulnerable seniors.

# **SB624 BJC FAV Assisted Living Referrers – Requirem**

Uploaded by: Sarah Miicke

Position: FAV



## OFFICERS

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Association of Reform Zionists of America

Baltimore Board of Rabbis

Baltimore Hebrew Congregation

Baltimore Jewish Green and Just Alliance

Baltimore Men's ORT

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Beth Am Congregation

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Beth Israel Congregation

Beth Shalom Congregation of

Howard County

Beth Tfiloh Congregation

B'nai B'rith, Chesapeake Bay Region

B'nai Israel Congregation

B'nai Jacob Shaarei Zion Congregation

Bolton Street Synagogue

Chevra Ahavas Chesed, Inc.

Chevrei Tzedek Congregation

Chizuk Amuno Congregation

Congregation Beit Tikvah

Congregation Beth Shalom of

Carroll County

Congregation Tiferes Yisroel

Federation of Jewish Women's

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Hadassah

Har Sinai - Oheb Shalom Congregation

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Jewish Federation of Howard County

Jewish Labor Committee

Jewish War Veterans

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Jews For Judaism

Moses Montefiore Anshe Emunah

Hebrew Congregation

National Council of Jewish Women

Ner Tamid Congregation

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Shaarei Tfiloh Congregation

Shomrei Emunah Congregation

Simon E. Sobeloff Jewish Law Society

Suburban Orthodox Congregation

Temple Beth Shalom

Temple Isaiah

Zionist Organization of America

Baltimore District

## Written Testimony

### Senate Bill 624- Assisted Living Referrer – Requirements and Prohibitions

Finance Committee - February 24, 2022

## SUPPORT

**Background:** Senate Bill 624, (SB624), expands upon legislation from 2020 which, in part, created transparency around the practices of assisted living referral agencies for the benefit of the consumer. SB624 would require referrers to maintain liability insurance, obtain criminal history checks of their employees, and sign a Federal Health Insurance Portability & Accountability Act agreement with their clients. Additionally, referrers would be required to provide and maintain documents written and signed between them and their clients, including the right for the client to terminate the service at will, and a requirement that the referrer communicate any termination to all assisted living program the client has been referred.

**Written Comments:** Every senior deserves to live in a safe place, however, right now in Maryland, we know that is not the case. Several Associated agencies, including, Jewish Community Services (JCS), Comprehensive Housing Assistance Inc. (CHAI), and CHANA provide services to the rapidly aging Baltimore Community. When older adults who need assistance are looking for a safe place to live, especially those without close friends or relatives, they often use referral agencies. Many agencies use predatory practices, where the older adult does not know that they can leave the relationship if they do not feel that it is a good fit. They can feel stuck and continue using the services by a referral agency that may not be working in the best interest of the older adult. SB624 simply adds protections for Maryland's older adults.

For these reasons, we ask for a favorable report on SB624.

*The Baltimore Jewish Council, a coalition of central Maryland Jewish organizations and congregations, advocates at all levels of government, on a variety of social welfare, economic and religious concerns, to protect and promote the interests of The Associated Jewish Community Federation of Baltimore, its agencies and the Greater Baltimore Jewish community.*

BALTIMORE JEWISH COUNCIL

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Member of the Jewish Council for Public Affairs

Baltimore Jewish Council is an agency of The Associated

**100** The Associated  
Jewish Federation of Baltimore

# **SB624 FAV MSCAN Assisted Living .pdf**

Uploaded by: Sarah Miicke

Position: FAV



# *Maryland Senior Citizens Action Network*

## **MSCAN**

*AARP Maryland*

*Alzheimer's  
Association,  
Maryland Chapters*

*Baltimore Jewish  
Council*

*Catholic Charities*

*Central Maryland  
Ecumenical Council*

*Church of the Brethren*

*Episcopal Diocese of  
Maryland*

*Housing Opportunities  
Commission of  
Montgomery County*

*Jewish Community  
Relations Council of  
Greater Washington*

*Lutheran Office on  
Public Policy in  
Maryland*

*Maryland Association of  
Area Agencies on Aging*

*Maryland Catholic  
Conference*

*Mental Health  
Association of Maryland*

*Mid-Atlantic LifeSpan*

*National Association of  
Social Workers,  
Maryland Chapter*

*Presbytery of Baltimore*

*The Coordinating  
Center*

*MSCAN Co-Chairs:  
Carol Lienhard  
Sarah Mücke  
410-542-4850*

## **Testimony in Support of SB624 - Assisted Living Programs - Assisted Living Referrers - Requirements and Prohibitions** **Finance Committee** **February 24, 2022**

The Maryland Senior Citizens Action Network (MSCAN) is a statewide coalition of advocacy groups, service providers, faith-based and mission-driven organizations that supports policies that meet the housing, health and quality of care needs of Maryland's low and moderate-income seniors.

**MSCAN enthusiastically supports SB624** for its potential to positively impact the lives of low-income seniors who deserve quality insured, safe and transparent assisted living referral agencies.

**SB624 would set clear rules for how referral agencies can operate, promoting client safety and consumer protection.** This would include background checks for their employees, liability insurance and requiring at will agreements to be signed by the referral agency and client, so clients understand they can withdraw the service of the agency at any time. Because of these new regulations, SB624 would lower incidents of older adults, especially our most vulnerable, being taken advantage by predatory referral agencies.

**For these reasons, MSCAN urges a favorable report on SB624.**

**NASW SB 624 Senate Side.pdf**

Uploaded by: Scott Tiffin

Position: FAV

Testimony Before the Senate Finance Committee

Senate Bill 624 Assisted Living Programs – Assisted Living Referrers – Requirements and Prohibitions

On behalf of the National Association of Social Workers, Maryland Chapter (NASW-MD) Committee on Aging, we would like to express our support for Senate Bill 624– Assisted Living Programs - Assisted Living Referrers – Requirements and Prohibitions.

As social workers, we support this bill because it provides protections for vulnerable adults who need care in an assisted living facility. The bill enhances the current law covering assisted living referral agencies by requiring that their staff undergo criminal background checks. This provision is essential to protecting potential residents. In addition, the bill's conflict of interest and privacy provisions safeguard vulnerable adults from exploitation and fraud.

It has been our experience that assisted living referral agencies often operate purely for profit, without regard to the needs or rights of the individuals who need care in assisted living facilities. We hear from families that these agencies often refer families to facilities that are ill-equipped to provide the needed care. Some referral agencies even direct families to unlicensed facilities. We have also worked with families who tell us that the agencies sell their information to other providers of eldercare services. Families report receiving aggressive sales calls from these companies, at the very time when they are stressed with difficult decisions about the care of their loved ones. This bill would tighten the requirements for assisted living referrers and hold them to professional standards.

This bill is urgently needed to safeguard the health and wellbeing of Marylanders who need assisted living care. We ask that you give a favorable report to Senate Bill 624.

Respectfully,

Mary Beth DeMartino, LCSW

Executive Director, NASW-MD

**SB624\_Hettleman\_FAV (2).pdf**

Uploaded by: Shelly Hettleman

Position: FAV



## 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>.



# **SB624\_SponsorAmendment**

Uploaded by: Shelly Hettleman

Position: FAV



SB0624/563221/1

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

24 FEB 22  
11:14:09

BY: Senator Hettleman  
(To be offered in the Finance Committee)

AMENDMENT TO SENATE BILL 624  
(First Reading File Bill)

On page 2, in line 11, after “INSURANCE” insert “IN AN AMOUNT NOT LESS THAN:

**(I) \$1,000,000 FOR EACH OCCURRENCE; AND**

**(II) \$3,000,000 IN THE AGGREGATE”.**

On page 3, after line 13, insert:

**“(4) THE OFFICE OF HEALTH CARE QUALITY SHALL DEVELOP A STANDARDIZED DOCUMENT THAT AN ASSISTED LIVING REFERRER MAY USE UNDER THIS SUBSECTION.”;**

and in line 22, after “CLIENT” insert “, UNLESS THE ASSISTED LIVING REFERRER IS A FAMILY MEMBER OF THE CLIENT”.

**SB624\_LTCOP\_SEllis.pdf**

Uploaded by: Stevanne Ellis

Position: FAV

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

Position – Support from the Office of the State Long-Term Care Ombudsman

Date: February 24, 2022

As the State Long-Term Care Ombudsman, I advocate for the residents in nursing homes and assisted living facilities. At this time, Maryland has over 1600 assisted living facilities with over 25,000 assisted living residents. It is often difficult for individuals to navigate the long-term care system including choosing an assisted living facility. At times, individuals will work with an assisted living referrer to assist them with this task. There is very little consumer information related to assisted living referrers and placement agencies, and as a result very little transparency related to the related business practices of these entities.

The following points should be noted:

- This bill will enhance the current law by adding additional protections for the resident including privacy rights under HIPAA, liability insurance and a written contract.
- Criminal background checks are essential for working with individuals in assisted living facility and their families.
- This bill has conflict of interest provisions that protect resident rights and would reduce the possibility of exploitation and fraud.
- Resident and resident representative information would not be shared without consent.

This bill would lead to greater transparency and consumer protections as well as protect individuals from privacy violations and fraud. In addition, this bill will lead to more informed decision making for residents and their families.

As the State Long-Term Care Ombudsman, I encourage you to support this bill.

Respectfully submitted,

Stevanne Ellis, Maryland Long-Term Care Ombudsman

**SB0624\_FAV\_NONE.pdf**

Uploaded by: Tracie Ulmes

Position: FAV

Dear Honorable Senators,

I am writing to express my support for SB0624, which would hold all senior living referral services that operate in Maryland to the same rigorous standard.

Finding assisted living for my parents in March 2021 was one of the most stressful experiences I have been through. Without taking up too much of your time with the detail, I had a complicated and time-sensitive situation where both of my parents needed differing levels of care as soon as possible. I initially tried to research facilities on my own, but found that the information I could get online was limited unless I went through what seemed like the gatekeeper for this type of information – A Place for Mom.

Desperate, I signed up for an account with A Place for Mom. My phone rang immediately, and they were quite persistent until I answered their call. Their representative was sympathetic and initially seemed very helpful. However, after that first call and a promise to follow up, I never heard from her, and, frankly, was too in the thick of things to reach back out to her. Two assisted living facilities that had been given my information reached out to me – which I hadn't anticipated. It was not transparent that my personal information would be shared with these facilities. Thankfully, as I continued my search for facilities, I found a local senior care placement service that met my family's needs and served as the kind of advocate I needed.

SB0624 is important to protect people, like myself, who are going through a stressful time and are very vulnerable as they navigate this unfamiliar situation. Most people know very little about assisted living and skilled nursing options until they are thrown into a situation where they need, and large clearinghouse companies, like A Place for Mom, can exploit these folks. They inhibit decision-making by gatekeeping access to information about facilities that should be publicly available. They are allowed to gather personal information without providing a real service or delivering a product, under the pretense that they will do both. I didn't realize what I could expect from such a service until I found a local placement agency that gave me the help I needed. The local agency surveyed my family's medical and financial needs, connected me with facilities that could meet those needs, and walked me through the process from beginning to end. That is what people in this situation need.

Any family seeking senior placement assistance for a loved one should feel confident that when they contact a placement service, they will get the help they need and their information will be protected. It is essential that all senior care placement services operating in Maryland be held to the same rigorous standard. In that spirit, I respectfully ask that you pass SB0624. Thank you.

Sincerely,

Tracie Ulmes

Joppa, MD

**OAG HEAU\_FWA\_SB0624.pdf**

Uploaded by: Patricia O'Connor

Position: FWA

**BRIAN E. FROSH**  
*Attorney General*

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**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**  
**CONSUMER PROTECTION DIVISION**

Writer's Direct Dial No.  
(410) 576-6515

February 23, 2022

To: The Honorable Delores G. Kelley  
Chair, Finance Committee

From: Office of the Attorney General's Health Education and Advocacy Unit

Re: Senate Bill 624 (Assisted Living Programs – Assisted Living Referrers- Requirements and Prohibitions): Support

The Office of the Attorney General's Health Education and Advocacy Unit (HEAU) supports Senate Bill 624 and offers a friendly amendment to further the bill's goal of strengthening consumer protections for clients of assisted living referrers. The bill appears to mandate that referrers comply with HIPAA privacy standards and security standards, but we believe clarifying language would remove potential confusion about that requirement.

The bill would require an assisted living referrer to (1) maintain general liability insurance; (2) require employees to obtain a criminal history records check; (3) sign a HIPAA agreement with the client or the client's representative; and (4) maintain a written signed and dated document between the assisted living referrer and the client or the client's representative that includes (i) the right of the client to terminate the services for any reason at any time and (ii) a requirement that the referrer communicate the cancellation of the agreement to all assisted living programs to which the client has been referred. The referrer must provide the written document to an assisted living program on or before the day a client is admitted as a resident. Both the assisted living program and the referrer must keep a copy of the document for at least one year after the client is admitted, and the assisted living program may not pay a fee to the referrer until the written document is provided to the assisted living program and after the day the agreement between the referrer and the client is terminated.

The right to terminate the services of internet-based referrers at any time would be an important protection based on information provided by the sponsor: evidently vulnerable seniors



or their representatives often do not realize that they have inadvertently given permission while navigating through a website.<sup>1</sup>

The bill provides additional important protections by prohibiting a referrer from (1) referring clients to an assisted living program if the referrer is an owner of the program, (2) having the power of attorney over a client; or (3) selling or transferring the client's or the client's representative's contact information to a third party without the written consent of the client or the client's representative.

We propose this amendment language to the sponsor at page 2, line 14:

Strike lines 14-16 and replace with “(7) Shall be deemed a covered entity for purposes of the federal Health Insurance Portability and Accountability Act of 1996 and the federal Health Information Technology for Economic and Clinical Health Act; and”

With that amendment, we ask the committee for a favorable report.

cc: Sponsor

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<sup>1</sup> Of course, misleading people into providing consent would constitute an unfair or deceptive trade practice, but, by providing for easy cancellation, this bill should decrease the number of disputes over the manner in which consent was obtained.

**V 2 Senate Bill 624\_ written testimony 2022 02 24.**

Uploaded by: Ari Plaut

Position: UNF

Senate Bill 624 (MD)

**Referral Agency Facts** – National senior living referral agencies such as A Place for Mom (“APFM”) and Caring.com (“Caring”):

- Provide all of their services free to seniors and their families who are looking for a senior housing solution and rely on expert information to find the best solution for their needs as soon as possible.
- Invest significant resources to build websites with extensive information to help families learn about their senior care options.
- 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.
- Solicit and manage a network of assisted living communities to help find the best place for the senior based on a number of factors. A referral agency is not paid by an assisted living community until a senior moves in to a referred community.
- Employ local advisors based in Maryland (although we are both nationwide companies).
- Refer a senior to an average of four (4) communities and do not share any of a senior’s information with an assisted living community until we consult with the family and obtain explicit consent to share their information.

**SB 624 Summary of Issues** – This bill seeks to place administrative burdens which disparately impact national referral agencies as compared with local referral agencies through the requirements of obtaining written, signed contracts with seniors. The bill opens the door for local agencies to unjustly enrich themselves by getting a senior to cancel their relationship with a national agency to obtain the benefit of a commission from an assisted living community even though the national referral agency expended significant time engaging with the senior and their family to find a community where the senior is most likely to thrive.

The bill also requires referral agencies to sign a “federal HIPAA agreement”, the obligation of which is unclear but appears to stand to mean a Business Associate Agreement. Referral agencies do not fall within the legal definition of a covered entity, thus creating a regulatory slippery slope.

Accordingly, this bill is a solution in search of a problem that does not exist. Neither APFM nor Caring have received complaints from seniors or their families regarding fees; thus, there is no evidence of harm to seniors that would merit the promulgation of this bill to correct. SB 966 was enacted in 2020 to protect seniors. We did not object to that bill and have complied with its requirements. Thus, it is unclear why this bill is needed and smacks of being motivated by local agencies desire to push national agencies out of the market, which only stands to harm consumers by reducing their choices and resources.

**Effect of Bill:**

- Interferes with our contractual right with the communities to be paid a referral fee.
- Discourages us from helping families in Maryland.
- If a senior moves into a community we referred to, then we referred them to an appropriate choice, but would not be compensated for that placement.

*For more information, please contact Frank Boston (410-323-7090).*

- In the event a local agency does a better job and places a senior in a community we did not refer them to, then they should be entitled to receive that referral fee, but that is what happens without this bill.

**Other Provisions of Existing Law Already in Our Current Practices:**

- Audit of licensing status of Maryland assisted living facilities.
- Background checks conducted on employees.
- Conflict of interest checks with assisted living facilities.
- Disclosure that referral services are free to the families because we are paid by the communities in our referral network.

**Problematic Provisions in Bill:**

- Requires a written and signed agreement between the referral agency and consumer, which would further delay the senior living search at a time of urgent need and further adds unnecessary administrative burden on the consumer.
- Requires referral agencies and communities to sign a “federal HIPAA agreement,” which is confusing and unclear as to what this document would be.
- Unnecessarily imposes a heightened data privacy requirement on the transfer of information by referral agencies.

*About A Place for Mom and Caring.com*

We are two national referral service companies that provide senior living referral services in the State of Maryland.

Senior living referral agencies take the guess work out of choosing a community for an aging parent or loved one by vetting assisted living communities, including running compliance checks to ensure proper licensing and credentialing. Our services save families time and reduce their stress by working with the family to determine a senior’s individual needs, location requirements, budget, and referring them to senior living communities that are best suited to their unique, individual circumstances. Our agencies follow-up with the family and the communities to ensure a smooth process.

APFM and Caring are committed to providing Maryland seniors and their families the critical assistance they need in finding the right assisted living community, often during a time of crisis, based on their unique needs and budget. Both agencies provide comprehensive online directories of local communities, consumer reviews, and other authoritative information to guide and support the stressful decision-making process. These time-intensive and valuable services are provided FREE OF CHARGE to seniors and their families.