

COMMITTEE ON HEALTH AND HUMAN SERVICES

SENATE AMENDMENTS TO S.B. 1034

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 36-446.14, Arizona Revised Statutes, is amended
3 to read:

4 36-446.14. Referral agencies; assisted living facilities and
5 assisted living homes; disclosure;
6 acknowledgement; fee; notice; requirements; civil
7 penalty; definitions

8 A. A referral agency shall disclose, **IN THE FORM PRESCRIBED BY**
9 **SUBSECTION D OF THIS SECTION**, to any prospective resident or representative
10 of a prospective resident at the time or before any referral is made for
11 care at an assisted living facility ~~both~~ **OR ASSISTED LIVING HOME** ALL of the
12 following:

13 1. The existence of any current business relationship ~~between the~~
14 ~~referral agency and the assisted living facility, including~~ **OR** any common
15 ownership or control and any other financial, business, management or
16 familial relationship that exists between the referral agency and the
17 assisted living facility **OR ASSISTED LIVING HOME**.

18 2. That the assisted living facility **OR ASSISTED LIVING HOME** pays a
19 fee to the referral agency in connection with the referral.

20 ~~B. The referral agency shall disclose to a new resident or the~~
21 ~~resident's representative either before or at the time of the resident's~~
22 ~~admission date the amount of the fee or a good faith estimate of the fee to~~
23 ~~be paid by the assisted living facility to the referral agency.~~

1 ~~C. Both the referral agency and the prospective resident or the~~
2 ~~prospective resident's representative shall sign and date or electronically~~
3 ~~acknowledge and date the disclosures required by subsections A and B of~~
4 ~~this section. The referral agency shall provide the prospective resident~~
5 ~~or the prospective resident's representative a copy of the disclosures~~
6 ~~either electronically or in a hard copy. The referral agency shall provide~~
7 ~~the assisted living facility a copy of the signed and dated or~~
8 ~~electronically acknowledged and dated disclosures at the same time the~~
9 ~~resident receives the disclosures, and the assisted living facility shall~~
10 ~~maintain a copy of the disclosures on file at the facility.~~

11 ~~D. The assisted living facility may not pay any referral fee~~
12 ~~associated with a resident until the assisted living facility receives the~~
13 ~~disclosures required by subsections A and B of this section.~~

14 3. THE AMOUNT OF THE FEE OR A GOOD FAITH ESTIMATE OF THE FEE THE
15 ASSISTED LIVING FACILITY OR ASSISTED LIVING HOME WILL PAY TO THE REFERRAL
16 AGENCY. THE REFERRAL AGENCY MAY DESCRIBE THE FEE AS A DOLLAR AMOUNT OR AS
17 A PERCENTAGE OF THE PROSPECTIVE RESIDENT'S FIRST MONTH'S RENT AND CARE
18 CHARGES AT THE FACILITY OR HOME.

19 B. AFTER THE REFERRAL AGENCY PROVIDES THE DISCLOSURE REQUIRED BY
20 SUBSECTION A OF THIS SECTION, THE REFERRAL AGENCY SHALL REQUEST FROM THE
21 PROSPECTIVE RESIDENT OR REPRESENTATIVE OF A PROSPECTIVE RESIDENT AN
22 ACKNOWLEDGEMENT OF RECEIVING THE DISCLOSURE IN THE SAME MANNER AND FORM IN
23 WHICH THE DISCLOSURE WAS DELIVERED.

24 C. BY PROVIDING A WRITTEN OR ELECTRONIC TERMINATION NOTICE TO THE
25 REFERRAL AGENCY, THE PROSPECTIVE RESIDENT MAY TERMINATE ALL SERVICES OF THE
26 REFERRAL AGENCY FOR THE PROSPECTIVE RESIDENT AT ANY TIME, INCLUDING THE USE
27 OF THE PROSPECTIVE RESIDENT'S PERSONAL INFORMATION. IF THE PROSPECTIVE
28 RESIDENT DELIVERS A TERMINATION NOTICE, THE REFERRAL AGENCY IS NOT ENTITLED
29 TO ANY FEE FOR THE RESIDENT'S MOVE-IN AFTER THE DATE OF THE TERMINATION
30 NOTICE UNLESS EITHER OF THE FOLLOWING APPLIES:

31 1. THE ASSISTED LIVING FACILITY OR ASSISTED LIVING HOME CHOSEN BY
32 THE RESIDENT WITHIN EIGHTEEN MONTHS AFTER THE DATE OF TERMINATION WAS

1 SPECIFICALLY IDENTIFIED AND REFERRED TO THE RESIDENT AFTER EVALUATING THE
2 PROSPECTIVE RESIDENT'S PROFILE AND REQUESTS BEFORE THE RESIDENT DELIVERED
3 THE NOTICE OF TERMINATION.

4 2. THE RESIDENT REINQUIRED WITH THE REFERRAL AGENCY BEFORE ADMISSION
5 TO THE ASSISTED LIVING FACILITY OR ASSISTED LIVING HOME.

6 D. THE REFERRAL AGENCY'S WRITTEN, ELECTRONIC OR ORAL DISCLOSURE
7 SHALL BE IN THE FOLLOWING FORMAT AND, IF WRITTEN, SHALL BE IN
8 FOURTEEN-POINT FONT TYPE:

9 ARIZONA LAW REQUIRES THAT WE PROVIDE YOU WITH THE
10 FOLLOWING DISCLOSURE NOTICE.

11 WE ARE IN THE BUSINESS OF REFERRING RESIDENTS TO ASSISTED
12 LIVING FACILITIES AND ASSISTED LIVING HOMES. WE WILL BE PAID BY
13 THE FACILITY OR HOME IF YOU MOVE INTO ONE OF THE REFERRED
14 FACILITIES OR HOMES. THE FEE WE RECEIVE FROM THE FACILITY OR
15 HOME INTO WHICH YOU MOVE TYPICALLY RANGES FROM (____) TO (____)
16 PERCENT OF YOUR FIRST MONTH'S RENT AND CARE CHARGES OR FROM
17 (\$____) AND (\$____). WE (DO/DO NOT) HAVE A CURRENT BUSINESS
18 RELATIONSHIP (BUT/AND) WE (DO/DO NOT) HAVE A COMMON OWNERSHIP
19 OR CONTROL IN, OR ANY OTHER FINANCIAL, BUSINESS, MANAGEMENT OR
20 FAMILIAL RELATIONSHIP WITH, (ANY) (ONE OR MORE) OF THE HOMES
21 AND FACILITIES TO WHICH WE ARE REFERRING YOU.

22 BY PROVIDING US WITH A WRITTEN OR ELECTRONIC NOTICE, YOU
23 HAVE THE RIGHT TO TERMINATE OUR SERVICES TO YOU AT ANY TIME,
24 INCLUDING OUR USE OF YOUR PERSONAL INFORMATION. IF YOU
25 TERMINATE OUR SERVICES, WE WILL NOT BE ENTITLED TO ANY FEE FOR
26 ANY MOVE-IN YOU MAKE AFTER THE DATE OF THE TERMINATION NOTICE
27 UNLESS EITHER:

28 1. THE FACILITY OR HOME YOU CHOOSE WITHIN THE NEXT
29 EIGHTEEN MONTHS IS ONE THAT WE SPECIFICALLY IDENTIFY AND REFER
30 TO YOU AFTER WE EVALUATE YOUR PROFILE AND REQUESTS BUT BEFORE
31 WE RECEIVE YOUR NOTICE OF TERMINATION.

1 2. YOU REINQUIRE WITH US BEFORE YOU MOVE INTO THE
2 FACILITY OR HOME.

3 E. WITHIN FOURTEEN DAYS AFTER A RESIDENT IS ADMITTED TO AN ASSISTED
4 LIVING FACILITY OR ASSISTED LIVING HOME, THE FACILITY OR HOME SHALL NOTIFY
5 THE REFERRAL AGENCY OF THE RESIDENT'S ADMISSION IF THE FACILITY OR HOME IS
6 CONTRACTED WITH THE REFERRAL AGENCY. NOT LATER THAN FOURTEEN DAYS AFTER
7 RECEIVING NOTICE OF THE RESIDENT'S ADMISSION, THE REFERRAL AGENCY SHALL
8 PROVIDE THE ASSISTED LIVING FACILITY OR ASSISTED LIVING HOME WITH A WRITTEN
9 OR ELECTRONIC COPY OR RECORDING OF THE DISCLOSURE MADE TO THE RESIDENT AND
10 THE RESIDENT'S ACKNOWLEDGEMENT OF RECEIVING THE DISCLOSURE AS PRESCRIBED IN
11 SUBSECTIONS B AND D OF THIS SECTION, ALONG WITH THE DATE AND TIME OF THE
12 DISCLOSURE TO THE RESIDENT. THE ASSISTED LIVING FACILITY OR ASSISTED
13 LIVING HOME SHALL MAINTAIN A COPY OF THE DISCLOSURE FOR AS LONG AS THE
14 RESIDENT IS AT THE FACILITY OR HOME. THE REFERRAL AGENCY SHALL MAINTAIN A
15 COPY OF THE DISCLOSURE AND ACKNOWLEDGEMENT FOR ONE YEAR. THE ASSISTED
16 LIVING FACILITY OR ASSISTED LIVING HOME MAY NOT PAY ANY REFERRAL FEE
17 ASSOCIATED WITH A RESIDENT UNTIL THE FACILITY OR HOME RECEIVES THE WRITTEN
18 OR ELECTRONIC COPY OR RECORDING OF THE DISCLOSURE MADE TO THE RESIDENT AND
19 THE RESIDENT'S ACKNOWLEDGEMENT OF RECEIVING THE DISCLOSURE PROVIDED AND
20 MAINTAINED IN THE SAME MANNER AND FORM.

21 ~~F.~~ F. A referral agency, ASSISTED LIVING FACILITY OR ASSISTED
22 LIVING HOME that violates this section is subject to a civil penalty of up
23 to ~~one thousand dollars~~ \$1,000 for each violation. The attorney general or
24 a county attorney may institute a proceeding in superior court to recover
25 the civil penalty under this subsection and to restrain and enjoin a
26 violation of this section. Any civil penalty recovered pursuant to this
27 subsection shall be deposited in the general fund of the jurisdiction that
28 prosecuted the violation.

29 ~~F.~~ G. For the purposes of this section:

30 1. "Electronically" includes an audio recording that conforms with
31 the Arizona rules of evidence, that is maintained by the referral agency
32 and that is transmitted to the assisted living facility OR ASSISTED LIVING

1 HOME and the resident or the resident's representative in a format that can
2 be downloaded.

3 2. "Referral agency":

4 (a) Means a person or entity that provides referrals for a fee that
5 is collected from either the ~~patient~~ RESIDENT or the assisted living
6 facility OR ASSISTED LIVING HOME.

7 (b) Does not include either:

8 (i) An assisted living facility OR ASSISTED LIVING HOME, or its
9 employees.

10 (ii) A resident, a resident's family member or a patron of an
11 assisted living facility OR ASSISTED LIVING HOME who refers a prospective
12 resident to an assisted living facility OR ASSISTED LIVING HOME and
13 receives a discount or other remuneration from the assisted living facility
14 OR ASSISTED LIVING HOME."

15 Amend title to conform

1034HHS
02/12/2021
04:41 PM
C: MH