

Senate Engrossed

assisted living facilities; referral agencies

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE BILL 1086

AN ACT

AMENDING SECTION 36-446.14, ARIZONA REVISED STATUTES; RELATING TO ASSISTED LIVING FACILITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

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;
7 civil 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
10 representative of a prospective resident at the time or before any
11 referral is made for care at an assisted living facility or assisted
12 living home all of the following:

13 1. The existence of any current business relationship or any common
14 ownership or control and any other financial, business, management or
15 familial relationship that exists between the referral agency and the
16 assisted living facility or assisted living home.

17 2. That the assisted living facility or assisted living home pays a
18 fee to the referral agency in connection with the referral.

19 3. The amount of the fee, if determined, or a good faith estimate
20 of the fee, if not determined, that the assisted living facility or
21 assisted living home will pay to the referral agency. The referral agency
22 may describe the fee as a dollar amount or as a percentage of the
23 prospective resident's first month's rent and care charges at the facility
24 or home.

25 B. After the first instance of the referral agency providing the
26 disclosure required by subsection A of this section, the referral agency
27 shall request from the prospective resident or representative of a
28 prospective resident an acknowledgement of receiving the disclosure in the
29 same manner and form in which the disclosure was delivered.

30 C. The prospective resident may terminate all services of the
31 referral agency for the prospective resident at any time, including the
32 use of the prospective resident's personal information, by providing a
33 written or electronic termination notice to the referral agency. If the
34 prospective resident delivers a termination notice, the referral agency is
35 not entitled to any fee for the resident's move-in after the date of the
36 termination notice ~~unless either of the following applies:~~

37 ~~1. The assisted living facility or assisted living home chosen by~~
38 ~~the resident within twelve months after the date of termination was~~
39 ~~specifically identified and referred to the resident after evaluating the~~
40 ~~prospective resident's profile and requests before the resident delivered~~
41 ~~the notice of termination.~~

42 ~~2. The referral agency provides documentation to the assisted~~
43 ~~living facility or assisted living home that the resident communicated~~
44 ~~with the referral agency for referral services before the resident's~~
45 ~~admission to the assisted living facility or assisted living home.~~

1 D. The referral agency's written, electronic or oral disclosure
2 shall be in the following format and, if written, shall be in
3 fourteen-point font type:

4 Arizona law requires that we provide you with the
5 following disclosure notice.

6 We are in the business of referring residents to
7 assisted living facilities and assisted living homes. We will
8 be paid by the ASSISTED LIVING facility or ASSISTED LIVING
9 home if you move into one of the referred ASSISTED LIVING
10 facilities or ASSISTED LIVING homes. The fee we receive from
11 the ASSISTED LIVING facility or ASSISTED LIVING home into
12 which you move typically ranges from (____) to (____) percent
13 of your first month's rent and care charges or from (\$____) to
14 (\$____). We (do/do not) have a current business relationship
15 (but/and) we (do/do not) have a common ownership or control
16 in, or any other financial, business, management or familial
17 relationship with, (any) (one or more) of the ASSISTED LIVING
18 homes and ASSISTED LIVING facilities to which we are referring
19 you.

20 By providing us with a written or electronic notice, you
21 have the right to terminate our services to you at any time,
22 including our use of your personal information. If you
23 terminate our services, we will not be entitled to any fee for
24 any move-in you make after the date of the termination notice
25 ~~unless either:~~

26 ~~1. The facility or home you choose within the next~~
27 ~~twelve months is one that we specifically identify and refer~~
28 ~~to you after we evaluate your profile and requests but before~~
29 ~~we receive your notice of termination.~~

30 ~~2. You communicate with us before you move into the~~
31 ~~facility or home.~~

32 E. Within fourteen days after a resident is admitted to an assisted
33 living facility or assisted living home, the ASSISTED LIVING facility or
34 ASSISTED LIVING home shall notify the referral agency of the resident's
35 admission if the ASSISTED LIVING facility or ASSISTED LIVING home is
36 contracted with the referral agency. Not later than fourteen days after
37 receiving notice of the resident's admission, the referral agency shall
38 provide the assisted living facility or assisted living home with a
39 written or electronic copy or recording of the disclosure made to the
40 resident and the resident's acknowledgement of receiving the disclosure as
41 prescribed in subsections B and D of this section, along with the date and
42 time of the disclosure to the resident. The assisted living facility or
43 assisted living home shall maintain a copy of the disclosure for as long
44 as the resident is at the ASSISTED LIVING facility or ASSISTED LIVING
45 home. The referral agency shall maintain a copy of the disclosure and

1 acknowledgement for one year. The assisted living facility or assisted
2 living home shall not pay any referral fee associated with a resident
3 until the ASSISTED LIVING facility or ASSISTED LIVING home receives the
4 written or electronic copy or recording of the disclosure made to the
5 resident and the resident's acknowledgement of receiving the disclosure
6 provided and maintained in the same manner and form.

7 F. A referral agency that violates this section is subject to a
8 civil penalty of up to \$1,000 for each violation. The attorney general or
9 a county attorney may institute a proceeding in superior court to recover
10 the civil penalty under this subsection and to restrain and enjoin a
11 violation of this section. Any civil penalty recovered pursuant to this
12 subsection shall be deposited in the general fund of the jurisdiction that
13 prosecuted the violation.

14 G. For the purposes of this section:

15 1. "Electronically" includes an audio recording that conforms with
16 the Arizona rules of evidence, that is maintained by the referral agency
17 and that is transmitted to the assisted living facility or assisted living
18 home and the resident or the resident's representative in a format that
19 can be downloaded.

20 2. "Referral agency":

21 (a) Means a person or entity that provides referrals for a fee that
22 is collected from either the resident or the assisted living facility or
23 assisted living home.

24 (b) Does not include either:

25 (i) An assisted living facility or assisted living home, or its
26 employees.

27 (ii) A resident, a resident's family member or a patron of an
28 assisted living facility or assisted living home who refers a prospective
29 resident to an assisted living facility or assisted living home and
30 receives a discount or other remuneration from the assisted living
31 facility or assisted living home.