

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 59th Legislature (2024)

4 HOUSE BILL 3919

By: West (Tammy) and **Caldwell**
(Chad)

7 AS INTRODUCED

8 An Act relating to assisted living; mandating
9 disclosure of certain relationships; mandating
10 disclosure of referral fee; providing for written
11 agreement between referral agency and prospective
12 resident; providing for record keeping of the written
13 agreement; directing when contact information can be
14 sold to third parties; providing for civil liability;
15 providing enforcement by the Attorney General or an
16 assistant district attorney; amending 63 O.S. 2021,
17 Section 1-890.2, which relates to definitions in the
18 Continuum of Care and Assisted Living Act; adding a
19 definition; providing for codification; and providing
20 an effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 1-890.9 of Title 63, unless
24 there is created a duplication in numbering, reads as follows:

25 A. A referral agency shall disclose to a prospective resident
26 or the representative of the prospective resident referred to an
27 assisted living center:

1 1. Documentation of the existence of any relationships between
2 the referral agency and the assisted living center, including common
3 ownership or control of the assisted living center, and financial,
4 business, management, or familial relationships between the referral
5 agency and the assisted living center;

6 2. That the referral agency receives a fee from the assisted
7 living center for the referral. The amount of the fee or a good
8 faith estimate of the fee, if not determined, may be described as a
9 dollar amount or as a percentage of the first month's rent and care
10 charges; and

11 3. Written documentation of the agreement between the referral
12 agency and the prospective resident or representative of the
13 prospective resident. The agreement must include:

14 a. the right of the prospective resident or
15 representative of the prospective resident to
16 terminate the referral agency's services for any
17 reason at any time, and

18 b. a requirement that the referral agency communicate the
19 cancellation of the agreement to all assisted living
20 centers to which the prospective resident has been
21 referred.

22 B. The referral agency and the prospective resident or
23 representative of the prospective resident shall sign and date the
24 documentation required in subsection A of this section. The

1 referral agency shall provide a written or electronic copy of the
2 signed disclosure to the assisted living center on or before the
3 date the resident is admitted to the assisted living center.

4 C. The assisted living center shall:

5 1. Not be required to pay the referral agency a fee:

6 a. until written receipt of the documentation required in
7 subsection B of this section is received,

8 b. until after the date of the agreement between the
9 referral agency and the prospective client or
10 representative of the prospective client is
11 terminated, and

12 c. for the transfer of a resident within the same
13 assisted living center or any facility owned by a
14 subsidiary or affiliated entity of the assisted living
15 center where the person is currently residing;

16 2. Maintain a written or electronic copy of the documentation
17 required in subsection B of this section at the assisted living
18 center for at least one (1) year after the date that the new
19 resident is admitted; and

20 3. Not sell or transfer the prospective resident's or
21 prospective resident's representative's contact information to a
22 third party without the written consent of the prospective resident
23 or representative of the prospective resident.

1 D. A referral agency that violates this section is subject to a
2 civil penalty of up to Five Hundred Dollars (\$500.00) per violation.

3 E. The Attorney General or an assistant district attorney may
4 bring civil action on behalf of the state to seek the imposition of
5 a civil penalty for a violation of this section or to enjoin the
6 continuance.

7 SECTION 2. AMENDATORY 63 O.S. 2021, Section 1-890.2, is
8 amended to read as follows:

9 Section 1-890.2 As used in the Continuum of Care and Assisted
10 Living Act:

11 1. "Assisted living center" means any home or establishment
12 offering, coordinating or providing services to two or more persons
13 who:

- 14 a. are domiciled therein,
- 15 b. are unrelated to the operator,
- 16 c. by choice or functional impairments, need assistance
17 with personal care or nursing supervision,
- 18 d. may need intermittent or unscheduled nursing care,
- 19 e. may need medication assistance, and
- 20 f. may need assistance with transfer and/or ambulation;

21 2. "Board" means the State Board of Health;

22 3. "Commissioner" means the Commissioner of Health;

1 4. "Continuum of care facility" means a home, establishment or
2 institution providing nursing facility services as defined in
3 Section 1-1902 of this title and one or both of the following:

4 a. assisted living center services as defined in the
5 Continuum of Care and Assisted Living Act, and

6 b. adult day care center services as defined in Section
7 1-872 of this title; ~~and~~

8 5. "Department" means the State Department of Health; and

9 6. "Referral agency" means an individual or entity that
10 provides referrals to an assisted living center or its subsidiary
11 facility for a fee that is collected from either the prospective
12 resident or the assisted living center. Referral agency does not
13 include an assisted living center, its subsidiary facility, or its
14 employees; a resident's family member; or a resident of an assisted
15 living center, regardless of whether the resident who refers a
16 prospective resident to an assisted living center receives a
17 discount or other remuneration from the assisted living center.

18 SECTION 3. This act shall become effective November 1, 2024.

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20 COMMITTEE REPORT BY: COMMITTEE ON HEALTH SERVICES AND LONG-TERM
21 CARE, dated 02/28/2024 - DO PASS, As Coauthored.