

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3919

By: Caldwell (Chad)

AS INTRODUCED

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

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

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

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

1. Documentation of the existence of any relationships between the referral agency and the assisted living center, including common

1 ownership or control of the assisted living center, and financial,  
2 business, management, or familial relationships between the referral  
3 agency and the assisted living center;

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

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

- 12 a. the right of the prospective resident or  
13 representative of the prospective resident to  
14 terminate the referral agency's services for any  
15 reason at any time, and
- 16 b. a requirement that the referral agency communicate the  
17 cancellation of the agreement to all assisted living  
18 centers to which the prospective resident has been  
19 referred.

20 B. The referral agency and the prospective resident or  
21 representative of the prospective resident shall sign and date the  
22 documentation required in subsection A of this section. The  
23 referral agency shall provide a written or electronic copy of the  
24

1 signed disclosure to the assisted living center on or before the  
2 date the resident is admitted to the assisted living center.

3 C. The assisted living center shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 4. "Continuum of care facility" means a home, establishment or  
22 institution providing nursing facility services as defined in  
23 Section 1-1902 of this title and one or both of the following:  
24  
--

- 1           a.    assisted living center services as defined in the  
2                    Continuum of Care and Assisted Living Act, and  
3           b.    adult day care center services as defined in Section  
4                    1-872 of this title; ~~and~~

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

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

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

16  
17       59-2-9172           TJ           01/05/24  
18  
19  
20  
21  
22  
23  
24  
- -