

Chapter 839

(Senate Bill 952)

AN ACT concerning

Assisted Living Programs – Assisted Living Referrers – Requirements and Prohibitions

FOR the purpose of establishing certain requirements for assisted living referrers, including requirements related to the maintenance of general liability insurance, criminal history records checks, and the ~~maintenance and~~ provision of certain agreements and ~~documents~~ descriptions of services, ~~and assisted living program~~ ~~terms~~; prohibiting an assisted living referrer from requesting payment for a referral after a certain time period ~~and selling certain data~~; requiring the Office of Health Care Quality to maintain a certain database of approved assisted living programs ~~for a certain purpose~~; requiring an assisted living referrer to comply with certain data privacy provisions on certain dates; and generally relating to assisted living referrers and assisted living programs.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 19–1813

Annotated Code of Maryland

(2023 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

19–1813.

(a) In this section, “assisted living referrer” means an individual or agency that:

(1) Makes referrals to assisted living programs without cost to the person receiving the referral; and

(2) Is compensated by an assisted living program or other third party for referring individuals to a licensed assisted living program.

(b) Each assisted living referrer:

(1) Shall register with the Office of Health Care Quality;

(2) Shall disclose to a client or potential client of the assisted living referrer all financial relationships the assisted living referrer has with assisted living programs;

(3) If referring a client or potential client to an assisted living program, shall affirm that the assisted living program is licensed;

(4) If referring a client or potential client to an assisted living program, may refer the client or potential client only to a licensed assisted living program; [and]

(5) SHALL MAINTAIN GENERAL LIABILITY INSURANCE;

(6) SHALL REQUIRE EMPLOYEES TO OBTAIN A CRIMINAL HISTORY RECORDS CHECK;

~~(7) SHALL SIGN A IF MEDICAL INFORMATION IS EXCHANGED, SHALL SIGN A DOCUMENT WITH THE CLIENT OR THE CLIENT'S REPRESENTATIVE IN ACCORDANCE WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT AGREEMENT WITH THE CLIENT OR THE CLIENT'S REPRESENTATIVE;~~

~~(8) SHALL MAINTAIN A SIGNED, WRITTEN, AND DATED DOCUMENT AN ELECTRONIC OR WRITTEN AGREEMENT BETWEEN THE ASSISTED LIVING REFERRER AND THE CLIENT OR THE CLIENT'S REPRESENTATIVE OUTLINING THE TERMS OF ASSISTANCE PROVIDED BY THE ASSISTED LIVING REFERRER; AND~~

(7) SHALL PROVIDE TO THE CLIENT OR THE CLIENT'S REPRESENTATIVE A DESCRIPTION OF THE SERVICES THAT WILL BE PROVIDED BY THE REFERRER;

(8) IF THE REFERRER HAS A FINANCIAL AGREEMENT WITH THE CLIENT OR THE CLIENT'S REPRESENTATIVE, SHALL PROVIDE THE AGREEMENT TO THE CLIENT OR THE CLIENT'S REPRESENTATIVE IN WRITING OR BY ELECTRONIC MEANS; AND

[(5)] (9) Shall notify the Office of Health Care Quality immediately on learning that the assisted living program is operating without a license.

~~(c) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN ASSISTED LIVING REFERRER MAKING A REFERRAL TO AN ASSISTED LIVING PROGRAM SHALL ARRANGE AND FACILITATE A TOUR OF THE ASSISTED LIVING PROGRAM FOR THE CLIENT AND THE CLIENT'S FAMILY.~~

~~(2) DURING THE TOUR REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, A REPRESENTATIVE OF THE ASSISTED LIVING REFERRER AND A REPRESENTATIVE OF THE ASSISTED LIVING PROGRAM SHALL BE PRESENT.~~

~~[(c)] (D)~~ An assisted living referrer may not:

(1) Receive funding from the Department if the assisted living referrer is in violation of this subtitle; [or]

(2) Make referrals only to licensed assisted living programs from which the assisted living referrer receives compensation as described in subsection (a)(2) of this section; OR ~~OR~~

(3) REQUEST PAYMENT OF A REFERRAL FEE FROM AN ASSISTED LIVING PROGRAM MORE THAN ~~1 YEAR~~ 2 YEARS AFTER THE ASSISTED LIVING REFERRER PROVIDED THE REFERRAL; ~~OR~~

~~(4) SELL THE DATA OF THE CLIENT OR THE CLIENT'S REPRESENTATIVE TO ANOTHER PERSON.~~

~~[(d)] (E)~~ If requested by any person or on its own initiative, the Office of the Attorney General may investigate whether an assisted living referrer violated this subtitle and may seek appropriate relief.

~~(F) (E) THE OFFICE OF HEALTH CARE QUALITY SHALL MAINTAIN A USER-FRIENDLY DATABASE OF LICENSED ASSISTED LIVING PROGRAMS AND ENSURE THAT EACH ASSISTED LIVING REFERRER HAS ACCESS TO THE DATABASE.~~

(F) (1) ON OR BEFORE SEPTEMBER 30, 2025, AN ASSISTED LIVING REFERRER:

(I) SHALL KEEP A CLIENT OR POTENTIAL CLIENT'S MEDICAL RECORD, AS DEFINED IN § 4-301 OF THIS ARTICLE, CONFIDENTIAL AND MAY DISCLOSE THE MEDICAL RECORD ONLY FOR THE PURPOSE OF MAKING A REFERRAL IF THE CLIENT OR POTENTIAL CLIENT GIVES INFORMED WRITTEN, ELECTRONIC, OR AUDIO RECORDED CONSENT; AND

(II) MAY NOT SELL THE PERSONAL DATA OF A CLIENT, POTENTIAL CLIENT, OR CLIENT'S REPRESENTATIVE TO ANOTHER PERSON UNLESS THE CLIENT OR THE CLIENT'S REPRESENTATIVE GIVES INFORMED WRITTEN, ELECTRONIC, OR AUDIO RECORDED CONSENT.

(2) ON OR AFTER OCTOBER 1, 2025, AN ASSISTED LIVING REFERRER SHALL COMPLY WITH ALL APPLICABLE DATA PRIVACY LAWS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, May 16, 2024.