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SENATE BILL NO. 791

Offered January 23, 2026

A BILL to amend and reenact § 63.2-1803.1 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 18 of Title 63.2 an article numbered 1.1, consisting of sections numbered 63.2-1808.2 through 63.2-1808.5, relating to assisted living facilities; resident referral agencies; required disclosures; referral fee limitations; civil penalty.

Patron—McDougle

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1803.1 of the Code of Virginia is amended and reenacted and the Code of Virginia is amended by adding in Chapter 18 of Title 63.2 an article numbered 1.1, consisting of sections numbered 63.2-1808.2 through 63.2-1808.5, as follows:

§ 63.2-1803.1. Assisted Living Facility Education, Training, and Technical Assistance Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Assisted Living Facility Education, Training, and Technical Assistance Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All penalties directed to this fund by subdivision B 4 of § 63.2-1709.2, *§ 63.2-1808.5,* and all other funds from any public or private source directed to the Fund shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of providing education and training for staff of and technical assistance to assisted living facilities to improve the quality of care in such facilities. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner.

Article 1.1.

Resident Referral Agencies.

§ 63.2-1808.2. Definitions.

As used in this article, unless the context requires a different meaning:

"Referral fee" means any compensation, whether monetary or in-kind, received by a resident referral agency in exchange for referring a resident who moves into an assisted living facility as a direct result of the referral provided.

"Resident" means an individual who is considering moving into an assisted living facility or the individual's legal representative.

"Resident referral agency" means any individual or entity that receives compensation from an assisted living facility for providing resident referrals to an assisted living facility.

§ 63.2-1808.3. Resident referral agencies.

A. An assisted living facility is not obligated to participate with any resident referral agency. If an assisted living facility chooses to participate with a resident referral agency, the assisted living facility shall retain the right to negotiate the terms of the referral, including the referral fee.

B. Contact and information requests made of the resident referral agency by family members, friends, and other contacts of the prospective resident shall not be considered an agreement for services by the resident. For a referral agreement to be valid, the resident shall opt in to using the resident referral agency after reviewing the full disclosure of the terms of the referral. The resident is not obligated to participate with a resident referral agency and may opt out at any time in writing with an understanding that no referral fee will be paid should the resident opt out prior to moving into the referred assisted living facility.

C. A resident referral agency shall provide, at a minimum, the following services before becoming eligible to receive a referral fee: (i) conducting an in-person, virtual, or telephone consultation with the resident to assess the needs and preferences of the resident; (ii) providing a minimum of three recommendations for assisted living facilities that align with the resident's needs and preferences; and (iii) assisting in scheduling and coordinating tours of the referred assisted living facilities.

§ 63.2-1808.3. Resident referral agencies; required disclosures.

A. Resident referral agencies shall disclose the following information to residents:

1. Documentation of the existence of any relationships between the resident referral agency and any assisted living facility, including common ownership or control of the assisted living facility, and financial, business, management, or familial relationships between the resident referral agency and the assisted living

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facility.

2. The nature of the compensation arrangement between the resident referral agency and any assisted living facility, specifically listing any fees to be paid to the resident referral agency as a result of its referral;

3. The limitations on referral fees pursuant to § 63.2-1808.4;

4. A statement clarifying that assisted living facilities may also be identified through noncommercial sources, such as the Department, nonprofit organizations, and public internet searches;

5. A statement that not all licensed assisted living facilities may be included in the list of recommendations provided by the resident referral agency; and

6. A detailed listing of the services to be provided to the resident by the resident referral agency.

B. Such disclosure shall be made in writing before the referral process begins and shall be signed by the resident. The resident referral agency shall provide a written or electronic copy of the signed disclosure to the resident and to the assisted living facility on or before the date a resident is to be admitted to the assisted living facility. An assisted living facility shall not pay the referral fee until such disclosure has been provided.

§ 63.2-1808.4. Resident referral agencies; referral fee limitations.

A. A resident referral agency shall only be permitted to collect a referral fee once per individual resident. If a resident relocates to a different assisted living facility after having previously been referred to such assisted living facility, the resident referral agency shall not be entitled to an additional referral fee for the same resident.

B. A resident referral agency may not receive a referral fee for any resident for whom it is an agent under power of attorney.

C. An assisted living facility shall not be required to pay multiple referral fees for a single resident based on prior referrals.

D. If a resident initiated the services of multiple resident referral agencies that attempt to collect a referral fee from an assisted living facility, the resident shall be required to disclose which resident referral agency provided the most assistance, and only the identified resident referral agency shall be entitled to the referral fee.

E. A resident referral agency may only claim a referral fee if the resident moves into an assisted living facility within 24 months of referral to such assisted living facility.

F. A resident referral agency shall not maintain or utilize a resident's personal information for referral compensation purposes beyond a period of 24 months from receipt of the signed disclosure agreement by the resident. If no referral fee is claimed within such 24-month period, the resident referral agency shall destroy information retained about the resident. Nothing in this section shall prohibit a resident from reinitiating the services of a resident referral agency after such 24-month period.

§ 63.2-1808.5. Enforcement; civil penalty.

The Attorney General shall oversee compliance with the requirements set forth in this article. Any person who fails to comply with this article is subject to a civil penalty not to exceed $10,000 per violation. Such penalty shall be collected by the Attorney General and the proceeds shall be deposited into the Assisted Living Facility Education, Training, and Technical Assistance Fund established pursuant to § 63.2-1803.1.