

FINAL BILL REPORT

ESHB 1494

C 357 L 11
Synopsis as Enacted

Brief Description: Concerning vulnerable adult referral agencies.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representative Moeller).

House Committee on Health Care & Wellness
House Committee on General Government Appropriations & Oversight
Senate Committee on Health & Long-Term Care

Background:

There are several types of facilities and service agencies that provide a broad spectrum of housing and services to seniors.

The Department of Social and Health Services licenses three primary types of residential long-term care settings for seniors: nursing homes, boarding homes, and adult family homes.

Nursing Homes. Nursing homes provide continuous 24-hour convalescent and chronic care. Such care may include the administration of medications, preparation of special diets, bedside nursing care, application of dressings and bandages, and carrying out treatment prescribed by licensed health care providers.

Boarding Homes. Boarding homes are facilities that provide housing and basic services to seven or more residents. Services provided by boarding homes include housekeeping, meals, snacks, laundry, and activities. They may also provide domiciliary care including assistance with activities of daily living, health support services, and intermittent nursing services.

Adult Family Homes. Adult family homes are facilities licensed to care for up to six individuals who need long-term care. These homes provide room, board, laundry, necessary supervision, and assistance with activities of daily living, personal care, and nursing services.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Department of Health licenses in-home services agencies which may provide a range of services to people in their place of residence, including home health services, home care services, hospice care services, and hospice care center services.

Home Health Services. Home health services are services provided to sick, disabled, or vulnerable individuals, including nursing, home health aid, physical therapy, occupational therapy, speech therapy, respiratory therapy, nutritional therapy, medical social services, and home medical supplies or equipment.

Home Care Services. Home care services are nonmedical services and assistance provided to sick, disabled, or vulnerable individuals to allow them to stay in their residences. These services include personal care, homemaker assistance, respite care assistance, or other nonmedical services or delegated nursing tasks.

Hospice Services. Hospice services are symptom and pain management for terminally ill individuals as well as emotional, spiritual, and bereavement support for the individual and his or her family. These services may include home health and home care services.

Hospice Care Center Services. Hospice care center services are hospice services provided in a "home-like" noninstitutional facility.

Summary:

"Elder and vulnerable adult referral agencies" (referral agencies) are defined as businesses or persons that receive a fee from either: (1) a vulnerable adult seeking a referral for supportive housing or care services providers (providers), or (2) a provider as a result of referral services provided to a vulnerable adult. "Supportive housing" is defined as any type of housing that includes services or care for residents who are vulnerable adults and includes nursing homes, boarding homes, adult family homes, and continuing care retirement communities. "Care services" are defined as any combination of services designed to allow vulnerable adults to receive care at home or in a home-like setting and includes home health agencies and in-home service agencies.

General Regulation.

As of January 1, 2012, any entity that operates a referral agency must comply with requirements related to fees and refunds, recordkeeping, disclosures, and intake forms. A violation of the regulations is an unfair or deceptive act in trade or commerce and an unfair method of competition under the Consumer Protection Act. These regulations do not apply to entities providing general information about providers without giving the person the names of specific providers.

Agencies are prohibited from establishing exclusivity agreements between the agency and a client or provider. Agencies may not provide the client with only names of providers in which the agency, its employees, or immediate family members have a financial interest.

Agencies must maintain at least \$1 million of general and professional liability insurance. Agencies are not liable for the acts or omissions of a provider.

Agency owners, operators, and employees who have contact with vulnerable adults must pass a criminal background check every two years and must not have been found to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult. Agency owners, operators, and employees are considered mandated reporters under the Vulnerable Adults Act.

Fees and Refunds.

Referral agencies must disclose fee and refund policies to clients and providers. Minimum requirements for referral agency refund policies are established for situations in which the vulnerable adult dies, is hospitalized, or is transferred to a setting with a more appropriate level of care within the first 30 days of admission. The refund must be a prorated portion of the agency's fees based upon a per diem calculation.

Recordkeeping Requirements.

Agencies must keep records of all services provided to the client for at least six years. Such records are covered by the state health information privacy regulations. The records must include:

- the name, address, and phone number of the client;
- the kind of supportive housing or care services that were sought;
- the location and probable duration of the care services or supportive housing;
- the monthly or unit cost of the supportive housing or care services;
- the amount of the agency's fee to the client or the provider;
- the dates and amounts of any refunds to the client and the reason;
- the client's disclosure and intake forms; and
- any contract or written agreement with a provider for services to the vulnerable adult.

Disclosure Statements.

Clients must be provided with a disclosure statement by the agency, and the client must acknowledge its receipt. If the vulnerable adult refuses to acknowledge receipt of the statement, the referral professional must document that refusal.

A disclosure statement must include:

- the name and contact information of the referral agency;
- the name of the client;
- the amount of the fee to be received from the client or, if the fee is received from the provider, the method of computing the fee, and the time and method of payment;
- a description of the services that the referral agency generally provides and those to be provided specifically to the client;
- a provision that the referral agency may not request clients to sign waivers of potential liability;
- a provision that the referral agency works with both the client and the provider and that the client's authorization will be needed to disclose confidential health information;
- a statement regarding the frequency of agency tours of provider facilities and the most recent date of touring a provider that is the subject of a referral;
- a provision that the client may discontinue the relationship with the referral agency at any time;
- an explanation of the agency's refund policy;

- a statement that the client may file a complaint with the Office of the Attorney General; and
- if the agency, its employees, or immediate family members have a financial interest with a provider to which the client is being referred, a statement explaining that interest.

Intake Forms.

Referral agencies must use a standardized intake form for each vulnerable adult. Information gathered in the intake form is covered by state health care information confidentiality laws.

The intake form must include at least the following information:

- recent medical history as relevant to the referral process;
- known medications and medication management needs;
- known diagnoses, health concerns, and the reason for seeking supportive housing or care services;
- behaviors or symptoms that may cause concern or require special care;
- mental illness, dementia, or developmental disabilities;
- assistance needed for daily living;
- cultural or language access needs and accommodations;
- activity preferences;
- sleeping habits;
- understanding of the client's financial situation and existence of long-term care insurance and financial assistance;
- the client's current living situation;
- geographic location preferences; and
- preferences regarding other issues that are important to the client.

Referral Process.

The referral agency must provide a referral to a client by either giving the names of specific providers who may meet the vulnerable adult's needs or submitting the name of the client to the provider. Before a referral agency makes a referral to a provider, the referral agency must obtain information from the provider including the type of license held by the provider; the provider's authority to care for individuals with mental illness, dementia, or developmental disabilities; accepted payment sources; level of medication management services and personal care services provided; cultural accommodations; primary languages spoken; activities provided; behavioral conditions that cannot be met; and food preference accommodations. In addition, within 30 days of making a referral, the referral agency must also search the Department of Social and Health Services' website and the Department of Health's website to determine the existence of any enforcement actions against the provider.

Exclusions.

The regulations for referral agencies do not apply to: home health or hospice agencies providing counseling to patients on placement options; government entities providing information and assistance to vulnerable adults; professional guardians; providers who make referrals to other providers without charge; social workers, discharge planners or other social service workers helping vulnerable adults in their regular employment activities; or persons providing information to another person.

Work Groups.

The Department of Licensing is required to convene a work group of stakeholders to determine the feasibility of establishing a licensing program for elder and vulnerable adult referral agencies and provide recommendations to the Legislature by December 1, 2011.

By January 1, 2012, the Department of Social and Health Services and the Department of Health must convene a work group of stakeholders to collaborate in the development of a uniform standard for elder and vulnerable adult referral agencies to collect information regarding the enforcement status of providers.

Votes on Final Passage:

House	53	43	
Senate	32	17	(Senate amended)
House	60	37	(House concurred)

Effective: January 1, 2012