

Senate Engrossed

~~technical correction; health professionals~~
(now: assisted living; referral agencies; disclosure)

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 344

SENATE BILL 1034

AN ACT

AMENDING SECTION 36-446.14, ARIZONA REVISED STATUTES; RELATING TO ASSISTED LIVING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 36-446.14, Arizona Revised Statutes, is amended to read:

36-446.14. Referral agencies; assisted living facilities and assisted living homes; disclosure; acknowledgement; fee; notice; requirements; civil penalty; definitions

A. A referral agency shall disclose, **IN THE FORM PRESCRIBED BY SUBSECTION D OF THIS SECTION**, to any prospective resident or representative of a prospective resident at the time or before any referral is made for care at an assisted living facility ~~both~~ **OR ASSISTED LIVING HOME** ALL of the following:

1. The existence of any current business relationship ~~between the referral agency and the assisted living facility, including~~ **OR** any common ownership or control and any other financial, business, management or familial relationship that exists between the referral agency and the assisted living facility **OR ASSISTED LIVING HOME**.

2. That the assisted living facility **OR ASSISTED LIVING HOME** pays a fee to the referral agency in connection with the referral.

~~B. The referral agency shall disclose to a new resident or the resident's representative either before or at the time of the resident's admission date the amount of the fee or a good faith estimate of the fee to be paid by the assisted living facility to the referral agency.~~

~~C. Both the referral agency and the prospective resident or the prospective resident's representative shall sign and date or electronically acknowledge and date the disclosures required by subsections A and B of this section. The referral agency shall provide the prospective resident or the prospective resident's representative a copy of the disclosures either electronically or in a hard copy. The referral agency shall provide the assisted living facility a copy of the signed and dated or electronically acknowledged and dated disclosures at the same time the resident receives the disclosures, and the assisted living facility shall maintain a copy of the disclosures on file at the facility.~~

~~D. The assisted living facility may not pay any referral fee associated with a resident until the assisted living facility receives the disclosures required by subsections A and B of this section.~~

3. THE AMOUNT OF THE FEE, IF DETERMINED, OR A GOOD FAITH ESTIMATE OF THE FEE, IF NOT DETERMINED, THAT THE ASSISTED LIVING FACILITY OR ASSISTED LIVING HOME WILL PAY TO THE REFERRAL AGENCY. THE REFERRAL AGENCY MAY DESCRIBE THE FEE AS A DOLLAR AMOUNT OR AS A PERCENTAGE OF THE PROSPECTIVE RESIDENT'S FIRST MONTH'S RENT AND CARE CHARGES AT THE FACILITY OR HOME.

B. AFTER THE FIRST INSTANCE OF THE REFERRAL AGENCY PROVIDING THE DISCLOSURE REQUIRED BY SUBSECTION A OF THIS SECTION, THE REFERRAL AGENCY SHALL REQUEST FROM THE PROSPECTIVE RESIDENT OR REPRESENTATIVE OF A

1 PROSPECTIVE RESIDENT AN ACKNOWLEDGEMENT OF RECEIVING THE DISCLOSURE IN THE
2 SAME MANNER AND FORM IN WHICH THE DISCLOSURE WAS DELIVERED.

3 C. BY PROVIDING A WRITTEN OR ELECTRONIC TERMINATION NOTICE TO THE
4 REFERRAL AGENCY, THE PROSPECTIVE RESIDENT MAY TERMINATE ALL SERVICES OF
5 THE REFERRAL AGENCY FOR THE PROSPECTIVE RESIDENT AT ANY TIME, INCLUDING
6 THE USE OF THE PROSPECTIVE RESIDENT'S PERSONAL INFORMATION. IF THE
7 PROSPECTIVE RESIDENT DELIVERS A TERMINATION NOTICE, THE REFERRAL AGENCY IS
8 NOT ENTITLED TO ANY FEE FOR THE RESIDENT'S MOVE-IN AFTER THE DATE OF THE
9 TERMINATION NOTICE UNLESS EITHER OF THE FOLLOWING APPLIES:

10 1. THE ASSISTED LIVING FACILITY OR ASSISTED LIVING HOME CHOSEN BY
11 THE RESIDENT WITHIN TWELVE MONTHS AFTER THE DATE OF TERMINATION WAS
12 SPECIFICALLY IDENTIFIED AND REFERRED TO THE RESIDENT AFTER EVALUATING THE
13 PROSPECTIVE RESIDENT'S PROFILE AND REQUESTS BEFORE THE RESIDENT DELIVERED
14 THE NOTICE OF TERMINATION.

15 2. THE REFERRAL AGENCY PROVIDES DOCUMENTATION TO THE ASSISTED
16 LIVING FACILITY OR ASSISTED LIVING HOME THAT THE RESIDENT COMMUNICATED
17 WITH THE REFERRAL AGENCY FOR REFERRAL SERVICES BEFORE THE RESIDENT'S
18 ADMISSION TO THE ASSISTED LIVING FACILITY OR ASSISTED LIVING HOME.

19 D. THE REFERRAL AGENCY'S WRITTEN, ELECTRONIC OR ORAL DISCLOSURE
20 SHALL BE IN THE FOLLOWING FORMAT AND, IF WRITTEN, SHALL BE IN
21 FOURTEEN-POINT FONT TYPE:

22 ARIZONA LAW REQUIRES THAT WE PROVIDE YOU WITH THE
23 FOLLOWING DISCLOSURE NOTICE.

24 WE ARE IN THE BUSINESS OF REFERRING RESIDENTS TO
25 ASSISTED LIVING FACILITIES AND ASSISTED LIVING HOMES. WE WILL
26 BE PAID BY THE FACILITY OR HOME IF YOU MOVE INTO ONE OF THE
27 REFERRED FACILITIES OR HOMES. THE FEE WE RECEIVE FROM THE
28 FACILITY OR HOME INTO WHICH YOU MOVE TYPICALLY RANGES FROM
29 (____) TO (____) PERCENT OF YOUR FIRST MONTH'S RENT AND CARE
30 CHARGES OR FROM (\$____) TO (\$____). WE (DO/DO NOT) HAVE A
31 CURRENT BUSINESS RELATIONSHIP (BUT/AND) WE (DO/DO NOT) HAVE A
32 COMMON OWNERSHIP OR CONTROL IN, OR ANY OTHER FINANCIAL,
33 BUSINESS, MANAGEMENT OR FAMILIAL RELATIONSHIP WITH, (ANY) (ONE
34 OR MORE) OF THE HOMES AND FACILITIES TO WHICH WE ARE REFERRING
35 YOU.

36 BY PROVIDING US WITH A WRITTEN OR ELECTRONIC NOTICE, YOU
37 HAVE THE RIGHT TO TERMINATE OUR SERVICES TO YOU AT ANY TIME,
38 INCLUDING OUR USE OF YOUR PERSONAL INFORMATION. IF YOU
39 TERMINATE OUR SERVICES, WE WILL NOT BE ENTITLED TO ANY FEE FOR
40 ANY MOVE-IN YOU MAKE AFTER THE DATE OF THE TERMINATION NOTICE
41 UNLESS EITHER:

42 1. THE FACILITY OR HOME YOU CHOOSE WITHIN THE NEXT
43 TWELVE MONTHS IS ONE THAT WE SPECIFICALLY IDENTIFY AND REFER
44 TO YOU AFTER WE EVALUATE YOUR PROFILE AND REQUESTS BUT BEFORE
45 WE RECEIVE YOUR NOTICE OF TERMINATION.

1 2. YOU COMMUNICATE WITH US BEFORE YOU MOVE INTO THE
2 FACILITY OR HOME.

3 E. WITHIN FOURTEEN DAYS AFTER A RESIDENT IS ADMITTED TO AN ASSISTED
4 LIVING FACILITY OR ASSISTED LIVING HOME, THE FACILITY OR HOME SHALL NOTIFY
5 THE REFERRAL AGENCY OF THE RESIDENT'S ADMISSION IF THE FACILITY OR HOME IS
6 CONTRACTED WITH THE REFERRAL AGENCY. NOT LATER THAN FOURTEEN DAYS AFTER
7 RECEIVING NOTICE OF THE RESIDENT'S ADMISSION, THE REFERRAL AGENCY SHALL
8 PROVIDE THE ASSISTED LIVING FACILITY OR ASSISTED LIVING HOME WITH A
9 WRITTEN OR ELECTRONIC COPY OR RECORDING OF THE DISCLOSURE MADE TO THE
10 RESIDENT AND THE RESIDENT'S ACKNOWLEDGEMENT OF RECEIVING THE DISCLOSURE AS
11 PRESCRIBED IN SUBSECTIONS B AND D OF THIS SECTION, ALONG WITH THE DATE AND
12 TIME OF THE DISCLOSURE TO THE RESIDENT. THE ASSISTED LIVING FACILITY OR
13 ASSISTED LIVING HOME SHALL MAINTAIN A COPY OF THE DISCLOSURE FOR AS LONG
14 AS THE RESIDENT IS AT THE FACILITY OR HOME. THE REFERRAL AGENCY SHALL
15 MAINTAIN A COPY OF THE DISCLOSURE AND ACKNOWLEDGEMENT FOR ONE YEAR. THE
16 ASSISTED LIVING FACILITY OR ASSISTED LIVING HOME SHALL NOT PAY ANY
17 REFERRAL FEE ASSOCIATED WITH A RESIDENT UNTIL THE FACILITY OR HOME
18 RECEIVES THE WRITTEN OR ELECTRONIC COPY OR RECORDING OF THE DISCLOSURE
19 MADE TO THE RESIDENT AND THE RESIDENT'S ACKNOWLEDGEMENT OF RECEIVING THE
20 DISCLOSURE PROVIDED AND MAINTAINED IN THE SAME MANNER AND FORM.

21 ~~F.~~ F. A referral agency that violates this section is subject to a
22 civil penalty of up to ~~one thousand dollars~~ \$1,000 for each
23 violation. The attorney general or a county attorney may institute a
24 proceeding in superior court to recover the civil penalty under this
25 subsection and to restrain and enjoin a violation of this section. Any
26 civil penalty recovered pursuant to this subsection shall be deposited in
27 the general fund of the jurisdiction that prosecuted the violation.

28 ~~F.~~ G. For the purposes of this section:

29 1. "Electronically" includes an audio recording that conforms with
30 the Arizona rules of evidence, that is maintained by the referral agency
31 and that is transmitted to the assisted living facility OR ASSISTED LIVING
32 HOME and the resident or the resident's representative in a format that
33 can be downloaded.

34 2. "Referral agency":

35 (a) Means a person or entity that provides referrals for a fee that
36 is collected from either the ~~patient~~ RESIDENT or the assisted living
37 facility OR ASSISTED LIVING HOME.

38 (b) Does not include either:

39 (i) An assisted living facility OR ASSISTED LIVING HOME, or its
40 employees.

41 (ii) A resident, a resident's family member or a patron of an
42 assisted living facility OR ASSISTED LIVING HOME who refers a prospective
43 resident to an assisted living facility OR ASSISTED LIVING HOME and
44 receives a discount or other remuneration from the assisted living
45 facility OR ASSISTED LIVING HOME.

S.B. 1034

APPROVED BY THE GOVERNOR MAY 7, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2021.