

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Alex Lee, Chair

SB 875 (Glazer) – As Amended January 11, 2024

**SENATE VOTE:** 32-0

**SUBJECT:** Health and care facilities: residential care facilities for the elderly: referral agencies

**SUMMARY:** Extends existing licensing requirements for referral agencies licensed by the California Department of Public Health (CDPH) to apply to residential care facility for the elderly (RCFE) referral agencies, to be licensed by the California Department of Social Services (CDSS). Specifically, **this bill:**

- 1) Requires an entity that refers a person to an RCFE to obtain a license from CDSS.
- 2) Requires CDSS, no later than February 1, 2025, and no later than February 1 of each year thereafter, to submit a proposed fee schedule as part of its budget proposal to the Legislature.
- 3) Adds an entity that refers a person to an RCFE under the existing definition of a referral agency licensed by CDPH thereby making existing requirements that apply to a CDPH-licensed referral agency additionally apply to an RCFE referral agency.
- 4) Provides that a referral agency does not include:
  - a) A licensed RCFE that either:
    - i) Provides discounts or other remuneration to residents or their families for referring new or prospective clients, or,
    - ii) Provides remuneration to staff for marketing or sales offers.
  - b) A resident who refers a new or prospective resident to a licensed RCFE and receives a discount or other remuneration from the licensed RCFE; or,
  - c) A staff member of the licensed RCFE who receives remuneration from the RCFE for professional services, including sales and marketing efforts on behalf of the RCFE.
- 5) Prohibits an extended care facility, skilled nursing facility (SNF), intermediate care facility, or RCFE from paying a commission or fee to any referral agency not licensed by CDSS or CDPH, as applicable.
- 6) Prohibits any person, association, or corporation from establishing, conducting, or maintaining a referral agency or from referring any person for remuneration to any RCFE for professional services if that facility does not meet existing licensing standards.
- 7) Provides that an RCFE referral agency may satisfy 6) above by obtaining and relying on the licensing status information for an RCFE that is published on CDSS' website.

- 8) Requires an RCFE referral agency to declare that it will conduct a suitability determination of each person who seeks a referral from the licensee and who is referred to a facility or facilities. Provides that suitability determination means as a determination made by the licensee that the facility offers services to meet the needs of the person seeking a referral because of the following considerations:
  - a) The level of care requested by the person seeking the referral;
  - b) The cost of the facility and the ability of the financial means of the person seeking the referral;
  - c) The social needs and preferences of the person seeking the referral; or,
  - d) The geographic location of the facility and the geographic preference of the person seeking the referral.
- 9) Requires a declaration that the licensee trains all employees who make referrals to RCFEs regarding all of the following issues:
  - a) All provisions, as specified, apply to a referral agency, including, but not limited to, instruction on how to comply with all of those provisions;
  - b) State governance and administrative functions of agency operations, including resident assessment and admission procedures;
  - c) The psychosocial and physical needs of the elderly; and,
  - d) Community supports, cultural competency, and sensitivity to residents' needs.
- 10) Requires an RCFE referral agency to make the following disclosures before referring a person to an RCFE:
  - a) A description of the licensee's service;
  - b) The licensee's contact information, including business address, email address, and telephone number;
  - c) A licensee's privacy policy, or, if the licensee maintains a website, a link or URL to the privacy policy on the website;
  - d) Whether and under what circumstances the licensee will be paid a fee by facilities to which the person is referred;
  - e) That the person or their representative may request at any time by email or by submitting a letter that the licensee cease contact with the person or their representative at points of contact they designate, such as telephone numbers and email addresses, and that the licensee will cease contact in response to that request and also cease making additional referrals on behalf of the person or their representative;
  - f) The following statement: "Information regarding inspections, evaluations, complaints, and citations associated with any of California's residential care facilities for the elderly,

also known as assisted living facilities, can be viewed at the State Department of Social Services Community Care Licensing Division internet website at [www.cdss.ca.gov](http://www.cdss.ca.gov). Additionally, during a health-related state of emergency, information about the active cases within residential care facilities for the elderly may also be posted on this internet website.”;

- g) The following statement: “The list provided is not comprehensive of all options available for residential care facility in your area.” This statement shall be followed by a link to the [callongtermcarecompare.org](http://callongtermcarecompare.org) internet website maintained by the California Department of Aging; and,
  - h) A statement that the person’s information may be sold or shared for purposes other than those necessary to make an authorized referral and a link to a website where a person can opt out of selling or sharing or, if the licensee does not maintain a website, a description of how the person can opt out of their selling or sharing of their information.
- 11) Provides that in addition to any other remedy available in law, makes a violation of the disclosure requirements in 10) subject to a civil penalty of between \$250 and \$1,000 for each violation recoverable by a district attorney or a city attorney in superior court.
  - 12) Provides that a district attorney or a city attorney may institute a proceeding in superior court to enjoin a violation of the disclosure requirements in 10) above.
  - 13) Specifies that an RCFE referral agency must comply with existing law that established requirements for placement agencies.
  - 14) Makes owners, operators, and employees of a referral agency mandated reporters pursuant to the Elder Abuse and Dependent Adult Civil Protection Act.
  - 15) Prohibits a referral agency from holding any power of attorney for a person receiving placement referral services from that licensee, or to receive or hold a client’s property in any capacity.
  - 16) Requires, on and after July 1, 2025, all referral agencies to maintain liability insurance coverage in an amount of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate for negligent acts or omissions.
  - 17) Makes it unlawful for an employee, independent contractor, or other person who is acting on behalf of a governmental agency, hospital, or other health care institution, including, but not limited to, medical professionals, physicians, nurses, social workers, discharge planners, therapists, and geriatric care managers, to offer, provide, or accept a payment, rebate, refund, commission, preference, or discount, whether in the form of money or other consideration, as payment, compensation, or inducement for referring patients, clients, or customers to an RCFE or referral agency.

**EXISTING LAW:**

- 1) Provides for the licensing and regulation of extended care, SNFs, and intermediate care facilities by CDPH. (Health and Safety Code [HSC] § 1250 *et seq.*)

- 2) Provides for the licensing and regulation of referral agencies of extended care facilities, SNFs, and intermediate care facilities. (HSC § 1400 *et seq.*)
- 3) Defines “referral agency” to mean a private, profit, or nonprofit agency which is engaged in the business of referring persons for remuneration to any extended care, skilled nursing home or intermediate care facility or a distinct part of a facility providing extended care, skilled nursing home care, or intermediate care. (HSC § 1401)
- 4) Requires an application for a referral agency license or renewal of a referral agency license to be accompanied by an annual Licensing and Certification Program fee, as set annually by the CDPH Licensing and Certification Division. (HSC § 1403)
- 5) Prohibits a referral agency from having a direct or indirect financial interest in any medical facility doing business with the licensee. (HSC § 1404)
- 6) Establishes the California Residential Care Facilities for the Elderly Act. (HSC §1569)
- 7) Defines an “RCFE” as a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided. (HSC § 1569.2(o))
- 8) Defines “placement agency” as any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, conservator, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care. (HSC § 1569.47(a))
- 9) Prohibits a placement agency from placing individuals in licensed RCFEs when the individual, because of their health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility. Establishes a violation as a misdemeanor. (HSC § 1569.47(b))
- 10) Prohibits a placement agency or an employee of a placement agency from placing, referring, or recommending placement of a person in a facility providing care and supervision, or protective supervision, unless the facility is licensed as an RCFE or is exempt from licensing. Establishes a violation as a misdemeanor. (HSC § 1569.47(c))
- 11) Requires CDSS to investigate any report filed as a result of a facility which is not exempt from licensing, operating without a license. Requires, the department, if it has probable cause to believe that the facility is operating without a license, to investigate the facility within 10 days after receipt of the report. (HSC § 1569.47(e))
- 12) Requires a placement agency to notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in an RCFE. Reportable incidents include, but are not limited to, all of the following:
  - a) Incidents of physical abuse;
  - b) Any violation of personal rights;

- c) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition;
- d) Any situation in which a facility has insufficient personnel or incompetent personnel on duty; or,
- e) Any situation in which residents experience mental or verbal abuse. (HSC § 1569.47(f))

**FISCAL EFFECT:** According to the Senate Appropriations Committee on January 12, 2024:

- Unknown ongoing costs, likely millions, for CDSS for state operations to establish and administer the new licensing program (Licensing and Certification Fund).
- CDPH does not anticipate a fiscal impact.
- Unknown, potentially significant workload cost pressures to the courts to adjudicate alleged violations of this measure (Trial Court Trust Fund, General Fund). While the courts are not funded on a workload basis, an increase in workload could result in delayed court services and would put pressure on the General Fund to fund additional staff and resources.

**COMMENTS:**

**Background:** *Residential Care Facilities for The Elderly* are non-medical facilities that house and care for individuals 60 years of age and older that have minimal health needs, but need basic daily help for services such as housekeeping, medication assistance, personal and hygiene care, and eating. There are three levels of care permitted in an RCFE which range from basic care when a resident still can retain some independence, to nonmedical care when a resident needs help with personal daily living activities, and the highest level of care is reserved for someone who needs extensive care with daily living activities and may have chronic health problems.

California's network of RCFEs consists of small homes serving a handful of residents to larger RCFEs that can house over 100 residents in communities across the state. Facilities provide a special combination of housing, personalized supportive services, and 24-hour staff designed to respond to the individual needs of those who require help with activities of daily living. This level of care and supervision is for people who are unable to live by themselves but who do not need 24-hour nursing care. They are considered non-medical facilities and are not required to have nurses, certified nursing assistants, or doctors on staff. Facilities usually centrally store and distribute medications for residents to self-administer.

*Placement and Referral Agencies.* Existing law requires licensure and oversight by CDPH of referral agencies that refer individuals to specific extended care facilities, SNFs, or intermediate care facilities in return for compensation. According to Cal Health Find, there are only three licensed referral agencies operating in California. The low number of licensed referral agencies is likely because health facilities such as SNFs require a referral from a primary care physician, which reduces the need for referral services from an agency.

Unlike health facilities, care facilities such as RCFEs do not need a primary care physician referral. Thus, placement agencies step in to make such connections. Placement agencies are paid by aging care businesses such as home care, RCFEs, independent living, and Community Care Retirement Communities to successfully place residents in their respective facilities relative to

their needs. Placement agencies serve as brokers by recommending facilities to prospective residents based on factors such as the level of care needed, budget, and location.

Currently, there are few consumer protections in place for placement agencies that refer to care facilities. As described above in existing law 8) -12), parameters include only referring to licensed or licensed-exempt facilities and reporting to CDSS if a facility is endangering a resident. As such, there have been numerous unsuccessful attempts to regulate this industry.

This is the sixth attempt since 2015 to regulate compensated referral agencies. Broadly, these bills can be grouped into two separate efforts: One set of bills includes AB 2926 (Calderon of 2020) and AB 499 (B. Rubio of 2021). These bills would have recast requirements on a placement agency for RCFEs to apply to a referral source. AB 2926 was held on the Senate Appropriations Committee suspense file and AB 499 was vetoed by Governor Newsom due to concerns that referral entities would only provide referrals to those RCFEs with whom they are contracted to receive compensation, creating equity concerns that the financial arrangements favor those facilities that can best afford remuneration fees, unfairly limiting consumer information, access, and choice.

The other set of bills, including SB 648 (Mendoza of 2015), SB 648 (Mendoza of 2017), and AB 2744 (Reyes of 2018), would have attempted to establish comprehensive regulatory schemes for these entities. SB 648 of 2015 was vetoed by Governor Brown due to costs and for a lack of demonstrated need for a new licensing structure. SB 648 of 2017 was held on the Senate Appropriations Committee suspense file, and AB 2744 was placed on the Assembly Appropriations Committee suspense file.

*This bill* takes elements of each of these bills and creates a licensing structure by adding to the current definition of a referral agency regulated by CDPH.

*Cal Long Term Care Compare.* When a person can no longer live independently due to advanced age or disability, locating appropriate housing and support can be an overwhelming endeavor. It is especially challenging if the person doing the searching is not familiar with the various types of assisted living services and settings. As an effort to assist future residents and their families in what can be an overwhelming process to find a facility, the Budget Act of 2022 allocated funding to establish a website to compare facilities and help consumers make decisions. This website is named “Cal Long Term Care Compare” and it provides free, unbiased information to help consumers make the best choice for long-term care. This includes information about:

- Nursing Homes
- Hospice Care
- Home Health Care
- Assisted Living Facilities
- Adult Residential Facilities
- Continuing Care Retirement Communities
- Adult Day Health Centers

The data on this website are from various state and federal government organizations. The University of California, Davis Center for Healthcare Policy and Research, School of Medicine, and School of Nursing analyze the data and create the ratings for this website.

*Does This Industry Need More Oversight?* Referral agencies recommend facilities for family members 60 years of age and older who are in need of assistance by making claims about the quality of these facilities. There are currently no requirements that these statements must be accurate or based on any independent assessment. As such, a referral agency might recommend a facility to someone that has multiple serious citations for endangering residents. In a Washington Post investigation on referral agencies, they found there were major discrepancies in what placement agencies deemed as a “top facility” and what state licensing agency’s survey results show. One example given was a referral agency in California that rated one Senior Living business with 41 properties as “The Best in Senior Living” despite 23 of its locations having violations. Violations included “medication errors, bedsores, falls, staff misconduct and exposure to hazards such as infestations by scabies and rats.” (Rowland, C., Rich, S., & Macmillian, D. (2024) *Popular Assisted Living Referral ‘A Place For Mom’ Glosses Over Neglect - The Washington Post*)

Referral agencies give their own ratings and awards of facilities based on, according to one business’s website, the review of residents and families. However, ratings do not include survey results, substantiated complaints, and/or citations. It may be misleading to some consumers who do not understand how RCFEs are regulated. *This bill* attempts to increase consumer protections by creating a licensing structure for referral agencies to adhere to.

**Author’s Statement:** According to the Author, “Navigating the process of finding an appropriate setting for an aging family member or friend can be stressful and is often done under pressing circumstances. Referral agencies are a crucial part of placement decisions for families and friends trying to find residential care facilities for aging loved ones. This bill creates consumer protections for families and friends using referral services to find residential care facilities for the elderly (RCFE). RCFEs are non-medical facilities that specialize in housing, personalized supportive services, and assistance in activities of daily living for dependent residents. RCFEs are licensed, inspected, and regulated by the California Department of Social Services. However, the provisions in current law only minimally regulate referral sources by imposing misdemeanors for referrals to unlicensed facilities or the wrong level of care and for failure to report unlicensed facilities or potentially harmful conditions at an RCFE. This bill seeks to establish a set of consumer protection practices to govern the interaction between the referral source and the consumer.

To address the lack of information and regulations on referral agencies, SB 875 would require compensated referral sources to give consumers important disclosures before referring them to a RCFE, creates licensing requirements for referral agencies, and ban certain practices. SB 875 requires referral sources that receive compensation to provide disclosures to the senior or their representative. Additionally, SB 875 would enact a notice requirement for providing families with information about the availability of state inspection and complaints regarding facilities, the referral agencies privacy policy and a statement that the family may request that the referral agency cease contact with the family. In addition, the bill provides for background checks on referral agencies’ employees who have direct contact with seniors, requires liability insurance coverage, limits any back-channel remuneration to a referral agency, requires that referral agencies maintain and display a privacy policy on their internet websites, and prevents conflict of interest situations in referrals.”

**Equity Implications:** According to the Public Policy Institute of California (PPIC), over the next two decades, California's share of people over 65 years of age will nearly double. PPIC projects that by 2030 slightly more than one million seniors will require some assistance with self-care, and that the demand for nursing home care will begin to increase after decades of decline. In preparation for this increased demand, it is appropriate for the Legislature to ensure that consumers can trust the information being provided to them by referral agencies when it is time to seek care for their loved one. According to data from the California Association of Health Facilities (CAHF), 74% of residents are female and the average resident is 87 years of age. CAHF also reports residents staying an average of 28.3 months and that the majority of assisted living services are paid for with private funds since Medicare does not pay for assisted living services under any circumstances. It is likely that the majority of these residents outlived their spouses and are relying on one fixed income to pay for their care. As a result, it is important for families seeking the services of referral agencies to have access to reliable and unbiased information in order to make the best choice for their loved one.

**Policy Considerations:** The need for residential care will continue to increase as the proportion of those over the age of 65 in California continues to expand, as expected in 2030. Referral agencies could serve as an important tool for families to find the best care and best fit possible; and ensuring referral agencies are protecting these vulnerable consumers and their families is vital. However, this bill creates a regulatory structure that is unclear and includes provisions that do not protect consumers.

*Licensing.* This bill adds to CDPH's licensing structure to include RCFEs, but excludes existing placement agencies, as defined in HSC § 1569.47. This structure makes it unclear who would be subjected to the provisions of this bill. This bill also tasks CDSS with licensing referral agencies, but it is unclear if CDSS is equipped to license these businesses.

*Should this bill move forward, the author may wish to clarify and specify what a referral agency is and remove licensing requirements while retaining consumer protections.*

*Disclosures.* This bill includes disclosures that are vague and are unlikely to protect consumers. The disclosures included in the bill include general license information, fees received by the agency from an RCFE, a general statement referring the potential resident to a generic website, a vague statement that the facilities recommended are not a comprehensive list, and an opt-out selection for the consent of private information to be sold to third parties.

*Should this bill move forward, the author may wish to 1) provide a more detailed disclosure, 2) clarify that the disclosure must be done orally and written and in a language of their preference, 3) clarify that there is a free and impartial website run by the State of California, and 4) provide that persons can opt-in rather than an opt-out allowing agencies to sell their personal information.*

*Remedies.* The population being referred to RCFEs is vulnerable and there is the possibility of great harm when referring a person to a facility that may not be a good fit. As noted above, RCFEs are not merely housing, but rather facilities that provide care and in some cases health-related care. As such, misconstruing information could be harmful to the resident and have impacts on their long-term health. Should a referral agency violate consumer protections, it is reasonable for them to assist in appropriate relocation.



*Should this bill move forward, the author may wish to update remedies to provide for relocation as well as permit compensation for any harm caused.*

**Proposed Committee Amendments:** The Committee proposes to address policy considerations stated above by striking the bill in print and recasting the bill as follows:

## SEC. 1.

### HSC § 1400.

(a) It is unlawful for any person, association, or corporation to establish, conduct or maintain a referral agency or to refer any person for remuneration to any extended care, skilled nursing home or intermediate care facility or a distinct part of a facility providing extended care, skilled nursing home care, or intermediate care, without first having obtained a written license therefor as provided in this chapter from the director or from an inspection service approved by the director pursuant to Section 1257.

(b) It is unlawful for any person, association, or corporation to establish, conduct, or maintain a referral agency or to refer any person for remuneration to any person or agency outside a long-term health care facility, as defined in Section 1418, for professional services for which the long-term health care facility does not employ a qualified professional person to furnish a specific service, including, but not limited to, laboratory, diagnostic, or therapy services, unless the long-term health care facility complies with current federal and state laws regarding the provision of these services and all of the following conditions are met:

(1) The services will be provided in accordance with professional standards applicable to the provision of these services in a long-term health care facility.

(2) The long-term health care facility assumes responsibility for timeliness of the services.

(3) Services are provided or obtained only when ordered by the attending physician and a notation is made in the resident's medical chart reflecting that the service has been provided to the resident.

**(C) A referral agency shall not refer, place, or recommend placement of individuals to licensed residential care facilities for the elderly for remuneration when the individual cannot be cared for in the facility. Violation of this subdivision is a misdemeanor. All provisions under Health and Safety Code Section 1569.47 apply to this section.**

## SEC. 2.

Section 1401 of the Health and Safety Code is amended to read:

### HSC § 1401.

As used in this chapter ~~chapter~~ **chapter**, "referral agency" means a private, profit or nonprofit agency ~~which~~ **that** is engaged in the business of referring persons for remuneration to any extended care, ~~care facility~~, skilled nursing home or intermediate care facility ~~facility~~, **facility, or residential care facility for the elderly**, or a distinct part of a facility providing extended care,

skilled nursing home care, or intermediate care. **“Referral agency” is a placement agency under Section 1569.47 for the purposes of that section and does not include any of the following:**

**(a) A licensed residential care facility for the elderly that does either of the following:**

**(1) Provides discounts or other remuneration to residents or their families for referring new or prospective clients.**

**(2) Provides remuneration to staff for marketing or sales offers.**

**(b) A resident who refers a new or prospective resident to a licensed residential care facility for the elderly and receives a discount or other remuneration from the licensed residential care facility for the elderly.**

**(c) A staff member of the licensed residential care facility for the elderly who receives remuneration from the facility for professional services, including, but not limited to, sales and marketing efforts, on behalf of that facility.**

### SECTION 3

#### HSC § 1569.47.

(a) “Placement agency” means any county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, conservator pursuant to Part 3 (commencing with Section 1800) of Division 4 of the Probate Code, conservator pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care.

(b) A placement agency shall not place, **refer, or recommend placement of** individuals in licensed residential care facilities for the elderly when the individual, because of his or her health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility. ~~**Violation of this subdivision is a misdemeanor.**~~

(c) A placement agency or employee of a placement agency shall not place, refer, or recommend placement of a person in a facility providing care and supervision, or protective supervision, unless the facility is licensed as a residential care facility for the elderly or is exempt from licensing under Section 1569.145. ~~**Violation of this subdivision is a misdemeanor.**~~

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. ~~**Failure to report as required by this subdivision is a misdemeanor.**~~

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a residential care facility for the elderly. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical abuse.

- (2) Any violation of personal rights.
- (3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.
- (4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.
- (5) Any situation in which experience mental or verbal abuse.

**(g) A placement agency shall conduct a suitability determination of each person who seeks a referral from the agency and who is referred to a facility or facilities. Willful violation of this subsection is a misdemeanor. The department shall issue guidance on an appropriate suitability determination which includes, but does not limit, the following considerations:**

**(A) The level of care requested by the person seeking the referral.**

**(B) The cost of the facility and the ability of the financial means of the person seeking the referral.**

**(C) The social needs and preferences of the person seeking the referral.**

**(D) The geographic location of the facility and the geographic preference of the person seeking the referral.**

**(h) (1) A placement agency must provide the following disclosures to an individual for each referral, at the time the referral is made, or to a placement in a facility prior to such placement:**

**(A) The following statement: "The list provided includes ONLY referrals for which we receive compensation and is NOT comprehensive of all options available to you for residential care facilities in your area. For impartial and free information from the State of California with a full listing of residential facilities in your area, go to Cal Long Term Care Compare"**

**(B) A written record of all of the following:**

**(1) All substantiated complaints, and citations within five years as available from the California Department of Social Services for that facility.**

**(2) The information from Cal Long Term Care Compare for that facility, including the total number of citations**

**(C) If a person seeking a referral or person representative has communicated verbally, a verbal record of all the following:**

**(1) All substantiated complaints, and citations within five years as available from the California Department of Social Services for that facility.**

**(2) The information from Cal Long Term Care Compare for that facility, including the total number of citations**

(D) If the placement agency engages in the sale of personal information to third parties for purposes other than those necessary to make an authorized referral, a disclosure of that practice must be provided prior to making such a referral.

(E) A placement agency shall not sell or share the personal information of a person or the person's representative unless the person or their representative affirmatively provides permission for the agency to do so for any purpose other than those necessary to make an authorized referral.

(F) The placement agency shall make the disclosures pursuant to this subdivision in the preferred or spoken language of the person receiving services and their authorized representative.

(G) That the person or their representative may request at any time orally, by email or by submitting a letter that the placement agency cease contact with the person or their representative at points of contact they designate, such as telephone numbers and email addresses, and that the agency will cease contact in response to that request and also cease making additional referrals on behalf of the person or their representative.

(i) (1) The information and disclosures required by subdivision (h) shall be provided to the person or their representative in a clear and conspicuous manner designed to give actual notice of its contents and must be provided, together, in both of the following methods:

(A) A written disclosure in the person's spoken language in at least 12-point, Arial-equivalent bold font, either in hardcopy form or by electronic means. At the request of the person or their representative, the placement agency shall send an electronic version of the disclosure to the person or their representative's email address, as provided. And

(B) An oral disclosure given telephonically and recorded with the consent of the person or their representative. The disclosure shall be spoken clearly, and in a language that is understandable to the consumer.

(2) The placement agency shall maintain records of the disclosures set forth pursuant to this subdivision for a period of three years and shall provide additional copies of the disclosures to the person, their representative, or the facility, upon written request.

(j) (1) In addition to the other requirements of this section, a placement agency shall comply with all of the following:

(A) Cease making referrals on behalf of the person or their representative as soon as feasible but not more than 10 days after receipt of an oral, electronic, or written request, pursuant to subparagraph (F) of paragraph (1) of subdivision (g).

(B) Cease contacting a person or their representative as soon as feasible but not more than 10 days after receipt of an oral, electronic, or written request, pursuant to subparagraph (F) of paragraph (1) of subdivision (g).

(k) Owners, operators, and employees of a referral agency as defined in HSC 1400 or placement agencies as defined in HSC 1569.47 are mandated reporters of elder or dependent adult abuse pursuant to Section 15630 of the Welfare and Institutions Code.

**(l) It is unlawful for a referral agency as defined in HSC 1400 or placement agencies as defined in HSC 1569.47 to hold any power of attorney for a person receiving placement referral services from that licensee, or to receive or hold a client's property in any capacity.**

**(m) On and after July 1, 2025, all persons, associations, or corporations as defined in HSC 1400 or placement agencies as defined in HSC 1569.47 shall maintain liability insurance coverage in an amount of at least one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the total annual aggregate, for negligent acts or omissions by the licensee.**

**(n) In addition to any other remedy available by law, a placement agency that violates this section is subject to:**

**i) a civil penalty of between two hundred fifty dollars (\$250) and five thousand dollars (\$5,000) for each violation as determined by the department.**

**A) proceedings to appeal determinations of civil penalties by the department shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.**

**ii) relocation compensation to a facility of their choice**

**iii) compensation for any injury or harm resulting from this violation to which the individual may be entitled under the law.**

**iiii) is a misdemeanor.**

**Double referral:** Should this bill pass out of this committee, it will be referred to the Assembly Committee on Aging and Long Term Care.

#### **RELATED AND PRIOR LEGISLATION:**

**AB 499 (B. Rubio) of 2021**, would have recast the requirements on a placement agency for RCFEs to a referral source; additionally would have required a referral source to provide a senior or their representative with specified disclosures and privacy information, as specified. **AB 499 was vetoed by Governor Newsom.**

**AB 2926 (Calderon) of 2020**, would have recast the requirements on a placement agency for a RCFE to a referral source while requiring a referral source to provide a senior or their representative with specified disclosures and privacy information. **AB 2926 was held on the Senate Appropriations suspense file.**

**AB 2744 (Reyes) of 2018**, would have required referral agencies providing referrals to RCFEs to register with CDSS, and set forth a number of requirements for these referral agencies including providing a client with a disclosure prior to providing a referral that includes certain pieces of information in clear language; displaying certain information on its website; and, displaying its name and registration number on all advertising, promotions, or marketing material. **AB 2744 was held on the Assembly Appropriations Committee suspense file.**

*SB 648 (Mendoza) of 2017*, would have established requirements for private agencies that refer potential residents for a fee to adult residential facilities, including RCFEs, and would have required CDSS to track consumer complaints about private referral agencies, authorized CDSS to levy civil penalties, and required CDSS to submit a report to the Legislature on the effectiveness of existing statutory remedies related to private referral agencies by January 1, 2023. *SB 648 was held on the Senate Appropriations Committee suspense file.*

*SB 648 (Mendoza) of 2015*, would have added referrals to RCFEs to the body of law requiring anyone who refers someone to a skilled nursing or intermediate care facility for compensation to be licensed as a referral agency and established new requirements on referral agencies, including disclosure of any agreement with the facilities that clients are being referred to, any commissions or fees received, and a requirement for liability insurance. *SB 648 was vetoed by Governor Brown.*

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

A Place for Mom (Co-Sponsor)  
ACT8 (Co-Sponsor)  
California Assisted Living Association  
Elderly Care Everywhere

**Opposition**

AARP  
California Advocates for Nursing Home Reform  
California Long Term Care Ombudsman Association (CLTCOA)  
Justice in Aging  
Office of the State Long-Term Care Ombudsman

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