
HOUSE BILL 1494

State of Washington

62nd Legislature

2011 Regular Session

By Representative Moeller

Read first time 01/24/11. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to elder placement referrals; amending RCW
2 43.43.842; reenacting and amending RCW 18.130.040; adding a new chapter
3 to Title 18 RCW; creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that locating
6 acceptable housing for seniors is an important aspect of providing an
7 appropriate continuity of care for senior citizens.

8 (2) The legislature further finds that locating appropriate and
9 quality housing alternatives sometimes depends on the competence and
10 honesty of elder placement referral agencies attempting to assist with
11 placement.

12 (3) The legislature further finds that elder placement referral
13 agencies should have a formal system of oversight and experience
14 qualifications to promote better integration of senior housing choices.

15 (4) The legislature further finds that the registration of elder
16 placement referral agencies and the provision of proper oversight and
17 registration is in the interest of public health, safety, and welfare.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Applicant" means an applicant for an elder placement referral
4 registration.

5 (2) "Client" means a person seeking or entering into an arrangement
6 for housing or services through an elder placement referral agency.

7 (3) "Department" means the department of health.

8 (4) "Elder placement referral agency" and "agency" means a business
9 in which (a) part of the business gross or net income is derived from
10 a fee received from individuals seeking placement in a senior housing
11 setting or from a senior housing provider and (b) any of the following
12 occur:

13 (i) Offering, promising, procuring, or attempting to procure senior
14 services or senior housing for clients;

15 (ii) Giving information regarding where and from whom senior
16 housing or senior services for seniors may be obtained; or

17 (iii) Selling a list of senior service providers or a list of names
18 of persons or companies providing senior services or senior housing.

19 "Elder placement referral agency" includes any person, bureau,
20 senior housing listing service, housing directories, or organization,
21 that offers, for a fee, to procure senior services or senior housing
22 for any senior or senior's representative. "Elder placement referral
23 agency" does not include government entities providing senior services
24 or senior housing.

25 (5) "Fee" means anything of value. The term includes money or
26 other valuable consideration or services or the promise of money or
27 other valuable consideration or services, received directly or
28 indirectly by an elder placement referral agency from a person seeking
29 senior services or senior housing, in payment for the service, or from
30 a senior housing provider or senior service provider as payment for a
31 placement or referral.

32 (6) "Person" includes any individual, firm, corporation,
33 partnership, association, company, society, manager, contractor,
34 subcontractor, bureau, agency, service, office, or an agent or any of
35 their employees.

36 (7) "Secretary" means the secretary of health.

37 (8) "Senior" includes any person who is fifty-five years of age or
38 older and who:

1 (a) Currently resides in senior housing; or

2 (b) Requests assistance in finding placement in senior housing.

3 (9) "Senior housing" means any type of housing designed for
4 prospective residents who are at least fifty-five years old. Senior
5 housing includes, but is not limited to, nursing homes licensed under
6 chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW,
7 adult family homes licensed under chapter 70.128 RCW, and retirement
8 communities catering to adults at least fifty-five years old.

9 (10) "Senior services" means any combination of services, including
10 in-home care, private duty care or private duty nursing designed for or
11 with the goal of allowing seniors to receive care and services at home
12 or in a home-like setting. Senior services providers must include, but
13 not be limited to, home health care licensed under chapter 70.126 RCW
14 and in-home service agencies licensed under chapter 70.127 RCW.

15 NEW SECTION. **Sec. 3.** After January 1, 2012, a person may not
16 operate or maintain an elder placement referral agency in this state
17 without being registered by the department.

18 NEW SECTION. **Sec. 4.** Each elder placement referral agency shall
19 keep records of all services rendered to clients. These records shall
20 contain the name and address of the client by whom the services were
21 solicited; the name and address of the client; kind of senior housing
22 or senior services sought ordered by the client; kind of position
23 accepted by the client; probable duration of the housing, if known;
24 rate of rent or service to be paid; amount of the elder referral
25 agency's fee; dates and amounts of refund if any, and reason for such
26 refund; and the contract agreed to between the agency and client or
27 senior housing provider or senior services provider.

28 NEW SECTION. **Sec. 5.** (1) An elder placement referral agency must
29 execute a contract with each client and provide the client with a copy
30 of the contract between the client and elder placement referral agency
31 that includes:

32 (a) The name, address, and telephone number of the elder placement
33 referral agency;

34 (b) The trade name of the agency, if any;

35 (c) The date of the contract;

1 (d) The name of the client;

2 (e) The amount of the fee to be charged the client, the senior
3 housing provider or senior services provider, or the method of
4 computation of the fee, and the time and method of payments;

5 (f) Acknowledgment that the agency will be acting as a
6 representative of the client seeking residence in a senior housing
7 community;

8 (g) A provision stating that the elder placement referral agency
9 may not require or request clients to sign waivers of potential
10 liability for losses of personal property or injury; and

11 (h) A copy of this chapter of the revised code of Washington
12 attached.

13 (2) The elder placement referral agency shall ensure that client
14 assessments are only done by a professional qualified to do
15 assessments, such as a nurse licensed under chapter 18.79 RCW or a
16 person with a bachelor or master's degree in social services, human
17 services, behavioral sciences, or an allied field.

18 (3) Before referral or placement, the elder placement referral
19 agency must conduct a preliminary assessment and develop a preliminary
20 care plan for each client that includes the following information:

21 (a) Medical history;

22 (b) Necessary and contraindicated medications;

23 (c) A licensed medical or health professional's diagnosis, unless
24 the individual objects for religious reasons;

25 (d) Significant known behaviors or symptoms that may cause concern
26 or require special care;

27 (e) Medical and behavioral health history, except where protected
28 by confidentiality laws;

29 (f) Level of personal care needs;

30 (g) Activities and service preferences; and

31 (h) Preferences regarding other issues important to the client,
32 such as food and daily routine.

33 (4) After conducting a preliminary assessment and developing a
34 preliminary care plan, but before referral or placement, the elder
35 placement referral agency must provide clients with a list of all
36 potential placement options in the client's county of residence.

1 NEW SECTION. **Sec. 6.** (1) The secretary shall administer the
2 provisions of this chapter and adopt reasonable rules for enforcing and
3 carrying out the provisions and purposes of this chapter.

4 (2) The secretary has supervisory and investigative authority over
5 all elder placement referral agencies. Upon receiving a complaint
6 against any agency, the secretary has the right to examine all books,
7 documents, or records in the possession of an elder placement referral
8 agency. In addition, the secretary may examine the office or offices
9 where business is conducted by a elder placement referral agency.

10 NEW SECTION. **Sec. 7.** (1) As a condition of obtaining and
11 maintaining a valid elder placement referral agency registration, each
12 agency must provide evidence of having liability insurance.

13 (2) The minimum amount of liability insurance required is one
14 million dollars combined single limit.

15 NEW SECTION. **Sec. 8.** It is a misdemeanor for any person to
16 operate an elder placement referral agency business in this state
17 unless he or she has an elder placement referral agency registration
18 issued under this chapter.

19 NEW SECTION. **Sec. 9.** An employee of an elder placement referral
20 agency must pass a criminal background check every twenty-four months,
21 consistent with the requirements of RCW 43.43.842.

22 NEW SECTION. **Sec. 10.** (1) An applicant for an elder placement
23 referral agency registration or a renewal must file with the secretary
24 a written application stating (a) the name and address of the
25 applicant, (b) the street address of the elder placement referral
26 agency, (c) the name of the general manager of the office, (d) the name
27 of the business, (e) whether or not the applicant has a financial
28 interest in the business to be carried on under the registration, and
29 (f) a recent criminal background check for the applicant. The
30 application must be signed by the applicant, sworn to before a notary
31 public, and must identify anyone holding over twenty percent interest
32 in the agency. If the applicant is a corporation, the application must
33 state the names and addresses of the officers and directors of the
34 corporation and be signed and sworn to by the president and secretary

1 thereof. If the applicant is a partnership, the application must also
2 state the names and addresses of all partners and must be signed and
3 sworn to by all of them. The application must also state whether the
4 applicant is or has been engaged in or interested in or employed by
5 anyone engaged in the business of an elder placement referral agency.

6 (2) The application must require a certification that no officer or
7 holder of more than twenty percent interest in the business has been
8 convicted of a felony that directly relates to the business for which
9 the registration is sought within ten years of the application, or had
10 any judgment entered against the officer or holder of more than twenty
11 percent interest in any civil action involving fraud,
12 misrepresentation, or conversion.

13 (3) All applications for elder placement referral agency
14 registration must be accompanied by a copy of the form of contract and
15 fee schedule to be used between the elder placement referral agency and
16 the client or between the elder placement referral agency and the
17 senior housing provider or senior services provider.

18 (4) Every registration application must require a recent credit
19 history report for the agency and its officers, partners, or those
20 shareholders owning more than twenty percent of the company. The
21 secretary's determination of financial instability or bad credit
22 history is grounds to deny a registration.

23 (5) At the time of the application for or renewal of a registration
24 or provisional registration the applicant must pay a registration fee
25 as established by the secretary.

26 (6) Each registration is valid for a period of twelve months.

27 NEW SECTION. **Sec. 11.** An elder placement referral agency may not
28 charge or accept a fee or other consideration from a client or senior
29 housing provider (1) unless the elder placement referral agency
30 complies with the terms of a written contract as required by section 5
31 of this act, and (2) discloses the terms of the contract to the client
32 and senior housing provider before any referral, and (3) refers a
33 client to a senior services provider or senior housing provider where
34 the client obtains housing.

35 NEW SECTION. **Sec. 12.** No registration granted under this chapter
36 may be transferred without the consent of the secretary. An elder

1 placement referral agency may not permit any person who is not
2 identified in the registration application to become connected with the
3 business as an owner, member, officer, or director without the consent
4 of the secretary. The secretary may withhold consent for any reason
5 that would have been grounds for rejecting the original application if
6 the person had been identified.

7 NEW SECTION. **Sec. 13.** (1) The provisions of this chapter relating
8 to the regulation of private elder placement referral agencies is
9 exclusive.

10 (2) This chapter may not be construed to affect or reduce the
11 authority of any political subdivision of the state of Washington to
12 provide for the registration of private elder placement referral
13 agencies solely for revenue purposes.

14 NEW SECTION. **Sec. 14.** In addition to any other authority provided
15 by law, the secretary has the authority to:

16 (1) Set all elder placement agency initial registration and renewal
17 fees in accordance with RCW 43.70.110 and 43.70.250 and to collect and
18 deposit all such fees in the health professions account established
19 under RCW 43.70.320;

20 (2) Establish forms, procedures, and the competency evaluation
21 necessary to administer this chapter;

22 (3) Hire clerical, administrative, and investigative staff as
23 needed to implement this chapter;

24 (4) Issue an elder placement agency registration to any applicant
25 who has met the requirements of this chapter and deny a registration to
26 any applicant who fails to meet these requirements;

27 (5) Maintain the official record for the department of all
28 applicants and persons with registrations and certificates under this
29 chapter; and

30 (6) Exercise disciplinary authority as authorized in chapter 18.130
31 RCW.

32 NEW SECTION. **Sec. 15.** The uniform disciplinary act, chapter
33 18.130 RCW, governs unregistered practice, the issuance and denial of
34 registrations, and the discipline of registrants under this chapter.
35 The secretary is the disciplining authority under this chapter.

1 **Sec. 16.** RCW 18.130.040 and 2010 c 286 s 18 and 2010 c 65 s 3 are
2 each reenacted and amended to read as follows:

3 (1) This chapter applies only to the secretary and the boards and
4 commissions having jurisdiction in relation to the professions licensed
5 under the chapters specified in this section. This chapter does not
6 apply to any business or profession not licensed under the chapters
7 specified in this section.

8 (2)(a) The secretary has authority under this chapter in relation
9 to the following professions:

10 (i) Dispensing opticians licensed and designated apprentices under
11 chapter 18.34 RCW;

12 (ii) Naturopaths licensed under chapter 18.36A RCW;

13 (iii) Midwives licensed under chapter 18.50 RCW;

14 (iv) Ocularists licensed under chapter 18.55 RCW;

15 (v) Massage operators and businesses licensed under chapter 18.108
16 RCW;

17 (vi) Dental hygienists licensed under chapter 18.29 RCW;

18 (vii) East Asian medicine practitioners licensed under chapter
19 18.06 RCW;

20 (viii) Radiologic technologists certified and X-ray technicians
21 registered under chapter 18.84 RCW;

22 (ix) Respiratory care practitioners licensed under chapter 18.89
23 RCW;

24 (x) Hypnotherapists and agency affiliated counselors registered and
25 advisors and counselors certified under chapter 18.19 RCW;

26 (xi) Persons licensed as mental health counselors, mental health
27 counselor associates, marriage and family therapists, marriage and
28 family therapist associates, social workers, social work associates--
29 advanced, and social work associates--independent clinical under
30 chapter 18.225 RCW;

31 (xii) Persons registered as nursing pool operators under chapter
32 18.52C RCW;

33 (xiii) Nursing assistants registered or certified under chapter
34 18.88A RCW;

35 (xiv) Health care assistants certified under chapter 18.135 RCW;

36 (xv) Dietitians and nutritionists certified under chapter 18.138
37 RCW;

1 (xvi) Chemical dependency professionals and chemical dependency
2 professional trainees certified under chapter 18.205 RCW;

3 (xvii) Sex offender treatment providers and certified affiliate sex
4 offender treatment providers certified under chapter 18.155 RCW;

5 (xviii) Persons licensed and certified under chapter 18.73 RCW or
6 RCW 18.71.205;

7 (xix) Denturists licensed under chapter 18.30 RCW;

8 (xx) Orthotists and prosthetists licensed under chapter 18.200 RCW;

9 (xxi) Surgical technologists registered under chapter 18.215 RCW;

10 (xxii) Recreational therapists;

11 (xxiii) Animal massage practitioners certified under chapter 18.240
12 RCW;

13 (xxiv) Athletic trainers licensed under chapter 18.250 RCW;

14 (xxv) Home care aides certified under chapter 18.88B RCW; (~~and~~)

15 (xxvi) Genetic counselors licensed under chapter 18.290 RCW; and

16 (xxvii) Elder placement referral agencies registered under chapter
17 18.--- RCW (the new chapter created in section 20 of this act).

18 (b) The boards and commissions having authority under this chapter
19 are as follows:

20 (i) The podiatric medical board as established in chapter 18.22
21 RCW;

22 (ii) The chiropractic quality assurance commission as established
23 in chapter 18.25 RCW;

24 (iii) The dental quality assurance commission as established in
25 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW and
26 licenses and registrations issued under chapter 18.260 RCW;

27 (iv) The board of hearing and speech as established in chapter
28 18.35 RCW;

29 (v) The board of examiners for nursing home administrators as
30 established in chapter 18.52 RCW;

31 (vi) The optometry board as established in chapter 18.54 RCW
32 governing licenses issued under chapter 18.53 RCW;

33 (vii) The board of osteopathic medicine and surgery as established
34 in chapter 18.57 RCW governing licenses issued under chapters 18.57 and
35 18.57A RCW;

36 (viii) The board of pharmacy as established in chapter 18.64 RCW
37 governing licenses issued under chapters 18.64 and 18.64A RCW;

1 (ix) The medical quality assurance commission as established in
2 chapter 18.71 RCW governing licenses and registrations issued under
3 chapters 18.71 and 18.71A RCW;

4 (x) The board of physical therapy as established in chapter 18.74
5 RCW;

6 (xi) The board of occupational therapy practice as established in
7 chapter 18.59 RCW;

8 (xii) The nursing care quality assurance commission as established
9 in chapter 18.79 RCW governing licenses and registrations issued under
10 that chapter;

11 (xiii) The examining board of psychology and its disciplinary
12 committee as established in chapter 18.83 RCW; and

13 (xiv) The veterinary board of governors as established in chapter
14 18.92 RCW.

15 (3) In addition to the authority to discipline license holders, the
16 disciplining authority has the authority to grant or deny licenses.
17 The disciplining authority may also grant a license subject to
18 conditions.

19 (4) All disciplining authorities shall adopt procedures to ensure
20 substantially consistent application of this chapter, the Uniform
21 Disciplinary Act, among the disciplining authorities listed in
22 subsection (2) of this section.

23 NEW SECTION. **Sec. 17.** In accordance with RCW 74.09.240 the elder
24 placement referral agency may not solicit or receive any remuneration
25 directly or indirectly, overtly or covertly, in cash or in kind, in
26 return for referring an individual to a person for the furnishing or
27 arranging for the furnishing of any item or service for which payment
28 may be made in whole or in part under chapter 74.09 RCW.

29 NEW SECTION. **Sec. 18.** This chapter may be known and cited as the
30 "elder placement referral act."

31 **Sec. 19.** RCW 43.43.842 and 2007 c 387 s 4 are each amended to read
32 as follows:

33 (1)(a) The secretary of social and health services and the
34 secretary of health shall adopt additional requirements for the
35 licensure or relicensure of agencies, facilities, and licensed

1 individuals who provide care and treatment to vulnerable adults,
2 including nursing pools registered under chapter 18.52C RCW or elder
3 placement referral agencies registered under chapter 18.--- RCW (the
4 new chapter created in section 20 of this act). These additional
5 requirements shall ensure that any person associated with a licensed
6 agency or facility having unsupervised access with a vulnerable adult
7 shall not be the respondent in an active protective order under RCW
8 74.34.130, nor have been: (i) Convicted of a crime against persons as
9 defined in RCW 43.43.830, except as provided in this section; (ii)
10 convicted of crimes relating to financial exploitation as defined in
11 RCW 43.43.830, except as provided in this section; or (iii) found in
12 any disciplinary board final decision to have abused a vulnerable adult
13 under RCW 43.43.830.

14 (b) A person associated with a licensed agency or facility who has
15 unsupervised access with a vulnerable adult shall make the disclosures
16 specified in RCW 43.43.834(2). The person shall make the disclosures
17 in writing, sign, and swear to the contents under penalty of perjury.
18 The person shall, in the disclosures, specify all crimes against
19 children or other persons, all crimes relating to financial
20 exploitation, and all crimes relating to drugs as defined in RCW
21 43.43.830, committed by the person.

22 (2) The rules adopted under this section shall permit the licensee
23 to consider the criminal history of an applicant for employment in a
24 licensed facility when the applicant has one or more convictions for a
25 past offense and:

26 (a) The offense was simple assault, assault in the fourth degree,
27 or the same offense as it may be renamed, and three or more years have
28 passed between the most recent conviction and the date of application
29 for employment;

30 (b) The offense was prostitution, or the same offense as it may be
31 renamed, and three or more years have passed between the most recent
32 conviction and the date of application for employment;

33 (c) The offense was theft in the third degree, or the same offense
34 as it may be renamed, and three or more years have passed between the
35 most recent conviction and the date of application for employment;

36 (d) The offense was theft in the second degree, or the same offense
37 as it may be renamed, and five or more years have passed between the
38 most recent conviction and the date of application for employment;

1 (e) The offense was forgery, or the same offense as it may be
2 renamed, and five or more years have passed between the most recent
3 conviction and the date of application for employment.

4 The offenses set forth in (a) through (e) of this subsection do not
5 automatically disqualify an applicant from employment by a licensee.
6 Nothing in this section may be construed to require the employment of
7 any person against a licensee's judgment.

8 (3) In consultation with law enforcement personnel, the secretary
9 of social and health services and the secretary of health shall
10 investigate, or cause to be investigated, the conviction record and the
11 protection proceeding record information under this chapter of the
12 staff of each agency or facility under their respective jurisdictions
13 seeking licensure or relicensure. An individual responding to a
14 criminal background inquiry request from his or her employer or
15 potential employer shall disclose the information about his or her
16 criminal history under penalty of perjury. The secretaries shall use
17 the information solely for the purpose of determining eligibility for
18 licensure or relicensure. Criminal justice agencies shall provide the
19 secretaries such information as they may have and that the secretaries
20 may require for such purpose.

21 NEW SECTION. **Sec. 20.** Sections 2 through 15, 17, and 18 of this
22 act constitute a new chapter in Title 18 RCW.

23 NEW SECTION. **Sec. 21.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

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