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HOUSE BILL 3167

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State of Washington                      61st Legislature                      2010 Regular Session

By Representatives Morrell, Williams, and Kenney

Read first time 02/02/10. Referred to Committee on Health Care & Wellness.

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

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

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

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

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

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

17           NEW SECTION.    **Sec. 2.**    Unless the context clearly indicates

1 otherwise, the definitions in this section apply throughout the  
2 chapter.

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

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

8 (3) "Director" means the director of the department of health.

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

14 (i) Offering, promising, procuring, or attempting to procure  
15 services or housing for applicants;

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

18 (iii) Selling a list of service providers or a list of names of  
19 persons or companies providing care services or housing for seniors.

20 Elder placement referral agency includes any person, bureau, senior  
21 housing listing service, housing directories, or organization, that  
22 offers, for a fee, to procure services or housing for any senior or  
23 senior's representative.

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

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

35 (7) "Senior" includes any person who is fifty-five years of age or  
36 older and who:

37 (a) Currently resides in senior housing; or

38 (b) Receives senior services.

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

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

14 NEW SECTION. **Sec. 3.** After January 1, 2011, a person may not  
15 operate or maintain an elder placement referral agency in this state  
16 without a license issued by the department.

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

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

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

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

33 (c) The date of the contract;

34 (d) The name of the client;

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

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

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

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

12 (2) Before referral or placement, the elder placement referral  
13 agency must conduct a preliminary assessment and develop a preliminary  
14 care plan for each client that includes the following information:

15 (a) Medical history;

16 (b) Necessary and contraindicated medications;

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

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

21 (e) Mental illness diagnosis, except where protected by  
22 confidentiality laws;

23 (f) Level of personal care needs;

24 (g) Activities and service preferences; and

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

27 (3) After conducting a preliminary assessment and developing a  
28 preliminary care plan, but before referral or placement, the elder  
29 placement referral agency must provide applicants with a list of all  
30 potential placement options in the client's county of residence.

31 NEW SECTION. **Sec. 6.** (1) The director shall administer the  
32 provisions of this chapter and adopt reasonable rules for enforcing and  
33 carrying out the provisions and purposes of this chapter.

34 (2) The director has supervisory and investigative authority over  
35 all elder placement referral agencies. Upon receiving a complaint  
36 against any agency, the director has the right to examine all books,

1 documents, or records in the possession of an elder placement referral  
2 agency. In addition, the director may examine the office or offices  
3 where business is conducted by a elder placement referral agency.

4 NEW SECTION. **Sec. 7.** (1) As a condition of obtaining and  
5 maintaining a valid elder placement referral agency license, each  
6 agency must provide evidence of having liability insurance.

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

9 NEW SECTION. **Sec. 8.** It is a misdemeanor for any person to  
10 operate an elder placement referral agency business in this state  
11 unless he has an elder placement referral agency license issued under  
12 the provisions of this chapter.

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

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

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

8 (3) All applications for elder placement referral agency licenses  
9 must be accompanied by a copy of the form of contract and fee schedule  
10 to be used between the elder placement referral agency and the  
11 applicant or between the elder placement referral agency and the senior  
12 housing or senior housing provider.

13 (4) Every license application must require a recent credit history  
14 report for the agency and its officers, partners, or those shareholders  
15 owning more than twenty percent of the company. The director's  
16 determination of financial instability or bad credit history is grounds  
17 to deny a license.

18 (5) At the time of the application for or renewal of a license or  
19 provisional license the licensee must pay a license fee as established  
20 by the department.

21 (6) Each license is valid for a period of twelve months.

22 NEW SECTION. **Sec. 11.** (1) An elder placement referral agency may  
23 not charge or accept a fee or other consideration from an applicant or  
24 senior housing provider (a) unless the elder placement referral agency  
25 complies with the terms of a written contract as required by section 5  
26 of this act, and (b) discloses the terms of the contract to the  
27 applicant and senior housing provider before any referral, and (c)  
28 refers an applicant to a senior services or senior housing provider  
29 where the applicant obtains housing.

30 NEW SECTION. **Sec. 12.** No license granted under this chapter may  
31 be transferred without the consent of the director. An elder placement  
32 referral agency shall not permit any person who is not identified in  
33 the license application to become connected with the business as an  
34 owner, member, officer, or director without the consent of the  
35 director. The director may withhold consent for any reason that would

1 have been grounds for rejecting the original application if the person  
2 had been identified.

3 NEW SECTION. **Sec. 13.** In accordance with the provisions of this  
4 chapter, the director may, by order, sanction the licensee of any elder  
5 placement referral agency if the director finds that the applicant or  
6 licensee has violated any provisions of this chapter, or failed to  
7 comply with any rule or regulation issued by the director under this  
8 chapter.

9 NEW SECTION. **Sec. 14.** (1) The provisions of this chapter relating  
10 to the regulation of private elder placement referral agencies is  
11 exclusive.

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

16 NEW SECTION. **Sec. 15.** The administration of this chapter is  
17 governed by the provisions of the administrative procedure act, chapter  
18 34.05 RCW, as now or hereafter amended.

19 NEW SECTION. **Sec. 16.** The uniform regulation of business and  
20 professions act, chapter 18.235 RCW, governs unlicensed practice, the  
21 issuance and denial of licenses, and the discipline of licensees under  
22 this chapter.

23 NEW SECTION. **Sec. 17.** This act shall be known and cited as the  
24 "elder placement referral act."

25 NEW SECTION. **Sec. 18.** Sections 2 through 17 of this act  
26 constitute a new chapter in Title 18 RCW.

27 NEW SECTION. **Sec. 19.** If any provision of this act or its  
28 application to any person or circumstance is held invalid, the  
29 remainder of the act or the application of the provision to other

1 persons or circumstances is not affected.

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