

Elder and Vulnerable Adult Referral Agency Act

As of January 1, 2012, referral agencies that provide referrals to consumers seeking senior care or senior living must comply with requirements of the Elder and Vulnerable Adult Placement Referral Agency Act (RCW 18.330), including those related to disclosures and acknowledgements, recordkeeping, refunds, referral intake forms, and the gathering and disclosing of certain information about the referred housing and care providers. 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 providing general information about providers without giving the person the names of specific providers.

Disclosure of Services: Clients must be provided with a disclosure statement by the agency, and the client must acknowledge its receipt. If the client refuses to acknowledge receipt of the statement, the referral professional must document that refusal. The 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 Form: Referral agencies must use a standardized intake form for each vulnerable adult. Information gathered in the intake form is covered by Washington State health care information confidentiality laws. Intake form must include 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 clients 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.

Community/Provider Profile: (updated every 12months) 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 can and cannot be met; and food preference accommodations.

Provider Credential and Enforcement Status: Within 30 days of making a referral, the referral agency must search DSHS and DOH websites boarding homes: <https://fortress.wa.gov/dshs/adsaapps/lookup/BHPubLookup.aspx> , Adult Family homes: <https://adsa.dshs.wa.gov/lookup/AFHPublookup.asp> , DOH website for home care: <https://fortress.wa.gov/doh/providerscredentialsearch> to determine the existence of any enforcement actions against the provider. Providers should be prepared to talk through credentials and enforcement status with prospective residents.

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.

Medicaid or Medicare Clients: Referral Agency cannot collect a referral fee for clients who are beneficiaries of Federal or State health care programs like Medicaid or Medicare. Should client become a Federal or State funded consumer, then the referral fee will be prorated to cover only the private pay portion of the stay. Agencies can work on a private pay basis with family or friends of the senior.

Insurance and Liability: 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.

Criminal Background Checks: 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.

Record Keeping 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.

Mandatory Reporters: Agency owners, operators, and employees are considered mandated reporters under this Act.

Association of Senior Referral Professionals of Washington (ASRP of WA); is committed to establishing and promoting professional and ethical standards within the senior housing and care referral industry; as well as to those who provide supportive and ancillary services for older and other frail adults within the state of Washington. A common business interest of all members is to create a unified and consistent voice which promotes, develops and facilitates:

- 1) Ethical standards which create a quality experience for seniors, frail adults, and the people who support them.
- 2) Recommended best practices and the education of members, with a shared goal of improving consumer awareness of options and increasing the ability of consumers to make informed decisions.
- 3) Education to increase the knowledge and skills of members regarding aging, aging related products and services, communication, decision-making and conflict resolution.
- 4) Education to increase consumer awareness of aging, senior housing and care options, effective processes for making life transition decisions, and to improve communication amongst family members, and with health care professionals and insurance carriers.
- 5) A means for consumers, senior housing and care providers, health care professionals, other professionals or community members to provide feedback to the entire referral industry.
- 6) The use of referral professionals as a means of making effective use of time, energy and resources for consumers and senior housing and care providers.
- 7) Transparency, disclosure, accuracy of information, and effective, recommended business practices within the senior housing and care referral industry.
- 8) Protection of consumers by communicating residents' rights, current and future RCWs & WACs impacting consumers.
- 9) Collaborative opportunities for consumers and members of the association to have a voice in future legislation and regulation regarding senior housing and care services.
- 10) Protection of consumers by communicating the option to file complaints to the Ombudsman, The Department of Social & Health Services, Adult Protective Services, The Attorney General, and other regulatory or social service agencies.



Web site: www.asrpwa.org

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