

**SENATE JUDICIARY COMMITTEE**  
**Senator Thomas Umberg, Chair**  
**2023-2024 Regular Session**

SB 875 (Glazer)

Version: January 3, 2024

Hearing Date: January 11, 2024

Fiscal: Yes

Urgency: No

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**SUBJECT**

Health and care facilities: residential care facilities for the elderly: referral agencies.

**DIGEST**

This bill requires an entity that refers a person to a residential care facility for the elderly (RCFE referral agency) to obtain a license from the State Department of Social Services (DSS) and generally applies existing requirements for referral agencies licensed by the State Department of Public Health (DPH) to RCFE referral agencies. The bill prohibits an extended care facility, skilled nursing home, intermediate care facility, or RFCE from paying a commission or fee to any referral agency not licensed by DSS or DPH. The bill requires a RCFE referral agency to make specified disclosures. The bill makes other changes the statutes regulating referral agencies, such as making owners, operators, and employees of a referral agency mandated reporters.

**EXECUTIVE SUMMARY**

Estimates indicate that by 2050 roughly 2.9 million people living in California will be 60 to 64 years of age. As Californians grow older, locating suitable and quality housing to provide personal and medical care becomes increasingly more important. When a family seeks to place a loved one in an assisted-living facility, they frequently turn to referral sources to find an appropriate fit for their needs, especially during times of crisis. While RCFEs are regulated under existing law by DSS, private referral sources, which typically provide free referrals but receive compensation from the RCFE, are not regulated. This bill is the sixth attempt since 2015 to regulate RCFE referral agencies and is somewhat similar to SB 648 (Mendoza, 2017) which was vetoed by then Governor Brown.

The bill is sponsored by A Place For Mom and ACT8 and supported by 6beds Inc. and LeadingAge California. The bill is opposed by the California Office of the State Long-term Care Ombudsman and organizations that advocate for the elderly and those with disabilities as well as for nursing care home reform. The bill passed the Senate Human Services Committee on a vote of 3 to 0.

## **PROPOSED CHANGES TO THE LAW**

Existing law:

- 1) Establishes the licensing and regulation of extended care, skilled nursing home, and intermediate care facilities by DPH. (Health & Saf. Code § 1250 et seq.)<sup>1</sup>
- 2) Licenses and regulates referral agencies of extended care facilities, skilled nursing homes, and intermediate care facilities by DPH. (§ 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. (§ 1401.)
- 4) Prohibits a referral agency from having a direct or indirect financial interest in any medical facility doing business with the licensee. (§ 1404.)
- 5) Provides that DPH may suspend or revoke referral agency license for a violation of any provision of the statutes governing referral agencies and that DPH is required to assess a civil penalty in the amount of fees received by a licensee as a result of a violation of any of those provisions.
- 6) Establishes the California Residential Facilities for the Elderly Act to provide for the licensing and regulation of residential care facilities for the elderly by the State Department of Social Services. (§ 1569 et seq.)
  - a) Defines “residential care facilities for the elderly” as a housing arrangement chosen voluntarily by persons 60 years of age or older, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon the resident’s varying needs, as determined in order to be admitted and to remain in the facility. (§ 1569.2(o).)
- 7) 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 that is engaged in finding homes or other places for placement of elderly persons for care, as specified. (§ 1569.47(a).)
- 8) Regulates placement or referral services as follows:

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<sup>1</sup> All further section references are to the Health and Safety Code unless otherwise specified.

- a) Prohibits a placement agency from placing individuals in licensed residential care facilities for the elderly when the individual, because of a health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility. A violation of this provision is a misdemeanor. (*Id.* at (b).)
- b) Prohibits a placement agency or employee thereof 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 a residential care facility for the elderly, except as specified. A violation of this provision is a misdemeanor. (*Id.* at (c).)
- c) Provides that a placement agency or employee of a placement agency who knows, or reasonably suspects, that a facility that is not exempt from licensing is operating without a license must report the name and address of the facility to the department. Failure to report is a misdemeanor. (*Id.* at (d).) The department must investigate these reports, as specified. (*Id.* at (e).)
- d) Requires a placement agency to notify the appropriate licensing agency of any known or suspected incidents that jeopardize the health or safety of residents in a residential care facility for the elderly, including: physical abuse; violations of personal rights; unclean, unsafe, unsanitary, or poor conditions; insufficient personnel or incompetent personnel on duty; and mental or verbal abuse. A violation is a misdemeanor. (*Id.* at (f).)

This bill:

- 1) Requires an entity that refers a person to a RCFE to obtain a license from the DSS.
  - a) Requires DSS, 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.
- 2) Includes an entity that refers a person to a RCFE under the existing definition of a referral agency, thereby making existing requirements that apply to a referral agency additionally apply to a RCFE referral agency.
- 3) Provides that a referral facility does not include:
  - a) a licensed RCFE that either: (1) provides discounts or other remuneration to residents or their families for referring new or prospective clients, or (2) 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;
  - 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.

- 4) Prohibits an extended care facility, skilled nursing home, intermediate care facility, or RCFE from paying a commission or fee to any referral agency not licensed by DSS or DPH, as applicable.
- 5) Prohibits any person, association, or corporation to establish, conduct, or maintain a referral agency or to refer any person for remuneration to any RCFE for professional services if that facility does not meet existing licensing standards.
  - a) Provides that a RCFE referral agency may satisfy this requirement by obtaining and relying on the licensing status information for a RCFE that is published on the website of DSS.
- 6) Requires a RCFE referral agency to declare that it will either conduct a suitability determination of each person who seeks a referral from the licensee and who is referred to a facility or facilities or will provide a specified statement to the individual or their representative.
- 7) Requires a RCFE referral agency to make specified disclosures before referring a person to a RCFE.
  - a) In addition to any other remedy available at law, makes a violation of these disclosure requirements 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.
  - b) Provides that a district attorney or a city attorney may institute a proceeding in superior court to enjoin a violation of these disclosure requirements.
  - c) Specifies that a RCFE referral agency must comply with the requirements of Section 1569.47 of the Health and Safety Code.
- 8) Makes owners, operators, and employees of a referral agency mandated reporters of elder or dependent adult abuse pursuant to Section 15630 of the Welfare and Institutions Code.
- 9) 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.
- 10) 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.
- 11) 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 a RCFE or referral agency.

## COMMENTS

### 1. Stated need for the bill

The author writes:

When families are looking to place a loved one in a residential care facility for the elderly (RCFE) they often turn to referral sources. Referral sources are agencies that match individuals to RCFEs. They do this by gathering the individual and their families' information and distribute that information to a number of facilities to locate an appropriate fit. This service is typically at no cost to the family, with the referral source being paid by the RCFE.

RCFEs are non-medical facilities that specialize in housing, personalized supportive services, and assistance in activities of daily living, such as getting dressed, eating, walking, etc. RCFEs are licensed, inspected, and regulated by the State Department of Social Services. While costs vary greatly, the average cost of one month's stay at a California RCFE is \$4,500.

By 2050, the number of Californians aged 60-64 is expected to increase 54%, or to almost 2.9 million people. While regulations are currently in place for RCFEs, regulations on referral sources is lacking. Referral sources are increasingly becoming a useful tool for families in easing a loved one's transition from unassisted to assisted living. It is important that families are well informed, receive trusted information, and are protected when trying to place a loved one into an RCFE.

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 best consumer protection practices to govern the interaction between the referral source and the consumer.

### 2. Background

#### *a. RCFEs*

"Long-term care" facilities provide inpatient care to individuals over extended periods of time. In general, long-term care facilities are appropriate for persons who are elderly, chronically ill, or in need of extensive rehabilitative services. There are three generally recognized classifications of long-term care facilities: skilled nursing facilities, intermediate care facilities, and residential care facilities for the elderly. A "residential

care facility for the elderly" is a housing arrangement chosen voluntarily by persons 60 years of age or older, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, or personal care are provided, based upon the resident's varying needs, as determined in order to be admitted and to remain in the facility. (§ 1569.2(o).) RCFEs are governed by the California Residential Facilities for the Elderly Act (Act), which provides for the licensing and regulation of these facilities by the DSS.

The Act defines the term "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 that is engaged in finding homes or other places for placement of elderly persons for care, as specified. (§ 1569.47(a).) Additionally, the Act places the following requirements on a placement agency:

- Prohibits placing individuals in licensed residential care facilities for the elderly when the individual, because of a health condition, cannot be cared for within the limits of the license or requires inpatient care in a health facility. (*Id.* at (b).)
- Prohibits a placement agency or employee thereof 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 a residential care facility for the elderly, except as specified. (*Id.* at (c).)
- Provides that a placement agency or employee of a placement agency who knows, or reasonably suspects, that a facility that is not exempt from licensing is operating without a license must report the name and address of the facility to the department. (*Id.* at (d).) The department must investigate these reports, as specified. (*Id.* at (e).)
- Requires a placement agency to notify the appropriate licensing agency of any known or suspected incidents that jeopardize the health or safety of residents in a RCFE, including: physical abuse; violations of personal rights; unclean, unsafe, unsanitary, or poor conditions; insufficient personnel or incompetent personnel on duty; and mental or verbal abuse. (*Id.* at (f).)

A violation of any of these requirements is punishable as a misdemeanor.

*b. Referral agencies*

Existing law requires referral agencies that refer a person to an extended care facility, skilled nursing home, or intermediate care facility for compensation to obtain a license by DPH. This bill seeks to expand the existing licensing requirements for referral agencies to entities that refer a person to a RCFE for compensation. The bill would require a RCFE referral agency to be licensed by DSS. The bill also expands existing

statutory requirements for all referral agencies and places specific disclosure requirements on RCFE referral agencies.

c. *Prior legislation*

This bill represents the sixth attempt since 2015 to regulate RCFE referral agencies and is somewhat similar to SB 648 (Mendoza, 2017), which passed this Committee on a vote of 5 to 2, and SB 648 (Mendoza, 2015), which passed this Committee on a vote of 5 to 1.<sup>2</sup> SB 648 (Mendoza, 2017) was held on the Senate Appropriations Committee suspense file. SB 648 (Mendoza, 2015) was vetoed by then Governor Brown on the grounds that it created “an expansive and costly licensing scheme.” Some of the provisions in this bill are also similar to those found in AB 499 (Rubio, 2021), which passed this Committee on a vote of 10 to 1 but was ultimately vetoed by Governor Newsom who wrote:

I am concerned this bill may serve to reduce consumer options in instances where referral entities are only providing referrals to those RCFEs with whom they are contracted to receive compensation [...] there are equity concerns that the financial arrangements favor those facilities that can best afford remuneration fees, unfairly limiting consumer information, access, and choice.” Governor Newsom concluded by stating: “I am directing the California Elder and Disability Justice Coordinating Council within the California Health and Human Services Agency to work with the author on a revised concept that includes stronger and more equitable consumer protections.

3. Disclosure requirements for RCFE referral agencies

The bill requires a RCFE referral agency to make various disclosures before referring a person to a facility. These disclosures are as follows:

- A description of the licensee’s service.
- The licensee’s contact information, including business address, email address, and telephone number.
- The licensee’s privacy policy, or, if the licensee maintains a website, a link or URL to the privacy policy on the website.
- Whether and under what circumstances the licensee will be paid a fee by facilities to which the person is referred.
- 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.

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<sup>2</sup> See Prior Legislation for further detail.

- 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."
- The following statement: "State law does not require that we determine whether facilities to which we refer you are suitable for you based upon your care and social needs, financial means, and location. 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.
- 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.

The bill makes a violation of these disclosure requirements 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, and specifies that a district attorney or a city attorney may institute a proceeding in superior court to enjoin a violation of these disclosure requirements. The bill requires these disclosures to be provided in a clear and conspicuous manner designed to give actual notice of its contents and may be provided, together or separately, in either a written disclosure in at least 12-point, Arial-equivalent bold font, either in hardcopy form or by electronic means or as an oral disclosure given telephonically and recorded with the consent of the person or their representative. If the person or their representative provides the licensee with an email address, the licensee must send an electronic version of the disclosure to the person or their representative's email address. Any oral disclosure given telephonically and recorded with the consent of the person or their representative must be spoken clearly, and in a pitch and tone that is understandable to the consumer. If an oral disclosure is provided, a written disclosure must also be sent to the person or their representative. A RCFE referral agency is required to keep records of these disclosures for three years.

These requirements are substantially similar to ones that were included in AB 499 (Rubio, 2021). AB 499 was vetoed by Governor Newsom over concerns the bill could reduce consumer options in instances where referral entities were only providing referrals to those with whom they are contracted to receive compensation and that these financial arrangements favor those facilities that can best afford remuneration fees, which could unfairly limit consumer information, access, and choice.

The existing statutes governing the licensure and regulation of referral agencies provides that “the department” is required to assess a civil penalty in the amount of fees received by a licensee as a result of a violation of any of those statutes or any regulations promulgated thereunder. (§ 1410.) The “department” for these purposes is defined as DPH. To avoid any ambiguity that DSS does not have the same authority over RCFE referral agencies to issue civil penalties, the author may wish to amend the bill to make it clear that ““the department” means DSS as it applies to RCFE referral agencies.

#### 4. Conflict-of-interest, consumer protection, and insurance requirements

The bill has several provisions that are intended to provide protections for consumers of RCFE referral agencies. These include:

- Requiring use of a nationally accredited service provider to perform background checks on representatives of the licensee who have direct contact with persons or their representatives.
- Accepting remuneration only from residential care facilities for the elderly with which the licensee has a written contract.
- Posting a privacy policy on every website the licensee operates, through a conspicuous link, in a similar manner as other similarly posted links used by the business on its home page. If the licensee does not maintain a website, then it must provide the person or their representative with a written copy of the privacy policy.
- 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 to do so.
- 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 to do so.

These requirements are substantially similar to ones that were included in AB 499 (Rubio, 2021).

The bill makes a violation of these provisions 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, and specifies that a district attorney or a city attorney may institute a proceeding in superior court to enjoin a violation of these disclosure requirements. The bill also specifies that a RCFE referral agency must comply with Section 1569.47, which places various requirements on placement agencies and their employees.

The bill provides that owners, operators, and employees of any licensed referral agency are mandated reporters of elder or dependent adult abuse pursuant to Section 15630 of the Welfare and Institutions Code. Additionally, the bill prohibits any licensed referral agency from holding 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. The

bill 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 a RCFE or licensed referral agency. Lastly, the bill requires, on and after July 1, 2025, that all referral agencies 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.

## 5. Proposed amendments

One of the statements that the bill requires an RCFE referral agency to make is inaccurate and contradicts other provisions of the bill. That statement is found in subparagraph (G) of paragraph (1) of subdivision (b) of Section 1409.4 and reads:

State law does not require that we determine whether facilities to which we refer you are suitable for you based upon your care and social needs, financial means, and location.

Existing law prohibits a placement agency from placing individuals in licensed residential care facilities for the elderly when the individual, because of a health condition, cannot be cared for within the limits of the license or requires inpatient in a health facility. (§ 1569.47(b).) Additionally, the bill specifically states that a RCFE referral agency must comply with Section 1569.47. The Committee may wish to strike the inaccurate statement from the bill and make any additional necessary corresponding changes.

The specific amendments are as follows:<sup>3</sup>

### Amendment 1

Amend paragraph (1) of subdivision (m) of Section 1405 of the Health and Safety Code to read:

(1) A declaration that the licensee will either conduct a suitability determination of each person who seeks a referral from the licensee and who is referred to a facility or facilities, or will comply with the requirements of subparagraph (G) of paragraph (1) of subdivision (b) of Section 1409.4. facilities. For purposes of this

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<sup>3</sup> The amendments may also include technical, nonsubstantive changes recommended by the Office of Legislative Counsel.

subdivision, “suitability determination” means 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:

#### Amendment 2

Amend subparagraph (G) of paragraph (1) of subdivision (b) of Section 1409.4 of the Health and Safety Code to read:

(G) The following statement: ~~“State law does not require that we determine whether facilities to which we refer you are suitable for you based upon your care and social needs, financial means, and location. The~~ “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.

#### 6. Opposition’s concerns

Opponents of the bill have several concerns. One common issue raised by all the opposition is the statement required to be made that is referenced above in the proposed amendments section of this analysis (see Comment 5, above). They point out the same inconsistencies with the statement this analysis highlights.

Additionally, they believe that adding RCFE referral agencies into the existing statutory structure for existing licensed referral agencies creates ambiguity as to whether or not they are placement agencies under Section 1569.47 and whether or not the existing misdemeanor penalty provisions would apply. The author may wish to address this issue by amending the definition of placement agencies to explicitly include a RCFE referral agency licensed pursuant to Section 1405.

Opposition also has concerns that the bill does not require disclosures be provided in the consumer’s preferred language, be provided both verbally and in writing, and believe that the disclosure requirements are inadequate and should be strengthened. They also raise concerns that the bill allows for consumer data to be sold to third parties unless they explicitly choose to opt out. Disability Rights Council and Justice In Aging note that the bill does not regulate placement agencies or entities that provide referrals to RCFEs.

#### 7. Statements in support

A Place For Mom, one of the sponsors of the bill and an entity that receives compensation for providing referrals to RCFEs, writes in support:

SB 875 is the result of nine years of legislative discussions contemplating how to provide consumer benefit-oriented notice to families without costs to the state and without undue burden to the industry, while positively changing the playing field within the industry.

The author and cosponsors have met with other stakeholders and the Administration over the past year to address the Governor's concerns expressed in his veto message of AB499. Proposed amendments and amendments already made include striking out any changes to existing law that allegedly weakened current law, adding licensing requested by the State Nursing Home Ombudsman, clarifying that existing misdemeanor penalties continue to apply, clarifying that 17200 enforcement may be available in addition to new civil penalties, adding additional privacy disclosures, add additional disclosures as to the availability of information on the Department of Aging website Callongtermcare.org, adding foreign language disclosure requirements, and additional disclosures regarding the contractual relationship between the referral agency and the referred facilities.

The author and sponsors remain committed to working with all stakeholders to ensure that California has the strongest consumer protection law possible without hindering the ability of families to utilize referral services which are often critical to helping families facing difficult decisions for a loved one.

#### 8. Statements in opposition

Disability Rights California writes in opposition, stating:

A spouse or an adult child who is looking for information about assisted living facilities for their loved one is typically in crisis and looking for reliable information to help them make an informed decision about placement. Because this is one of the most consequential decisions a family will make for their loved ones, the information provided by referral and placement agencies is absolutely critical and should leave families better informed. While SB 875 was introduced with the intention of improving protections for individuals and their families in crisis, the different iterations of this bill, including the current bill create ambiguity, enforcement challenges, and opportunities for referral agencies to evade oversight over their business practices.

Justice In Aging writes in opposition stating:

SB 875 was introduced in 2023 promising to provide protection to at-risk persons and their families in crisis. Instead, SB 875 used ambiguity, weak enforcement, and confusing terms to ensure that referral agencies evade any oversight over their business practices that may exist. The bill also ensured that consumers are unaware of their rights, and are without a meaningful mechanism to enforce

them. We submitted opposition letters to the previous versions of the bill on March 30, 2023, April 12, 2023, and November 20, 2023.

The proposed amendments to SB 875 fail to correct these significant shortcomings, recasting it as a weak licensing statute that again diminishes or eliminates existing protections and creates confusion and ambiguity.

### **SUPPORT**

A Place For Mom (sponsor)

ACT8 (sponsor)

6beds Inc.

LeadingAge California

### **OPPOSITION**

California Advocates for Nursing Home Reform

California Long-term Care Ombudsman Association

California Office of the State Long-term Care Ombudsman

Disability Rights California

Justice in Aging

### **RELATED LEGISLATION**

Pending Legislation: None known.

Prior Legislation:

AB 499 (Rubio, 2021), similar to AB 2926 (Calderon, 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 499 passed this Committee by a vote of 10-1. It was vetoed by Governor Newsom who wrote: "I am concerned this bill may serve to reduce consumer options in instances where referral entities are only providing referrals to those RCFEs with whom they are contracted to receive compensation [...] there are equity concerns that the financial arrangements favor those facilities that can best afford remuneration fees, unfairly limiting consumer information, access, and choice." Governor Newsom concluded by stating: "I am directing the California Elder and Disability Justice Coordinating Council within the California Health and Human Services Agency to work with the author on a revised concept that includes stronger and more equitable consumer protections."

AB 2926 (Calderon, 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

not heard by this Committee due to time constraints associated with the COVID-19 pandemic. The bill was held on the Senate Appropriations suspense file.

AB 2744 (Reyes, 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 internet 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, 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, as specified. SB 648 passed this Committee by a vote of 5-2 but was held on the Senate Appropriations Committee suspense file.

SB 648 (Mendoza, 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 passed this Committee by a vote of 5-1. It was vetoed by Governor Brown, who wrote: "This bill creates an expansive and costly licensing scheme for agencies that make referrals to residential care facilities for the elderly" and concluded: "The proponents of this measure have not made a convincing case for this new licensing structure."

#### **PRIOR VOTES**

Senate Human Services Committee (3 Ayes, 0 Noes)

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