

**ELDER AND
VULNERABLE
ADULT REFERRAL
AGENCY ACT
RCW 18.330**



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ELDER AND VULNERABLE ADULT REFERRAL AGENCY ACT (RCW 18.330)

Enacted into law on January 1, 2012

Affects: referral agencies that provide referrals to consumers seeking senior care or senior living must comply with requirements

Including those related to:

- * disclosures and acknowledgements
- * recordkeeping
- * refunds
- * referral intake forms
- * gathering and disclosing of certain information about the referred housing and care providers

ELDER AND VULNERABLE ADULT REFERRAL AGENCY ACT (RCW 18.330)

Violations = unfair or deceptive acts
in trade or commerce
and unfair competition under the
Consumer Protection Act.

Does Not Apply to providing general
information about providers.

Cannot provide a person with the
name of specific providers.

*Giving the name of a provider is
the moment of a referral.*

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 FORMS

MUST INCLUDE:

- Recent, relevant medical history
- known medications and management needs
- known diagnoses, health concerns
- 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

INTAKE FORMS

CONTINUED - MUST INCLUDE:

- activity preferences
- sleeping habits
- understanding of the client's financial situation and existence of long-term care
- insurance and financial assistance
- current living situation
- geographic location preferences
- preferences regarding other issues that are important to the client

DISCLOSURE OF SERVICES

- 1) Clients must be provided with a disclosure statement by the agency, and the client must acknowledge its receipt.
- 2) If the client refuses to acknowledge receipt of the statement, the referral professional must document that refusal.
- 3) Statement to include:
 - the name and contact information of the referral agency
 - The name of the client

DISCLOSURE OF SERVICES

3) Continued - Statement to include:

- 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

DISCLOSURE OF SERVICES

3) Continued - Statement to include:

- 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

COMMUNITY/PROVIDER PROFILE

Prior to referring a provider, the referral agency must obtain information 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
- ◉ level of personal care services
- ◉ cultural accommodations
- ◉ primary languages spoken
- ◉ activities provided
- ◉ behavioral conditions that can or cannot be met
- ◉ food preference accommodations
- ◉ other special care or services

PROVIDER CREDENTIAL AND ENFORCEMENT STATUS

Within 30 days of making a referral, the referral agency must search DSHS and DOH websites to determine if there are any enforcement actions against the provider.

This includes referrals to boarding homes, adult family homes, and home care providers.

Any information obtained by such searches must be disclosed in writing to the client if the referral includes that provider.

Providers should share credentials and enforcement status with prospects.

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 a 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 a 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

RECORD KEEPING REQUIREMENTS

Continued -

The records must include:

- ◉ 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
- ◉ 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 the vulnerable adults act, chapter 74.34 RCW.

No agency may develop or enforce any policies or procedure that interfere with the reporting requirements of chapter 74.34 RCW.



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