



February 21, 2017

Representative Alissa Keny-Guyer
District 46 - Portland
900 Court St. NE, H-484
Salem, Oregon 97301
Via email at Rep.alissakenyguyer@oregonlegislature.gov

RE: HB 2661- A Place for Mom

Dear Representative Keny-Guyer:

On behalf of A Place for Mom, we want to thank you in advance for the opportunity to work with your offices to ensure that HB 2661 provides Oregon consumers with the best protections and resources for seniors and their families.

A Place for Mom, the largest national internet referral agency, is committed to providing seniors and their families the critical assistance they need in finding the right senior living options for their loved one, often at a time of crisis. We were founded in Washington State in 2001, and help over 250,000 families each year find senior living options. Last year, over 4,000 families in Oregon contacted us for assistance in their search for senior living options, and 800 of those families moved into a residential care facility.

We would support HB 2661 if it is amended. We set industry best practices and would welcome a landscape where our competitors maintain the same high ethical standards in this vulnerable adult space. We are providing more detail regarding our Company's background, how we work with families and provide them resources, how we work with residential care facilities, and how we review the licensing status of these communities (see Attachment B). If you need more information than what we have provided, we would be happy to provide additional information.

We wanted at the beginning to clarify some misconceptions about how A Place for Mom operates. During our call several weeks ago, there were some key misstatements made about our Company that must be corrected.

- Business registration. We are registered to do business with the Secretary of State in all 50 states, including Oregon.
- No cold calls. We only contact families after they have either reached out to us for help by (a) calling our toll free number directly; or (b) requesting information by submitting a web-based request form.
- Web lead request forms contain required FCC language. Our lead forms contain this language (emphasis underlined): "We value your privacy. By clicking you agree to the terms and conditions of our privacy policy. You also consent that we can reach out to you using a phone system that can auto-dial numbers (we miss rotary telephones, too!). Your consent is not required to use our service." The Telephone Consumer Protection Act requires that companies provide this exact

disclosure related to obtaining consent for all telephone calls using an automatic telephone dialing system. All senior living referral agencies should be complying with the TCPA. It is not accurate to twist this regulatory language regarding phone calls to mean that we can freely solicit consumers who have not sought our services is incorrect. As mentioned above, we only contact families after they have indicated an interest in needing our services.

- Family information. Family information is never shared simply as a result of indicating interest through a web-based form. We only share the families' information with residential care facilities after these 3 steps have been taken:
 - The family has reached out to us for help by calling or indicating interest through a web-based request form; AND
 - A Senior Living Advisor has spoken to the family member on the phone (usually a 45 minute consultation); AND
 - We have disclosed to the family member and/or potential residents our process and how we operate. We always tell families at the outset that **our services are free to them because we are paid by our partner communities.** We also explain the general manner in which we match families to residential care facilities and providers, and the nature of the relationship between us and the residential care facilities and providers.
- Life of a consumer lead. We have agreed with certain partners that we will not seek a referral fee if we referred the family member over two years prior to the family choosing to move into the facility. In our review of some other Oregon referral agencies' contracts, they too do not contain this limitation nor is there an expiration of the life of the family lead.
- Business agreements with residential care facilities. We enter into a business contract with residential care facilities. Under that contract, they may "reject" the family member we have sent to them, if the family has already been in touch with the facility. In these instances, we will not seek a referral fee. We believe that most other referral agencies in Oregon operate in essentially this same manner. When contractual disputes arise between our Company and the residential care facilities, we never involve the families in the contractual dispute. We strongly believe that vulnerable seniors and their overwhelmed families should not be placed in the middle of a business-to-business discussions as to whether which referral agency has earned and should be paid the referral fee.
- Licensing Review. There was a statement in our conference call that A Place for Mom refers to unlicensed residential care facilities. It is important for you to understand that we do not, and will not, refer to unlicensed facilities, where state law or regulation requires licensure. In fact, our Company is in the forefront of license and violation review. In 2012, we began reviewing the licensure status of residential care facility and providers which: (i) have contracts with A Place for Mom; and (ii) are required to be licensed by the state. If a residential care facility loses its license, we suspend or terminate the residential care facility's contract with us. We also audit a residential care facility's state licensing violations that affect resident health and safety. If the state regulatory authority determines that violations raise significant issues regarding the health and safety of residents, we may suspend or terminate the residential care facility's contract with us. In 2016, we updated this process to review licensing status and reports of state licensing violations twice a year. For Oregon, this review and audit was conducted in February 2016 and August 2016, which resulted in 15 residential care facilities being removed from our referral network.

A Place for Mom's input on HB 2661. Below are specific areas of the bill draft that we request be modified or clarified, as well as certain requirements that we believe should be added to ensure that seniors and their families are protected.

- Section 1. As an initial note, long term care provider is used throughout the proposed legislation, but never defined.
- In Section 1(1), we request a reconsideration of the definition of “client” as being too narrowly defined and not capturing the practicalities that the referral agencies primarily work with the senior's adult son or daughter, or spouse, or even social worker.
- In Section 5(1)(a), we request a reconsideration of the requirement to “assess a client in person when possible.” Referral agencies are in the business of providing information and options. Our employees are not medical professionals. Fortunately and appropriately, seniors are assessed by residential care facilities (which have that specific expertise) to insure their suitability before a move-in.

A Place for Mom is an internet and phone-based company and never meets the senior or family member in person. The overwhelming majority of our consumers prefer it that way and many expressly note that they do not want us communicating directly with their parents, and we NEVER collect home addresses. We find that many adult children who are searching for options in behalf of their elderly parents may not live in the same town; would prefer to conduct the search for senior living options through email and phone communications with a referral agency; and would rather tour a residential care facility in person at their own leisure and with their privacy respected. We propose “in person when possible” be removed, or “when possible” be revised to allow internet and phone-based company to continue to operate in this industry.

- In Section 5(1)(a)(A), (C), (D) and (G), we request a reconsideration of these requirements by keeping in mind that while we do collect information from the senior directly or his/her representative, we do not necessarily collect an exhaustive medical history, exhaustive list of medications, exhaustive list of known diagnoses and related health concerns. This collection of exhaustive information is usually conducted by the residential care facility during their assessment of the potential resident.
- We have never, in the history of our company, asked families to sign any contracts with us. When families contact us, they are primarily looking for timely information, not thinking about entering into a contract. Due to this policy, we suggest removing the language in Section 5(1)(b) which requires seniors and their families to sign an agreement with a referral agency.
- In Section 5(1)(c), referral agencies are not subject to the federal Health Insurance Portability and Accountability Act (HIPAA). Referral agencies are neither covered entities nor business associates as defined by HIPAA. And as noted above, we do not collect an exhaustive medical history, known diagnoses or health concerns.
- The language in Section 5(1)(d), “in-person screenings of all long term care facilities”, presents an unnecessary challenge to senior living referral providers. As an internet based referral agency and

with only five employees based in Oregon, it is not feasible for us to visit all 610 residential care facilities in our partnership network in Oregon.

We believe that the best source of objective data is by the inspectors who are experts in reviewing residential care facilities and their compliance with state regulations. Furthermore, our subjective impressions from an in-person screening of the residential care facility should not supplement the families' own touring. Currently we comply with Washington State's requirement that we disclose how many of our residential care facilities we have visited, and we would propose a similar requirement here.

- In Section 5(1)(f), it unclear what public disclosure files are being referenced. If the intent was for referral agencies to provide seniors and their families a link to the Oregon Department of Human Services (http://www.dhs.state.or.us/spd/tools/cm/facility_lists/) and the Substantiated Facility Abuse Complaints website (https://apps.state.or.us/cf2/spd/facility_complaints/), we fully support giving families these resources.
- In Section 5(1)(i), it is unclear what background check rule is being referenced here. We propose the following: *any employee, owner, or operator of a referral agency must pass a criminal background check every twenty-four months and not have been convicted of any crime that has been found by a court of law or disciplinary authority to have abused, neglected, financially exploited, or abandoned a vulnerable adult.*
- In Section 5(1)(j), we request a reconsideration of the requirement to “contact a client within 30 days after the client is placed in a long term care facility.” As stated above, we primarily work with the adult child, and may not interact with the senior. Thus, a requirement that we visit the senior in-person at the residential care facility is objectionable for practical purposes as well as privacy issues. For the senior to be visited by the referral agency would be an unusual interaction and potentially disturbing or confusing. The senior or the senior's family may object to a non-family member visiting him/her. Further, the facilities may likely object to a non-family member referral agency employee on their premises to visit one of their residents. On the other hand, if “contact” is broadly defined to include an email communication or survey communication and “client” is broadly defined to include the family member involved in the process, we would not be opposed to this requirement. Today we already attempt to obtain feedback from the families after they have chosen a residential care facility, and we publish their ratings and reviews on SeniorAdvisor.com.
- In Section 5(1)(k), we recommend that the required insurance be defined as the following: *liability insurance coverage in an amount of at least three million dollars (\$3,000,000) for negligent acts or omissions by the referral agency.*

We would also support adding some additional provisions to protect seniors:

- **Disclosing the referral agency's privacy policy.** We suggest the following language in order to provide transparency to consumers: *A referral agency shall disclose to the client its contact information, including address and telephone number, and the referral agency's privacy policy.*
- **Disclosing ownership interest in any referred residential care facility.** If the referral agency is referring to residential care facilities where the agency or its employees have an ownership interest, referral agencies should be required to disclose this ownership interest. We would suggest the

following language: *If an employee of a referral agency is directly involved in providing referrals and has an ownership interest in the residential care facility being referred to the client, then the referral agency must provide a statement to the client that such employee has an ownership interest in the residential care facility.*

- **Disclosing owned and operated websites.** We suggest the following language in order to provide transparency to consumers: *The websites owned and operated by the referral agency and concerning information about senior living referral services must include a clear identification of the referral agency.*
- **Requiring that employees of referral agencies be mandated reports of abuse.** Because of the nature of the interactions between referral agencies and seniors and their families, if a referral agency's employee hears information related to abuse to a vulnerable senior, we strongly support that employees of referral agencies be deemed mandatory reporters. We suggest the following language: *All employees of a referral agency who interact with seniors shall be considered mandated reporters and report abuse or neglect to the Oregon Department of Human Services.*

Finally, we would like to provide you with some positive feedback from our families and a partner to give you some idea of the positive impact that our service has in Orgeon. (Attachment A).

We are committed to providing seniors and their families the critical assistance they need in finding the right senior living options for their loved one, and we agree that there should be standards for referral agencies. We look forward to working with you on finalizing HB 2661 and would be pleased to meet with you in person, or to provide any other information you request.

Sincerely,

Camille Cleveland
Senior Vice President and General Counsel
Camille@aplaceformom.com

cc: Jonathan Eames, Eames Consulting

Attachment A

Linda,

Thank you for your help in locating Memory Care facilities. The final decision has been made to wait for an opening at the Cottages in Meridian. The administrator said it may happen in the next few weeks. The plus for this location is that it takes just five minutes to get to. Also, the sister with Alzheimers has been there for senior day care before and when her care giver sister went out of town.

You provide a valuable service and I will give your information to anyone who may need it.

Judy Y.

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We certainly appreciate your help with our journey to "The Home". We are learning a lot and are enjoying see what is available for us. Thank you for continuing to stay in touch. If you think of any other properties that might interest us please let us know. We are not tied to Portland and would consider other properties in neighboring towns.

Sincerely,
Molly S.

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Hi Linda, My apologies for not getting back to you sooner. First of all, thank you for everyhting you did to support my family and I with Home Care appt. and Assisted Living tours. I really appreciate it!

I thought the Home Care visit went well and there still is a possibility that they will call to get it initiated. We toured two places . One on Tuesday and one on Wednesday. It was my step mom and sisters as my dad is ready to go but my step mom had been apprehensive, which we all totally understand. The one we toured on Tuesday, I can't remember the name of it was the place they are leaning towards. It is very close to where they live and close to their church. When I left on Friday I think their decision was going to be to put a check down to hold the 2 bedroom apt. that was possibly coming open the end of September. I have to confess that being up here is so frustrating, but school starts and I need to be here for work. Otherwise I would have stayed and put some things in motion. I also must confess that my step moms family is so different than mine. It seems that drama follows them everywhere and I do not tolerate drama. What I keep telling everyone is that the 2 people who really need to make the decisions are our parents. They are both healthy where their thinking is concerned so whatever happens from here on out is up to them. I probably gave to much information but I wanted to let you know where we are at this minute. Thanks again, Cathy J.

Linda, thank you for your support in trying to locate perhaps a better facility for Jerry. I will do my investigation and get back to you. Again my sincerest gratitude .

Pat H.

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Linda,

I think we have found our place, Monterey Court. I was impressed with the layout of the facility (4 smaller pods), the people were very nice, it had a quite & unhurried feeling to the environment, we actually saw staff in all the pods. The RN went right out to Brookdale for her assessment after we left, just waiting for physician orders to transfer mom, I had talked to her primary care doc the day before, she had just seen mom & knew she would be moved and the reason for the move. They use the same prescription process, Consortus, and she will be able to keep House Call Providers. Hopefully we can move mom on the 12th or 13th of October.

We did also go to the Silver Creek facility in Woodburn yesterday, it was a nice facility also, but the only room they had was a one bedroom apt in assisted living, but we felt mom needed to be in their memory care, no openings. Katherine that was giving us the tour kept saying it would be OK because it was a higher level of assisted living, but sort of know we would have to move her again when there was an opening in memory care. On our way up to see the apartment, we got stuck in the elevator, it stopped and Katherine couldn't get it going again, had to call someone. They are planning on installing a new elevator, but just didn't see how mom would & could remember how to work the buttons.

Thanks you for all the support and help you have given us, I'm hoping we will have mom in a better place.

Sherry & Pat

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Thank you for your rapid response to my request for help in finding a new board and care facility for my sister down in Hayward, CA.. I talked with Nora Syed from Lotus Residential Care that afternoon. That place sounds like a better fit for my sister, and I will fly down there in a week to move her into that facility. I really appreciate the service that you provide. THANK YOU!

Fran W.

Attachment B

Background. A Place for Mom (“APFM”) is an internet information service company that receives payment from the residential care facilities and providers in exchange for providing information, consultation in local areas, and referrals to families to assist them in finding senior living options. Over the past 16 years, A Place for Mom has helped thousands of families nationwide, including in Oregon. In 2014, A Place for Mom began providing internet information services in Canada. A Place for Mom’s mission is to help families learn about and find senior living options for their loved ones, based upon their needs and resources. **Appendix A** is a Fact Sheet about A Place for Mom with further background information about our company.

How A Place for Mom works with families. Seniors and their families contact A Place for Mom primarily through two methods: (a) by calling directly our toll free number; or (b) requesting information by submitting a web-based request form. **Appendix B** is a screenshot of the web-based request form from our primary website.

After the senior or their family member has reached out to us for our services, one of our Senior Resource Coordinators attempts to contact the inquirer quickly since many families are searching during a time of crisis. In the initial phone conversation with a Senior Resource Coordinator, the senior (or their family member who is responsible for the search/information inquiry) is asked a few initial questions and then is connected as quickly as possible with a local Senior Living Advisor near or knowledgeable about the location where the senior needs senior living or care. We have five employees based in Oregon (four in Portland and one in Salem/Eugene) with a combined history of over 35 years of service with our company. After the transfer to a local area, the local Senior Living Advisor then asks additional questions related to a needs assessment and financial assessment to obtain an understanding of the inquiry. **Appendix C** is a general list of those questions.

Based on this information, the local Senior Living Advisor identifies and provides a list of the senior living and care options that meets the stated needs and budget of the family. A Place for Mom then provides the family with the name and contact information for at least two (but on average 4 - 5) options for senior living or care services. **Appendix D** is a sample letter which we email to the family.

The emailed letter to the family also contains a link to consumer reviews of the residential care facilities and providers posted on www.senioradvisor.com. In 2013, SeniorAdvisor.com, a subsidiary of A Place for Mom, Inc., was established. SeniorAdvisor.com is the premier consumer ratings and reviews site for residential care facilities and providers, providing reviews and advice directly from other seniors and their families. We believe that this unbiased, third party information from other families is an important component to this information A Place for Mom provides. SeniorAdvisor.com currently has over 100,000 consumer reviews on residential care facilities and providers.

We have always supported the proposition that there should be a transparent process for seniors and their families during their search for senior living options. To that end, A Place for Mom has always been committed to:

- providing the seniors and their families with the contact information for at least two residential care facility or providers. We believe that providing only one referral is unethical steering to one facility;
- advising the family how A Place for Mom receives payment – that the service is free to families because A Place for Mom is paid by the facilities that participate in our network;

- informing seniors and their families that A Place for Mom does not endorse or recommend any care facility or provider;
- advising the family that it is their responsibility to select the appropriate residential care facility or provider for their family member; and
- encouraging families to tour and ask questions of each facility to ensure they select the facility that best meets their needs (and we provide a list of questions to assist them in the touring and selection process).

How A Place for Mom provides seniors and their families with resources. Seniors and their families often do not have the time, resources, or expertise to make the most informed decision for themselves or their loved ones. To that end, A Place for Mom has created many resources to help educate seniors and their families.

One of the most important resources A Place for Mom created was a webpage for a [State Guide to Assisted Living Records & Reports](#). This guide has been featured in the New York Times (**Appendix E**). The guide provides seniors and their families with the most comprehensive information available on the quality and accessibility of assisted living records for every state and the District of Columbia. The information in this webpage was the culmination of three years of research and analysis conducted by A Place for Mom as part of our audit process to ensure that residential care facilities in our network are licensed and in compliance with their state regulating agencies. The results of the report are represented in an interactive map. The map is color coded in accordance with each state's overall grade and allows visitors to click for more information, including tips for families seeking senior housing within each state and a breakdown of how it fared in all of the evaluation categories.

<http://www.aplaceformom.com/assisted-living-state-licensing> **Appendix F** is a printout of the webpage for families seeking services in Oregon to access more information regarding licensure, inspection summaries and violations of the care facilities.

A Place for Mom also provides families with their own MySearch account, a web-based tool to allow families to track their referred care facilities, to request a tour directly with the care facility, and to track facility contacts. The MySearch tool allows families the ability to efficiently provide updates on their status and progress, as well as general feedback.

In 2016, we launched the Senior Living Finder app as another smartphone-based tool to allow families to track their progress in their searching for senior living options. We started off 2017 with our 1,000th app download.

A few other items of note on how we work with families:

- We never require the family to enter into an exclusive agreement with us. The seniors and their families may, at any time, with or without cause, stop using our services or switch to another referral agency without penalty or cancellation fee. Because the seniors and their families pay no fee for our services, refunds are never required.
- While local Senior Living Advisors are available to assist families and the residential care facilities and providers throughout the process, including scheduling tours, the local Senior Living Advisors do not attend tours or visit with seniors and their families in person. This is done for a variety of reasons including liability and the sheer volume of families we assist on a daily and weekly basis.

- A Place for Mom only works with families who are private pay clients. We do NOT work with clients who will finance their stay, as of the time of consultation, with payments from Medicare, Medicaid, or other public pay program, which would be in violation of federal anti-kickback laws.

How A Place for Mom works with residential care facilities and providers. At the same time the local Senior Living Advisor provides the family with the list of the residential care facility and provider options, the Advisor sends an email to those residential care facilities and providers indicating that the family may be considering their services, and providing the families' contact information. To help facilitate the discussion between the parties, the email also includes information about the senior's desired location, a summary of general level of care needs, budget range, possible sources of payment, and in some cases a short narrative description of the senior's preferences based on the Senior Living Advisor's consultation. **Appendix G** is a sample referral letter from A Place for Mom to the residential care facility.

Residential care facilities and providers in the A Place for Mom network pay a referral fee only if the family moves into the residential care facility. The referral fee, in most instances, is a percentage of first month's rent and care charges. A Place for Mom's partnered residential care facilities and providers are free to terminate their agreement upon 30 days written notice.

A Place for Mom's licensing review and audit process of residential care facilities. In 2012, we began reviewing the licensure status of residential care facility and providers which: (i) have contracts with A Place for Mom; and (ii) are required to be licensed by the state. If a residential care facility loses its license, we suspend or terminate the residential care facility's contract with us. We also audit a residential care facility's state licensing violations that affect resident health and safety. If the state regulatory authority determines that violations raise significant issues regarding the health and safety of residents, we may suspend or terminate the residential care facility's contract with us. In 2016, we updated this process to review licensing status and reports of state licensing violations twice a year.

How A Place for Mom provides clear disclosures to seniors and their families. A Place for Mom provides a number of disclosures to families, including: (i) the requirements to become an A Place for Mom partnered residential care facility or provider; (ii) the fact that the residential care facility or provider pays a referral fee; (iii) the general manner in which we match families to residential care facilities and providers; (iv) the nature of the relationship between us and the residential care facilities and providers; and (v) the nature of any restrictions that would exclude a care facility or provider from participating in our network. In the attached sample letter which is emailed from A Place for Mom to the family, these disclosures are in the signature block.

In emails to families, as well as throughout the website and other marketing materials, A Place for Mom clearly discloses to families that our fee is paid by the residential care facilities or providers and never by the families. Furthermore, to further our goal of protecting families from unscrupulous business practice, we prohibit our partnered residential care facilities from "passing through" any fees to the family or to charge higher rates to the family because they use our services.