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April 12, 2017

The Honorable Hannah Beth-Jackson
Chair, Senate Judiciary Committee
State Capitol, Room 2187
Sacramento, CA 95814

**RE: Senate Bill 648 (Mendoza) – Health care facilities: referral agencies – SPONSOR
Senate Judiciary Committee**

Dear Senator Jackson:

The Consumer Federation of California (CFC) is proud to sponsor SB 648, authored by Senator Mendoza. This bill would ensure that seniors and their families are protected from unscrupulous elder care referral agencies that put profit ahead of the seniors' best interests or health care needs.

Despite unanimous consent for this bill in 2016, the governor vetoed SB 648, stating that there was not enough convincing evidence to make the case for a new licensing structure for referral agencies. Following the veto, the author has worked in collaboration with CFC, the department and the administration to find a balanced solution; establishing consumer protections in this industry without an extensive licensing requirement. As amended, SB 648 lays the groundwork for strong consumer protections in the referral industry.

Under current law, referral agencies that make referrals to elder care facilities operate without oversight. Currently, the department has no statutory obligation or legislative directive to even collect or respond to consumer complaints about referral agencies. As the number of elder care facilities, specifically residential care facilities for the elderly (RCFEs), has grown exponentially in recent years, this lack of oversight has created a significant gap in our consumer and elder protection laws.

Similar to the 2016 bill, SB 648 requires all referral agencies that assist seniors and their families in finding the right residential and care options to conduct a suitability determination prior to a senior's placement. This would include a determination that the facility offers the appropriate level of care, is affordable and meets the social needs of the person seeking referral. Referral agencies would also be required to train their employees on meeting the physical needs of the elderly, maintain liability insurance, and be prohibited from sharing personal information about the client, unless authorized, or holding any power of attorney or other personal property for a client.

In response to the Governor's veto message, SB 648 would not require a referral agency to be licensed; it would instead require a care facility to disclose when they have a financial contract or agreement with the referral agency that results in a monetary exchange after the senior's placement. Generally, referral agency services are offered at no charge to seniors. Instead, referral agencies receive a commission or finders' fee from the care facility after they have successfully referred a senior for care and housing. The commission or finders' fee is typically calculated as a percentage of the seniors monthly rent, creating an incentive for the referral agent to place the senior in a specific facility or one where the agency has an exclusive referral contract. Oftentimes these are more expensive for the

senior, even if the senior doesn't need a high level of care or may have difficulty affording it. SB 648 would ensure that the consumer, generally the senior being referred, is aware of the financial relationship between the referral agency and the care facility.

The variations of care facilities around the state, including RCFEs, adult residential facilities and residential care facilities for persons with chronic life-threatening illness make referral agencies a convenient option, as consumers may not have the wherewithal to look closely at the programs of each of the facilities in their area to see if the services meet their needs. However, given the significant role that referral agencies can play in care decisions at very stressful junctures in an elder's life, unscrupulous referral agencies can use this as an opportunity to take advantage of the aging population.

In cases where the search for a care facility occurs following an accident, illness, or hospital stay that results in decreased independence, the senior and their family are extremely vulnerable. For example, in Kern County, there have been cases of seniors with terminal illnesses being placed by referral agencies in unlicensed room and board facilities, instead of licensed RCFEs or skilled nursing facilities where they could receive a more appropriate level of care and comfort. While hospice services have visited them, the level of assistance provided was far below their needs.

In the Los Angeles area, an elderly blind woman was visited in her hospital room by a referral agent and solicited to use its services. The woman ended up giving power of attorney to an associate of the referral agency who drained the woman's bank account and coerced her and her husband to give away their house and possessions to a third-party conspirator. SB 648 would enact prohibitions against holding powers of attorney or client property.

CFC believes that seniors and their families have a right to know when they are dealing with salespeople who may have conflicting motives when researching the best care options for themselves or their loved ones. We hope that SB 648 will serve as a building block, a vitally important step to ensuring that seniors are protected during each stage of aging.

We respectfully urge your support for SB 648.

Sincerely,

A handwritten signature in black ink that reads "Richard Holober". The signature is written in a cursive, flowing style.

Richard Holober
Executive Director

cc: Members, Senate Judiciary Committee
Senator Mendoza