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**HOUSE BILL 2345**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Representatives Macri, Wylie, Cody, Goodman, Tharinger, and Appleton

AN ACT Relating to continuing care retirement communities; amending RCW 18.390.010, 18.390.060, and 18.390.070; and adding a new section to chapter 18.390 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 18.390.010 and 2016 c 183 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Application fee" means a fee charged to an individual or individuals prior to the execution of a residency agreement, apart from an entrance fee.

(2) "Care" means nursing, medical, or other health-related services, protection or supervision, assistance with activities of daily living, or any combination of those services.

(3) "Continuing care" means directly providing or indirectly making available, upon payment of an entrance fee and under a residency agreement, housing and care for a period of greater than one year.

(4) "Continuing care retirement community" means an entity that agrees to provide continuing care to a resident under a residency agreement. "Continuing care retirement community" does not include an assisted living facility licensed under chapter 18.20 RCW that does not directly, or through a contractual arrangement with a separately owned and incorporated skilled nursing facility, offer or provide services under chapter 74.42 RCW.

(5) "Department" means the department of social and health services.

(6) "Entrance fee" means an initial or deferred transfer to a continuing care retirement community of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of one or more residents in a continuing care retirement community. "Entrance fee" does not include deposits of ten thousand dollars or less or any amount that is based on rental or lease payments of one month or more.

(7) "Prospective resident" means a person who has completed an application for admission to a continuing care retirement community and makes a refundable deposit to reserve a unit, excluding applicable administrative fees.

(8) "Residency agreement" means a contract between a continuing care retirement community and a resident for the provision of continuing care for a period of greater than one year.

(9) "Resident" means a person who enters into a residency agreement with a continuing care retirement community or who is designated in a residency agreement to be a person being provided with continuing care.

(10) "Actuarial report" means a report or analysis prepared by an actuary in accordance with commonly accepted actuarial standards of practice issued by the actuarial standards board.

**Sec.**  RCW 18.390.060 and 2016 c 183 s 6 are each amended to read as follows:

(1) A continuing care retirement community must prepare a disclosure statement that includes the following information:

(a) The names of the individual or individuals who constitute the continuing care retirement community and each of the officers, directors, trustees, or managing general partners of the legal entity and a description of each individual's duties on behalf of the legal entity;

(b) The business address of the continuing care retirement community;

(c) The type of ownership, the names of the continuing care retirement community's owner and operator, and the names of any affiliated facilities;

(d) The names and business addresses of any individual having any more than a ten percent direct or indirect ownership or beneficial interest in the continuing care retirement community, the percentage of the direct or indirect ownership or beneficial interest, and a description of each individual's interest in or occupation with the continuing care retirement community;

(e) The location and general description of the continuing care retirement community, including:

(i) The year the continuing care retirement community opened;

(ii) The location and number of living units, licensed assisted living facility beds, and nursing beds considered part of the continuing care retirement community;

(iii) The average annual occupancy rate for the prior three fiscal years for each type of unit or bed; and

(iv) Any other care facilities owned or operated by the owner of the continuing care retirement community;

(f) An explanation of the continuing care retirement community's policy regarding placement in off-campus assisted living facilities and nursing homes and the payment responsibilities of the continuing care retirement community and the resident in the event of off-campus placement;

(g) The number of residents who were placed off-site in the previous three years for assisted living and nursing services due to the lack of available capacity at the continuing care retirement community;

(h) An explanation of all types of fees charged by the continuing care retirement community, how each type of fee is determined, current ranges for each type of fee, and refund policies for each type of fee;

(i) Statements describing the continuing care retirement community's policy for notifying residents of fee increases, including the amount of prior notification that is provided;

(j) Statements describing the continuing care retirement community's policy related to changes in levels of care and any associated fees;

(k) Statements describing the continuing care retirement community's policy for the termination of a contract, including the return of any fees or deposits pursuant to the residency agreement;

(l) A description of services provided or proposed to be provided by the continuing care retirement community under its residency agreements, including:

(i) The extent to which care, long-term care, or health-related services are provided. If the services are provided at a facility that is not certified as part of the continuing care retirement community's campus, the disclosure statement must identify the location where the services are provided and any additional fees associated with the services; and

(ii) The services made available by the continuing care retirement community for an additional charge; and

(m)(i) The continuing care retirement community's two most recent annual audited financial statements prepared in accordance with generally accepted accounting principles by a certified public accountant. The most recently audited financial statement may not have been prepared more than eighteen months prior to the date that the continuing care retirement community applied for its current registration; or

(ii) If the continuing care retirement community is new and:

(A) Has obtained financing, but does not have two years of audited financial statements as required under (m)(i) of this subsection, an independent accountant's report opinion letter that has evaluated the financial feasibility of the continuing care retirement community; or

(B) Has not obtained financing, a summary of the actuarial analysis for the new continuing care retirement community stating that the continuing care retirement community is in satisfactory actuarial balance.

(2) The disclosure statement must be written in understandable language and a clear format.

(3) ((~~Prior to entering into a residency agreement with, or accepting an entrance fee from, any prospective resident, a~~)) A continuing care retirement community must deliver ((~~to the prospective resident~~)) a copy of the disclosure statement most recently submitted to the department to:

(a) A prospective resident prior to entering into a residency agreement, or accepting an entrance fee from the prospective resident; and

(b) Each existing resident within thirty days of submission to the department.

**Sec.**  RCW 18.390.070 and 2016 c 183 s 7 are each amended to read as follows:

(1) A prospective resident may visit each of the different care levels of the continuing care retirement community, assisted living facility, and nursing home, and may inspect the most recent inspection reports and findings of complaint investigations related to the assisted living and nursing home components covering a period of not less than two years, as available, prior to signing a residency agreement.

(2) All residents of a continuing care retirement community in a living unit that is not used exclusively for assisted living or nursing services have the following expectations:

(a) Transparency regarding the financial stability of the provider operating the facility;

(b) Timely notifications of developments affecting the facility, including ownership changes of the provider operating the facility, a change in the financial condition of the provider operating the facility, and construction and renovation at the facility. The management of the continuing care retirement community may deem certain information to be confidential if it is of a sensitive nature such that disclosure of the information would materially harm the position of the continuing care retirement community;

(c) Reasonable accommodations for persons with disabilities;

(d) The opportunity to participate freely in the operation of independent resident organizations and associations;

(e) The opportunity to seek independent counsel review of all contracts, including residency agreements, prior to executing the residency agreement; ((~~and~~))

(f) The assurance that all requests for donations, contributions, and gifts, when made by residents to the continuing care retirement community, are voluntary and may not be used as a condition of residency; and

(g)(i) Except as provided in (g)(ii) of this subsection, for any residency agreement entered into after December 31, 2020, that provides for refundable entrance fees, the assurance that, once five years have passed from the issuance of a certificate of occupancy to a continuing care retirement community, the continuing care retirement community must pay any refunds due to a resident no later than the earlier of:

(A) The thirtieth day after the resident's unit is reoccupied and the resident is no longer living in the continuing care retirement community; or

(B) Two years following the resident's departure or death.

(ii) If sixty days prior to the date on which a refund payment is due under (g)(i) of this subsection the occupancy rate of independent living units within the community is below ninety percent, the date on which a refund is due under (g)(i) of this subsection may be extended until sixty days after the first month in which the occupancy rate is ninety percent or more.

(3) The continuing care retirement community shall:

(a) Provide a copy of the expectations specified in this section to each prospective resident prior to signing a residency agreement; and

(b) Make copies of the expectations specified in this section publicly available in areas accessible to the independent residents and visitors. The copies of the expectations must also state that independent residents have the right, as an affected party, to file a complaint with the attorney general for violations of this chapter that may constitute a violation of the consumer protection act and contain information explaining how and where a complaint may be filed.

NEW SECTION. **Sec.**  A new section is added to chapter 18.390 RCW to read as follows:

Beginning July 1, 2021, if a continuing care retirement community has a council comprised of residents and selected by residents that is formed for the purpose of communicating between the residents and the management of the continuing care retirement community on matters of financial interest to residents, the continuing care retirement community must make any full actuarial report that the continuing care retirement community has had prepared in the previous three years available to the members of that council.

**--- END ---**