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**HOUSE BILL 2726**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Representatives Walkinshaw, Tharinger, Senn, Cody, Ortiz-Self, Magendanz, and Goodman

AN ACT Relating to the regulation of continuing care retirement communities; adding a new chapter to Title 18 RCW; and providing an effective date.

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

NEW SECTION. **Sec.**  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 is certified by the department and agrees to provide continuing care to a resident under a residency agreement.

(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.

(7) "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.

(8) "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.

NEW SECTION. **Sec.**  A person or entity must be certified by the department under this chapter prior to:

(1) Operating a continuing care retirement community;

(2) Entering into a residency agreement with a prospective resident;

(3) Soliciting a prospective resident to pay an application fee or executing a residency agreement; or

(4) Collecting an entrance fee.

NEW SECTION. **Sec.**  (1) An applicant for a certification as a continuing care retirement community must demonstrate the ability to comply with the standards established for continuing care retirement communities in this chapter, including:

(a) Submitting a written application to the department providing all necessary information on a form provided by the department;

(b) Providing information about the licensed assisted living facility component of the continuing care retirement community and, if the continuing care retirement community operates a nursing home, information about that component;

(c) Submitting copies of any proposed residency agreements that the continuing care retirement community intends to use for the certification period;

(d) Submitting a copy of the disclosure statement that includes current information required by section 5 of this act;

(e) Submitting copies of audited financial statements for the three most recent fiscal years. The audited financial statement may not have been prepared more than sixteen months prior to the date that the continuing care retirement community applied for its current certification;

(f) Successfully completing a survey conducted by the department; and

(g) Paying any certification fees associated with the cost of regulating continuing care retirement communities.

(2) A certification is valid for one year.

(3) A certification is not transferable.

NEW SECTION. **Sec.**  The department shall:

(1) Issue a certification to an entity that meets the requirements of section 3 of this act;

(2) Investigate complaints or reports of noncompliance with this chapter;

(3) Conduct adjudicative proceedings consistent with department practices;

(4) Place conditions upon, suspend, or revoke the certification of a continuing care retirement community in the event of noncompliance with this chapter;

(5) Conduct surveys of continuing care retirement communities, including reviews of records of care and financial information. The department shall minimize regulatory burdens on entities to be surveyed by developing a process to coordinate surveys of continuing care retirement communities with the surveys of any assisted living facility or nursing home operated by the same entity on the property to be surveyed;

(6) Review the disclosure statements submitted by applicants for an initial or renewal license to operate a continuing care retirement community for completeness;

(7) Establish and collect a fee that is sufficient to defray the costs associated with administering the requirements of this chapter;

(8) Develop and make available educational materials for prospective residents regarding the benefits of continuing care retirement communities, considerations for prospective residents of a continuing care retirement community to assess prior to entering a residency agreement, and instructions on how to contact the department to file a complaint against a continuing care retirement community; and

(9) Adopt rules as necessary to implement this chapter.

NEW SECTION. **Sec.**  (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 occupancy rate for the prior fiscal year 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) 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;

(g) 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;

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

(i) 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 medical 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;

(j) The continuing care retirement community's most recent audited financial statement prepared in accordance with generally accepted accounting principles by a certified public accountant. The audited financial statement may not have been prepared more than sixteen months prior to the date that the continuing care retirement community applied for its current certification.

(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 continuing care retirement community must deliver to the prospective resident a copy of the disclosure statement most recently approved by the department.

NEW SECTION. **Sec.**  (1) A prospective resident has the right to visit each of the different care levels and to inspect continuing care retirement community, assisted living facility, and nursing home credentialing reports, including the most recent inspection reports and findings of complaint investigations covering a period of not less than two years, 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 rights:

(a) To live in an attractive, safe, and well-maintained physical environment;

(b) To live in an environment that enhances personal dignity, maintains independence, and encourages self-determination;

(c) To participate in activities that meet individual physical, intellectual, social, and spiritual needs;

(d) To expect effective channels of communication between residents and the administration or provider's governing body;

(e) To receive a clear and complete written contract that establishes the mutual rights and obligations of the resident and the continuing care retirement community;

(f) To manage his or her financial affairs;

(g) To be assured that all donations, contributions, gifts, or purchases of provider-sponsored financial products are voluntary and are not a condition of acceptance or ongoing eligibility for services;

(h) To maintain and establish ties to the local community; and

(i) To organize and participate freely in the operation of independent resident organizations and associations.

(3) The continuing care retirement community shall:

(a) Provide a copy of the rights specified in this section to each resident prior to the resident signing a residency agreement and at any time when the resident is proposed to be moved to a different level of care; and

(b) Prominently post in areas accessible to the residents and visitors a notice that a copy of rights specified in subsections (1) and (2) of this section and the department's rules governing continuing care retirement communities is available upon request from the continuing care retirement community. The notice must also state that residents have the right to file a complaint with the department for any violation of these rights and contain information explaining how a complaint may be filed, including the telephone number and address of the department's investigative unit.

NEW SECTION. **Sec.**  Nothing in this chapter affects any of the requirements and standards associated with a license to operate an assisted living facility under chapter 18.20 RCW or a nursing home under chapter 18.51 RCW.

NEW SECTION. **Sec.**  This act takes effect July 1, 2017.

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 18 RCW.

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