
SUBSTITUTE HOUSE BILL 2726

State of Washington 64th Legislature 2016 Regular Session

By House Health Care & Wellness (originally sponsored by Representatives Walkinshaw, Tharinger, Senn, Cody, Ortiz-Self, Magendanz, and Goodman)

READ FIRST TIME 02/05/16.

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

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

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

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

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

18 (4) "Continuing care retirement community" means an entity that
19 agrees to provide continuing care to a resident under a residency
20 agreement. "Continuing care retirement community" does not include an
21 assisted living facility licensed under chapter 18.20 RCW that does

1 not directly, or through a contractual arrangement with a separately
2 owned and incorporated skilled nursing facility, offer or provide
3 services under chapter 74.42 RCW.

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

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

13 (7) "Prospective resident" means a person who has completed an
14 application for admission to a continuing care retirement community
15 and makes a deposit to reserve a unit.

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

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

23 NEW SECTION. **Sec. 2.** A person or entity must be registered by
24 the department under this chapter prior to:

- 25 (1) Operating a continuing care retirement community;
- 26 (2) Entering into a residency agreement with a prospective
27 resident;
- 28 (3) Soliciting a prospective resident to pay an application fee
29 or executing a residency agreement; or
- 30 (4) Collecting an entrance fee.

31 NEW SECTION. **Sec. 3.** (1) An applicant for a registration as a
32 continuing care retirement community must submit the following
33 materials to the department:

- 34 (a) A written application to the department providing all
35 necessary information on a form provided by the department;
- 36 (b) Information about the licensed assisted living facility
37 component of the continuing care retirement community and, if the

1 continuing care retirement community operates a nursing home,
2 information about that component;

3 (c) Copies of any residency agreements that the continuing care
4 retirement community intends to use for the certification period;

5 (d) A copy of the disclosure statement that includes current
6 information required by section 6 of this act;

7 (e)(i) Except as provided in (e)(ii) of this subsection, copies
8 of audited financial statements for the two most recent fiscal years.
9 The audited financial statement for the most current period may not
10 have been prepared more than sixteen months prior to the date that
11 the continuing care retirement community applied for its current
12 registration;

13 (ii) If the continuing care retirement community:

14 (A) Has obtained financing, but has been in operation less than
15 two years, a copy of the audited financial statement for the most
16 current period, if available, and an independent accountant's report
17 opinion letter that has evaluated the financial feasibility of the
18 continuing care retirement community; or

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

23 (f) An attestation by a management representative of the
24 continuing care retirement community that the continuing care
25 retirement community is in compliance with the disclosure
26 notification requirements of section 6 of this act; and

27 (g) Payment of any registration fees associated with the cost of
28 regulating continuing care retirement communities.

29 (2) The department shall base its decision to issue a
30 registration on the completeness of the application.

31 (3) The department shall issue the registration within sixty days
32 of the receipt of an application, payment of fees, submission of
33 disclosures, residency agreements, and the attestation. The
34 department's failure to timely issue a registration may not cause a
35 delay in the change of ownership and ongoing operation of the
36 continuing care retirement community.

37 (4) Registration is valid for one year.

38 (5) Registration is not transferable.

39 NEW SECTION. **Sec. 4.** The department shall:

1 (1) Register an entity that submits a complete application that
2 includes all of the materials required in section 3 of this act;

3 (2) Review the disclosure statements submitted by applicants for
4 an initial or renewal registration to operate a continuing care
5 retirement community for completeness;

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

9 (4) Create and maintain an online listing that is readily
10 available to the public of the names and addresses of continuing care
11 retirement communities that are registered with the department.

12 NEW SECTION. **Sec. 5.** An entity that is not registered with the
13 department may not represent itself, or refer to itself in
14 advertising and marketing materials as a "registered continuing care
15 retirement community" or "continuing care retirement community."

16 NEW SECTION. **Sec. 6.** (1) A continuing care retirement community
17 must prepare a disclosure statement that includes the following
18 information:

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (j) The continuing care retirement community's policy related to
25 changes in levels of care and any associated fees;

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

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

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

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

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

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

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

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

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

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

25 NEW SECTION. **Sec. 7.** (1) A prospective resident may visit each
26 of the different care levels of the continuing care retirement
27 community, assisted living facility, and nursing home credentialing
28 reports, and may inspect the most recent inspection reports and
29 findings of complaint investigations covering a period of not less
30 than two years, as available, prior to signing a residency agreement.

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

34 (a) The opportunity to comment in decisions affecting the
35 resident's health, welfare, and financial security;

36 (b) Transparency regarding the financial stability of the
37 provider operating the facility;

38 (c) Timely notifications of developments affecting the facility,
39 including ownership changes of the provider operating the facility, a

1 change in the financial condition of the provider operating the
2 facility, and construction and renovation at the facility;

3 (d) Reasonable accommodations for persons with disabilities;

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

6 (f) Clear and complete written contracts that establish the
7 mutual rights and obligations of the resident and the continuing care
8 retirement community; and

9 (g) The assurance that all donations, contributions, gifts, or
10 purchases of provider-sponsored financial products are voluntary and
11 are not a condition of acceptance or ongoing eligibility for
12 services.

13 (3) The continuing care retirement community shall:

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

18 (b) Make copies of the expectations specified in this section
19 publicly available in areas accessible to the residents and visitors.
20 The copies of the expectations must also state that residents have
21 the right to file a complaint with the attorney general for
22 violations of this chapter that may constitute a violation of the
23 consumer protection act and contain information explaining how and
24 where a complaint may be filed.

25 NEW SECTION. **Sec. 8.** The legislature finds that the violation
26 of the title protection requirements of section 5 of this act, the
27 failure of a continuing care retirement community to register with
28 the department under section 2 of this act, the failure of a
29 continuing care retirement community to comply with the disclosure
30 statement delivery and content requirements under section 6 of this
31 act, and the failure of a continuing care retirement community to
32 comply with the resident expectations established under section 7 of
33 this act are matters vitally affecting the public interest for the
34 purpose of applying the consumer protection act, chapter 19.86 RCW. A
35 violation of the title protection requirements under section 5 of
36 this act, registration requirement under section 2 of this act, the
37 disclosure statement delivery and content requirements under section
38 6 of this act, and the resident expectations requirements under
39 section 7 of this act are not reasonable in relation to the

1 development and preservation of business and are an unfair or
2 deceptive act in trade or commerce and an unfair method of
3 competition for the purpose of applying the consumer protection act,
4 chapter 19.86 RCW.

5 NEW SECTION. **Sec. 9.** Nothing in this chapter:

6 (1) Affects any of the requirements and standards associated with
7 a license to operate an assisted living facility under chapter 18.20
8 RCW or a nursing home under chapter 18.51 RCW; and

9 (2) Applies to any of the provisions of chapter 74.46 or 70.38
10 RCW.

11 NEW SECTION. **Sec. 10.** This act takes effect July 1, 2017.

12 NEW SECTION. **Sec. 11.** Sections 1 through 9 of this act
13 constitute a new chapter in Title 18 RCW.

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