
SENATE BILL 5691

State of Washington

69th Legislature

2025 Regular Session

By Senators Cleveland and Nobles

Read first time 02/06/25. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to adopting the department of social and health
2 services report recommendations addressing a regulatory oversight
3 plan for continuing care retirement communities; amending RCW
4 18.390.010, 18.390.030, 18.390.040, and 18.390.080; adding a new
5 chapter to Title 18 RCW; creating a new section; and providing
6 expiration dates.

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

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

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

12 (1) "Additional fee" means an amount that a continuing care
13 retirement community may require a contractual resident or member to
14 pay in accordance with a residency agreement for services made
15 available but not covered by the entrance fee, application fee, or
16 rental or lease payments. This includes, but is not limited to,
17 additional meals, use of a carport or similar infrastructure, and
18 health care services not covered by the entrance fee or residency
19 agreement.

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

4 ~~((2))~~ (3) "Care" means nursing, medical, or other health-
5 related services, protection or supervision, assistance with
6 activities of daily living, or any combination of those services.

7 ~~((3))~~ (4) "Continuing care" means directly providing or
8 indirectly making available, upon payment of an entrance fee and
9 under a residency agreement, housing and care for a period of greater
10 than one year.

11 ~~((4))~~ (5) "Continuing care retirement community" means an
12 entity that ~~((agrees to provide continuing))~~ provides care to a
13 resident throughout their life and as their care needs change under a
14 residency agreement. "Continuing care retirement community" does not
15 include an assisted living facility licensed under chapter 18.20 RCW
16 that does not directly, or through a contractual arrangement with a
17 separately owned and incorporated skilled nursing facility, offer or
18 provide services under chapter 74.42 RCW.

19 ~~((5))~~ (6) "Department" means the department of social and
20 health services.

21 ~~((6))~~ (7) "Entrance fee" means an initial or deferred transfer
22 to a continuing care retirement community of a sum of money or other
23 property made or promised to be made as full or partial consideration
24 for acceptance of one or more residents in a continuing care
25 retirement community. "Entrance fee" does not include deposits of ten
26 thousand dollars or less or any amount that is based on rental or
27 lease payments of one month or more.

28 ~~((7))~~ (8) "Noncontractual resident" means a person who lives in
29 a continuing care retirement community without a residency agreement
30 that outlines health care services covered by their entrance fee.
31 "Noncontractual residents" typically pay for all health care services
32 received on a fee-for-service basis.

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

37 ~~((8))~~ (10) "Residency agreement" means a contract between a
38 continuing care retirement community and a resident for the provision
39 of ~~((continuing care))~~ ongoing health care and assistance with
40 activities of daily living as the resident requires them for a period

1 of greater than one year. A "residency agreement" must include
2 language that guarantees certain health and long-term care services
3 to the resident based on the entrance fee or fee-for-service of the
4 resident. "Residency agreements" must also include language outlining
5 when a portion of the entrance fee will be returned to the resident
6 based on termination or unavailability of contracted services.

7 ~~((9))~~ (11) "Resident" means a person who enters into a
8 residency agreement with a continuing care retirement community or
9 who is designated in a residency agreement to be a person being
10 provided with continuing care.

11 **Sec. 2.** RCW 18.390.030 and 2016 c 183 s 3 are each amended to
12 read as follows:

13 (1) ~~((An))~~ Beginning July 1, 2027, an applicant for a
14 registration as a continuing care retirement community must submit
15 the following materials to the department:

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

18 (b) ~~((Information about the licensed))~~ Proof of licensure for the
19 assisted living facility and proof of licensure and certification for
20 the nursing facility component of the continuing care retirement
21 community ((and, if the continuing care retirement community operates
22 a nursing home, information about that component)) when a continuing
23 care retirement community operates an assisted living facility, a
24 skilled nursing facility, or both, as part of their services to
25 residents;

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

28 (d) A copy of the disclosure statement that includes current
29 information required by RCW 18.390.060;

30 (e) ~~((i) Except as provided in (e) (ii) of this subsection, copies~~
31 ~~of audited financial statements for the two most recent fiscal years.~~
32 ~~The audited financial statement for the most current period may not~~
33 ~~have been prepared more than eighteen months prior to the date that~~
34 ~~the continuing care retirement community applied for its current~~
35 ~~registration;~~

36 ~~(ii) If the continuing care retirement community:~~

37 ~~(A) Has obtained financing, but has been in operation less than~~
38 ~~two years, a copy of the audited financial statement for the most~~
39 ~~current period, if available, and an independent accountant's report~~

1 ~~opinion letter that has evaluated the financial feasibility of the~~
2 ~~continuing care retirement community; or~~

3 ~~(B) Has not obtained financing, a summary of the actuarial~~
4 ~~analysis for the new continuing care retirement community stating~~
5 ~~that the continuing care retirement community is in satisfactory~~
6 ~~actuarial balance)) Audited financial statements that, at a minimum,~~
7 ~~detail:~~

8 (i) The financial resources of the continuing care retirement
9 community that is available to care for current residents;

10 (ii) An adequate expected fee structure to support new residents
11 and prospective residents; and

12 (iii) Positive projected cash and investment balances over 10
13 years including revenue and expenses from all known sources,
14 including any fees of residents and noncontractual residents;

15 (f) An attestation by a management representative of the
16 continuing care retirement community that the continuing care
17 retirement community is in compliance with the disclosure
18 notification requirements of RCW 18.390.060; ~~((and))~~

19 (g) Payment of any registration fees associated with the
20 department's cost of registering continuing care retirement
21 communities; and

22 (h) An implementation plan that outlines, at a minimum:

23 (i) How the continuing care retirement community residents and
24 noncontractual residents will be notified of decisions made by the
25 continuing care retirement community that may impact the solvency of
26 the continuing care retirement community;

27 (ii) How the continuing care retirement community will involve
28 residents in day-to-day business operations of the continuing care
29 retirement community; and

30 (iii) How the continuing care retirement community will ensure
31 resident and noncontractual resident participation on the continuing
32 care retirement community board of directors.

33 (2) The department shall contract with an organization with the
34 expertise to provide actuarial analysis of continuing care retirement
35 communities based on the documents described in subsection (1)(e) of
36 this section and the actuarial standards board most current standards
37 of practice.

38 (3) The department shall base its decision to issue a
39 registration on ~~((the completeness of the application. If an~~
40 ~~application is incomplete, the department shall inform the applicant~~

1 ~~and give the applicant an opportunity to supplement its submission.~~
2 ~~An applicant may appeal a decision of the department to deny an~~
3 ~~application for registration):~~

4 (a) An evaluation of the comprehensive actuarial study that
5 determines a reasonable expectation that the continuing care
6 retirement community will be able to provide contracted services over
7 a 10-year period;

8 (b) Verification that any licensed portions of the continuing
9 care retirement community are in good standing with relevant
10 regulating entities; and

11 (c) Verification that the residency agreements, disclosure
12 statements, and the implementation plan meet the requirements of this
13 chapter.

14 ~~((3)) (4) The department shall issue the registration or denial~~
15 ~~within ((sixty)) 60 days of the receipt of a complete application((7~~
16 ~~payment of fees, submission of disclosures, residency agreements, and~~
17 ~~the attestation. The department's failure to timely issue a~~
18 ~~registration may not cause a delay in the change of ownership and~~
19 ~~ongoing operation of the continuing care retirement community)).~~

20 (a) Nothing in this section shall be construed as preventing the
21 department from asking for additional documentation from the
22 continuing care retirement community as needed or by request of the
23 contractor to support actuarial analysis or department review.

24 (b) In the event the department issues a denial of registration,
25 the continuing care retirement community will have the right to an
26 administrative appeal. If the continuing care retirement community
27 had a valid registration from the department at the time of
28 application, the continuing care retirement community may continue to
29 operate until a decision on the appeal is issued, but the continuing
30 care retirement community may not enter into any new residency
31 agreements with residents until the appeal overturns the department
32 decision.

33 ~~((4)) (5) Registration is valid for two years.~~

34 ~~((5)) (6) Registration is not transferable.~~

35 ~~((6)) (7) Materials submitted pursuant to this section are not~~
36 ~~subject to disclosure under the public records act, chapter 42.56~~
37 ~~RCW.~~

38 **Sec. 3.** RCW 18.390.040 and 2016 c 183 s 4 are each amended to
39 read as follows:

1 (1) The department shall:

2 (a) Register an entity that submits a complete application that
3 includes all of the materials required and meets the standards
4 outlined in RCW 18.390.030;

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

8 ~~(e))~~ Establish and collect a fee that is sufficient to cover the
9 department's costs associated with administering the requirements of
10 this chapter; and

11 ~~((d))~~ (c) Create and maintain an online listing that is readily
12 available to the public of the names and addresses of continuing care
13 retirement communities that are registered with the department.

14 (2) The ~~((department's registration activities consist of
15 reviewing an application for completeness and do not signify that the
16 department has otherwise issued a certification or license to the
17 continuing care retirement community or any of its component parts.))~~
18 department shall adopt rules to implement this chapter.

19 NEW SECTION.

Sec. 4.

(1) For continuing care retirement
20 communities operating under a valid registration issued prior to July
21 1, 2025, the registration shall be considered valid by the department
22 of social and health services until September 30, 2027, if the
23 continuing care retirement community applies for a new registration
24 as outlined in RCW 18.390.030 by July 1, 2027.

25 (2) The department of social and health services shall not accept
26 applications or issue registrations for new continuing care
27 retirement communities before July 1, 2027.

28 (3) This section expires December 31, 2027.

29 **Sec. 5.** RCW 18.390.080 and 2016 c 183 s 8 are each amended to
30 read as follows:

31 (1) The legislature finds that the ~~((violation of the title
32 protection requirements of RCW 18.390.050, the failure of a
33 continuing care retirement community to register with the department
34 under RCW 18.390.020, the failure of a continuing care retirement
35 community to comply with the disclosure statement delivery and
36 content requirements under RCW 18.390.060, and the failure of a
37 continuing care retirement community to comply with the resident
38 expectations established under RCW 18.390.070 are matters vitally~~

1 affecting the public interest for the purpose of applying the
2 consumer protection act, chapter 19.86 RCW. A violation of the title
3 protection requirements under RCW 18.390.050, registration
4 requirement under RCW 18.390.020, the disclosure statement delivery
5 and content requirements under RCW 18.390.060, and the resident
6 expectations requirements under RCW 18.390.070 are not reasonable in
7 relation to the development and preservation of business and are an
8 unfair or deceptive act in trade or commerce and an unfair method of
9 competition for the purpose of applying the consumer protection act,
10 chapter 19.86 RCW.

11 (2) The attorney general shall provide notice to the management
12 of the continuing care retirement community of submitted complaints
13 including the name of the complainant to allow the community to take
14 corrective action. Except for violations of the title protection
15 requirements of RCW 18.390.050 and the failure of a continuing care
16 retirement community to register with the department under RCW
17 18.390.020, the attorney general shall limit its application of the
18 consumer protection act in subsection (1) of this section to those
19 cases in which a pattern of complaints, submitted by affected
20 parties, or other activity that, when considered together,
21 demonstrate a pattern of similar conduct that, without enforcement,
22 likely establishes an unfair or deceptive act in trade or commerce
23 and an unfair method of competition.) practices covered by this
24 chapter are matters vitally affecting the public interest for the
25 purpose of applying the consumer protection act, chapter 19.86 RCW. A
26 violation of this chapter is not reasonable in relation to the
27 development and preservation of business and is an unfair or
28 deceptive act in trade or commerce and an unfair method of
29 competition for the purpose of applying the consumer protection act,
30 chapter 19.86 RCW.

31 (2) This chapter may be enforced by the attorney general under
32 the consumer protection act, chapter 19.86 RCW.

33 NEW SECTION. Sec. 6. There is created the office of the state
34 senior independent living ombuds. The department of commerce shall
35 contract with a private nonprofit organization to provide senior
36 independent living ombuds services to residents in the independent
37 living units of continuing care retirement communities as specified
38 by the state and according to the needs of continuing care retirement
39 community independent living residents. The department of commerce

1 shall ensure that all program and staff support necessary to enable
2 the ombuds to effectively protect the interest of the continuing care
3 retirement community independent living residents and their families
4 is provided by the nonprofit organization that contracts to provide
5 senior independent living ombuds services. The senior independent
6 living ombuds shall have the following powers and duties:

7 (1) To provide services for coordinating the activities of senior
8 independent living ombuds throughout the state;

9 (2) Carry out such other activities as the department of commerce
10 deems appropriate;

11 (3) Establish procedures for coordinating with the office of the
12 state long-term care ombuds and the office of the developmental
13 disabilities ombuds, where relevant to ensure the needs of mutual
14 clients or shared communities are met;

15 (4) Establish a statewide uniform reporting system to collect,
16 track, and analyze data relating to complaints and conditions in
17 senior independent living of continuing care retirement communities
18 for the purpose of identifying and resolving significant problems,
19 with provision for submission of such data to the department of
20 commerce and the legislature, on at least an annual basis;

21 (5) Develop and offer educational information, resources, and
22 tools for self-advocacy by independent living residents of continuing
23 care retirement communities; and

24 (6) Establish procedures to ensure that any files maintained by
25 ombuds programs shall be disclosed only at the discretion of the
26 ombuds having authority over the disposition of such files, except
27 that the identity of any complainant or resident of a continuing care
28 retirement community shall not be disclosed by such ombuds unless:

29 (a) Such complainant or resident, or the complainant's or
30 resident's legal representative, consents in writing to such
31 disclosure; or

32 (b) Such disclosure is required by court order.

33 NEW SECTION. **Sec. 7.** (1) Any senior independent living ombuds
34 authorized by this chapter or a local governmental authority shall
35 have training, experience, or both, in the following areas:

36 (a) Gerontology or other related social services programs;

37 (b) The legal system; and

38 (c) Dispute or problem resolution techniques, including
39 investigation, mediation, and negotiation.

1 (2) A senior independent living ombuds may not have been employed
2 by or participated in the management of any senior independent
3 housing or continuing care retirement community within the past year.

4 (3) No senior independent living ombuds or any immediate family
5 member of the ombuds shall have, or have had within the past year,
6 any significant ownership or investment interest in one or more
7 continuing care retirement community units.

8 (4) A senior independent living ombuds shall not be assigned to a
9 continuing care retirement community in which an immediate family
10 member of that ombuds resides.

11 NEW SECTION. **Sec. 8.** Every continuing care retirement community
12 provider shall post in a conspicuous location in every building
13 containing any senior independent living unit a notice of the name,
14 address, and phone number of the office of the appropriate senior
15 independent living ombuds and a brief description of the services
16 provided by the office. The form of the notice shall be approved by
17 the office of the state senior independent living ombuds.

18 NEW SECTION. **Sec. 9.** A senior independent living ombuds shall:

19 (1) Identify, investigate, and resolve complaints made by or on
20 behalf of senior independent living residents in a continuing care
21 retirement community relating to administrative action, inaction, or
22 decisions which may adversely affect the health, safety, welfare, and
23 rights of these individuals;

24 (2) Monitor the development and implementation of federal, state,
25 and local laws, rules, regulations, and policies with respect to
26 senior independent living in continuing care retirement communities
27 in this state;

28 (3) Provide information as appropriate to residents, resident
29 representatives, and others regarding the rights of residents, and to
30 public agencies regarding the problems of individuals residing in
31 senior independent living units in a continuing care retirement
32 community; and

33 (4) (a) Provide for training volunteers and promoting the
34 development of citizen organizations to participate in the ombuds
35 program.

36 (b) A trained volunteer senior independent living ombuds, in
37 accordance with the policies and procedures established by the state
38 senior independent living ombuds program, shall inform residents,

1 their representatives, and others about the rights of residents, and
2 may identify, investigate, and resolve complaints made by or on
3 behalf of residents relating to action, inaction, or decisions, that
4 may adversely affect the health, safety, welfare, and rights of these
5 individuals.

6 NEW SECTION. **Sec. 10.** The office of the state senior
7 independent living ombuds shall develop referral procedures for all
8 senior independent living ombuds programs to refer any complaint to
9 any appropriate federal, state, or local government agency.

10 NEW SECTION. **Sec. 11.** (1) The office of the state senior
11 independent living ombuds shall develop procedures governing the
12 right of entry of all senior independent living ombuds to continuing
13 care retirement community buildings containing any senior independent
14 living units and shall have access to residents with provisions made
15 for privacy for the purpose of hearing, investigating, and resolving
16 complaints of, and rendering advice to, residents at any time deemed
17 necessary and reasonable by the state ombuds to effectively carry out
18 the provisions of this chapter.

19 (2) Nothing in this chapter restricts, limits, or increases any
20 existing right of any organizations or individuals not described in
21 subsection (1) of this section to enter or provide assistance to
22 senior independent living residents in a continuing care retirement
23 community.

24 (3) Nothing in this chapter restricts any right or privilege of
25 any senior independent living resident in a continuing care
26 retirement community to receive visitors of their choice.

27 NEW SECTION. **Sec. 12.** (1) No senior independent living ombuds
28 is liable for good faith performance of responsibilities under this
29 chapter.

30 (2) No discriminatory, disciplinary, or retaliatory action may be
31 taken against any continuing care retirement community employee,
32 resident, or volunteer, for any communication made, or information
33 given or disclosed, to aid a senior independent living ombuds in
34 carrying out its duties and responsibilities, unless the same was
35 done maliciously or without good faith. This subsection is not
36 intended to infringe on the rights of the employer to supervise,
37 discipline, or terminate an employee for other reasons.

1 (3) All communications by a senior independent living ombuds, if
2 reasonably related to the requirements of the responsibilities of
3 that individual under this chapter and done in good faith, are
4 privileged and that privilege shall serve as a defense to any action
5 in libel or slander.

6 (4) A representative of the state office of the senior
7 independent living ombuds is exempt from being required to testify in
8 court as to any confidential matters except as the court may deem
9 necessary to enforce this chapter.

10 NEW SECTION. **Sec. 13.** All records and files of a senior
11 independent living ombuds relating to any complaint or investigation
12 made pursuant to carrying out the duties of the ombuds and the
13 identities of complainants, witnesses, or residents shall remain
14 confidential unless disclosure is authorized by the resident or the
15 guardian or legal representative of the resident. No disclosures may
16 be made outside the office of the state senior independent living
17 ombuds without the consent of any named witnesses, resident, or
18 complainant unless the disclosure is made without the identity of any
19 of these individuals being disclosed.

20 NEW SECTION. **Sec. 14.** (1) The senior independent living ombuds
21 shall convene a work group to study the data needs related to the
22 oversight of continuing care retirement communities with respect to
23 their independent living residents and to analyze the resulting data.
24 The purpose of the work group shall be to enhance the understanding
25 about continuing care retirement communities including:

26 (a) Addressing the lack of a single source of information related
27 to continuing care retirement community resident complaints which is
28 needed to track what issues may exist and what is the volume and
29 frequency of those issues;

30 (b) Identifying how the experience of the independent living
31 residents in continuing care retirement communities in Washington
32 state compare to the continuing care retirement community residents
33 in other states; and

34 (c) Evaluating and developing a reliable set of data in order to
35 inform oversight decisions.

36 (2) The work group shall:

37 (a) Define what type of data should be collected and is needed
38 for regulatory monitoring and oversight, which may include but is not

1 limited to performing research and conducting gap analysis between
2 current and future states;

3 (b) Define data output requirements such as the occurrence and
4 frequency with which the data may be published;

5 (c) Define report requirements such as data reporting standards
6 and governance;

7 (d) Identify demographic data on continuing care retirement
8 community residents, specifically those residents residing in the
9 independent living sections; and

10 (e) Identify trends of experiences from continuing care
11 retirement community residents, specifically those residents residing
12 in the independent living section.

13 (3) The senior independent living ombuds may collaborate with the
14 department of social and health services to request that the
15 applicants for an initial or renewal registration as a continuing
16 care retirement community provide additional data as part of the
17 registration process to ensure the work group has adequate
18 information to complete the duties of the work group.

19 (4) The senior independent living ombuds shall consult with the
20 office of the attorney general as needed to understand the complaint
21 data from the consumer resource center.

22 (5) By October 1, 2028, the senior independent living ombuds
23 shall submit a report to the appropriate committees of the
24 legislature outlining the findings and recommendations of the work
25 group.

26 (6) This section expires January 1, 2030.

27 NEW SECTION. **Sec. 15.** The department of commerce shall adopt
28 rules necessary to carry out this chapter.

29 NEW SECTION. **Sec. 16.** Sections 6 through 15 of this act
30 constitute a new chapter in Title 18 RCW.

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