
HOUSE BILL 2345

State of Washington

66th Legislature

2020 Regular Session

By Representative Macri

Prefiled 01/09/20.

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

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

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

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

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

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

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

19 (4) "Continuing care retirement community" means an entity that
20 agrees to provide continuing care to a resident under a residency
21 agreement. "Continuing care retirement community" does not include an

1 assisted living facility licensed under chapter 18.20 RCW that does
2 not directly, or through a contractual arrangement with a separately
3 owned and incorporated skilled nursing facility, offer or provide
4 services under chapter 74.42 RCW.

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

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

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

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

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

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

28 **Sec. 2.** RCW 18.390.060 and 2016 c 183 s 6 are each amended to
29 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **Sec. 3.** RCW 18.390.070 and 2016 c 183 s 7 are each amended to
7 read as follows:

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

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

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

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

28 (c) Reasonable accommodations for persons with disabilities;

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

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

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

38 (g) (i) Except as provided in (g) (ii) of this subsection, for any
39 residency agreement entered into after December 31, 2020, that

1 provides for refundable entrance fees, the assurance that, once five
2 years have passed from the issuance of a certificate of occupancy to
3 a continuing care retirement community, the continuing care
4 retirement community must pay any refunds due to a resident no later
5 than the earlier of:

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

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

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

16 (3) The continuing care retirement community shall:

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

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

28 NEW SECTION. Sec. 4. A new section is added to chapter 18.390
29 RCW to read as follows:

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

--- END ---