

Effective 5/10/2016

**Part 1
General Provisions**

31A-44-101 Title.

This chapter is known as the "Continuing Care Provider Act."

Enacted by Chapter 270, 2016 General Session

31A-44-102 Definitions.

As used in this chapter:

- (1) "Continuing care" means furnishing or providing access to an individual, other than by an individual related to the individual by blood, marriage, or adoption, of lodging together with nursing services, medical services, or other related services pursuant to a contract requiring an entrance fee.
- (2) "Continuing care contract" means a contract under which a provider provides continuing care to a resident.
- (3)
 - (a) "Entrance fee" means an initial or deferred transfer to a provider of a sum of money or property made or promised to be made as full or partial consideration for acceptance of a specified individual as a resident in a facility.
 - (b) "Entrance fee" includes a monthly fee, assessed at a rate that is greater than the value of the provider's monthly services, that a resident agrees to pay in exchange for acceptance into a facility or a promise of future monthly fees assessed at a rate that is less than the value of the services rendered.
 - (c) "Entrance fee" does not include an amount less than the sum of the regular period charges for three months of residency in a facility.
 - (d) "Entrance fee" does not include a deposit of less than \$1,000 made under a reservation agreement.
- (4) "Facility" means a place in which a person provides continuing care pursuant to a continuing care contract.
- (5) "Ground lease" means a lease to a provider of the land and infrastructure improvements to the land on which a facility is located.
- (6) "Ground lessor" means, for a facility subject to a ground lease, the owner and lessor of the land and infrastructure improvements to the land on which the facility is located.
- (7) "Living unit" means a room, apartment, cottage, or other area within a facility set aside for the exclusive use or control of one or more identified individuals.
- (8)
 - (a) "Provider" means:
 - (i) the owner of a facility;
 - (ii) a person, other than a resident, that claims a possessory interest in a facility; or
 - (iii) a person who enters into a continuing care contract with a resident or potential resident.
 - (b) "Provider" does not include a person who is solely a ground lessor.
- (9) "Provider disclosure statement" means, for a given provider, the disclosure statement described in Section 31A-44-301.
- (10) "Reservation agreement" means an agreement that requires the payment of a deposit to reserve a living unit for a prospective resident.

- (11) "Resident" means an individual entitled to receive continuing care in a facility pursuant to a continuing care contract.

Amended by Chapter 8, 2016 Special Session 3

31A-44-103 Advisory committee.

- (1) The commissioner may convene a continuing care advisory committee to advise the department on issues related to the continuing care industry, continuing care facility residents, and the department's duties under this chapter.
- (2) The committee described in Subsection (1) shall consist of five members appointed by the department as follows:
- (a) a representative from an organization that advocates for the elderly;
 - (b) a representative of nursing homes;
 - (c) a representative from the continuing care industry;
 - (d) a representative from the insurance community; and
 - (e) a member of the general public who is a resident of a continuing care facility.
- (3)
- (a) Except as required by Subsection (3)(b), the term of a member of the committee shall be four years and expire on July 1.
 - (b) The commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the committee is appointed every two years.
- (4) A member of the committee shall serve until the member's successor is appointed and qualified.
- (5) When a vacancy occurs in the committee's membership, the department shall appoint a replacement.
- (6) The department may dismiss and replace members of the committee at the department's discretion.
- (7) The department may designate a chair of the committee.
- (8) The committee shall meet when called by the department.
- (9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (10) The department shall staff the committee.

Enacted by Chapter 270, 2016 General Session

31A-44-104 Scope of regulation -- When compliance is required.

- (1) The regulation of providers under this chapter does not limit or replace regulation by any other governmental entity of continuing care facilities or providers.
- (2) The department may not regulate, or in any manner inquire into, the quality of care provided in a facility.
- (3) A record that the department receives from a provider that is not required to be part of a disclosure statement under this chapter is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

- (4) The department shall determine the amount of any fee required under this chapter, in accordance with Section 63J-1-504, and in an amount that covers the department's cost to administer this chapter.
- (5) A provider that begins marketing a continuing care facility project on or before May 10, 2016, is not required to comply with this chapter until May 10, 2017.

Amended by Chapter 8, 2016 Special Session 3