

**Effective 7/17/2016**

**31A-44-401 Continuing care contract requirements -- No waiver.**

- (1) A continuing care contract shall:
  - (a) provide that the provider shall refund the portion of a departing resident's entrance fee that the provider has agreed to refund, if any, no later than the earlier of:
    - (i) if the departing resident ceased occupancy of the departing resident's unit before any other departing resident who has not received an entrance fee refund, 30 days after the day on which the provider accumulates an amount of money, from sales of living units previously occupied by departing residents, that is equal to the departing resident's entrance fee refund; or
    - (ii) one year after the day on which the departing resident ceases to occupy the departing resident's living unit, unless the provider proves that the provider has made and is making a good faith effort to find an occupant for a living unit that was previously occupied by a departing resident;
  - (b) provide that the resident may terminate the continuing care contract upon giving notice of termination:
    - (i) with or without cause; and
    - (ii) clearly stating what portion of the entrance fee the provider will refund and the date by which the provider will make the refund; and
  - (c) provide that a continuing care contract is terminated by the resident's death and clearly state:
    - (i) what portion of the entrance fee the provider will refund in the event of the resident's death;
    - (ii) the date before which the provider will make the refund; and
    - (iii) to whom the provider will make the refund.
- (2) A continuing care contract may permit involuntary dismissal of a resident from a continuing care facility upon a reasonable determination by the provider that the resident's health and well-being require termination of the continuing care contract.
- (3) If a resident is dismissed under Subsection (2) and is in a condition of financial hardship, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the provider shall refund the resident's entrance fee:
  - (a) in an amount provided in the continuing care contract; and
  - (b) before the earlier of:
    - (i) a time provided in the continuing care contract; and
    - (ii) 60 days after the day on which the provider dismisses the resident from the facility.
- (4) A resident may not waive a provision of this chapter by agreement.

Amended by Chapter 8, 2016 Special Session 3