S T A T E O F N E W Y O R K

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2015-2016 Regular Sessions

I N A S S E M B L Y

February 2, 2015

Introduced by M. of A. SCHIMMINGER, ABINANTI -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to the ability of continuing care retirement communities to offer seniors additional service options; and to repeal certain provisions of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 1 of section 4601 of the public health law, as amended by chapter 659 of the laws of 1997, is amended to read as follows:

1. "Certificates" or "certificate of authority" shall mean an authorization in writing, approved by the council and issued by the commissioner, for an operator to operate a continuing care retirement community and to enter into continuing care retirement contracts AND CONTINUING CARE AT HOME CONTRACTS pertaining to such community.

S 2. Subdivision 2-a of section 4601 of the public health law, as amended by chapter 549 of the laws of 2014, is amended to read as follows:

2-a. "Continuing care retirement [community] contract" OR "CONTINUING CARE AT HOME CONTRACT" shall mean a single contract to provide a person the services provided by a continuing care retirement community.

S 3. Subdivision 2-b of section 4601 of the public health law, as amended by chapter 549 of the laws of 2014, is amended to read as follows:

2-b. "Continuing care retirement community" or "community" shall mean a facility or facilities established to provide a comprehensive, cohesive living arrangement for the elderly, oriented to the enhancement of the quality of life and which, pursuant to [the terms of the continuing care retirement community] A contract, at a minimum:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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a. FOR CONTINUING CARE RETIREMENT CONTRACTS, provides[, or supports through continuing care at home,] independent living units, and meal plan options. The independent living unit can be made available either through a non-equity arrangement or through an equity arrangement including, but not limited to a cooperative or condominium. For purposes of this article, the purchase price of an independent living unit in an equity arrangement, regardless of the form of the purchase agreement, shall not be considered an entry fee for purposes of calculating reserve liabilities, but shall be considered an entry fee for escrow purposes;

b. provides a range of health care and social services, subject to such terms as may be included within the contract, which shall include adult care facility services of an on-site or affiliated adult care facility, and at a minimum, sixty days of prepaid services of an on-site or affiliated nursing facility for residents not receiving services under a fee-for-service contract;

c. provides access to health services as defined in the contract, prescription drugs, and rehabilitation services;

d. nothing in this article shall eliminate the obligation of a continuing care retirement community to provide at least sixty days of prepaid nursing facility services to all residents, with the exception of residents receiving services under the terms of a fee-for-service continuing care contract as defined in this section. The prepaid days must include the first sixty days of nursing facility services, whether or not consecutive, not covered by Title XVIII of the federal social security act; [and]

e. communities established under this article and offering fee-for-service continuing care contracts must offer, along with such fee-for-service continuing care contracts, life care and/or continuing care contracts as defined in subdivision eight-a of this section; AND

F. COMMUNITIES ESTABLISHED UNDER THIS ARTICLE OFFERING CONTINUING CARE AT HOME CONTRACTS MUST ALSO OFFER CONTINUING CARE RETIREMENT CONTRACTS AND MUST MAINTAIN A CONTINUING CARE RETIREMENT COMMUNITY THAT OPERATES IN SUPPORT OF THE CONTINUING CARE AT HOME CONTRACTS.

S 4. Subdivision 3 of section 4601 of the public health law, as amended by chapter 549 of the laws of 2014, is amended to read as follows:

3. "Contracts" or "agreements" shall mean continuing care at home or continuing care retirement [community] contracts as defined in this article.

S 4-a. Subdivisions 7-a, 7-b and 7-c of section 4601 of the public health law are REPEALED.

S 5. Subdivision 6 of section 4601 of the public health law, as amended by chapter 659 of the laws of 1997, is amended to read as follows:

6. "Entrance fee" shall mean an initial or deferred transfer to an operator of a sum of money, made or promised to be made by a person or persons entering into a continuing care retirement contract OR CONTINUING CARE AT HOME CONTRACT, for the purpose of ensuring services pursuant to such a contract.

S 6. Subdivision 8 of section 4601 of the public health law, as amended by chapter 549 of the laws of 2014, is amended to read as follows:

8. "Life care contract" shall mean a single continuing care retirement [community] contract or a continuing care at home contract to provide a person, for the duration of such person's life, the services provided by the continuing care retirement community [or the continuing care at home

corporation], which services shall include unlimited services of the affiliated community's nursing facility or affiliated nursing home. Such term also shall mean a single continuing care retirement [community] contract to provide a person, for the duration of such person's life, the services provided by the continuing care retirement community under an arrangement in which the costs of the residents' unlimited nursing home or home care services are paid for in whole or in part by a long term care insurance policy approved by the superintendent in accordance with applicable regulations or by long term care insurance or medical assistance payments in accordance with the partnership for long term care program pursuant to the provisions of section three hundred sixty-seven-f of the social services law, section three thousand two hundred twenty-nine of the insurance law and section four thousand six hundred twenty-three of this chapter.

S 7. Section 4601 of the public health law is amended by adding a new subdivision 8-b to read as follows:

8-B. "CONTINUING CARE AT HOME CONTRACT" SHALL MEAN A SINGLE CONTRACT TO PROVIDE A PERSON WITH LONG TERM CARE SERVICES AND SUPPORTS BASED UPON THE PERSON'S NEEDS AND COORDINATED BY A CASE MANAGER, WHICH SHALL INCLUDE SERVICES PROVIDED TO THE PERSON IN HIS OR HER RESIDENCE AND SERVICES OF THE COMMUNITY'S NURSING FACILITY AND ADULT CARE FACILITY, OR AFFILIATED FACILITIES.

S 8. Subdivision 15 of section 4601 of the public health law, as amended by chapter 659 of the laws of 1997, is amended and two new subdivisions 15-a and 15-b are added to read as follows:

15. "Resident" shall mean any person who, pursuant to a CONTINUING CARE RETIREMENT CONTRACT OR CONTINUING CARE AT HOME contract, is entitled to reside in and/OR receive services from a continuing care retirement community.

15-A. "ILU RESIDENT" SHALL MEAN A CONTINUING CARE RETIREMENT CONTRACT HOLDER WHO RESIDES IN A LIVING UNIT WITHIN THE CONTINUING CARE RETIREMENT COMMUNITY.

15-B. "HOME RESIDENT" SHALL MEAN A CONTINUING CARE AT HOME CONTRACT HOLDER WHO RESIDES IN A PRIVATE RESIDENCE OFF OF THE CONTINUING CARE RETIREMENT COMMUNITY CAMPUS.

S 9. Paragraphs d and e of subdivision 2 of section 4604 of the public health law, as amended by chapter 549 of the laws of 2014, are amended to read as follows:

d. a copy of the proposed forms of contracts to be entered into with residents [of the community or continuing care at home contract holders];

e. complete details of any agreements with a licensed insurer, including copies of proposed contracts, requiring the insurer to assume, wholly or in part, the cost of medical or health related services to be provided to a resident [or continuing care at home contract holders] pursuant to a continuing care retirement [community] CONTRACT or continuing care at home contract;

S 9-a. Subdivision 3 of section 4604 of the public health law, as amended by chapter 659 of the laws of 1997, is amended to read as follows:

3. Nothing in this article shall be construed to enlarge, diminish or modify: a social services district's otherwise valid recovery under section three hundred sixty-nine of the social services law, nor medical assistance eligibility under title eleven of article five of the social services law nor applicable provisions of the estates, powers and trusts law. Except as otherwise provided in this article, the activities of

continuing care retirement communities shall be subject to any other law governing such activities including but not limited to article twenty-eight of this chapter and article seven of the social services law and regulations promulgated thereunder; provided, however, that the provisions of paragraphs (d) and (e) of subdivision four of section twenty-eight hundred one-a and section twenty-eight hundred two of this chapter shall not apply, and provided that the provisions of paragraph (a) of subdivision one and the provisions of subdivision two of section four hundred sixty-one-b of the social services law with respect to public need and the provisions of subdivision one of section four hundred sixty-one-c of the social services law shall not apply to residents who have been admitted in accordance with a [continuing care retirement community] contract provided that, upon admission to the adult care facility, such residents shall be given a notice which shall include, at a minimum, information regarding facility services, resident responsibilities, supplemental services, resident rights and protections and circumstances that warrant transfer. The number of residential health care facility beds available pursuant to subdivision five of this section, without proof of public need therefor, shall be reduced by the number of residential health care demonstration facility beds that are approved pursuant to this article.

S 10. Paragraph c of subdivision 4 of section 4604 of the public health law, as amended by chapter 549 of the laws of 2014, is amended to read as follows:

c. the public health and health planning council [under section twenty-eight hundred one-a of this chapter] as to the establishment of a skilled nursing facility by the applicant and as to such other facilities and services as may require the public health and health planning council's approval of the application; provided, however, that the recommendations of the health systems agency having geographical jurisdiction of the area where the continuing care retirement community is located shall not be required with respect to the establishment of an on-site or affiliated residential health care facility to serve residents as part of the continuing care retirement community, for up to the total number of residential health care facility beds provided for in subdivision five of this section in communities statewide;

S 11. The public health law is amended by adding a new section 4605-a to read as follows:

S 4605-A. CERTIFICATE OF AUTHORITY; AUTHORITY TO OFFER CONTINUING CARE AT HOME CONTRACTS. A CONTINUING CARE RETIREMENT COMMUNITY MAY OFFER CONTINUING CARE AT HOME CONTRACTS UPON APPROVAL BY THE COUNCIL TO AMEND THE CONTINUING CARE RETIREMENT COMMUNITY'S CERTIFICATE OF AUTHORITY. IN ORDER TO QUALIFY FOR AN AMENDMENT TO ITS CERTIFICATE OF AUTHORITY, THE CONTINUING CARE RETIREMENT COMMUNITY SHALL SUBMIT TO THE COMMISSIONER THE FOLLOWING:

1. A BUSINESS PLAN TO THE COMMISSIONER AND SUPERINTENDENT THAT INCLUDES THE FOLLOWING:

(A) A DESCRIPTION OF THE CONTINUING CARE AT HOME SERVICES THAT WILL BE PROVIDED, THE MARKET THAT WILL BE SERVED BY THE CONTINUING CARE AT HOME CONTRACTS, AND THE FEES TO BE CHARGED TO PROSPECTIVE CONTINUING CARE AT HOME CONTRACT HOLDERS;

(B) A COPY OF THE PROPOSED CONTINUING CARE AT HOME CONTRACT; AND

(C) AN ACTUARIAL STUDY PREPARED BY AN INDEPENDENT ACTUARY IN ACCORDANCE WITH STANDARDS ADOPTED BY THE AMERICAN ACADEMY OF ACTUARIES DEMONSTRATING THE IMPACT THAT THE CONTINUING CARE AT HOME CONTRACTS WILL HAVE ON THE OVERALL OPERATIONS OF THE CONTINUING CARE RETIREMENT COMMUNITY

AND FURTHER DEMONSTRATING THAT THE ADDITION OF CONTINUING CARE AT HOME CONTRACTS WILL NOT JEOPARDIZE THE FINANCIAL SOLVENCY OF THE CONTINUING CARE RETIREMENT COMMUNITY.

2. A MARKET FEASIBILITY STUDY DEMONSTRATING TO THE COMMISSIONER AND SUPERINTENDENT SUFFICIENT CONSUMER INTEREST IN CONTINUING CARE AT HOME CONTRACTS AND FURTHER DEMONSTRATING THAT THE ADDITION OF CONTINUING CARE AT HOME CONTRACTS WILL NOT HAVE AN ADVERSE IMPACT ON THE PROVISION OF SERVICES TO CONTINUING CARE RETIREMENT CONTRACT HOLDERS.

3. MATERIALS THAT MEET ALL REQUIREMENTS ESTABLISHED BY THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES.

4. A COPY OF THE NOTIFICATION SENT TO CONTINUING CARE RETIREMENT CONTRACT HOLDERS DESCRIBING THE ANTICIPATED IMPACT OF THE ADDITION OF CONTINUING CARE AT HOME CONTRACTS ON CONTINUING CARE RETIREMENT COMMUNITY RESOURCES AND PROOF THAT SUCH NOTIFICATION HAS BEEN DISTRIBUTED TO ALL CONTINUING CARE RETIREMENT CONTRACT HOLDERS.

S 12. The public health law is amended by adding a new section 4605-b to read as follows:

S 4605-B. CERTIFICATE OF AUTHORITY; LIMITATION ON CONTINUING CARE AT HOME CONTRACTS. THE NUMBER OF CONTINUING CARE AT HOME CONTRACTS APPROVED ON A CERTIFICATE OF AUTHORITY SHALL BE LIMITED TO:

1. THE NUMBER OF APPROVED LIVING UNITS ON THE CONTINUING CARE RETIREMENT COMMUNITY'S PREMISES THAT ARE INTENDED FOR ILU RESIDENTS, EXCEPT THAT THE COUNCIL MAY APPROVE ADDITIONAL CONTRACTS UPON A SUBMISSION TO THE COMMISSIONER BY AN OPERATOR CONSISTENT WITH THE PROVISIONS SET FORTH IN SECTION FORTY-SIX HUNDRED FIVE-A OF THIS ARTICLE;

2. THE DEMONSTRATED NUMBER OF CONTINUING CARE AT HOME CONTRACT HOLDERS THAT CAN BE SUPPORTED IN THE EXISTING OR APPROVED FUTURE CAPACITY OF THE ADULT CARE FACILITY AND SKILLED NURSING FACILITY CONSISTENT WITH THE PROVISIONS SET FORTH IN SECTION FORTY-SIX HUNDRED FIVE-A OF THIS ARTICLE; AND

3. CONDITIONS SET FORTH BY THE NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES, BASED UPON THE SUPERINTENDENT'S ASSESSMENT OF THE FOLLOWING:

(A) THE OVERALL FINANCIAL IMPACT ON THE COMMUNITY; AND

(B) THE SUBMITTED MATERIALS SET FORTH IN SECTION FORTY-SIX HUNDRED FIVE-A OF THIS ARTICLE.

S 13. Paragraph a of subdivision 14 of section 4606 of the public health law, as added by chapter 659 of the laws of 1997, is amended to read as follows:

a. a brief description of the community, including its name and location and amenities and services, INCLUDING MEAL OPTIONS, available;

S 13-a. Paragraph e of subdivision 14 of section 4606 of the public health law is REPEALED, and subdivisions f, g and h, as relettered by chapter 549 of the laws of 2014, are relettered e, f and g.

S 14. Subdivision 13 of section 4606 of the public health law, as amended by chapter 549 of the laws of 2014, is amended to read as follows:

13. The initial disclosure statement and marketing materials of a continuing care retirement community [and continuing care at home corporation] must clearly include a description of the services offered as part of its contract, including, but not limited to, any limitations on nursing facility services. The initial disclosure statement and marketing materials of a continuing care retirement community [or continuing care at home corporation] which offers various types of contracts, which may include life care contracts, must clearly differentiate among the various types of contracts which it may offer.

S 15. Section 4608 of the public health law, as amended by chapter 549 of the laws of 2014, is amended to read as follows:

S 4608. [Continuing care retirement community contract] CONTRACTS. A continuing care retirement [community] CONTRACT or continuing care at home contract shall contain all of the following information in no less than twelve point type and in plain language, in addition to any other terms or matter as may be required by regulations adopted by the council and issued by the superintendent[, except when specifically noted]:

1. The amount of all money transferred, including, but not limited to, donations, subscriptions, deposits, fees, and any other amounts paid or payable by, or on behalf of, the resident or residents or continuing care at home contract holder or holders;

2. A description of all services which are to be furnished by the operator, a description of any fees in addition to the entrance fee and periodic charges provided for in the contract, and the conditions under which the fees may be adjusted, provided that an operator shall not charge any non-refundable application fee to a prospective resident who has paid a non-refundable priority reservation agreement application fee;

3. The procedures of the community [or continuing care at home corporation] relating to a resident's or contract holder's failure to pay the required monthly fees;

4. A statement of the figures and terms concerning the entry of a spouse to the community and the consequences if the spouse does not meet the requirements for entry;

5. A statement of the terms and conditions under which a contract may be cancelled by the operator or by a resident or contract holder and the conditions under which all or any portion of the entrance fee will be refunded by the operator, including the mandatory refund provisions set forth in sections forty-six hundred nine and forty-six hundred ten of this article;

6. a. The procedures and conditions under which a resident may be transferred from his or her living unit or home including a statement that, at the time of transfer, the resident will be given the reasons for the transfer; the process by which a transfer decision is made; the persons with the authority to make the decision to transfer; a description of any change in charges to be paid by the resident for services not covered by the contract fees as a result of the transfer; and a statement regarding the disposition of and the right to return to the living unit in cases of temporary and permanent transfers.

b. For continuing care retirement [community] contracts, the circumstances under which a living unit may be considered vacant and eligible for transfer or resale to a new resident, either due to the permanent transfer of a resident to the community's nursing or other specialized facility or due to the permanent transfer of a resident to a hospital or other facility outside of the community; provided, however, that nothing therein shall relieve a community from its obligations to provide or to insure provision of all contractually required care pursuant to the terms of a continuing care retirement contract. Should a resident's chronic condition require placement in a more specialized chronic care facility that provides services beyond those provided through the community's nursing facility, the liability of the community pursuant to the terms of a continuing care retirement contract shall be equal to the current per diem rate of the nursing facility minus the pro rata apportionment of the resident's monthly fee for the period of care required by the contract. Nothing herein shall obligate a continuing care retire-

ment community which does not have a life care contract with a resident to provide or pay for a level of nursing facility services nor for any duration beyond what is specifically described in its continuing care retirement contract with that resident. This section shall not affect the operator's obligation under subdivision two of section forty-six hundred twenty-four of this article;

7. For continuing care retirement [community] contracts, a statement that, if the resident dies prior to occupancy date or, through illness, injury, or incapacity is precluded from becoming a resident under the terms of the contract, the contract is automatically rescinded and the resident or his or her legal representative shall receive a full refund of all moneys paid to the facility, except for those costs specifically incurred by the facility at the request of the resident and set forth in writing in a separate addendum, signed by the parties to the contract;

[8. For continuing care at home contracts, the circumstances under which the contract holder may move into a campus independent living unit, adult care facility or nursing home;]

8. FOR CONTINUING CARE AT HOME CONTRACTS, A STATEMENT THAT, IF THE RESIDENT DIES PRIOR TO THE EFFECTIVE START DATE OF SERVICES OR, THROUGH ILLNESS, INJURY, OR INCAPACITY IS PRECLUDED FROM MEETING THE ELIGIBILITY TERMS OF THE CONTRACT, THE CONTRACT IS AUTOMATICALLY RESCINDED AND THE RESIDENT OR HIS OR HER LEGAL REPRESENTATIVE SHALL RECEIVE A FULL REFUND OF ALL MONEYS PAID TO THE FACILITY, EXCEPT FOR THOSE COSTS SPECIFICALLY INCURRED BY THE FACILITY AT THE REQUEST OF THE RESIDENT AND SET FORTH IN WRITING IN A SEPARATE ADDENDUM, SIGNED BY THE PARTIES TO THE CONTRACT;

9. For continuing care retirement [community] contracts, a statement of the conditions under which all or any portion of the entrance fee will be released to the operator before the living unit becomes available for occupancy, and a statement of the conditions under which all or any portion of that fee will be refunded in the event of the death of the resident and/or spouse following occupancy of a living unit, including the mandatory refund provisions set forth in section forty-six hundred nine of this article;

10. A statement of the advance notice to be provided the resident or contract holder, of not less than sixty days, of any change in fees or charges or scope of care or services;

11. A statement that no act, agreement, or statement of any resident or contract holder, or of an individual purchasing care for a resident or contract holder under any agreement to furnish care to the resident or contract holder, shall constitute a valid waiver of any provision of this article or of any regulation enacted pursuant thereto intended for the benefit or protection of the resident or contract holder or the individual purchasing care for the resident or contract holder;

12. For continuing care retirement [community] contracts, a description of the reinstatement policies if a resident leaves the facility or the contract is cancelled; AND FOR CONTINUING CARE AT HOME CONTRACTS, A DESCRIPTION OF POLICIES IF THE HOME RESIDENT RELOCATES THEIR PRIVATE RESIDENCE OR THE CONTRACT IS CANCELLED.

13. [For continuing care at home contracts, a description of policies if the contract is cancelled.

14.] A statement that internal procedures to resolve disputes and grievances have been established, and residents and contract holders notified of them;

[15] 14. A statement of the grace period, if any, for the payment of periodic fees without a penalty, and the extent of any penalty for the late payment thereof;

[16] 15. A statement that: a. the resident or contract holder, as applicable shall, if eligible, enroll in medicare parts a and b or the equivalent and shall continue to maintain that coverage, together with medicare supplement coverage at least equivalent in benefits to those established by the superintendent as minimum benefits for medicare supplement policies;

b. if the resident or contract holder fails to maintain medicare coverage and a medicare supplement coverage, or is ineligible for such coverage and fails to purchase the equivalent of such coverage, the community [or continuing care at home corporation] shall purchase the coverage or equivalent coverage on behalf and at the expense of the resident or contract holder and shall have the authority to require an appropriate adjustment in payments by the resident or contract holder to the community [or continuing care at home corporation];

c. if the community [or continuing care at home corporation] cannot purchase medicare coverage and medicare supplement coverage or the equivalent, the community shall have the authority to require an adjustment in monthly fees, subject to the approval of the superintendent, to fund the additional risk to the facility [or corporation]; and

d. if the resident or contract holder fails to purchase or maintain medicare coverage and medicare supplement coverage or the equivalent, and the community [or continuing care at home corporation] has not purchased such coverage, the community [or corporation] will be responsible for any expenses which would have been covered by medicare and medicare supplement coverage. The community [or corporation] may add the amount of such expenses to the resident's or contract holder's monthly fees.

[17] 16. A statement that any amendment to the contract and any change in fees or charges, other than those within the guidelines of an approved rating system, must be approved by the superintendent of financial services; [and]

[18] 17. A statement that property shall not be substituted as payment for either the entrance fee or monthly fee[.];

18. A STATEMENT DESCRIBING THE METHOD BY WHICH THE COMMUNITY WILL DETERMINE PRIORITY FOR ACCESS TO AVAILABLE ADULT CARE FACILITY OR NURSING FACILITY BEDS BETWEEN A CONTINUING CARE RETIREMENT CONTRACT HOLDER AND A CONTINUING CARE AT HOME CONTRACT HOLDER;

19. For continuing care retirement [community] contracts, a statement whether the continuing care retirement [community] contract includes any ownership, beneficial or trust interest in the assets of the operator, the assets of the facility, or both. Assets shall include, but are not limited to, property, trusts, reserves, interest and other assets[.]; AND

20. CONTINUING CARE AT HOME CONTRACTS SHALL INCLUDE THE FOLLOWING:

A. A STATEMENT DESCRIBING THE CIRCUMSTANCES UNDER WHICH A CONTRACT HOLDER MAY MOVE INTO A CAMPUS INDEPENDENT LIVING UNIT, ADULT CARE FACILITY OR NURSING HOME;

B. A STATEMENT AS TO WHETHER AND UNDER WHAT CIRCUMSTANCES TRANSPORTATION WILL BE PROVIDED TO CONTINUING CARE AT HOME CONTRACT HOLDERS;

C. A STATEMENT DESCRIBING THE MECHANISM FOR MONITORING CONTINUING CARE AT HOME CONTRACT HOLDERS;

D. A STATEMENT DESCRIBING THE METHOD BY WHICH THE COMMUNITY WILL DETERMINE PRIORITY FOR ACCESS TO AVAILABLE ILUS BETWEEN A CONTINUING CARE AT HOME CONTRACT HOLDER WHO WISHES TO CONVERT THE CONTRACT TO A CONTINUING CARE RETIREMENT CONTRACT AND A CONTINUING CARE RETIREMENT CONTRACT HOLDER;

E. A STATEMENT DESCRIBING ANY APPLICABLE GEOGRAPHICAL LIMITS OF THE CONTINUING CARE AT HOME SERVICES, AND THE POLICY THAT WILL BE FOLLOWED IN THE EVENT THAT A CONTINUING CARE AT HOME CONTRACT HOLDER RELOCATES TO A DIFFERENT RESIDENCE OUTSIDE THE GEOGRAPHICAL LIMITS COVERED BY THE CONTINUING CARE AT HOME CONTRACT; AND

F. A STATEMENT DESCRIBING ANY APPLICABLE POLICY THAT WOULD ENTITLE A CONTINUING CARE AT HOME CONTRACT HOLDER TO SELECT ADULT CARE FACILITY OR SKILLED NURSING FACILITY PLACEMENT IN A FACILITY THAT IS NOT PART OF THE CONTINUING CARE RETIREMENT COMMUNITY.

S 16. The public health law is amended by adding a new section 4608-a to read as follows:

S 4608-A. CONTINUING CARE AT HOME REQUIREMENTS. CONTINUING CARE RETIREMENT COMMUNITIES OFFERING CONTINUING CARE AT HOME CONTRACTS SHALL:

1. ENSURE THAT ALL CONTINUING CARE RETIREMENT COMMUNITY EMPLOYEES OR CONTRACTORS PROVIDING SERVICES TO CONTINUING CARE AT HOME CONTRACT HOLDERS ARE DULY LICENSED OR CERTIFIED PURSUANT TO LAW, WHICH SHALL INCLUDE BUT NOT BE LIMITED TO ANY LICENSURE REQUIREMENTS FOR THE PROVISION OF HOME CARE SERVICES SET FORTH IN ARTICLE THIRTY-SIX OF THIS CHAPTER;

2. INCLUDE ALL OPERATING EXPENSES FOR CONTINUING CARE AT HOME CONTRACTS IN THE CALCULATION OF RESERVE REQUIREMENTS REQUIRED BY THE DEPARTMENT OF FINANCIAL SERVICES; AND

3. INCLUDE ALL OPERATING ACTIVITIES FOR CONTINUING CARE AT HOME CONTRACTS IN THE TOTAL OPERATION OF THE COMMUNITY WHEN SUBMITTING FINANCIAL REPORTS AS REQUIRED BY THE DEPARTMENT AND THE DEPARTMENT OF FINANCIAL SERVICES.

S 17. Subdivision 1 of section 4612 of the public health law, as amended by chapter 549 of the laws of 2014, is amended to read as follows:

1. [Residents in a community authorized by this article] CONTINUING CARE RETIREMENT CONTRACT HOLDERS shall have the right of self-organization, the right to be represented by one or more individuals of their own choosing, and the right to engage in concerted activities for the purpose of keeping informed of the operation of the community in which they live.

S 18. Subdivisions 1 and 2 section 4614 of the public health law, as amended by chapter 549 of the laws of 2014, are amended to read as follows:

1. The commissioner, or designee; and the superintendent, or designee; may at any time, and shall at least once every three years, visit each community and examine the business of any applicant for a certificate of authority and any operator engaged in the execution of continuing care retirement [community] contracts or continuing care at home contracts or engaged in the performance of obligations under such contracts. Routine examinations may be conducted by having documents designated by and submitted to such commissioners or superintendent, which shall include financial documents and records conforming to commonly accepted accounting principles and practices. The final written report of each such examination conducted by such commissioners or superintendent shall be filed with the commissioner and, when so filed, shall constitute a public record. A copy of each report shall be provided to members of the continuing care retirement community council. Any operator being examined shall, upon request, give reasonable and timely access to all of its records. The representative or examiner designated by the commissioners or superintendent, respectively, may, at any time, examine the records and affairs and inspect the community's facilities, whether in connection with a formal examination or not.

2. Any duly authorized officer, employee, or agent of the health department, or department of financial services may, upon presentation of proper identification, have access to, and inspect, any records maintained by the community [or by the continuing care at home corporation] relevant to the respective agency's regulatory authority, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this article.

S 19. Paragraph k of subdivision 1 of section 4615 of the public health law, as amended by chapter 549 of the laws of 2014, is amended to read as follows:

k. The commissioner has found violations of applicable statutes, rules or regulations which threaten to affect directly the health, safety, or welfare of a resident [of a continuing care retirement community or a contract holder of a continuing care at home contract].

S 20. The section heading and subdivision 2 of section 4623 of the public health law, the section heading as amended by chapter 549 of the laws of 2014 and subdivision 2 as amended by chapter 659 of the laws of 1997, are amended to read as follows:

Long term care insurance and continuing care retirement contracts OR CONTINUING CARE AT HOME CONTRACTS.

2. With regard to nursing facility or home health care services which are part of the continuing care retirement contract OR CONTINUING CARE AT HOME CONTRACT, any elimination or waiting periods and any deductibles, copayments, or other amounts not paid for by such long term care insurance or medical assistance payments shall be the responsibility of the continuing care retirement community. The resident shall not be liable to pay any such amounts.

S 21. This act shall take effect April 1, 2015 and shall be deemed to have been in full force and effect on and after the effective date of chapter 549 of the laws of 2014.