STATE OF NEW YORK

8770

IN SENATE

March 8, 2024

Introduced by Sen. RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the public health law, in relation to establishing a continuing care retirement community bill of rights

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public health law is amended by adding a new section 4625 to read as follows:

§ 4625. Continuing care retirement community bill of rights. 1. Every continuing care retirement community (CCRC) shall adopt, implement and distribute to residents the following continuing care retirement community bill of rights. All residents of CCRCs shall have the right to:

a. expect full, prompt and complete fulfillment by the CCRC's management of those services delineated in their contracts and other affiliated contracts. An annual survey of such services with an evaluation of their fulfillment shall be implemented by the residents' association with results distributed to residents. Contracts approved by the management of the CCRC shall be available for inspection by residents or their designated representatives;

b. establish, organize, fund, develop by-laws for, and operate a residents' association whose purposes include, but are not limited to, representing the interests of the residents to the administration and the CCRC's corporate governing board;

c. freely assemble, with or without the participation of management and staff as the residents in their judgment deem advisable, to enhance communication and information-sharing among the residents, and to promote active learning and discussion of issues facing the CCRC community;

d. select and appoint, in accordance with the resident association's own by-laws, at least three members of the CCRC's corporate governing board, who have rights and duties commensurate with the other board members;

e. receive regularly scheduled reports from the association-appointed governing board members about the board's deliberations, actions and

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

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policies. Residents have a right to a corporate governing board every member of which acknowledges their fiduciary responsibility to the residents. All corporate board and corporate board committee meetings shall be open to any resident or their representative wishing to attend without fear of reprisal except for meetings closed in accordance with state or federal statutes and regulations. Meetings shall be closed only for discussion of personnel or personal health issues;

f. be kept informed by the administration, on a semiannual basis, about all significant issues of management which directly affect residents' well-being or their financial investment, or any issues about which residents are concerned, limited only by necessary and explicitly defined policies of confidentially and privacy;

g. full disclosure of the finances of the corporation, presented at least on an annual basis. In cases where a community is a member of a consortium of communities, residents have the right to be fully informed of the finances of both their local community and of the parent corporation. CCRC residents have the right to receive periodic written reports from a duly certified actuary affirming that sufficient funds will be available for the future likely needs of the resident population. Residents have the right to be informed in advance if any sale of the community to another operator or provider comes under consideration;

h. a plain English list of those services guaranteed by the contract, as well as a list of those services offered by the CCRC but not guaranteed in the contract (and which may be modified or withdrawn at the discretion of the management or corporate governing board), provided to all prospective residents prior to their being asked to sign the contract;

i. visit the assisted living and skilled nursing facilities, as well as all the amenities associated with independent living, before signing a contract;

j. be informed in advance of, and be given an opportunity to comment on, changes in the delivery of services, including changes in staffing levels in its administrative and service departments and changes in staff credentialing requirements in areas such as health care, food service, and facilities maintenance. Such notice shall be given in advance of implementation with sufficient time for residents to respond;

k. be informed, at least a month in advance of implementation, about any change in fees, and have the opportunities to comment on such changes to management and to the governing board. The CCRC management and/or corporate board shall respond with written responses to residents;

l. participate directly in the governance of the residents' association through communication, discussion, and decision-making in open meetings, through membership in association committees, and through the election of officers and members of the resident association's own board of directors, in accordance with by-laws;

m. raise issues concerning their own well-being, their quality of life, and the sufficiency of their involvement in community life and governance, and to advocate openly for issues of concern to them to be discussed and dealt with by the residents' association, the administration, and the governing board as appropriate;

n. establish and operate informal activities of any kind, so long as they do not impact negatively on the lives of others, violate the law, interfere with other activities in community space and facilities, or require resident association funds;

o. organize and seek residents' association recognition of a new committee or other resident activity needing community facilities, or residents' association funds;

p. all the benefits of living in community, including all the services and amenities on offer, and all regulations applying to community life, provided and enforced impartially and without prejudice, regardless of a resident's age, gender, religion, race, economic status, professional background, sexual orientation, past or present advocacy of issues and policies applying to community life and governance, past or present activism in the polity outside of the retirement community, or past or present service on boards or committees;

q. select, based on availability and the resident's financial qualifications, an independent living apartment of the resident's choice and to appoint and furnish it to the resident's taste, within the provisions of the life-care contract and fire and safety regulations; and

r. participate as fully and meaningfully as possible when the need to move to an assisted living facility or skilled nursing unit comes under discussion. Family members designated by the resident shall have the right to be kept informed of the resident's condition and care plan. Residents or their designated medical proxies shall have the right to refuse medications and treatments.

2. The commissioner shall designate an ombudsman for each county to monitor the bill of rights established by this section and any other regulations concerning residence in independent living at a CCRC. The commissioner shall promulgate regulations providing direction and regulatory authority to the ombudsman. Residents and/or their family members or representatives shall have the right to contact their county ombudsman with complaints, compliments, and/or comments without prejudice or recrimination. Records of the contacts made under the ombudsman program shall be a matter of public record and available on request.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.