

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:

1 Section 1. The public health law is amended by adding a new section
2 4625 to read as follows:

3 § 4625. Continuing care retirement community bill of rights. 1. Every
4 continuing care retirement community (CCRC) shall adopt, implement and
5 distribute to residents the following continuing care retirement commu-
6 nity bill of rights. All residents of CCRCs shall have the right to:

7 a. expect full, prompt and complete fulfillment by the CCRC's manage-
8 ment of those services delineated in their contracts and other affil-
9 iated contracts. An annual survey of such services with an evaluation of
10 their fulfillment shall be implemented by the residents' association
11 with results distributed to residents. Contracts approved by the manage-
12 ment of the CCRC shall be available for inspection by residents or their
13 designated representatives;

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

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

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

27 e. receive regularly scheduled reports from the association-appointed
28 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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1 policies. Residents have a right to a corporate governing board every
2 member of which acknowledges their fiduciary responsibility to the resi-
3 dents. All corporate board and corporate board committee meetings shall
4 be open to any resident or their representative wishing to attend with-
5 out fear of reprisal except for meetings closed in accordance with state
6 or federal statutes and regulations. Meetings shall be closed only for
7 discussion of personnel or personal health issues;

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

13 g. full disclosure of the finances of the corporation, presented at
14 least on an annual basis. In cases where a community is a member of a
15 consortium of communities, residents have the right to be fully informed
16 of the finances of both their local community and of the parent corpo-
17 ration. CCRC residents have the right to receive periodic written
18 reports from a duly certified actuary affirming that sufficient funds
19 will be available for the future likely needs of the resident popu-
20 lation. Residents have the right to be informed in advance if any sale
21 of the community to another operator or provider comes under consider-
22 ation;

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

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

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

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

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

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

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

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

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

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

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

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

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