STATE OF NEW YORK

8802

IN SENATE

January 8, 2026

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

AN ACT to amend the public health law and the insurance law, in relation to oversight of continuing care retirement communities; to amend a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, in relation to the effectiveness thereof; and to repeal certain provisions of such chapter of the laws of 2025 relating thereto

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

Section 1. Section 4602 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

§ 4602. Commissioner; powers and duties. The commissioner shall have the following powers and duties:

[~~a.~~] 1. to receive applications from potential operators of continuing care retirement communities and to distribute such applications for review to the participating agencies;

[~~b.~~] 2. to develop uniform forms for applications for certificates of authority, to review the status of such applications, and to coordinate the review of such applications in order to minimize duplication or delay;

[~~c.~~] 3. to provide information to entities wishing to establish continuing care retirement communities and to persons interested in becoming residents of such communities, to the extent appropriate, with concerns relating to the operation of such facilities;

[~~d.~~] 4. to issue certificates of authority to approved applicants;

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

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[~~e.~~] 5. to approve or reject applications to obtain a certificate of authority for the establishment and operation of a continuing care retirement community. In reviewing applications, the commissioner shall consider the extent to which the applications reflect various sponsorships, organizational structures, geographic dispersion, and the public benefit. In determining the public benefit of a community requiring construction of a total nursing facility component greater than or equal to ninety beds, the commissioner shall obtain and consider the recommendation of the public health and health planning council with regard to the effect of the construction of the community's nursing facility beds upon existing facilities in the same geographic area;

[~~f.~~] 6. to require the reporting of such facts and information as the commissioner may deem necessary to enforce the provisions of this article;

[~~g.~~] 7. to coordinate the oversight of operating communities and to assign review and regulatory responsibility for particular aspects of such communities to the appropriate agencies, consistent with their legal authority, to assure consistent state supervision without duplication of inspection or regulatory review;

[~~h.~~] 8. to make such recommendations to the governor and the legislature as may be necessary to encourage or further regulate the development of continuing care retirement communities;

[~~i.~~] 9. to establish and charge equitable and reasonable annual charges for operators, not to exceed fifty dollars per approved living unit, to subsidize, in part, expenditures incurred in reviewing applications for certificates of authority and in inspecting, regulating, supervising and auditing continuing care retirement communities;

[~~j.~~] 10. to adopt rules and regulations and amendments thereto to effectuate the provisions of this article;

[~~k.~~] 11. to revoke, suspend, limit, or annul a certificate of authority under conditions set forth in section forty-six hundred fifteen of this article, including when such action is taken at the specific request of any participating council agency[~~.~~];

[~~l.~~] 12. to carry out any other responsibilities entrusted to the commissioner pursuant to this chapter that may be necessary with regard to the health care activities of continuing care retirement communities;

[~~m.~~] 13. to make available to all prospective operators all pertinent regulations regarding health and insurance necessary to comply with this article;

[~~n.~~] 14. to approve or reject applications for authorization by prospective continuing care retirement community applicants, entities that have filed an application for a certificate of authority and operators, to enter into cancellable priority reservation agreements and to collect refundable priority reservation fees from prospective residents;

[~~o.~~] 15. to require the reporting of such facts and information as the commissioner may deem necessary to determine whether characteristics of residential health care demonstration facilities such as comprehensive systems of residential and support services for the elderly may be successfully incorporated into existing or approved continuing care retirement communities;

[~~p.~~] 16. to review and approve or reject applications by continuing care retirement community operators to use entrance fees to assist the operator in financing the construction or purchase of a proposed continuing care retirement community in accordance with paragraph b of subdivision six of section forty-six hundred ten of this article; [~~and~~]

[~~q.~~] 17. to review and approve or reject any proposed financing by industrial development agencies of continuing care retirement communities pursuant to article eighteen-A of the general municipal law as authorized by section forty-six hundred four-a of this article[~~.~~]; and

18. to coordinate the interagency regulatory review of the applications, development and operations of communities in order to minimize duplication or delay.

§ 2. Section 4603 of the public health law, as added by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

§ 4603. Continuing care retirement community council; powers and duties. 1. The continuing care retirement community council is hereby established, to consist of the following, or their designees: the attorney general; the commissioner; the director of the office for the aging; and eight public members appointed by the governor [~~with the advice and consent of the senate~~]. Such public members shall be representative of the public, and have a demonstrated expertise or interest in continuing care retirement communities; provided that no more than one such member shall be a sponsor, owner, operator, manager, member of a board of directors, or shareholder of a continuing care retirement community. At least two public members shall be residents of a continuing care retirement community. At least one of the public members shall be a representative of an organization with demonstrated experience in representing the interests of senior citizens. The public members of the council shall have fixed terms of four years. The council shall be chaired by the commissioner or the designee of such commissioner.

(a) Members of such council shall serve without compensation for their services as members of the council, except that each of them may be allowed the necessary and actual expenses which such member shall incur in the performance of their duties under this article.

(b) A majority of the appointed voting membership of the council shall constitute a quorum.

2. The council shall meet as often as the commissioner may [~~be deemed~~] deem necessary to fulfill its responsibilities. The council shall have the following powers and duties:

a. to [~~assist~~] advise the commissioner on policy matters related to the establishment and operation of continuing care retirement communities;

b. to [~~assist~~] advise the commissioner in the development of the state's overall policy regarding continuing care retirement communities and cause studies and research to be conducted as it may deem advisable and necessary; and

c. to make [~~such~~] any other recommendations to the [~~governor and the legislature~~] commissioner as may be necessary to encourage or further regulate the development of continuing care retirement communities.

§ 3. Subdivision 4 of section 4604 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

4. No certificate of authority shall be issued unless [~~the commissioner has approved~~] an application meeting the requirements of this section and all other requirements established by law [~~including~~] **has been approved by**:

a. **(i)** the **superintendent of financial services as to the** actuarial principles involved, the financial feasibility of the facility, the form and content of the proposed contracts to be entered into with residents and insurance contracts between an operator and an insurer requiring the insurer to assume, wholly or in part, the cost of medical or health related services to be provided to a resident[~~, provided that the review may be conducted by the commissioner or the designee of such commissioner, including any necessary independent actuarial review~~];

[~~b.~~] **(ii) the superintendent of financial services as to** the rates and rating methodology, if any, to be used by the operator to determine any entrance fee, monthly care fee and/or any separate charges for the housing component of the continuing care contract including but not limited to a cooperative or condominium fee charged to the resident as proposed in said operator's application for certificate of authority. Subsequent increases in any entrance or monthly care fee in excess of fees calculated pursuant to the approved rating methodology shall require approval of the [~~commissioner~~] **superintendent**. The term "rating methodology" as used herein shall incorporate a combination of variables including but not limited to a pricing structure for comparable services, projected operating and health care costs and the applicable inflationary impact thereon, projected income and occupancy rates and the refundability component of the continuing care retirement contract;

[~~c.~~] **(iii) the superintendent of financial services as to** any monthly care fee charged to a resident which may be increased or decreased subject to approval by the [~~commissioner~~] **superintendent of financial services**, provided, that monthly care fees may be increased or decreased without specific approval as long as such increase or decrease does not exceed a relevant cost index or indices which reflect all components of continuing care including the costs associated with provision of health care as determined and promulgated at least annually by the [~~commissioner or the designee of such commissioner, including any necessary independent actuarial review~~] **superintendent**, and provided further that the [~~commissioner~~] **superintendent** is notified of any such increase or decrease prior to its taking effect;

[~~d. the requirement that an~~] **(iv) an** individual resident's monthly care fee shall not be modified because of the increased need for services of that resident;

[~~e.~~] **b. the commissioner as to those** aspects of the application relating to adult care facility beds, if any;

[~~f. review by~~] **c.** the public health and health planning council 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;

d. the commissioner under section twenty-eight hundred two of this chapter; provided, [~~further~~] **however**, that, the recommendations of the public health and health planning council and 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 construction 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; and

[~~g. upon consultation with~~] **e.** the attorney general, as to those aspects of the application relating to a cooperative, condominium or other equity arrangement for the independent living unit, if any.

§ 4. The opening paragraph of subdivision 6 of section 4604 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

If the [~~applicant has satisfied the criteria~~] **approvals** required by subdivision four of this section **have been obtained**, the commissioner shall either approve or reject the application. In order to approve the application, the commissioner shall have determined that:

§ 5. Section 4605-a of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

§ 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 commissioner 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 the 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 the 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.

§ 6. Subdivision 3 of section 4605-b of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

3. Conditions set forth by the **New York state** department **of financial services**, based upon the [~~commissioner's~~] **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.

§ 7. Section 4607 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

§ 4607. Annual statement. 1. Within four months of close of the operator's fiscal year, unless an extension of time to file has been granted, the operator shall file an annual statement with the commissioner **and superintendent** showing the condition as of the last day of the preceding calendar or fiscal year. If the commissioner [~~does~~] **and superintendent do** not receive the annual statement within four months of the end of the operator's fiscal year or have not granted an extension of time to file, the commissioner may charge a late fee.

2. The annual statement shall be in such form as the commissioner prescribes and shall contain at least the following:

a. Any change in status with respect to the information required to be submitted pursuant to section forty-six hundred four of this article;

b. Financial statements audited by an independent certified public accountant, which shall contain, for two or more periods if the community has been in existence that long, the following:

(i) an accountant's opinion and, in accordance with generally accepted accounting principles:

(A) a balance sheet,

(B) a statement of income and expenses,

(C) a statement of equity or fund balances,

(D) a statement of changes in financial position,

(ii) notes to the financial statements considered customary or necessary to ensure full disclosure of the financial statements, financial condition, and operation;

c. A detailed listing of the assets maintained for the reserves;

d. A copy of the most recent actuarial review of the community, including such information as may be required by the [~~commissioner~~] **superintendent** including an opinion of a qualified consulting actuary, as to the current and projected soundness of the community, provided however that a new actuarial review must be submitted triennially; and

e. Such other reasonable financial and other information as the commissioner **and superintendent** may require with respect to the operator or the community, or its directors, controlling persons, trustees, members, branches, subsidiaries or affiliates to determine the financial status of the community and the management capabilities of the operator.

3. Sixty days before commencement of each calendar or fiscal year or official opening date, whichever is applicable, each operator shall file with the commissioner **and superintendent** a computation of the annual long-term debt service and a projected annual revenue and expense summary for the next ten years.

§ 8. Subdivision 1 of section 4658 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

1. Within four months of close of an operator's fiscal year, unless an extension of time to file has been granted, the operator shall file an annual statement with the commissioner showing the condition as of the last day of the preceding calendar or fiscal year. If the commissioner does not receive the annual statement within four months of the end of the operator's fiscal year or has not granted an extension of time to file, the [~~council~~] **commissioner** may charge a late fee.

§ 9. Subdivision 16 of section 4608 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

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 [~~commissioner~~] **superintendent of financial services**;

§ 10. Subdivisions 1 and 2 of section 4614 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, 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 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 [~~commissioner~~] **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 [~~commissioner~~] **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 [~~commissioner~~] **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 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.

§ 11. Paragraphs g and j of subdivision 1 of section 4615 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, are amended to read as follows:

g. The operator failed to comply with[~~, or violated, any proper order, rule or regulation of the council or violated~~] any provision of this article;

j. The [~~commissioner~~] **superintendent of financial services** has made a determination that the operator is insolvent within the meaning of section one thousand three hundred nine of the insurance law; or

§ 12. Paragraph g of subdivision 1 of section 4668 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

g. The operator failed to comply with, or violated, any proper order, rule or regulation [~~of the council~~]**,** or violated any provision of this article;

§ 13. Subdivision 1 of section 4623 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

1. The commissioner may approve an application for a certificate of authority and may issue a certificate of authority for the establishment and operation of a continuing care retirement community under an arrangement which otherwise complies with the requirements of this article except that the costs of nursing facility or home health care services are paid for in whole or in part by (a) long term care insurance obtained and paid for by the resident or by medical assistance payments in accordance with the partnership for long term care program pursuant to section three hundred sixty-seven-f of the social services law and section three thousand two hundred twenty-nine of the insurance law or (b) other group or individual long term care insurance approved by the superintendent [~~and the council~~] in connection with the application. The [~~council~~] **commissioner**, in consultation with the superintendent, shall provide for adequate disclosure to residents of their options, rights and obligations under such an arrangement, and shall

establish standards for the remittance and collection of premiums and monthly care fees.

§ 14. The opening paragraph of subdivision 5 of section 4655 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

If the [~~applicant has satisfied the criteria~~] **approvals** required by subdivision four-a of this section have been obtained, the commissioner shall either approve or reject the application. In order to approve the application, the commissioner shall have determined that:

§ 15. Section 4611 of the public health law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

§ 4611. Reserves and supporting assets. 1. An operator shall maintain reserve liabilities and supporting assets in an amount and for the purposes set forth in a regulation issued by the [~~commissioner~~] **superintendent of financial services**. Liquid assets must be maintained for the following reserve liabilities:

a. Principal and interest payments and payments for taxes and insurance for up to twelve months;

b. Total estimated operating costs for up to six months as set by the [~~commissioner~~] **superintendent**;

c. Repairs and replacements for up to twelve months; and

d. In addition, the amount of liquid assets must meet any cash flow requirements and conditions as set forth in a regulation.

2. The assets in support of reserve liabilities of subdivision one of this section shall meet quantitative and qualitative standards set forth in regulations issued by the [~~commissioner~~] **superintendent**.

§ 16. Section 1119 of the insurance law, as amended by a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

§ 1119. Limited exemption for continuing care retirement communities. **(a)** An organization complying with the provisions of article forty-six of the public health law may operate without being licensed under this chapter and without being subject to any provisions of this chapter, except to the extent that such organization must comply with the provisions of this chapter by virtue of such article**, and such organization must comply with rules and regulations of the superintendent relating to:**

(1) financial feasibility of the continuing care retirement community,

(2) actuarial principles established relating to such communities,

(3) approval of continuing care retirement contracts and the rates and rating system, if any, for such contracts.

(b) The superintendent may promulgate regulations in effectuating the purposes and the provisions of this chapter and article forty-six of the public health law, which may include requirements applicable to the

contracts between a continuing care retirement community and its residents.

(c) Such organization shall be subject to the provisions of article seventy-four of this chapter. Prior to commencing action under such article seventy-four, the superintendent shall consult with the continuing care retirement community council established pursuant to section forty-six hundred two of the public health law.

§ 17. Section 34 of a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is REPEALED.

§ 18. Section 36 of a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, is amended to read as follows:

§ 36. This act shall take effect immediately[~~; provided, however, that sections three, nine, eleven, twelve, thirteen, twenty-eight and twenty-nine of this act shall take effect June 1, 2026. 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~~].

§ 19. This act shall take effect immediately; provided however, that sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen and sixteen of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2025 amending the public health law and the insurance law relating to promoting efficient and effective oversight of continuing care retirement communities and repealing certain provisions of such law relating thereto, as proposed in legislative bills numbers S. 4585 and A. 1464-A, takes effect.