§ 4601. Definitions. As used in this article:

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.

2. "Commissioner" shall mean the commissioner of health.

2-a. "Continuing care retirement 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.

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 a contract, at a minimum:

a. for continuing care retirement contracts, provides 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;

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.

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

4. "Control", "controlling", "controlled by", and "under common control with" shall mean the possession, directly, or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities or voting rights, by contract (except a commercial contract for goods or non-management services) or otherwise; but no person shall be deemed to control another person solely by reason of his being an officer or director of such other person. Control shall be presumed to exist if any person directly or indirectly owns, controls, or holds with the power to vote ten percent or more of the voting securities or voting rights of any other person or is a corporate member of the legal entity.

5. "Council" shall mean the continuing care retirement community

council, established pursuant to section forty-six hundred two of this article.

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.

7. "Facility" shall mean any place in which an operator undertakes to provide a resident with the services of a continuing care retirement community, pursuant to a contract, whether such place is constructed, owned, leased, rented, or otherwise contracted for by the operator.

8. "Life care contract" shall mean a single continuing care retirement 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, 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 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.

8-a. "Fee-for-service continuing care contract" shall mean a single continuing care retirement contract that provides long-term and other services on a per diem, fee-for-service or monthly rate.

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.

9. "Life care shall mean those services provided pursuant to a "life care contract".

10. "Living unit" shall mean an apartment, room, cottage, or other area within a community set aside for the exclusive use of one or more residents, or in the case of a continuing care at home contract, the contract holder's private residence.

11. "Monthly care fee" shall mean the monthly cost to a resident for prepayment of any services, including rent, rendered pursuant to a contract, exclusive of entrance fees or other prepayments, and any other regular periodic charges to the resident, determined on a monthly basis, pursuant to the provisions of a contract.

12. "Operator" shall mean a legal entity operating a continuing care retirement community pursuant to a certificate of authority.

13. "Priority reservation agreement" shall mean a cancelable agreement between a prospective continuing care retirement community applicant, an applicant for a certificate of authority or an operator and a prospective resident, for the purpose of evaluating market demand for a proposed continuing care retirement community and for the purpose of guaranteeing to prospective residents an opportunity for priority placement in a continuing care retirement community, under which the prospective resident will pay a refundable priority reservation fee. A priority reservation agreement does not fall within the meaning of contracts or agreements as defined in subdivision three of this section.

14. "Priority reservation fee" shall mean the refundable sum of money paid by a prospective resident for deposit with the escrow agent for a prospective continuing care retirement community applicant, an applicant

for a certificate of authority or an operator pursuant to a priority reservation agreement.

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.

16. "Residential health care demonstration facility" shall mean a residential health care facility containing up to sixty beds, within the defined geographical boundary of each health systems agency established under the provisions of subdivision (c) of section twenty-nine hundred four of this chapter, provided that such residential health care facility is an integrated part of a comprehensive system of residential and support services for the elderly, providing either directly or through one or more affiliated entities, prior to the effective date of this subdivision, on or adjacent to the site of the proposed residential health care facility, independent living units, an adult care facility as defined in section two of the social services law and a range of health care and social services, which may include home health care, counselling, case management and information and referral.

16-a. "Social services" shall mean those services which may include, but not be limited to counseling, case management, and information and referral.

17. "Superintendent" shall mean the superintendent of financial services.