§ 4623. Long term care insurance and continuing care retirement contracts or continuing care at home contracts. 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 in connection with the application. The 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.

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.

3. The continuing care retirement community operator shall not require that long term care insurance be purchased from a specified insurer or group of insurers and the operator shall not, without the approval of the council and the approval of the superintendent, specify a minimum acceptable benefit level different from that established under the partnership for long term care program.

4. Entrance fees and monthly care fees shall reflect that the cost of a resident's nursing facility and home health care services are or will be paid for in whole or in part in accordance with (a) the partnership

for long term care program or (b) other group or individual long term care insurance approved by the superintendent and the council in connection with the application.

5. a. If a resident fails to maintain minimum long term care insurance coverage in accordance with this section, the continuing care retirement community operator shall purchase, if possible, such coverage on behalf of and at the expense of the resident and may require an appropriate adjustment in payments by the resident to the operator.

b. If the continuing care retirement community operator cannot purchase long term care insurance coverage under paragraph a of this subdivision, the operator may require an adjustment in the resident's monthly fees, subject to the approval of the superintendent, to fund the additional risk to the facility.

c. If the resident fails to maintain long term care insurance coverage in accordance with this section and the community operator has not purchased such coverage, the operator shall be responsible for any expenses which would have been covered under the long term care insurance policy which the resident failed to maintain. The operator may add the amount of such expenses to the resident's monthly fees.