Chapter 257

(Senate Bill 76)

AN ACT concerning

Continuing Care Retirement Communities – ~~Governing Bodies~~ Transparency, Grievances, and ~~Entrance Fees~~ Unit Reoccupancy

FOR the purpose of ~~altering the membership of governing bodies of continuing care retirement communities by increasing the number of subscribers under certain circumstances~~ requiring a provider to post the provider's most recent disclosure statement on the provider's website; altering the number of times ~~select committees of certain~~ providers are required to ~~meet with~~ hold a meeting open to all of the provider's subscribers each year; requiring an authorized officer of a provider to provide a summary of certain grievance information at certain meetings; authorizing a subscriber member of a governing body to report on certain nonconfidential information; requiring the Department of Aging to collect certain information about certain internal grievances; ~~altering the processes for the termination of a continuing care agreement under certain circumstances; altering the process for refunding certain entrance fees under certain circumstances;~~ requiring a provider to submit certain reports to a subscriber or a subscriber's beneficiary if the subscriber's unit has not been reoccupied within certain periods of time; and generally relating to continuing care retirement communities.

BY repealing and reenacting, without amendments,
Article – Human Services
Section 10–101(a), (e), and (h)
Annotated Code of Maryland
(2019 Replacement Volume and 2023 Supplement)

~~BY adding to~~
~~Article – Human Services~~
~~Section 10–401(v)~~
~~Annotated Code of Maryland~~
~~(2019 Replacement Volume and 2023 Supplement)~~

BY repealing and reenacting, with amendments,
Article – Human Services
Section ~~10–401(v) and (w), 10–408(b)(3),~~ 10–424, 10–426, 10–427, 10–428, and 10–449
Annotated Code of Maryland
(2019 Replacement Volume and 2023 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Human Services

10–101.

(a) In this title the following words have the meanings indicated.

(e) "Department" means the Department of Aging.

(h) "Secretary" means the Secretary of Aging.

~~10–401.~~

~~(V) "RESIDENT ASSOCIATION" INCLUDES A RESIDENT ASSOCIATION OR AN EQUIVALENT BODY.~~

~~[~~~~(v)~~**~~] (W)~~** ~~"Subscriber" means an individual for whom a continuing care agreement is purchased.~~

~~[~~~~(w)~~**~~] (X)~~** ~~(1) "Surcharge" means a separate and additional charge that:~~

~~(i) is imposed simultaneously with the entrance fee; and~~

~~(ii) may be required of some, but not all, subscribers because of a condition or circumstance that applies only to those subscribers.~~

~~(2) "Surcharge" does not include a second person entrance fee.~~

~~10–408.~~

~~(b) (3) A capital improvement or replacement that does not meet the standard of~~ **~~[~~**~~§ 10–401(w)~~**~~] § 10–401(X)~~** ~~of this subtitle is not subject to review by the Department under §§ 10–409 through 10–415 of this subtitle.~~

10–424.

(a) (1) A provider shall give without cost a disclosure statement for each facility for which the provider holds a preliminary, initial, or renewal certificate of registration:

(i) to a prospective subscriber before the earlier of payment of any part of the entrance fee or execution of a continuing care agreement; and

(ii) annually to any subscriber who requests a disclosure statement.

(2) A provider shall submit its initial disclosure statement to the Department for review at least 45 days before giving the statement to any prospective subscriber.

(b) (1) A provider shall revise the disclosure statement annually and file it with the Department within 120 days after the end of the provider's fiscal year.

(2) The Department shall review the disclosure statement solely to ensure compliance with § 10–425 of this subtitle.

(c) (1) An amended disclosure statement is subject to each requirement of this subtitle.

(2) A provider shall file an amended disclosure statement with the Department when it is delivered to a subscriber or prospective subscriber.

(D) A PROVIDER SHALL POST THE MOST RECENT DISCLOSURE STATEMENT ON THE PROVIDER'S WEBSITE.

10–426.

(a) At least **[**once a year**]** **QUARTERLY**, each provider shall hold a meeting open to all of the provider's subscribers.

(b) At the **[**meeting**]** **MEETINGS**, an authorized officer of the provider shall:

(1) summarize the provider's operations, significant changes from the previous year, and goals and objectives for the next year; and

(2) answer subscribers' questions.

(C) AT THE LAST QUARTERLY MEETING OF THE YEAR, AN AUTHORIZED OFFICER OF THE PROVIDER SHALL PROVIDE AN AGGREGATED, DEIDENTIFIED SUMMARY OF INTERNAL GRIEVANCES SUBMITTED UNDER § 10–428 OF THIS SUBTITLE.

10–427.

(a) (1) If a provider has a governing body, at least ~~**[**~~one~~**]**~~ ~~TWO~~ of the provider's subscribers shall be ~~**[**~~a~~**]**~~ full and regular ~~**[**~~member~~**]**~~ ~~MEMBERS~~ of the governing body.

(2) If the provider owns or operates ~~**[**~~more than three~~**]**~~ ~~MULTIPLE~~ facilities in the State, the governing body shall include at least one of the provider's subscribers ~~**[**~~for every three facilities~~**]**~~ ~~FROM EACH FACILITY~~ in the State.

(3) ~~[~~Subject to paragraph (4) of this subsection, a~~]~~ ~~A~~ member of the governing body who is selected to meet the requirements of this subsection shall be a subscriber at a facility in the State and be ~~[~~selected according to the same general written standards and criteria used to select other members of the governing body~~]~~ ~~ELECTED BY THE RESIDENT ASSOCIATION OF THE FACILITY~~.

(4) ~~[~~The governing body shall confer with the resident association at each of the provider's facilities before the subscriber officially joins the governing body~~]~~.

(5) (I) A SUBSCRIBER MEMBER OF A GOVERNING BODY MAY REPORT ON NONCONFIDENTIAL DELIBERATIONS, ACTIONS, AND POLICIES OF THE GOVERNING BODY TO THE RESIDENT ASSOCIATION.

(II) THE GOVERNING BODY IN ITS SOLE BUT REASONABLE DISCRETION SHALL DETERMINE WHETHER A MATTER IS CONFIDENTIAL.

~~(5) THE GOVERNING BODY OF EACH OF THE PROVIDER'S FACILITIES SHALL DIRECT AN OFFICER OF THE PROVIDER TO MEET AT LEAST QUARTERLY TO REVIEW AND DISCUSS THE CURRENT FINANCIAL STATEMENTS OF THE PROVIDER WITH THE RESIDENT ASSOCIATION OR A COMMITTEE DESIGNATED BY THE RESIDENT ASSOCIATION.~~

(6) The Secretary may waive the requirements of this subsection for a provider in the process of decertifying as a provider, if the Secretary determines that there are no subscribers willing and able to serve on the governing body.

(b) (1) If a provider does not have a governing body, the provider shall appoint a select committee of its officers or partners to meet at least **[**twice a year**]** **QUARTERLY** with the resident association at each of its facilities to address concerns of the subscribers and to ensure that the opinions of subscribers are relayed to all officers or partners of the provider.

(2) If a facility does not have a resident association, the committee shall meet with a reasonable number of representatives, not required to exceed fifteen, that the subscribers elect.

(c) As determined by the provider's governing body, the provider shall make available to subscribers either the nonconfidential portions of the minutes of each meeting of the governing body or a summary of the nonconfidential portions of the minutes, within 1 month of approval of the minutes.

10–428.

(a) A provider shall establish an internal grievance procedure to address a subscriber's grievance.

(b) The internal grievance procedure shall at least:

(1) allow a subscriber or group of subscribers collectively to submit a written grievance to the provider;

(2) require the provider to send a written acknowledgment to the subscriber or group of subscribers within 5 days after receipt of the written grievance;

(3) require the provider to assign personnel to investigate the grievance;

(4) give a subscriber or group of subscribers who file a written grievance the right to meet with management of the provider within 30 days after receipt of the written grievance to present the grievance; and

(5) require the provider to respond in writing within 45 days after receipt of the written grievance regarding the investigation and resolution of the grievance.

(c) (1) Within 30 days after the conclusion of an internal grievance procedure established under this section, a subscriber, group of subscribers, or provider may seek mediation through one of the Community Mediation Centers in the State or another mediation provider.

(2) If a provider, subscriber, or group of subscribers seeks mediation under paragraph (1) of this subsection, the mediation shall be nonbinding.

(D) (1) ~~AT LEAST TWICE EACH YEAR~~ ON AN ANNUAL BASIS, THE DEPARTMENT SHALL COLLECT FROM EACH PROVIDER INFORMATION ABOUT INTERNAL GRIEVANCES FILED FOR EACH OF THE PROVIDER'S FACILITIES, INCLUDING:

(I) THE NUMBER OF INTERNAL GRIEVANCES FILED;

(II) THE ~~SUBJECT MATTER OF EACH GRIEVANCE FILED~~ AGGREGATED, DEIDENTIFIED SUMMARY OF INTERNAL GRIEVANCES;

(III) WHETHER A GRIEVANCE WENT TO MEDIATION AND THE OUTCOME OF THE MEDIATION; AND

(IV) THE FINAL DISPOSITION OF EACH FILED GRIEVANCE.

(2) ON OR BEFORE DECEMBER 1 EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE SENATE FINANCE COMMITTEE AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN ACCORDANCE WITH § 2–1257 OF

THE STATE GOVERNMENT ARTICLE, ON THE DATA RECEIVED FROM EACH PROVIDER UNDER PARAGRAPH (1) OF THIS SUBSECTION.

10–449.

(a) A continuing care agreement shall allow a subscriber to terminate the agreement by giving a written termination notice to the provider.

~~[~~(b) If a continuing care agreement is terminated by the subscriber's election or death within the first 90 days of occupancy, the provider shall pay any contractual entrance fee refund within 30 days after the earlier to occur of:

(1) the recontracting of the subscriber's unit by:

(i) another subscriber for whom an entrance fee has been paid; or

(ii) another party who is not a subscriber; or

(2) the later to occur of:

(i) the 90th day after the date the written termination notice is given or the date of death; or

(ii) the day the independent living units at the facility have operated at 95% of capacity for the previous 6 months.

(c) If a continuing care agreement is terminated by the subscriber's election or death after the first 90 days of occupancy, the provider shall pay any contractual entrance fee refund within 60 days after the subscriber's death or the effective date of termination, if on the date of death or at any time between the date the written termination notice is given and the effective date of termination:

(1) the subscriber resides in a unit at a higher level of care than the level of care in which the subscriber resided on initially entering the facility; and

(2) the last unit in which the subscriber resided at the initial level of care on entering the facility has been occupied by or reserved for another subscriber who has paid an entrance fee.~~]~~

~~**(B) (1) IF A CONTINUING CARE AGREEMENT IS TERMINATED:**~~

~~**(I) BY WRITTEN NOTICE GIVEN BY A SUBSCRIBER, THE TERMINATION DATE OF THE CONTINUING CARE AGREEMENT SHALL BE ON THE DATE ON WHICH THE SUBSCRIBER VACATED THE UNIT AND REMOVED ALL PERSONAL PROPERTY OF THE SUBSCRIBER FROM THE UNIT; OR**~~

~~(II) ON THE SUBSCRIBER'S DEATH, THE TERMINATION OF THE CONTINUING CARE AGREEMENT SHALL BE EFFECTIVE ON THE DATE OF THE SUBSCRIBER'S DEATH.~~

~~(2) WHEN A CONTINUING CARE AGREEMENT IS TERMINATED BY THE SUBSCRIBER'S ELECTION OR DEATH, THE PROVIDER SHALL PAY ANY CONTRACTUAL ENTRANCE FEE REFUND.~~

~~(C) (1) IF A CONTINUING CARE AGREEMENT PROVIDES FOR A REFUNDABLE ENTRANCE FEE CONDITIONED ON THE REOCCUPANCY OR RECONTRACTING OF THE SUBSCRIBER'S UNIT, THE PROVIDER SHALL ASSIGN THE UNIT A SEQUENTIAL REFUND NUMBER TO DETERMINE THE ORDER OF REFUNDABLE ENTRANCE FEES TO BE PAID.~~

~~(2) WHEN A SEQUENTIAL REFUND NUMBER IS ASSIGNED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PROVIDER SHALL RECORD:~~

~~(I) THE DATE WHEN THE NUMBER WAS ASSIGNED; AND~~

~~(II) THE NUMBER OF VACATED AND AVAILABLE UNITS AT THE FACILITY ON THE DATE THE NUMBER WAS ASSIGNED.~~

~~(D) (1) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, BEGINNING 60 DAYS AFTER THE EFFECTIVE DATE OF TERMINATION OF A CONTINUING CARE AGREEMENT, THE SUBSCRIBER OR THE SUBSCRIBER'S ESTATE SHALL HAVE THE RIGHT TO RECEIVE A REFUND IN THE AMOUNT EQUAL TO ANY ENTRANCE FEE PROVIDED IN THE CONTINUING CARE AGREEMENT LESS THE AMOUNT OF ANY:~~

~~(I) UNPAID FEES OR CHARGES INCURRED BY THE SUBSCRIBER, INCLUDING MONTHLY SERVICES FEES; AND~~

~~(II) CHARITABLE ASSISTANCE PROVIDED BY THE PROVIDER TO THE SUBSCRIBER.~~

~~(2) AFTER A CONTINUING CARE AGREEMENT TERMINATES, THE BALANCE ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE PAYABLE TO THE SUBSCRIBER OR SUBSCRIBER'S ESTATE IN THE ORDER OF THE SEQUENTIAL REFUND NUMBER ASSIGNED UNDER SUBSECTION (C) OF THIS SECTION.~~

~~(E) NOTWITHSTANDING OTHER PROVISIONS OF LAW, A PROVIDER SHALL PAY THE BALANCE OF ANY CONTRACTUAL ENTRANCE FEE REFUND WITHIN 60 DAYS OF THE TERMINATION DATE IF ON THE TERMINATION DATE A SUBSCRIBER RESIDED~~

~~IN A UNIT AT A HIGHER LEVEL OF CARE THAN THE LEVEL OF CARE IN WHICH THE SUBSCRIBER RESIDED WHEN THE SUBSCRIBER INITIALLY RESIDED AT THE FACILITY.~~

~~[~~(d)~~]~~ ~~(F)~~ This section does not prohibit a provider from requiring that a subscriber's unit be vacated before any contractual entrance fee refund is paid as a result of the subscriber's election to terminate a continuing care agreement.

~~(G)~~ (E) ~~EVERY 6 MONTHS, A PROVIDER SHALL SUBMIT TO THE DEPARTMENT A REPORT THAT INCLUDES, FOR THE PRIOR 6 MONTHS:~~

~~(1) THE NUMBER OF SATISFIED ENTRANCE FEE REFUNDS;~~

~~(2) THE DOLLAR AMOUNT OF EACH SATISFIED ENTRANCE FEE REFUND;~~

~~(3) THE OUTSTANDING SEQUENTIAL LIST OF ENTRANCE FEE REFUNDS, INCLUDING DOLLAR AMOUNTS DUE;~~

~~(4) THE CURRENT PERCENTAGE OF UNITS AT A FACILITY THAT ARE OCCUPIED; AND~~

~~(5) THE AVERAGE LENGTH OF TIME THE PROVIDER TAKES TO CONTRACT OR RECONTRACT UNITS~~

(1) IF AN ENTRANCE FEE REFUND IS CONDITIONED ON THE REOCCUPYING OF A SUBSCRIBER'S UNIT AND THE UNIT HAS NOT BEEN REOCCUPIED WITHIN 9 MONTHS OF THE SUBSCRIBER'S DEATH OR THE DATE OF THE CONTRACT TERMINATION, A PROVIDER SHALL SUBMIT A WRITTEN REPORT TO THE SUBSCRIBER OR THE SUBSCRIBER'S BENEFICIARY STATING:

(I) THAT THE UNIT HAS NOT BEEN REOCCUPIED; AND

(II) THE EFFORTS THE PROVIDER HAS MADE TO REOCCUPY THE UNIT.

(2) AFTER THE PROVIDER SUBMITTED THE REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PROVIDER SHALL SUBMIT AN UPDATED WRITTEN REPORT TO THE SUBSCRIBER OR THE SUBSCRIBER'S BENEFICIARY EVERY 6 MONTHS UNTIL THE SUBSCRIBER'S UNIT HAS BEEN REOCCUPIED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any cause of action arising before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2024.

Approved by the Governor, April 25, 2024.