

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 76

(Senators Lam and Hettleman)

Finance

Health and Government Operations

**Continuing Care Retirement Communities - Transparency, Grievances, and Unit
Reoccupancy**

This bill requires providers to (1) post the most recent disclosure statement on their website; (2) hold a meeting open to all of the provider's subscribers at least *quarterly*; (3) provide an aggregated, deidentified summary of internal grievances at the last quarterly meeting of the year; and (4) provide specified information to a subscriber or the subscriber's beneficiary regarding entrance fee refunds if the refund is conditioned on the reoccupancy of the subscriber's unit. The Maryland Department of Aging (MDOA) must collect specified information from providers regarding internal grievances and report on the data received by December 1 each year to specified committees of the General Assembly. The bill must 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 the bill.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources. Revenues are not affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Continuing Care Agreement Contractual Entrance Fee Refunds

If an entrance fee refund is conditioned on the reoccupying of a subscriber's unit and the unit has not been reoccupied within nine months of the subscriber's death or the date of the contract termination, a provider must submit a written report to the subscriber or the subscriber's beneficiary stating (1) that the unit has not been reoccupied and (2) the efforts the provider has made to reoccupy the unit. The provider must submit an updated written report to the subscriber or the subscriber's beneficiary every six months until the subscriber's unit has been reoccupied.

Subscriber Input

A subscriber member of a governing body may report on nonconfidential deliberations, actions, and policies of the governing body to the resident association. The governing body in its sole but reasonable discretion must determine whether a matter is confidential.

If the provider does not have a governing body, a select committee of its officers or partners must meet at least *quarterly* with the resident association.

Reporting Requirements Regarding Internal Grievances

The bill requires MDOA, on an annual basis, to collect from each provider information about internal grievances filed for each of the provider's facilities, including (1) the number of internal grievances filed; (2) the aggregated, deidentified summary of internal grievances; (3) whether a grievance went to mediation and the outcome of the mediation; and (4) the final disposition of each grievance. By December 1 each year, MDOA must report on the data received from each provider to specified committees of the General Assembly.

Current Law:

Termination of Continuing Care Agreements and Contractual Entrance Fee Refunds

Under § 10-401 of the Human Services Article, "continuing care in a retirement community" means providing shelter and providing either medical and nursing or other health related services or making the services readily accessible through the provider or an affiliate of the provider, whether or not the services are specifically offered in written agreement for shelter (1) to an individual who is at least 60 years of age and not related by

blood or marriage to the provider; (2) for the life of the individual or for a period exceeding one year; and (3) under one or more written agreements that require a transfer of assets or an entrance fee notwithstanding periodic changes. “Continuing care agreement” means an agreement between a provider and a subscriber to provide continuing care.

Under § 10-449 of the Human Services Article, continuing care agreements must allow a subscriber to terminate the agreement by giving a written notice to the provider. If a continuing care agreement is terminated by the subscriber’s election or death within the first 90 days of occupancy, the provider must pay any contractual entrance fee refund within 30 days after the earlier of:

- the recontracting of the subscriber’s unit by another subscriber for whom the entrance fee has been paid or another party who is not a subscriber; or
- the later of (1) the 90th day after the date the written termination notice is given or the date of death or (2) the day the independent living units at the facility have operated at 95% of capacity for the previous six months.

If a continuing care agreement is terminated by the subscriber’s election or death after the first 90 days of occupancy, the provider must 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 notice is given and the effective date of termination:

- 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
- 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 had paid an entrance fee.

Subscriber Input

At least once a year, each provider must hold a meeting open to all of the provider’s subscribers. The provider must summarize their operations, significant changes from the previous year, and goals and objectives for the next year, as well as answer subscribers’ questions.

If a provider has a governing body, at least one of the provider’s subscribers must be a full and regular member of the governing body. If a provider owns or operates more than three facilities in the State, the governing body must include at least one of the provider’s subscribers for every three facilities. A subscriber member of the governing body must be selected according to the same general written standards and criteria used to select other

members of the governing body. The governing body must confer with the resident association at each of the provider's facilities before the subscriber officially joins the governing body.

If a provider does not have a governing body, the provider must appoint a select committee of its officers or partners to meet at least twice a year with the resident association at each of its facilities to address concerns of the subscribers and ensure their opinions are relayed to all officers or partners of the provider.

Internal Grievances

A provider must establish an internal grievance procedure that must at least:

- allow a subscriber or group of subscribers collectively to submit a written grievance;
- require the provider to send a written acknowledgement within 5 days after receipt of the written grievance;
- require the provider to assign personnel to investigate the grievance;
- 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
- require the provider to respond in writing within 45 days after the receipt of the written grievance regarding the investigation and resolution of the grievance.

Within 30 days after the conclusion of an internal grievance procedure, a subscriber, group of subscribers, or provider may seek mediation. The mediation must be nonbinding.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced in the last three years.

Designated Cross File: HB 68 (Delegate Stein, *et al.*) - Health and Government Operations.

Information Source(s): Maryland Department of Aging; Department of Legislative Services

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