

Article - Human Services

§10-425.

- (a) A disclosure statement shall include:
- (1) a table of contents;
 - (2) the name, address, and description of the facility and the identity of the owner or owners of the facility and the land on which it is located;
 - (3) the name and address of the provider and of any parent or subsidiary;
 - (4) the organizational structure and management of the provider, including:
 - (i) for a corporation or limited liability company, its name, the state in which it is incorporated or formed, and the name of the chief executive officer;
 - (ii) for a partnership, the names of the general partners, the state governing its formation, and the name of the primary individual responsible for managing it;
 - (iii) for an unincorporated association, the names of the members, the state governing its activities, and the name of the primary individual responsible for managing it;
 - (iv) for a partnership that has a corporation or limited liability company as one or more of its general partners, the name of each corporation or limited liability company, the state in which it is incorporated or formed, and the name of the chief executive officer;
 - (v) for a trust, the name of the trustee, the names of the owners of beneficial interests in the trust, the state governing it, and the name of the primary individual responsible for overseeing its activities; and
 - (vi) a statement whether the provider is qualified, or intends to qualify, as a tax-exempt organization under the Internal Revenue Code;
 - (5) the name and occupation of each officer, director, trustee, managing or general partner, and each person with a 10% or greater equity or beneficial interest in the provider, and a description of the person's financial interest in or occupation with the provider;
 - (6) the name and address of any entity in which a person identified in item (5) of this subsection has a 10% or greater financial interest and that is anticipated to provide goods, premises, or services with a value of \$10,000 or more to the facility or provider in a fiscal year and a description of the goods, premises, or services and their anticipated cost to the facility or provider, which need not include salary, wage,

or benefit information of employees of the provider;

(7) a description of any matter in which an individual identified in item (5) of this subsection:

(i) has been convicted of a felony or pleaded nolo contendere to a felony charge, if the felony involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(ii) has been held liable or enjoined in a civil action by final judgment, if the civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation as a fiduciary;

(iii) has been subject to an effective injunctive or restrictive order of a court of record in an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons; or

(iv) in the past 10 years, had a state or federal license or permit suspended or revoked because a governmental unit brought an action that arose out of or related to business activity or health care, including an action that affected a license to operate a facility or service for senior, impaired, or dependent persons;

(8) a description of the provider's form of governance and the composition of its governing body, and a statement that the provider will satisfy the requirements of §§ 10-426 and 10-427 of this subtitle;

(9) if the provider has a governing body, a description of the process used by the provider to:

(i) select a subscriber member of its governing body; and

(ii) satisfy the requirements of § 10-427(a) of this subtitle.

(10) a statement of any affiliation of the provider with a religious, charitable, or other nonprofit organization, and the extent of the organization's responsibility for the financial and contractual obligations of the provider;

(11) if the facility will be managed on a day-to-day basis by a person other than an individual who is directly employed by the provider, the name of the proposed manager or management company and a description of the business experience of the manager or company in operating or managing similar facilities;

(12) a copy of the most recent certified financial statement obtainable under generally accepted accounting principles;

(13) a description of the long-term financing for the facility;

- (14) a cash flow forecast for the current and the next two fiscal years;
- (15) a description of any activity related to a renovation, expansion, or new development during the preceding fiscal year or proposed for the current fiscal year;
- (16) a description of:
 - (i) the steps that have been or will be taken to comply with the operating reserve requirements under § 10–420(b) of this subtitle; and
 - (ii) the provider’s investment policy related to the required reserves, including how often and by whom the reserve fund investment is reviewed;
- (17) a description of the financial arrangements that the provider has made, if any, to address the renewal and replacement of the buildings and improvements at the facility, such as the establishment of a renewal and replacement fund;
- (18) if the facility has not reached 85% occupancy of its independent living units, a summary of the feasibility study;
- (19) if applicable, a description of the conditions under which the provider may be issued an initial certificate of registration and may use escrowed deposits;
- (20) a description of all basic fees, including entrance fees, fees for health related services, and periodic fees that the provider collects from subscribers, and the amount and frequency of any fee changes during the previous 5 years or, if the facility has been in operation less than 5 years, for each year of operation;
- (21) a summary of the basic services provided or proposed to be provided at the facility under the continuing care agreement, including the extent to which health related services are provided, that clearly states which services are indicated in the agreement as included in the basic fee and which services are or will be made available at or by the facility at an extra charge;
- (22) if applicable, a statement that it is the provider’s policy to impose a surcharge on some, but not all, subscribers because of a condition or circumstance that applies only to those subscribers and that the surcharge is not part of the entrance fee refund required under § 10–448 of this subtitle;
- (23) a description of the role of any resident association;
- (24) a description of the internal grievance procedure;
- (25) if the provider offers a continuing care agreement that promises a contractual entrance fee refund after occupancy, a statement whether the portion of the entrance fee to be refunded is held in trust or escrow for the subscriber after occupancy, and if so held, a description of where and how the funds are held;

(26) if the provider offers an extensive agreement, the following statement: “If you have a long-term care insurance policy, request your advisors to review the policy and the continuing care agreement to determine whether there are potential areas of duplication or areas where benefits can be coordinated.”;

(27) a statement that the provider will amend its disclosure statement whenever the provider or the Department considers an amendment necessary to prevent the disclosure statement from containing:

(i) a material misstatement of a fact required by this section to be stated in the disclosure statement; or

(ii) an omission of a material fact required by this section to be stated in the disclosure statement; and

(28) any other material information about the facility or the provider that the Department requires or that the provider wishes to include.

(b) The disclosure statement shall contain a cover page that states, in a prominent location and type face:

(1) the date of the disclosure statement; and

(2) that the issuance of a certificate of registration does not:

(i) constitute approval, recommendation, or endorsement of the facility by the Department; or

(ii) evidence or attest to the accuracy or completeness of the information in the disclosure statement.

(c) (1) This subsection applies to a provider that:

(i) has a continuing care agreement that includes a provision to provide assisted living program services; and

(ii) does not execute a separate assisted living agreement.

(2) In addition to any other requirement of this section, the disclosure statement shall contain the following information about the assisted living program:

(i) the name and address and a description of each facility that the provider operates;

(ii) a statement regarding the relationship of the provider to other providers or services if the relationship affects the care of the resident;

(iii) a description of any special programming, staffing, and training provided by the program for individuals with particular needs or conditions such as

cognitive impairment;

(iv) notice of:

1. the availability of locks for storage;
2. the availability of locks for the subscriber's room;
3. the security procedures that the provider will implement to protect the subscriber and the subscriber's property; and
4. the provider's right, if any, to enter a subscriber's room;

(v) a statement of the obligations of the provider, the subscriber, or the subscriber's agent for:

1. arranging or overseeing medical care;
2. monitoring the subscriber's health status;
3. purchasing or renting essential or desired equipment and supplies; and
4. ascertaining the cost of and purchasing durable medical equipment;

(vi) an explanation of the assisted living program's complaint or grievance procedure; and

(vii) notice of any material changes in the assisted living program.

(3) The provider shall:

(i) give to each subscriber annually and without cost revisions to the disclosure statement provisions under paragraph (2) of this subsection;

(ii) ensure that each subscriber or the subscriber's agent initials the revised disclosure statement to acknowledge the revisions; and

(iii) make copies of the initialed disclosure statements available for inspection by the Department of Health and Mental Hygiene under Title 19, Subtitle 18 of the Health - General Article.