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**By: Senators Hoffman, Hollinger, Derr, and ~~Boozer~~ Boozer, and Bromwell**

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Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 1996

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Continuing Care Contracts**

3 FOR the purpose of requiring a provider of continuing care to maintain certain reserves;  
4 requiring approval by the Office on Aging before a change in ownership or sale of  
5 more than a certain percentage of the ownership of a provider or facility; requiring  
6 approval by the Office on Aging before the transfer of assets of a provider in excess  
7 of a certain aggregate percentage within a certain time period; requiring a provider  
8 to issue a disclosure statement to current and prospective subscribers of continuing  
9 care; establishing minimum contents of the disclosure statement; requiring the  
10 provider to hold an annual meeting with resident representatives for a certain  
11 purpose; enabling subscribers of continuing care to be deemed creditors of a  
12 provider's estate under certain circumstances; amending existing requirements for  
13 providers that seek to expand or renovate continuing care facilities; altering the  
14 time period within which a subscriber may rescind a continuing care agreement for  
15 certain purposes; defining certain terms; making certain stylistic changes; providing  
16 for the application of various portions of this Act; making a part of this Act  
17 contingent; and generally relating to continuing care contracts.

18 BY repealing and reenacting, with amendments,

19 Article 70B - Office on Aging  
20 Section 7 through 11, 13 through 15, 17A, 20, 22, and 23  
21 Annotated Code of Maryland  
22 (1995 Replacement Volume)

23 BY adding to

24 Article 70B - Office on Aging  
25 Section 11A through 11E and 21  
26 Annotated Code of Maryland

2

1 (1995 Replacement Volume)

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

4 **Article 70B - Office on Aging**

5 7.

6 (a) ["Office" means Maryland Office on Aging.] IN THIS SUBTITLE THE  
7 FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

8 (B) "CERTIFIED FINANCIAL STATEMENT" MEANS A COMPLETE AUDIT  
9 PREPARED AND CERTIFIED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

10 [(b)] (C) (1) "Continuing care" means furnishing shelter and either medical and  
11 nursing services or other health related benefits to an individual 60 years of age or older  
12 not related by blood or marriage to the provider for the life of the individual or for a  
13 period in excess of 1 year under a written agreement that requires a transfer of assets or  
14 an entrance fee notwithstanding periodic charges.

15 (2) "Health related benefits" means, at a minimum, priority nursing  
16 home admission or assistance in the activities of daily living, exclusive of the provision of  
17 meals.

18 (3) Medical and nursing services and other health related benefits may be  
19 covered by the entrance fee, the periodic charges, or may be purchased, at the option of  
20 the subscriber, for an additional fee.

21 (D) "CONTINUING CARE AGREEMENT" MEANS THE AGREEMENT BETWEEN  
22 THE PROVIDER AND SUBSCRIBER TO PROVIDE CONTINUING CARE.

23 (E) "DEPOSIT" MEANS A PORTION OF AN ENTRANCE FEE.

24 (f) "Entrance fee" means an initial or deferred payment of a sum of money or any  
25 other consideration OTHER THAN A SURCHARGE [which] THAT assures a subscriber [a  
26 place in a facility] CONTINUING CARE for a term of years or for life. An accommodation  
27 fee, admission fee, or other fee of similar form and application shall be considered to be  
28 an entrance fee.

29 [(g) "Records" means the financial information and personnel data maintained by  
30 the provider for the proper operation of the facility pursuant to this subtitle.]

31 (G) "EXPANSION" MEANS ANY SINGLE NEW CAPITAL ADDITION, EXCLUDING  
32 RENOVATION AND NORMAL REPAIR AND MAINTENANCE, THAT MEETS EITHER OF  
33 THE FOLLOWING CRITERIA:

34 (1) IF INDEPENDENT OR ASSISTED LIVING UNITS ARE TO BE  
35 CONSTRUCTED ~~THEN,~~ THEN THE NUMBER OF UNITS TO BE CONSTRUCTED MUST BE  
36 LESS THAN OR EQUAL TO 25% OF THE NUMBER OF EXISTING INDEPENDENT AND  
37 ASSISTED LIVING UNITS; OR

1 (2) IF INDEPENDENT OR ASSISTED LIVING UNITS ARE NOT TO BE  
2 CONSTRUCTED ~~THEN, THEN~~ THE TOTAL PROJECTED COST MUST BE AN AMOUNT  
3 THAT IS MORE THAN THE SUM OF:

4 (I) 10% OF THE TOTAL OPERATING EXPENSES, LESS  
5 DEPRECIATION, AMORTIZATION, AND INTEREST EXPENSE OF THE FACILITY AS  
6 SHOWN ON THE CERTIFIED FINANCIAL STATEMENT FOR THE MOST RECENT FISCAL  
7 YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE; AND

8 (II) THE AMOUNT OF THE EXISTING RESERVES PROPERLY  
9 ALLOCABLE TO, AND SO ALLOCATED FOR, THE EXPANSION.

10 [(c)] (H) "Facility" means a physical plant in which continuing care is provided in  
11 accordance with this subtitle.

12 [(h)] "Fiscal year" means the fiscal year of the provider.]

13 [(i)] "Processing fee" means those costs incurred by the provider in determining  
14 the financial, mental, and physical eligibility of an applicant for entrance into a facility.]

15 (I) "FINANCIAL DIFFICULTY" MEANS CURRENT OR IMPENDING FINANCIAL  
16 CONDITIONS THAT IMPAIR OR MAY IMPAIR THE ABILITY OF THE PROVIDER TO  
17 MEET EXISTING OR FUTURE OBLIGATIONS.

18 [(j)] "Certified financial statement" means a complete audit prepared and certified  
19 to by an independent certified public accountant.]

20 (J) "OFFICE" MEANS THE MARYLAND OFFICE ON AGING.

21 (K) "PERSON" MEANS ANY NATURAL PERSON, FIRM, ASSOCIATION,  
22 CORPORATION, COMPANY, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY,  
23 PUBLIC BODY, OR OTHER BUSINESS OR NONPROFIT ENTITY.

24 (L) "PROCESSING FEE" MEANS THE FEE IMPOSED BY THE PROVIDER FOR  
25 DETERMINING THE FINANCIAL, MENTAL, AND PHYSICAL ELIGIBILITY OF AN  
26 APPLICANT FOR ENTRANCE INTO A FACILITY.

27 [(d)] (M) "Provider" means [the owner or operator, whether a natural person,  
28 partnership, unincorporated association, however organized, trust, or corporation, of an  
29 institution, building, residence, or other place, whether operated for profit or not, which  
30 owner or operator] ANY PERSON WHO undertakes to provide continuing care AND WHO  
31 IS:

32 (1) THE OWNER OR OPERATOR OF A FACILITY; OR

33 (2) AN APPLICANT FOR OR THE HOLDER OF A CERTIFICATE OF  
34 REGISTRATION.

35 (N) "RECORDS" MEANS THE INFORMATION MAINTAINED BY THE PROVIDER  
36 FOR THE PROPER OPERATION OF THE FACILITY UNDER THIS SUBTITLE.

37 (O) "RENOVATION" MEANS ANY SINGLE CAPITAL IMPROVEMENT TO, OR  
38 REPLACEMENT OF, THE EXISTING FACILITY, OR ANY PART OF THE EXISTING  
39 FACILITY, BUT EXCLUDING NORMAL REPAIR AND MAINTENANCE, THAT WILL NOT

4  
1 INCREASE THE NUMBER OF INDEPENDENT OR ASSISTED LIVING UNITS AND FOR  
2 WHICH THE TOTAL PROJECTED COST IS AN AMOUNT THAT IS MORE THAN THE SUM  
3 OF:

4 (1) 20% OF THE TOTAL OPERATING EXPENSES, LESS DEPRECIATION,  
5 AMORTIZATION, AND INTEREST EXPENSE OF THE FACILITY AS SHOWN ON THE  
6 CERTIFIED FINANCIAL STATEMENT FOR THE MOST RECENT FISCAL YEAR FOR  
7 WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE; AND

8 (2) THE AMOUNT OF THE EXISTING RESERVES PROPERLY ALLOCABLE  
9 TO, AND SO ALLOCATED FOR, THE RENOVATION.

10 [(e)] (P) "Subscriber" means [a purchaser of, or nominee of,] AN INDIVIDUAL  
11 FOR WHOM a continuing care agreement IS PURCHASED.

12 (Q) "SURCHARGE" MEANS A SEPARATE AND ADDITIONAL CHARGE, OTHER  
13 THAN A SECOND PERSON ENTRANCE FEE, IMPOSED SIMULTANEOUSLY WITH THE  
14 ENTRANCE FEE, THAT MAY BE REQUIRED OF SOME BUT NOT ALL SUBSCRIBERS  
15 BECAUSE OF A CONDITION OR CIRCUMSTANCE THAT APPLIES ONLY TO THOSE  
16 SUBSCRIBERS.

17 8.

18 The administration of this subtitle is vested in the State Office on Aging, which  
19 shall:

20 (1) Prepare and furnish all forms necessary or desirable under the  
21 provisions of this subtitle;

22 (2) Establish and collect reasonable filing fees established for the  
23 implementation of this subtitle;

24 (3) Adopt [rules and] regulations necessary to enforce this subtitle; and

25 (4) Prepare and distribute relevant public information and educational  
26 materials designed to advise individuals, institutions, and organizations of their rights and  
27 responsibilities under this subtitle.

28 9.

29 (a) [No] A provider [shall] MAY NOT offer continuing care, enter into or renew  
30 continuing care agreements, begin construction for A new [or expanded facilities]  
31 FACILITY, BEGIN CONSTRUCTION OF AN EXPANSION TO OR RENOVATION OF AN  
32 EXISTING FACILITY, or collect deposits for continuing care in this State unless the  
33 provider has complied with the APPLICABLE provisions of §§ 10 and 11 of this [article]  
34 SUBTITLE. ANY NEW CAPITAL ADDITION THAT WILL RESULT IN THE CONSTRUCTION  
35 OF A NUMBER OF INDEPENDENT AND ASSISTED LIVING UNITS THAT IS GREATER  
36 THAN 25% OF THE NUMBER OF EXISTING UNITS IS CONSIDERED NEW DEVELOPMENT  
37 AND IS SUBJECT TO § 10 OF THIS SUBTITLE. ANY NEW CAPITAL ADDITION THAT DOES  
38 NOT INVOLVE THE CONSTRUCTION OF INDEPENDENT OR ASSISTED LIVING UNITS  
39 AND THAT DOES NOT MEET THE STANDARD OF § 7(G)(2) OF THIS SUBTITLE IS NOT  
40 SUBJECT TO OFFICE REVIEW UNDER §§ 10 AND 11 OF THIS SUBTITLE. ANY CAPITAL  
41 IMPROVEMENT OR REPLACEMENT THAT DOES NOT ~~COST ENOUGH TO CONSTITUTE~~

1 ~~A RENOVATION MEET THE STANDARD OF § 7(O) OF THIS SUBTITLE~~, IS NOT SUBJECT  
2 TO OFFICE REVIEW UNDER § 10 OR § 11 OF THIS SUBTITLE.

3 [(b) Any provider who is offering continuing care when this subtitle takes effect  
4 shall be given a reasonable time, not to exceed 6 months from the date of the issuance of  
5 the applicable rules adopted pursuant to this subtitle, within which to comply with this  
6 subtitle and the rules promulgated pursuant thereto.]

7 [(c)] (B) When [an applicant] A PROVIDER has more than 1 facility offering  
8 continuing care, separate applications for preliminary and final certificates of registration  
9 and renewal certificates shall be made for each facility.

10 10.

11 (a) All providers who intend to develop[, expand, or renovate continuing care  
12 communities] A FACILITY shall file with the Office a statement of intent to provide  
13 continuing care at least 30 days prior to submission of a feasibility study for approval by  
14 the Office.

15 (b) A provider may not collect deposits for continuing care or begin construction  
16 of A new [or expanded facilities] FACILITY without approval of a feasibility study. The  
17 feasibility study shall be filed in a form satisfactory to the Office [on Aging] and shall  
18 include at least the following information:

19 (1) A statement of the purpose [and need] for the [project and the reasons  
20 for the] proposed construction[, expansion, or renovation];

21 (2) [A statement] DOCUMENTATION of THE financial resources of the  
22 provider;

23 (3) A statement of the capital expenditures necessary to accomplish the  
24 project AND THE PLAN FOR ACQUIRING THE NECESSARY CAPITAL;

25 (4) A [statement of] PLAN DEMONSTRATING THE financial feasibility  
26 [for] OF the proposed project [which] THAT shall include [a statement of] future  
27 funding sources; [and]

28 (5) A STUDY THAT DEMONSTRATES THE MARKET FOR THE PROJECT;

29 [(5)] (6) An actuarial forecast reviewed by a [certified actuary].  
30 QUALIFIED ACTUARY;

31 (7) A STATEMENT OF THE PLANNED FEE STRUCTURE, INCLUDING ANY  
32 PROPOSED ESCALATOR OR OTHER AUTOMATIC ADJUSTMENT PROVISION;

33 (8) A DESCRIPTION OF THE FACILITY THAT IS PROPOSED TO BE USED  
34 OR IS BEING USED TO FURNISH CONTINUING CARE;

35 (9) A COPY OF THE PROPOSED ESCROW AND DEPOSIT AGREEMENTS;  
36 AND

37 (10) THE FORM AND SUBSTANCE OF ANY ADVERTISING CAMPAIGN OR  
38 PROPOSED ADVERTISEMENT FOR THE FACILITY THAT IS AVAILABLE AT THE TIME  
39 OF FILING.

6

1 (c) The provider may collect deposits from prospective [members]  
2 SUBSCRIBERS, provided that a feasibility study has been approved by the Office and that  
3 funds collected are maintained in an escrow account.

4 (d) A feasibility study may be approved by the Office when it determines that:

5 (1) The number of comprehensive[,] OR domiciliary[, or extended care]  
6 beds in the [continuing care] facility, for which licenses are required by the Department  
7 of Health and Mental Hygiene, is not inconsistent with the State health plan;

8 (2) A reasonable financial plan has been developed for [constructing]  
9 DEVELOPING AND OPERATING the project;

10 (3) A market for the [continuing care] facility appears to exist;

11 (4) The feasibility study was prepared by a [certified public accountant or  
12 other] recognized authority;

13 (5) The actuarial forecast supports the [need] PROJECTIONS for the  
14 project; and

15 (6) The APPROVED escrow agreement and deposit agreement ARE  
16 EXECUTED BY THE PROVIDER AND THE FINANCIAL INSTITUTION AND state that all  
17 deposits will be held in escrow until the issuance of a certificate of registration,  
18 construction is complete, the provider has been issued a certificate of occupancy or the  
19 equivalent by the appropriate local jurisdiction, and the provider has been issued  
20 appropriate licenses or certificates by the Department of Health and Mental Hygiene or  
21 the Office.

22 (e) A provider may not enter into a continuing care agreement until the issuance  
23 of a preliminary certificate of registration by the Office. The application shall be filed in  
24 a form satisfactory to the Office and shall contain at least the following information:

25 (1) The name and address of the facility and the name and address of any  
26 [affiliated] AFFILIATE, parent or subsidiary [corporation or partnership] PERSON;

27 [(2) The name and address of the provider if the provider is an individual,  
28 the names and addresses of the partners or members if the provider is a partnership or  
29 other unincorporated association, or the names and addresses of the stockholders holding  
30 at least a 10 percent interest in a stock corporation, or the names and addresses of the  
31 members in a nonstock corporation, and the names and addresses of the members of the  
32 board of directors if the provider is a corporation, along with any significant financial  
33 interests such persons may have with a vendor or provider of services at the facility. As  
34 used in this paragraph, a "significant financial interest" means an interest of 10 percent or  
35 more;]

36 (2) THE ORGANIZATIONAL STRUCTURE AND MANAGEMENT OF THE  
37 PROVIDER, INCLUDING:

38 (I) IF THE PROVIDER IS A CORPORATION OR LIMITED LIABILITY  
39 COMPANY, THE NAME OF THE CORPORATION OR LIMITED LIABILITY COMPANY, THE  
40 STATE IN WHICH THE CORPORATION IS INCORPORATED OR THE LIMITED LIABILITY  
41 COMPANY IS FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

7

1 (II) IF THE PROVIDER IS A PARTNERSHIP, THE NAMES OF THE  
2 GENERAL PARTNERS, THE STATE GOVERNING THE FORMATION OF THE  
3 PARTNERSHIP, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR  
4 MANAGING THE PARTNERSHIP;

5 (III) IF THE PROVIDER IS AN UNINCORPORATED ASSOCIATION, THE  
6 NAMES OF THE MEMBERS, THE STATE GOVERNING THE ASSOCIATION'S ACTIVITIES,  
7 AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR MANAGING THE  
8 ASSOCIATION;

9 (IV) IF THE PROVIDER IS A PARTNERSHIP HAVING A CORPORATION  
10 OR LIMITED LIABILITY COMPANY AS ONE OR MORE OF ITS GENERAL PARTNERS,  
11 THE NAME OF THE CORPORATION OR LIMITED LIABILITY COMPANY, THE STATE IN  
12 WHICH THE CORPORATION IS INCORPORATED OR THE LIMITED LIABILITY  
13 COMPANY IS FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

14 (V) IF THE PROVIDER IS A TRUST, THE NAME OF THE TRUSTEE,  
15 THE NAMES OF THE OWNERS OF BENEFICIAL INTERESTS IN THE TRUST, THE STATE  
16 GOVERNING THE TRUST, AND THE NAME OF THE PRIMARY INDIVIDUAL  
17 RESPONSIBLE FOR OVERSEEING THE TRUST'S ACTIVITIES;

18 (VI) THE NAMES AND OCCUPATION OF ANY OF THE OFFICERS,  
19 DIRECTORS, TRUSTEES, MANAGING OR GENERAL PARTNERS, AND ANY OTHER  
20 PERSON WITH A 10% OR GREATER FINANCIAL EQUITY OR BENEFICIAL INTEREST IN  
21 THE PROVIDER AND A DESCRIPTION OF THE PERSON'S FINANCIAL INTEREST IN OR  
22 OCCUPATION WITH THE PROVIDER;

23 (VII) THE NAME AND ADDRESS OF ANY PROFESSIONAL SERVICE  
24 FIRM, ASSOCIATION, TRUST, PARTNERSHIP, COMPANY, OR CORPORATION IN WHICH  
25 A PERSON IDENTIFIED IN ITEM (VI) OF THIS PARAGRAPH HAS A 10% OR GREATER  
26 FINANCIAL INTEREST AND WHICH IS ANTICIPATED TO PROVIDE GOODS, PREMISES,  
27 OR SERVICES TO THE FACILITY OR PROVIDER OF A VALUE OF \$10,000 OR MORE  
28 WITHIN ANY FISCAL YEAR, ~~INCLUDING~~ AND A DESCRIPTION OF THE GOODS,  
29 PREMISES, OR SERVICES AND THEIR ANTICIPATED COST TO THE FACILITY OR  
30 PROVIDER; HOWEVER, DISCLOSURE OF SALARY, WAGE, OR BENEFIT INFORMATION  
31 OF EMPLOYEES OF THE PROVIDER IS NOT REQUIRED; AND

32 (VIII) A STATEMENT REGARDING WHETHER THE PROVIDER IS  
33 QUALIFIED, OR INTENDS TO QUALIFY, AS A TAX EXEMPT ORGANIZATION UNDER  
34 THE INTERNAL REVENUE CODE;

35 (3) A copy of the corporate charter, partnership agreement, articles of  
36 association, membership agreement, [or] trust [agreement] AGREEMENT, OR SIMILAR  
37 INSTRUMENT OR AGREEMENT [as it pertains] PERTAINING to the legal organization  
38 of the [applicant] PROVIDER;

39 (4) A certified FINANCIAL statement of the [applicant's] PROVIDER  
40 [financial condition, including balance sheet and income statements for the 3 most recent  
41 fiscal years, or all years of operation if fewer than 3 years] FOR AS MANY OF THE MOST  
42 RECENT FISCAL YEARS, NOT EXCEEDING 3 YEARS, FOR WHICH CERTIFIED  
43 FINANCIAL STATEMENTS ARE OBTAINABLE UNDER GENERALLY ACCEPTED

8

1 ACCOUNTING PRINCIPLES. If the [applicant's] PROVIDER'S fiscal year ended more  
2 than 90 days prior to the date of filing, there shall also be included an income statement,  
3 which need not be certified, covering the period between the date the fiscal year ended  
4 and a date not more than 90 days prior to the date the application is filed;

5 (5) A statement as to any affiliation with a religious, charitable, or other  
6 nonprofit organization; the extent of any [affiliation;] AFFILIATION, and the extent, if  
7 any, to which the affiliate organization will be responsible for the financial and  
8 contractual obligations of the [applicant] PROVIDER;

9 (6) A copy of the agreement to be entered into between the provider and  
10 subscriber for continuing [care] CARE, AND ANY PRIORITY ADMISSION AGREEMENTS  
11 BETWEEN THE PROVIDER AND ANY HEALTH CARE PROVIDER TO PROVIDE  
12 HEALTH-RELATED BENEFITS;

13 (7) A statement of the MOST CURRENT fee structure, including escalator or  
14 other automatic adjustment provisions;

15 [(8) A description of the facility which is proposed to be used or is being used  
16 to furnish continuing care;]

17 [(9)] (8) A statement of the role of any publicly funded benefit or insurance  
18 program in the financing of care;

19 [(10)] (9) [A sample] THE FORM AND SUBSTANCE of ANY ADVERTISING  
20 CAMPAIGN, [each planned or previously published advertisement] ADVERTISEMENT,  
21 or [circular] OTHER PROMOTIONAL MATERIAL for the facility [during the past 5  
22 years] NOT PREVIOUSLY APPROVED BY THE OFFICE; and

23 [(11)] (10) Other reasonable and pertinent data [as] THAT the Office [may  
24 require] REQUIRES.

25 (F) IF THE PROVIDER PLANS TO ADVERTISE BEFORE HAVING A CERTIFICATE  
26 OF REGISTRATION ISSUED UNDER § 11 OF THIS SUBTITLE, THE FORM AND  
27 SUBSTANCE OF ANY ADVERTISEMENT OR ADVERTISING CAMPAIGN MUST BE  
28 SUBMITTED TO THE OFFICE AND APPROVED BEFORE THE ADVERTISEMENT OR  
29 ADVERTISING CAMPAIGN MAY BE USED.

30 [(f)] (G) A preliminary certificate of registration shall be issued by the Office if it  
31 determines that:

32 (1) The feasibility study has been approved;

33 (2) The CONTINUING CARE agreement to be used between the provider  
34 and the subscriber meets the requirements of §§ 13, 14, and 15 of this [article]  
35 SUBTITLE;

36 (3) All of the financial and organizational materials required to be  
37 submitted under subsection (e) of this section have been submitted to the Office; and

38 (4) [All] THE FORM AND SUBSTANCE OF ALL advertising and OTHER  
39 promotional materials [have been approved by the Office] FILED ARE NOT DECEPTIVE,  
40 MISLEADING, OR LIKELY TO MISLEAD.



1 [(g)] (H) If a preliminary certificate of registration is not obtained from the Office  
2 within 6 months of the approval of a feasibility study, or such longer time as is allowed by  
3 the Office for good cause shown, the provider shall refund all deposits and cease in its  
4 attempts to market continuing care [at the location specified in the] UNDER THAT  
5 application.

6 11.

7 (a) A provider may not provide continuing care until the issuance of a certificate  
8 of registration by the Office. The application shall be filed in a form satisfactory to the  
9 Office. The application shall contain at least the following information:

10 (1) Verification that subscribers' continuing care agreements have been  
11 executed for at least 65 percent of the independent living units and at least 10 percent of  
12 the total entrance fee for each contracted unit has been collected;

13 (2) Verification that the [applicant] PROVIDER has received a written  
14 commitment for permanent long-term financing, [and] AND, when requested by the  
15 permanent financing lender, the Office may issue a letter stating that all requirements of  
16 paragraph (1) of this subsection have been met; and

17 (3) Verification that application for construction financing has taken place.  
18 When requested by a construction lender, the Office may issue a letter stating that all  
19 requirements of paragraphs (1) and (2) of this subsection have been met and on closing of  
20 the construction loan the certificate of registration shall be issued.

21 (b) (1) A certificate of registration shall be issued by the Office when it  
22 determines that:

23 (i) The [applicant] PROVIDER has been issued a preliminary  
24 certificate of registration;

25 (ii) The documents required have been filed;

26 (iii) The FORM AND SUBSTANCE OF ALL advertising AND OTHER  
27 PROMOTIONAL materials [and circulars] filed are not deceptive, misleading, or likely to  
28 mislead;

29 (iv) At least 65 percent of the independent living units have been  
30 contracted for with a minimum 10 percent of the entrance fee paid as a deposit for each  
31 contracted unit;

32 (v) Closing on construction financing has taken place; and

33 (vi) There is a commitment for permanent long-term financing.

34 (2) The initial certificate of registration may be issued for a period of up to  
35 18 months at the discretion of the Office.

36 (c) A deposit held in escrow may not be used until a certificate of registration has  
37 been issued, construction is completed, the provider has been issued a certificate of  
38 occupancy, or the equivalent, by the appropriate local jurisdiction, and the provider has  
39 been issued appropriate licenses or certificates by the Department of Health and Mental  
40 Hygiene or by the Office.

10

1 (d) If a certificate of registration is not issued within 24 months of the issuance of  
2 a preliminary certificate of registration or longer time as is allowed by the Office for good  
3 cause shown, the provider shall refund all deposits and cease in its attempts to offer  
4 continuing care [at the location specified in the] UNDER THAT application.

5 (e) Annually, within 120 days after the end of the fiscal year, the provider shall  
6 file an application for a renewal certificate in a form satisfactory to the Office which shall  
7 contain the following information:

8 (1) Any additions or changes to the information required by § 10 of this  
9 [article] SUBTITLE;

10 (2) [A certified] AN AUDITED financial statement for the preceding fiscal  
11 year prepared in accordance with an audit guide adopted by the Office;

12 (3) [A cash basis operation] AN OPERATING budget for the current fiscal  
13 year, and a projected [cash basis] operating budget for the next succeeding fiscal year;

14 (4) A CASH FLOW PROJECTION FOR THE CURRENT FISCAL YEAR AND  
15 THE NEXT 2 FISCAL YEARS;

16 [(4)] (5) A projection of the life expectancy and the number of residents  
17 who will require nursing home care;

18 [(5)] (6) An actuarial study reviewed by a [certified actuary,] QUALIFIED  
19 ACTUARY and submitted every 3 years; [and]

20 (7) THE FORM AND SUBSTANCE OF ANY ADVERTISING CAMPAIGN OR  
21 PROPOSED ADVERTISEMENT AND OTHER PROMOTIONAL MATERIALS NOT  
22 PREVIOUSLY FILED WITH THE OFFICE; AND

23 [(6)] (8) Any further information [which may be required by] THAT the  
24 Office REQUIRES.

25 (f) If the application and accompanying information is not received by the Office  
26 within the 120-day period, a late fee may be charged. Failure to file the required  
27 information within 90 days of the due date shall be a violation of this subtitle.

28 (g) A renewal of a certificate of registration shall be issued by the Office when it  
29 determines that:

30 (1) The documents required have been filed;

31 (2) Any revised continuing care agreements meet the requirements of this  
32 subtitle;

33 (3) The provider has complied with § 17A of this [article] SUBTITLE if it  
34 has been found to be in financial difficulty;

35 (4) When appropriate, the [facilities have] FACILITY HAS been licensed or  
36 certified by the Department of Health and Mental Hygiene or the Office; and

11

1 (5) The FORM AND SUBSTANCE OF ALL advertising AND OTHER  
2 PROMOTIONAL materials [and circulars] filed are not deceptive, misleading, or likely to  
3 mislead.

4 (H) A PROVIDER SHALL FILE A REQUEST FOR APPROVAL FOR EACH  
5 RENOVATION IN A FORM SATISFACTORY TO THE OFFICE. AT LEAST 30 DAYS BEFORE  
6 FILING THE REQUEST, THE PROVIDER SHALL SUBMIT TO THE OFFICE A WRITTEN  
7 STATEMENT THAT SETS FORTH THE PROVIDER'S INTENT TO FILE A RENOVATION  
8 APPROVAL REQUEST. A REQUEST FOR APPROVAL SHALL INCLUDE:

9 (1) A STATEMENT OF THE PURPOSE OF AND NEED FOR THE  
10 RENOVATION;

11 (2) A FINANCIAL PLAN THAT DEMONSTRATES TO THE SATISFACTION OF  
12 THE OFFICE THAT THE RENOVATION WILL NOT HAVE AN UNREASONABLY ADVERSE  
13 ~~AFFECT~~ EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER TO FURNISH  
14 CONTINUING CARE IN ACCORDANCE WITH THE PROVIDER'S CONTINUING CARE  
15 AGREEMENTS AND THIS SUBTITLE AT THE FACILITY IDENTIFIED IN THE PLAN AND  
16 AT EACH OTHER FACILITY OF THE PROVIDER IN THE STATE; AND

17 (3) ANY OTHER INFORMATION THAT THE OFFICE REQUIRES.

18 (I) THE OFFICE SHALL APPROVE ANY RENOVATION REQUESTED IN  
19 ACCORDANCE WITH THIS SECTION IF THE OFFICE DETERMINES THAT THE  
20 PROPOSED RENOVATION WILL NOT HAVE AN UNREASONABLY ADVERSE ~~AFFECT~~  
21 EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER TO FURNISH CONTINUING  
22 CARE IN ACCORDANCE WITH THE PROVIDER'S CONTINUING CARE AGREEMENTS  
23 AND THIS SUBTITLE. A PROVIDER MAY NOT BEGIN CONSTRUCTION OF THE  
24 RENOVATION UNTIL THE PROVIDER RECEIVES WRITTEN APPROVAL FROM THE  
25 OFFICE.

26 (J) A PROVIDER SHALL FILE A REQUEST FOR APPROVAL FOR EACH  
27 EXPANSION IN A FORM SATISFACTORY TO THE OFFICE. AT LEAST 30 DAYS BEFORE  
28 FILING THE REQUEST, THE PROVIDER SHALL SUBMIT TO THE OFFICE A WRITTEN  
29 STATEMENT THAT SETS FORTH THE PROVIDER'S INTENT TO FILE AN EXPANSION  
30 REQUEST. THE REQUEST SHALL INCLUDE:

31 (1) A STATEMENT OF THE PURPOSE OF AND NEED FOR THE EXPANSION;

32 (2) IF THE EXPANSION INVOLVES LIVING UNITS, A PLAN THAT  
33 DEMONSTRATES TO THE SATISFACTION OF THE OFFICE THAT A MARKET EXISTS  
34 FOR THE ADDITIONAL LIVING UNITS;

35 (3) A FINANCIAL PLAN THAT DEMONSTRATES TO THE SATISFACTION OF  
36 THE OFFICE THAT THE EXPANSION WILL NOT HAVE AN UNREASONABLY ADVERSE  
37 ~~AFFECT~~ EFFECT ON THE FINANCIAL ABILITY OF THE PROVIDER TO FURNISH  
38 CONTINUING CARE IN ACCORDANCE WITH THE PROVIDER'S CONTINUING CARE  
39 AGREEMENTS AND THIS SUBTITLE AT THE FACILITY IDENTIFIED IN THE PLAN AND  
40 AT EACH OTHER FACILITY OF THE PROVIDER IN THE STATE; AND

41 (4) ANY OTHER INFORMATION THAT THE OFFICE REQUIRES.

12

1 (K) THE OFFICE SHALL APPROVE ANY EXPANSION REQUESTED IN  
2 ACCORDANCE WITH THIS SECTION AND, IF APPROPRIATE, ISSUE A NEW  
3 CERTIFICATE OF REGISTRATION IF THE OFFICE DETERMINES THAT THE PROPOSED  
4 EXPANSION WILL NOT HAVE AN UNREASONABLY ADVERSE ~~AFFECT~~ EFFECT ON THE  
5 FINANCIAL ABILITY OF THE PROVIDER TO FURNISH CONTINUING CARE IN  
6 ACCORDANCE WITH THE PROVIDER'S CONTINUING CARE AGREEMENTS AND THIS  
7 SUBTITLE. A PROVIDER MAY NOT BEGIN CONSTRUCTION OF THE EXPANSION UNTIL  
8 THE PROVIDER RECEIVES WRITTEN APPROVAL FROM THE OFFICE.

9 [(h)] (L) It shall be the responsibility of the Office to make the information  
10 REQUIRED TO BE provided pursuant to this subtitle available to all interested persons.  
11 The Office shall publicize the availability of this information.

12 11A.

13 (A) AT LEAST ANNUALLY, EACH PROVIDER SHALL CONDUCT A MEETING,  
14 OPEN TO ALL OF THE PROVIDER'S SUBSCRIBERS, AT WHICH AN AUTHORIZED  
15 OFFICER OF THE PROVIDER SHALL PRESENT A SUMMARY OF THE PROVIDER'S  
16 OPERATIONS, SIGNIFICANT CHANGES FROM THE PREVIOUS YEAR, AND THE GOALS  
17 AND OBJECTIVES FOR THE NEXT YEAR. THE GOVERNING BODY OF THE PROVIDER  
18 SHALL MAKE PROVISIONS TO RECEIVE AND ANSWER QUESTIONS FROM  
19 SUBSCRIBERS AT THE MEETING.

20 (B) EACH GOVERNING BODY OF A PROVIDER THAT DOES NOT HAVE AT  
21 LEAST ONE SUBSCRIBER AS A MEMBER OR AS A REGULAR ATTENDEE AT ITS  
22 MEETING WITH A RIGHT TO ADDRESS THE GOVERNING BODY SHALL APPOINT A  
23 SELECT COMMITTEE OF ITS MEMBERS TO MEET AT LEAST TWICE ANNUALLY WITH  
24 THE FACILITY'S RESIDENT ASSOCIATION TO ADDRESS CONCERNS OF THE  
25 SUBSCRIBERS AND TO ENSURE THAT THE OPINIONS OF SUBSCRIBERS ARE RELAYED  
26 TO THE GOVERNING BODY. IF A COMMUNITY DOES NOT HAVE A RESIDENT  
27 ASSOCIATION, THE COMMITTEE SHALL MEET WITH A REASONABLE NUMBER OF  
28 REPRESENTATIVES, NOT REQUIRED TO EXCEED FIFTEEN, ELECTED BY THE  
29 SUBSCRIBERS.

30 11B.

31 (A) IN THIS SECTION, "NET OPERATING EXPENSES" MEANS THE PROVIDER'S  
32 TOTAL OPERATING EXPENSES RELATED TO FURNISHING CONTINUING CARE AT  
33 EACH FACILITY OF THE PROVIDER, LESS DEPRECIATION, AMORTIZATION, UNUSUAL  
34 AND INFREQUENT EXPENSES, AND CHANGES IN THE OBLIGATION TO PROVIDE  
35 FUTURE SERVICES. INTEREST EXPENSES MAY BE EXCLUDED FROM CALCULATION  
36 OF NET OPERATING EXPENSES, IF THE PROVIDER HAS FUNDED A DEBT SERVICE  
37 RESERVE OR OTHER INTEREST RESERVE UNDER REQUIREMENTS IMPOSED BY A  
38 FINANCIAL INSTITUTION OR UNDER APPLICABLE FINANCING DOCUMENTS, TO THE  
39 EXTENT AND IN THE AMOUNT THE FUND INCLUDES AMOUNTS TO COVER INTEREST  
40 FOR THE YEAR IN QUESTION.

41 (B) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THE PROVIDER  
42 SHALL SET ASIDE FOR EACH FACILITY SUBJECT TO THIS SUBTITLE OPERATING  
43 RESERVES THAT EQUAL 15% OF THE FACILITY'S NET OPERATING EXPENSES FOR  
44 THE MOST RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT

13

1 IS AVAILABLE. THE RESERVES SHALL BE MAINTAINED IN REASONABLY LIQUID  
2 FORM IN THE JUDGEMENT OF THE PROVIDER.

3 (C) THE PROVIDER SHALL COMPUTE OPERATING RESERVES FOR EACH  
4 FACILITY AS OF THE END OF THE FACILITY'S MOST RECENT FISCAL YEAR AND,  
5 SIMULTANEOUSLY WITH SUBMISSION OF ITS APPLICATION FOR A RENEWAL  
6 CERTIFICATE, SHALL INDICATE COMPLIANCE BY SETTING FORTH IN A LETTER TO  
7 THE OFFICE FROM A CERTIFIED PUBLIC ACCOUNTANT THE AMOUNT ACTUALLY SET  
8 ASIDE OR BY DISCLOSING THE AMOUNT IN A CERTIFIED FINANCIAL STATEMENT.

9 (D) A PROVIDER MAY APPLY TOWARD THE RESERVE REQUIRED BY THIS  
10 SECTION ANY RESERVES, OTHER THAN DEBT SERVICE RESERVES, MAINTAINED  
11 UNDER APPLICABLE FINANCING DOCUMENT REQUIREMENTS IF THE RESERVES ARE  
12 AVAILABLE TO THE PROVIDER TO MEET THE FACILITY'S OPERATING EXPENSES.

13 (E) FOR THE PURPOSE OF CALCULATING THE PROVIDER'S OPERATING  
14 RESERVES, INVESTMENTS HELD TO THE CREDIT OF THE RESERVES SHALL BE  
15 CALCULATED AT THEIR MARKET VALUE AS OF THE END OF THE PROVIDER'S MOST  
16 RECENT FISCAL YEAR FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS  
17 AVAILABLE.

18 (F) THE PROVIDER SHALL NOTIFY THE OFFICE IN WRITING  
19 SIMULTANEOUSLY WITH DRAWING ANY AMOUNT FROM THE FUNDS AVAILABLE TO  
20 SATISFY THE OPERATING RESERVE THAT IS REQUIRED BY SUBSECTION (B) OF THIS  
21 SECTION. WITHIN 30 DAYS OF SUCH DRAW, THE PROVIDER SHALL SUBMIT TO THE  
22 OFFICE A WRITTEN PLAN FOR RESTORING THE FUNDS IN THE RESERVE TO THE  
23 LEVEL REQUIRED BY SUBSECTION (B) OF THIS SECTION.

24 (G) (1) ANY PROVIDER THAT HOLDS A CERTIFICATE OF REGISTRATION OR  
25 A PRELIMINARY CERTIFICATE OF REGISTRATION OR APPROVAL OF ITS FEASIBILITY  
26 STUDY ~~AS OF THE EFFECTIVE DATE OF THIS SECTION ON OCTOBER 1, 1996~~ SHALL  
27 HAVE UP TO 10 FULL FISCAL YEARS AFTER ~~THE EFFECTIVE DATE~~ OCTOBER 1, 1996  
28 TO MEET THE REQUIREMENT OF SUBSECTION (B) OF THIS SECTION.

29 (2) ANY SUCH PROVIDER SHALL MEET THE REQUIREMENT OF  
30 SUBSECTION (B) OF THIS SECTION AT A MINIMUM RATE OF 10% PER YEAR AS OF THE  
31 END OF EACH FISCAL YEAR AFTER ~~THE EFFECTIVE DATE~~ OCTOBER 1, 1996, UP TO A  
32 TOTAL OF 100% AS OF THE END OF THE 10TH FISCAL YEAR.

33 (3) THE OFFICE MAY ALLOW ANY SUCH PROVIDER TO MODIFY THE  
34 MINIMUM RATE OR AUTHORIZE AN ADDITIONAL AMOUNT OF TIME TO MEET THE  
35 REQUIREMENT OF SUBSECTION (B) OF THE SECTION, IF THE MODIFICATION IS  
36 NECESSARY TO MAINTAIN THE FINANCIAL VIABILITY OF THE FACILITY.

37 ~~(H) (1) ANY PROVIDER THAT DOES NOT HOLD A CERTIFICATE OF~~  
38 ~~REGISTRATION OR A PRELIMINARY CERTIFICATE OF REGISTRATION OR APPROVAL~~  
39 ~~OF ITS FEASIBILITY STUDY AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL~~  
40 ~~MEET THE REQUIREMENT OF SUBSECTION (B) OF THIS SECTION AS OF THE END OF~~  
41 ~~THE SECOND FULL FISCAL YEAR AFTER THE FISCAL YEAR IN WHICH THE PROVIDER~~  
42 ~~IS ENTITLED, UNDER SUBSECTION 11(C) OF THIS SECTION, TO THE RELEASE OF ALL~~  
43 ~~OF THE FUNDS HELD IN ESCROW.~~

14

1           ~~(2) (I) A PROVIDER MEETING THE STANDARDS OF PARAGRAPH (1) OF~~  
2 ~~THIS SUBSECTION MAY SATISFY THE REQUIREMENT OF PARAGRAPH (1) OF THIS~~  
3 ~~SUBSECTION BY MEANS OF A BINDING AGREEMENT THAT UNCONDITIONALLY~~  
4 ~~OBLIGATES A FINANCIAL INSTITUTION TO FURNISH THE PROVIDER CREDIT IN AN~~  
5 ~~AMOUNT AT LEAST EQUAL TO THE AMOUNT REQUIRED IN PARAGRAPH (1) OF THIS~~  
6 ~~SUBSECTION.~~

7           ~~(II) THE PROVIDER MUST MEET THE REQUIREMENTS OF~~  
8 ~~PARAGRAPH (1) OF THIS SUBSECTION THROUGH A RESERVE AS OF THE EARLIER TO~~  
9 ~~OCCUR OF:~~

10                           ~~1. THE END OF THE 10TH FULL FISCAL YEAR FOLLOWING~~  
11 ~~THE FISCAL YEAR IN WHICH THE PROVIDER IS ENTITLED, TO THE RELEASE OF ALL~~  
12 ~~OF THE FUNDS HELD IN ESCROW UNDER § 11(C) OF THIS SUBTITLE; AND~~

13                           ~~2. THE DATE ON WHICH THE BINDING AGREEMENT WITH A~~  
14 ~~FINANCIAL INSTITUTION EXPIRES, TERMINATES, OR IS NOT RENEWED.~~

15           ~~(H) (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION,~~  
16 ~~A PROVIDER THAT DOES NOT BY OCTOBER 1, 1996 HOLD A CERTIFICATE OF~~  
17 ~~REGISTRATION OR A PRELIMINARY CERTIFICATE OF REGISTRATION OR RECEIVE~~  
18 ~~APPROVAL BY THE OFFICE ON AGING OF THE PROVIDER'S FEASIBILITY STUDY~~  
19 ~~MUST MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION FROM THE~~  
20 ~~END OF THE SECOND FULL FISCAL YEAR AFTER THE FISCAL YEAR IN WHICH THE~~  
21 ~~PROVIDER MAY OBTAIN, UNDER § 11(C) OF THIS SUBTITLE, THE USE OF FUNDS HELD~~  
22 ~~IN ESCROW.~~

23           ~~(2) FOR THE TIME SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, A~~  
24 ~~PROVIDER THAT DOES NOT BY OCTOBER 1, 1996 HOLD A CERTIFICATE OF~~  
25 ~~REGISTRATION OR A PRELIMINARY CERTIFICATE OF REGISTRATION OR RECEIVE~~  
26 ~~APPROVAL OF THE OFFICE ON AGING OF THE PROVIDER'S FEASIBILITY STUDY IS~~  
27 ~~EXEMPT FROM THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION IF THE~~  
28 ~~PROVIDER HAS A BINDING AGREEMENT WITH A FINANCIAL INSTITUTION, AS~~  
29 ~~DEFINED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE, THAT~~  
30 ~~UNCONDITIONALLY OBLIGATES THE FINANCIAL INSTITUTION TO FURNISH THE~~  
31 ~~PROVIDER CREDIT IN AN AMOUNT AT LEAST EQUAL TO THE AMOUNT REQUIRED IN~~  
32 ~~SUBSECTION (B) OF THIS SECTION.~~

33           ~~(3) A PROVIDER MEETING THE REQUIREMENTS OF PARAGRAPH (2) OF~~  
34 ~~THIS SUBSECTION IS EXEMPT FROM THE REQUIREMENTS OF SUBSECTION (B) OF~~  
35 ~~THIS SECTION UNTIL THE EARLIER OF:~~

36                           ~~(I) THE END OF THE TENTH FULL FISCAL YEAR AFTER THE FISCAL~~  
37 ~~YEAR IN WHICH THE PROVIDER MAY OBTAIN, UNDER § 11(C) OF THIS SUBTITLE, THE~~  
38 ~~USE OF FUNDS HELD IN ESCROW; OR~~

39                           ~~(II) THE DATE ON WHICH THE BINDING AGREEMENT WITH A~~  
40 ~~FINANCIAL INSTITUTION EXPIRES.~~

41           ~~(I) FOR ANY FACILITY IN WHICH SOME RESIDENTS ARE NOT PARTIES TO~~  
42 ~~CONTINUING CARE AGREEMENTS, THE PROVIDER SHALL COMPUTE THE AMOUNT~~  
43 ~~OF THE OPERATING RESERVE REQUIREMENT BASED ON THE PORTION OF THE NET~~

15

1 OPERATING EXPENSES WHICH BEARS THE SAME RATIO TO THE TOTAL NET  
2 OPERATING EXPENSE AS THE NUMBER OF UNITS CERTIFIED BY THE OFFICE BEARS  
3 TO THE TOTAL NUMBER OF LIVING UNITS.

4 11C.

5 (A) (1) THE PROVIDER SHALL FURNISH WITHOUT COST TO ALL  
6 PROSPECTIVE SUBSCRIBERS, BEFORE PAYMENT OF ANY PART OF THE ENTRANCE  
7 FEE OR, IF EARLIER, THE EXECUTION OF A CONTINUING CARE AGREEMENT, AND  
8 ANNUALLY TO ALL SUBSCRIBERS ON REQUEST, A DISCLOSURE STATEMENT FOR  
9 EACH FACILITY OF THE PROVIDER HOLDING A PRELIMINARY CERTIFICATE OF  
10 REGISTRATION OR A CERTIFICATE OF REGISTRATION.

11 (2) THE PROVIDER SHALL SUBMIT ITS INITIAL DISCLOSURE STATEMENT  
12 TO THE OFFICE FOR REVIEW AT LEAST 45 DAYS BEFORE DISTRIBUTING THE  
13 STATEMENT TO ANY PROSPECTIVE SUBSCRIBERS.

14 (B) (1) THE PROVIDER SHALL REVISE THE DISCLOSURE STATEMENT  
15 ANNUALLY AND FILE THE DISCLOSURE STATEMENT WITH THE OFFICE WITHIN 120  
16 DAYS AFTER THE END OF THE PROVIDER'S FISCAL YEAR.

17 (2) THE OFFICE SHALL REVIEW THE DISCLOSURE STATEMENT SOLELY  
18 TO ENSURE COMPLIANCE WITH THIS SECTION.

19 (C) THE DISCLOSURE STATEMENT SHALL INCLUDE:

20 (1) THE NAME, ADDRESS, AND DESCRIPTION OF THE FACILITY AND THE  
21 NAME AND ADDRESS OF ANY PARENT OR SUBSIDIARY PERSON;

22 (2) THE ORGANIZATIONAL STRUCTURE AND MANAGEMENT OF THE  
23 PROVIDER, INCLUDING:

24 (I) IF THE PROVIDER IS A CORPORATION OR LIMITED LIABILITY  
25 COMPANY, THE NAME OF THE CORPORATION OR LIMITED LIABILITY COMPANY, THE  
26 STATE IN WHICH THE CORPORATION IS INCORPORATED OR THE LIMITED LIABILITY  
27 COMPANY IS FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

28 (II) IF THE PROVIDER IS A PARTNERSHIP, THE NAMES OF THE  
29 GENERAL PARTNERS, THE STATE GOVERNING THE FORMATION OF THE  
30 PARTNERSHIP, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR  
31 MANAGING THE PARTNERSHIP;

32 (III) IF THE PROVIDER IS AN UNINCORPORATED ASSOCIATION, THE  
33 NAMES OF THE MEMBERS, THE STATE GOVERNING THE ASSOCIATION'S ACTIVITIES,  
34 AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE FOR MANAGING THE  
35 ASSOCIATION;

36 (IV) IF THE PROVIDER IS A PARTNERSHIP HAVING A CORPORATION  
37 OR LIMITED LIABILITY COMPANY AS ONE OR MORE OF ITS GENERAL PARTNERS,  
38 THE NAME OF THE CORPORATION OR LIMITED LIABILITY COMPANY, THE STATE IN  
39 WHICH THE CORPORATION IS INCORPORATED OR THE LIMITED LIABILITY  
40 COMPANY IS FORMED, AND THE NAME OF THE CHIEF EXECUTIVE OFFICER;

16

1 (V) IF THE PROVIDER IS A TRUST, THE NAME OF THE TRUSTEE,  
2 THE NAMES OF THE OWNERS OF THE BENEFICIAL INTERESTS IN THE TRUST, THE  
3 STATE GOVERNING THE TRUST, AND THE NAME OF THE PRIMARY INDIVIDUAL  
4 RESPONSIBLE FOR OVERSEEING THE TRUST'S ACTIVITIES; AND

5 (VI) A STATEMENT REGARDING WHETHER THE PROVIDER IS  
6 QUALIFIED, OR INTENDS TO QUALIFY, AS A TAX-EXEMPT ORGANIZATION UNDER  
7 THE INTERNAL REVENUE CODE;

8 (3) A STATEMENT REGARDING ANY AFFILIATION OF THE PROVIDER  
9 WITH A RELIGIOUS, CHARITABLE, OR OTHER NONPROFIT ORGANIZATION, AND THE  
10 EXTENT TO WHICH THE ORGANIZATION IS RESPONSIBLE FOR THE FINANCIAL AND  
11 CONTRACTUAL OBLIGATIONS OF THE PROVIDER;

12 (4) A DESCRIPTION OF ALL FEES, INCLUDING ENTRANCE FEES, HEALTH  
13 CARE FEES, AND PERIODIC FEES, COLLECTED BY THE PROVIDER FROM  
14 SUBSCRIBERS, SETTING FORTH THE AMOUNT AND FREQUENCY OF THE ~~ANNUAL~~  
15 ~~PERCENTAGE FEE~~ CHANGES DURING EACH OF THE PREVIOUS 5 YEARS. IF THE  
16 FACILITY HAS BEEN IN OPERATION LESS THAN 5 YEARS, THEN THE DESCRIPTION  
17 SHALL BE FOR EACH YEAR THAT IT HAS BEEN IN OPERATION;

18 (5) A STATEMENT ~~THAT PROVISIONS~~ DESCRIBING PROVISIONS THAT  
19 HAVE BEEN OR WILL BE MADE TO COMPLY WITH THE OPERATING RESERVE  
20 REQUIREMENTS AS DESCRIBED IN § 11B OF THIS SUBTITLE, AND A GENERAL  
21 STATEMENT REGARDING THE PROVIDER'S INVESTMENT POLICY RELATED TO THE  
22 REQUIRED RESERVES, INCLUDING HOW OFTEN THE RESERVE FUND INVESTMENT IS  
23 REVIEWED AND BY WHOM;

24 (6) A COPY OF THE MOST RECENT CERTIFIED FINANCIAL STATEMENT  
25 OBTAINABLE UNDER GENERALLY ACCEPTED ACCOUNTING PRINCIPLES;

26 (7) A DESCRIPTION OF THE LONG-TERM FINANCING FOR THE FACILITY;

27 (8) IF THE FACILITY HAS NOT REACHED 85% OCCUPANCY OF  
28 INDEPENDENT LIVING UNITS, A SUMMARY OF THE FEASIBILITY STUDY;

29 (9) A CASH FLOW FORECAST STATEMENT FOR THE CURRENT AND THE  
30 NEXT 2 FISCAL YEARS;

31 (10) THE NAMES AND OCCUPATIONS OF THE OFFICERS, DIRECTORS,  
32 TRUSTEES, MANAGING OR GENERAL PARTNERS, AND ANY OTHER PERSONS WITH A  
33 10% OR GREATER EQUITY OR BENEFICIAL INTEREST IN THE PROVIDER, AND A  
34 DESCRIPTION OF THE FINANCIAL INTEREST IN OR OCCUPATION WITH THE  
35 PROVIDER;

36 (11) THE NAME AND ADDRESS OF ANY PROFESSIONAL SERVICE FIRM,  
37 ASSOCIATION, TRUST, PARTNERSHIP, COMPANY, OR CORPORATION IN WHICH A  
38 PERSON IDENTIFIED IN ITEM (10) OF THIS SUBSECTION HAS A 10% OR GREATER  
39 FINANCIAL INTEREST AND WHICH IS ANTICIPATED TO PROVIDE GOODS, PREMISES,  
40 OR SERVICES TO THE FACILITY OR PROVIDER OF A VALUE OF \$10,000 OR MORE  
41 WITHIN ANY FISCAL YEAR, INCLUDING A DESCRIPTION OF THE GOODS, PREMISES,  
42 OR SERVICES AND THEIR ANTICIPATED COST TO THE FACILITY OR PROVIDER.



17

1 HOWEVER, THE DISCLOSURE OF SALARY, WAGE, OR BENEFIT INFORMATION OF  
2 EMPLOYEES OF THE PROVIDER IS NOT REQUIRED;

3 (12) THE NAME OF THE PROPOSED MANAGER OR MANAGEMENT  
4 COMPANY IF THE FACILITY IS OR WILL BE MANAGED ON A DAY-TO-DAY BASIS BY A  
5 PERSON OTHER THAN AN INDIVIDUAL DIRECTLY EMPLOYED BY THE PROVIDER,  
6 AND A DESCRIPTION OF THE BUSINESS EXPERIENCE, IF ANY, OF THE MANAGER OR  
7 COMPANY IN THE OPERATION OR MANAGEMENT OF SIMILAR FACILITIES;

8 (13) A DESCRIPTION OF ANY MATTER IN WHICH AN INDIVIDUAL  
9 IDENTIFIED IN ITEM (10) OF THIS SUBSECTION:

10 (I) HAS BEEN CONVICTED OF A FELONY OR PLEADED NOLO  
11 CONTENDERE TO A FELONY CHARGE, IF THE FELONY INVOLVED FRAUD,  
12 EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF  
13 PROPERTY;

14 (II) HAS BEEN HELD LIABLE OR ENJOINED IN A CIVIL ACTION BY  
15 FINAL JUDGMENT IF THE CIVIL ACTION INVOLVED FRAUD, EMBEZZLEMENT,  
16 FRAUDULENT CONVERSION, OR MISAPPROPRIATION AS A FIDUCIARY; OR

17 (III) HAS BEEN SUBJECT TO AN EFFECTIVE INJUNCTIVE OR  
18 RESTRICTIVE ORDER OF A COURT OF RECORD OR, WITHIN THE PAST 10 YEARS, HAD  
19 ANY STATE OR FEDERAL LICENSE OR PERMIT SUSPENDED OR REVOKED AS A  
20 RESULT OF AN ACTION BROUGHT BY A GOVERNMENTAL AGENCY, ARISING OUT OF  
21 OR RELATING TO BUSINESS ACTIVITY OR HEALTH CARE, INCLUDING ACTIONS  
22 AFFECTING A LICENSE TO OPERATE ANY FACILITY OR SERVICE FOR AGING,  
23 IMPAIRED, OR DEPENDENT PERSONS;

24 (14) A DESCRIPTION OF THE FORM OF GOVERNANCE OF THE PROVIDER,  
25 INCLUDING THE COMPOSITION OF THE GOVERNING BODY, AND A STATEMENT THAT  
26 THE PROVIDER SHALL SATISFY THE REQUIREMENTS OF § 11A OF THIS SUBTITLE;

27 (15) IF APPLICABLE, A DESCRIPTION OF THE CONDITIONS UNDER WHICH  
28 THE PROVIDER MAY BE ISSUED A CERTIFICATE OF REGISTRATION AND MAY USE  
29 ESCROWED DEPOSITS, AND A STATEMENT OF THE AMOUNT OF THE SUBSCRIBER'S  
30 DEPOSIT THAT MAY BE USED ON ISSUANCE OF A CERTIFICATE OF REGISTRATION;

31 (16) A SUMMARY OF THE BASIC SERVICES PROVIDED OR PROPOSED TO  
32 BE PROVIDED AT THE FACILITY UNDER THE CONTINUING CARE AGREEMENT,  
33 INCLUDING THE EXTENT TO WHICH HEALTH RELATED SERVICES ARE FURNISHED,  
34 THAT CLEARLY STATES WHICH SERVICES ARE INDICATED IN THE AGREEMENT AS  
35 INCLUDED IN THE BASIC FEE OR FEES AND WHICH SERVICES ARE OR WILL BE MADE  
36 AVAILABLE AT OR BY THE FACILITY AT AN EXTRA CHARGE;

37 (17) A STATEMENT THAT THE PROVIDER SHALL AMEND ITS DISCLOSURE  
38 STATEMENT IF, AT ANY TIME, IN THE OPINION OF THE PROVIDER OR THE OFFICE,  
39 AN AMENDMENT IS NECESSARY TO PREVENT THE DISCLOSURE STATEMENT FROM  
40 CONTAINING ANY MATERIAL MISSTATEMENT OF FACT REQUIRED BY THIS SECTION  
41 TO BE STATED IN THE DISCLOSURE STATEMENT OR OMISSION OF A MATERIAL FACT  
42 REQUIRED BY THIS SECTION TO BE STATED IN THE DISCLOSURE STATEMENT;

18

1 (18) A DESCRIPTION OF ANY ACTIVITY INVOLVING A RENOVATION OR  
2 AN EXPANSION, WHETHER OR NOT SUBJECT TO OFFICE REVIEW, DURING THE  
3 PRECEDING FISCAL YEAR OR PROPOSED FOR THE CURRENT FISCAL YEAR;

4 (19) A STATEMENT IF IT IS THE PROVIDER'S POLICY TO IMPOSE A  
5 SURCHARGE ON SOME, BUT NOT ALL, SUBSCRIBERS BECAUSE OF SOME CONDITION  
6 OR CIRCUMSTANCE AND THAT THE SURCHARGE WILL NOT BE CONSIDERED PART  
7 OF THE ENTRANCE FEE IN THE STATUTORY REFUND UNDER § 15 OF THIS SUBTITLE;  
8 AND

9 (20) SUCH OTHER MATERIAL INFORMATION CONCERNING THE FACILITY  
10 OR THE PROVIDER AS THE OFFICE REQUIRES OR THAT THE PROVIDER WISHES TO  
11 INCLUDE.

12 (D) THE DISCLOSURE STATEMENT SHALL CONTAIN A COVER PAGE THAT  
13 STATES, IN A PROMINENT LOCATION AND TYPE FACE, THE DATE OF THE  
14 DISCLOSURE STATEMENT AND THAT THE ISSUANCE OF A CERTIFICATE OF  
15 REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION, OR  
16 ENDORSEMENT OF THE FACILITY BY THE OFFICE, NOR IS IT EVIDENCE OF, OR DOES  
17 IT ATTEST TO, THE ACCURACY OR COMPLETENESS OF THE INFORMATION SET OUT  
18 IN THE DISCLOSURE STATEMENT.

19 (E) ANY AMENDED DISCLOSURE STATEMENT:

20 (1) SHALL BE FILED WITH THE OFFICE AT THE SAME TIME THAT IT IS  
21 DELIVERED TO ANY SUBSCRIBER OR PROSPECTIVE SUBSCRIBER; AND

22 (2) IS SUBJECT TO ALL THE REQUIREMENTS OF THIS SUBTITLE.

23 11D.

24 (A) (1) A PROVIDER THAT HOLDS A CERTIFICATE OF REGISTRATION AND A  
25 PERSON WITH AN OWNERSHIP INTEREST IN OR RIGHT TO CONTROL THE PROVIDER  
26 THROUGH GOVERNING BODY APPOINTMENTS OR CONTRACTUAL OR SIMILAR  
27 ARRANGEMENTS MAY NOT SELL OR OTHERWISE TRANSFER, DIRECTLY OR  
28 INDIRECTLY, MORE THAN 50% OF THE PROVIDER'S OWNERSHIP OF A FACILITY OR  
29 MORE THAN 50% OF THE OWNERSHIP OF, OR RIGHT TO CONTROL, A PERSON THAT  
30 OWNS OR CONTROLS A FACILITY, UNLESS THE PROVIDER OR PERSON OBTAINS THE  
31 APPROVAL OF THE OFFICE TO THE SALE OR OTHER TRANSFER IN ACCORDANCE  
32 WITH THIS SECTION.

33 (2) ANY SERIES OF SUCH SALES OR OTHER TRANSFERS WITHIN A  
34 12-MONTH PERIOD SHALL BE AGGREGATED FOR PURPOSES OF THIS SECTION.

35 (3) THIS SECTION DOES NOT APPLY TO A TRANSFER OF OWNERSHIP OF  
36 A FACILITY, OR TO A TRANSFER OF OWNERSHIP OR CONTROL OF A PERSON OWNING  
37 OR CONTROLLING A FACILITY, IF THE TRANSFER IS PART OF A BUSINESS  
38 REORGANIZATION, AND IF THE SAME PARTY OR PARTIES HOLDING A MAJORITY OF  
39 OWNERSHIP OR RIGHT TO CONTROL BEFORE THE BUSINESS REORGANIZATION  
40 WILL RETAIN, DIRECTLY OR INDIRECTLY, A MAJORITY OF OWNERSHIP OR RIGHT  
41 TO CONTROL AFTER THE BUSINESS REORGANIZATION.

19

1 (4) NOTWITHSTANDING PARAGRAPH (3) OF THIS SUBSECTION, 30 DAYS  
2 PRIOR NOTICE SHALL BE GIVEN BY THE PROVIDER TO THE OFFICE AND TO THE  
3 FACILITY'S SUBSCRIBERS OF ANY REORGANIZATION MEETING THE STANDARDS OF  
4 PARAGRAPH (3) OF THIS SUBSECTION.

5 (B) (1) A PROVIDER SUBJECT TO SUBSECTION (A)(1) OF THIS SECTION  
6 SHALL:

7 (I) AT LEAST 90 DAYS BEFORE THE PROPOSED EFFECTIVE DATE  
8 OF THE SALE OR OTHER TRANSFER, FILE WITH THE OFFICE A STATEMENT OF  
9 INTENT TO TRANSFER OWNERSHIP OR CONTROL; AND

10 (II) AT LEAST 65 DAYS BEFORE THE PROPOSED EFFECTIVE DATE  
11 OF THE SALE OR OTHER TRANSFER, GIVE WRITTEN NOTICE OF THE PROPOSED SALE  
12 OR OTHER TRANSFER TO THE SUBSCRIBERS OF THE AFFECTED FACILITY AND TO  
13 THE OFFICE.

14 (2) THE WRITTEN NOTICE REQUIRED BY PARAGRAPH (1)(II) OF THIS  
15 SUBSECTION SHALL SPECIFY THE PLACE AND TIME FOR THE MEETING SPECIFIED IN  
16 PARAGRAPH (4) OF THIS SUBSECTION. THE NOTICE TO THE OFFICE SHALL INCLUDE  
17 THE FOLLOWING INFORMATION, WHICH ALSO SHALL BE PROVIDED TO ANY  
18 SUBSCRIBER OF THE AFFECTED FACILITY ON REQUEST:

19 (I) THE ADDRESS OF THE PROVIDER AND THE OFFICE TO WHICH  
20 COMMENTS MAY BE SENT;

21 (II) THE NAME AND ADDRESS OF THE AFFECTED FACILITY AND  
22 THE NAME AND ADDRESS OF THE PROVIDER;

23 (III) THE ORGANIZATIONAL STRUCTURE AND MANAGEMENT OF  
24 THE PROVIDER AND THE FACILITY AFTER THE PROPOSED SALE OR OTHER  
25 TRANSFER IS COMPLETED, INCLUDING:

26 ~~A.~~ 1. IF THE PROVIDER IS TO BE A CORPORATION OR  
27 LIMITED LIABILITY COMPANY, THE NAME OF THE CORPORATION OR LIMITED  
28 LIABILITY COMPANY, THE STATE IN WHICH THE CORPORATION IS INCORPORATED  
29 OR THE LIMITED LIABILITY COMPANY IS FORMED, AND THE NAME OF THE CHIEF  
30 EXECUTIVE OFFICER;

31 ~~B.~~ 2. IF THE PROVIDER IS TO BE A PARTNERSHIP, THE  
32 NAMES OF THE GENERAL PARTNERS, THE STATE GOVERNING THE FORMATION OF  
33 THE PARTNERSHIP, AND THE NAME OF THE PRIMARY INDIVIDUAL RESPONSIBLE  
34 FOR MANAGING THE PARTNERSHIP;

35 ~~C.~~ 3. IF THE PROVIDER IS TO BE AN UNINCORPORATED  
36 ASSOCIATION, THE NAMES OF THE MEMBERS, THE STATE GOVERNING THE  
37 UNINCORPORATED ASSOCIATION'S ACTIVITIES, AND THE NAME OF THE PRIMARY  
38 INDIVIDUAL RESPONSIBLE FOR MANAGING THE ASSOCIATION;

39 ~~D.~~ 4. IF THE PROVIDER IS TO BE A TRUST, THE NAME OF  
40 THE TRUSTEE, THE NAMES OF THE OWNERS OF THE BENEFICIAL INTERESTS IN THE

20

1 TRUST, THE STATE GOVERNING THE TRUST, AND THE NAME OF THE PRIMARY  
2 INDIVIDUAL RESPONSIBLE FOR OVERSEEING THE TRUST'S ACTIVITIES;

3 ~~E- 5.~~ IF THE PROVIDER IS TO BE A PARTNERSHIP HAVING  
4 A CORPORATION OR LIMITED LIABILITY COMPANY AS ONE OR MORE OF ITS  
5 GENERAL PARTNERS, THE NAME OF THE CORPORATION OR LIMITED LIABILITY  
6 COMPANY, THE STATE IN WHICH THE CORPORATION IS INCORPORATED OR THE  
7 LIMITED LIABILITY COMPANY IS FORMED, AND THE NAME OF THE CHIEF  
8 EXECUTIVE OFFICER; AND

9 ~~F- 6.~~ THE NAMES AND OCCUPATIONS OF THE OFFICERS,  
10 DIRECTORS, TRUSTEES, GENERAL PARTNERS, PRINCIPALS, AND ANY PERSON OR  
11 ENTITY WHO WILL HAVE A 10% OR GREATER EQUITY OR BENEFICIAL INTEREST IN  
12 THE PROVIDER OR IN THE ENTITY OWNING OR CONTROLLING THE PROVIDER;

13 (IV) A COPY OF THE CORPORATE CHARTER, PARTNERSHIP  
14 AGREEMENT, ARTICLES OF ASSOCIATION, MEMBERSHIP AGREEMENT, OR TRUST  
15 AGREEMENT AS IT WILL PERTAIN TO THE LEGAL ORGANIZATION OF THE PROVIDER  
16 AFTER THE SALE OR OTHER TRANSFER;

17 (V) A STATEMENT AS TO ANY AFFILIATION WITH A RELIGIOUS,  
18 CHARITABLE, OR OTHER NONPROFIT ORGANIZATION THAT WILL EXIST AFTER THE  
19 PROPOSED SALE OR OTHER TRANSFER AND THE EXTENT, IF ANY, TO WHICH THE  
20 AFFILIATE ORGANIZATION WILL BE RESPONSIBLE FOR THE FINANCIAL AND  
21 CONTRACTUAL OBLIGATIONS OF THE PROVIDER;

22 (VI) THE NAME AND ADDRESS OF ANY BUSINESS OR PROFESSIONAL  
23 ENTITY OR OPERATION THAT IS LIKELY TO PROVIDE GOODS, PREMISES, OR  
24 SERVICES TO THE FACILITY OR PROVIDER, AFTER THE SALE OR OTHER TRANSFER,  
25 OF A VALUE OF \$10,000 OR MORE WITHIN ANY YEAR, INCLUDING A DESCRIPTION OF  
26 THE GOODS, PREMISES, OR SERVICES IN WHICH ANY OF THE PERSONS IDENTIFIED  
27 IN ITEM ~~(III)F~~ (III)6 OF THIS PARAGRAPH HAS A 10% OR GREATER FINANCIAL  
28 INTEREST;

29 (VII) THE NAME OF THE PROPOSED MANAGER OR MANAGEMENT  
30 COMPANY THAT WILL MANAGE THE DAY-TO-DAY OPERATIONS OF THE FACILITY  
31 AFTER THE SALE OR OTHER TRANSFER, AND A DESCRIPTION OF THE BUSINESS  
32 EXPERIENCE OF THE MANAGER OR COMPANY IN THE OPERATION OR  
33 MANAGEMENT OF SIMILAR FACILITIES;

34 (VIII) A DESCRIPTION OF ANY MATTER IN WHICH ANY PERSON  
35 IDENTIFIED IN ITEM ~~(III)F~~ (III)6 OF THIS PARAGRAPH:

36 A. HAS BEEN CONVICTED OF A FELONY OR PLEADED NOLO  
37 CONTENDERE TO A FELONY CHARGE, IF THE FELONY INVOLVED FRAUD,  
38 EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF  
39 PROPERTY, OR HAS BEEN HELD LIABLE OR ENJOINED IN A CIVIL ACTION BY FINAL  
40 JUDGEMENT IF THE CIVIL ACTION INVOLVED FRAUD, EMBEZZLEMENT,  
41 FRAUDULENT CONVERSION, OR MISAPPROPRIATION AS A FIDUCIARY; OR

42 B. WAS SUBJECT TO AN EFFECTIVE INJUNCTIVE OR  
43 RESTRICTIVE ORDER OF A COURT OF RECORD OR, WITHIN THE PAST 10 YEARS, HAD

21

1 ANY STATE OR FEDERAL LICENSE OR PERMIT SUSPENDED OR REVOKED AS A  
2 RESULT OF AN ACTION BROUGHT BY A GOVERNMENTAL AGENCY ARISING OUT OF  
3 OR RELATING TO BUSINESS ACTIVITY OR HEALTH CARE, INCLUDING ACTIONS  
4 AFFECTING A LICENSE TO OPERATE ANY FACILITY OR SERVICE FOR AGING,  
5 IMPAIRED, OR DEPENDENT PERSONS;

6 (IX) A FINANCIAL PLAN IN A FORM REASONABLY ACCEPTABLE TO  
7 THE OFFICE DEMONSTRATING THE PROJECTED EFFECTS OF THE SALE OR OTHER  
8 TRANSFER ON THE FINANCIAL OPERATIONS OF THE PROVIDER AND THE FACILITY,  
9 INCLUDING ANY OBLIGATIONS OF THE PROVIDER TO MAKE PAYMENTS IN  
10 CONNECTION WITH THE SALE OR OTHER TRANSFER FROM THE FINANCIAL  
11 RESOURCES OF THE PROVIDER OR THE FACILITY;

12 (X) A STATEMENT THAT DEMONSTRATES THAT THE SALE OR  
13 OTHER TRANSFER IS NOT LIKELY TO HAVE AN UNREASONABLY ADVERSE IMPACT  
14 ON THE FINANCIAL STABILITY OF THE PROVIDER OR UNREASONABLY ADVERSELY  
15 AFFECT THE PROVIDER'S CAPACITY TO PERFORM ITS OBLIGATIONS UNDER THE  
16 CONTINUING CARE AGREEMENTS TO WHICH IT IS A PARTY; AND

17 ~~(IX) OTHER REASONABLE AND PERTINENT INFORMATION THAT~~  
18 ~~THE OFFICE REQUIRES.~~

19 (XI) ANY OTHER INFORMATION THAT THE OFFICE REQUIRES.

20 (3) FOR THE FIRST FIFTEEN DAYS AFTER GIVING THE NOTICE  
21 SPECIFIED IN PARAGRAPH (1)(II) OF THIS SUBSECTION, SUBSCRIBERS MAY SUBMIT  
22 TO THE PROVIDER AND TO THE OFFICE WRITTEN QUESTIONS AND COMMENTS ON  
23 THE PROPOSED SALE OR OTHER TRANSFER.

24 (4) NOT LATER THAN THE 25TH DAY AFTER THE NOTICE SPECIFIED IN  
25 PARAGRAPH (1)(II) OF THIS SUBSECTION, REPRESENTATIVES OF THE PROVIDER  
26 SHALL HOLD A MEETING WITH REPRESENTATIVES OF THE SUBSCRIBERS OF THE  
27 AFFECTED FACILITY TO DISCUSS THE PROPOSED SALE OR OTHER TRANSFER.  
28 REPRESENTATIVES OF THE SUBSCRIBERS SHALL BE CHOSEN BY THE SUBSCRIBERS  
29 AND MAY NOT EXCEED 15 IN NUMBER. THE NAMES AND ADDRESSES OF THE  
30 SUBSCRIBER REPRESENTATIVES SHALL BE GIVEN BY THE REPRESENTATIVES TO  
31 THE PROVIDER AND TO THE OFFICE. REPRESENTATIVES OF THE OFFICE MAY  
32 ATTEND SUCH MEETING.

33 (5) FOR THE FIRST 10 DAYS AFTER THE MEETING SPECIFIED IN  
34 PARAGRAPH (4) OF THIS SUBSECTION, SUBSCRIBERS MAY SUBMIT TO THE PROVIDER  
35 AND TO THE OFFICE ADDITIONAL WRITTEN COMMENTS ON THE PROPOSED SALE OR  
36 OTHER TRANSFER.

37 (C) AFTER REVIEWING THE INFORMATION AS REQUIRED IN SUBSECTION (B)  
38 OF THIS SECTION, THE OFFICE SHALL MAKE A DETERMINATION AS TO WHETHER  
39 THE SALE OR OTHER TRANSFER SATISFIES THE STANDARD FOR APPROVAL IN  
40 SUBSECTION (D) OF THIS SECTION. THE DETERMINATION BY THE OFFICE SHALL BE  
41 MADE BY THE 50TH DAY AFTER THE DATE OF THE NOTICE REQUIRED BY  
42 SUBSECTION (B)(1)(II) OF THIS SECTION, UNLESS EXTENDED BY THE OFFICE FOR

22

1 GOOD CAUSE. THE OFFICE SHALL NOTIFY THE PROVIDER AND THE SUBSCRIBER  
2 REPRESENTATIVES IN WRITING OF ITS DETERMINATION AND RATIONALE.

3 (D) THE OFFICE SHALL APPROVE A SALE OR OTHER TRANSFER OF  
4 OWNERSHIP OR CONTROL UNLESS THE OFFICE DETERMINES THAT THE SALE OR  
5 OTHER TRANSFER IS LIKELY TO HAVE AN UNREASONABLY ADVERSE IMPACT ON  
6 THE FINANCIAL STABILITY OF THE PROVIDER OR IS LIKELY TO HAVE AN  
7 UNREASONABLY ADVERSE ~~AFFECT~~ EFFECT ON A PROVIDER'S CAPACITY TO  
8 PERFORM ITS OBLIGATIONS UNDER THE CONTINUING CARE AGREEMENTS TO  
9 WHICH IT IS A PARTY.

10 (E) THE DECISION BY THE OFFICE WITH RESPECT TO THE PROPOSED SALE OR  
11 OTHER TRANSFER IS SUBJECT TO APPEAL ONLY BY THE PROVIDER IN ACCORDANCE  
12 WITH THE ADMINISTRATIVE PROCEDURES ACT. NO OTHER PERSON SHALL BE  
13 DEEMED TO BE A PARTY IN INTEREST TO THE PROCEEDINGS. IF AN APPEAL IS  
14 TAKEN BY THE PROVIDER, THE OFFICE SHALL GIVE PROMPT NOTICE OF THE  
15 APPEAL TO THE SUBSCRIBER REPRESENTATIVES. THE OFFICE SHALL GIVE  
16 SUBSCRIBER REPRESENTATIVES PROMPT NOTICE OF ANY DECISION RENDERED IN  
17 THE APPEAL.

18 (F) A SALE OR OTHER TRANSFER OF OWNERSHIP OR CONTROL SUBJECT TO  
19 THIS SECTION MAY NOT BE COMPLETED UNTIL AFTER THE 15TH DAY FOLLOWING  
20 THE LATER OF:

21 (1) THE DAY ON WHICH THE OFFICE ISSUES THE NOTICE SPECIFIED IN  
22 SUBSECTION (C) OF THIS SECTION OF A DETERMINATION TO APPROVE THE SALE OR  
23 OTHER TRANSFER; OR

24 (2) THE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE RENDERS  
25 A DECISION PERMITTING THE SALE OR OTHER TRANSFER IF APPEAL IS TAKEN  
26 UNDER SUBSECTION (E) OF THIS SECTION.

27 11E.

28 (A) (1) A PROVIDER THAT HOLDS A CERTIFICATE OF REGISTRATION MAY  
29 NOT SELL, TRANSFER, OR OTHERWISE DISPOSE OF ASSETS IN ANY 12-MONTH  
30 PERIOD IN EXCESS OF 10% OF ITS TOTAL ASSETS BASED ON ITS LATEST CERTIFIED  
31 FINANCIAL STATEMENTS THAT ARE AVAILABLE AT THE TIME ~~OF~~ THE SALE,  
32 TRANSFER, OR OTHER DISPOSITION IS MADE, UNLESS THE PROVIDER OBTAINS THE  
33 APPROVAL OF THE OFFICE FOR THE SALE, TRANSFER, OR OTHER DISPOSITION IN  
34 ACCORDANCE WITH THIS SECTION.

35 (2) WITH RESPECT TO TRANSFERS THAT ARE EQUAL TO OR LESS THAN  
36 10% OF ITS TOTAL ASSETS BASED ON THE LATEST CERTIFIED FINANCIAL  
37 STATEMENTS THAT ARE AVAILABLE AT THE TIME THE SALE, TRANSFER, OR OTHER  
38 DISPOSITION IS MADE, A PROVIDER MAY NOT SELL, TRANSFER, OR OTHERWISE  
39 DISPOSE OF ANY OF ITS ASSETS IF THE SALE, TRANSFER, OR OTHER DISPOSITION IS  
40 LIKELY, ACCORDING TO STANDARDS SET FORTH IN REGULATION, TO:

41 (1) HAVE AN UNREASONABLY ADVERSE IMPACT ON THE  
42 FINANCIAL STABILITY OF THE PROVIDER ~~OR LIKELY TO;~~ OR

1                    (II) HAVE AN UNREASONABLY ADVERSE ~~AFFECT~~ EFFECT ON THE  
2 PROVIDER'S CAPACITY TO PERFORM ITS OBLIGATIONS UNDER CONTINUING CARE  
3 AGREEMENTS TO WHICH IT IS A PARTY.

4                    (B) THE FOLLOWING TRANSACTIONS ARE NOT CONSIDERED SALES,  
5 TRANSFERS, OR OTHER DISPOSITIONS OF ASSETS FOR PURPOSES OF SUBSECTION  
6 (A)(1) OF THIS SECTION:

7                    (1) THOSE UNDERTAKEN UNDER CONTRACTUAL OBLIGATIONS IN  
8 EFFECT ON OCTOBER 1, 1996;

9                    (2) THOSE MADE IN THE ORDINARY COURSE OF BUSINESS OF  
10 OPERATING THE FACILITY;

11                   (3) REFUNDS OF AMOUNTS UNDER CONTRACTS ENTERED INTO IN THE  
12 ORDINARY COURSE OF BUSINESS;

13                   (4) TRANSFERS OF CASH, SECURITIES, OR OTHER INVESTMENT  
14 PROPERTIES IN CONNECTION WITH ORDINARY INVESTMENT TRANSACTIONS;

15                   (5) GRANTS OF MORTGAGES, DEEDS OF TRUST, OR SECURITY  
16 INTERESTS TO UNRELATED THIRD PARTIES;

17                   (6) THOSE INVOLVING EASEMENTS, RIGHTS-OF-WAY, ROAD  
18 WIDENINGS, AND SIMILAR CONVEYANCES FOR THE BENEFIT OF PUBLIC BODIES OR  
19 UTILITIES;

20                   (7) THOSE MADE FOR AN EXPANSION OR RENOVATION; AND

21                   (8) ANY OTHER SALES, TRANSFERS, OR OTHER DISPOSITIONS  
22 IDENTIFIED BY THE OFFICE IN REGULATIONS AS APPROPRIATE TO FALL WITHIN  
23 THIS SUBSECTION.

24                   (C) (1) A PROVIDER SUBJECT TO SUBSECTION (A)(1) OF THIS SECTION  
25 SHALL, AT LEAST 60 DAYS BEFORE THE SALE, TRANSFER, OR OTHER DISPOSITION,  
26 FILE WITH THE OFFICE A STATEMENT OF INTENT TO SELL, TRANSFER, OR  
27 OTHERWISE DISPOSE OF ASSETS, AND, AT LEAST 30 DAYS BEFORE THE SALE,  
28 TRANSFER, OR OTHER DISPOSITION, GIVE WRITTEN NOTICE OF THE PROPOSED  
29 SALE, TRANSFER, OR OTHER DISPOSITION TO THE OFFICE.

30                   ~~(2) NOTICE TO THE OFFICE REQUIRED BY PARAGRAPH (1)(I) OF THIS~~  
31 ~~SUBSECTION SHALL INCLUDE THE FOLLOWING INFORMATION:~~

32                   (2) THE STATEMENT OF INTENT REQUIRED TO BE FILED WITH THE  
33 OFFICE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE  
34 FOLLOWING INFORMATION:

35                   (I) IDENTIFICATION OF THE ASSET OR ASSETS TO BE SOLD,  
36 TRANSFERRED, OR OTHERWISE DISPOSED OF;

37                   (II) IF THE PROVIDER IS SUBJECT TO SUBSECTION (A) OF THIS  
38 SECTION BY REASON OF A SERIES OF SALES, TRANSFERS, OR OTHER DISPOSITIONS  
39 THAT HAVE EXCEEDED CUMULATIVELY THE 10% AMOUNT, THEN THE PROVIDER

24

1 SHALL IDENTIFY ALL OF THE ASSETS THAT HAVE RESULTED CUMULATIVELY IN  
2 EXCEEDING THE 10% AMOUNT; AND

3 (III) THE REASON FOR THE SALE, TRANSFER, OR OTHER  
4 DISPOSITION IDENTIFIED IN PARAGRAPH (2)(I) OF THIS SUBSECTION.

5 (3) THE NOTICE TO THE OFFICE REQUIRED BY ~~PARAGRAPH (1)(II)~~  
6 PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE THE FOLLOWING  
7 INFORMATION:

8 (I) A STATEMENT THAT DEMONSTRATES THAT THE PROPOSED  
9 SALE, TRANSFER, OR OTHER DISPOSITION IS NOT LIKELY TO HAVE AN  
10 UNREASONABLY ADVERSE IMPACT ON THE FINANCIAL STABILITY OF THE  
11 PROVIDER OR LIKELY OTHERWISE TO HAVE AN UNREASONABLY ADVERSE ~~AFFECT~~  
12 EFFECT ON THE PROVIDER'S CAPACITY TO PERFORM ITS OBLIGATIONS UNDER THE  
13 CONTINUING CARE AGREEMENTS TO WHICH IT IS A PARTY; AND

14 ~~(II) OTHER REASONABLE AND PERTINENT INFORMATION THAT~~  
15 ~~THE OFFICE REQUIRES.~~

16 (II) ANY OTHER INFORMATION THAT THE OFFICE REQUIRES.

17 (D) AFTER REVIEWING THE INFORMATION REQUIRED BY SUBSECTION (C) OF  
18 THIS SECTION, THE OFFICE SHALL MAKE A DETERMINATION AS TO WHETHER THE  
19 SALE, TRANSFER, OR OTHER DISPOSITION SATISFIES THE STANDARD OF  
20 SUBSECTION (E) OF THIS SECTION. THE DETERMINATION BY THE OFFICE SHALL BE  
21 MADE AND COMMUNICATED TO THE PROVIDER IN WRITING BY THE 25TH DAY  
22 AFTER THE DATE OF THE NOTICE REQUIRED BY ~~SUBSECTION (C)(II)~~ SUBSECTION  
23 (C)(1) OF THIS SECTION, UNLESS EXTENDED BY THE OFFICE FOR GOOD CAUSE. IF  
24 THE DETERMINATION OF THE OFFICE IS NOT TO APPROVE THE PROPOSED SALE,  
25 TRANSFER, OR OTHER DISPOSITION, THE OFFICE SHALL SET FORTH ITS REASONING  
26 AS TO ITS DETERMINATION IN THE WRITTEN COMMUNICATION TO THE PROVIDER.

27 (E) THE OFFICE SHALL APPROVE THE SALE, TRANSFER, OR OTHER  
28 DISPOSITION OF ASSETS UNLESS IT DETERMINES THAT THE SALE, TRANSFER, OR  
29 OTHER DISPOSITION IS LIKELY TO HAVE AN UNREASONABLY ADVERSE IMPACT ON  
30 THE FINANCIAL STABILITY OF THE PROVIDER OR IS LIKELY TO HAVE AN  
31 UNREASONABLY ADVERSE ~~AFFECT~~ EFFECT ON THE PROVIDER'S CAPACITY TO  
32 PERFORM ITS OBLIGATIONS UNDER THE CONTINUING CARE AGREEMENTS TO  
33 WHICH IT IS A PARTY.

34 (F) THE OFFICE SHALL ADOPT REGULATIONS SETTING FORTH REASONABLE  
35 OBJECTIVE FINANCIAL STANDARDS FOR PROPOSED SALES, TRANSFERS, OR OTHER  
36 DISPOSITIONS OF ASSETS, SATISFACTION OF WHICH WILL RESULT IN APPROVAL.  
37 THOSE OBJECTIVE STANDARDS MAY NOT BE THE ONLY BASIS ON WHICH A  
38 DETERMINATION CAN BE MADE THAT A PROPOSED SALE, TRANSFER, OR OTHER  
39 DISPOSITION SATISFIES THE CONDITION SET FORTH IN SUBSECTION (E) OF THIS  
40 SECTION.

41 (G) THE DETERMINATION BY THE OFFICE WITH RESPECT TO A PROPOSED  
42 SALE, TRANSFER, OR OTHER DISPOSITION OF ASSETS IS SUBJECT TO APPEAL ONLY  
43 BY THE PROVIDER IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT.



25

1 NO OTHER PERSON SHALL BE DEEMED TO BE A PARTY IN INTEREST TO THE  
2 PROCEEDINGS.

3 (H) A TRANSFER OR OTHER DISPOSITION OF ASSETS SUBJECT TO THIS  
4 SECTION MAY NOT BE COMPLETED UNTIL AFTER THE 5TH DAY FOLLOWING THE  
5 LATER OF:

6 (1) THE DAY ON WHICH THE OFFICE ISSUES THE NOTICE SPECIFIED IN  
7 SUBSECTION (D) OF THIS SECTION OF A DETERMINATION TO APPROVE THE SALE OR  
8 OTHER TRANSFER; OR

9 (2) THE HEARING OFFICER OR ADMINISTRATIVE LAW JUDGE RENDERS  
10 A DECISION PERMITTING SUCH TRANSFER OR OTHER DISPOSITION OF ASSETS IF  
11 APPEAL IS TAKEN UNDER SUBSECTION (G) OF THIS SECTION.

12 13.

13 (a) In addition to such other provisions as may be considered properto effectuate  
14 the purpose of any continuing care agreement, each agreement executed between a  
15 subscriber and a provider shall:

16 (1) Show the total consideration paid by the subscriber for continuing care  
17 including the value of all property transferred, donations, entrance fees, subscriptions,  
18 monthly fees, and any other fees paid or payable by or on behalf of a subscriber;

19 (2) Specify all services such as food, shelter, medical care, nursing care, or  
20 other health services, which are to be provided by the provider to eachsubscriber,  
21 including in detail all items which each subscriber will receive, whether the items will be  
22 provided for a designated time period or for life;

23 (3) Designate the classes of subscribers according to types of payment plans;

24 (4) Describe the procedures to be followed by the provider whenthe  
25 provider temporarily or permanently changes the subscriber's accommodation within the  
26 facility or transfers the subscriber to another health [facility. A] FACILITY, BUT A  
27 subscriber's accommodations shall be changed only for the protection ofthe health or  
28 safety of the subscriber or the general and economic welfare of the residents;

29 (5) Describe the policies that will be implemented in the eventthe  
30 subscriber becomes unable to meet the monthly fees;

31 (6) State the policy of the provider with regard to changes in  
32 accommodations and the procedure to be followed to implement that policy in the event  
33 of an increase or decrease in the number of persons occupying an individual unit;

34 (7) Provide in clear and understandable language, AND IN ALL CAPITAL  
35 LETTERS in [print no smaller than] the largest type used in the body of[said] THE  
36 agreement, the terms governing the refund of any portion of the entrance fee in the event  
37 of discharge by the provider or cancellation by the subscriber;

38 (8) State the terms under which an agreement is canceled by thedeath of  
39 the subscriber;

1 (9) Provide in clear and understandable [language] LANGUAGE, AND IN  
2 ALL CAPITAL LETTERS in [print no smaller than] the largest type used in[said] THE  
3 agreement, whether or not monthly fees, if charged, will be subject to periodic increases;

4 (10) Provide that charges for care paid in advance in 1 lump sum only shall  
5 not be increased or changed during the duration of the agreed upon care;

6 (11) State which funeral and burial services, if any, will be provided by the  
7 provider;

8 (12) Give a description of the living quarters;

9 (13) State the conditions, if any, under which a unit may be assigned to the  
10 use of another by the subscriber;

11 (14) State the religious or charitable affiliations of the provider and the  
12 extent, if any, to which the affiliate organization will be responsible for the financial and  
13 contractual obligations of the provider;

14 (15) State the subscriber's and provider's respective rights and obligations as  
15 to use of the facility and as to real and personal property of the subscriber placed in the  
16 custody of the provider;

17 (16) State that the subscribers shall have the right to organize and operate a  
18 subscriber association at the facility and to meet privately to conduct business;

19 (17) State what, if any, fee adjustments will be made in the event the  
20 subscriber is voluntarily absent from the facility for an extended period of time;

21 (18) Specify the circumstances, if any, under which the subscriber will be  
22 required to apply for Medicaid, Medicare, public assistance, or any public benefit  
23 program and whether or not the facility is a participant in Medicare or medical assistance;

24 (19) State that the subscriber has received and reviewed the latest certified  
25 financial statement and that a copy of the certified financial statement was received at  
26 least 2 weeks before signing the agreement;

27 (20) Provide that the facility will make available to the subscriber, upon  
28 request, any certified financial statement transmitted to the Office;

29 (21) Where applicable, describe the conditions under which the provider may  
30 be issued a certificate of registration, DESCRIBE THE CONDITIONS UNDER WHICH THE  
31 PROVIDER may use escrowed deposits, [and,] AND state the amount of the subscriber's  
32 deposit that may be used upon issuance of a certificate of registration;

33 (22) State that fees collected by a provider under the terms of a continuing  
34 care agreement may not be used for purposes other than those set forth in the agreement;  
35 and

36 (23) Contain in ALL capital letters in [print no smaller than] the largest type  
37 used in the agreement [and underlined]: "A preliminary certificate of registration or  
38 certificate of registration is not an endorsement or guarantee of this facility by the State

27

1 of Maryland. The Maryland Office on Aging urges you to consult with an attorney and a  
2 suitable financial advisor before signing any documents."

3 (b) [This] A REQUIREMENT OF THIS section shall not apply to any continuing  
4 care agreements entered into [prior to July 1, 1980] BEFORE THE EFFECTIVE DATE OF  
5 THE REQUIREMENT.

6 14.

7 (a) A subscriber shall have the right to rescind a continuing care agreement for  
8 any reason prior to the date of occupancy by the said subscriber.

9 (b) (1) If, prior to the [subscriber occupying a unit] DATE OF OCCUPANCY,  
10 the subscriber dies, the provider determines that the subscriber is ineligible for entrance  
11 into the facility, or the subscriber elects to terminate the continuing care agreement  
12 because of a substantial change in the subscriber's physical, mental or financial condition,  
13 the agreement shall be automatically [cancelled] CANCELED, and the subscriber or the  
14 subscriber's legal representative shall receive within 30 days thereafter a full refund of all  
15 moneys paid to the provider, except:

16 (i) Those special additional costs incurred by the provider due to  
17 modifications in the structure or furnishings of the unit specifically requested by the  
18 subscriber THAT DO NOT EXCEED THE REASONABLE COSTS OF MODIFICATION OR  
19 RESTORATION ACTUALLY INCURRED BY THE PROVIDER and set forth in writing in a  
20 separate addendum to the agreement and signed by the subscriber, and

21 (ii) A processing fee approved by the Office.

22 (2) In the event that the subscriber rescinds the continuing care agreement  
23 within ~~30~~ 90 days after entering into the agreement and prior to [occupying] THE DATE  
24 OF OCCUPANCY OF the unit for any reason other than the reasons specified in subsection  
25 (b)(1) of this section, the refund provisions shall be the same as those provided for in  
26 subsection (b)(1) of this section. If, prior to [occupying] THE DATE OF OCCUPANCY OF  
27 a unit, the subscriber rescinds the continuing care agreement after the ~~30-day~~ 90-DAY  
28 period for any reason other than the reasons specified in subsection (b)(1) of this section,  
29 [the refund provisions will be the same as those in subsection (b)(1) of this section,  
30 except that the provider may withhold the refund until a continuing care agreement is  
31 entered into between the provider and another subscriber with respect to the unit, or 80  
32 percent of the units at the facility are contracted for, whichever occurs first] THE  
33 PROVIDER MAY REQUIRE THE SUBSCRIBER TO FORFEIT AN AMOUNT UP TO 25% OF  
34 THE SUBSCRIBER'S ENTRANCE FEE DEPOSIT.

35 (c) A subscriber may rescind a continuing care agreement at any time if the terms  
36 of the agreement are in violation of the terms of this subtitle and the subscriber is injured  
37 by the violation. The subscriber shall be entitled to treble damages for extensive injuries  
38 arising from the violations.

39 (d) If an applicant for admission to a continuing care facility withdraws the  
40 application prior to execution of a continuing care agreement, the applicant shall receive  
41 a full refund of all moneys paid to the provider except a processing fee approved by the  
42 Office.

1 15.

2 No continuing care agreement shall permit dismissal or discharge of the subscriber  
 3 from the facility providing care prior to the expiration of the agreement without just cause  
 4 for such removal and without providing advance notice of at least 60 days. If a [facility]  
 5 PROVIDER terminates a subscriber for just cause, the [facility] PROVIDER shall pay to  
 6 the subscriber, no later than 60 days after the LATER TO OCCUR OF THE date of  
 7 dismissal or discharge OR THE DATE THE SUBSCRIBER VACATES THE UNIT, a refund  
 8 equal to the entrance fee divided by the subscriber's years of expected lifetime at  
 9 admission multiplied by the subscriber's years of expected lifetime at discharge or  
 10 dismissal. Years of expected lifetime shall be computed for both purposes on the basis of  
 11 the [life] APPROPRIATE tables most recently published by the U.S. Department of  
 12 Health and Human Services at the time of discharge or dismissal.

13 17A.

14 [(a) In this section, "financial difficulty" means current or impending financial  
 15 conditions which impair or may impair the ability of the facility to meet existing or future  
 16 obligations. ]

17 [(b)] (A) There is a Financial Review Committee.

18 [(c)] (B) (1) The Committee consists of 7 members appointed by the Director  
 19 of the Office on Aging.

20 (2) Of the 7 members, 2 shall be knowledgeable in the field of continuing  
 21 care, 2 shall be certified public accountants, 1 shall be from the financial community, and  
 22 2 shall be consumer members, preferably [residents] SUBSCRIBERS of continuing care  
 23 facilities.

24 (3) The term of a member is 3 years. The terms of members are staggered as  
 25 required by the terms provided for members of the Committee on July 1, 1985.

26 (4) A member may serve consecutive terms.

27 (5) The Committee shall elect its chairman.

28 (6) Members may not receive compensation, however, members are entitled  
 29 to reimbursement for expenses incurred in the performance of their official duties as  
 30 provided for in the State budget.

31 (7) Any Financial Review Committee member shall have the immunity from  
 32 liability described under § 5-340 of the Courts and Judicial Proceedings Article.

33 (8) A Financial Review Committee member may not participate in a review  
 34 of a continuing care provider's financial condition if that member has an interest in the  
 35 provider, as defined by the Maryland Public Ethics Law.

36 (9) THE DELIBERATIONS OF THE COMMITTEE SHALL BE CONFIDENTIAL.

37 [(d)] (C) (1) After reviewing the provider's application for a renewal certificate,  
 38 the Office may refer the application and accompanying materials to the Committee for its  
 39 consideration. The Committee shall review the application and the materials and may  
 40 request additional information from the Office. Within 45 days of receipt of an

29

1 application, the Committee shall notify the Office in writing whether or not the  
2 Committee finds the provider in financial difficulty, stating the reasons for its findings.  
3 The Committee may request one 30-day extension from the Director of the Office [on  
4 Aging]. The Director may grant the extension.

5 (2) The Office may refer a finding of possible financial difficulty to the  
6 Committee for its consideration. The Committee shall review the finding and may request  
7 additional information from the Office. Within 45 days of receipt of a finding, the  
8 Committee shall notify the Office in writing whether or not the Committee finds the  
9 provider in financial difficulty, stating the reasons for its findings. The Committee may  
10 request one 30-day extension from the Director of the Office on Aging. The Director may  
11 grant the extension.

12 [(e)] (D) Within 25 days of being notified of the Committee's findings, the Office  
13 shall consider the findings of the Committee and make a final determination of financial  
14 difficulty. If the Office determines that the provider is in financial difficulty it shall  
15 immediately notify the provider by certified mail, return receipt requested.

16 [(f)] (E) Any provider notified of financial difficulty by the Office shall prepare  
17 and submit to the Office for its approval a 5-year financial plan to correct the causes of  
18 the financial difficulty. The financial plan shall be submitted within 60 days of  
19 notification. The provider may request one 30-day extension from the Director of the  
20 Office. The Director may grant the extension. The Office shall respond to the provider  
21 within 60 days of receipt of the proposed plan. The Office may work with the provider to  
22 establish the financial plan and may consult with the Financial Review Committee prior  
23 to approving the plan. Upon approval the plan shall be implemented.

24 [(g)] (F) The Office may withhold the renewal certificate or withdraw a  
25 certificate of registration:

26 (1) If the provider does not prepare a financial plan;

27 (2) If the provider is unwilling or unable to prepare a financial plan;

28 (3) If the financial plan is inadequate to correct the current or impending  
29 financial condition which necessitated the financial plan; or

30 (4) If the provider fails to implement the plan.

31 [(h)] (G) The provider shall submit to the Office [on Aging] an annual progress  
32 report for the term of its financial plan and shall revise its financial plan if the Office [on  
33 Aging] determines that revisions are necessary.

34 20.

35 (a) Any subscriber injured by a violation of this subtitle, or the Office on behalf of  
36 any subscriber, may institute an action for an appropriate temporary restraining order or  
37 injunction. Any injured subscriber, or the Office on behalf of any injured subscriber, may  
38 petition for the appointment of a receiver:

39 (1) In the event of a threat of immediate closure of a facility;

40 (2) If the provider is not honoring its contracts with its subscribers; or

30

1 (3) To prohibit the IMPROPER diversion of its assets and records from the  
2 facility or the State.

3 (b) The receiver shall have such power to rehabilitate, conserve, or liquidate as is  
4 conferred by the order of appointment and by the provisions of Article 48A, §§ 132  
5 through 164B relating to rehabilitation and liquidation of insurance companies.

6 21.

7 IF THE PROVIDER FILES FOR BANKRUPTCY OR IS PLACED IN RECEIVERSHIP,  
8 THE SUBSCRIBERS AS A CLASS SHALL BE CONSIDERED AS CREDITORS FOR THE  
9 PURPOSE OF ANY LEGAL ACTION IN CONJUNCTION WITH THE BANKRUPTCY OR  
10 RECEIVERSHIP.

11 22.

12 (a) A feasibility study approval may be denied for cause by the Office and a  
13 preliminary certificate of registration, certificate of registration, or renewal certificate  
14 may be denied, suspended, or revoked for cause by the Office. Grounds for denial,  
15 suspension, or revocation include violation of the provisions of this subtitle, violations of  
16 [rules or] regulations issued by the Office pursuant to this subtitle, misrepresentations,  
17 or submissions of any false financial statement. For any denial, suspension, or revocation,  
18 the Office shall set forth its reasons in writing.

19 (b) The proceedings governing the appeal of a denial, revocation, or suspension  
20 shall be conducted in accordance with the Maryland Administrative Procedure Act.

21 23.

22 Any operation subject to the provisions of this subtitle shall not be subject to the  
23 provisions of the Health Maintenance Organization Act of the Health - General  
24 Article[,]; Article 48A, except § 470N[,]; [or] Title 8 of the Real Property Article of  
25 the Maryland Annotated Code[.]; OR ANY COUNTY OR MUNICIPAL  
26 LANDLORD-TENANT LAW. IF A PROVIDER CONTRACTUALLY UTILIZES THE  
27 SERVICES OF A LICENSED HOME HEALTH AGENCY OR RESIDENTIAL SERVICE  
28 AGENCY AND IS NOT ITSELF DIRECTLY PROVIDING THE TYPE OF SERVICES  
29 PROVIDED BY A HOME HEALTH OR RESIDENTIAL SERVICE AGENCY, THEN THE  
30 PROVIDER SHALL NOT BE SUBJECT TO THE PROVISIONS OF TITLE 19, SUBTITLES 4  
31 AND 4A OF THE HEALTH - GENERAL ARTICLE OF THE MARYLAND ANNOTATED  
32 CODE. Under § 470N of Article 48A, the liability of the provider to the State Department  
33 of Health and Mental Hygiene shall be limited to the amount of money which would be  
34 due as a refund if the subscriber were dismissed under § 15 at the time of enrollment in  
35 services rendered by, or paid in full or in part by the State Department of Health and  
36 Mental Hygiene.

37 ~~SECTION 2. AND BE IT FURTHER ENACTED, That Article 70B, § 11E(a)(2)~~  
38 ~~of the Code as enacted by this Act may not take effect until the Office on Aging adopts~~  
39 ~~regulations that set forth objective standards that are based on industry experience that~~  
40 ~~providers can use to determine independently beforehand that sales, transfers, or~~  
41 ~~dispositions will not violate the applicable standard.~~

42 SECTION 2. AND BE IT FURTHER ENACTED, That:

1           (a) The Office on Aging shall adopt regulations establishing objective standards,  
2 based on industry experience, for provider financial stability and capacity to carry out  
3 obligations under continuing care agreements in the event of a sale, transfer, or other  
4 disposition of assets equal to or less than 10% of the total assets of a provider; and

5           (b) Article 70B, § 11E(a)(2) of the Code, as enacted by this Act maynot take  
6 effect until the Office on Aging adopts regulations as set forth in Section 2(a) of this Act.

7           SECTION 3. AND BE IT FURTHER ENACTED, That, except as provided in  
8 Section 2 of this Act, this Act shall take effect October 1, 1996.