

# SENATE BILL 963

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By: **Senator Kelley**

Introduced and read first time: March 3, 2011

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Department of Aging – Continuing Care in a Retirement**  
3 **Community**

4 FOR the purpose of increasing the required operating reserves for certain continuing  
5 care providers after a certain date; clarifying that certain continuing care  
6 providers shall calculate certain operating reserves in a certain manner;  
7 clarifying the differences between certain disclosure statements; altering the  
8 information required to be contained in a certain disclosure statement;  
9 establishing the use and the timing of the delivery of a standard assisted living  
10 disclosure statement by certain providers; requiring certain continuing care  
11 providers to make available certain documents to certain persons; altering the  
12 requirements for a certain grievance procedure; requiring a certain disclaimer  
13 for certain marketing materials; clarifying when a proposed transfer of a facility  
14 ownership or ownership control of a person that owns or controls a certain  
15 facility is subject to approval by the Department of Aging; altering the  
16 requirements for certain continuing care agreements; authorizing the  
17 Department to deny approval of a continuing care agreement that contravenes  
18 certain laws; establishing that certain separate assisted living and  
19 comprehensive care agreements are subject to the review by the Department;  
20 establishing that certain separate assisted living and comprehensive care  
21 agreements are not subject to the review of the Department; altering the  
22 continuing care disclosure statement requirements regarding assisted living  
23 agreements; requiring that the Department of Health and Mental Hygiene  
24 adopt, in consultation with the Department of Aging, a standard version of a  
25 certain disclosure statement; defining certain terms; making stylistic changes;  
26 and generally relating to continuing care agreements.

27 BY repealing and reenacting, with amendments,

28 Article – Human Services

29 Section 10–401, 10–420, 10–423, 10–424, 10–425, 10–427, 10–428, 10–432,  
30 10–436, 10–444, 10–445, and 10–447

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2007 Volume and 2010 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article – Human Services  
5 Section 10–419, 10–421, 10–422, 10–426, and 10–429  
6 Annotated Code of Maryland  
7 (2007 Volume and 2010 Supplement)

8 BY adding to  
9 Article – Human Services  
10 Section 10–425.1, 10–430, and 10–443  
11 Annotated Code of Maryland  
12 (2007 Volume and 2010 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – Health – General  
15 Section 19–1806 and 19–1808  
16 Annotated Code of Maryland  
17 (2009 Replacement Volume and 2010 Supplement)

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

20 **Article – Human Services**

21 10–401.

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

23 (b) “Assisted living program” has the meaning stated in § 19–1801 of the  
24 Health – General Article.

25 (c) “Certified financial statement” means a complete audit prepared and  
26 certified by an independent certified public accountant.

27 (d) “Continuing care” means:

28 (1) continuing care in a retirement community; or

29 (2) continuing care at home.

30 (e) “Continuing care agreement” means an agreement between a provider  
31 and a subscriber to provide continuing care.

32 (f) (1) “Continuing care at home” means providing medical, nursing, or  
33 other health related services directly or by contractual arrangement:

1 (i) to an individual who is at least 60 years of age and not  
2 related by blood or marriage to the provider;

3 (ii) for the life of the individual or for a period exceeding 1 year;  
4 and

5 (iii) under a written agreement that requires a transfer of assets  
6 or an entrance fee notwithstanding periodic charges.

7 (2) “Continuing care at home” includes providing assistance with the  
8 physical maintenance of the individual’s dwelling.

9 (g) “Continuing care in a retirement community” means providing shelter  
10 and providing either medical and nursing or other health related services or making  
11 the services readily accessible through the provider or an affiliate of the provider,  
12 whether or not the services are specifically offered in the written agreement for  
13 shelter:

14 (1) to an individual who is at least 60 years of age and not related by  
15 blood or marriage to the provider;

16 (2) for the life of the individual or for a period exceeding 1 year; and

17 (3) under one or more written agreements that require a transfer of  
18 assets or an entrance fee notwithstanding periodic charges.

19 (h) (1) “Contractual entrance fee refund” means a repayment of all or part  
20 of a subscriber’s entrance fee to the subscriber or the subscriber’s estate or designated  
21 beneficiary, as required by the terms of the continuing care agreement.

22 (2) “Contractual entrance fee refund” does not include a payment  
23 required under § 10–446 or § 10–448 of this subtitle.

24 (i) “Conversion” means converting a physical plant that provides housing or  
25 shelter into a facility if:

26 (1) the residential accommodations exist before a statement of intent  
27 is filed under § 10–409(b) of this subtitle; and

28 (2) at least 60% of the available residential accommodations of the  
29 facility owner were occupied during the two fiscal years prior to the filing of a  
30 statement of intent.

31 (j) “Deposit” means a portion of an entrance fee.

32 (k) (1) “Entrance fee” means a sum of money or other consideration paid  
33 initially or in deferred payments, that:

1 (i) assures a subscriber continuing care for the life of the  
2 subscriber or for a period exceeding 1 year; and

3 (ii) is at least three times the weighted average of the monthly  
4 cost of the periodic fees charged for independent living and assisted living units.

5 (2) "Entrance fee" includes a fee of similar form and application,  
6 regardless of title.

7 (3) "Entrance fee" does not include a surcharge.

8 (l) (1) "Expansion" means any single new capital addition to an existing  
9 facility that meets either of the following criteria:

10 (i) if independent or assisted living units are to be constructed,  
11 the number of units to be constructed is less than or equal to 25% of the number of  
12 existing independent and assisted living units; or

13 (ii) if independent or assisted living units are not to be  
14 constructed, the total projected cost exceeds the sum of:

15 1. 10% of the total operating expenses, less depreciation,  
16 amortization, and interest expense of the facility as shown on the certified financial  
17 statement for the most recent fiscal year for which a certified financial statement is  
18 available; and

19 2. the amount of the existing reserves properly allocable  
20 to, and allocated for, the expansion.

21 (2) "Expansion" does not include renovation and normal repair and  
22 maintenance.

23 **(M) "EXTENSIVE AGREEMENT" MEANS A CONTINUING CARE**  
24 **AGREEMENT UNDER WHICH THE PROVIDER PROMISES TO PROVIDE**  
25 **RESIDENTIAL FACILITIES, MEALS, AMENITIES, AND LONG-TERM CARE SERVICES**  
26 **IN A LICENSED ASSISTED LIVING PROGRAM OR COMPREHENSIVE CARE**  
27 **PROGRAM:**

28 **(1) FOR AS LONG AS THE SUBSCRIBER NEEDS THE SERVICES; AND**

29 **(2) FOR NO SUBSTANTIAL INCREASE IN THE SUBSCRIBER'S**  
30 **ENTRANCE FEE OR PERIODIC FEES, EXCEPT FOR AN ADJUSTMENT TO ACCOUNT**  
31 **FOR INCREASED OPERATING COSTS CAUSED BY INFLATION OR OTHER FACTORS**  
32 **UNRELATED TO THE INDIVIDUAL SUBSCRIBER.**

1           **[(m)] (N)**   “Facility” means a physical plant in which continuing care in a  
2 retirement community is provided in accordance with this subtitle.

3           **(O) “FEE-FOR-SERVICE AGREEMENT” MEANS A CONTINUING CARE**  
4 **AGREEMENT THAT IS EITHER:**

5                   **(1) AN AGREEMENT:**

6                           **(I) UNDER WHICH THE PROVIDER PROMISES TO PROVIDE**  
7 **RESIDENTIAL FACILITIES, MEALS, AMENITIES, AND LONG-TERM CARE SERVICES**  
8 **IN A LICENSED ASSISTED LIVING PROGRAM OR COMPREHENSIVE CARE**  
9 **PROGRAM FOR AS LONG AS THE SUBSCRIBER NEEDS THE SERVICES; AND**

10                           **(II) THAT PROVIDES THAT LONG-TERM CARE SERVICES IN A**  
11 **LICENSED ASSISTED LIVING PROGRAM OR COMPREHENSIVE CARE PROGRAM**  
12 **WILL BE PROVIDED AT A PER DIEM, A FEE-FOR-SERVICE, OR AN OTHER**  
13 **AGREED-ON RATE THAT GENERALLY REFLECTS THE MARKET RATES FOR**  
14 **ASSISTED LIVING AND COMPREHENSIVE CARE SERVICES; OR**

15                   **(2) A CONTINUING CARE AGREEMENT THAT IS NOT AN EXTENSIVE**  
16 **AGREEMENT OR A MODIFIED AGREEMENT.**

17           **[(n)] (P)**   “Financial difficulty” means current or impending financial  
18 conditions that impair or may impair the ability of a provider to meet existing or  
19 future obligations.

20           **[(o)] (Q)**   “Governing body” means a board of directors, board of trustees, or  
21 similar group that ultimately directs the affairs of a provider, but whose members are  
22 not required to have an equity interest in the provider.

23           **[(p)] (R)**   (1)   “Health related services” means services that are needed by  
24 a subscriber to maintain the subscriber’s health.

25                   (2)   “Health related services” includes:

26                           (i)   priority admission to a nursing home or assisted living  
27 program; or

28                           (ii)   except for the provision of meals, assistance with the  
29 activities of daily living.

30           **(S) “MODIFIED AGREEMENT” MEANS A CONTINUING CARE AGREEMENT:**

31                   **(1) UNDER WHICH THE PROVIDER PROMISES TO PROVIDE**  
32 **RESIDENTIAL FACILITIES, MEALS, AMENITIES, AND A LIMITED AMOUNT OF**

1 LONG-TERM CARE SERVICES IN A LICENSED ASSISTED LIVING PROGRAM OR  
2 COMPREHENSIVE CARE PROGRAM:

3 (I) FOR AS LONG AS THE SUBSCRIBER NEEDS THE  
4 SERVICES; AND

5 (II) FOR NO SUBSTANTIAL INCREASE IN THE SUBSCRIBER'S  
6 ENTRANCE FEE OR PERIODIC FEES, EXCEPT FOR AN ADJUSTMENT TO ACCOUNT  
7 FOR INCREASED OPERATING COSTS CAUSED BY INFLATION OR OTHER FACTORS  
8 UNRELATED TO THE INDIVIDUAL SUBSCRIBER; AND

9 (2) THAT PROVIDES THAT LONG-TERM CARE SERVICES IN A  
10 LICENSED ASSISTED LIVING PROGRAM OR COMPREHENSIVE CARE PROGRAM  
11 BEYOND THE LIMITED AMOUNT OF SERVICES TO BE PROVIDED UNDER  
12 PARAGRAPH (1) OF THIS SUBSECTION WILL BE PROVIDED AT A PER DIEM, A  
13 FEE-FOR-SERVICE, OR AN OTHER AGREED-ON RATE.

14 [(q)] (T) "Person" includes a governmental entity or unit.

15 [(r)] (U) "Processing fee" means a fee imposed by a provider for determining  
16 the financial, mental, and physical eligibility of an applicant for entrance into a  
17 facility.

18 [(s)] (V) "Provider" means a person who:

19 (1) undertakes to provide continuing care; and

20 (2) is:

21 (i) the owner or operator of a facility; or

22 (ii) an applicant for or the holder of a preliminary, initial, or  
23 renewal certificate of registration.

24 [(t)] (W) "Records" means information maintained by a provider for the  
25 proper operation of a facility under this subtitle.

26 [(u)] (X) (1) "Renovation" means any single capital improvement to, or  
27 replacement of, all or part of an existing facility that will not increase the number of  
28 independent or assisted living units and for which the total projected cost exceeds the  
29 sum of:

30 (i) 20% of the total operating expenses, less depreciation,  
31 amortization, and interest expense of the facility as shown on the certified financial  
32 statement for the most recent fiscal year for which a certified financial statement is  
33 available; and

1 (ii) the amount of existing reserves properly allocable to, and  
2 allocated for, the renovation.

3 (2) "Renovation" does not include normal repair or maintenance.

4 [(v)] (Y) "Subscriber" means an individual for whom a continuing care  
5 agreement is purchased.

6 [(w)] (Z) (1) "Surcharge" means a separate and additional charge that:

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

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

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

11 10-419.

12 In this part, "net operating expenses" means the total operating expenses at  
13 each facility of a provider, less depreciation, amortization, unusual and infrequent  
14 expenses, changes in the obligation to provide future services, and changes in the fair  
15 market value of interest rate swap agreements not involving an exchange of funds.

16 10-420.

17 (a) Interest expenses may be excluded from the calculation of net operating  
18 expenses for a fiscal year, if the provider funded a debt service reserve or other  
19 interest reserve under requirements imposed by a financial institution or under  
20 applicable financing documents, to the extent the reserve fund included amounts to  
21 cover interest for that fiscal year.

22 (b) (1) Except as otherwise provided in this part, a provider shall set aside  
23 for each facility subject to this subtitle operating reserves **THAT:**

24 **(I) UNTIL JANUARY 1, 2015, equal [to] 15% of the facility's**  
25 **net operating expenses for the most recent fiscal year for which a certified financial**  
26 **statement is available; AND**

27 **(II) AFTER JANUARY 1, 2015, EQUAL 25% OF THE**  
28 **FACILITY'S NET OPERATING EXPENSES FOR THE MOST RECENT FISCAL YEAR**  
29 **FOR WHICH A CERTIFIED FINANCIAL STATEMENT IS AVAILABLE.**

30 (2) The provider shall keep the operating reserves in a reasonably  
31 liquid form in the judgment of the provider.

1                   **(3) THE ASSETS HELD BY THE PROVIDER AS THE OPERATING**  
2 **RESERVES:**

3                   **(I) EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**  
4 **SUBSECTION, SHALL BE MET WITH UNRESTRICTED CASH AND INVESTMENTS;**  
5 **AND**

6                   **(II) MAY NOT BE:**

7                   **1. MET WITH A LINE OF CREDIT; OR**

8                   **2. EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**  
9 **SUBSECTION, HYPOTHECATED, PLEDGED AS COLLATERAL, OR OTHERWISE**  
10 **ENCUMBERED BY THE PROVIDER IN ANY MANNER.**

11                   **(4) THE ASSETS HELD BY THE PROVIDER AS THE OPERATING**  
12 **RESERVES MAY BE ENCUMBERED IF:**

13                   **(I) THE ASSETS ARE ENCUMBERED BY CONTRACTUAL**  
14 **OBLIGATIONS UNDERTAKEN BEFORE JULY 1, 2011, THAT HAVE NOT**  
15 **MATERIALLY CHANGED SINCE JULY 1, 2011; OR**

16                   **(II) THE ASSETS ARE ENCUMBERED AS PART OF A GENERAL**  
17 **SECURITY PLEDGE OF ASSETS OR SIMILAR COLLATERALIZATION THAT IS PART**  
18 **OF THE PROVIDER'S LONG-TERM CAPITAL DEBT COVENANTS INCLUDED IN THE**  
19 **PROVIDER'S LONG-TERM DEBT INDENTURE OR SIMILAR FINANCIAL**  
20 **INSTRUMENT BUT WHICH REMAIN AVAILABLE TO THE PROVIDER TO PAY**  
21 **OPERATING EXPENSES WITHOUT SUBSTANTIAL RESTRICTIONS OR LIMITATIONS.**

22                   (c) (1) A provider shall meet the requirements of subsection (b) of this  
23 section within 10 full fiscal years after the date of its initial certificate of registration.

24                   (2) A provider shall set aside at least 10% of the reserves required  
25 under subsection (b) of this section at the end of each fiscal year after the date of its  
26 initial certificate of registration, up to a total of 100% at the end of the 10th fiscal year.

27                   (3) The Department may allow a provider to modify the minimum rate  
28 required under paragraph (2) of this subsection or extend the time to meet the  
29 requirements of subsection (b) of this section if the modification is necessary to  
30 maintain the financial viability of the facility.

31 10-421.

32                   (a) (1) A provider shall compute operating reserves for each facility as of  
33 the end of the facility's most recent fiscal year.



1           (2) When a provider files an application for a renewal certificate of  
2 registration, the provider shall show compliance with operating reserve requirements  
3 by including with the application:

4                   (i) a letter to the Department from a certified public accountant  
5 that states the amount set aside; or

6                   (ii) a certified financial statement that states the amount set  
7 aside.

8           (b) A provider may apply toward the operating reserves required by §  
9 10–420(b) of this subtitle any reserves, except debt service reserves, that are  
10 maintained under applicable financing document requirements if the reserves are  
11 available to the provider to meet the facility’s operating expenses.

12           (c) For the purpose of computing a provider’s operating reserves,  
13 investments held to the credit of the reserves shall be calculated at their market value  
14 as of the end of the provider’s most recent fiscal year for which a certified financial  
15 statement is available.

16 10–422.

17           (a) A provider shall notify the Department in writing immediately on the  
18 withdrawal of any amount from the funds available to satisfy the operating reserves  
19 required by § 10–420(b) of this subtitle.

20           (b) Within 30 days after making a withdrawal described in subsection (a) of  
21 this section, the provider shall submit to the Department a written plan for restoring  
22 the reserves to the level required by § 10–420(b) of this subtitle.

23 10–423.

24           (a) For a facility that has not been the subject of a conversion and that has  
25 residents who are not parties to continuing care agreements, the provider shall [set  
26 aside] **CALCULATE THE** operating [reserves equal to at least 15% of] **RESERVE**  
27 **REQUIREMENT OF § 10–420 ON** the pro rata proportion of the net operating  
28 expenses [calculated] **AS SPECIFIED** under subsection (b) of this section.

29           (b) The pro rata proportion of the net operating expenses equals the number  
30 of units in the facility for which the Department has issued a certificate of registration  
31 divided by the total number of accommodations in the facility multiplied by the net  
32 operating expenses for the most recent fiscal year for which a certified financial  
33 statement is available.

34 10–424.

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

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

6 (ii) annually to any subscriber who requests a **CONTINUING**  
7 **CARE** disclosure statement.

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

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

14 (2) The Department shall review the **CONTINUING CARE** disclosure  
15 statement solely to ensure compliance with § 10-425 of this subtitle.

16 (c) (1) An amended **CONTINUING CARE** disclosure statement is subject to  
17 each requirement of this subtitle.

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

21 10-425.

22 (a) A **CONTINUING CARE** disclosure statement shall include:

23 **(1) A TABLE OF CONTENTS;**

24 **[(1)] (2)** the name, address, and description of the facility and the  
25 identity of the owner or owners of the facility and the land on which it is located;

26 **[(2)] (3)** the name and address of the provider and of any parent or  
27 subsidiary;

28 **[(3)] (4)** the organizational structure and management of the  
29 provider, including:

30 (i) for a corporation or limited liability company, its name, the  
31 state in which it is incorporated or formed, and the name of the chief executive officer;

1 (ii) for a partnership, the names of the general partners, the  
2 state governing its formation, and the name of the primary individual responsible for  
3 managing it;

4 (iii) for an unincorporated association, the names of the  
5 members, the state governing its activities, and the name of the primary individual  
6 responsible for managing it;

7 (iv) for a partnership that has a corporation or limited liability  
8 company as one or more of its general partners, the name of each corporation or  
9 limited liability company, the state in which it is incorporated or formed, and the  
10 name of the chief executive officer;

11 (v) for a trust, the name of the trustee, the names of the owners  
12 of beneficial interests in the trust, the state governing it, and the name of the primary  
13 individual responsible for overseeing its activities; and

14 (vi) a statement whether the provider is qualified, or intends to  
15 qualify, as a tax-exempt organization under the Internal Revenue Code;

16 [(4)] (5) the name and occupation of each officer, director, trustee,  
17 managing or general partner, and each person with a 10% or greater equity or  
18 beneficial interest in the provider, and a description of the person's financial interest  
19 in or occupation with the provider;

20 [(5)] (6) the name and address of any entity in which a person  
21 identified in item [(4)] (5) of this subsection has a 10% or greater financial interest  
22 and that is anticipated to provide goods, premises, or services with a value of \$10,000  
23 or more to the facility or provider in a fiscal year and a description of the goods,  
24 premises, or services and their anticipated cost to the facility or provider, which need  
25 not include salary, wage, or benefit information of employees of the provider;

26 [(6)] (7) a description of any matter in which an individual identified  
27 in item [(4)] (5) of this subsection:

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

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

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

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

5 [(7)] (8) a description of the provider's form of governance and the  
6 composition of its governing body, and a statement that the provider will satisfy the  
7 requirements of §§ 10-426 and 10-427 of this subtitle;

8 [(8)] (9) a statement of any affiliation of the provider with a  
9 religious, charitable, or other nonprofit organization, and the extent of the  
10 organization's responsibility for the financial and contractual obligations of the  
11 provider;

12 [(9)] (10) if the facility will be managed on a day-to-day basis by a  
13 person other than an individual who is directly employed by the provider, the name of  
14 the proposed manager or management company and a description of the business  
15 experience of the manager or company in operating or managing similar facilities;

16 [(10)] (11) a copy of the most recent certified financial statement  
17 obtainable under generally accepted accounting principles;

18 [(11)] (12) a description of the long-term financing for the facility;

19 [(12)] (13) a cash flow forecast for the current and the next two fiscal  
20 years;

21 [(13)] (14) a description of any activity related to a renovation,  
22 expansion, or new development during the preceding fiscal year or proposed for the  
23 current fiscal year;

24 [(14)] (15) a description of:

25 (i) the steps that have been or will be taken to comply with the  
26 operating reserve requirements under § 10-420(b) of this subtitle; and

27 (ii) the provider's investment policy related to the required  
28 reserves, including how often and by whom the reserve fund investment is reviewed;

29 [(15)] (16) a description of the financial arrangements that the provider  
30 has made, if any, to address the renewal and replacement of the buildings and  
31 improvements at the facility, such as the establishment of a renewal and replacement  
32 fund;

33 [(16)] (17) if the facility has not reached 85% occupancy of its  
34 independent living units, a summary of the feasibility study;

1            **[(17)] (18)** if applicable, a description of the conditions under which the  
2 provider may be issued an initial certificate of registration and may use escrowed  
3 deposits;

4            **[(18)] (19)** a description of all basic fees, including entrance fees, fees  
5 for health related services, and periodic fees that the provider collects from  
6 subscribers, and the amount and frequency of any fee changes during the previous 5  
7 years or, if the facility has been in operation less than 5 years, for each year of  
8 operation;

9            **[(19)] (20)** a summary of the basic services provided or proposed to be  
10 provided at the facility under the continuing care agreement, including the extent to  
11 which health related services are provided, that clearly states which services are  
12 indicated in the agreement as included in the basic fee and which services are or will  
13 be made available at or by the facility at an extra charge;

14            **[(20)] (21)** if applicable, a statement that it is the provider's policy to  
15 impose a surcharge on some, but not all, subscribers because of a condition or  
16 circumstance that applies only to those subscribers and that the surcharge is not part  
17 of the entrance fee refund required under § 10-448 of this subtitle;

18            **[(21)] (22)** a description of the role of any resident association;

19            **[(22)] (23)** a description of the internal grievance procedure;

20            **(24) IF THE PROVIDER OFFERS A CONTINUING CARE AGREEMENT**  
21 **THAT PROMISES A CONTRACTUAL ENTRANCE FEE REFUND, A STATEMENT**  
22 **WHETHER THE PORTION OF THE ENTRANCE FEE TO BE REFUNDED IS**  
23 **EARMARKED AND HELD FOR THE SUBSCRIBER UNTIL THE REFUND IS DUE, AND**  
24 **IF SO HELD, A DESCRIPTION OF WHERE AND HOW THE FUNDS ARE HELD;**

25            **(25) IF THE PROVIDER OFFERS A CONTINUING CARE AGREEMENT**  
26 **THAT PROMISES A CONTRACTUAL ENTRANCE FEE REFUND BUT DOES NOT**  
27 **EARMARK AND HOLD THE PORTION OF THE ENTRANCE FEE TO BE REFUNDED TO**  
28 **THE SUBSCRIBER, A DESCRIPTION OF HOW THE FUNDS PAID AS ENTRANCE FEES**  
29 **ARE USED BY THE PROVIDER;**

30            **(26) IF THE PROVIDER OFFERS AN EXTENSIVE AGREEMENT, A**  
31 **STATEMENT THAT AN ATTORNEY OR A FINANCIAL ADVISER SHOULD REVIEW**  
32 **THE CONTINUING CARE AGREEMENT AND ANY LONG-TERM CARE INSURANCE**  
33 **POLICY THAT COVERS THE PROSPECTIVE SUBSCRIBER TO DETERMINE**  
34 **WHETHER THERE ARE POTENTIAL AREAS OF DUPLICATION OR AREAS WHERE**  
35 **BENEFITS CAN BE COORDINATED;**

1            [(23)] **(27)** a statement that the provider will amend its disclosure  
2 statement whenever the provider or the Department considers an amendment  
3 necessary to prevent the disclosure statement from containing:

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

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

8            [(24)] **(28)** any other material information about the facility or the  
9 provider that the Department requires or that the provider wishes to include.

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

12                    (1) the date of the disclosure statement; and

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

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

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

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

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

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

22                    (2) In addition to any other requirement of this section, the  
23 **CONTINUING CARE** disclosure statement shall contain [the following information  
24 about the assisted living program:

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

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

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

- 1 (iv) notice of:
- 2 1. the availability of locks for storage;
- 3 2. the availability of locks for the subscriber's room;
- 4 3. the security procedures that the provider will  
5 implement to protect the subscriber and the subscriber's property; and
- 6 4. the provider's right, if any, to enter a subscriber's  
7 room;

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

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

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

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

20 (3) The provider shall:

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

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

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

28 (D) A CONTINUING CARE DISCLOSURE STATEMENT ALSO SHALL  
29 COMPLY WITH § 10-430 OF THIS SUBTITLE.

30 10-425.1.

1           **(A) A PROVIDER THAT OFFERS ASSISTED LIVING SHALL PROVIDE AS**  
2 **PART OF ITS GENERAL MARKETING MATERIALS FOR A COMMUNITY A COPY OF**  
3 **THE STANDARD ASSISTED LIVING SERVICES DISCLOSURE STATEMENT**  
4 **REQUIRED BY § 19-1808 OF THE HEALTH – GENERAL ARTICLE; AND**

5           **(B) A PROVIDER ALSO SHALL PROVIDE A COPY OF THE STANDARD**  
6 **ASSISTED LIVING SERVICES DISCLOSURE STATEMENT TO A SUBSCRIBER OR THE**  
7 **SUBSCRIBER’S LEGAL REPRESENTATIVE WITHIN THE 30 DAYS PRIOR TO THE**  
8 **SUBSCRIBER’S ADMISSION TO THE PROVIDER’S ASSISTED LIVING PROGRAM.**

9 10-426.

10           (a) At least once a year, each provider shall hold a meeting open to all of the  
11 provider’s subscribers.

12           (b) At the meeting, an authorized officer of the provider shall:

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

15                   (2) answer subscribers’ questions.

16 10-427.

17           (a) (1) If a provider has a governing body, at least one of the provider’s  
18 subscribers shall be a full and regular member of the governing body.

19                   (2) If the provider owns or operates more than three facilities in the  
20 State, the governing body shall include at least one of the provider’s subscribers for  
21 every three facilities in the State.

22                   (3) Subject to paragraph (4) of this subsection, a member of the  
23 governing body who is selected to meet the requirements of this subsection shall be a  
24 subscriber at a facility in the State and be selected according to the same general  
25 written standards and criteria used to select other members of the governing body.

26                   (4) The governing body shall confer with the resident association at  
27 each of the provider’s facilities before the subscriber officially joins the governing body.

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

31           (b) (1) If a provider does not have a governing body, the provider shall  
32 appoint a select committee of its officers or partners to meet at least twice a year with  
33 the resident association at each of its facilities to address concerns of the subscribers



1 and to ensure that the opinions of subscribers are relayed to all officers or partners of  
2 the provider.

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

6 (c) (1) **ON REQUEST, A PROVIDER SHALL MAKE AVAILABLE TO ITS**  
7 **SUBSCRIBERS A COPY OF THE COMMUNITY'S OPERATING BUDGET AND ANY**  
8 **BUDGET AMENDMENT.**

9 (2) **THE OPERATING BUDGET SHALL BE MADE AVAILABLE AT**  
10 **LEAST 30 DAYS BEFORE IMPLEMENTATION OF THE BUDGET.**

11 10-428.

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

14 (b) The internal grievance procedure shall at least:

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

17 (2) require the provider to send a written acknowledgment to the  
18 subscriber **OR GROUP OF SUBSCRIBERS** within 5 days after receipt of the written  
19 grievance;

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

22 (4) give a subscriber **OR GROUP OF SUBSCRIBERS** who [files] **FILE** a  
23 written grievance the right to meet with management of the provider within 30 days  
24 after receipt of the written grievance to present the [subscriber's] grievance; and

25 (5) require the provider to respond **IN WRITING** within 45 days after  
26 receipt of the written grievance regarding the investigation and resolution of the  
27 grievance.

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

32 (2) If a provider [or], subscriber, **OR GROUP OF SUBSCRIBERS** seeks  
33 mediation under paragraph (1) of this subsection:

1 (i) the mediation shall be nonbinding; and

2 (ii) the provider and subscriber **OR GROUP OF SUBSCRIBERS**  
3 may not be represented by counsel.

4 10-429.

5 A provider shall make readily available to its subscribers for review at the  
6 facility copies of all materials that the provider submits to the Department that are  
7 required to be disclosed under the Public Information Act.

8 **10-430.**

9 **ALL MARKETING MATERIALS, INCLUDING CONTINUING CARE DISCLOSURE**  
10 **STATEMENTS, THAT STATE THAT PART OR ALL OF THE ENTRANCE FEE IS OR**  
11 **MAY BE REFUNDABLE SHALL INCLUDE, IN CLOSE PROXIMITY, A DISCLAIMER IN**  
12 **THE SAME SIZE FONT THAT STATES AT LEAST THE FOLLOWING: "CAREFULLY**  
13 **READ THE CONTINUING CARE AGREEMENT FOR THE CONDITIONS THAT MUST BE**  
14 **SATISFIED BEFORE THE PROVIDER IS REQUIRED TO PAY THE ENTRANCE FEE**  
15 **REFUND."**

16 10-432.

17 (a) (1) [This section and §§ 10-433 through 10-435 of this subtitle do]  
18 **SUBSECTION (B)(2) OF THIS SECTION DOES** not apply to [a transfer of ownership of  
19 a facility, or] a transfer of ownership or control of a person that owns or controls a  
20 facility, if:

21 (i) the transfer is part of a business reorganization; and

22 (ii) the same person or persons holding **THE RIGHT TO**  
23 **CONTROL OR HOLDING** a majority of ownership [or right to control] before the  
24 business reorganization will retain, directly or indirectly, [a majority of ownership or]  
25 **THE** right to control **OR A MAJORITY OF OWNERSHIP, RESPECTIVELY,** after the  
26 business reorganization.

27 (2) The provider shall notify the Department and the facility's  
28 subscribers 30 days before any reorganization described in paragraph (1) of this  
29 subsection.

30 (b) Unless the Department approves the sale or transfer in accordance with  
31 §§ 10-433 through 10-435 of this subtitle:

32 **(1) EXCEPT FOR THE GRANT OF A MORTGAGE OR DEED OF TRUST**  
33 **TO AN UNRELATED THIRD PARTY,** a provider that holds a preliminary, initial, or

1 renewal certificate of registration [or] **MAY NOT SELL OR OTHERWISE TRANSFER,**  
 2 **DIRECTLY OR INDIRECTLY, OWNERSHIP OF A FACILITY OR ANY OWNERSHIP**  
 3 **INTEREST IN A FACILITY; AND**

4 (2) a person with an ownership interest in or a right to control the  
 5 provider, through governing body appointments or contractual or similar  
 6 arrangements, may not sell or otherwise transfer, directly or indirectly[:],

7 [(1)] **THE RIGHT TO CONTROL OR** more than 50% of the [provider's  
 8 ownership of a facility; or

9 (2) more than 50% of the ownership of or right to control]  
 10 **OWNERSHIP OF** a person that owns or controls a facility.

11 (c) Any series of sales or other transfers described in subsection (b) of this  
 12 section that occur in a 12-month period shall be aggregated for purposes of this  
 13 section and §§ 10-433 through 10-435 of this subtitle.

14 10-436.

15 (a) This section does not apply to:

16 (1) a transaction undertaken under a contractual obligation in effect  
 17 on October 1, 1996;

18 (2) a transaction made in the ordinary course of business of operating  
 19 a facility;

20 (3) a refund under a contract entered into in the ordinary course of  
 21 business;

22 (4) a transfer of cash, securities, or other investment property in  
 23 connection with an ordinary investment transaction;

24 (5) a grant of a mortgage, deed of trust, or security interest to an  
 25 unrelated third party;

26 (6) a transaction involving an easement, right-of-way, road widening,  
 27 or similar conveyance for the benefit of a public body or a utility;

28 (7) a transaction made for an expansion or renovation; [or]

29 (8) **A TRANSACTION TO WHICH § 10-432(B) APPLIES; OR**

30 [(8)] (9) any other sale, transfer, or other disposition exempted by  
 31 the Department by regulation.

1 (b) (1) A provider that holds a preliminary, initial, or renewal certificate  
2 of registration may not sell, transfer, or otherwise dispose of more than 10% of its total  
3 assets in any 12-month period unless the Department approves the sale, transfer, or  
4 disposition in accordance with §§ 10-437 and 10-438 of this subtitle.

5 (2) A provider may not sell, transfer, or otherwise dispose of assets  
6 equal to or less than 10% of its total assets if the sale, transfer, or disposition is likely,  
7 according to standards set by regulation, to have an unreasonably adverse effect on:

8 (i) the financial stability of the provider; or

9 (ii) the capacity of the provider to perform its obligations under  
10 its continuing care agreements.

11 (3) Determinations of total assets shall be based on the provider's  
12 latest certified financial statements available at the time the sale, transfer, or other  
13 disposition is made.

14 **10-443.**

15 **THE PROVISIONS OF PART IV OF THIS SUBTITLE ARE IN ADDITION TO,**  
16 **AND NOT IN LIEU OF, OTHER APPLICABLE LAWS.**

17 10-444.

18 (a) Except as provided in subsection (b)(23) of this section, a requirement of  
19 this section does not apply to any continuing care agreement entered into before the  
20 effective date of the requirement.

21 (b) In a form acceptable to the Department, each continuing care agreement  
22 shall:

23 (1) show the total consideration paid by the subscriber for continuing  
24 care, including the value of all property transferred, donations, entrance fees,  
25 subscriptions, monthly fees, and any other fees paid or payable by or on behalf of a  
26 subscriber;

27 (2) specify all services that are to be provided by the provider to each  
28 subscriber, such as food, shelter, medical care, nursing care, or other health related  
29 services, including in detail all items that each subscriber will receive, and whether  
30 the items will be provided for life or for a designated time period;

31 (3) designate the classes of subscribers according to types of payment  
32 plans;

33 (4) subject to subsection (c) of this section, describe the procedures to  
34 be followed by the provider when the provider temporarily or permanently changes the

1 subscriber's accommodations within the facility or transfers the subscriber to another  
2 health facility;

3 (5) describe the policies that will be implemented if the subscriber  
4 becomes unable to pay the monthly fees;

5 (6) state the policy of the provider concerning changes in  
6 accommodations and the procedure to implement that policy if the number of persons  
7 occupying an individual unit changes;

8 (7) provide in clear and understandable language, in boldface type,  
9 and in the largest type used in the body of the agreement:

10 (i) the terms governing the refund of any portion of the  
11 entrance fee if the provider discharges the subscriber or the subscriber cancels the  
12 agreement; and

13 (ii) whether monthly fees, if charged, will be subject to periodic  
14 increases;

15 (8) state the terms under which an agreement is canceled by the death  
16 of the subscriber;

17 (9) provide that charges for care paid in advance in a lump sum may  
18 not be increased or changed for the duration of the agreed-upon care;

19 (10) state that the **PROVIDER REPRESENTS THAT THE** subscriber has  
20 received, at least two weeks before signing the agreement[,]:

21 **(I) the current version of the written rules of the provider;**

22 **(II) THE CONTINUING CARE AGREEMENT FORM, WITH THE**  
23 **ATTACHMENTS, EXHIBITS, AND ADDENDA;**

24 **(III) THE MOST RECENT CONSUMER GUIDE ISSUED BY THE**  
25 **DEPARTMENT CONCERNING CONTINUING CARE IN A RETIREMENT COMMUNITY;**

26 **(IV) IF ASSISTED LIVING IS OFFERED BY THE PROVIDER, THE**  
27 **CURRENT STANDARD ASSISTED LIVING DISCLOSURE STATEMENT REQUIRED BY**  
28 **§ 19-1808 OF THE HEALTH – GENERAL ARTICLE; AND**

29 **(V) THE CURRENT CONTINUING CARE DISCLOSURE**  
30 **STATEMENT;**

31 (11) describe the living quarters;

1 (12) if applicable, state the conditions under which a subscriber may  
2 assign a unit for the use of another individual;

3 (13) state the provider's religious or charitable affiliations and the  
4 extent, if any, to which the affiliate organization is responsible for the provider's  
5 financial and contractual obligations;

6 (14) state the subscriber's and provider's respective rights and  
7 obligations concerning:

8 (i) use of the facility; and

9 (ii) any real and personal property of the subscriber placed in  
10 the provider's custody;

11 (15) state that subscribers have the right to organize and operate a  
12 subscriber association at the facility and to meet privately to conduct business;

13 (16) state that there is an internal grievance procedure to address a  
14 subscriber's grievance;

15 (17) state the fee adjustments, if any, that will be made if the  
16 subscriber is voluntarily absent from the facility for an extended period of time;

17 (18) specify the circumstances, if any, under which the subscriber will  
18 be required to apply for Medicaid, Medicare, public assistance, or any public benefit  
19 program and whether the facility participates in Medicare or medical assistance;

20 (19) state that the subscriber received a copy of the latest certified  
21 financial statement at least two weeks before signing the agreement and that the  
22 subscriber has reviewed the statement;

23 (20) provide that, on request, the provider will make available to the  
24 subscriber any certified financial statement submitted to the Department;

25 (21) if applicable, describe the conditions under which the provider may  
26 be issued an initial certificate of registration and the conditions under which the  
27 provider may use escrowed deposits, and state the amount of the subscriber's deposit;

28 (22) state that fees collected by a provider under the terms of a  
29 continuing care agreement may only be used for purposes set forth in the agreement;

30 (23) allow a subscriber to designate a beneficiary to receive any  
31 refundable portion of the entrance fee that is owed due to the death of the subscriber  
32 on or after the date of occupancy, if the designation is:

33 (i) in writing;

- 1 (ii) witnessed by at least two competent witnesses;  
2 (iii) not contingent; and  
3 (iv) specified in percentages and accounts for 100% of the refund  
4 due;

5 (24) state the funeral and burial services, if any, that the provider will  
6 provide; [and]

7 **(25) CONTAIN A TABLE OF CONTENTS;**

8 **(26) IF THE AGREEMENT PROMISES A CONTRACTUAL ENTRANCE**  
9 **FEE REFUND, STATE IN A SEPARATE PARAGRAPH WHETHER THE PORTION OF**  
10 **THE ENTRANCE FEE TO BE REFUNDED IS EARMARKED AND HELD FOR THE**  
11 **SUBSCRIBER UNTIL THE REFUND IS DUE, AND IF SO HELD, DESCRIBE WHERE**  
12 **AND HOW THE FUNDS ARE HELD;**

13 **(27) IF THE AGREEMENT PROMISES A CONTRACTUAL ENTRANCE**  
14 **FEE REFUND BUT DOES NOT EARMARK AND HOLD THE PORTION OF THE**  
15 **ENTRANCE FEE TO BE REFUNDED TO THE SUBSCRIBER, DESCRIBE HOW THE**  
16 **FUNDS CONSTITUTING THE ENTRANCE FEE ARE USED BY THE PROVIDER; AND**

17 ~~[(25)]~~ **(28)** contain the following statement in boldface type and in the  
18 largest type used in the agreement: “A preliminary certificate of registration or  
19 certificate of registration is not an endorsement or guarantee of this facility by the  
20 State of Maryland. The Maryland Department of Aging urges you to consult with an  
21 attorney and a suitable financial advisor before signing any documents.”.

22 (c) A subscriber’s accommodations may be changed only to protect the health  
23 or safety of the subscriber or the general and economic welfare of other residents.

24 (d) A continuing care agreement may contain, in a form acceptable to the  
25 Department, any other appropriate provision to effectuate the purpose of the  
26 agreement.

27 (e) (1) This subsection applies if:

28 (i) a provider’s continuing care agreement includes a provision  
29 to provide assisted living program services; and

30 (ii) the provider does not execute a separate assisted living  
31 agreement.

1           (2) In addition to any other requirement of this section, the continuing  
2 care agreement shall include the following provisions concerning the assisted living  
3 program:

4                   (i) a statement of the level of care that the assisted living  
5 program is licensed to offer;

6                   (ii) a description of the procedures to be followed by the provider  
7 for notifying the subscriber of the **INITIAL ASSISTED LIVING** level of care the  
8 subscriber needs if the subscriber transfers to an assisted living program;

9                   (iii) a statement indicating the options available to a subscriber  
10 if the subscriber's level of care, after admission to an assisted living program, exceeds  
11 the level of care for which the provider is licensed;

12                   [(iv) based on a sample list of assisted living program services  
13 that the Department of Health and Mental Hygiene maintains, a statement of which  
14 services are provided by the assisted living program and which services are not;]

15                   [(v)] **(IV)** a statement of the obligations of the provider and the  
16 subscriber or the subscriber's agent for handling the subscriber's finances;

17                   [(vi)] **(V)** a statement of the obligations of the provider and the  
18 subscriber or the subscriber's agent for disposition of the subscriber's property on the  
19 subscriber's discharge or death; and

20                   [(vii)] **(VI)** [the applicable] rate structure and payment  
21 provisions covering:

22                           1. all rates to be charged to the subscriber, including:

23                                   A. service packages;

24                                   B. fee-for-service rates; and

25                                   C. any other nonservice-related charges;

26                           2. criteria to be used for imposing additional charges to  
27 provide additional services, if the subscriber's service and care needs change;

28                           3. payment arrangements and fees, if known, for  
29 third-party services not covered by the continuing care agreement, but arranged for  
30 by the subscriber, the subscriber's agent, or the assisted living program;

31                           4. identification of the persons responsible to pay all fees  
32 and charges and a clear indication of whether the person's responsibility is or is not  
33 limited to the extent of the subscriber's funds;



1                   5.     a provision for notice at least 45 days before any rate  
2 increase, except for an increase necessitated by a change in the subscriber's medical  
3 condition; and

4                   6.     fair and reasonable billing and payment policies.

5 10-445.

6           (a)   (1)   (i)   If a provider's feasibility study has been approved under §  
7 10-409 of this subtitle, the Department, within 120 days after receipt of a continuing  
8 care agreement or any other related agreement submitted by a provider, shall  
9 determine whether the agreement complies with the requirements of this subtitle.

10                   (ii)   At any time during the review process, the Department may  
11 submit comments to or request additional information from the provider to determine  
12 whether the agreement complies with the requirements of this subtitle **AND OTHER**  
13 **APPLICABLE STATUTORY AND COMMON LAW PROVISIONS OR PRINCIPLES.**

14                   (iii)   If the Department submits comments or a request for  
15 additional information under subparagraph (ii) of this paragraph, the 120-day review  
16 period under subparagraph (i) of this paragraph is suspended.

17                   (iv)   On receipt of any requested information or modifications to  
18 the agreement necessitated by the Department's comments under subparagraph (iii) of  
19 this paragraph, the Department, within the number of days remaining in the 120-day  
20 review period, shall:

21                           1.   complete its review to determine whether the  
22 agreement meets the requirements of this subtitle **AND OTHER PROVISIONS OR**  
23 **PRINCIPLES RAISED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH;** and

24                           2.   approve or disapprove the agreement.

25                           (v)   1.   If the Department does not approve the agreement,  
26 the Department shall notify the provider in writing, including citations to the specific  
27 provisions **OR PRINCIPLES** of **STATUTORY AND COMMON** law that the Department  
28 determined were not complied with in the agreement.

29                           2.   A provider may appeal the disapproval of an  
30 agreement under subparagraph (iv) of this paragraph under the provisions of Title 10,  
31 Subtitle 2 of the State Government Article.

32                   (2)   If the Department does not act within 120 days, the agreement is  
33 deemed approved.

1 (b) The provider shall maintain the continuing care agreement at the facility  
2 and make it available for inspection by the Department of Health and Mental Hygiene  
3 under Title 19, Subtitle 18, of the Health – General Article and Title 10, Subtitle 3 of  
4 the Health – General Article.

5 (c) If a provider is seeking approval for a modification to an approved  
6 continuing care agreement or other related agreement, the Department shall limit its  
7 review to:

8 (1) the section of the agreement being modified and any sections  
9 directly affected by the modification; and

10 (2) any section of the agreement that may have been affected by a  
11 change in the law or a regulation that was enacted after the Department approved the  
12 agreement.

13 (d) [If the provider executes a separate assisted living agreement or  
14 comprehensive care agreement, the provider is not required to submit the assisted  
15 living agreement or comprehensive care agreement or any requests for modifications  
16 to the Department for approval.] **IF THE CONTINUING CARE AGREEMENT IS NOT  
17 AN EXTENSIVE AGREEMENT OR A MODIFIED AGREEMENT AS DEFINED IN §  
18 10–401 OF THIS SUBTITLE, AND THE PROVIDER USES A SEPARATE ASSISTED  
19 LIVING AGREEMENT:**

20 **(1) THE PROVIDER IS NOT REQUIRED TO SUBMIT THE ASSISTED  
21 LIVING AGREEMENT OR ANY REQUESTS FOR MODIFICATIONS TO THE  
22 DEPARTMENT FOR APPROVAL; AND**

23 **(2) THE PROVIDER SHALL STATE IN ITS CONTINUING CARE  
24 AGREEMENT THAT, IF THE SUBSCRIBER WISHES TO TRANSFER TO ASSISTED  
25 LIVING, THE SUBSCRIBER WILL BE REQUIRED TO SIGN AN ADDITIONAL  
26 SEPARATE AGREEMENT FOR ASSISTED LIVING SERVICES THAT WILL NOT BE  
27 APPROVED BY THE DEPARTMENT FOR COMPLIANCE WITH LEGAL  
28 REQUIREMENTS OR COORDINATION WITH THE CONTINUING CARE AGREEMENT.**

29 **(E) IF THE CONTINUING CARE AGREEMENT IS NOT AN EXTENSIVE  
30 AGREEMENT OR A MODIFIED AGREEMENT AS DEFINED IN § 10–401 OF THIS  
31 SUBTITLE, AND THE PROVIDER USES A SEPARATE COMPREHENSIVE CARE  
32 AGREEMENT:**

33 **(1) THE PROVIDER IS NOT REQUIRED TO SUBMIT THE  
34 COMPREHENSIVE CARE AGREEMENT OR ANY REQUESTS FOR MODIFICATIONS TO  
35 THE DEPARTMENT FOR APPROVAL; AND**

1           **(2) THE PROVIDER SHALL STATE IN ITS CONTINUING CARE**  
2 **AGREEMENT THAT, IF THE SUBSCRIBER WISHES TO TRANSFER TO**  
3 **COMPREHENSIVE CARE, THE SUBSCRIBER WILL BE REQUIRED TO SIGN AN**  
4 **ADDITIONAL SEPARATE AGREEMENT FOR COMPREHENSIVE CARE SERVICES**  
5 **THAT WILL NOT BE APPROVED BY THE DEPARTMENT FOR COMPLIANCE WITH**  
6 **LEGAL REQUIREMENTS OR COORDINATION WITH THE CONTINUING CARE**  
7 **AGREEMENT.**

8 10-447.

9           **[(a) (1) In this section the following words have the meanings indicated.**

10           **(2) “Extensive agreement” means a continuing care agreement under**  
11 **which the provider promises to provide residential facilities, meals, amenities, and**  
12 **long-term care services in a licensed assisted living program or comprehensive care**  
13 **program:**

14                   (i) for as long as the subscriber needs the services; and

15                   (ii) for no increase in the subscriber’s entrance fee or periodic  
16 fees, except for an adjustment to account for increased operating costs caused by  
17 inflation or other factors unrelated to the individual subscriber.

18           **(3) “Modified agreement” means a continuing care agreement:**

19                   (i) under which the provider promises to provide residential  
20 facilities, meals, amenities, and a limited amount of long-term care services in a  
21 licensed assisted living program or comprehensive care program:

22                           1. for as long as the subscriber needs the services; and

23                           2. for no increase in the subscriber’s entrance fee or  
24 periodic fees, except for an adjustment to account for increased operating costs caused  
25 by inflation or other factors unrelated to the individual subscriber; and

26                   (ii) that provides that long-term care services in a licensed  
27 assisted living program or comprehensive care program beyond the limited amount of  
28 services to be provided under item (i) of this paragraph will be provided at a per diem,  
29 fee-for-service, or other agreed-upon rate.]

30           **[(b) (A) (1) A provider shall provide the assisted living services a**  
31 **subscriber needs in accordance with paragraph (2) of this subsection if:**

32                   (i) the subscriber’s continuing care agreement is an extensive  
33 or modified agreement that promises the provider will provide assisted living services;  
34 and

1 (ii) the provider does not have an assisted living bed available  
2 at the facility when the subscriber needs the promised care.

3 (2) The provider shall provide assisted living services required under  
4 paragraph (1) of this subsection to a subscriber:

5 (i) at the same rate the subscriber would pay if an assisted  
6 living bed were available; and

7 (ii) at the provider's option:

8 1. in the subscriber's independent living unit; or

9 2. in a nearby licensed assisted living facility.

10 **[(c)] (B)** (1) A provider shall provide the comprehensive care services a  
11 subscriber needs in accordance with paragraph (2) of this subsection if:

12 (i) the subscriber's continuing care agreement is an extensive  
13 or modified agreement that promises the provider will provide the subscriber with  
14 comprehensive care services if the subscriber needs them; and

15 (ii) the provider does not have a comprehensive care bed  
16 available when the subscriber needs the promised care.

17 (2) The provider shall provide the services required under paragraph  
18 (1) of this subsection:

19 (i) at the same rate the subscriber would pay if a  
20 comprehensive bed were available; and

21 (ii) at the provider's option:

22 1. in the subscriber's independent or assisted living unit;

23 or

24 2. in a nearby licensed comprehensive care facility.

25 **Article – Health – General**

26 19–1806.

27 (a) (1) In this section the following words have the meanings indicated.

28 (2) “Continuing care” has the meaning stated in § 10–401 of the  
29 Human Services Article.

1           (3) “Continuing care agreement” has the meaning stated in § 10–401  
2 of the Human Services Article.

3           (b) This section applies to assisted living programs that offer assisted living  
4 program services as part of a continuum of care in accordance with a continuing care  
5 agreement that does not require a subscriber to execute a separate assisted living  
6 agreement to receive those services.

7           (c) (1) An assisted living program subject to this section that meets the  
8 requirements of Title 10, Subtitle 4 of the Human Services Article with regard to  
9 assisted living is not required to execute a separate assisted living resident agreement  
10 that is in addition to the continuing care agreement.

11           (2) For purposes of paragraph (1) of this subsection, if a separate  
12 assisted living resident agreement is not utilized, references to a resident agreement  
13 in any regulations adopted under this subtitle shall mean the continuing care  
14 agreement.

15           (d) A continuing care agreement that contains a provision to provide assisted  
16 living program services and does not require a subscriber to execute a separate  
17 assisted living agreement to receive those services is not required to contain general or  
18 specific contract provisions, except as required under Title 10, Subtitle 4 of the Human  
19 Services Article, that apply to assisted living programs that are not subject to this  
20 section.

21           [(e) (1) In addition to subsection (c) of this section, an assisted living  
22 program subject to this section is not required to provide a disclosure statement  
23 relating to its assisted living program separate from any disclosure statement required  
24 by Title 10, Subtitle 4 of the Human Services Article for continuing care.

25           (2) Any disclosure statement required to be provided to a resident  
26 under Title 10, Subtitle 4 of the Human Services Article shall include information that  
27 is required to be disclosed by an assisted living program in accordance with this  
28 subtitle.]

29           [(f)] (E) A transfer of a resident from an assisted living program subject to  
30 this section to another assisted living or continuing care arrangement governed by the  
31 same continuing care agreement may not be considered a relocation or discharge from  
32 the assisted living program for purposes of triggering any regulatory requirements  
33 adopted under this subtitle for matters relating to notice, financial accounting, or  
34 refunds.

35 19–1808.

36           (a) (1) The Department, in consultation with the Maryland Health Care  
37 Commission and stakeholders, including advocates, consumers, and providers of

1 assisted living services, shall develop a standard assisted living program services  
2 disclosure statement.

3 **(2) THE DEPARTMENT, IN CONSULTATION WITH THE**  
4 **DEPARTMENT OF AGING, ALSO SHALL ADOPT A STANDARD VERSION OF THE**  
5 **ASSISTED LIVING PROGRAM SERVICES DISCLOSURE STATEMENT FOR USE FOR**  
6 **ASSISTED LIVING THAT IS INCLUDED IN CONTINUING CARE, AS DEFINED IN §**  
7 **10-401 OF THE HUMAN SERVICES ARTICLE.**

8 (b) The purpose of the assisted living program services disclosure statement  
9 is to inform potential consumers about the services provided by an assisted living  
10 program in order to assist a consumer in choosing the most appropriate assisted living  
11 program.

12 (c) (1) An assisted living program, as part of the application for licensure,  
13 shall file with the Office of Health Care Quality the assisted living program services  
14 disclosure statement developed by the Department.

15 (2) If an assisted living program changes the services reported on the  
16 assisted living program services disclosure statement, the assisted living program  
17 shall file with the Office of Health Care Quality an amended assisted living program  
18 services disclosure statement within 30 days of the change in services.

19 (d) (1) If an individual requests a copy of an assisted living program's  
20 services disclosure statement, the assisted living program shall provide a copy of the  
21 services disclosure statement to the individual making the request.

22 (2) An assisted living program shall provide a copy of the services  
23 disclosure statement to individuals as part of the program's marketing materials.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2011.