



June 15, 2015

## Updated Continuing Care Disclosure Checklist

As a result of the passage of HB 749, which was signed into law on June 10, 2015, three new disclosure requirements were added to chapter 651, Florida Statutes.

Disclosure of pertinent information about individual continuing care retirement communities is extremely important to most residents and prospective residents. This is what led to the additional disclosure requirements adopted by the Florida Legislature in 2010 and 2015. Remember written documentation is key to proving compliance.

For your convenience, we have compiled a checklist of all disclosure requirements in chapter 651, Florida Statutes. The disclosure requirements added in 2015 are identified with an asterisk (\*). They take effect on October 1, 2015.

### To Resident Council President or Chair

- Within 30 days of the election of a president or chair of the residents' council, a copy of [chapter 651](#) and related rules ([69O-193, Florida Administrative Code](#)). Chapter 651 can be printed in its entirety by clicking on View Entire chapter link at the top right of the page. The rules must be opened individually and printed. In lieu of providing a copy of these documents, the law states that you may direct the Resident Council President or Chair to the Office of Insurance Regulation ([OIR website](#)) where the documents are posted. This website is intended to be user-friendly, but less technically adept residents may have trouble locating the documents.
- A copy of the full annual statement within 30 days of filing the annual report with OIR. A staff person must be designated to provide an explanation of the statement. (Statutory reference: s. 651.091 (2)(d), F.S.) OIR is interpreting "full annual statement" to mean the annual report.
- A copy of each quarterly statement within 30 days of filing the statement with OIR if the facility is required to file quarterly. (Statutory reference: s. 651.091 (2)(g), F.S.)
- \*A copy of the most recent third-party financial audit to the president or chair of the residents' council.
- Upon request, a copy of any newly approved continuing care contract within 30

days of approval by OIR. (Statutory reference: s. 651.091 (2)(h), F.S.)

- A summary of entrance fees collected and refunds made during the time period covered in the annual report and the refund balances due at the end of the report period. This is a schedule on page 13 of the annual report titled "Entrance Fee Cash Summary Report." (Statutory reference: s. 651.091 (2)(f), F.S.)
- At quarterly meetings where monthly maintenance fee increases are discussed, a summary of the reasons for any increase in the monthly maintenance fee that exceeds the most recently published Consumer Price Index for all Urban Consumers, all items, Class A Areas of the Southern Region. (Statutory reference: s.651.085 (1) & (4), F.S.)

### **To Governing Body**

- \*A copy of the final examination report and corrective action plan, if one is required by the OIR, to the chair or officer of the governing body of the provider within 60 days of the issuance of the report.
- \*Requires the OIR to notify the executive officer of the governing body in writing of all deficiencies identified during examinations/inspections.

### **To Resident Council**

- Notification of any plans filed with OIR to obtain new financing, additional financing, or refinancing for the facility and of any applications to OIR for any expansion of the facility. (Statutory reference: s. 651.091 (2)(e), F.S.)

### **To Prospective Resident (Statutory reference: s. 651.091 (3)(a) through (i), F.S.)**

Before entering into a contract to furnish continuing care, the provider undertaking to furnish the care, or the agent of the provider, shall make full disclosure, and provide copies of the disclosure documents to the prospective resident or his or her legal representative, of the following information:

- The contract to furnish continuing care.
- The summary of the last OIR Examination Report.
- All ownership interests and lease agreements, including information specified in s. 651.022(2)(b)8.
- Make available for review, master plans approved by the provider's governing board and any plans for expansion or phased development, to the extent that

the availability of such plans will not put at risk real estate, financing, acquisition, negotiations, or other implementation of operational plans and thus jeopardize the success of negotiations, operations, and development.

- Copies of the rules and regulations of the facility and an explanation of the responsibilities of the resident.
- The policy of the facility with respect to admission to and discharge from the various levels of health care offered by the facility.
- The amount and location of any reserve funds required by this chapter, and the name of the person or entity having a claim to such funds in the event of a bankruptcy, foreclosure, or rehabilitation proceeding.
- A copy of s. 651.071.
- A copy of the resident's rights as described in s. 651.083.
- A resident or prospective resident or his or her legal representative may inspect the full reports referred to in paragraph (2)(b); the charter or other agreement or instrument required to be filed with the office pursuant to s. 651.022(2), together with all amendments thereto; and the bylaws of the corporation or association, if any. Upon request, copies of the reports and information shall be provided to the individual requesting them if the individual agrees to pay a reasonable charge to cover copying costs. (Statutory reference: s.651.091 (4), F.S.)
- A description of the policies that may lead to changes in monthly recurring and nonrecurring charges or fees for goods and services received. The contract shall provide for advance notice to the resident, of not less than 60 days, before any change in fees or charges or the scope of care or services may be effective, except for changes required by state or federal assistance programs. (Statutory reference: s.651.055(1)(i), F.S.)

## **Posting Requirements**

- Display the certificate of authority in a conspicuous place inside the facility. (Statutory reference: s. 651.091 (2)(a), F.S.)
- Post in a prominent position in the facility a concise summary of the last examination report issued by OIR, with references to the page numbers of the full report noting any deficiencies found by the office, and the actions taken by the provider to rectify such deficiencies, indicating in such summary where the full report may be inspected in the facility. (Statutory reference: s. 651.091 (2)(b), F.S.)
- Post in a prominent position in the facility the latest annual statement, indicating

in the summary where the full annual statement may be inspected in the facility. A listing of any proposed changes in policies, programs, and services shall also be posted. (Statutory reference: s. 651.091 (2)(c), F.S.)

- Residents shall be entitled to at least 7 days' advance notice of each quarterly meeting. An agenda and any materials that will be distributed by the governing body or representative of the provider shall be posted in a conspicuous place at the facility and shall be available upon request to residents of the facility. (Statutory reference: s. 651.085 (1), F.S.)

## **Verification of Compliance with Disclosure Requirements**

The Office of Insurance Regulation is required to verify that continuing care retirement communities comply with disclosure requirements in chapter 651, F.S., when it conducts an examination of the facility or responds to a consumer complaint. Therefore, it is important that providers request that recipients of required disclosure documents sign and date a witnessed statement indicating that they have received the document. This is not required by law, but it is good business practice, and written documentation is expected by OIR examiners as proof of compliance. Failure to comply with a disclosure requirement is one of the more commonly cited violations during triennial audits and could result in a fine. OIR acknowledges that many disclosure violations are a result of inadequate document by the CCRC by verify that the disclosure occurred. Bottom line – disclosing is not enough; it must be documented in writing.

If you have any questions, please contact Mary Ellen Early, Public Policy Liaison, at 386-734-7681 or [mearly@earthlink.net](mailto:mearly@earthlink.net).