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HEALTH AND SAFETY CODE - HSC

DIVISION 2. LICENSING PROVISIONS [1200 - 1796.70] (*Division 2 enacted by Stats. 1939, Ch. 60.*)

CHAPTER 10. Continuing Care Contracts [1770 - 1793.91] (*Chapter 10 repealed and added by Stats. 1990, Ch. 875, Sec. 2.*)

ARTICLE 1. General Provisions [1770 - 1778] (*Article 1 added by Stats. 1990, Ch. 875, Sec. 2.*)

1770. The Legislature finds, declares, and intends all of the following:

- (a) Continuing care retirement communities are an alternative for the long-term residential, social, and health care needs of California's elderly residents and seek to provide a continuum of care, minimize transfer trauma, and allow services to be provided in an appropriately licensed setting.
- (b) Because elderly residents often both expend a significant portion of their savings in order to purchase care in a continuing care retirement community and expect to receive care at their continuing care retirement community for the rest of their lives, tragic consequences can result if a continuing care provider becomes insolvent or unable to provide responsible care.
- (c) There is a need for disclosure concerning the terms of agreements made between prospective residents and the continuing care provider, and concerning the operations of the continuing care retirement community.
- (d) Providers of continuing care should be required to obtain a certificate of authority to enter into continuing care contracts and should be monitored and regulated by the State Department of Social Services.
- (e) This chapter applies equally to for-profit and nonprofit provider entities.
- (f) This chapter states the minimum requirements to be imposed upon any entity offering or providing continuing care.
- (g) Because the authority to enter into continuing care contracts granted by the State Department of Social Services is neither a guarantee of performance by the providers nor an endorsement of any continuing care contract provisions, prospective residents must carefully consider the risks, benefits, and costs before signing a continuing care contract and should be encouraged to seek financial and legal advice before doing so.

(Amended by Stats. 2000, Ch. 820, Sec. 1. Effective January 1, 2001.)

1771. Unless the context otherwise requires, the definitions in this section govern the interpretation of this chapter.

- (a) (1) "Affiliate" means any person, corporation, limited liability company, business trust, trust, partnership, unincorporated association, or other legal entity that directly or indirectly controls, is controlled by, or is under common control with, a provider or applicant.
- (2) "Affinity group" means a grouping of entities sharing a common interest, philosophy, or connection (e.g., military officers, religion).
- (3) "Annual report" means the report each provider is required to file annually with the department, as described in Section 1790.
- (4) "Applicant" means any entity, or combination of entities, that submits and has pending an application to the department for a permit to accept deposits and a certificate of authority.
- (5) "Assisted living services" includes, but is not limited to, assistance with personal activities of daily living, including dressing, feeding, toileting, bathing, grooming, mobility, and associated tasks, to help provide for and maintain physical and psychosocial comfort.
- (6) "Assisted living unit" means the living area or unit within a continuing care retirement community that is specifically designed to provide ongoing assisted living services.

(7) "Audited financial statement" means financial statements prepared in accordance with generally accepted accounting principles, including the opinion of an independent certified public accountant, and notes to the financial statements considered customary or necessary to provide full disclosure and complete information regarding the provider's financial statements, financial condition, and operation.

(b) (reserved)

(c) (1) "Cancel" means to destroy the force and effect of an agreement or continuing care contract.

(2) "Cancellation period" means the 90-day period, beginning when the resident physically moves into the continuing care retirement community, during which the resident may cancel the continuing care contract, as provided in Section 1788.2.

(3) "Care" means nursing, medical, or other health-related services, protection or supervision, assistance with the personal activities of daily living, or any combination of those services.

(4) "Cash equivalent" means certificates of deposit and United States treasury securities with a maturity of five years or less.

(5) "Certificate" or "certificate of authority" means the certificate issued by the department, properly executed and bearing the State Seal, authorizing a specified provider to enter into one or more continuing care contracts at a single specified continuing care retirement community.

(6) "Condition" means a restriction, specific action, or other requirement imposed by the department for the initial or continuing validity of a permit to accept deposits, a provisional certificate of authority, or a certificate of authority. A condition may limit the circumstances under which the provider may enter into any new deposit agreement or contract, or may be imposed as a condition precedent to the issuance of a permit to accept deposits, a provisional certificate of authority, or a certificate of authority.

(7) "Consideration" means some right, interest, profit, or benefit paid, transferred, promised, or provided by one party to another as an inducement to contract. Consideration includes some forbearance, detriment, loss, or responsibility, that is given, suffered, or undertaken by a party as an inducement to another party to contract.

(8) "Continuing care contract" means a contract that includes a continuing care promise made, in exchange for an entrance fee, the payment of periodic charges, or both types of payments. A continuing care contract may consist of one agreement or a series of agreements and other writings incorporated by reference.

(9) "Continuing care promise" means a promise, expressed or implied, by a provider to provide one or more elements of care to an elderly resident for the duration of his or her life or for a term in excess of one year. Any such promise or representation, whether part of a continuing care contract, other agreement, or series of agreements, or contained in any advertisement, brochure, or other material, either written or oral, is a continuing care promise.

(10) "Continuing care retirement community" means a facility located within the State of California where services promised in a continuing care contract are provided. A distinct phase of development approved by the department may be considered to be the continuing care retirement community when a project is being developed in successive distinct phases over a period of time. When the services are provided in residents' own homes, the homes into which the provider takes those services are considered part of the continuing care retirement community.

(11) "Control" means directing or causing the direction of the financial management or the policies of another entity, including an operator of a continuing care retirement community, whether by means of the controlling entity's ownership interest, contract, or any other involvement. A parent entity or sole member of an entity controls a subsidiary entity provider for a continuing care retirement community if its officers, directors, or agents directly participate in the management of the subsidiary entity or in the initiation or approval of policies that affect the continuing care retirement community's operations, including, but not limited to, approving budgets or the administrator for a continuing care retirement community.

(d) (1) "Department" means the State Department of Social Services.

(2) "Deposit" means any transfer of consideration, including a promise to transfer money or property, made by a depositor to any entity that promises or proposes to promise to provide continuing care, but is not authorized to enter into a continuing care contract with the potential depositor.

(3) "Deposit agreement" means any agreement made between any entity accepting a deposit and a depositor. Deposit agreements for deposits received by an applicant prior to the department's release of funds from the deposit escrow account shall be subject to the requirements described in Section 1780.4.

(4) "Depository" means a bank or institution that is a member of the Federal Deposit Insurance Corporation or a comparable deposit insurance program.

(5) "Depositor" means any prospective resident who pays a deposit. Where any portion of the consideration transferred to an applicant as a deposit or to a provider as consideration for a continuing care contract is transferred by a person other than the prospective resident or a resident, that third-party transferor shall have the same cancellation or refund rights as the prospective resident or resident for whose benefit the consideration was transferred.

(6) "Director" means the Director of Social Services.

(e) (1) "Elderly" means an individual who is 60 years of age or older.

(2) "Entity" means an individual, partnership, corporation, limited liability company, and any other form for doing business. Entity includes a person, sole proprietorship, estate, trust, association, and joint venture.

(3) "Entrance fee" means the sum of any initial, amortized, or deferred transfer of consideration made or promised to be made by, or on behalf of, a person entering into a continuing care contract for the purpose of ensuring care or related services pursuant to that continuing care contract or as full or partial payment for the promise to provide care for the term of the continuing care contract. Entrance fee includes the purchase price of a condominium, cooperative, or other interest sold in connection with a promise of continuing care. An initial, amortized, or deferred transfer of consideration that is greater in value than 12 times the monthly care fee shall be presumed to be an entrance fee.

(4) "Equity" means the value of real property in excess of the aggregate amount of all liabilities secured by the property.

(5) "Equity interest" means an interest held by a resident in a continuing care retirement community that consists of either an ownership interest in any part of the continuing care retirement community property or a transferable membership that entitles the holder to reside at the continuing care retirement community.

(6) "Equity project" means a continuing care retirement community where residents receive an equity interest in the continuing care retirement community property.

(7) "Equity securities" shall refer generally to large and midcapitalization corporate stocks that are publicly traded and readily liquidated for cash, and shall include shares in mutual funds that hold portfolios consisting predominantly of these stocks and other qualifying assets, as defined by Section 1792.2. Equity securities shall also include other similar securities that are specifically approved by the department.

(8) "Escrow agent" means a bank or institution, including, but not limited to, a title insurance company, approved by the department to hold and render accountings for deposits of cash or cash equivalents.

(f) "Facility" means any place or accommodation where a provider provides or will provide a resident with care or related services, whether or not the place or accommodation is constructed, owned, leased, rented, or otherwise contracted for by the provider.

(g) (reserved)

(h) (reserved)

(i) (1) "Inactive certificate of authority" means a certificate that has been terminated under Section 1793.8.

(2) "Investment securities" means any of the following:

(A) Direct obligations of the United States, including obligations issued or held in book-entry form on the books of the United States Department of the Treasury or obligations the timely payment of the principal of, and the interest on, which are fully guaranteed by the United States.

(B) Obligations, debentures, notes, or other evidences of indebtedness issued or guaranteed by any of the following:

(i) The Federal Home Loan Bank System.

(ii) The Export-Import Bank of the United States.

(iii) The Federal Financing Bank.

(iv) The Government National Mortgage Association.

(v) The Farmers Home Administration.

(vi) The Federal Home Loan Mortgage Corporation of the Federal Housing Administration.

(vii) Any agency, department, or other instrumentality of the United States if the obligations are rated in one of the two highest rating categories of each rating agency rating those obligations.

(C) Bonds of the State of California or of any county, city and county, or city in this state, if rated in one of the two highest rating categories of each rating agency rating those bonds.

(D) Commercial paper of finance companies and banking institutions rated in one of the two highest categories of each rating agency rating those instruments.

(E) Repurchase agreements fully secured by collateral security described in subparagraph (A) or (B), as evidenced by an opinion of counsel, if the collateral is held by the provider or a third party during the term of the repurchase agreement, pursuant to the terms of the agreement, subject to liens or claims of third parties, and has a market value, which is determined at least every 14 days, at least equal to the amount so invested.

(F) Long-term investment agreements, which have maturity dates in excess of one year, with financial institutions, including, but not limited to, banks and insurance companies or their affiliates, if the financial institution's paying ability for debt obligations or long-term claims or the paying ability of a related guarantor of the financial institution for these obligations or claims, is rated in one of the two highest rating categories of each rating agency rating those instruments, or if the short-term investment agreements are with the financial institution or the related guarantor of the financial institution, the long-term or short-term debt obligations, whichever is applicable, of which are rated in one of the two highest long-term or short-term rating categories, of each rating agency rating the bonds of the financial institution or the related guarantor, provided that if the rating falls below the two highest rating categories, the investment agreement shall allow the provider the option to replace the financial institution or the related guarantor of the financial institution or shall provide for the investment securities to be fully collateralized by investments described in subparagraph (A), and, provided further, if so collateralized, that the provider has a perfected first security lien on the collateral, as evidenced by an opinion of counsel and the collateral is held by the provider.

(G) Banker's acceptances or certificates of deposit of, or time deposits in, any savings and loan association that meets any of the following criteria:

(i) The debt obligations of the savings and loan association, or in the case of a principal bank, of the bank holding company, are rated in one of the two highest rating categories of each rating agency rating those instruments.

(ii) The certificates of deposit or time deposits are fully insured by the Federal Deposit Insurance Corporation.

(iii) The certificates of deposit or time deposits are secured at all times, in the manner and to the extent provided by law, by collateral security described in subparagraph (A) or (B) with a market value, valued at least quarterly, of no less than the original amount of moneys so invested.

(H) Taxable money market government portfolios restricted to obligations issued or guaranteed as to payment of principal and interest by the full faith and credit of the United States.

(I) Obligations the interest on which is excluded from gross income for federal income tax purposes and money market mutual funds whose portfolios are restricted to these obligations, if the obligations or mutual funds are rated in one of the two highest rating categories by each rating agency rating those obligations.

(J) Bonds that are not issued by the United States or any federal agency, but that are listed on a national exchange and that are rated at least "A" by Moody's Investors Service, or the equivalent rating by Standard and Poor's Corporation or Fitch Investors Service.

(K) Bonds not listed on a national exchange that are traded on an over-the-counter basis, and that are rated at least "Aa" by Moody's Investors Service or "AA" by Standard and Poor's Corporation or Fitch Investors Service.

(j) (reserved)

(k) (reserved)

(l) "Life care contract" means a continuing care contract that includes a promise, expressed or implied, by a provider to provide or pay for routine services at all levels of care, including acute care and the services of physicians and surgeons, to the extent not covered by other public or private insurance benefits, to a resident for the duration of his or her life. Care shall be provided under a life care contract in a continuing care retirement community having a comprehensive continuum of care, including a skilled nursing facility, under the ownership and supervision of the provider on or adjacent to the premises. A change shall not be made in the monthly fee based on level of care. A life care contract shall also include provisions to subsidize residents who become financially unable to pay their monthly care fees.

(m) (1) "Monthly care fee" means the fee charged to a resident in a continuing care contract on a monthly or other periodic basis for current accommodations and services, including care, board, or lodging. Periodic entrance fee payments or other prepayments shall not be monthly care fees.

(2) "Monthly fee contract" means a continuing care contract that requires residents to pay monthly care fees.

(n) "Nonambulatory person" means a person who is unable to leave a building unassisted under emergency conditions in the manner described by Section 13131.

(o) (reserved)

(p) (1) "Per capita cost" means a continuing care retirement community's operating expenses, excluding depreciation, divided by the average number of residents.

(2) "Periodic charges" means fees paid by a resident on a periodic basis.

(3) "Permanent closure" means the voluntary or involuntary termination or forfeiture, as specified in subdivisions (a), (b), (g), (h), and (i) of Section 1793.7, of a provider's certificate of authority or license, or another action that results in the permanent relocation of residents. Permanent closure does not apply in the case of a natural disaster or other event out of the provider's control.

(4) "Permit to accept deposits" means a written authorization by the department permitting an applicant to enter into deposit agreements regarding a single specified continuing care retirement community.

(5) "Prepaid contract" means a continuing care contract in which the monthly care fee, if any, may not be adjusted to cover the actual cost of care and services.

(6) "Preferred access" means that residents who have previously occupied a residential living unit have a right over other persons to any assisted living or skilled nursing beds that are available at the community.

(7) "Processing fee" means a payment to cover administrative costs of processing the application of a depositor or prospective resident.

(8) "Promise to provide one or more elements of care" means any expressed or implied representation that one or more elements of care will be provided or will be available, such as by preferred access.

(9) "Proposes" means a representation that an applicant or provider will or intends to make a future promise to provide care, including a promise that is subject to a condition, such as the construction of a continuing care retirement community or the acquisition of a certificate of authority.

(10) "Provider" means an entity that provides continuing care, makes a continuing care promise, or proposes to promise to provide continuing care. "Provider" also includes any entity that controls an entity that provides continuing care, makes a continuing care promise, or proposes to promise to provide continuing care. The department shall determine whether an entity controls another entity for purposes of this article. No homeowner's association, cooperative, or condominium association may be a provider.

(11) "Provisional certificate of authority" means the certificate issued by the department, properly executed and bearing the State Seal, under Section 1786. A provisional certificate of authority shall be limited to the specific continuing care retirement community and number of units identified in the applicant's application.

(q) (reserved)

(r) (1) "Refund reserve" means the reserve a provider is required to maintain, as provided in Section 1792.6.

(2) "Refundable contract" means a continuing care contract that includes a promise, expressed or implied, by the provider to pay an entrance fee refund or to repurchase the transferor's unit, membership, stock, or other interest in the continuing care retirement community when the promise to refund some or all of the initial entrance fee extends beyond the resident's sixth year of residency. Providers that enter into refundable contracts shall be subject to the refund reserve requirements of Section 1792.6.

(3) "Repayable contract" means a continuing care contract that includes a promise to repay all or a portion of an entrance fee that is conditioned upon reoccupancy or resale of the unit previously occupied by the resident. A repayable contract shall not be considered a refundable contract for purposes of the refund reserve requirements of Section 1792.6, provided that this conditional promise of repayment is not referred to by the applicant or provider as a "refund." A provider may repay all or a portion of an entrance fee that is conditioned upon resale of the unit before the resale of the unit. The repayment of an entrance fee before the resale of the unit shall not cause any other entrance fee to be subject to the refund reserve requirements of Section 1792.6, provided that the provider does not promise, at the time of contracting or thereafter, to make this type of early repayment, represent that the provider intends to make this type of early repayment, or indicate that the provider has a practice of making this type of early repayment.

(4) "Resale fee" means a levy by the provider against the proceeds from the sale of a transferor's equity interest.

(5) "Reservation fee" refers to consideration collected by an entity that has made a continuing care promise or is proposing to make this promise and has complied with Section 1771.4.

(6) "Resident" means a person who enters into a continuing care contract with a provider, or who is designated in a continuing care contract to be a person being provided or to be provided services, including care, board, or lodging.

(7) "Residential care facility for the elderly" means a housing arrangement as defined by Section 1569.2.

(8) "Residential living unit" means a living unit in a continuing care retirement community that is not used exclusively for assisted living services or nursing services.

(9) "Residential temporary relocation" means the relocation of one or more residents, except in the case of a natural disaster that is out of the provider's control, from one or more residential living units, assisted living units, skilled nursing units, or a wing, floor, or entire continuing care retirement community building, due to a change of use or major repairs or renovations. A residential temporary relocation shall mean a relocation pursuant to this subdivision that lasts for a period of at least 9 months but that does not exceed 18 months without the written agreement of the resident.

(s) (reserved)

(t) (1) "Termination" means the ending of a continuing care contract as provided for in the terms of the continuing care contract.

(2) "Transfer trauma" means death, depression, or regressive behavior, that is caused by the abrupt and involuntary transfer of an elderly resident from one home to another and results from a loss of familiar physical environment, loss of well-known neighbors, attendants, nurses and medical personnel, the stress of an abrupt break in the small routines of daily life, or the loss of visits from friends and relatives who may be unable to reach the new facility.

(3) "Transferor" means a person who transfers, or promises to transfer, consideration in exchange for care and related services under a continuing care contract or proposed continuing care contract, for the benefit of another. A transferor shall have the same rights to cancel and obtain a refund as the depositor under the deposit agreement or the resident under a continuing care contract.

(Amended by Stats. 2016, Ch. 112, Sec. 1. (SB 939) Effective January 1, 2017.)

1771.2. (a) An entity shall apply for and hold a currently valid permit to accept deposits before it may enter into a deposit agreement or accept a deposit.

(b) A provider shall hold a currently valid provisional certificate of authority or certificate of authority before it may enter into a continuing care contract.

(c) Before a provider subcontracts or assigns to another entity the responsibility to provide continuing care, that other entity shall have a current and valid certificate of authority. A provider holding a certificate of authority may contract for the provision of a particular aspect of continuing care, such as medical care, with another entity that does not possess a certificate of authority, if that other entity is appropriately licensed under laws of this state to provide that care, and the provider has not paid in advance for more than one year for that care.

(d) If an entity enters into an agreement to provide care for life or for more than one year to a person under 60 years of age in return for consideration, and the agreement includes the provision of services to that person after age 60, when the person turns 60 years of age, the promising entity shall comply with all the requirements imposed by this chapter.

(Amended by Stats. 2000, Ch. 820, Sec. 3. Effective January 1, 2001.)

1771.3. (a) This chapter shall not apply to either of the following:

(1) An arrangement for the care of a person by a relative.

(2) An arrangement for the care of a person or persons from only one family by a friend.

(b) This chapter shall not apply to any admission or residence agreements offered by residential communities for the elderly or residential care facilities for the elderly that promise residents preferred access to assisted living services or nursing care, when each of the following conditions is satisfied:

(1) Residents pay on a fee-for-service basis for available assisted living services and nursing care.

(2) The fees paid for available assisted living services and nursing care are the same for residents who have previously occupied a residential living unit as for residents who have not previously occupied a residential living unit.

(3) No entrance fee or prepayment for future care or access, other than monthly care fees, is paid by, or charged to, any resident at the community or facility. For purposes of this paragraph, the term entrance fee shall not include initial, deferred, or amortized payments that cumulatively do not exceed seven thousand five hundred dollars (\$7,500).

(4) The provider has not made a continuing care promise of preferred access, other than a promise as described in paragraph (5).

(5) The admission or residence agreement states:

(A) "This agreement does not guarantee that an assisted living or nursing bed will be available for residents, but, instead, promises preferred access to any assisted living or nursing beds that are available at the community or facility. The promise of preferred access gives residents who have previously occupied a residential living unit a right over other persons to such beds."

(B) "A continuing care contract promises that care will be provided to residents for life or for a term in excess of a year. (Name of community or facility) is not a continuing care retirement community and (name of provider) does not hold a certificate of authority to enter into continuing care contracts and is not required to have the same fiscal reserves as a continuing care provider. This agreement is not a continuing care contract and is exempted from the continuing care statutes under subdivision (b) of Section 1771.3 of the Health and Safety Code so long as the conditions set forth in that section are met."

(6) The admission or residence agreement also states the policies and procedures regarding transfers to higher levels of care within the community or facility.

(c) Any entity may apply to the department for a Letter of Exemption stating that the requesting entity satisfies the requirements for an exemption under this section.

(d) The department shall issue a Letter of Exemption to a requesting entity if the department determines either of the following:

(1) The requesting entity satisfies each of the requirements for an exemption under subdivision (b).

(2) The requesting entity satisfies each of the requirements for an exemption under subdivision (b) other than the requirements of paragraph (2) of subdivision (b), and there is no substantial difference between the following:

(A) The fees for available assisted living services and skilled nursing care paid by residents who have previously occupied a residential living unit.

(B) The fees for available assisted living services and skilled nursing care paid by residents who have not previously occupied a residential living unit.

(e) An application to the department for a Letter of Exemption shall include all of the following:

(1) A nonrefundable one thousand dollar (\$1,000) application fee.

(2) The name and business address of the applicant.

(3) A description of the services and care available or provided to residents of the community or facility.

(4) Documentation establishing that the requesting entity satisfies the requirements for an exemption under this section, including all of the following:

(A) A schedule showing all fees for assisted living services and skilled nursing care charged to residents at the facility or community who have previously occupied a residential living unit.

(B) A schedule showing all fees for assisted living services and skilled nursing care charged to residents at the facility or community who have not previously occupied a residential living unit.

(C) A description of the differences between the fees for assisted living services and skilled nursing care charged to residents who have not previously occupied a residential unit and the fees for assisted living services and skilled nursing care charged to residents who have previously occupied a residential unit.

(D) A schedule showing any other fees charged to residents of the community or facility.

(E) Copies of all admission and residence agreement forms that have been entered into, or will be entered into, with residents at the community or facility.

(5) Any other information reasonably requested by the department.

(f) If at any time any of the conditions stated in this section are not satisfied, then the requirements of this chapter apply, and the department may impose appropriate remedies and penalties set forth in Article 7 (commencing with Section 1793.5).

(Added by Stats. 2000, Ch. 820, Sec. 4. Effective January 1, 2001.)

1771.4. An entity may conduct a market test for a proposed continuing care retirement community and collect reservation fees from persons interested in residing at the proposed continuing care retirement community without violating this chapter if all of the following conditions are met:

- (a) The entity has filed with the department an application for a permit to accept deposits and a certificate of authority for the project.
- (b) The entity's application includes the proposed reservation agreement form and a proposed escrow agreement that provide all of the following:
 - (1) All fees shall be deposited in escrow.
 - (2) Refunds shall be made within 10 calendar days after the payer's or proposed resident's request or 10 days after denial of the application for a permit to accept deposits.
 - (3) All reservation fees shall be converted to deposits within 15 days after a permit to accept deposits is issued.
- (c) The department has acknowledged in writing its receipt of the entity's application and its approval of the entity's proposed reservation agreement between the payer and the entity and the escrow agreement between the escrow holder and the entity.
- (d) The amount of any reservation fee collected by the entity does not exceed one thousand dollars (\$1,000) or 1 percent of the average entrance fee amount as determined from the entity's application, whichever is greater.
- (e) The entity places all reservation fees collected by the entity into an escrow under the terms of the approved reservation agreement and escrow agreement.

(Repealed and added by Stats. 2000, Ch. 820, Sec. 6. Effective January 1, 2001.)

1771.5. The department shall not issue a provisional certificate of authority or a certificate of authority to an applicant until the applicant has obtained licenses for the entire continuing care retirement community, including a license to operate the residential living and assisted living units, pursuant to Chapter 3.2 (commencing with Section 1569) and if a skilled nursing facility is on the premises, a license for the facility pursuant to Chapter 2 (commencing with Section 1250).

(Repealed and added by Stats. 2000, Ch. 820, Sec. 8. Effective January 1, 2001.)

1771.6. (a) Any entity may apply to the department for a Letter of Nonapplicability for reasons other than those specified in Section 1771.3, which states that the provisions of this chapter do not apply to its community, project, or proposed project.

(b) Applications for Letters of Nonapplicability shall be made to the department in writing and include the following:

- (1) A nonrefundable one thousand dollar (\$1,000) application fee.
- (2) A list of the reasons why the existing or proposed project may not be subject to this chapter.
- (3) A copy of the existing or proposed contract between the entity and residents.
- (4) Copies of all advertising material.
- (5) Any other information reasonably requested by the department.

(c) The department shall do both of the following:

- (1) Within seven calendar days, acknowledge receipt of the request for a Letter of Nonapplicability.
- (2) Within 30 calendar days after all materials are received, either issue the Letter of Nonapplicability or notify the entity of the department's reasons for denial of the request.

(d) (1) If the department determines that the entity does not qualify for a Letter of Nonapplicability, the entity shall refrain from, or immediately cease, entering into continuing care contracts.

(2) If an entity to which this subdivision applies intends to provide continuing care, an application for a certificate of authority shall be required to be filed with the department pursuant to this chapter.

(3) If an entity to which this subdivision applies does not intend to provide continuing care, it shall alter its plan of operation so that the project is not subject to this chapter. To obtain a Letter of Nonapplicability for the revised project, the entity shall submit a new application and fee.

(Repealed and added by Stats. 2000, Ch. 820, Sec. 10. Effective January 1, 2001.)

1771.7. (a) A resident of a continuing care retirement community shall not be deprived of any civil or legal right, benefit, or privilege guaranteed by law, by the California Constitution, or by the United States Constitution, solely by reason of status as a resident of a community. In addition, because of the discretely different character of residential living unit programs that are a part of continuing care retirement communities, this section shall augment Chapter 3.9 (commencing with Section 1599), Sections 72527 and 87468 of Title 22 of the California Code of Regulations, and other applicable state and federal law and regulations.

(b) A prospective resident shall have the right to visit each of the different care levels and to inspect assisted living and skilled nursing home licensing reports including, but not limited to, the most recent inspection reports and findings of complaint investigations covering a period of no less than two years, before signing a continuing care contract.

(c) All residents in residential living units shall have all of the following rights:

- (1) To live in an attractive, safe, and well maintained physical environment.
- (2) To live in an environment that enhances personal dignity, maintains independence, and encourages self-determination.
- (3) To participate in activities that meet individual physical, intellectual, social, and spiritual needs.
- (4) To expect effective channels of communication between residents and staff, and between residents and the administration or provider's governing body.
- (5) To receive a clear and complete written contract that establishes the mutual rights and obligations of the resident and the continuing care retirement community.
- (6) To manage their financial affairs.
- (7) To be assured that all donations, contributions, gifts, or purchases of provider-sponsored financial products shall be voluntary, and may not be a condition of acceptance or of ongoing eligibility for services.
- (8) To maintain and establish ties to the local community.
- (9) To organize and participate freely in the operation of independent resident organizations and associations.

(d) A continuing care retirement community shall maintain an environment that enhances the residents' self-determination and independence. The provider shall do both of the following:

- (1) Encourage the formation of a resident association by interested residents who may elect a governing body. The provider shall provide space and post notices for meetings, and provide assistance in attending meetings for those residents who request it. In order to promote a free exchange of ideas, at least part of each meeting shall be conducted without the presence of any continuing care retirement community personnel. The association may, among other things, make recommendations to management regarding resident issues that impact the residents' quality of life, quality of care, exercise of rights, safety and quality of the physical environment, concerns about the contract, fiscal matters, or other issues of concern to residents. The management shall respond, in writing, to a written request or concern of the resident association within 20 working days of receiving the written request or concern. Meetings shall be open to all residents to attend as well as to present issues. Executive sessions of the governing body shall be attended only by the governing body.
- (2) Establish policies and procedures that promote the sharing of information, dialogue between residents and management, and access to the provider's governing body. The provider shall biennially conduct a resident satisfaction survey that shall be made available to the resident association or its governing body, or, if neither exists, to a committee of residents at least 14 days before the next semiannual meeting of residents and the governing board of the provider required by subdivision (c) of Section 1771.8. A copy of the survey shall be posted in a conspicuous location at each facility.

(e) At the time or before the resident signs a continuing care contract, and at any time when the resident is proposed to be moved to a different level of care, the provider shall provide the resident a copy of the applicable bill of rights:

- (1) The bill of rights prescribed by this section.
- (2) The rights for residential care facilities for the elderly, as prescribed by Section 1569.269, and Sections 87468.1 and 87468.2 of Title 22 of the California Code of Regulations.

(3) The rights for skilled nursing facility patients, as prescribed in subdivision (d) of Section 1599.61, if the resident is moving into the continuing care retirement community's skilled nursing unit.

(f) Each continuing care retirement community shall prominently post in areas accessible to the residents and visitors a notice that a copy of rights applicable to residents pursuant to this section and any governing regulation issued by the Continuing Care Contracts Branch of the State Department of Social Services is available upon request from the provider. The notice shall also state that the residents have a right to file a complaint with the Continuing Care Contracts Branch for any violation of those rights and shall contain information explaining how a complaint may be filed, including the telephone number and address of the Continuing Care Contracts Branch.

(g) The resident has the right to freely exercise all rights pursuant to this section, in addition to political rights, without retaliation by the provider.

(h) The department may, upon receiving a complaint of a violation of this section, request a copy of the policies and procedures along with documentation on the conduct and findings of any self-evaluations.

(i) Failure to comply with this section shall be grounds for the imposition of conditions on, suspension of, or revocation of the provisional certificate of authority or certificate of authority pursuant to Section 1793.21.

(j) Failure to comply with this section constitutes a violation of residents' rights. Pursuant to Section 1569.49 of the Health and Safety Code, the department shall impose and collect a civil penalty of not more than one hundred fifty dollars (\$150) per violation upon a continuing care retirement community that violates a right guaranteed by this section.

(Amended by Stats. 2024, Ch. 338, Sec. 1. (SB 1352) Effective January 1, 2025.)

1771.8. (a) The Legislature finds and declares all of the following:

(1) The residents of continuing care retirement communities have a unique and valuable perspective on the operations of, and services provided in, the community in which they live.

(2) Resident input into decisions made by the provider is an important factor in creating an environment of cooperation, reducing conflict, and ensuring timely response and resolution to issues that may arise.

(3) Continuing care retirement communities are strengthened when residents know that their views are heard and respected.

(b) The Legislature encourages continuing care retirement communities to exceed the minimum resident participation requirements established by this section by, among other things, the following:

(1) Encouraging residents to form a resident association, and assisting the residents, the resident association, and its governing body to keep informed about the operation of the continuing care retirement community.

(2) Encouraging residents of a continuing care retirement community or their elected representatives to select residents to participate as members of the governing body of the provider.

(3) Quickly and fairly resolving any dispute, claim, or grievance arising between a resident and the continuing care retirement community.

(c) The governing body of a provider, or the designated representative of the provider, shall hold, at a minimum, semiannual meetings with the residents of the continuing care retirement community, or the resident association or its governing body, for the purpose of the free discussion of subjects including, but not limited to, income, expenditures, and financial trends and issues as they apply to the continuing care retirement community and proposed changes in policies, programs, and services. This section does not preclude a provider from taking action or making a decision at any time, without regard to the meetings required under this subdivision.

(d) At least 30 days prior to the implementation of an increase in the monthly care fee, the designated representative of the provider shall convene a meeting, to which all residents shall be invited, for the purpose of discussing the reasons for the increase, the basis for determining the amount of the increase, and the data used for calculating the increase. This meeting may coincide with the semiannual meetings required in subdivision (c). At least 14 days prior to the meeting to discuss an increase in the monthly care fee, the provider shall make available to each resident or resident household comparative data showing the budget for the upcoming year, the current year's budget, and actual and projected expenses for the current year, and a copy shall be posted in a conspicuous location at each facility.

(e) The governing body of a provider or the designated representative of the provider shall provide residents with at least 14 days' advance notice of each meeting provided for in subdivisions (c) and (d), and shall permit residents attending the meeting to present issues orally and in writing. The governing body of a provider or the designated representative of the provider shall post the notice of, and the agenda for, the meeting in a conspicuous place in the continuing care retirement community at least 14 days prior to the

meeting. The governing body of a provider or the designated representative of the provider shall make available to residents of the continuing care retirement community upon request the agenda and accompanying materials at least seven days prior to the meeting.

(f) A provider shall make available to the resident association or its governing body, or if neither exists, to a committee of residents, a financial statement of activities for that facility comparing actual costs to budgeted costs broken down by expense category, not less than quarterly, with a written explanation of all significant budget variances, and shall consult with the resident association or its governing body, or, if neither exists, with a committee of residents, during the annual budget planning process. The effectiveness of consultations during the annual budget planning process shall be evaluated at a minimum every two years by the continuing care retirement community administration. The evaluation, including any policies adopted relating to cooperation with residents, shall be made available to the resident association or its governing body, or, if neither exists, to a committee of residents at least 14 days prior to the next semiannual meeting of residents and the provider's governing body provided for in subdivision (c), and a copy of the evaluation shall be posted in a conspicuous location at each facility.

(g) A provider shall, within 10 days after the annual report required pursuant to Section 1790 is submitted to the department, provide, at a central and conspicuous location in the community and in a conspicuous location on the provider's Internet Web site, a copy of the annual report, including the multifacility statement of activities and a copy of the annual audited financial statement, but excluding personal confidential information.

(h) A provider shall maintain, as public information, available upon request to residents, prospective residents, and the public, minutes of the meetings held by the provider's governing body and shall retain these records for at least three years from the date the records were filed or issued.

(i) Except as provided in subdivision (s), the governing body of a provider that is not part of a multifacility organization with more than one continuing care retirement community in the state shall accept both of the following:

(1) At least one resident of the continuing care retirement community it operates to participate as a nonvoting resident representative to the provider's governing body.

(2) At least one resident, or two residents for a governing body with 21 or more members, of the continuing care retirement community it operates to participate as a voting member of the provider's governing body. A provider's governing body shall not be required to meet the requirements of this paragraph until there is a vacancy on the provider's governing body or upon the next regularly scheduled selection of the provider's governing body occurring on or after January 1, 2015. A resident member shall perform his or her duties in a manner that complies with the standards of conduct and fiduciary duties of all other members of the governing board.

(j) Except as provided in subdivision (s), in a multifacility organization having more than one continuing care retirement community in the state, the governing body of the multifacility organization shall do both of the following:

(1) Elect either to have at least one nonvoting resident representative to the provider's governing body for each California-based continuing care retirement community the provider operates or to have a resident-elected committee composed of representatives of the residents of each California-based continuing care retirement community that the provider operates select or nominate at least one nonvoting resident representative to the provider's governing body for every three California-based continuing care retirement communities, or fraction thereof, that the provider operates. If a multifacility organization elects to have one representative for every three communities that the provider operates, the provider shall provide to the president of the residents association of each of the communities that do not have a resident representative the same notice of meetings, packets, minutes, and other materials as the resident representative. At the reasonable discretion of the provider, information related to litigation, personnel, competitive advantage, or confidential information that is not appropriate to disclose, may be withheld.

(2) (A) Elect to have at least one resident, or two residents for a governing body with 21 or more members, from any of the continuing care retirement communities it operates to participate as voting members of the provider's governing body. A provider's governing body shall not be required to meet the requirements of this subparagraph until there is a vacancy on the provider's governing body or upon the next regularly scheduled selection of the provider's governing body occurring on or after January 1, 2015. A resident member shall perform his or her duties in a manner that complies with the standards of conduct and fiduciary duties of all other members of the governing board.

(B) If there are communities that do not have a resident from the community as a voting member of the provider's governing body, the provider shall provide to the president of the resident association of each of those communities the same notice of meetings, packets, minutes, and other materials as the resident voting members. At the reasonable discretion of the provider, information related to litigation, personnel, competitive advantage, or confidential information that is not appropriate to disclose may be withheld.

(k) In order to encourage innovative and alternative models of resident involvement, residents selected pursuant to paragraph (1) of subdivision (i) or paragraph (1) of subdivision (j) to participate as a resident representative to the provider's governing body may, at the option of the resident association, be selected in any one of the following ways:

(1) By a majority vote of the resident association of a provider or by a majority vote of a resident-elected committee of residents of a multifacility organization.

(2) If no resident association exists, any resident may organize a meeting of the majority of the residents of the continuing care retirement community to select or nominate residents to represent them on the governing body.

(3) Any other method designated by the resident association.

(l) A resident member of the provider's governing body selected pursuant to paragraph (2) of subdivision (i) or paragraph (2) of subdivision (j) shall be nominated to participate on the provider's governing body by the resident association or, if a resident association does not exist, a committee of residents. The resident association or committee of residents may nominate multiple nominees from which the provider's governing body may approve a resident member. If the governing body disapproves of the resident association's nominations, the resident association or the committee of residents shall nominate additional resident members for the governing body's approval or disapproval until the vacancy is filled.

(m) The resident association, organizing resident, or, in the case of a multifacility organization, the resident-elected committee of residents, shall give residents of the continuing care retirement community at least 30 days' advance notice of the meeting to select a resident representative and resident members of the governing body and shall post the notice in a conspicuous place at the continuing care retirement community.

(n) (1) Except as provided in subdivision (o), resident representatives shall receive the same notice of meetings, packets, minutes, and other materials as members of the provider's governing body and shall be permitted to attend, speak, and participate in all meetings of the governing body.

(2) Resident representatives may share information from meetings with other residents, unless the information is confidential or doing so would violate fiduciary duties to the provider. A resident representative shall be permitted to attend meetings of the governing body committee or committees that review the annual budget of the facility or facilities and recommend increases in monthly care fees. The resident representative shall receive the same notice of meetings, information, packets, minutes, and other materials as committee members, and shall be permitted to attend, speak, and participate in the committee meetings. Resident representatives shall perform their duties in good faith and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(o) Notwithstanding subdivision (n), the provider's governing body may exclude resident representatives from its executive sessions and from receiving meeting materials to be discussed during executive session. However, resident representatives shall be included in executive sessions and shall receive all meeting materials to be discussed during executive sessions related to discussions of the annual budgets, increases in monthly care fees, indebtedness, and expansion of new and existing continuing care retirement communities.

(p) The provider shall pay all reasonable travel costs for resident representatives and resident members of the governing body.

(q) The provider shall disclose in writing the extent of resident involvement with the governing body to prospective residents.

(r) A provider is not prohibited from exceeding the minimum resident participation requirements of this section by, for example, having more resident meetings, more resident representatives or resident members of the governing body to the provider's governing body than required, or by having one or more residents on the provider's governing body who are selected with the active involvement of residents.

(s) (1) If a provider having at least one continuing care retirement community in the state does not have a governing body within the state, the provider shall, in lieu of appointing a voting member pursuant to subdivision (i) or (j), appoint a select committee of its governing body members to meet pursuant to paragraph (6) of subdivision (a) of Section 307 of the Corporations Code, or in a location that has been designated in the notice of the meeting, with the resident association or a resident-elected committee of residents no less frequently than a reasonable period prior to any regularly scheduled meeting of the governing body at each of its facilities in the state to address concerns of the residents and to ensure that the opinions of the residents are relayed to all governing body members of the provider.

(2) (A) For a provider that is a sole proprietorship, general partnership, limited partnership, limited liability company, or a closely held corporation, the provider may, in lieu of appointing a voting member pursuant to paragraph (2) of subdivision (i) or paragraph (2) of subdivision (j), appoint a select committee of its members to, or, if it is a sole proprietorship, the sole proprietor shall, meet in a location that has been designated in the notice of the meeting with the resident association or a resident-elected committee of residents at each of its facilities semiannually and at least 60 days prior to any financial or administrative changes, including, but not limited to, any proposed increase in monthly fees, indebtedness of the provider, expansion or contraction of the community facility, or other changes that would result in a budget variance, or any policies, programs, or services that would materially change the operation or environment of the community, to address concerns of the residents and to ensure that the opinions of the residents are relayed to all members of the provider.

(B) If any member of a limited liability company is a corporation, a nonvoting resident representative elected pursuant to paragraph (1) of subdivision (i) or paragraph (1) of subdivision (j) shall be invited to the meetings of the governing body of that corporation that address any of the proposed changes specified in subparagraph (A) and shall be permitted to address those proposed changes. The governing body of the corporation shall provide the nonvoting resident representative with at least 30 days' advance notice of the meeting. If more than one member of the limited liability company is a corporation, only the corporation with the largest interest in the limited liability company shall comply with this subparagraph.

(Amended by Stats. 2014, Ch. 699, Sec. 1. (AB 1751) Effective January 1, 2015.)

1771.10. Each provider shall adopt a comprehensive disaster preparedness plan specifying policies for evacuation, relocation, continued services, reconstruction, organizational structure, insurance coverage, resident education, and plant replacement.

(Added by renumbering Section 1771.11 by Stats. 2000, Ch. 820, Sec. 15. Effective January 1, 2001.)

1772. (a) No report, circular, public announcement, certificate, financial statement, or any other printed matter or advertising material, or oral representation, that states or implies that an entity sponsors, guarantees, or assures the performance of any continuing care contract, shall be published or presented to any prospective resident unless both of the following have been met:

(1) Paragraph (5) of subdivision (a) of Section 1788 applies and the requirements of that paragraph have been satisfied.

(2) The entity files with the department a duly authorized and executed written declaration that it accepts full financial responsibility for each continuing care contract. The filing entity shall be subject to the application requirements set forth in Article 2 (commencing with Section 1779), shall be a coobligor for the subject contracts, and shall be a coprovider on the applicable provisional certificate of authority and certificate of authority.

(b) Implied sponsorship includes the use of the entity's name for the purpose of implying that the entity's reputation may be relied upon to ensure the performance of the continuing care contract.

(c) Any implication that the entity may be financially responsible for these contracts may be rebutted by a conspicuous statement, in all continuing care contracts and marketing materials, that clearly discloses to prospective residents and all transferors that the entity is not financially responsible.

(d) On written appeal to the department, and for good cause shown, the department may, in its discretion, allow an affinity group exemption from this section. If an exemption is granted, every continuing care contract shall include a conspicuous statement which clearly discloses to prospective residents and all transferors that the affinity group entity is not financially responsible.

(e) If the name of an entity, including, but not limited to, a religion, is used in connection with the development, marketing, or continued operation of a continuing care retirement community, but that entity does not actually own, control, manage, or otherwise operate the continuing care retirement community, the provider shall clearly disclose the absence of that affiliation, involvement, or association with the continuing care retirement community in the continuing care contract.

(Amended by Stats. 2000, Ch. 820, Sec. 16. Effective January 1, 2001.)

1772.2. (a) All printed advertising materials, including brochures, circulars, public announcements, and similar publications pertaining to continuing care or a continuing care retirement community shall specify the number on the provider's provisional certificate of authority or certificate of authority.

(b) If the provider has not been issued a certificate of authority, all advertising materials shall specify both of the following:

(1) Whether an application has been filed.

(2) If applicable, that a permit to accept deposits or a provisional certificate of authority has been issued.

(Added by Stats. 2000, Ch. 820, Sec. 17. Effective January 1, 2001.)

1773. (a) A provisional certificate of authority or certificate of authority may not be sold, transferred, or exchanged in any manner. A provider may not sell or transfer ownership of the continuing care retirement community without the approval of the department. Any violation of this section shall cause the applicable provisional certificate of authority or certificate of authority to be forfeited by operation of law pursuant to subdivision (c) of Section 1793.7.

(b) A provider may not enter into a contract with a third party for overall management of the continuing care retirement community without the approval of the department. The department shall review the transaction for consistency with this chapter.

(c) Any violation of this section shall be grounds for revocation for the provider's provisional certificate of authority or certificate of authority under Section 1793.21.

(Amended by Stats. 2000, Ch. 820, Sec. 18. Effective January 1, 2001.)

1774. No arrangement allowed by a permit to accept deposits, a provisional certificate or authority, or a certificate of authority issued by the department under this chapter may be deemed a security for any purpose.

(Amended by Stats. 2000, Ch. 820, Sec. 19. Effective January 1, 2001.)

1775. (a) To the extent that this chapter, as interpreted by the department, conflicts with the statutes, regulations, or interpretations governing the sale or hire of real property, this chapter shall prevail.

(b) Notwithstanding any law or regulation to the contrary, a provider for a continuing care retirement community may restrict or abridge the right of any resident, whether or not the resident owns an equity interest, to sell, lease, encumber, or otherwise convey any interest in the resident's unit, and may require that the resident only sell, lease, or otherwise convey the interest to persons approved by the provider. Provider approval may be based on factors which include, but are not limited to, age, health status, insurance risk, financial status, or burden on the provider's personnel, resources, or physical facility. The provider shall record any restrictions on a real property interest.

(c) To the extent that this chapter conflicts with Sections 51.2 and 51.3 of the Civil Code, this chapter shall have precedence. A continuing care provider, at its discretion, may limit entrance based on age.

(d) This chapter imposes minimum requirements upon any entity promising to provide, proposing to promise to provide, or providing continuing care.

(e) This chapter shall be liberally construed for the protection of persons attempting to obtain or receiving continuing care.

(f) A resident's entry into a continuing care contract described in this chapter shall be presumptive evidence of the resident's intent not to return to his or her prior residence to live for purposes of qualifying for Medi-Cal coverage under Sections 14000 et seq. of the Welfare and Institutions Code and Section 50425 of Title 22 of the California Code of Regulations.

(Amended by Stats. 2000, Ch. 820, Sec. 20. Effective January 1, 2001.)

1776. The department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable regulations as may be necessary or proper to carry out the purposes and intent of this chapter and to protect the rights of the elderly.

(Repealed and added by Stats. 1990, Ch. 875, Sec. 2.)

1776.2. The department may, by any duly authorized representative, inspect and examine any continuing care retirement community, including the books and records thereof, or the performance of any service required by the continuing care contracts.

(Amended by Stats. 1995, Ch. 920, Sec. 10. Effective January 1, 1996.)

1776.3. (a) The Continuing Care Contracts Branch of the department shall enter and review each continuing care retirement community in the state at least once every three years to augment the branch's assessment of the provider's financial soundness.

(b) During its facility visits, the branch shall consider the condition of the facility, whether the facility is operating in compliance with applicable state law, and whether the provider is performing the services it has specified in its continuing care contracts.

(c) The branch shall issue guidelines that require each provider to adopt a comprehensive disaster preparedness plan, update that plan at least every three years, submit a copy to the department, and make copies available to residents in a prominent location in each continuing care retirement community facility.

(d) (1) The branch shall respond within 15 business days to residents' rights, service-related, and financially related complaints by residents, and shall furnish to residents upon request and within 15 business days any document or report filed with the department by a continuing care provider, except documents protected by privacy laws.

(2) The provider shall disclose any citation issued by the department pursuant to Section 1793.6 in its disclosure statement to residents as updated annually, and shall post a notice of the citation in a conspicuous location in the facility. The notice shall include a statement indicating that residents may obtain additional information regarding the citation from the provider and the department.

(Amended by Stats. 2011, Ch. 32, Sec. 7. (AB 106) Effective June 29, 2011. Operative January 1, 2012, by Sec. 73 of Stats. 2011, Ch. 32.)

1776.4. The department may contract with any entity to provide consultation services. In providing the services, the entity shall conform to the requirements of this chapter and to the rules, regulations, and standards of the department. The department shall reimburse an entity for services performed pursuant to this section.

(Added by Stats. 1990, Ch. 875, Sec. 2.)

1776.6. (a) Pursuant to the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code), the following documents are public information and shall be provided by the department upon request: audited financial statements, annual reports and accompanying documents, compliance or noncompliance with reserve requirements, whether an application for a permit to accept deposits and certificate of authority has been filed, whether a permit or certificate has been granted or denied, and the type of care offered by the provider.

(b) The department shall regard resident data used in the calculation of reserves as confidential.

(Amended by Stats. 2021, Ch. 615, Sec. 236. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

1778. (a) There is hereby created in the State Treasury a fund that shall be known as the CCRC Oversight Fund. The fund shall consist of fees received by the department pursuant to this chapter. Notwithstanding Section 13340 of the Government Code, the CCRC Oversight Fund is hereby continuously appropriated to the department, without regard to fiscal years.

(b) Use of the funds appropriated pursuant to this section shall include funding of the following:

(1) Program personnel salary costs, including, but not limited to, the following:

(A) A Continuing Care Contracts Program Manager at a level consistent with other management classifications that direct a regulatory program with statewide impact. The position shall require skills and knowledge at the highest level with responsibility for work of the most critical or sensitive nature as it relates to the department's mission, including protecting vulnerable elderly persons, supervising technical staff with oversight of highly complex operations, and responsibility for policy and program evaluation and recommendations.

(B) A full-time legal counsel with a working knowledge of all laws relating to the regulation of continuing care retirement communities and residential care facilities for the elderly.

(C) A financial analyst with working knowledge of generally accepted accounting principles and auditing standards.

(D) Other appropriate analytical and technical support positions.

(2) Contracts with technically qualified persons, including, but not limited to, financial, actuarial, and marketing consultants, as necessary to provide advice regarding the feasibility or viability of continuing care retirement communities and providers.

(3) Other program costs or costs directly supporting program staff.

(4) The department shall use no more than 5 percent of the fees collected pursuant to this section for overhead costs, including facilities operation and indirect department and division costs.

(c) As needed, the department shall adjust the calculations for the application fees under Section 1779.2 and annual fees under Section 1791 to ensure that the balance in the CCRC Oversight Fund is adequate to fund the reasonable regulatory costs of the program, as specified in subdivision (b). If the balance in the CCRC Oversight Fund exceeds an amount adequate to fund the reasonable regulatory costs of the program, as specified in subdivision (b), the department shall adjust the calculations for the application fees under Section 1779.2 and annual fees under Section 1791 to reduce the amounts collected. A link to the approved budget for the Continuing Care Contracts Section shall be posted on the department's internet website.

(d) The intent of the Legislature is to empower the program administrator with the ability and authorization to obtain necessary resources or staffing to carry out the program objectives.

(Amended by Stats. 2022, Ch. 538, Sec. 1. (SB 707) Effective January 1, 2023.)