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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 Continuing Care Contracts [1770 - 1793.91] (*Chapter 10 repealed and added by Stats. 1990, Ch. 875, Sec. 2.*)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 9. Continuing Care Retirement Community Closures [1793.80 - 1793.84] (*Article 9 added by Stats. 2009, Ch. 442, Sec. 3.*)

1793.80. (a) Notwithstanding any other provisions of law, a provider regulated under this chapter shall, no less than 120 days prior to the intended date of the permanent closure of a continuing care retirement community facility, as defined in paragraph (3) of subdivision (p) of Section 1771, provide written notice to the department and to the affected residents and their designated representatives. The notice shall contain the following statement of residents' rights under this article, in no less than 12-point type:

"This facility is planned for permanent closure on or after [state date of closure] that will require you to vacate your living unit. Residents of continuing care retirement communities in California have certain rights and continuing care community providers have certain responsibilities when a continuing care community closes. Those rights include, but are not limited to, the following:

1. Prior to closing, the provider shall provide a permanent closure plan to the Continuing Care Contracts Branch of the State Department of Social Services that describes the options available to residents for relocating to another part of the facility, or another facility or the compensation to be provided to residents.

2. No action can be taken to relocate any resident or to close the facility until the permanent closure and relocation plan has been prepared and provided to the department, the affected residents of the facility and their designated representatives, and to the local long-term care ombudsman program."

(b) Upon service of the closure notice when closure is planned for all units in a facility, the provider is prohibited from accepting new residents or entering into new continuing care contracts at the facility being closed.

(*Added by Stats. 2009, Ch. 442, Sec. 3. (AB 407) Effective January 1, 2010.*)

1793.81. No less than 90 days prior to the permanent closure of the continuing care retirement community facility, as defined in paragraph (3) of subdivision (p) of Section 1771, the provider shall provide to the department, the affected residents of the facility and their designated representatives, and to the local long-term care ombudsman program, a written closure and relocation plan. The plan shall contain all of the following information:

(a) The number of affected residents at each level of care in the continuing care retirement community facility.

(b) Assessment of unique service and care needs, if applicable, for all of the following:

(1) Affected residents in skilled nursing and special care.

(2) Affected residents in assisted living units.

(3) Affected residents in the residential living units who require assistance with three or more activities of daily living, and other residents upon request.

(c) An explanation on how comparable care, if applicable, and comparable replacement housing will be provided.

(d) A detailed description of the services the provider will provide to residents to assist them in relocating, including, but not limited to, reasonable costs of moving, storage, if applicable, and transportation that shall be arranged by the provider in consultation with the resident and his or her designated representative, and paid for directly by the provider.

(e) The names and addresses of other continuing care retirement communities operated by the provider and whether there are openings available to the residents.

(f) The names and addresses of other continuing care retirement communities within 30 miles of the closing continuing care retirement community facility that provide comparable replacement housing and care, if applicable, to those offered at the facility that is scheduled for closure, and whether the facilities have immediate openings available to residents of the closing facility.

(g) A description of how the facility will comply with the requirements of Section 1793.82. The plan shall describe or identify the replacement facility or facilities and the procedure by which a resident can select a replacement facility. In no case shall the plan for replacement housing require a resident to pay more than he or she is presently paying for comparable housing and care, other than normal rate increases. Any proposed monetary compensation shall be fair and reasonable and shall represent the estimated cost to the resident of securing comparable replacement housing and care under terms similar to the contract between resident and provider.

(h) A statement regarding the availability of a licensed medical or geriatric professional to advise the resident, the resident's representative, and the provider regarding the transfer of the resident. Upon request by the resident or the resident's representative, the provider shall make available the services of a licensed medical or geriatric professional to advise the resident, the resident's representative, and the provider regarding the transfer of the resident. The provider may place a reasonable limit on the cost of the services of the medical or geriatric professional.

(Added by Stats. 2009, Ch. 442, Sec. 3. (AB 407) Effective January 1, 2010.)

1793.82. (a) In the case of a permanent closure, the provider shall offer the resident the choice of the following four options, the terms of which shall not be less than the terms of the continuing care contract entered into between the resident and the provider as if that contract had been fully performed:

- (1) Relocation to another continuing care facility owned or operated by the provider, if available.
- (2) Relocation to a continuing care facility that is not owned by the provider.
- (3) Monetary compensation equal to the value of the remainder of the contract as if the contract had been fully performed.
- (4) An alternative arrangement that is mutually agreed upon by the provider and the resident or his or her representative.

(b) Replacement housing offered pursuant to paragraph (1) or (2) of subdivision (a) shall be housing that is, overall, comparable in cost, size, services, features, and amenities to the unit being vacated. If the resident chooses either of the replacement housing options in paragraph (1) or (2) of subdivision (a), the provider shall provide the reasonable costs of moving, storage, if applicable, and transportation.

(c) Notwithstanding subdivision (a), for a resident under a life care contract, the provider shall secure replacement housing and care at a comparable facility for the resident at no additional cost to the resident. The replacement housing and care shall comply with subdivision (l) of Section 1771 and subdivision (b) of Section 1788.

(d) The provider may provide relocation pursuant to paragraph (2) of subdivision (a) on a month-to-month basis, provided that the terms are otherwise consistent with subdivision (a). After 120 days, a resident selecting a facility not owned by the provider may not seek monetary compensation pursuant to paragraph (3) of subdivision (a).

(Added by Stats. 2009, Ch. 442, Sec. 3. (AB 407) Effective January 1, 2010.)

1793.83. (a) When there is a permanent closure, as defined in paragraph (3) of subdivision (p) of Section 1771, within 30 days of submitting the relocation plan to the department, the provider shall fund a reserve, set up a trust fund, or secure a performance bond to ensure the fulfillment of the obligations and commitments associated with the relocation plan. The amount of the reserve trust fund or performance bond shall be equal to or greater than the estimated costs of relocating residents and the costs associated with the relocation options pursuant to Section 1793.81 and subdivision (a) of Section 1793.82.

(b) The reserve, trust fund, or performance bond shall be funded with qualifying assets enumerated in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1792.2 and shall not be subject to any liens, judgments, garnishments, or creditor's claims.

(Added by Stats. 2009, Ch. 442, Sec. 3. (AB 407) Effective January 1, 2010.)

1793.84. (a) The provider shall submit monthly progress reports to the department detailing the progress and problems associated with the permanent closure, as defined in paragraph (3) of subdivision (p) of Section 1771, until all affected residents are relocated

and all required payments to, or on behalf of, affected residents are made.

(b) The department shall monitor the implementation of the permanent closure as defined in paragraph (3) of subdivision (p) of Section 1771 and relocation plan as necessary to ensure full compliance by the provider. If the department determines that a provider is closing a facility in violation of this article or is doing so in a manner that endangers the health or safety of residents, it shall exercise its powers under Article 7 (commencing with Section 1793.5).

(c) No action shall be taken by the provider to relocate any resident or to close the facility until the relocation plan required by Section 1793.81 has been prepared and provided to the department, the affected residents of the facility and their designated representatives, and to the local long-term ombudsman program.

(Added by Stats. 2009, Ch. 442, Sec. 3. (AB 407) Effective January 1, 2010.)