

Introduced by Senator Torlakson

January 30, 2006

An act to amend Sections 1777 and 1790 of the Health and Safety Code, relating to continuing care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1212, as introduced, Torlakson. Continuing care retirement communities: advisory committee memberships and provider financial requirements.

Existing law provides for the regulation by the State Department of Social Services of activities relating to continuing care contracts that govern care provided to an elderly resident in a continuing care retirement community for the duration of the resident's life or a term in excess of one year.

Existing law provides that the Continuing Care Advisory Committee of the department, comprised of specified membership, shall act in an advisory capacity to the department on matters relating to continuing care contracts.

This bill would revise the membership and administrative operating procedures of the committee.

Existing law requires each continuing care provider to submit an annual report of its financial condition, consisting of audited financial statements and required reserve calculations. Existing law further requires the report to include full details on the status of reserves and on per capita costs of operation for each continuing care retirement community operated.

This bill would define "reserves" for purposes of the continuing care provider's annual report. The bill would specify the details to be provided in the report with respect to these reserves.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1777 of the Health and Safety Code is amended to read:

1777. (a) The Continuing Care Advisory Committee of the department shall act in an advisory capacity to the department on matters relating to continuing care contracts.

(b) The members of the committee shall include:

(1) Three representatives of nonprofit continuing care providers pursuant to this chapter, each of whom shall have offered continuing care services for at least five years prior to appointment. One member shall represent a multifacility provider and shall be appointed by the Governor in even years. One member shall be appointed by the Senate Committee on Rules in odd years. One member shall be appointed by the Speaker of the Assembly in odd years.

(2) ~~Three~~ Four senior citizens who are not eligible for appointment pursuant to paragraphs (1) and ~~(4)~~ (3) who shall represent consumers of continuing care services, all of whom shall be residents of continuing care retirement communities but not residents of the same provider. ~~One senior citizen member. A senior citizen who serves or has served on the board of directors of any provider or provider organization shall not be eligible for appointment.~~ Two senior citizen members shall be appointed by the Governor in even years. One senior citizen member shall be appointed by the Senate Committee on Rules in odd years. One senior citizen member shall be appointed by the Speaker of the Assembly in odd years.

~~(3) A certified public accountant with experience in the continuing care industry, who is not a provider of continuing care services. This member shall be appointed by the Governor in even years.~~

~~(4)~~

(3) A representative of a for-profit provider of continuing care contracts pursuant to this chapter. This member shall be appointed by the Governor in even years.

1 ~~(5) An actuary. This member shall be appointed by the~~
2 ~~Governor in even years.~~

3 ~~(6)~~

4 (4) One representative of residents of continuing care
5 retirement communities appointed by the senior citizen
6 representatives on the committee.

7 ~~(7)~~

8 (5) One representative of either nonprofit or for-profit
9 providers appointed by the representatives of nonprofit and
10 ~~for-provider for-profit~~ providers on the committee.

11 ~~(e) Commencing January 1, 1997, all members~~

12 *(c) The consultants to the committee shall include the*
13 *following:*

14 *(1) An actuary with experience in the continuing care industry,*
15 *who shall be appointed by the committee as a consultant in*
16 *even-numbered years.*

17 *(2) A certified public accountant with experience in the*
18 *continuing care industry shall be appointed by the committee as*
19 *a consultant in odd-numbered years.*

20 *(d) The committee members and consultants shall serve*
21 *two-year terms and be appointed based on their interest and*
22 *expertise in the subject area. The Governor shall designate the*
23 *chairperson for the committee with the advice and consent of the*
24 *Senate. A member may be reappointed at the pleasure of the*
25 *appointing power. The appointing power shall fill all vacancies*
26 *on the committee within 60 days. All members shall continue to*
27 *serve until their successors are appointed and qualified.*

28 ~~(d)~~

29 *(e) The committee chair shall alternate between a provider*
30 *and resident members each year. The chairperson shall be*
31 *selected by resident members in odd-numbered years and by*
32 *provider members in even-numbered years.*

33 *(f) The members of the committee and the committee*
34 *consultants shall serve without compensation, except that each*
35 *member shall be paid from the Continuing Care Provider Fee*
36 *Fund a per diem of twenty-five dollars (\$25) for each day's*
37 *attendance at a meeting of the committee not to exceed six days*
38 *in any month. The members of the committee members and*
39 *consultants shall also receive their actual and necessary travel*
40 *expenses incurred in the course of their duties. Reimbursement of*

1 travel expenses shall be at rates not to exceed those applicable to
2 comparable state employees under Department of Personnel
3 Administration regulations.

4 (e)

5 (g) Prior to commencement of service, each member shall file
6 with the department a statement of economic interest and a
7 statement of conflict of interest pursuant to Article 3
8 (commencing with Section 87300) of the Government Code.

9 (f)

10 (h) If, during the period of appointment, any member no
11 longer meets the qualifications of subdivision (b), that member
12 shall submit his or her resignation to ~~their~~ *the committee chair*
13 *within 60 days. The chair shall notify the* appointing power and a
14 qualified new member shall be appointed by the same power to
15 fulfill the remainder of the term.

16 SEC. 2. Section 1790 of the Health and Safety Code is
17 amended to read:

18 1790. (a) Each provider; that has obtained a provisional or
19 final certificate of authority; and each provider that possesses an
20 inactive certificate of authority; shall submit an annual report of
21 its financial condition. The report shall consist of audited
22 financial statements and required reserve calculations, with
23 accompanying certified public accountants' opinions thereon,
24 Continuing Care Provider Fee and Calculation Sheet, evidence of
25 fidelity bond as required by Section 1789.8, and certification that
26 the continuing care contract in use for new residents has been
27 approved by the department, all in a format provided by the
28 department, and shall include all of the following information:

29 (1) A certification, if applicable, that the entity is maintaining
30 reserves for prepaid continuing care contracts, statutory reserves,
31 and refund reserves.

32 (2) Full details on the status of reserves and on per capita costs
33 of operation for each continuing care retirement community
34 operated. *For purposes of this section, "reserves" means the*
35 *amounts accumulated to provide for future expenditures,*
36 *including the funded reserves required by Sections 1792.3,*
37 *1792.4, and 1792.6, as well as all other reserves, whether funded*
38 *or nonfunded. "Reserves" also include, but are not limited to,*
39 *amounts set aside for depreciation, self-insurance, expansion,*
40 *and contingency, whether separately stated or included in*

1 *surplus or unrestricted net assets. Details for each reserve shall*
2 *include all of the following:*

3 (A) *The purpose of the reserve.*

4 (B) *The method of accumulation.*

5 (C) *With respect to nonfunded reserves, the intended source of*
6 *funds when they are required.*

7 (3) Full details on any increase in monthly care fees, the basis
8 for determining the increase, and the data used to calculate the
9 increase.

10 (4) The required reserve calculation schedules shall be
11 accompanied by the auditor's opinion as to compliance with
12 applicable statutes.

13 (5) Any other information as the department may require.

14 (b) Each provider shall file the annual report with the
15 department within four months after the provider's fiscal
16 yearend. If the complete annual report is not received by the due
17 date, a one thousand dollar (\$1,000) late fee shall accompany
18 submission of the reports. If the reports are more than 30 days
19 past due, an additional fee of thirty-three dollars (\$33) for each
20 day over the first 30 days shall accompany submission of the
21 report. The department may, at its discretion, waive the late fee
22 for good cause.

23 (c) The annual report and any amendments thereto shall be
24 signed and certified by the chief executive officer of the provider,
25 stating that, to the best of his or her knowledge and belief, the
26 items are correct.

27 (d) A copy of the most recent annual audited financial
28 statement shall be transmitted by the provider to each transferor
29 requesting the statement.

30 (e) A provider shall amend its annual report on file with the
31 department at any time, without the payment of any additional
32 fee, if an amendment is necessary to prevent the report from
33 containing a material misstatement of fact or omitting a material
34 fact.

35 (f) If a provider is no longer entering into continuing care
36 contracts, and currently is caring for 10 or fewer continuing care
37 residents, the provider may request permission from the
38 department, in lieu of filing the annual report, to establish a trust
39 fund or to secure a performance bond to ensure fulfillment of
40 continuing care contract obligations. The request shall be made

1 each year within 30 days after the provider's fiscal year end. The
2 request shall include the amount of the trust fund or performance
3 bond determined by calculating the projected life costs, less the
4 projected life revenue, for the remaining continuing care
5 residents in the year the provider requests the waiver. If the
6 department approves the request, the following shall be
7 submitted to the department annually:

8 (1) Evidence of trust fund or performance bond and its
9 amount.

10 (2) A list of continuing care contract residents. If the number
11 of continuing care residents exceeds 10 at any time, the provider
12 shall comply with the requirements of this section.

13 (3) A provider fee as required by subdivision (c) of Section
14 1791.

15 (g) If the department determines a provider's annual audited
16 report needs further analysis and investigation, as a result of
17 incomplete and inaccurate financial statements, significant
18 financial deficiencies, development of work out plans to stabilize
19 financial solvency, or for any other reason, the provider shall
20 reimburse the department for reasonable actual costs incurred by
21 the department or its representative. The reimbursed funds shall
22 be deposited in the Continuing Care Contract Provider Fee Fund.