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**SENATE BILL 5691**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Cleveland and Nobles

AN ACT Relating to adopting the department of social and health services report recommendations addressing a regulatory oversight plan for continuing care retirement communities; amending RCW 18.390.010, 18.390.030, 18.390.040, and 18.390.080; adding a new chapter to Title 18 RCW; creating a new section; and providing expiration dates.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 18.390.010 and 2016 c 183 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Additional fee" means an amount that a continuing care retirement community may require a contractual resident or member to pay in accordance with a residency agreement for services made available but not covered by the entrance fee, application fee, or rental or lease payments. This includes, but is not limited to, additional meals, use of a carport or similar infrastructure, and health care services not covered by the entrance fee or residency agreement.

(2) "Application fee" means a fee charged to an individual or individuals prior to the execution of a residency agreement, apart from an entrance fee.

((~~(2)~~)) (3) "Care" means nursing, medical, or other health-related services, protection or supervision, assistance with activities of daily living, or any combination of those services.

((~~(3)~~)) (4) "Continuing care" means directly providing or indirectly making available, upon payment of an entrance fee and under a residency agreement, housing and care for a period of greater than one year.

((~~(4)~~)) (5) "Continuing care retirement community" means an entity that ((~~agrees to provide continuing~~)) provides care to a resident throughout their life and as their care needs change under a residency agreement. "Continuing care retirement community" does not include an assisted living facility licensed under chapter 18.20 RCW that does not directly, or through a contractual arrangement with a separately owned and incorporated skilled nursing facility, offer or provide services under chapter 74.42 RCW.

((~~(5)~~)) (6) "Department" means the department of social and health services.

((~~(6)~~)) (7) "Entrance fee" means an initial or deferred transfer to a continuing care retirement community of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of one or more residents in a continuing care retirement community. "Entrance fee" does not include deposits of ten thousand dollars or less or any amount that is based on rental or lease payments of one month or more.

((~~(7)~~)) (8) "Noncontractual resident" means a person who lives in a continuing care retirement community without a residency agreement that outlines health care services covered by their entrance fee. "Noncontractual residents" typically pay for all health care services received on a fee-for-service basis.

(9) "Prospective resident" means a person who has completed an application for admission to a continuing care retirement community and makes a refundable deposit to reserve a unit, excluding applicable administrative fees.

((~~(8)~~)) (10) "Residency agreement" means a contract between a continuing care retirement community and a resident for the provision of ((~~continuing care~~)) ongoing health care and assistance with activities of daily living as the resident requires them for a period of greater than one year. A "residency agreement" must include language that guarantees certain health and long-term care services to the resident based on the entrance fee or fee-for-service of the resident. "Residency agreements" must also include language outlining when a portion of the entrance fee will be returned to the resident based on termination or unavailability of contracted services.

((~~(9)~~)) (11) "Resident" means a person who enters into a residency agreement with a continuing care retirement community or who is designated in a residency agreement to be a person being provided with continuing care.

**Sec.**  RCW 18.390.030 and 2016 c 183 s 3 are each amended to read as follows:

(1) ((~~An~~)) Beginning July 1, 2027, an applicant for a registration as a continuing care retirement community must submit the following materials to the department:

(a) A written application to the department providing all necessary information on a form provided by the department;

(b) ((~~Information about the licensed~~)) Proof of licensure for the assisted living facility and proof of licensure and certification for the nursing facility component of the continuing care retirement community ((~~and, if the continuing care retirement community operates a nursing home, information about that component~~)) when a continuing care retirement community operates an assisted living facility, a skilled nursing facility, or both, as part of their services to residents;

(c) Copies of any residency agreements that the continuing care retirement community intends to use for the certification period;

(d) A copy of the disclosure statement that includes current information required by RCW 18.390.060;

(e)((~~(i) Except as provided in (e)(ii) of this subsection, copies of audited financial statements for the two most recent fiscal years. The audited financial statement for the most current period may not have been prepared more than eighteen months prior to the date that the continuing care retirement community applied for its current registration;~~

~~(ii) If the continuing care retirement community:~~

~~(A) Has obtained financing, but has been in operation less than two years, a copy of the audited financial statement for the most current period, if available, and an independent accountant's report opinion letter that has evaluated the financial feasibility of the continuing care retirement community; or~~

~~(B) Has not obtained financing, a summary of the actuarial analysis for the new continuing care retirement community stating that the continuing care retirement community is in satisfactory actuarial balance~~)) Audited financial statements that, at a minimum, detail:

(i) The financial resources of the continuing care retirement community that is available to care for current residents;

(ii) An adequate expected fee structure to support new residents and prospective residents; and

(iii) Positive projected cash and investment balances over 10 years including revenue and expenses from all known sources, including any fees of residents and noncontractual residents;

(f) An attestation by a management representative of the continuing care retirement community that the continuing care retirement community is in compliance with the disclosure notification requirements of RCW 18.390.060; ((~~and~~))

(g) Payment of any registration fees associated with the department's cost of registering continuing care retirement communities; and

(h) An implementation plan that outlines, at a minimum:

(i) How the continuing care retirement community residents and noncontractual residents will be notified of decisions made by the continuing care retirement community that may impact the solvency of the continuing care retirement community;

(ii) How the continuing care retirement community will involve residents in day-to-day business operations of the continuing care retirement community; and

(iii) How the continuing care retirement community will ensure resident and noncontractual resident participation on the continuing care retirement community board of directors.

(2) The department shall contract with an organization with the expertise to provide actuarial analysis of continuing care retirement communities based on the documents described in subsection (1)(e) of this section and the actuarial standards board most current standards of practice.

(3) The department shall base its decision to issue a registration on ((~~the completeness of the application. If an application is incomplete, the department shall inform the applicant and give the applicant an opportunity to supplement its submission. An applicant may appeal a decision of the department to deny an application for registration~~)):

(a) An evaluation of the comprehensive actuarial study that determines a reasonable expectation that the continuing care retirement community will be able to provide contracted services over a 10-year period;

(b) Verification that any licensed portions of the continuing care retirement community are in good standing with relevant regulating entities; and

(c) Verification that the residency agreements, disclosure statements, and the implementation plan meet the requirements of this chapter.

((~~(3)~~)) (4) The department shall issue the registration or denial within ((~~sixty~~)) 60 days of the receipt of a complete application((~~, payment of fees, submission of disclosures, residency agreements, and the attestation. The department's failure to timely issue a registration may not cause a delay in the change of ownership and ongoing operation of the continuing care retirement community~~)).

(a) Nothing in this section shall be construed as preventing the department from asking for additional documentation from the continuing care retirement community as needed or by request of the contractor to support actuarial analysis or department review.

(b) In the event the department issues a denial of registration, the continuing care retirement community will have the right to an administrative appeal. If the continuing care retirement community had a valid registration from the department at the time of application, the continuing care retirement community may continue to operate until a decision on the appeal is issued, but the continuing care retirement community may not enter into any new residency agreements with residents until the appeal overturns the department decision.

((~~(4)~~)) (5) Registration is valid for two years.

((~~(5)~~)) (6) Registration is not transferable.

((~~(6)~~)) (7) Materials submitted pursuant to this section are not subject to disclosure under the public records act, chapter 42.56 RCW.

**Sec.**  RCW 18.390.040 and 2016 c 183 s 4 are each amended to read as follows:

(1) The department shall:

(a) Register an entity that submits a complete application that includes all of the materials required and meets the standards outlined in RCW 18.390.030;

(b) ((~~Review the disclosure statements submitted by applicants for an initial or renewal registration to operate a continuing care retirement community for completeness;~~

~~(c)~~)) Establish and collect a fee that is sufficient to cover the department's costs associated with administering the requirements of this chapter; and

((~~(d)~~)) (c) Create and maintain an online listing that is readily available to the public of the names and addresses of continuing care retirement communities that are registered with the department.

(2) The ((~~department's registration activities consist of reviewing an application for completeness and do not signify that the department has otherwise issued a certification or license to the continuing care retirement community or any of its component parts.~~)) department shall adopt rules to implement this chapter.

NEW SECTION. **Sec.**  (1) For continuing care retirement communities operating under a valid registration issued prior to July 1, 2025, the registration shall be considered valid by the department of social and health services until September 30, 2027, if the continuing care retirement community applies for a new registration as outlined in RCW 18.390.030 by July 1, 2027.

(2) The department of social and health services shall not accept applications or issue registrations for new continuing care retirement communities before July 1, 2027.

(3) This section expires December 31, 2027.

**Sec.**  RCW 18.390.080 and 2016 c 183 s 8 are each amended to read as follows:

(1) The legislature finds that the ((~~violation of the title protection requirements of RCW 18.390.050, the failure of a continuing care retirement community to register with the department under RCW 18.390.020, the failure of a continuing care retirement community to comply with the disclosure statement delivery and content requirements under RCW 18.390.060, and the failure of a continuing care retirement community to comply with the resident expectations established under RCW 18.390.070 are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of the title protection requirements under RCW 18.390.050, registration requirement under RCW 18.390.020, the disclosure statement delivery and content requirements under RCW 18.390.060, and the resident expectations requirements under RCW 18.390.070 are not reasonable in relation to the development and preservation of business and are an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.~~

~~(2) The attorney general shall provide notice to the management of the continuing care retirement community of submitted complaints including the name of the complainant to allow the community to take corrective action. Except for violations of the title protection requirements of RCW 18.390.050 and the failure of a continuing care retirement community to register with the department under RCW 18.390.020, the attorney general shall limit its application of the consumer protection act in subsection (1) of this section to those cases in which a pattern of complaints, submitted by affected parties, or other activity that, when considered together, demonstrate a pattern of similar conduct that, without enforcement, likely establishes an unfair or deceptive act in trade or commerce and an unfair method of competition.~~)) practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) This chapter may be enforced by the attorney general under the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec.**  There is created the office of the state senior independent living ombuds. The department of commerce shall contract with a private nonprofit organization to provide senior independent living ombuds services to residents in the independent living units of continuing care retirement communities as specified by the state and according to the needs of continuing care retirement community independent living residents. The department of commerce shall ensure that all program and staff support necessary to enable the ombuds to effectively protect the interest of the continuing care retirement community independent living residents and their families is provided by the nonprofit organization that contracts to provide senior independent living ombuds services. The senior independent living ombuds shall have the following powers and duties:

(1) To provide services for coordinating the activities of senior independent living ombuds throughout the state;

(2) Carry out such other activities as the department of commerce deems appropriate;

(3) Establish procedures for coordinating with the office of the state long-term care ombuds and the office of the developmental disabilities ombuds, where relevant to ensure the needs of mutual clients or shared communities are met;

(4) Establish a statewide uniform reporting system to collect, track, and analyze data relating to complaints and conditions in senior independent living of continuing care retirement communities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of commerce and the legislature, on at least an annual basis;

(5) Develop and offer educational information, resources, and tools for self-advocacy by independent living residents of continuing care retirement communities; and

(6) Establish procedures to ensure that any files maintained by ombuds programs shall be disclosed only at the discretion of the ombuds having authority over the disposition of such files, except that the identity of any complainant or resident of a continuing care retirement community shall not be disclosed by such ombuds unless:

(a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(b) Such disclosure is required by court order.

NEW SECTION. **Sec.**  (1) Any senior independent living ombuds authorized by this chapter or a local governmental authority shall have training, experience, or both, in the following areas:

(a) Gerontology or other related social services programs;

(b) The legal system; and

(c) Dispute or problem resolution techniques, including investigation, mediation, and negotiation.

(2) A senior independent living ombuds may not have been employed by or participated in the management of any senior independent housing or continuing care retirement community within the past year.

(3) No senior independent living ombuds or any immediate family member of the ombuds shall have, or have had within the past year, any significant ownership or investment interest in one or more continuing care retirement community units.

(4) A senior independent living ombuds shall not be assigned to a continuing care retirement community in which an immediate family member of that ombuds resides.

NEW SECTION. **Sec.**  Every continuing care retirement community provider shall post in a conspicuous location in every building containing any senior independent living unit a notice of the name, address, and phone number of the office of the appropriate senior independent living ombuds and a brief description of the services provided by the office. The form of the notice shall be approved by the office of the state senior independent living ombuds.

NEW SECTION. **Sec.**  A senior independent living ombuds shall:

(1) Identify, investigate, and resolve complaints made by or on behalf of senior independent living residents in a continuing care retirement community relating to administrative action, inaction, or decisions which may adversely affect the health, safety, welfare, and rights of these individuals;

(2) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to senior independent living in continuing care retirement communities in this state;

(3) Provide information as appropriate to residents, resident representatives, and others regarding the rights of residents, and to public agencies regarding the problems of individuals residing in senior independent living units in a continuing care retirement community; and

(4)(a) Provide for training volunteers and promoting the development of citizen organizations to participate in the ombuds program.

(b) A trained volunteer senior independent living ombuds, in accordance with the policies and procedures established by the state senior independent living ombuds program, shall inform residents, their representatives, and others about the rights of residents, and may identify, investigate, and resolve complaints made by or on behalf of residents relating to action, inaction, or decisions, that may adversely affect the health, safety, welfare, and rights of these individuals.

NEW SECTION. **Sec.**  The office of the state senior independent living ombuds shall develop referral procedures for all senior independent living ombuds programs to refer any complaint to any appropriate federal, state, or local government agency.

NEW SECTION. **Sec.**  (1) The office of the state senior independent living ombuds shall develop procedures governing the right of entry of all senior independent living ombuds to continuing care retirement community buildings containing any senior independent living units and shall have access to residents with provisions made for privacy for the purpose of hearing, investigating, and resolving complaints of, and rendering advice to, residents at any time deemed necessary and reasonable by the state ombuds to effectively carry out the provisions of this chapter.

(2) Nothing in this chapter restricts, limits, or increases any existing right of any organizations or individuals not described in subsection (1) of this section to enter or provide assistance to senior independent living residents in a continuing care retirement community.

(3) Nothing in this chapter restricts any right or privilege of any senior independent living resident in a continuing care retirement community to receive visitors of their choice.

NEW SECTION. **Sec.**  (1) No senior independent living ombuds is liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any continuing care retirement community employee, resident, or volunteer, for any communication made, or information given or disclosed, to aid a senior independent living ombuds in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by a senior independent living ombuds, if reasonably related to the requirements of the responsibilities of that individual under this chapter and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander.

(4) A representative of the state office of the senior independent living ombuds is exempt from being required to testify in court as to any confidential matters except as the court may deem necessary to enforce this chapter.

NEW SECTION. **Sec.**  All records and files of a senior independent living ombuds relating to any complaint or investigation made pursuant to carrying out the duties of the ombuds and the identities of complainants, witnesses, or residents shall remain confidential unless disclosure is authorized by the resident or the guardian or legal representative of the resident. No disclosures may be made outside the office of the state senior independent living ombuds without the consent of any named witnesses, resident, or complainant unless the disclosure is made without the identity of any of these individuals being disclosed.

NEW SECTION. **Sec.**  (1) The senior independent living ombuds shall convene a work group to study the data needs related to the oversight of continuing care retirement communities with respect to their independent living residents and to analyze the resulting data. The purpose of the work group shall be to enhance the understanding about continuing care retirement communities including:

(a) Addressing the lack of a single source of information related to continuing care retirement community resident complaints which is needed to track what issues may exist and what is the volume and frequency of those issues;

(b) Identifying how the experience of the independent living residents in continuing care retirement communities in Washington state compare to the continuing care retirement community residents in other states; and

(c) Evaluating and developing a reliable set of data in order to inform oversight decisions.

(2) The work group shall:

(a) Define what type of data should be collected and is needed for regulatory monitoring and oversight, which may include but is not limited to performing research and conducting gap analysis between current and future states;

(b) Define data output requirements such as the occurrence and frequency with which the data may be published;

(c) Define report requirements such as data reporting standards and governance;

(d) Identify demographic data on continuing care retirement community residents, specifically those residents residing in the independent living sections; and

(e) Identify trends of experiences from continuing care retirement community residents, specifically those residents residing in the independent living section.

(3) The senior independent living ombuds may collaborate with the department of social and health services to request that the applicants for an initial or renewal registration as a continuing care retirement community provide additional data as part of the registration process to ensure the work group has adequate information to complete the duties of the work group.

(4) The senior independent living ombuds shall consult with the office of the attorney general as needed to understand the complaint data from the consumer resource center.

(5) By October 1, 2028, the senior independent living ombuds shall submit a report to the appropriate committees of the legislature outlining the findings and recommendations of the work group.

(6) This section expires January 1, 2030.

NEW SECTION. **Sec.**  The department of commerce shall adopt rules necessary to carry out this chapter.

NEW SECTION. **Sec.**  Sections 6 through 15 of this act constitute a new chapter in Title 18 RCW.

**--- END ---**