

New Jersey Statutes 52:27D-

336. Initial Disclosure Statement

The provider shall provide a disclosure statement to a prospective resident of a continuing care facility or the person with whom the provider shall enter into a contract to provide continuing care, prior to the execution of the contract or at the time of or prior to the transfer of any money or other property to the provider by or on behalf of the prospective resident, whichever occurs first. The cover page of the disclosure statement shall state in a prominent location and type face, the date of the disclosure statement. The disclosure statement shall be written in plain English and in language understandable by a layperson. ***

f. The services provided or proposed to be provided under contracts for continuing care at the facility, including the extent to which medical care and other services are furnished under the basic contract and which other care or services are available at or by the facility at extra charge.

g. A description of all fees required of residents, including the application fee, entrance fee and periodic charges, if any, the manner by which the provider may adjust periodic charges or other recurring fees and the limitation on the adjustments, if any****.

338. False, misleading statements.

a. No provider or person acting on behalf of the provider shall make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in a newspaper or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement of any sort containing an assertion, representation or statement which is untrue, deceptive or misleading.

b. No provider or person acting on behalf of the provider shall file with the department or make, publish, disseminate, circulate or deliver to any person or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or delivered to any person, or placed before the public, any disclosure statement, financial statement or continuing care agreement that contains an assertion, representation, or statement which is untrue, deceptive or misleading.****.

344. Continuing care agreement

a. A continuing care agreement executed on or after the effective date of this act shall be written in plain English and in language understandable by a layperson and shall include, but not be limited to, the following:***

(2) A statement on a form provided by the commissioner specifying all services which are to be provided to the resident by the provider, including, in detail, all items which the resident will receive, such as food, shelter, nursing care, pharmaceuticals and burial, and whether the items will be provided for a designated period of time or for life;***

(10) A statement providing for at least 30 days' advance notice to the resident before any change in fees or changes in the scope of care or services are effective, except for changes required by State or federal assistance programs. ***

f. **No act, agreement or statement of a resident or of an individual purchasing care for a resident under any agreement to furnish care to the resident shall constitute a valid waiver of any provision of this act intended for the benefit or protection of the resident** or the individual purchasing care for the resident.****.

345 Residents' organizations; quarterly meeting.

a. Residents living in a facility which holds a certificate of authority issued pursuant to this act have the right of self-organization. No retaliatory conduct shall be permitted against a resident for organization or membership or participation in a residents' organization; for the resident's lawful efforts to secure or enforce his rights under the continuing care agreement, the laws of the State of New Jersey or its governmental subdivisions, or of the United States; or for the resident's good faith complaint to a

governmental authority of the provider's alleged violation of any health or safety law, regulation, code or ordinance or State law or regulation which has as its objective the regulation of the facility or the delivery of health care services.

b. The board of directors or other governing body, or a designated representative who is not the chief executive officer or other staff member, of a continuing care facility shall hold quarterly meetings with the residents or their elected representatives of the facility, for the purpose of free discussion of subjects which may include income, expenditures and financial matters as they apply to the facility and proposed changes in policies, programs and services. Any questions on these subjects may be raised at each quarterly meeting, except for confidential personnel matters, and shall be answered or explained promptly when possible, or within a reasonable period of time. Residents shall be given at least seven days' notice of each quarterly meeting.

c. The provider shall designate and make knowledgeable personnel available to address resident complaints about the operation and management of the facility.

d. The board of directors or other governing body of a facility shall consult and discuss with the representatives of the residents any proposed action that might significantly affect the well-being of the residents or the financial stability of the facility, before taking the proposed action.

e. The board of directors or other governing body of a facility shall include at least one resident as a full voting member of the board or body. Resident members shall be nominated by the elected representatives of the residents and selected by the board of directors or other governing body. If the board of directors or other governing body governs more than one facility, the occupancy of each seat on that body that is reserved for a resident member shall rotate among the facilities governed by that body on a term-by-term basis.

350. Consumers' guide; residents' rights booklet

a. The commissioner shall prepare and cause to be distributed to the public a consumers' guide to continuing care facilities and an annual directory of continuing care facilities in the State.

b. The commissioner shall prepare and cause to be distributed to the public a residents' rights booklet that describes the rights of residents and obligations of providers under this act.

360.1 Short title.

1. Sections 1 through 7 of this act shall be known and may be cited as the "Bill of Rights for Continuing Care Retirement Community Residents in Independent Living."

360.3 Rights of residents of community.

a. ****.

b. Each resident shall have privacy within their unit, except that personnel must be admitted for contracted services or to respond to an emergency or complaint.

c. Any resident may serve or participate in a local, State, or national residents' association, or other similar organization without discrimination or reprisal.

d. Each resident shall retain and be able to exercise all constitutional, civil, and other rights to which they are entitled by law.

e. Each resident shall be treated with respect, courtesy, consideration, and dignity.

f. Any resident or legal representative of the resident may refuse medication or treatment after being fully informed of the possible benefits or risks.

g. Each resident has the right to express complaints without fear of interference, discharge, or reprisal, and the right to contact the Office of the Ombudsman for the Institutionalized Elderly, or any advocate or agency which provides health, social, legal, or other services to advocate on behalf of residents if the resident feels that their rights are being violated.

h. Each resident has the right to expect the facility to promptly investigate and try to resolve all concerns the resident expresses. A record shall be kept of all written complaints made to the facility's senior management concerning residents' rights. This record shall be available to only the particular

resident or the resident's legal representative, immediate family members, the residents' physicians, and agents of the State of New Jersey. Each resident may file a complaint with an appropriate agency, including the appropriate State office, without fear of reprisal from the facility

i. The facility shall not modify or reduce the scope of provided services, with the exception of modifications required by State or federal assistance programs, without providing the residents with a minimum of 30-days' prior notice of the modification or reduction. All services to be provided shall be listed in a form designated by the department pursuant to N.J.A.C.5:19-6.4(a)(2).

j. Each resident is entitled to 30-days' advance written notice prior to the increase of any fees.

r. Each resident shall receive every service, as contracted in the continuing care agreement that was executed upon the resident's admission, unless waived in writing by the resident, with the exception of changes required by State or federal law or permitted in the continuing care agreement**.**

v. Each resident shall not be requested or required to accept any restriction of the rights or privileges of a resident as set forth herein**.**

360.5 "Bill of Rights for Continuing Care Retirement Community Residents in Independent Living."

5. Each continuing care retirement facility is required to distribute to each resident, and post in a conspicuous public place in the facility, a statement of residents' rights, entitled "Bill of Rights for Continuing Care Retirement Community Residents in Independent Living," as provided in P.L.2013, c.167 (C.52:27D-360.1 et al.), to each resident. The statement of residents' rights shall be prepared, distributed, and posted in a form approved by the department. The facility shall inform each resident, a member of the resident's immediate family but only at the resident's request, and the resident's legal representative, if applicable, of the resident's rights, provide explanations if needed, and **ensure that each resident or legal representative of the resident has been encouraged to read the statement of residents' rights, and sign a copy of the statement to demonstrate that it has been read and understood.** The facility shall also be responsible for making this statement available to any resident within a reasonable time upon request and without cost****.

360.6 Information provided to resident.

6. a. A resident shall receive, upon request, a fee schedule for any uncovered service before agreeing to the performance of that service.

b. Each resident shall have the right to receive a copy of the facility's annual disclosure statement, including certified financial statements, once they have been filed with the department.

c. ****.

Related Regulations of the Department of Community Affairs which provide rights not specifically set forth in the statutes.

New Jersey Administrative Code Title 5, §5.19

4.1 Disclosure statement required

(a) The disclosure statement shall disclose fully and accurately the characteristics of the facility and the interests offered and shall make known to prospective residents all unusual and material circumstances and features affecting the facility.

(b) The disclosure statement shall be in clear and plain language understandable by a lay person and shall combine simplicity and accuracy in order to fully advise residents of their rights, privileges, obligations, and restrictions. The disclosure described in this section shall also reflect all of

the terms required pursuant to the Bill of Rights for Continuing Care Retirement Community Residents in Independent Living Act (P.L.2013, c. 167, N.J.S.A. 52:27D-360.1 et al.) and N.J.A.C. 5:19-9, including a clear explanation of the rights and responsibilities of the residents of the facility.

§ 5:19-4.2 Contents of disclosure statement

(a) The disclosure statement shall contain the following information:***

12. The "Bill of Rights for Continuing Care Retirement Community Residents in Independent Living," in such terms and in such form as required by this chapter;****

15. A copy of the rules and regulations of the facility regarding the resident's responsibilities and conduct acceptable to the facility, which rules and regulations shall not limit, restrict, or be otherwise inconsistent with the rights set forth in the "Bill of Rights for Continuing Care Retirement Community Residents in Independent Living";

§ 5:19-6.1 General standards

All contracts or agreements for continuing care in a continuing care retirement community shall be fair and reasonable and shall not impose undue restrictions or hardships upon the resident.

§ 5:19-9.1 Provision of notice of rights

(a) Each continuing care retirement facility is required to distribute to each resident not less than annually, a statement of residents' rights, entitled "Bill of Rights for Continuing Care Retirement Community Residents in Independent Living," as provided in P.L. 2013, c. 167 (N.J.S.A. 52:27D-360.1 et al.) and any rules and regulations relating to residents' responsibilities and conduct.

1. This statement shall also be posted in a conspicuous public place in the facility and in any common room, recreation area, or dining room where residents gather, exclusive of hallways, stairwells, offices, restrooms, or other private areas.

2. The statement of residents' rights shall be prepared, distributed, and posted in a form approved by the Department. The facility shall inform each resident, a member of the resident's immediate family (but only at the resident's request), and the resident's legal representative, if applicable, of the resident's rights, provide explanations if needed, and ensure that each resident or legal representative of the resident has been encouraged to read the statement of residents' rights, and **sign a copy of the statement to demonstrate that it has been read and understood.**

3. The facility shall also be responsible for making this statement available to each resident (or the resident's legal representative) within a reasonable time upon request and without cost.

4. The facility shall be responsible for undertaking the actions in this section with respect to all new and existing residents. This shall be a continuing obligation of the facility and its operators, contractors, and principals. In particular cases, the Department in its discretion may require documentation of compliance.

5. The facility shall prepare, distribute, and post the "Bill of Rights for Continuing Care Retirement Community Residents in Independent Living" in a form approved by the Department. If a resident is visually impaired or otherwise unable to read the "Bill of Rights," the facility's obligation may be met by having a competent staff member personally read the "Bill of Rights" aloud to the resident and, if necessary, to a representative or family member.

§ 5:19-12.2 Notices given by the facility

(a) In the event that the facility is required or permitted to give written notice to a resident as a condition of exercising any right under the Act or this chapter, the facility shall provide such notices in clear, understandable language and suitable type, font, and format. The notice shall clearly specify the factual and legal basis for the notice and the particular regulatory, statutory, or contractual provision upon which it is based or permitted. In the event that the basis for the notice is subject to the resident's right to a hearing or an appeal, the particular procedural and time requirements thereof must be stated in the notice. **Notices must be mailed, via certified mail, or express courier requiring a receipt or by hand-delivery to the resident** and must also be sent via certified mail or express courier requiring a receipt to the resident's legal representative, if one has been designated.

(b) Notwithstanding (a) above, if a different form of notice or different method of service is required or permitted by applicable statute, regulation, or court ruling, the applicable statute, regulation, or court ruling shall govern.

Note: The following provision of the Act has never been implemented:

357 Continuing Care Advisory Council.

a. There is created a Continuing Care Advisory Council which consists of 13 members as follows: the Commissioners of Human Services, Health, and Banking and Insurance, or their designees, who shall serve ex officio and shall be non-voting members; 10 public members appointed by the Governor, with the advice and consent of the Senate, who are residents of the State and two of whom are administrators of continuing care facilities in this State, one of whom is a representative of the business community and knowledgeable in the area of management, one of whom is a certified public accountant, one of whom is an attorney licensed to practice in this State, three of whom are residents of continuing care retirement communities in this State who are recommended by the Organization of Residents Associations of New Jersey, one of whom is a trustee or director of a continuing care retirement community in this State and one of whom is a representative of the New Jersey Association of Non-Profit Homes for the Aging.

b. The term of office for each public member is three years, or until the member's successor has been appointed; except that of the public members first appointed, two shall be appointed for a term of one year, two for a term of two years and three for a term of three years.

A vacancy in the membership of the council shall be filled in the same manner as the original appointment, but for the unexpired term. A member of the council is eligible for reappointment.

The members of the council shall serve without compensation, but the council shall reimburse the members for the reasonable expenses incurred in the performance of their duties.

c. The council shall hold an organizational meeting within 30 days after the appointment of its members. The members of the council shall elect from among them a chairperson, who shall be the chief executive officer of the council, and the members shall elect a secretary, who need not be a member of the council.

d. The council shall meet at least four times a year but may meet more frequently at the discretion of the chairperson or the commissioner.

e. The council may call to its assistance and avail itself of the services and assistance of any officials and employees of the Department of Community Affairs or other State agency and political subdivisions and their departments, boards, bureaus, commissions, and agencies as it requires and as is available to it for this purpose and may expend any funds that are appropriated or otherwise made available to it pursuant to this act.

f. The council shall:

(1) Advise and provide information to the commissioner on matters pertaining to the operation and regulation of continuing care retirement facilities, upon request of the commissioner;

(2) Review and comment upon, as appropriate, any proposed rules and regulations and legislation pertaining to continuing care retirement facilities;

(3) Make recommendations to the commissioner about any needed changes in rules and regulations and State and federal laws pertaining to continuing care retirement facilities; and

(4) Assist in the rehabilitation of a continuing care retirement facility, upon request of the commissioner.

g. The commissioner shall report annually to the Governor and the Legislature, the commissioner's and the council's findings and recommendations concerning continuing care retirement communities and the implementation of this act.