

GENERAL ASSEMBLY OF NORTH CAROLINA  
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Short Title: Continuing Care Retire. Community/Home Care.

(Public)

Sponsors:

Referred to:

March 2, 2009

A BILL TO BE ENTITLED

AN ACT TO PERMIT CONTINUING CARE RETIREMENT COMMUNITIES TO PROVIDE OR ARRANGE FOR HOME CARE SERVICES WITHOUT PROVIDING LODGING WHEN THOSE SERVICES ARE PROVIDED ADJUNCT TO A CONTRACT FOR CONTINUING CARE AND TO REQUIRE THE DEPARTMENT OF INSURANCE AND THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO STUDY ISSUES RELATED TO CONTINUING CARE RETIREMENT COMMUNITIES PROVIDING HOME CARE SERVICES WITHOUT PROVIDING LODGING.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 58-64-5(b) reads as rewritten:

"(b) The application for a license shall be filed with the Department by the provider on forms prescribed by the Department and within a period of time prescribed by the Department; and shall include all information required by the Department pursuant to rules adopted by it under this Article including, but not limited to, the disclosure statement meeting the requirements of this Article and other financial and facility development information required by the Department. The application for a license must be accompanied by an application fee of ~~five hundred one thousand~~ dollars (\$~~500.00~~\$1,000)."

**SECTION 2.** G.S. 58-64-1 reads as rewritten:

**"§ 58-64-1. Definitions.**

As used in this Article, unless otherwise specified:

- (1) ~~"Continuing care"~~ means the Continuing care. – The furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, under ~~an agreement~~ a contract approved by the Department in accordance with this Article effective for the life of the individual or for a period longer than one year. "Continuing care" may also include home care services provided or arranged by a provider of lodging at a facility to an individual who has entered into a continuing care contract with the provider but is not yet receiving lodging.
- (2) ~~"Entrance fee"~~ means a Entrance fee. – A payment that assures a resident a place in a facility for a term of years or for life.



- 1 (3) ~~"Facility" means the~~Facility. – The retirement community or communities in  
2 which a provider undertakes to provide continuing care to an individual.
- 3 (4) ~~"Health related services" means, at~~Health-related services. – At a minimum,  
4 nursing home admission or assistance in the activities of daily living,  
5 exclusive of the provision of meals or cleaning services.
- 6 (4a) Home care services. – Defined in G.S. 131E-136.
- 7 (5) ~~"Living unit" means a~~Living unit. – A room, apartment, cottage, or other  
8 area within a facility set aside for the exclusive use or control of one or more  
9 identified residents.
- 10 (5a) Lodging. – A living unit as set forth in a contract approved by the  
11 Department in accordance with this Article.
- 12 (6) ~~"Provider" means the~~Provider. – The promoter, developer, or owner of a  
13 facility, whether a natural person, partnership, or other unincorporated  
14 association, however organized, trust, or corporation, of an institution,  
15 building, residence, or other place, whether operated for profit or not, or any  
16 other person, that solicits or undertakes to provide continuing care under a  
17 continuing care facility contract, or that represents himself, herself, or itself  
18 as providing continuing care or "life care."
- 19 (7) ~~"Resident" means a~~Resident. – A purchaser of, a nominee of, or a subscriber  
20 to, a continuing care contract.
- 21 (8) ~~"Hazardous financial condition" means a~~Hazardous financial condition. – A  
22 provider is insolvent or in eminent danger of becoming insolvent."

23 **SECTION 3.** G.S. 58-64-25(b) reads as rewritten:

24 "(b) Each contract shall include provisions that specify the following:

- 25 (1) The total consideration to be ~~paid;~~paid.
- 26 (2) Services to be ~~provided;~~provided.
- 27 (3) The procedures the provider shall follow to change the resident's  
28 accommodation if necessary for the protection of the health or safety of the  
29 resident or the general and economic welfare of the ~~residents;~~residents.
- 30 (4) The policies to be implemented if the resident cannot pay the periodic  
31 ~~fees;~~fees.
- 32 (5) The terms governing the refund of any portion of the entrance fee in the  
33 event of discharge by the provider or cancellation by the ~~resident;~~resident.
- 34 (6) The policy regarding increasing the periodic ~~fees;~~fees.
- 35 (7) The description of the living ~~quarters;~~quarters.
- 36 (8) Any religious or charitable affiliations of the provider and the extent, if any,  
37 to which the affiliate organization will be responsible for the financial and  
38 contractual obligations of the ~~provider;~~provider.
- 39 (9) Any property rights of the ~~resident;~~resident.
- 40 (10) The policy, if any, regarding fee adjustments if the resident is voluntarily  
41 absent from the ~~facility;~~facility.
- 42 (11) Any requirement, if any, that the resident apply for Medicaid, public  
43 assistance, or any public benefit program.
- 44 (12) The procedures for determining when the individual will transition to  
45 receiving lodging and health-related services in the event that a contract  
46 allows for the provision or arrangement of continuing care without lodging."

47 **SECTION 4.** Article 64 of Chapter 58 of the General Statutes is amended by  
48 adding a new section to read:

49 **"§ 58-64-7. Continuing care services without lodging.**

50 (a) A provider of continuing care who has obtained a license pursuant to this Article  
51 and desires to provide or arrange for continuing care services, including home care services, to

1 an individual who has entered into a continuing care contract with the provider but is not yet  
2 receiving lodging must submit the following to the Commissioner:

- 3 (1) An application to offer continuing care services without providing lodging.
- 4 (2) An amended disclosure statement containing a description of the proposed  
5 continuing care services that will be provided without lodging, including the  
6 target market, the types of services to be provided, and the fees to be  
7 charged.
- 8 (3) A copy of the written service agreement, which must contain those  
9 provisions as prescribed in G.S. 58-64-25(b).
- 10 (4) A summary of an actuarial report that presents the impact of providing  
11 continuing care services without lodging on the overall operation of the  
12 continuing care retirement community.
- 13 (5) A financial feasibility study prepared by a certified public accountant that  
14 shows the financial impact of providing continuing care services without  
15 lodging on the applicant and the continuing care retirement facility or  
16 facilities. The financial feasibility study shall include a statement of  
17 activities reporting the revenue and expense details for providing continuing  
18 care services without lodging, as well as any impact the provision of these  
19 services will have on operating reserves.
- 20 (6) Evidence of the license required under Part 3 of Article 6 of Chapter 131E of  
21 the General Statutes to provide home care services, or a contract with a  
22 licensed home care agency for the provision of home care services to the  
23 individuals under the continuing care services without lodging program.

24 (b) A provider issued a start-up certificate for the provision of continuing care services  
25 without lodging must enter into binding written service agreements with subscribers to provide  
26 continuing care services without lodging.

27 (c) When providing the financial statements and five-year forecasts required by  
28 G.S. 58-64-20, a provider offering continuing care services without lodging must account for  
29 the related revenue and expenses generated from the provision of these services separate from  
30 the facility's on-site operation."

31 **SECTION 5.** The Department of Insurance and the Department of Health and  
32 Human Services shall identify any statutory, regulatory, or practical barriers that prevent or  
33 discourage individuals that contract with continuing care retirement communities from  
34 receiving home care services for as long as they need home care services and are able to be  
35 safely cared for in their homes. The Departments shall jointly provide an interim status report  
36 on or before November 1, 2010, and a final report on or before September 1, 2011, to the North  
37 Carolina Study Commission on Aging and the Joint Legislative Health Care Oversight  
38 Committee. Each report shall include findings and recommendations made to date on statutory  
39 changes and a timetable for adopting rules to eliminate any identified barriers to providing  
40 appropriate levels of care.

41 **SECTION 6.** Section 1 of this act is effective when it becomes law, and applies to  
42 applications filed on or after that date, and the remainder of the act is effective when it becomes  
43 law.