

Regulation of Continuing Care Retirement Communities in Virginia

— consumer guide —



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Commonwealth of Virginia
State Corporation Commission
Bureau of Insurance
P.O. Box 1157
Richmond, VA 23218
scc.virginia.gov

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HOW TO REACH THE BUREAU OF INSURANCE

Physical Address

Financial Regulation Division
1300 E. Main Street
Richmond, VA 23219

Mailing Address

Financial Regulation Division
PO Box 1157
Richmond, VA 23218

Company Licensing & Regulatory Compliance Section

804-371-1502

Bureau of Insurance

1-800-552-7945 (VA Toll-Free)
1-877-310-6560 (Nationwide Toll-Free)
804-371-9691 (Richmond)

Website

scc.virginia.gov/Pages/Senior-Resources

To Address CCRC Resident Concerns & Issues

CCRCInquiry@scc.virginia.gov

CCRC FILING REQUIREMENTS IN VIRGINIA

The State Corporation Commission's Bureau of Insurance has regulated Continuing Care Retirement Communities (“CCRCs”) in Virginia since July 1, 1985. Chapter 49 (Section 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia (“the Code”) provides for regulatory oversight of CCRCs by the State Corporation Commission (“SCC”). Oversight includes ensuring that proper disclosures are made by the CCRC as well as monitoring the CCRC’s financial condition. The terms CCRC and provider are used in this guide interchangeably.

CCRCs are required to submit the following filings with the SCC Bureau of Insurance:

Initial Registration and Disclosure Statement

- Prior to operating in Virginia, every continuing care provider (“provider”) files a registration statement, disclosure statement, continuing care contracts, and audited financial statements.
- Bureau of Insurance staff has 90 days to complete the review of these documents for compliance with the Code requirements.
- Facilities under construction are required to file additional information regarding construction costs and financing.

Annual Disclosure Statement

- Annually within four months of the provider’s fiscal year end, the provider is required to file an updated disclosure statement, continuing care contracts, and audited financial statements.
- The annual filing is required to include a narrative describing material differences between the prior year’s pro forma income statement and the actual results of operations.

Amended Disclosure Statement

- Amended filings are required any time a provider determines an amendment is necessary due to a material change.

To view the disclosure statement of providers registered in Virginia, please visit our website at: scc.virginia.gov/Pages/Senior-Resources.

COMPOSITION OF A DISCLOSURE STATEMENT

The disclosure statement includes a narrative description of the identity and experience of the provider, admission requirements, services provided, fees required, refund provisions, and complaint procedures. The disclosure statement also includes copies of the continuing care contracts, audited financial statements, and additional exhibits the provider may wish to include.

A summary of each part of the disclosure statement may be found below:

Narrative

- Information on the Continuing Care Provider
 - Name, address, and business type of provider
 - Ownership and control over provider
 - Names and business addresses of officers, directors, and owners
 - Business experience of provider, officers, directors, owners, and management
 - Criminal, civil, or administrative convictions or investigations
- Ownership of property and buildings
- Location and description of property
- Affiliation with religious, charitable, or nonprofit organizations and information on tax exemptions
- Description of services provided under continuing care contracts
- Fees required of residents
 - Entrance fees and monthly fees
 - Uses of fees
 - Escrowing and refunding provisions
 - Description of how the provider may adjust periodic fees
 - Tables detailing rate changes
- Reserve funding
- Admission of residents
- Access to facility by nonresidents
- Information required for facilities under construction
- Procedures on how to file a complaint or disclose any concern

COMPOSITION OF A DISCLOSURE STATEMENT

Resident's Contract

The Bureau of Insurance reviews the continuing care contract to determine if the following provisions required by Section 38.2-4905 have been included:

- Continuing care provided to each resident
- Details of values of property transferred by or for residents
- Specific details of services to be provided to residents
- Description of health and financial condition that may require resident to relinquish space
- Description of health and financial condition required to continue as resident
- Current fees if resident marries and terms concerning spouse's entry into the facility
- Description of good cause provision for cancellation of contract
- Details of refund provisions
- Terms for contract cancellation by death
- Terms for at least 30 days advance notice before any changes in fees or services
- Resident's right to rescind the contract
- Resident's rights prior to occupying the facility

In accordance with Section 38.2-4928, the SCC shall have no jurisdiction to adjudicate controversies concerning CCRC contracts.

Audited Financial Statements

Certified financial statements of the provider including a balance sheet and income statement for the two most recent fiscal years are required.

Financial Monitoring

The Bureau of Insurance reviews the audited financial statements to determine if, in the opinion of the auditor, the provider will remain as a going concern (be able to continue operations), and to determine the financial position of the provider.

In accordance with Section 38.2-4931, the SCC may issue an order to require the provider to cease and desist from engaging in any act or practice that constitutes a violation of the Chapter. The SCC may also issue a temporary or permanent injunction or a restraining order to enforce compliance with the Chapter. The SCC may issue an order to protect residents and prospective residents when the SCC determines that:

- A provider has been or will be unable to meet the pro forma income or cash flow projections filed and such failure may endanger its ability to perform its obligations.
- A provider is bankrupt, insolvent, under reorganization pursuant to federal bankruptcy laws, or in imminent danger of becoming bankrupt or insolvent.

RESIDENT'S RIGHTS

Residents are afforded the following rights under Chapter 49:

To self-organize

- Residents shall have the right of self-organization.
- No retaliatory conduct is permitted against a resident for participating in a residents' organization or filing a complaint.

To receive copies of submissions

- A provider is required to provide all prospective residents with a copy of the disclosure statement at least three days prior to the execution of a continuing care contract.
- A provider is required to give the resident's association a copy of all submissions made to the Commission.
- A provider is required to make available by written notice a copy of the annual or amended disclosure statement.

To attend quarterly meetings

- The Board of Directors or its designated representative is required to hold meetings with residents at least quarterly.
- Residents must receive seven days' notice of each meeting.

To participate in free discussion of issues relating to the facility

- Issues may include income, expenditures, and financial matters as they apply to the facility and proposed changes in policies, programs, facilities, and services.

To receive notification of a change in chief executive officer or management firm

- Notification must be prompt.

COMPLAINTS

Please Read the Following Before Filing a Complaint

If you have questions or are experiencing a problem with a provider, we are here to help.

- Contact Company Licensing & Regulatory Compliance
 - CCRCInquiry@scc.virginia.gov
 - 804-371-1502

Before filing a complaint:

- Read your provider's disclosure statement.
 - Providers are required to include information in their disclosure statement on how residents may file a complaint with them.
 - Disclosures statements for CCRCs can be found at scc.virginia.gov/pages/Senior-Resources under Continuing Care Services.
- Talk to your provider's management.

Once we receive your complaint, we will:

- Acknowledge your complaint within a week and explain next steps.
- Ask the provider to explain and respond to us.
- Contact you when we have completed our review of the provider's explanation and share our findings.
- Recommend actions that you can take if we do not have the regulatory authority to resolve the problem.
- Typically review your complaint within 45 days.
 - Our review may take longer if your complaint is complex and requires extensive research.

We cannot:

- Act as the complainant's attorney.
- Act as your legal representative or get involved in a pending lawsuit.
- Adjudicate controversies concerning CCRC contracts.
- Get involved with a provider's management and a resident's dispute on how best to run a facility or how resources are managed.
- Resolve disputes that do not involve a regulated entity's violation of a specific law or regulation (such as a matter concerning internal policies or guidelines).



**Continuing Care Retirement Community
Community-Based Continuing Care
Complaint Form**

Mail to: State Corporation Commission
Bureau of Insurance
Company Licensing & Regulatory Compliance
P.O. Box 1157
Richmond, VA 23218
[Virginia SCC - Senior Resources](#)
(804) 371-1502
Email to: CCRCInquiry@scc.virginia.gov

You can call the Bureau of Insurance (BOI) for general information and assistance, or to confirm we are the appropriate agency to assist with your complaint. To file a complaint or request assistance, please complete this form. Additional information may be required.

Complainant Information: Please provide information about the person who needs help.

Name: Mr./Ms. _____

Address: _____
Street City State Zip Code

Home phone: (____) _____ Cell phone: (____) _____

Email: _____

Complete Name of Provider: _____

Address: _____
Street City State Zip Code

Describe the issues involved in your complaint.

Attach a separate sheet if necessary and attach correspondence from provider if applicable.

Authorization: I have enclosed copies of correspondence related to this complaint and authorize the BOI to send a copy of this form and any or all enclosed documents to the party complained against, other regulated entities, or the appropriate state or federal agency. I also authorize the BOI to obtain any information required to assist me.

Date: _____

Signature

Representative Authorization: If the Complainant authorizes the BOI to discuss this complaint and share information with the Representative named on the front of this form, the Complainant must complete and sign the following:

I, _____, (Complainant) authorize the BOI to discuss this complaint with _____
_____ (Authorized Representative). **Note:** This authorization is not necessary if the Complainant is deceased or incapacitated.

Date: _____

Signature

SCC AUTHORITY AND CCRC REGULATION

Continuing care is defined by Section [38.2-4900](#) as “. . . providing or committing to provide board, lodging and nursing services to an individual, other than an individual related by blood or marriage, (i) pursuant to an agreement effective for the life of the individual or for a period in excess of one year, including mutually terminable contracts, and (ii) in consideration of the payment of an entrance fee. A contract shall be deemed to be one offering nursing services, irrespective of whether such services are provided under such contract, if nursing services are offered to the resident entering such contract either at the facility in question or pursuant to arrangements specifically offered to residents of the facility.

Continuing care also means providing or committing to provide lodging to an individual, other than an individual related by blood or marriage, (i) pursuant to an agreement effective for the life of the individual or for a period in excess of one year, including mutually terminable contracts, (ii) in consideration of the payment of an entrance fee, and (iii) where board and nursing services are made available to the resident by the provider, either directly or indirectly through affiliated persons, or through contractual arrangements, whether or not such services are specifically offered in the agreement for lodging.”

Sections [38.2-4902](#) and [38.2-4904](#) require that certain disclosures be made in the disclosure statement. Section [38.2-4905](#) requires that certain provisions be included in the continuing care contract. Sections [38.2-4925](#) and [38.2-4931](#) provide for the financial monitoring of CCRCs and authorize the SCC to issue an order to restrain and enforce compliance with Chapter 49. Section [38.2-4932](#) allows the SCC to impose a fine or penalty on a provider for violating any provision of Chapter 49. These requirements are discussed in detail below in this guide.

Section [38.2-4928](#) states that the SCC shall have no jurisdiction to adjudicate controversies concerning CCRC contracts.

RESOURCES

SCC Resources:

Continuing Care Services

scc.virginia.gov/pages/Senior-Resources

- CBCC Disclosure Statements
scc.virginia.gov/pages/CBCC-Disclosure-Statements
- CCRC Disclosure Statements
scc.virginia.gov/pages/CCRC-Disclosure-Statements
- Company Lookup
scc.virginia.gov/boi/ConsumerInquiry

Guides for Seniors - Medicare, Medigap, Long-Term Care

scc.virginia.gov/pages/Senior-Resources

Other Resources:

Virginia Department of Health: Division of Long-Term Care Services

vdh.virginia.gov/licensure-and-certification/division-of-long-term-care-services/

804-367-2100 (Local)

Virginia Department of Social Services - Services for Adults

dss.virginia.gov/adults.cgi

804-726-7000 (Main Agency)

Virginia Office of the State Long-Term Care Ombudsman

elderrightsva.org

1-800-552-5019 (Toll-Free)

804-565-1600 (Local)

Virginia Health Information - Long-Term Care Consumer Guide

vhi.org/LTC-Guide/

SeniorNavigator

seniornavigator.org

1-866-393-0957 (Toll-Free)

804-525-7728 (Local)

Virginia Continuing Care Residents Association

vaccra.org