

Chapter 44
CONTINUING CARE PROVIDER ACT
Disclosure Statement Format Information

NAME OF FACILITY

DISCLOSURE STATEMENT

DATE

THE DELIVERY OF THIS DISCLOSURE STATEMENT TO A CONTRACTING PARTY BEFORE THE EXECUTION OF A CONTRACT FOR THE PROVISION OF CONTINUING CARE PROVIDER ACT IS REQUIRE BY 31A-44-303.

Disclosure Statement

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NOTE: Nature and Format of Information in Disclosure Statement.

Information in the disclosure statement should be presented in a format that states the requirements of each specific section and the corresponding answer or response to the requirement.

Name, Address, and Type of Legal Entity

1. State the name and business address of the provider and a statement of whether the provider is a partnership, corporation, or other type of legal entity. If the provider is not an individual, include the names and business address of each officer, director, trustee, managing or general partner and any other person who has at least a 10% interest in the provider together with a description of that person's interest in or occupation with the partner.

Management Other Than Direct Employee of Provider

2. Indicate whether the facility will be managed on a day-to-day basis by a person other than an individual directly employed by the provider. If so, provide:
 - a. A description of any business experience in the operation or management of similar facilities that the person possesses;
 - b. The name and address of any professional service, firm, association, trust, partnership, or corporation in which the person has, or which has in that person, at least a 10 percent interest and that proposes to provide goods, leases, or services to the facility, or to residents of the facility, of an aggregate value of at least \$500 in any one year, including a description of the goods, leases or services, and their probable or anticipated cost to the facility, provider, or residents, or a statement that their cost cannot presently be estimated; and
 - c. A description of any matter in which the person has been convicted of a felony or pleaded nolo contendere to a felony charge, or has been held liable or enjoined in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or
 - d. **Any matter in which the person is subject to an injunction or restrictive order of court of record, or has had any state or federal license or permit suspended or revoked as a result of an action brought by a governmental agency if the order or action arose out of or was related to any business activity in a health care field, including actions affecting a license to operate a roster care facility, a nursing home, a retirement home, a home for the aged, or a similar Act in another state.**

Affiliation & IRS Tax Exemption

3. State whether or not the providers is affiliated with a religious, charitable, or other nonprofit organization and describe the extent of that affiliation, if any. If the provider is affiliated with such an organization, explain the extent to which the organization is responsible for the financial and contractual obligation of the provider. Cite any provision of the Internal Revenue Code under which the provider or affiliate claims to be exempt from the payment of income tax.

Location & Description of Facility

4. State the location and a description of the physical property of the facility, either existing or proposed. If proposed, state the estimated completion date, whether or not construction was begun, and any contingencies under which construction may be deferred.

Services and Fees

5. Describe the services provided at the facility under a contract for continuing care, including the extent to which medical care is furnished, and must clearly describe which services are included for specified basic fees for continuing care and which are made available at extra charge. Include a description of all fees required of residents, including the entrance fee and any periodic charges.

Facility Policies

6. Facility Policies
 - a. State the facility's policy regarding changes in the number of people residing in the living unit, either because of marriage or other relationships, and a statement of the terms relating to the admission of a spouse to the facility and the consequences if the spouse does not meet the requirements for admission.
 - b. State the facility's policy regarding the circumstances under which a resident is permitted to remain in the facility in event of any financial difficulty of that resident.
 - c. State the conditions under which a contract for continuing care may be cancelled by the provider.
 - d. State the conditions, if any, under which all or part of the entrance fee is refundable on cancellation of the contract by the provider or by the resident, or in the event of the death of the resident before or during occupancy of a living unit.
 - e. State the conditions under which a living unit occupied by a resident may be made available by the facility to a different resident other than on the death of the previous resident.
 - f. State the manner by which the provider may adjust periodic charges or other recurring fees and any limitations on those adjustments.

Resident Qualifications

7. Describe the health and financial conditions required for acceptance as a resident and for continuation as a resident, including the effect of any change in the health or financial condition of an individual between the date of the contract for continuing care and the date of initial occupancy of a living unit by that individual.

Facility Reserve Funding

8. Describe any provisions made or to be made to provide reserve funding or security to enable the provider to fully perform its obligations under a contract to provide continuing care at the facility, including the establishment of escrow accounts, trusts, or reserve funds together with the manner in which those funds will be invested, and the name and experience of any individual in the direct employment of the provider who will make the investment decisions.

Financial Statements

9. Attach as an exhibit, financial statements of the provider, including a balance sheet as of the end of the most recent fiscal year, statement of cash flow, and the provider's income statements for the three most recent fiscal years or, if the provider has not been in existence for that long, for the period that the provider has been in existence.

Anticipated Source and Application of Funds Statement

10. If operations of a facility have not yet begun, include a statement of the anticipated source and application of the funds to be used in the purchase or construction of the facility. The statement should contain the following:
- a. an estimate of the cost of purchasing or constructing and equipping the facility, including costs such as financing expenses, legal expenses, land costs, occupancy development costs, and similar costs that the provider expects to incur or to become obligated to pay before operations begin;
 - b. a description of any mortgage loan or other long-term financing arrangement used for the financing of the facility, including the anticipated terms and costs of that financing;
 - c. an estimate of the total entrance fees to be received from, or on behalf of, residents before the operation of the facility begins; and
 - d. an estimate of any funds anticipated to be necessary to cover initial losses and to provide reserve funds to assure full performance of the obligations of the provider under a contract for the provision of continuing care.

Estimated Annual Income Statements

11. Attach as an exhibit, estimated annual income statements for the facility for period of not less than five years. The statement should contain the following:
- a. a beginning cash balance consistent with the statement of anticipated source and an estimate of funds required if operation of the facility has not begun;
 - b. anticipated earnings on any cash reserves;
 - c. estimates of net receipts from entrance fees, other than entrance fees included in the statement of anticipated source and less estimated entrance fee refunds, including a description of the actuarial basis and method of calculation for the projection of entrance fee receipts;
 - d. an estimate of gifts of bequests, if any are relied on to meet operating expenses;
 - e. a projection of estimated income from fees and charges other than entrance fees that states individual rates presently anticipated to be charged and including a description of the assumptions used for calculating the estimated occupancy rate of the facility and the effect on the income of the facility of any government subsidies for health care services to be provided under the contract for continuing care;
 - f. a projection of the facility's estimated operating expenses, including a description of the assumptions used in calculating the expenses, and any separate allowance for the replacement of equipment and furnishings and anticipated major structural repairs or additions; and

- g. an estimate of annual payments of principal and interest required by any mortgage loan or other lone-term financing arrangement relating to the facility.

Other Information

12. The provider may include in the disclosure statement any other material information concerning the facility or the provider that the provider wishes to include.

Required Standard Contract Language

13. Attach as an exhibit a copy of the standard contract form used by the provider. The standard contract form must contain the following language, "You may cancel this contract at any time prior to midnight of the seventh day after the date on which you sign this contract or you receive the facility's disclosure statement, whichever occurs later. If you elect to cancel the contract, you must do so by written notice and you will be entitled to receive a refund of all assets transferred other than periodic charges applicable to your occupancy of a living unit. "The standard contract must also include a statement in boldfaced type as follows: "This document, if executed, constitutes a legal and binding contract between you and _____. You may wish to consult a legal or financial advisor before signing, although it is not required that you do so to make this contract binding."

Refund Prior to Occupancy

14. The standard residency contract shall contain language providing for automatic cancellation of the contract for continuing care and entitled to a refund of all money or property transferred to the provider, less any nonstandard cost specifically incurred by the provider or facility, if the request of the resident that are described in the contract or in an addendum to the contract signed by the resident, and a reasonable service charge, if set out in the contract, not to exceed the greater of \$1,000 or two percent of the entrance fee, if a resident dies before occupying a living unit in the facility, or if because of illness, injury, or incapacity, a resident would be precluded from occupying a living unit in the facility under the terms of the contract for continuing care.

Advertising

15. No provider shall engage in any type of advertisement which contains any statements or representations in conflict with the disclosures required under 31A-44-101 Continuing Care Provider Act.

INCOMPLETE APPLICATIONS IMPEDE TIMELY REVIEW BY THE DEPARTMENT; THEREFORE, IT IS EXTREMELY IMPORTANT THAT APPLICATIONS ARE COMPLETE. Submit a complete filing form to the Utah Insurance Department, 4315 S. 2700 W., Suite 2300, Taylorsville, UT 84129. For questions or more information, call (801) 957-9252.

THESE GUIDELINES ARE GENERAL IN NATURE AND DO NOT SUPERCEDE STATUTE OR REGULATION. THEY ARE NOT INTENDED TO BE ALL INCLUSIVE AND ADDITIONAL DOCUMENTATION MAY BE REQUESTED.