

**DEPARTMENT OF HUMAN SERVICES  
SENIORS AND PEOPLE WITH DISABILITIES DIVISION  
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411**

**DIVISION 67  
CONTINUING CARE RETIREMENT COMMUNITY**

**411-067-0000 Definitions**

*(Effective 5/1/1999)*

As used in Oregon Revised Statutes Chapter 101 and OAR 411-067-0000 to 411-067-0100, the following terms mean:

(1) "Act" means the Continuing Care Retirement Community Provider Registration Act, ORS Chapter 101.

(2) "Adjacent properties" means two or more pieces of land which are separated by no more than 1000 feet.

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

(4) "Activities of Daily Living" means those personal functional activities required by an individual for continued well-being including dressing, eating, toileting, bathing and personal hygiene, mobility, and behavior management.

(5) "Audited Financial Statement" means a provider's financial statement that has been prepared in accordance with generally accepted accounting principles and audited by an independent certified public accountant in accordance with generally accepted accounting principles. The audit shall declare whether the community was or was not in compliance with its reserve requirements during the audited period.

(6) "Certificate of Registration" means a document which indicates that the provider is registered as a CCRC, and is issued and signed by the Division administrator or his/her designee.

(7) "Continuing Care" means housing and health-related services, provided directly or made available indirectly, to one or more individuals not related by blood or marriage to the provider under a residency agreement and following payment of an entrance fee. The term applies regardless of whether the care is provided in the community or in another setting designated by the residency agreement. Health-related services may be provided at a location that is not a part of the community.

(8) "Continuing Care Retirement Community" or "community" or "CCRC" means a provider that agrees to furnish continuing care to a resident under a residency agreement. A CCRC may consist of one or more facilities.

(9) "Division" means the Seniors and People with Disabilities Division of the Department of Human Services.

(10) "Entrance Fee" means a payment or promise of payment of money or property, made by or in behalf of a new resident, in exchange for admission to a CCRC. A "residency agreement" shall be provided to the new resident following payment of the fee. A fee that is less than the sum of the regular periodic charges for one year of residency is not an entrance fee.

(11) "Existing Providers" means an owner or operator of a continuing care retirement community established prior to January 1, 1990, which community has one or more residents living there pursuant to residency agreements entered into prior to January 1, 1990.

(12) "Facility" means physical structure(s) of a continuing care retirement community on one site or on adjacent properties, and operating under the same name and managed as a part of the same community. This definition does not apply to facilities of an existing provider which were occupied by residents on December 31, 1989.

(13) "Generally Accepted Accounting Principles" means the most current accounting principles or standards generally accepted in the U.S., including, but not limited to, Accounting Principles Board Opinions as published by the American Institute of Certified Public Accountants, and Statements of Financial Accounting Standards and interpretations thereof as published by the Financial Accounting Standards Board.

(14) "Health-Related Services" includes, but is not limited to, providing nursing, assistance with activities of daily living, long-term care, rehabilitative services and physical therapy.

(15) "Liquid Reserves" means cash, marketable securities, and net receivables that can be easily converted to cash.

(16) "Long Term Financing" means funds acquired by borrowing, or sale of bonds, the balance of which is not required to be paid back during the same fiscal year in which they were borrowed (or "sold" in the case of bonds).

(17) "Manager" means a person, corporation, partnership, association or other legal entity that enters into a contractual arrangement with the provider to manage the CCRC. "Manager" does not include individuals employed by the provider or corporations affiliated with the provider, or other legal entities within the provider's supervision or control.

(18) "Provider" means an owner or operator, whether a natural person, partnership, trust, limited liability company, corporation or unincorporated association, however organized, of a continuing care retirement community.

(19) "Residency Agreement" means the contract or contracts between a provider and a resident to provide continuing care for a period of more than one year.

(20) "Start-Up Losses" means the excess of expenses over revenues that occur or are anticipated to occur.

Stat. Auth.: ORS 101.050 & 410.090

Stats. Implemented: ORS 101.020

### **411-067-0010 Registration Required**

*(Effective 5/1/1999)*

(1) Providers who operate a Continuing Care Retirement Community shall register with the Division.

(2) If a provider operates more than one continuing care retirement facility, each facility shall be registered and separately listed on the disclosure statement.

(3) No entity shall claim to be a continuing care retirement community in Oregon without being registered pursuant to these rules.

Stat. Auth.: ORS 101.050 & 410.090

Stats. Implemented: ORS 101.030

### **411-067-0020 Application for Registration; Fees**

*(Effective 5/1/1999)*

#### **(1) ANNUAL APPLICATION:**

(a) Application for registration shall be made annually to the Division on forms prescribed by the Division. The application shall include:

(A) The registration fee;

(B) The annual disclosure statement; and

(C) The reserve requirement statement.

(b) The application is not considered to be complete until all required information and the application fee are received by the Division.

(c) The application for registration must be signed and notarized by the provider, or a corporate officer with authority to act on behalf of the corporation, or a partner with authority to act on behalf of the partnership.

#### **(2) ANNUAL REGISTRATION FEE:**

(a) The registration fee is \$500 for the first year;

(b) Subsequent to the first year, the registration fee is \$250 per facility per year.

Stat. Auth.: ORS 101.050 & 410.090  
Stats. Implemented: ORS 101.030 & 101.040

### **411-067-0030 Issuance of Registration**

*(Effective 5/1/1999)*

(1) If the provider submits a completed application and disclosure statement, fees, other required information, meets the reserve requirement, and all other requirements in ORS Chapter 101 and these rules, the Division shall issue a Certificate of Registration to the provider.

(2) The Certificate of Registration shall identify the provider as a CCRC and shall include:

(a) The name and address of the provider;

(b) The names and addresses of all facilities owned and operated by the provider;

(c) The effective date of the registration; and

(d) The following statement in a prominent location and typeface: "A certificate of registration does not constitute approval, recommendation or endorsement of the community by the Seniors and People with Disabilities Division, and this registration does not evidence the accuracy or completeness of the information set forth in the disclosure statement."

(3) The provider shall use a copy of the Certificate of Registration as the cover page for the disclosure statement (see ORS 101.050(1)(j)).

Stat. Auth.: ORS 101.050 & 410.090  
Stats. Implemented: ORS 101.030

### **411-067-0050 Disclosure Statement**

*(Effective 5/1/1999)*

(1) ANNUAL DISCLOSURE STATEMENT. All providers shall file annually with the Division, on forms prescribed by the Division, a disclosure statement as required by ORS 101.130.

(a) A copy of the Certificate of Registration shall be attached to and considered a part of the annual disclosure statement.

(b) The provider shall make the current annual disclosure statement available to each resident and prospective resident. A copy of the statement shall be provided to the resident upon request prior to entering into a residency agreement.

(c) The disclosure statement shall list in boldface type the percentage of the entrance fee to be refunded pursuant to ORS 101.080, and the manner in which the percentage of the entrance fee to be refunded is calculated.

(d) The disclosure statement shall include a copy of the CCRC application form (SDS 920) provided by the Division.

(e) A copy of the Reserve Requirement Statement Form shall be attached to the Disclosure Statement.

(f) Audited Financial Statement. The disclosure statement shall include the annual audited financial statement. The annual audited financial statement shall include a note by an independent certified public accountant stating whether or not the reserve requirement has been met by the provider.

(g) The provider shall notify prospective residents in writing of the opportunity to review and obtain a copy of the disclosure statement prior to entering into a residency agreement.

(2) DUE DATE FOR DISCLOSURE STATEMENT:

(a) If a Certificate of Registration is issued six (6) months or more prior to the provider's fiscal year end, then the next annual disclosure statement and fees will be due by the fourth month following the first fiscal year end, after the issuance date of the Certificate of Registration.

(b) If a Certificate of Registration is issued less than six (6) months prior to the provider's fiscal year end, then the next annual disclosure statement and fees will be due by the fourth month following the second fiscal year end, after the issuance date of the Certificate of Registration.

Stat. Auth.: ORS 101.050 & 410.090

Stats. Implemented: ORS 101.050, 101.080 & 101.130

### **411-067-0055 Residency Agreement**

*(Effective 5/1/1999)*

(1) AGREEMENT REQUIRED PRIOR TO SERVICES. The provider and the prospective resident shall sign and date a residency agreement before continuing care retirement community services begin.

(2) COPY TO RESIDENT. A copy of the agreement shall be provided to the resident.

(3) DISCLOSURE REGARDING REFUND. The residency agreement shall list in boldface type the percentage of the entrance fee to be refunded and the manner in which the percentage of the fee is calculated.

Stat. Auth.: ORS 101.050 & 410.090

Stats. Implemented: ORS 101.030, 101.050 & 101.080

### **411-067-0060 Reserve Requirements**

*(Effective 5/1/1999)*

(1) Existing providers shall establish the liquid reserves required in ORS 101.060, in annual increments of 10%. Providers shall establish the first 10% increment on or before January 1, 1991, with increments of 10% annually thereafter, and shall establish and maintain the full liquid reserves on or before January 1, 2000.

(2) The Reserve Requirement Statement Form shall identify the following:

(a) The total of all principal and interest payments due during the provider's previous fiscal year including any mortgage loans or other long-term financing;

(b) Any refinancing anticipated and/or any change in principal and interest payments expected during the next 12 months;

(c) The amount of liquid reserves maintained by the provider; and

(d) Three months projected operating expenses. A provider shall determine the three months projected operating expenses by taking the provider's previous year's audited financial statement and adding any projected increases or decreases in expenses for the next year, excluding depreciation and payments on long-term financing.

(3) NEW PROVIDERS. New providers shall determine their three months projected operating expenses by estimating their start-up, marketing, and personnel costs for the year of operation and divide the total costs by four. The projected budget shall be provided to the Division. An audited financial statement shall also be submitted by new providers.

(4) NEW FACILITIES. Providers who build or purchase or operate a new facility must meet the full reserve requirement for that facility immediately.

(5) RESERVE REQUIREMENTS NOT MET. If a provider does not meet its reserve requirements the Division may require the provider to place its reserves in an escrow account.

(6) WITHDRAWAL OR BORROWING:

(a) The division may allow withdrawal or borrowing from the reserves in an amount not greater than 20 percent of the provider's total required reserves.

(b) A request for withdrawal or borrowing from a provider's reserves shall be made on a form provided by the Division. Such form shall include the reason(s) for the request in detail and a proposed repayment plan that repays the reserves within 18 months.

(c) The Division shall only approve the borrowing or withdrawal if required:

(A) For making an emergency repair or replacement of equipment;

(B) To cover catastrophic loss that is not able to be covered by insurance; or

(C) For debt service in a potential default situation.

Stat. Auth.: ORS 101.050 & 410.090

Stats. Implemented: ORS 101.060

**411-067-0070 Requirement for Establishment of Escrow Accounts by New Continuing Care Retirement Communities**

*(Effective 5/1/1999)*

(1) ESCROW ACCOUNT REQUIRED. Prior to a Certificate of Registration being issued to a provider for a new community or new facility, the provider must establish an escrow account with a bank, trust company, or licensed escrow agent.

(a) Prompt Deposit. The provider must deposit directly into the escrow account upon receipt all entrance fees received. Such fees must be deposited prior to a resident being allowed to occupy the living unit in the new community or new facility.

(b) List of Residents. The provider must maintain a current list which identifies the name and address of each person who paid the entrance fee and the amount paid.

(2) ESCROW INSTRUCTIONS FILED WITH AGENT. Written escrow instructions shall be filed with the escrow agent which apply to all funds deposited into the escrow account, and which require that:

(a) Interest-Bearing. Funds in the escrow account shall be placed in an interest-bearing account;

(b) Authorization Required before Release of Funds. Funds in the escrow account shall be released to the provider only after the escrow agent receives written authorization from the Division that the provider has complied with the requirements of ORS 101.070. If the funds are authorized to be released to the provider by the Division, the accumulated interest shall be paid to the provider, and the provider shall be responsible for paying the escrow fee;

(c) Refunds Within 36 Months. An entrance fee, which has been deposited in the escrow account, and earned interest less a proportionate share of the escrow fee shall be released to a person who paid the entrance fee upon written authorization from the provider that the person is entitled to a refund of the entrance fee. The written authorization shall contain the name and address of the person entitled to the refund and the amount of the entrance fee paid by the person; and

(d) Refunds After 36 Months. If all entrance fees have not been released by thirty-six (36) months after the date the escrow account is established, all entrance fees in the account, and earned interest, less a proportionate share of the escrow fee, shall be returned to the person who paid the fee, unless the Division notifies the escrow agent in writing, prior to the thirty-sixth month, that an extension has been granted. The written Notice of Extension from the Division shall contain additional instructions for the escrow agent.

(3) ESCROW AGREEMENT SUBMITTED TO SPD. A copy of the escrow agreement shall be submitted to the Division with the application and disclosure statement or with the annual disclosure statement, if the provider is already registered.

(4) RELEASE OF FUNDS:

(a) Request. When the provider has fulfilled all conditions of ORS 101.070(2), the provider may file a request for release of the funds in the escrow account on a form prescribed by the Division. Provider must attach sufficient documentation to demonstrate that all conditions have been met.

(b) SPD Review of Request. The Division shall review the request within thirty (30) days and issue an order accepting or rejecting the request.

(A) If the Division approves the request, the Division shall send an "Authorization For the Release of Escrow Account" form to the escrow agent and a copy to the provider.

(B) If the Division rejects the release of escrow accounts:

(i) The Division shall issue an order rejecting the request. The order shall include the findings of fact upon which the order is based.

(ii) The provider may request a contested case hearing in writing, within twenty (20) days after the date of the order.

(c) Extension of Time. The provider may apply to the Division for an extension of time for the escrow account to remain open. The request for an extension must be made in writing to the Division before the thirty-fifth month after the date the escrow account was opened.

(A) The provider's request for an extension must contain documentation which demonstrates that the requirements of Paragraph (4)(c)(B) of this rule have been met or the request will not be considered to be timely.

(B) An extension may be granted by the Division only if the provider can establish that the requirements of ORS 101.070(2) will be met within 60 additional days and that a majority of the persons, who have paid entrance fees which were deposited in the escrow account, have consented in writing to a 60-day extension.

(C) The Division shall review all timely requests for extension within 14 days of the receipt of the request. If the Division grants an extension, it will send a Notice of Extension to the escrow agent.

(D) If the funds in the escrow account have not been released by thirty-five (35) months after the date the escrow account was opened, the provider shall deliver to the escrow agent a copy of the list required by Section (1) of this rule.

(5) EXCEPTION. A provider shall not be required to establish an escrow account if the provider constructs one or more new physical structures or remodels or expands an existing continuing care retirement community's facility on the same or adjacent site.

Stat. Auth.: ORS 101.050 & 410.090  
Stats. Implemented: ORS 101.070

**411-067-0080 Transfer of Ownership**  
*(Effective 3/26/1990)*

(1) A Certificate of Registration is not transferable.

(2) A registered provider who wishes to sell, transfer ownership, or lease any continuing care retirement community or facility shall obtain approval from the Division. Approval shall be granted when the requirements of sections (3) and (4) of this rule have been met.

(3) Prior to taking over ownership or operation of the community or facility, the new provider must obtain a Certificate of Registration in its name.

(4) If the purchasing provider already has a Certificate of Registration, then the purchasing provider's Certificate of Registration must be amended to include the newly purchased community or facility prior to taking over ownership or operation of the newly purchased community or facility.

Stat. Auth.: ORS 101.050 & 410.090  
Stats. Implemented: ORS 101.100

**411-067-0083 Meetings**  
*(Effective 5/1/1999)*

The CCRC shall hold meetings with the residents of the community at least twice a year for the purpose of free discussion of subjects that may include, but not be limited to, facility income, expenditures, financial trends, resident concerns and proposed changes in policy, programs, fees and services. The CCRC shall report the dates of the meetings in the annual disclosure statement.

Stat. Auth.: ORS 101.050 & 410.090  
Stats. Implemented: ORS 101.055

**411-067-0087 Access to Records; Change in Monthly Fee**  
*(Effective 5/1/1999)*

(1) ACCESS TO RECORDS. Clinical and personal records shall be kept confidential. Residents shall be allowed to promptly inspect their own records. Photocopies of records, when requested, shall be provided at a reasonable charge.

(2) NOTICE OF CHANGE IN MONTHLY FEE. The CCRC shall give 30 days prior notice of a proposed change in the monthly fee (excluding all incidental charges) and allow residents an opportunity to comment on the proposed change before it becomes effective.

Stat. Auth.: ORS 101.050 & 410.090  
Stats. Implemented: ORS 101.055 & 101.150

**411-067-0090 Complaints, Investigations and Remedies**  
*(Effective 5/1/1999)*

(1) INVESTIGATIONS REQUIRED. The Division will investigate all complaints made to it regarding violations of the Continuing Care Retirement Community Provider Registration Act, rules or orders.

(a) Investigations will be carried out as soon as practicable by the Division staff or representatives of the Division.

(b) Investigators may interview pertinent witnesses including employees of the provider and review the provider's documents and records.

(c) Except as prohibited by the Elder Abuse Act, ORS 410.610-410.700, the provider will be notified within seven (7) working days of any complaint and given an opportunity to respond.

(d) When the documents and records are requested under Section (1) of this rule, the provider shall make the requested materials available to the investigator for review and copying.

## (2) INTERVENTION BY SPD.

(a) The Division may issue a cease and desist order or revoke a provider's Certificate of Registration if, after notice and hearing the Division finds the provider guilty of violating any provision of the Act, rules, or order adopted under the Act.

(b) The Division may issue a cease and desist order, apply for injunctive relief or a temporary restraining order if it appears a person has engaged, or is about to engage, in an act or practice which constitutes a violation of any provision of the Act, rules, or order under the Act.

(c) A cease and desist order for a violation of the act committed by the employee, subcontractor, or agent shall be issued to the provider and, when deemed appropriate by the Division, to the persons who violated the Act.

(3) RETALIATION PROHIBITED. The provider shall not take any retaliatory action against any complainant, including, but not limited to the provider's management and staff and residents of the provider's facilities.

(4) PROVIDER RESPONSIBLE. The provider is responsible for violations of the Act committed by its employees, subcontractors, or agents.

Stat. Auth.: ORS 101.050 & 410.090

Stats. Implemented: ORS 101.110 & 101.120

**411-067-0100 Promotional Material**

*(Effective 5/1/1999)*

(1) PROHIBITION REGARDING ENDORSEMENT CLAIM. A provider shall not advertise, represent or imply that a continuing care retirement community has been inspected or approved by the State of Oregon or the Division.

(2) FEE SCHEDULE. All copies of the provider's fee schedule shall state that a copy of the annual disclosure statement is available upon request.

(3) OUT-OF-STATE PROVIDER. An organization advertising continuing care retirement community services provided in another state may advertise in Oregon without being registered in Oregon only if the advertisement clarifies the state or other government entity through which the organization is licensed and/or registered.

Stat. Auth.: ORS 101.050 & 410.090

Stats. Implemented: ORS 101.150