

Washington State Department of Social and Health Services

Transforming Lives

Report to the Legislature

Engrossed Substitute Senate Bill 5187- Section 204(36), Chapter 475, Laws of 2023 (page 193)

Addressing a Regulatory Oversight plan for Continuing Care Retirement Communities
in Washington State

Due December 1, 2024

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Table of Contents

Executive Summary.....	3
Approach and Considerations for this Oversight Plan.....	4
Introduction	6
Background	10
Regulatory Oversight Plan for CCRC Resident Consumer Protections.....	14
Oversight Structure and Authority – Clarify the authority of DSHS and the AGO to enable them to meet the increased responsibilities recommended in the Plan.	16
Recommendation #1 - Establish more financial protections and transparency.	19
Recommendation #2 - Establish a more robust registration process.	23
Recommendation #3 - Clarify AGO's statutory authority to enforce RCW 18.390.	25
Recommendation #4 - Establish an independent ombuds or other advocate program specifically for CCRC residents.....	28
Recommendation #5 - Establish more operational transparency for residents.	31
Recommendation #6 - Clarify resident access to contracted services.	34
Recommendation #7 - Define data needs and requirements for regulatory monitoring and oversight.	37
Implementation	39
Equity, Diversity, Access, and Inclusion (EDAI)	39
Conclusion.....	39
Acknowledgements.....	39
Appendices.....	41
Appendix A: Acronyms and Definitions	42
Appendix B: Resource Links	43
Appendix C: State Comparison Details	48
Appendix D: Stakeholder Responses	61

Executive Summary

In the 2023 legislative session, the legislature passed [Engrossed Substitute Senate Bill 5187, Section 204\(36\), Chapter 475, Laws of 2023](#) directing the following:

“\$300,000 of the general fund—state appropriation for fiscal year 2024 is provided solely for the department, in collaboration with the office of the insurance commissioner and the office of the attorney general, to create a regulatory oversight plan for continuing care retirement communities, focusing primarily on establishing and implementing resident consumer protections, as recommended in the 2022 report of the office of the insurance commissioner. As part of the process, the agencies must engage with relevant stakeholder groups for consultation. The final plan must be submitted to the health care committees of the legislature by December 1, 2024.”

As directed by the proviso, the Department of Social and Health Services (the Department, or DSHS), collaborated closely with the Office of the Insurance Commissioner (OIC) and the Office of the Attorney General (AGO). The Department also held multiple engagement sessions with potentially impacted stakeholders to solicit additional input. Finally, the Department researched other states and how they approach consumer protection in the Continuing Care Retirement Community (CCRC) industry.

The Plan

The proviso directs the Department to “create a regulatory oversight plan for continuing care retirement communities, focusing primarily on establishing and implementing resident consumer protections, as recommended in the 2022 report of the office of the insurance commissioner.” The Department chose to address the directive in two parts. The first is the oversight structure – which agency or agencies will provide the CCRC oversight? The second is the consumer protections – how are they increased or implemented for residents of CCRCs?

Oversight structure

Oversight structure and authority – Clarify the authority of DSHS and the AGO to enable them to meet the increased responsibilities recommended in the Plan.

Recommendations for increasing consumer protection for residents of CCRCs

1. Establish more financial protections and transparency.
2. Establish a more robust registration process.
3. Clarify AGO's statutory authority to enforce the Revised Code of Washington (RCW) 18.390.
4. Establish an independent ombuds program specifically for CCRC residents.
5. Establish more operational transparency for CCRC residents.
6. Clarify resident access to contracted services.
7. Define data needs and requirements for regulatory monitoring and oversight.

Implementation considerations

If the legislature chooses to adopt some or all of these recommendations, law changes and resource allocations will be needed including providing:

- Additional or expanded statutory authority to enable agencies to carry out increased responsibilities;
- Funding for additional staff for policy development and to accomplish additional responsibilities;
- Funding for new or enhanced technology, depending on the agency and scope of implementation.

For detailed descriptions of each recommendation, see [Regulatory Oversight Plan for CCRC Resident Consumer Protections \(the Plan\)](#) below.

Approach and Considerations for this Oversight Plan

This section of the Plan describes the approach the Department took to develop the Plan content and recommendations. There were several high-level steps to this process: reviewing the OIC Study, consulting with the OIC and the AGO, engaging with stakeholders for input, incorporating stakeholder feedback, conducting research, and drafting and editing the Plan.

Timeline of plan development and stakeholder engagement

Nov'23	Dec'23	Jan'24	Feb'24	Mar'24	Apr'24	May'24	Jun'24	Jul'24	Aug'24	Sep'24	Oct'24	Nov'24
Create charter, establish project governance, identify resources.	Identify stakeholders											
Review the OIC Study.	Prepare for individual stakeholder sessions.											
	Consult with OIC and AGO											
			Review and incorporate stakeholder feedback.									
Prepare for stakeholder engagement - project introduction letter to stakeholders, introduction meetings, prepare for engagement sessions.		Stakeholder Engagement - 6 individual sessions.		Stakeholder Engagement - 4 group sessions.				Meeting with stakeholders, send the Plan for review.				
		Incorporate stakeholder feedback.										
				Research best practices.								
				Draft and edit the Plan.								
									Final Plan review, sign off.			
												Deliver to legislature 12/24.

Consultation with OIC and AGO

The proviso directs the Department to develop the Plan “...in collaboration with the office of the insurance commissioner and the office of the attorney general.”

Representatives from both agencies were included in the development of the Plan from the beginning. The Department met independently with each agency to capture their initial thoughts based on their reading of the proviso and their review of the OIC Study. Each agency was represented in all stakeholder engagement sessions. The OIC offered valuable insight into the development and conclusions of the OIC Study. They also noted the areas OIC did not have the resources to fully research or address at the time the 2022 study was written, and suggestions as to how this plan could expand on their work.

The AGO offered substantial input on the existing oversight structure and legal authority related to enforcement of consumer protections in CCRCs and the constraints of that authority. The AGO was significantly involved in the development of **Recommendation #3: Clarify AGO's statutory authority to enforce RCW 18.390**. AGO staff provided the Department and stakeholders with an overview of the AGO's statutory authority, the [Consumer Resource Center](#), and how the AGO takes enforcement action when the [Consumer Protection Act](#) is violated.

Stakeholder Engagement

As part of the development of the Plan, the Department engaged with relevant stakeholder groups for consultation.

Representatives from the following stakeholder groups and state agencies attended the engagement sessions:

-
- Attorney General's Office (AGO)
- LeadingAge WA (LA)
- Office of the Insurance Commissioner (OIC)
- Owners/Operators of CCRCs
- Residents of CCRCs
- Washington Continuing Care Residents Association (WACCRA)
- Washington Health Care Association (WHCA)
- Washington State Long-Term Care Ombudsman Program
- Department of Social and Health Services, Aging and Long-Term Support Administration

The Department met with each stakeholder group individually to allow them to offer input on the initial topics identified in the OIC Study. While these sessions generated significant useful input, the stakeholders provided feedback that they did not think there had been enough time in the individual sessions to fully address the topics. They also wanted to see the proposed recommendations that would come out of these topics, and they wanted a joint meeting with the other stakeholder groups to facilitate discussions.

The Department had planned one joint meeting where all stakeholders could come together to offer additional input. Based on the feedback described above, three additional 2-hour sessions were added. The topics were expanded into recommendations. See section below, [Regulatory](#)

[Oversight Plan for CCRC Resident Consumer Protections \(the Plan\)](#) for a detailed description of each recommendation. Over the course of the sessions, the group discussed each of the seven recommendations. In each session, participants were asked to offer input on the potential benefits and potential barriers, and to identify whether it was a benefit or barrier primarily for CCRC residents or for CCRC owners/operators. Stakeholders were also invited to submit any additional input in writing, which was reviewed and considered in developing the Plan. The draft plan was shared with the stakeholders, and one more session was held to allow the stakeholders to ask clarifying questions. Stakeholders were invited to submit a final written response to the Plan, attached here as [Appendix D](#).

Overall, the Department held 16 stakeholder engagement sessions totaling approximately 22 hours. In addition, approximately 60 pages of written stakeholder input were reviewed.

Tribal Government Engagement

The Department recognizes the need to honor, acknowledge and respect tribal government sovereignty and self-determination. The Department worked with intention to build awareness among tribal governments and seek their input regarding the options outlined in this report for an oversight plan and recommendations for increased consumer protections for residents of CCRCs. Our collaboration with tribal governments included the following:

1. 2/13/24: The vendor contracted to assist with the development of the report attended the Indian Political Action Committee (IPAC) meeting and delivered a presentation on CCRCs and the proviso. Tribal members were asked to consider if they wanted to provide input to the Plan.
2. 3/12/24: The Department met with IPAC representatives to explain CCRCs and the proviso.
3. 5/14/24: The Department attended IPAC to answer additional questions about CCRCs.

Although no tribal government input was provided in the development of this report, the Department appreciates the opportunity to hear from tribal governments in this effort and will continue to share information and answer questions regarding CCRC regulation and consumer protections as needed.

Introduction

The Department provides the following description of CCRCs in Washington ([DSHS.WA.Gov](#))¹:

A Continuing Care Retirement Community is a residential community for adults that offers a range of housing options (normally independent living through nursing home care) and varying levels of medical and personal care services. A CCRC is designed to meet a resident's needs in a familiar setting as they grow older. People most often move into such a community when they're healthy.

¹ [Washington State Department of Social and Health Services | Transforming Lives](#)

A CCRC resident signs a long-term contract, or residency agreement, that provides for housing, personal care, housekeeping, yard care and nursing care. This contract typically involves either an entry fee or buy-in fee in addition to monthly service charges, which may change according to the medical or personal care services required. Fees vary depending on whether the person owns or rents the living space, its size and location, the type of service plan chosen, and the current risk for needing intensive long-term care. Because the contracts are lifelong and fees vary, prospective CCRC residents are encouraged to get financial and legal advice before executing the contract or agreement.

Washington State **registers** but does not **license** CCRCs. CCRCs are also known as Life Plan Communities (LPCs). However, if the CCRC operates a facility that requires WA state licensing, such as a skilled nursing facility, then DSHS licenses those individual facilities and those regulations apply to individuals residing in them.

CCRCs offer many different features and benefits to residents. They provide some or all of the following levels of care:

- Independent Living
- Assisted Living, including memory care
- Skilled Nursing, including rehabilitation and memory care

There are also four different types of contracts residents can select. The Plan will address the different types of CCRCs and contracts in more detail in the [Background](#) section.

Nationwide, there are approximately 1,900 CCRCs.² There is no federal oversight of CCRCs. Thirty-eight states regulate CCRCs through various state agencies³, including agencies similar to DSHS, AGO or OIC. Additional oversight and regulation potentially offers the following benefits:

1. **Consumer Protection:** Regulations help ensure that residents receive the services and care that are part of their contract agreement, protecting them from potential fraud or mismanagement.
2. **Minimum Standards:** Regulatory and additional requirements set minimum standards for care and services, ensuring a consistent level of quality across settings within a CCRC and across different CCRCs in the state.
3. **Financial Stability:** Regulations or additional oversight ensure that CCRCs maintain certain financial reserves, which helps ensure they can meet their long-term obligations to residents.
4. **Transparency:** Regulatory requirements for disclosure of financial and operational information help residents and their families make informed decisions.

² [AARP, How Continuing Care Retirement Communities Work, January 27, 2024](#)

³ [Regulation of Continuing Care Retirement Communities Explained \(mylifesite.net\)](#)

5. **Accountability:** Regulations and oversight provide a framework for a standard expectation for addressing complaints and resolving disputes outside of a court process. CCRC residents are able to seek private legal recourse, but may be hesitant to do so, due to limited financial resources and fear of retaliation.

Continuing Care Retirement Communities in Washington State

There are 23 [CCRCs in Washington State](#) as of the writing of this report. In February 2021, there were approximately 8,500 CCRC residents in Washington.⁴

CCRCs in Washington State



CCRCs provide differing levels of care depending on the community. These are:

- Independent Living
- Assisted Living, including memory care
- Skilled Nursing, including rehabilitation and memory care

The table below illustrates the levels of care offered in each CCRC in Washington: Independent Living (IL), Assisted Living (AL), Memory Care/Support (MC), Skilled Nursing (SN), and Rehabilitation (RE).

⁴ Consumer Guide to Continuing Care Retirement Communities in Washington State, 3rd Ed. 2021, pg. 5.

<https://retirees.uw.edu/wp-content/uploads/2023/08/WACCRA-ConsumerGuidetoCCRCs-3rdEdition-2021.0.pdf>

CCRC	Levels of Care				
	IL	AL	MC	SN	RE
Bayview Retirement Community	x	x	x		
Cheney Care Community	x	x		x	x
Covenant Living at the Shores	x	x		x	
Crista Senior Living – Crista Shores	x	x			
Crista Senior Living – Cristwood	x	x	x		
eliseo	x	x	x		
Emerald Heights	x	x	x	x	x
Franke Tobey Jones	x	x	x	x	
Heron's Key	x	x	x	x	x
Horizon House	x	x	x	x	
Josephine Caring Community	x	x	x	x	
Judson Park Retirement Community	x	x		x	x
Mirabella Seattle	x	x	x	x	x
Panorama	x	x			x
Parkshore	x	x	x	x	x
Riverview Retirement Community	x	x	x		x
Rockwood at Whitworth	x	x	x	x	
Rockwood South Hill	x	x	x	x	
Skyline	x	x	x	x	x
The Hearthstone	x	x	x	x	x
Timber Ridge	x	x	x	x	x
Warm Beach Senior Community	x	x		x	x
Wesley	x	x		x	x

*Data compiled from individual CCRC websites as of May 2024.

As evidenced in the table, different CCRCs provide different levels of care. Those levels of care are licensed differently:

- The Assisted Living and Skilled Nursing sections are licensed and overseen by the Department, including memory care services when provided in those facilities.
- The Independent Living section of CCRCs are not licensed by the state.
- Due to the licensure requirements, the licensed sections of the CCRCs are expected to deliver consumer protection and standard expectations for provider practice as per regulation, whereas the independent living section does not.

These differences are explored in the [Background](#) section of this plan.

Background

Why CCRCs Are Needed - The Age Wave

In 2010, there were approximately 828,000 Washingtonians over age 65. By 2022, that number increased 63%, to approximately 1.35 million.⁵ Washington's 65 and older population is expected to double over the next 20 years, and the population of people ages 85 and over will triple.⁶

While there are many potential impacts of the age wave, the focus here is on the need for alternative and expanded housing and care solutions to accommodate the changing needs of older adults. The mission of ALISA is to “transform lives by promoting **choice, independence** and safety through innovative services”.

The Joint Center for Housing Studies of Harvard University addresses this need⁷:

As the nation's population of older adults swells, so, too, does demand for housing that is both affordable and able to accommodate older adults' changing needs...There is also the question of how housing can support older adults' health and independence. Older adults are more likely than their younger counterparts to report that at least one household member experiences difficulties with mobility, vision, hearing, cognition, self-care, or independent living. All types of disabilities increase with age, and 55 percent of those age 80 and over report at least one disability. Accessibility features, such as single floor living (with a bedroom and bathroom on the main living level), will be in greater demand as the population ages, yet few homes offer features that enable people with disabilities to successfully navigate and use them.

More older adults will also need assistance with activities of daily living, such as bathing and dressing, and other long-term care services.

As described above, there is a growing need for residential solutions that address the changing needs of aging adults, from independent living to assisted living to skilled nursing. In considering the potential recommendations for increased consumer protections related to CCRCs, **it is important to balance the opportunities for improvement with the business needs of the CCRCs, so that this type of housing and care resource remains viable well into the future.** The OIC Study addresses this need⁸:

Careful considerations must also be given to the impacts on the public and private sectors that may result from shifting CCRC policy or increasing regulatory oversight. Balancing consumer protections, business interests and administrative oversight is

⁵ [WA's population is aging. The trend is most striking in these counties | The Seattle Times](#)

⁶ [Projections of the state population by age, sex, race and Hispanic origin | Office of Financial Management \(wa.gov\)](#)

⁷ [Housing America's Older Adults 2023 \(harvard.edu\)](#)

⁸ [Continuing Care Retirement Community Study 2022 \(wa.gov\)](#)

critical to the regulation and sustainability of CCRCs. Too many regulatory burdens may increase costs of establishing or operating a CCRC to a prohibitive point, where the additional consumer protections to be achieved will be a moot point without CCRCs to regulate. From a business perspective, additional regulatory oversight may also increase CCRC costs of administrative compliance, which can be passed onto the residents in the form of higher entry and monthly fees. Insufficient or incomplete regulations may allow CCRC operations to occur, but do so with lower consumer protections, such as the those (sic) offered from the private sector.

CCRC Oversight in Washington State

Washington **does not** license the independent living sections of CCRCs. They **do** license the assisted living and nursing facilities and provide oversight and complaint resolution to ensure licensing requirements are met and sustained.

The federal agency that has oversight for state certification of nursing facilities is the [Centers for Medicare and Medicaid Services](#) (CMS). The state agency responsible for licensing and oversight of assisted living and nursing facilities, including memory care, is the Department of Social and Health Services' Aging and Long-Term Support Administration (AL TSA), Residential Care Services (RCS) Division. Federal and state law require DSHS to conduct an unannounced full health survey at least every 15 months for nursing facilities. State law requires an unannounced licensing inspection at least every 18 months for assisted living facilities.

Resident Contracts

CCRCs offer the following types of contracts:

- **Type A Contract:** Also known as an extensive or full life care contract, the Type A entrance and service fees are the costliest of the four CCRC contracts. Type A comes at a greater cost because all health-related services are prepaid, ensuring a full range of higher medical care is included. For example, the contract will cover assisted living, medical treatment, and skilled nursing care with little or no additional cost.
- **Type B Contract:** Also known as a modified life care contract, the Type B entrance and service fees include partial prepayment of future medical care (not full care). The monthly service fee may increase when a higher level of care is necessary. For example, should a resident need to move from independent living to skilled nursing, a Type B modified contract covers only a portion of the care cost.
- **Type C Contract:** Also called a fee-for-service contract, the Type C upfront entrance fee and monthly service fee tend to be the lowest. Instead of prepaying for all medical costs as in Contract A or a portion of medical costs as in Contract B, residents pay for medical expenses as needed. For example, if a person requires assisted living or memory care, this will be an out-of-pocket expense.
- **Type D Contract:** A Type D contract, also known as a rental agreement, is offered by some CCRCs, but not all. You can think of this contract as a pay-as-you-go option. There

is no entrance fee, and you only pay for CCRC services as needed.⁹

Washington Law

On April 1, 2016, Governor Inslee signed [RCW 18.390](#) into law, which defines a CCRC as “an entity that agrees to provide continuing care to a resident, for at least a year, under a residency agreement.”¹⁰

CCRC residents can submit complaints about unfair or deceptive business practices to the AGO’s Consumer Resource Center by filling out a [Consumer Complaint Form](#) on the AGO website. The Consumer Resource Center is housed within the Consumer Protection (CP) Division and assists consumers and businesses by facilitating the resolution of consumer complaints. Once it receives a consumer complaint, the Consumer Resource Center forwards the complaint to the business that is the subject of the complaint and requests a response. If the business provides a response, the Consumer Resource Center forwards the response to the consumer. Businesses are not required to participate in this informal complaint resolution program, but most do, and consumers’ complaints are often resolved without additional intervention.

The CP Division takes separate litigation enforcement action against entities that violate the Consumer Protection Act, RCW 19.86.020, and other consumer protection statutes, including state laws that are automatic or “per se” violations of RCW 19.86.020. The CP Division initiates enforcement action based on a wide variety of factors, which includes, but is not limited to, the Consumer Resource Center’s receipt of consumer complaints.

[RCW 18.390.080](#) identifies certain violations of [RCW 18.390](#)¹¹ as unfair or deceptive acts in trade or commerce affecting the public interest for the purpose of applying the Consumer Protection Act. This allows consumers or the AGO to bring an action in court seeking economic remedies. By way of example, violations of [RCW 18.390](#), consumers may bring a civil action to recover damages and the cost of the suit, including attorney’s fees, whereas, the AGO can recover restitution for consumers, disgorgement, civil penalties, and injunctive relief to prevent future harm.¹²

CCRC Practices

In the 2017 and 2019 legislative sessions, the Washington Continuing Care Residents Association (WACCRA) unsuccessfully attempted to pass [HB 1232](#) / [SB 5395](#) in 2017 and [HB 1296](#) / [SB 5796](#) in 2019 which would have brought additional financial transparency for CCRC

⁹ [Continuing Care Retirement Communities \(CCRCs\): A Guide to Continuing Care Retirement Communities in 2024, SeniorLiving.org](#)

¹⁰ [Consumer Guide to Continuing Care Retirement Communities in Washington State Third Edition 2021](#)

¹¹ Certain violations of the CCRC statute are per se CPA violations: RCW 18.390.080(1) provides the violation of (i) the title protection requirements of RCW 18.390.050, (ii) the failure to register with DSHS under RCW 18.390.020, (iii) the failure to provide the statement required by RCW 18.390.060, and (iv) the failure to comply with the resident expectations established under RCW 18.390.070.

¹² [RCW 19.86.090](#), [RCW 19.86.080](#), [RCW 19.86.140](#)

residents. The chair of the Senate Health and Long-Term Care Committee suggested that LeadingAge (the industry Association for CCRC Management, of which many CCRCs are members) and WACCRA enter mediation. As a result, LeadingAge WA, CCRC Executive Directors, and WACCRA agreed to a [Commitment to Continuing Care Retirement Community Practices](#) to serve as a further non-binding agreement between management and residents within each of Washington's CCRCs. Management at each of the 23 registered CCRCs in the state has signed the Commitment to CCRC Practices document, which took effect on January 1, 2021.¹³

The OIC Study

In April 2022, Governor Inslee signed a budget appropriation directing the Washington State Office of the Insurance Commissioner (OIC) to gather information to inform recommendations that would lead to heightened consumer protections for CCRC residents¹⁴. On December 1, 2022, the OIC published the [Continuing Care Retirement Community \(CCRC\) study: Assessment of state and federal CCRC authorities](#).

The OIC study states: "Washington's current legal framework for CCRCs is limited in the scope of regulatory oversight, financial regulations and consumer protections when compared to other states across the country."

Additionally, the study calls out the following key findings:

- Washington state does not license CCRCs, but instead requires their registration and renewal.
- There are limited financial regulations and disclosure requirements for CCRCs in Washington.
- There are no current state authorities that mandate a CCRC to maintain specific reserves, meet certain surplus levels or refund entry fees.
- CCRCs can require substantial nonrefundable entrance fees.
- Residents have minimal control on how facilities will use funds committed by their residents.
- CCRC financials are subject to varying levels of administrative review and financial scrutiny across the country.
- Washington exhibits lower regulatory oversight and financial scrutiny on initial registration and subsequent renewals, in comparison with other states.

Throughout the study, OIC expands on these findings, identifies additional areas that could benefit from increased oversight or enforcement ability, and suggests specific ways that new or additional legislation could achieve those benefits. These analyses and suggestions are not defined in the study as formal recommendations. However, they are discussed at length and in detail and will also be addressed in the Plan.

There is one formal recommendation in the OIC study. It concludes that a single agency

¹³ [WACCRA, 2024](#)

¹⁴ [Section 139\(10\), Chapter 297, Laws of 2022](#).

regulator system shows the most potential to achieve additional consumer protections for residents. The study also describes some of the limitations and benefits to this recommendation. In the stakeholder engagement sessions for this report, OIC acknowledged that although this recommendation might be ideal, it may not be realistic.

Regulatory Oversight Plan for CCRC Resident Consumer Protections

Oversight structure

Oversight structure and authority – Clarify the authority of DSHS and the AGO to enable them to meet the increased responsibilities recommended in the Plan.

Recommendations for increasing consumer protection for residents of CCRCs

1. Establish more financial protections and transparency.
2. Establish a more robust registration process.
3. Clarify AGO's statutory authority to enforce the Revised Code of Washington (RCW) 18.390.
4. Establish an independent ombuds program specifically for CCRC residents.
5. Establish more operational transparency for CCRC residents.
6. Clarify resident access to contracted services.
7. Define data needs and requirements for regulatory monitoring and oversight.

How the Plan description is organized

Each recommendation is discussed in detail according to the following considerations:

1. The issue(s)
2. The solution(s)
3. What will change and how does the change enhance consumer protections?
4. Potential benefits and barriers to implementation
5. Overview of practices in other states
6. Business process impacts
7. Potential consequences if the recommendation is not implemented

State comparison methodology

Currently 38 states regulate CCRCs through various state divisions such as financial services, insurance, aging or elder services, or social services. For those states that regulate CCRCs the mandatory requirements and degree of oversight vary drastically from one state to another.

The Department does not have the resources to do a comparison of CCRCs in every state. However, in 2024, Newsweek, partnered with [Statista](#) to publish its rankings of the leading 250 CCRCs in the country¹⁵. The report does not rank by state, only by individual CCRC. The Department selected the eight states with the greatest number of high-ranking CCRCs (of the

¹⁵ <https://www.newsweek.com/rankings/americas-best-continuing-care-retirement-communities-2024>

top 100) to compare with WA.

State	Total CCRCs in the top 100 (out of the total number of CCRCs in the state)
Florida (FL)	16 (out of 97)
North Carolina (NC)	13 (out of 55)
California (CA)	10 (out of 95)
Illinois (IL)	10 (out of 52)
Texas (TX)	9 (out of 36)
Virginia (VA)	9 (out of 29)
Pennsylvania (PA)	8 (out of 142)
Ohio (OH)	5 (out of 88)

In each **Recommendation** section below, a table is included summarizing the similarities and differences between WA and these eight top-performing states. [Appendix C, State Comparison Details](#) provides the detailed information on each state's practices.

Oversight Structure and Authority – Clarify the authority of DSHS and the AGO to enable them to meet the increased responsibilities recommended in the Plan.

The issue

As noted in the OIC Report, there are currently limited consumer protections for individuals in Washington CCRCs and agencies lack sufficient tools and authority to oversee CCRCs. The OIC report recommends a single-agency model as being the most effective. However, OIC acknowledged in stakeholder interviews that a shared oversight model would provide a more immediate path to increased consumer protections. In the current state, DSHS oversees CCRC registration, and the AGO provides civil enforcement related to CCRCs. Neither agency has the expertise, experience or staffing to absorb the responsibilities of the other agency. Both agencies need clarified (AGO) or expanded (DSHS) statutory authority to implement the recommendations in the Plan.

The solution

While the OIC report recommends a single-agency model, the Department and stakeholders agree that Washington will be better served by expanding the authority of DSHS and clarifying the authority of the AGO to build on their unique expertise and current roles. Both agencies have the infrastructure and experience required to adapt their current statutory roles to meet the intent of increased consumer protections. Changing to a single-agency model would be extremely expensive, disruptive and time-consuming and delay implementation of consumer protections for residents.

In this recommended structure, DSHS will continue to provide registration oversight for CCRCs. As noted above, DSHS already licenses the Assisted Living, and Skilled Nursing including memory care sections of CCRCs. DSHS would need expanded authority to increase the registration requirements for added consumer protection. The AGO provides civil enforcement and consumer protection expertise. The AGO will continue to administer an informal complaint resolution program, through which CCRC residents can submit complaints about unfair or deceptive business practices. The AGO can take separate enforcement action against violations of the Consumer Protection Act and the CCRC statute. To be more effective, the AGO's enforcement authority needs to be clarified through a statutory amendment.

What will change and how does the change enhance consumer protections?

The scope of authority of both agencies will be clarified, and in the case of DSHS expanded. That change will enable the agencies to support the consumer protection recommendations in the Plan.

Potential benefits and barriers to a multi-agency regulatory and oversight model

BENEFITS	BARRIERS
<ul style="list-style-type: none"> Maintaining the multi-agency model avoids the time, cost and disruption that would be caused by changing to single-agency oversight. Leverages existing expertise and infrastructure within each state agency. 	<ul style="list-style-type: none"> Can be confusing for both CCRC owners and residents as to which agency does what.

Additional considerations from stakeholder input:

- Stakeholders generally agreed that maintaining the multi-agency model is the best approach.
- Stakeholders also agreed that having a single point of contact for resident complaints would alleviate potential confusion for the customers. DSHS will also refer applicable complaints to AGO if they come to DSHS in error.

Overview of practices in other states

	FL	NC	CA	IL	TX	VA	PA	OH
Multi-Agency	X	X	✓	X	X	X	X	NA

("✓" = In alignment with the recommendation)

("X" = Not in alignment with the recommendation)

As shown above, most of the states researched have a single agency regulatory model. However, all stakeholders agreed that Washington is better served by a multi-agency model.

Summary of other state practices

California has a multi-agency regulatory structure for oversight of CCRCs.

The remaining seven states researched are regulated by a single agency or have no state oversight:

- Single agency: FL, NC, IL, TX, VA, PA
- No state oversight: OH

California has a multi-agency regulatory model:

- The Community Care Licensing Division (CCLD) of the California Department of Social Services, regulate Continuing Care Retirement Communities (CCRCs)
- Collaboration: The Continuing Care Contracts Section (CCCS) and The Adult and Senior Care Program (ASCP) ensures a holistic approach to residents' needs.¹⁶

¹⁶ [Continuing Care](https://www.cdss.ca.gov/inforesources/community-care/continuing-care) - <https://www.cdss.ca.gov/inforesources/community-care/continuing-care>

- CCCS assesses the financial viability of CCRC providers, issues Certificates of Authority (COAs) for continuing care contracts and ensures compliance with the Continuing Care Contract Statutes.
- ASCP oversees health and safety in adult and elderly care facilities, including CCRCs

In five of the eight states researched, CCRCs are regulated by the state agency Office of Insurance:

- Office of Insurance: FL, NC, TX, VA, PA
- Dept of Public Health: IL
- Dept of Social Services: CA
- Not Regulated: OH

Business process impacts

Increased workload for both agencies to address additional oversight responsibilities.

Potential consequences of not clarifying the statutory authority of DSHS and the AGO

The State would not have the clear authority to make most of the recommended changes. Consumer protection for CCRC participants would not change.

Recommendation #1 - Establish more financial protections and transparency.

The issue

The financial viability of CCRCs is the number one concern of residents, however, the state requires only that the CCRCs submit financial statements at registration and renewal. The state does not have the statutory authority to review those financials for accuracy or completeness. In addition, the Department, the other two agencies, and certain external stakeholders believe the current requirements are insufficient to present a comprehensive picture of the organization's financial health. Finally, some residents of CCRCs report not having sufficient visibility into the financial operations of the CCRC.

The solutions

Solution number one below reflects the need for additional financial materials to be required at registration. These additional materials will assist the State in assessing the overall financial health of the organization. Item number two helps increase the financial protections for residents by requiring registration renewal with current financials yearly instead of every two years. This gives the State more opportunity to intervene earlier should concerns be raised.

1	Increase the financial requirements for registration. (See detailed proposed requirements below.)	
	Pros More comprehensive financial picture	Cons Increased business process workload for CCRCs
2	Require registration renewal annually, instead of bi-annually.	
	Pros Opportunity to intervene earlier if there are concerns	Cons Increased effort for CCRCs to produce the financials and increased effort for the State to review them

The State will need to review and analyze the financial submissions. DSHS does not currently have the expertise or resources to evaluate complex financial statements and financial aspects of contracts. As an enforcement agency, the AGO does not conduct routine financial reviews; instead, the agency performs financial reviews in the context of enforcement work. Below are three options for how to accomplish this increased financial evaluation. Neither agency has the statutory authority to do this expanded review and take action should the documentation identify concerns.

1	Assign a state agency to review the financial submissions and verify the financial health of the CCRC. (See below for state agency options.)	
	Pros Verification of financial health	Cons Need an expert financial resources/expertise in the assigned agency

2	Hire an outside contractor to perform the financial review and submit their findings to the Department.	
	Pros No state agency needs to hire additional financial resources or develop and maintain this expertise	Cons Can be difficult to maintain continuity in a contracted resource and the state agency would need to provide oversight of the contractor.
3	Require CCRCs to formally attest to the financial health of the CCRC. The State would perform (or contract out) random audits for compliance.	
	Pros Less of a burden on the State and CCRCs	Cons Less rigorous oversight

State agency options

DSHS/ALTSA does not have the necessary expertise to conduct an in-depth financial review and evaluate the CCRC's financial health. While the AGO conducts financial analysis when investigating or prosecuting violations of consumer protection laws, it does not have the expertise or resources to conduct routine reviews of CCRC's financial condition. Further, as an enforcement agency, the AGO does not conduct licensing or registration of regulated parties and is not well-positioned to perform financial reviews as part of the registration or licensing of CCRCs. In other states, the agencies equivalent to Washington's DSHS and the OIC oversee financial submissions. Staff could be added to these agencies in Washington to provide the needed expertise and capacity.

Proposed financial requirements

Submissions may include but are not limited to the following:

- Those required by [RCW 18.390.030](#)
- Copies of audited financial statements (containing up to two years of current financial information)
- Independent accountant's report opinion letters
- Summaries of actuarial analyses, actuarial opinions, independent third-party examiner reports, attestations, accreditations, residency agreements, and solvency requirements (such as reserve accounts or surety bonds).
- Residency agreements that may be reviewed for proper contents, notice requirements, refund provisions, and associated resident consumer protections.

Other potential requirements related to financials:

- CCRC financial projections must include how the organization will ensure funding is available for long-term (future) health care needs for individuals with contracts that include guarantee full or partial coverage for future needs.
- Financials must be accessible and presented in ways that the consumer can understand. There might be different transparency needs for the State (registration) versus what information is important to residents.
- Creation or compilation of educational materials to assist residents in understanding the

terminology and implications of CCRC financial statements.

- Establish protections for residents in bankruptcy proceedings. Residents could be next in line as a preferred unsecured creditor.
- Define requirements and oversight mechanism for timely refund (or pro-rated refund) of entrance fees if resident moves out, dies, or in the event of a bankruptcy, for example, within 2 years of move-out depending on market.

Compliance and remediation

The state would need to identify compliance and remediation standards if a CCRC does not meet all the financial requirements at registration. The Department recommends adopting measures similar to those of California and other states:

In the event the Department determines that a provider is in unsound financial condition, CDSS (California Department of Social Services) has statutory authority to require the provider to take corrective measures. When a provider fails to comply with the statutory requirements, CDSS may levy administrative fines, file liens on property, seek a court appointed administrator to take over operation of an ailing community or take disciplinary action against the provider.¹⁷

What will change and how will the change enhance consumer protections?

The current registration requirements regarding financials will be amended to include additional materials. The financial submissions will be reviewed and verified including the evaluation of the CCRC's financial condition. The increased financial requirements and scrutiny will benefit consumers (residents) by helping ensure the CCRC is financially sound and contractual agreements are financially sustainable.

Potential benefits and barriers to implementation

BENEFITS	BARRIERS
<ul style="list-style-type: none">• Residents gain confidence and a level of transparency that the CCRC they are buying into/contracting with is financially sound.• Financial reviews can provide an early warning for CCRCs facing financial difficulty or instability.	<ul style="list-style-type: none">• CCRCs may need to increase level of financial reporting. This may require additional time, staffing or other costs.

Other considerations from stakeholder input are that CCRCs already submit financials and are subject to audits and actuarial reviews. Anything beyond the current requirements will result in unnecessary cost and effort on the part of CCRCs.

¹⁷ [CCRC FAQ's \(ca.gov\)](#)

Overview of practices in other states

Recommendation #1	FL	NC	CA	IL	TX	VA	PA	OH
Financial Transparency	✓	✓	✓	✓	✓	✓	✓	✓

("✓" = In alignment with the recommendation)

Summary of other state practices

We found that all eight states researched require CCRCs to report the following financial documents annually: financial disclosure statements and financial status, disclosure of minimum liquid reserves, and examination report.

In addition to these reporting standards CA requires the following financial reports to be submitted by the CCRCs: debt service reserve requirements, reporting certification of compliance, refund reserve/escrow requirements, reserves for refundable contracts, unsound financial condition.

Business process impacts

Effort needed on the part of the CCRCs to generate additional financial reporting. The State will need to hire or contract resources with the expertise to review and validate the financial reports.

Potential consequences if recommendation is not implemented

Without verification of the financial soundness of the CCRC, residents may struggle to know if the future health care guarantee in applicable CCRC contracts can truly be honored. Consumer protection for CCRC participants would not change.

Recommendation #2 - Establish a more robust registration process.

The issue

Currently, any entity operating as a CCRC in Washington must be registered by the state and listed on the Department's CCRC registry. The CCRC must complete [an application](#), submit all the required materials, and pay a registration fee of \$900. However, the Department does not actively review the content of the materials, only checks to make sure the application is complete. The Department highlights this on the [CCRC page](#) of their website: **“***The department's registration activities consist of reviewing an application for completeness and do not signify that the department has otherwise issued a certification or license to the continuing care retirement community or any of its component parts.”** The materials submitted for registration may contain evidence of certain consumer protections the CCRC has in place, however, without an in-depth review or any kind of analysis and the authority to remediate, consumer protections are not afforded.

The solution

Expand the review, verification, and validation of materials currently submitted for CCRC registration in statute.

What will change and how does the change enhance consumer protections?

The department will review the content of the materials submitted in support of CCRC registrations and verify the materials are in compliance with the requirements. Residents and CCRCs benefit from consistent, independent and neutral oversight to ensure CCRCs are meeting or exceeding state requirements.

Potential benefits and barriers to implementation

BENEFITS	BARRIERS
<ul style="list-style-type: none">• Registration with the state provides a neutral, independent review and validation of submission materials.• Application of the same standards for materials submitted for review ensures more consistency between CCRCs.• Consumers will have more confidence knowing submission materials are reviewed.• The Department can verify preparers of CCRC materials are properly licensed or credentialed.	<ul style="list-style-type: none">• Additional resources would be needed.

Additional considerations from stakeholder input:

- Timeline – must be sufficient lead time for CCRCs to respond to any new requirements. Have a phased approach and grandfathering in existing contracts. For new contracts different elements could change depending on what legislators decide.
- Not aware that there is an immediate need for consumer protections. Agree they could be expanded but over time. This will be costly for CCRCs (drafting new contracts, policies, etc.) How much burden do we ask residents to bear in order to move forward with new policies? Want to see growth in this healthy model of senior living.
- Independent living residents sign contracts and can go to court if there is a dispute. Additional oversight is unnecessary and drives up costs.

Overview of practices in other states

Recommendation #2	FL	NC	CA	IL	TX	VA	PA	OH
Robust Registration	✓+	✓+	✓+	✓+	✓+	✓+	✓+	None

("✓+" = Exceeds alignment with the recommendation)

As shown above, seven states researched require licensure to operate a CCRC. Based on stakeholder feedback the Plan recommends expanding the current registration process to address consumer protection oversight issues, rather than implementing a new licensure requirement.

Summary of other state practices

- FL, NC, CA, IL, TX, VA, and PA require Accreditation, License, Permit, Contract or Certificate of Authority.
- Ohio has no state requirements.

Business process impacts

Enhanced registration may require additional materials from the CCRCs. It will require additional resources and revised business processes in DSHS as well as a change in statute.

Potential consequences if recommendation is not implemented

As part of the registration process, CCRCs are required to submit certain materials that demonstrate the organization’s financial stability and document their management practices and resident agreements. These materials provide consumer protections for CCRC residents if they are accurate and complete according to the legal requirements. Without reviewing and validating the materials, the state has no way of knowing if these protections are actually in place. Consumer protections for CCRC participants would not change.

Recommendation #3 - Clarify AGO's statutory authority to enforce RCW 18.390.

The issues

- The AGO's CP Division takes litigation enforcement action against entities that violate the Consumer Protection (CP) Act, [RCW 19.86.020](#), and other consumer protection statutes, including state laws that are automatic or "per se" violations of [RCW 19.86.020](#). The CP Division initiates enforcement action based on a wide variety of factors, which includes, but is not limited to the Consumer Resource Center's receipt of consumer complaints. However, the AGO's enforcement authority is constrained by the CCRC statute in ways that it is not for other "per se" violations of the Consumer Protection Act.
- The current CCRC statute provides that only the following particular provisions, rather than any component of the statute, are "per se" CPA violations:
 - [RCW 18.390.080\(1\)](#) provides the violation of (i) the title protection requirements of [RCW 18.390.050](#), (ii) the failure to register with DSHS under [RCW 18.390.020](#), (iii) the failure to provide the statement required by [RCW 18.390.060](#), and, (iv) the failure to comply with the resident expectations established under [RCW 18.390.070](#), can form the basis of a CPA violation.
- [RCW 18.390.080\(2\)](#) significantly departs from the statutory language of other "per se" CPA violations by:
 - Requiring the AGO to "provide notice to the management of the continuing care retirement community of submitted complaints including the name of the complainant to allow the community to take corrective action." This language may suggest that if the CCRC chooses to take some corrective action, the AGO should not take enforcement action. This may lead to continuing consumer harm when (i) the CCRC only provides partial relief to the consumer; (ii) does not provide relief to consumers who were subject to the same violations who did not file complaints; or (iii) the CCRC continues to engage in violations.
 - Stating that AGO can take enforcement action under the Consumer Protection Act solely when "a pattern of complaints, submitted by affected parties, or other activity that, when considered together, demonstrate a pattern of similar conduct..." This language can be interpreted to require the AGO to receive a pattern of consumer complaints or obtain certain evidence before taking enforcement action. This is extremely unusual: for the Consumer Protection Act as well as other "per se" CPA violations, the AGO does not need to establish a documented pattern of behavior before it takes action. Indeed, part of the purpose of consumer protection laws is to allow government to curb harmful practices before they become widespread and cause greater harm.

The solution

- Remove [RCW 18.390.080\(2\)](#) to clarify the AGO's enforcement authority and support

future enforcement.

- Amend [RCW 18.390.080](#) to align with common statutory language for “per se” CPA violations.

What will change and how does the change enhance consumer protections?

The clarification to [RCW 18.390.080](#) will confirm that the AGO can take enforcement action against violations of RCW 18.390 based on a wide variety of factors. This will enable the AGO to correct violations of the CCRC statute, obtain restitution for residents, and seek penalties for non-compliance before large numbers of vulnerable consumers are harmed.

Potential benefits and barriers to implementation

BENEFITS	BARRIERS
<ul style="list-style-type: none"> • Clarifying the AGO’s authority to take civil enforcement action against CCRCs will enable the AGO to act on a wide variety of factors and exercise discretion in bringing enforcement action. • Oversight may prevent residents from having to initiate expensive private legal action. 	<ul style="list-style-type: none"> • If the legislature does not amend the CCRC statute, the AGO’s enforcement authority with respect to CCRCs is constrained compared to other regulated entities.

Other considerations from stakeholder input:

- Residents deserve to have clearly defined rights as part of their CCRC contract – similar to those given to renters and long-term care residents - and have those rights supported and protected by the State without resorting to costly, independent legal action. These should include:
 - Complaints and grievances without concern of retaliation.
 - Elimination of required arbitration.
 - Transparency for residents regarding the financial condition of the CCRC.
 - Contracts in lay-person language and modified by mutual consent.
 - Ability to organize and form a residents’ association.

Since rights do not exist without a remedy, there should be civil and criminal penalties.

Overview of practices in other states

Recommendation #3	FL	NC	CA	IL	TX	VA	PA	OH
Clarify AGO Authority	X	X	X	X	✓	X	X	NA

(“✓” = In alignment with the recommendation)
 (“X” = Not in alignment with the recommendation)

Summary of other state practices

The lack of alignment in this section is because, other than Texas, none of the other seven states use their AGO for enforcement. Those responsibilities are assigned to either the state insurance agency, the health and human services agency or the financial services agency.

Florida: The [Florida Department of Financial Services](#) (formerly the Florida Department of Insurance) regulates CCRCs, investigates complaints and takes enforcement action.

North Carolina: The [North Carolina Department of Insurance](#) regulates CCRCs, investigates complaints and takes enforcement action.

California: The [California Department of Social Services](#) regulates CCRCs, investigates complaints and takes enforcement action.

Illinois: The [Illinois Department of Public Health](#) regulates CCRCs, investigates complaints and takes enforcement action if necessary.

Texas: The [Texas Department of Insurance](#) regulates CCRCs and investigates complaints. The [AGO](#) takes enforcement action if necessary.

Pennsylvania: The [Consumer Services Division at the Pennsylvania Department of Insurance \(DOI\)](#) regulates CCRCs and investigates complaints and takes enforcement action.

Ohio: The [Consumer Services Division at the Ohio Department of Insurance](#) and they will assess whether the company handled the issue appropriately and within the terms of the policy or certificate of coverage. They will also take enforcement action if any state insurance laws or rules were broken.

Business process impacts

None identified at this time.

Potential consequences if recommendation is not implemented

Without amended language to the CCRC statute, the AGO's enforcement authority with respect to CCRC will continue to be more constrained compared to other regulated entities. Consumer protections for CCRC participants would not change.

Recommendation #4 - Establish an independent ombuds or other advocate program specifically for CCRC residents.

The issue

CCRC residents do not have a neutral, non-regulatory forum to voice concerns and seek resolutions other than when they reside in a state licensed setting. Stakeholders noted some residents feel at risk of retaliation and are afraid to submit complaints to management.

The solution

Authorize a new state Ombuds or advocate role specific to CCRCs and separate from the Long-Term Care Ombuds (LTCO). The duties of the LTCO apply to “residents of *long-term care facilities*” only.¹⁸. The new role would support all residents, including those residents in the independent living section of the CCRC, to address issues that are not related to regulatory issues when living in a state-licensed facility. The Ombuds/Advocate would refer to the LTCO or state agencies as appropriate. The new Ombuds/Advocate would be located in a state agency designated by the legislature.

What will change and how does the change enhance consumer protections?

A new Ombuds or advocate role will be authorized to support all CCRC residents. Residents will have a neutral third party to assist them with complaint resolution and other concerns.

Potential benefits and barriers to implementation

BENEFITS	BARRIERS
<ul style="list-style-type: none">• Residents and CCRCs have access to a neutral third party who can assist with dispute resolution at the lowest level.• CCRCs have the opportunity to address non-regulatory issues.• Residents have a third party to whom they can voice complaints reducing fear of retaliation.• Residents have a complaint resolution option other than costly, independent legal action.• As residents age, they may need extra assistance engaging with management around problems or concerns, which an Ombuds would provide.	<ul style="list-style-type: none">• Would clearly need to define the roles and responsibilities of the CCRC Ombuds so there is not duplication in SNF and ALFs of the role of the LTC Ombuds.• Could be very costly for CCRCs and this cost would be passed on to residents.• Many CCRCs already have a grievance process or dispute resolution program in place. Need to understand what complaints are driving the need for an Ombuds in addition to those processes.• CCRCs also have processes through the Board of Directors, who are required to address grievances brought before the board.

¹⁸ [RCW 43.190.060: Duties of ombuds. \(wa.gov\)](http://rcw.wa.gov/rcw.aspx?cite=43.190.060)

Other considerations from stakeholder input:

- Residents in Independent Living settings are presumed to possess the capacity to advocate for their own interests, needs and grievances, in contrast to Assisted Living or Skilled Nursing, where residents are offered the services of the LTC Ombuds.
- Independent Living residents have the right to contract under state and federal law as they choose, including entering arbitration agreements.
- It could be possible to require arbitration agreements however, we (the external stakeholder) believe that addressing arbitration agreements may extend beyond the scope of this work, as changes could impact long-term care residents across various settings, not limited to CCRCs.
- Recommend piloting an advocacy unit separate from the Long-Term Care Ombuds to better understand residents’ concerns and to determine what additional protections are needed.

Overview of practices in other states

Recommendation #4	FL	NC	CA	IL	TX	VA	PA	OH
Establish an Ombuds or advocate program for CCRC residents	X *LTC	✓ Advisory Committee	X *LTC	X *LTC	X *LTC	X Commission	X *LTC	X *LTC

*LTC = Long Term Care Ombuds

("✓" = In alignment with the recommendation)

("X" = Not in alignment with the recommendation)

Summary of other state practices

Most of the eight states researched do not have a separate Ombuds to oversee their CCRCs, this resides in their Long Term Care Ombuds (FL, CA, IL, TX, PA, OH), for NC in an Advisory Committee and VA in the State Corporation Commission (SCC) oversees CCRCs.

North Carolina

- There is a nine member Continuing Care Advisory Committee that serves in an advisory capacity to both the North Carolina Commissioner of Insurance and the Special Entities Section of the North Carolina Department of Insurance. Members of the Committee are appointed by the Commissioner of Insurance and serve on the Committee for a two-year term.
- By law, the Committee is to consist of at least two facility residents, two representatives of LeadingAge NC, one individual who is a certified public accountant and licensed to practice in the State of North Carolina, one individual skilled in the field of architecture or engineering, and one individual who is a health care professional.

Business process impacts

Could significantly increase resident costs making CCRCs a less affordable option. Would need to ensure that CCRC Ombuds does not duplicate role of the LTC Ombuds in SNF and ALFs

operated by CCRCs.

Potential consequences if recommendation is not implemented

Residents and CCRCs have less resources to help solve problems and address complaints at the lowest level. Consumer protections for CCRC participants would not change.

Recommendation #5 - Establish more operational transparency for residents.

The issues

- There are no clearly defined operational standards for Washington CCRCs (although individual CCRCs may have standards they adhere to).
- Residents in some CCRCs do not have good visibility into the operations of the organization and express concern about not having a voice in operational decisions.
- Contracts are written in complex legal language that can be challenging for residents to interpret regarding CCRC operational policies and resident resources.

The solutions

- Define operational standards and require those standards be published in the resident handbook or other similar resident information document.
- Require notification to residents of changes in operational structure or ownership.
- Require information be easily accessible to residents.
- Require contracts be written for easy readability. For example, Microsoft Word includes a simple function that measures readability based on the Flesch reading-ease indices, a standardized way to measure readability.
- Require disclosure regarding post-contract changes to resident handbook or policies.
- Create an opportunity for resident representation on the board of directors, if it does not already exist.

What will change and how does the change enhance consumer protections?

This recommendation includes multiple strategies designed to provide residents with more visibility into the operations of the CCRC, and to provide the CCRCs with consistent standards. Residents will benefit from increased understanding of the complexity of operating a CCRC and will have a means of influencing change at the leadership level.

Potential benefits and barriers to implementation

BENEFITS	BARRIERS
<ul style="list-style-type: none">• CCRCs and residents benefit from the transparency of consistent standards to guide expectations and responsibilities.• Residents bring knowledge and expertise from successful careers in business, government, and philanthropy. This knowledge and experience can contribute to the successful operation of the CCRC.• Better disclosure/communication of contracts and organizational changes will enhance resident confidence.	<ul style="list-style-type: none">• If residents are on the Board they have the same responsibilities as other members with regard to the entire operation, not just resident advocacy. This may limit the number of qualified residents.

- Board of directors meeting participation will bring the voice of the customer to the Board, and with careful consideration of confidentiality concerns, help residents feel connected to the CCRC.

Overview of practices in other states

Recommendation #5	FL	NC	CA	IL	TX	VA	PA	OH
Operational Transparency (involvement of residents, voice in decision making)	✓	✓	✓	✓	✓	✓	✓	✓

("✓" = In alignment with the recommendation)

Summary of other state practices

All eight states researched have multiple ways CCRCs are required to inform residents and engage them in decisions regarding the operation of the CCRC. These requirements vary widely from state to state:

Florida: Quarterly meetings with the residents (free discussion of subjects, including income, expenditures, financial trends and any challenges or issues facing the provider or residents, as well as changes in policy, programs, and service). Residents shall be given at least 7-day notice of each quarterly meeting. Prominently post in an area accessible to all residents a notice containing the Division of Consumer Services website and the toll-free consumer helpline numbers, right to receive and examine the annual report and other financial documents of the facility’s licensed provider.

North Carolina: Requires the board of directors or other governing body of a provider, or its designated representative, to hold semi-annual meetings with the residents of each facility operated. Residents shall be entitled to at least seven days advance notice of each meeting, and any agenda or other materials that will be distributed by the governing body at the meetings is to remain available upon request to residents

California: Requires a biennially resident satisfaction survey, and a copy of the survey shall be posted in a conspicuous location at each facility.

Illinois: [Resident Rights Provisions](#) Public Act No. 15-115 provides that CCRC residents are entitled general protections, below are some examples:

- Governance and Communication: Resident Council and Participation in governance, Resident Satisfaction Surveys.
- Health care decisions and reasonable accommodations
- Three Year limit on Return of refunds
- Require Resident Notices: Increase to periodic or recurring feeds, Major construction, modification, renovation, or expansion, change in ownership, revisions

- to CCRC Statutes Governing Providers, disclosure statements.
- Continuing care contract

Texas: CCRC residents have specific rights including a voice in decisions affecting their health, welfare, and financial security, transparency is required regarding the financial stability of the CCRC provider, residents must receive timely notifications about developments affecting the facility, such as ownership changes or financial conditions.

Virginia: Residents shall have the right of self-organization, receive a copy of all submissions made to the Commission and the CCRC is required to make available by written notice a copy of the annual or amended disclosure statement. 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. Residents have the right to participate in free discussions 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. The CCRC must promptly notify residents of any change in the CEO or management of the firm.

Pennsylvania: Bill of Rights establishes a Bill of Rights for CCRC residents, ensuring their voice in decisions affecting health, welfare, and financial security. Legal Safeguards: Residents' rights and obligations are outlined in the facility's Disclosure Agreement and the Resident's Agreement. These legal safeguards protect residents' interests and provide clarity on their rights within the CCRC.

Ohio: Consumer Protections for residents in CCRCs includes: a voice in decisions affecting health, welfare, and financial security, transparency regarding the financial stability of the CCRC provider, timely notification of developments affecting the facility (e.g., ownership changes, financial condition, construction).

Business process impacts

- CCRCs may need to modify their contracts, handbooks or other informational and legal documents provided to residents.
- CCRCs may need to modify their governance documents to adjust Board of Director eligibility rules.

Potential consequences if recommendation is not implemented

- Lack of standards to guide expectations and decision-making.
- Less transparency and collaboration between CCRC management and residents.
- Consumer protections of CCRC residents do not change.

Recommendation #6 - Clarify resident access to contracted services.

The issues

- As CCRCs struggle to manage the healthcare worker shortage and provide services, some CCRCs have eliminated services from the campus such as Skilled Nursing. When clients join a CCRC, they expect to receive care in the location they toured when they joined. Relocating can be extremely challenging and stressful for clients and their families.
- Although CCRCs are required to disclose their policies regarding off-campus placement, the State does not review or verify the contracts and disclosures, so there is no way to know how clear they are to residents or if the contracts are compliant with [RCW 18.390](#).
- There is currently no mechanism for verifying that CCRCs have the necessary financial resources or funding plan to fulfill their contractual obligations to residents.

The solutions

- CCRCs are required to submit residency agreements (contract forms and disclosures) as part of the application. The reviewing agency would verify the contracts meet the thresholds outlined in state law, including the requirements related to off-campus placement and the requirement that the contracts be “written in understandable language and a clear format”¹⁹.
- State financial review includes verification that the CCRC is financially positioned to provide the levels of service in the contract. (See Recommendation #1 above.)

What will change and how does the change enhance consumer protections?

- The State will review residency agreements/contracts to ensure full compliance with [RCW 18.390.060](#).
- The State will review CCRC financial submissions to verify funding for contracted services is adequately addressed.
- Residents can access/acquire their contracted services when needed, without going through civil litigation.

Potential benefits and barriers to implementation

BENEFITS	BARRIERS
<ul style="list-style-type: none">• Residents would have the additional consumer protection of an agency review of the contract documents.• Agency review of residency agreements will uphold and improve the enforcement of the CCRC statutory duties like disclosure requirements (RCW	<ul style="list-style-type: none">• Existing contracts between CCRCs and residents already provide legal assurances regarding future services. Residents have recourse through these contracts and existing legal avenues if obligations are not fulfilled. Introducing new regulatory requirements is unlikely to achieve the

¹⁹ [RCW 18.390.060: Mandatory disclosures to prospective residents. \(wa.gov\)](#)

18.390.060) and resident expectations (RCW 18.390.070).	protection sought, as the contract itself provides the legal basis for resolving disputes and determining remedies.
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Other considerations from stakeholder input:

- Require some kind of bond or insurance to ensure the future availability of services.
- Moving off campus should be addressed through a contract amendment or similar, refund of fees potentially, other service options including off campus.

Overview of practices in other states

Recommendation #6	FL	NC	CA	IL	TX	VA	PA	OH
Clarify resident access to contracted services	✓	✓	✓	✓	✓	✓	✓	X

("✓" = In alignment with the recommendation)
 ("X" = Not in alignment with the recommendation)

Summary of other state practices

All states researched, except Ohio, require financial disclosures and residency contracts as part of their licensing/registration process. Those same states also review the materials for accuracy, completeness and compliance with state law.

Florida: Contracts and financials are both "examined" by the state prior to issuance of a Certificate of Authority. The state conducts full financial examinations every three years.

North Carolina: Contracts and financials are both reviewed by the state prior to issuance of a license.

California: State law requires all continuing care contracts be approved by the Department prior to use. The state is responsible for reviewing and approving applications to operate a CCRC and monitors the ongoing financial condition of all CCRC providers and their ability to fulfill the long-term contractual obligations to residents.

Illinois: The state reviews and continually monitors CCRCs for compliance with financial regulations and laws regarding "life care contracts".

Texas: The state reviews financials to determine "financial soundness". The Commissioner can place a CCRC under supervision under a variety of different circumstances related to financial soundness. Contracts are reviewed prior to issuance of a Certificate of Authority.

Virginia: Contracts are reviewed by the state prior to commencing operation to verify they conform to the legal requirements. The financials are reviewed "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."

Pennsylvania: Contracts and financials are reviewed by the state, and a Certificate of Authority is issued when “...the Commissioner determines that all of the statutory and regulatory requirements for the issuance of a certificate of authority have been met.” Those requirements include specific laws and regulations regarding financial disclosures and contracts.

Ohio: Ohio has no regulatory oversight of CCRCs.

Business process impacts

Additional workload for the reviewing state agency (to be designated by the legislature as described in **Recommendation #1**).

Potential consequences if recommendation is not implemented

Residents may continue to rely on the limited individual and legal recourse when resolving issues identified with residency agreements and CCRC financials, such as arbitration, mediation, or private lawsuits, which may take time and money that some residents have limited amounts.

Recommendation #7 - Define data needs and requirements for regulatory monitoring and oversight.

The issues

- a. There is no single source of information related to CCRC resident complaints which results in a lack of shared understanding of what issues may exist, their volume and frequency and an inability for CCRCs and the state to make data-driven decisions.
- b. Without data, there is no ability to understand how the experience of CCRC residents in Washington state compares to experiences of CCRC residents in other states.
- c. Without a reliable set of data to work from, efforts to address concerns could waste resources.

The solutions

- a. Establish a workgroup whose purpose is to; define the data needs and data owners, perform research, conduct gap analysis (between current and future states), collect business requirements, define data output requirements (e.g. when will the data be published, frequency, etc.), define report requirements (e.g. data reporting standards, governance), identify demographic data on CCRC residents, specifically those in independent living, and identify CCRC resident experience trends.
- b. The workgroup shall consult with the AGO as needed to understand complaint data from the Consumer Resource Center.
- c. Demographic data on CCRC residents, specifically those in independent living would be important to have for developing/supporting recommendations.

What will change and how does the change enhance consumer protections?

The Department will convene a workgroup to study the data needs related to oversight of CCRCs and to analyze the resulting data.

Potential benefits and barriers to implementation

BENEFITS	BARRIERS
<ul style="list-style-type: none">• A cross-agency workgroup would enhance inter-agency communication and learning about CCRCs.• Additional data would enable the state to make good oversight decisions without unnecessarily increasing costs.• Financial data would enable the Department to evaluate the cost/benefit of the oversight activities.	<ul style="list-style-type: none">• Resources for data collection and analysis.• Self-reporting may result in data that is incomplete or not reported.

Overview of practices in other states

There was no indication available of the types of data collected in other states. This should be

researched as a part of defining Washington's data needs.

Business process impacts

CCRCs could be asked to provide additional data as part of the registration process. The Department would need additional resources to review and analyze data.

Potential consequences if recommendation is not implemented

Assumptions and decisions will be made without good data to back them up. Without data analysis, there is no way to track the volume and type of complaints received regarding CCRCs, so it is difficult to determine what is needed and where an investment of resources would have the most impact.

Implementation

The Department conducted an assessment to evaluate the potential impact of implementing these recommendations. The assessment shows that the agency selected by the legislature as the reviewing agency would be the most highly impacted, with potential changes in processes, tools, staffing and training. The residents of CCRCs would have expanded avenues for advocacy and increased visibility into the operations of the CCRCs, potentially with new tools for communication and information. CCRC owners/operators would be impacted by increased registration requirements and might need new tools or processes to comply. The impact to the advocacy groups would be a need for them to understand new regulations or processes that affect residents and CCRCs and to share that information with their constituencies in updated informational materials or other communication tools.

The Department estimates full implementation would take approximately three years. CCRC owners have expressed significant concern they will not be given sufficient time to make any changes the Legislature approves.

The suggested timeline is to complete the program work needed to prepare for implementation in 2025 - 2027, and complete implementation in 2028.

Equity, Diversity, Access, and Inclusion (EDAI)

The recommendations reflect the state's values regarding equity, diversity, access and inclusion:

- CCRCs in Washington vary significantly in their operations. Implementation of the Plan will enhance equity among all CCRCs and their residents.
- The Plan acknowledges the need to balance consumer protections with business interests and the long-term viability of CCRCs. The input from these two stakeholder groups was given equal weight and consideration.

Conclusion

The Department was charged with creating “a regulatory oversight plan for continuing care retirement communities, focusing primarily on establishing and implementing resident consumer protections”. In consultation with the AGO, OIC and multiple stakeholder groups, the Department developed a proposed oversight structure and seven recommendations to achieve the goal. The Department believes these recommendations will significantly increase consumer protection for residents of CCRCs and support Washington seniors so they can live with good health, independence, dignity and control over decisions that affect their lives.

Acknowledgements

The Department would like to recognize and give thanks to the generous contributions of time and expertise from individuals representing several entities:

- Aging and Long-Term Support Administration and its divisions
- American Association of Retired Persons (AARP)

- Commission on Accreditation of Rehabilitation Facilities (CARF)
- Indian Policy Advisory Committee
- LeadingAge (LA)
- Multiple Residents of CCRCs
- National Continuing Care Residents Association, Inc. (NACCRA)
- Vivid Co.
- Washington State Continuing Care Residents Association (WACCRA)
- Washington State Health Care Authority (WHCA)
- Washington State Long-Term Care Ombuds
- Washington State Office of the Attorney General
- Washington State Office of the Insurance Commissioner

Appendices

- [Appendix A: Acronyms and Definitions](#)
- [Appendix B: Resource Links](#)
- [Appendix C: State Comparison Details](#)
- [Appendix D: Stakeholder Responses](#)

Appendix A: Acronyms and Definitions

Term	Definition
AARP	American Association of Retired Persons
AGO	Washington State Attorney General Office
AL TSA	Aging and Long-Term Support Administration
CARF	Commission on Accreditation of Rehabilitation Facilities
CCRC	Continuing Care Retirement Community
ESSB 5187	Engrossed Substitute Senate Bill 5187, Chapter 475, Laws 2023, Page 192, Section (36)
HCS	Home and Community Services
IPAC	Indian Policy Advisory Committee
NACCRA	National Continuing Care Residents Association, Inc.
LA	LeadingAge Washington
OIC	Office of the Insurance Commissioner
RCS	Residential Care Services
WACCRA	Washington State Continuing Care Residents Association
WHCA	Washington Health Care Association

Appendix B: Resource Links

Resource Description	Link
AARP: Learn about continuing care retirement communities	https://www.aarp.org/caregiving/basics/info-2017/continuing-care-retirement-communities.html
CARF	https://carf.org
(RCS) CCRC Registry Lookup list	https://fortress.wa.gov/dshs/adsaapps/lookup/ccrclookup.aspx
ENGROSSED SUBSTITUTE SENATE BILL 5187, Chapter 475, Laws of 2023, page 192, Section (36)	https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/5187-S.SL.pdf?q=20230717073825
NACCRA: White Paper prepared for Washington State previously – Moderating Risks of CCRC Living	https://actionaging.com/CCRC%20pdfs/Moderating%20CCRC%20Risks.pdf
Newsweek: American's best continuing care retirement communities	https://www.newsweek.com/rankings/americas-best-continuing-care-retirement-communities-2024/washington
OIC Report: Continuing Care Retirement Community (CCRC) study	https://apps.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=2022%20OIC%20Report%20CCRC%20Study_7516110b-d4c0-48ad-b8ed-acb8fd82adc7.pdf
RCS (Residential Care Services) home page	https://www.dshs.wa.gov/altsa/residential-care-services/residential-care-services
The WA Continuing Care Residents Association's Consumer Guide to Continuing Care Retirement Communities in Washington State	https://img1.wsimg.com/blobby/go/a344fbc5-f1c4-4135-acc1-bcd6aee04e1a/downloads/WACCRA-ConsumerGuidetoCCRCs-3rdEdition-%202021.0.pdf?ver=1622830795724
"University Village's collapse contributed to state lawmakers in 2019 changing state laws to give Florida's Office of Insurance Regulation greater oversight of those facilities."	https://www.tampabay.com/news/florida-politics/2024/04/11/florida-retirement-community-senior-bankruptcy-unisen-insurance/

CCRC	Website
Bayview Retirement Community	Life Plan Community in Seattle, WA Bayview Retirement (bayviewseattle.org)
Cheney Care Community	Senior Living Cheney, WA Cheney Care Center (cheneycare.com)

CCRC	Website
Covenant Living at the Shores	Covenant Living Shores Premier Senior Living Facility (covlivingshores.org)
Crista Senior Living – Crista Shores	CRISTA Shores Assisted Living Silverdale CRISTA Senior Living (cristaseniorking.org)
Crista Senior Living – Cristwood	Cristwood Senior Living in Shoreline CRISTA Senior Living (cristaseniorking.org/cristwood)
eliseo	Senior Living Tacoma eliseo (eliso.org)
Emerald Heights	Emerald Heights Redmond (emeraldheights.com)
Franke Tobey Jones	Senior Living Community - Retirement Home Tacoma WA (franketobeyjones.com)
Heron's Key	Retirement Community in Gig Harbor, WA 98332 Heron's Key (heronskey.org)
Horizon House	Retirement Community Horizon House Seattle WA (horizonhouse.org)
Josephine Caring Community	Josephine Caring Community – Stanwood WA (josephinecc.com)
Judson Park Retirement Community	Des Moines, WA Nonprofit Senior Living Community Judson Park (humangood.org)
Mirabella Seattle	Independent Senior Living Seattle - Mirabella Seattle (mirabellaseattle.org)
Panorama	Senior Living Retirement Community in Washington State Panorama (panorama.org)
Parkshore	Parkshore – Transforming Age Senior Housing, Community Services, Philanthropy, Technology & Partnerships (transformingage.org/community/parkshore/)
Riverview Retirement Community	Riverview Retirement Community in Spokane, WA - Assisted Living Care (riverviewretirement.org)
Rockwood at Whitworth	Rockwood at Whitworth Senior Living Community in Spokane, WA (rockwoodretirement.org/Whitworth/)
Rockwood South Hill	Rockwood at Whitworth Senior Living Community in Spokane, WA (rockwoodretirement.org/southhill/)
Skyline	Home - Skyline Retirement Community Seattle (skylineseattle.org)
The Hearthstone	The Hearthstone: Retirement Community in Green Lake, Seattle (hearthstone.org)

CCRC	Website
Timber Ridge	Luxury Senior Living near Seattle, WA Timber Ridge at Talus (timberridgelcs.com)
Warm Beach Senior Community	Warm Beach Senior Community (warmbeach.org)
Wesley	Wesley Communities Catered & Independent Living Wesley (wesleychoice.org)

Other State Practices	Links
FL	<p>Florida Statutes 651 - Layman's Terms Continuing Care Retirement Communities in Florida - A regulatory Overview: (http://www.flicra.com/uploadedFiles/File/news_Document_1606831581.pdf)</p> <p>FLOIR (https://floir.com/home/continuing-care-retirement-communities#:~:text=For%20general%20inquiries%20or%20questions%2C%20please%20email%20CCRCteam%40floir.com,850-413-3089%20or%20contact%20OIR%20at%20CCRCteam%40floir.com%20or%20850-413-3153)</p>
CA	<p>CCCS enforces the - CONTINUING CARE CONTRACT STATUTES: (https://www.cdss.ca.gov/Portals/9/CCLD/Continuing%20Care%20Contract%20Statutes%20June%20201,%202023.pdf)</p> <p>CA Gov CDSS Department of Social Services (https://www.cdss.ca.gov/inforesources/community-care/continuing-care/laws-and-regulations)</p> <p>CA.Gov CCRC FAQs (https://www.cdss.ca.gov/continuing-care-communities/ccrc-faqs)</p>
OH	<p>Ohio Laws and Administrative Rules - Legislative Service Commission (https://codes.ohio.gov/ohio-administrative-code/rule-5160:1-6-02)</p> <p>Ohio Department of insurance (https://insurance.ohio.gov/about-us/complaint-center/file-insurance-complaint)</p> <p>OCAPS Ohio Coalition for Adult Protection Services (https://www.ocapsohio.org/state-long-term-care-ombudsman-program)</p>

	<p>Resident and Family Council Toolkit Department of Aging (ohio.gov) (https://aging.ohio.gov/care-and-living/get-help/get-an-advocate/resident-family-council-toolkit)</p>
PA	<p>Pennsylvania Insurance Department (https://www.insurance.pa.gov/Coverage/ContinuingCare/Pages/default.aspx)</p> <p>"Ongoing Challenges for Pennsylvania Continuing Care And Life Plan Communities" (https://dickinsonlaw.psu.edu/sites/default/files/2019-10/PA-BAR-Pearson-Sarcone-Jan-2019_RevB.pdf)</p> <p>PA Code: Chapter 151. Continuing Care Providers (https://www.pacodeandbulletin.gov/Display/pacode?file=/secure/pacode/data/031/chapter151/chap151toc.html)</p> <p>PA AGO Consumer Complaint (https://www.attorneygeneral.gov/submit-a-complaint/consumer-complaint/)</p> <p>PA Request Assistance from a Long-Term Care Ombudsman (https://www.aging.pa.gov/aging-services/Pages/Ombudsman.aspx)</p> <p>Home (pa.gov) (https://www.insurance.pa.gov/Coverage/ContinuingCare/Pages/default.aspx)</p>
TX	<p>TX Continuing Care Retirement Communities (https://www.continuingcarecommunities.org/assisted-living/texas/)</p> <p>TDI Texas Dept of Insurance (https://tdi.texas.gov/tips/continuing-care-retirement-communities.html)</p>
IL	<p>Illinois Continuing Care retirement communities: (https://www.continuingcarecommunities.org/assisted-living/illinois/)</p> <p>New Law Establishes a Bill of Rights for CCRC Residents and Streamlines Several Statutory Requirements for CCRCs - Wiggin and Dana LLP — Attorneys At Law (https://www.wiggin.com/publication/new-law-establishes-a-bill-of-rights-for-ccrc-residents-and-streamlines-several-statutory-requirements-for-ccrcs/)</p>

	<p>IDOI Illinois Dept of Insurance (https://idoi.illinois.gov/consumers/understanding-complaint-process.html)</p> <p>IL How to file a Grievance (https://www.illinoiscourtscommission.gov/process/how-to-file-a-grievance/)</p>
NC	<p>NC Department of Insurance: (https://www.ncdoi.gov/licensees/continuing-care-retirement-communities-ccrc)</p> <p>IL Courts Commission (https://www.ncdoi.gov/licensees/continuing-care-retirement-communities-ccrc/continuing-care-retirement-community-licensing)</p> <p>File a complaint (https://ncdoj.gov/file-a-complaint/)</p> <p>CCRC Reference Guide and Listing (https://www.ncdoi.gov/licensees/continuing-care-retirement-communities-ccrc/ccrc-reference-guide-and-listing#AnnualDisclosureStatementRevision-2388)</p>
VA	<p>State Corporation Commission (https://scc.virginia.gov/pages/Regulation-of-Continuing-Care-Retirement-Communiti)</p> <p>Regulation of CCRCs in VA (https://scc.virginia.gov/getattachment/6c1252ee-0060-41c9-b3db-28fb3379cbb7/ccrcguide.pdf)</p> <p>CCRC Suggested Best practices for CCRC disclosure and Transparency. (https://www.ashaliving.org/wp-content/uploads/2018/11/ccrc_suggested_best_practices.pdf)</p>
General	<p>My Life Site (https://mylifesite.net/learn-ccrc-details/)</p>

Appendix C: State Comparison Details

Oversight Structure and Authority – Clarify the authority of DSHS and the AGO to enable them to meet the increased responsibilities recommended in the Plan.

Summary of other state practices

Florida

- Single Agency
- [Florida Office of Insurance Regulation \(OIR\)](#) - Regulated under [Chapter 651 - 2019 Florida Statutes - The Florida Senate \(flsenate.gov\)](#). The Florida Office of Insurance Regulation (OIR) oversees CCRCs and ensures compliance with the relevant provisions.

North Carolina

- Single Agency
- [NC Department of Insurance](#) - Providers are required to submit updated disclosure statements each year, including audited financials.

California

- Multi-Agency
 - The Continuing Care Contracts Section (CCCS) and
 - The Adult and Senior Care Program (ASCP)
- Both under the [Community Care Licensing Division \(CCLD\)](#) of the California Department of Social Services, regulate Continuing Care Retirement Communities (CCRCs)
 - CCCS assesses the financial viability of CCRC providers, issues Certificates of Authority (COAs) for continuing care contracts and ensures compliance with the Continuing Care Contract Statutes.
 - ASCP oversees health and safety in adult and elderly care facilities, including CCRCs

Illinois

- Single Agency
- IL Department of Public Health under the Illinois Life Care Facilities Act - This ensures that prospective residents have access to healthcare and personal assistance for life, regardless of changes in personal finances or health status.

Texas

- Single Agency
- [TX Department of Insurance](#) - Oversees continuing care retirement communities that require an entrance fee.

Virginia

- Single Agency
- State Corporation Commission (SCC) Bureau of Insurance regulates CCRCs - The SCC oversees CCRCs provides regulatory oversight to ensure proper disclosures, monitor financial conditions, and maintain compliance with the Code of Virginia.

Pennsylvania

- Single Agency
 - [Pennsylvania Insurance Department](#) - Only CCRCs that charge large upfront entrance fees are regulated by the Pennsylvania Insurance Department.

- Additionally, the healthcare facilities located on the CCRC campuses fall under the regulation of the Pennsylvania Department of Public Welfare and the Pennsylvania Department of Health

Ohio

- None
- CCRCs are not directly regulated by a state agency. Unlike some other states Ohio does not provide specific regulatory oversight for CCRCs. However, it's important to note that the assisted living or healthcare centers within Ohio CCRCs may still be regulated by appropriate licensing bodies.

Recommendation #1 - Establish more financial transparency and protections.

[Summary of other state practices](#)

Florida

- Specific financial metrics which trigger a specific defined regulatory response from the Office of Insurance Regulation (OIR)
- Prominently post in an area accessible to all residents a summary of the last annual statement, indicating where in the facility the full annual statement may be inspected.
- The CCRC is also required to post a listing of any proposed changes in policies, programs or services.
- Provide a copy of the full annual statement and the most recent third-party financial audit to the president of the residents' council within 30 days of filing with OIR.
- Annually, on or before May 1, each CCRC must file an annual report and other information and data showing its condition as of the last day of the preceding calendar year as well as the following financial information:
 - Financial statements audited by an independent certified public accountant which shall contain full information for the appropriate time that the facility has been in existence.
- CCRC Examination Reports
- Debt Service Reserve- Each provider is required to maintain in escrow a Debt Service Reserve sufficient to cover the aggregate amount of all principal and interest payments due during the fiscal year on any mortgage loan or other long-term financing of the facility, including property taxes.
- Operating Reserve - Each provider is required to maintain in escrow an Operating Reserve in an amount equal to 15 percent of the total operating expenses in the most recent annual report filed with the Office of Insurance Regulation.
- Renewal and Replacement Reserve - Each provider is required to maintain renewal and Replacement Reserves in escrow in an amount equal to 15% of the total accumulated depreciation on the annual audited financial statement, capped at 15% of the average operating expenses.
- Monitoring and Reporting: As part of the regular reporting requirements, providers must report their minimum liquid reserve balances to OIR. Any shortfalls below required minimum balances can trigger increased reporting or lead to regulatory action by OIR.

California

- The [California Department of Social Services \(CDSS\)](#) assesses financial viability of applicants/providers to monitor their capacity to fulfill the long-term promises they make in their continuing care contracts to residents.
- Annual Reports
Each provider that has obtained a provisional or final certificate of authority and each provider that possesses an inactive certificate of authority shall submit an annual report of its financial condition. The report shall consist of audited financial statements and required reserve calculations, with accompanying certified public accountants' opinions thereon, the reserve information required by paragraph (2), Continuing Care Provider Fee and Calculation Sheet, evidence of fidelity bond and certification that the continuing care contract in use for new residents has been approved by the department, all in a format provided by the department, and shall include all of the following information:
 - Liquid Reserve Requirement Amount.
 - Debt Service Reserve Amount.
 - Operating Expense Reserve Amount.
 - Certification of Compliance.
 - Refund Reserve; Escrow Required; Amount.
 - Legislative Intent – Provider Financial Reporting Requirements
The Legislature finds and declares all of the following:
 - In continuing care contracts, providers offer a wide variety of living accommodations and care programs for an indefinite or extended number of years in exchange for substantial payments by residents.
 - The annual reporting and reserve requirements for each continuing care provider should include a report that summarizes the provider's recent and projected performance in a form useful to residents, prospective residents, and the department.
 - Actuarial Study Required for every 5 years
 - Reserves for Refundable Contracts

Ohio

- All licensed Ohio Continuing Care Retirement Communities are required to file an Annual Disclosure Statement including a financial statement.

Pennsylvania

- CCRCs are required to disclose the state of their finances so that prospective residents can assess their long-term viability. These statements are updated annually and must be made available upon request.
- The law mandates coverage of core subjects in disclosure statements to prospective residents and annual statements to current residents, sets minimum liquid reserves.

Texas

- Each continuing care retirement community must file an annual disclosure statement, which includes a financial statement.

Illinois

- Financial Transparency: Under current law, CCRCs in Illinois must make an annual financial and actuarial filing with the Department, although recent legislation has streamlined this requirement.

North Carolina

- Disclosure Statements: CCRCs must submit annual Disclosure Statements to the [North Carolina Department of Insurance \(DOI\)](#).
- These statements provide information about the community's financial health, operations, and contracts. Residents and prospective residents can access these statements to understand the CCRC's financial viability.
- [Financial Soundness Handbook](#): The Financial Soundness Handbook assists residents in comprehending budgets, financial reports, auditors' reports, and actuarial analyses. It helps assess the implications of these reports for the CCRC's fiscal health and long-term viability.
- CCRC Reference Guide: The DOI compiles a CCRC Reference Guide and Listing to aid prospective residents in their search for a CCRC in North Carolina. This guide provides valuable information about various communities, including financial aspects.
- Pursuant to [North Carolina General Statute § 58-64-30](#), every licensed provider must file with the [North Carolina Department of Insurance](#) a revised disclosure statement, setting forth current information required pursuant to [N.C.G.S. § 58-64-20](#), within 150 days following the end of each fiscal year. The revised disclosure statement must be made available to all of the residents of the CCRC.
- Additionally, North Carolina requires that a CCRC's cash reserves must be equal to 50 percent of forecasted operating costs for the next 12 months.
- For CCRCs that have an occupancy ratio of 90 percent or higher, the cash reserve requirement drops to 25 percent of forecasted operating expenses.

Virginia

- Initial Registration and Disclosure Statement: Before operating in Virginia, every CCRC provider files an initial registration statement, disclosure statement, continuing care contracts, and audited financial statements. [The Bureau of Insurance](#) reviews these documents for compliance with state requirements.
- Annual Disclosure Statement: Annually, within four months of the provider's fiscal year end, CCRCs must submit an updated disclosure statement, continuing care contracts, and audited financial statements. This filing should include a narrative describing material differences between the prior year's pro forma income statement and the actual results of operations.

Recommendation #2 - Establish a more robust registration process.

[Summary of other state practices](#)

Florida

- Accreditation is required. This involves the community's staff, residents, board of directors and an on-site review by trained CCAC evaluators. Accreditation is awarded for five years.

- CCRC must submit annual progress and financial reports to demonstrate ongoing compliance with standards.
- A prospective provider must apply for and receive a license known as a “Certificate of Authority” from the State of Florida.
- Continuing Care Providers are also subject to [Florida Statutes 2022, Chapter 624](#). This section of Florida statute relates to administrative supervision whereby under certain circumstances the [Florida Department of Financial Services](#) can take over interim control of a licensed CCRC.

California

- A license is required. All CCRC providers must obtain a certificate of authority (COA) issued by [CCCS](#) and a residential care facility for the elderly (RCFE) license issued by ASCP. The department shall not issue a provisional certificate of authority or a certificate of authority to an applicant until the applicant has obtained licenses for the entire continuing care retirement community, including a license to operate the residential living and assisted living units, and if a skilled nursing facility is on the premises, a license for the facility.
- The [application requirements](#) are significant.

Ohio

- Ohio does not provide regulatory oversight for CCRCs. Around 150 retirement communities in Ohio likely meet the definition of CCRCs, but there is no specific state regulation.

Pennsylvania

- A COA is required. CCRCs must apply for and obtain a COA for each facility they operate in the state. This certificate authorizes them to conduct the business of continuing care and is not transferable.
- Each applicant shall file a statement in support of an application for a certificate of authority, which shall contain the following information and appendices: (Financials, feasibility status, financing, description, affiliates, financial analysis, etc.)

Texas

- A COA is required. CCRCs seeking to operate in Texas must submit an application for certificate of authority to do business in the state under [Health and Safety Code Section 246.0221](#). This application ensures compliance with state regulations.
- Financial Disclosures: CCRCs must provide a disclosure statement to prospective residents. This statement outlines financial details, services offered, and other relevant information. The format for this disclosure statement is specified by the [Texas Department of Insurance](#).
- Biographical Data Forms: Officers, directors, and trustees of CCRCs need to complete biographical data forms to ensure transparency and accountability.

Illinois

- The Department performs its regulatory function under the provisions of the act and the administrative rules promulgated to implement the act, the Illinois Life Care Facilities Contract Code (77 Ill. Adm. Code 396). The act empowers the Department to issue permits allowing facilities to enter into Life Care Contracts and charges the Department

with responsibility for monitoring those facilities for compliance with the act and the code.

North Carolina

- A license is required. In North Carolina, anyone considering the development of a new Continuing Care Retirement Community (CCRC) must follow specific licensing steps. These steps cover four basic phases of the development process:
 - Discovery Phase: Notify the relevant authorities.
 - Pre-Development Phase: Obtain a Start-Up Certificate.
 - Construction and Development Phase: Secure a Preliminary Certificate.
 - Operating Phase: Obtain a Permanent License.

Virginia

- Yes, the state of Virginia requires CCRCs to be licensed and regulated by the State Corporation Commission's Bureau of Insurance. Since July 1, 1985, CCRCs in Virginia have been subject to regulatory oversight. The Code of Virginia (Chapter 49, Section 38.2-4900 et seq.) mandates that CCRCs submit specific filings, including an initial registration and disclosure statement before operating in the state. Additionally, they must provide annual disclosure statements, continuing care contracts, and audited financial statements.
- Prior to operating in Virginia, every continuing care provider ("provider") files a registration statement, disclosure statement, continuing care contracts, and audited financial statements.
- The [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.
- 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.

Recommendation #3 - Clarify AGO's statutory authority to enforce the Revised Code of Washington (RCW) 18.390.

[Summary of other state practices](#)

Florida

- Complaint process flow: CCRC CEO, Resident's Council, Associations, Dept. of Financial Service Complaint Process. Florida law offers a complaint process for residents. For all disputes except those related to monthly maintenance fee increases, you can contact the Department of Financial Services, Division of Consumer Services.
- The Office of Insurance Regulation must approve all residency and reservation contracts before a CCRC can enter into them with potential residents.

California

- The Continuing Care Contracts Bureau, part of the [California Department of Social Services](#) – Community Care Licensing, oversees CCRCs. Residents have established rights to file complaints without provider retaliation. You can submit complaints related to the violation of resident rights, service issues, or financial matters. The CCC Bureau responds within 15 business days to these complaints.
- [Article 7. Offenses and Penalties. 1793.5](#) - Misdemeanors - (d) An entity that abandons a continuing care retirement community or its obligations under a continuing care contract is guilty of a misdemeanor. An entity that violates this section shall be liable to the injured resident for treble the amount of damages assessed in any civil action brought by or on behalf of the resident in any court having proper jurisdiction.

Ohio

- If a resident has a complaint against a Continuing Care Retirement Community (CCRC) in Ohio:
 - Contact the CCRC Directly: Start by reaching out to the CCRC itself. Many complaints can be resolved by discussing the issue with the company. Most CCRCs have toll-free customer assistance numbers. If you're unable to resolve the complaint, ask to speak to a supervisor and request a written response.
 - Ohio Department of Insurance (ODI): If the issue remains unresolved, contact the [Consumer Services Division at the Ohio Department of Insurance](#). The department will assess whether the company handled the issue appropriately and within the terms of the policy or certificate of coverage. They'll also take enforcement action if any state insurance laws or rules were broken.
 - Consumer Protection Laws: Ohio Attorney General enforces various consumer protection laws in Ohio. These laws cover areas such as deceptive practices, credit transactions, debt collection, and more.

Pennsylvania

- If a resident has a complaint against a Continuing Care Retirement Community (CCRC) in Pennsylvania, here's how it can address it:
 - Contact the CCRC Directly: Start by reaching out to the CCRC itself. Discuss the issue with them and ask to speak to a supervisor if needed.
 - Pennsylvania Department of Insurance (DOI): If the issue remains unresolved, contact the [Consumer Services Division at the Pennsylvania Department of Insurance \(DOI\)](#). The DOI assesses whether the CCRC handled the complaint appropriately and enforces state regulations.
 - File a Complaint with the PA Office of Attorney General: The resident can submit a complaint form through their website. The mediation process is also explained there.

Texas

- If the resident has a complaint against a Continuing Care Retirement Community (CCRC) in Texas:
 - Contact the CCRC Directly: Start by reaching out to the CCRC itself. Discuss the issue with them and ask to speak to a supervisor if needed.
 - Texas Department of Aging and Disability Services (DADS): If the issue remains unresolved, file a complaint about the assisted living or nursing home care within

the CCRC by calling DADS at 800-458-9858.

Illinois

- If a resident has a complaint against a Continuing Care Retirement Community (CCRC) in Illinois:
 - Contact the CCRC Directly: Start by reaching out to the CCRC itself. Discuss the issue with them and ask to speak to a supervisor if needed.
 - File a Complaint with the Illinois Department of Insurance (DOI).
 - File a Grievance Against an Illinois State Judge: If your complaint is related to a judge within the CCRC, submit it to the Illinois Judicial Inquiry Board.

North Carolina

- If a resident has against a Continuing Care Retirement Community (CCRC) in North Carolina:
 - Contact the CCRC Directly: Start by discussing the issue with the CCRC. If needed, ask to speak to a supervisor.
 - File a Complaint with the North Carolina Department of Justice (NCDOJ).

Virginia

- If a resident has a complaint against a Continuing Care Retirement Community (CCRC) in Virginia:
 - Contact the CCRC Directly: Start by discussing the issue with the CCRC. If needed, ask to speak to a supervisor.
 - File a Complaint with the Virginia Office of the Attorney General

Recommendation #4 - Establish an independent ombuds program specifically for CCRC residents.

[Summary of other state practices](#)

Florida

- There is no separate Ombuds for CCRCs. Florida Department of Elder Affairs Long-Term Care Ombudsman Program is an advocacy organization for Floridians who live in long-term care facilities, including adult family care homes, nursing homes and assisted-living centers.

California

- There is no separate Ombuds for CCRCs. The Long-Term Care Ombudsman Program serves as an independent resource for residents in long-term care facilities, including CCRCs.

Ohio

- There is no separate Ombuds for CCRCs. The Office of the State Long-Term Care Ombudsman advocates for individuals receiving home care, assisted living, and nursing home care. Their paid and volunteer staff work to resolve complaints about services, assist in selecting providers, and provide information about benefits and consumer rights.

Pennsylvania

- There is no separate Ombuds for CCRCs. The Long-Term Care Ombudsman Program advocates for individuals residing in long-term care settings, including nursing homes,

assisted living facilities, and personal care homes. Ombudsmen empower residents by educating them on their rights under federal and state law and advocate for those who are unable to advocate for themselves, ensuring they receive the highest quality of care. Additionally, there's a program called [Pennsylvania Empowered Expert Residents](#) (PEERs), where trained residents advocate to improve the quality of life in long-term care facilities.

Texas

- There is no separate Ombuds for CCRCs. There is an office of the Long-Term Care Ombudsman that serves as an independent resource for residents and their families. They provide impartial assistance and address related complaints and issues related to state supported living centers.

Illinois

- There is no separate Ombuds for CCRCs. The Long-Term Care Ombudsman Program (LTCOP) is a resident directed advocacy program mandated by the Federal Older Americans Act and the Illinois Act on Aging.

North Carolina

- There is no ombudsman, but they have an Advisory Committee.
- Pursuant to [N.C.G.S. § 58-64-80](#), there is a nine member Continuing Care Advisory Committee that serves in an advisory capacity to both the North Carolina Commissioner of Insurance and the Special Entities Section of the North Carolina Department of Insurance. Members of the Committee are appointed by the Commissioner of Insurance and serve on the Committee for a two-year term.
- By law, the Committee is to consist of at least two facility residents, two representatives of LeadingAge NC, one individual who is a certified public accountant and licensed to practice in the State of North Carolina, one individual skilled in the field of architecture or engineering, and one individual who is a health care professional.

Virginia

- There is no Ombudsman, but they have a Commission.
- The State Corporation Commission (SCC) oversees CCRCs.
Regulation: The SCCs Bureau of Insurance has regulated CCRCs in VA since 1985. They ensure proper disclosures by CCRCs and monitor their financial conditions.
CCRC Resident Concerns and Issues: For CCRC related concerns, residents can contact the SCC Bureau of Insurance.

Recommendation #5 - Establish more operational transparency for CCRC residents.

[Summary of other state practices](#)

Florida

- Quarterly meetings with the residents for the purpose of free discussion of subjects, including income, expenditures, financial trends and any challenges or issues facing the provider or residents, as well as changes in policy, programs, and services.
- Providers must report to the Office of Insurance Regulation the dates on which the quarterly meetings were held in its annual report. Residents shall be given at least 7-day notice of each quarterly meeting.

- Prominently post in an area accessible to all residents a notice containing the Division of Consumer Services website and the toll-free consumer helpline and OIR’s website and telephone number with a statement that the Consumer Services or OIR may be contacted for the submission of inquiries and complaints with respect to potential provider violations of Chapter 651. [Florida Statutes Chapter 651](#).
- You have the right to receive and examine the annual report and other financial documents of the facility’s licensed provider.
- You have the right to talk to your state regulators financial status of the facility or if it has had complaints lodged against it. You may also want to consult the local Better Business Bureau or chamber of commerce.
- You have the right to receive a copy of the Resident’s Bill of Rights per [Florida Statutes 651.083](#). This document explains your rights as a CCRC resident in Florida and it should be included in the “disclosure package,” that must be presented to residents before entering into a CCRC contract. The disclosure package should include all the mandatory documents a CCRC is required to provide under Florida law.

California

- Because the authority to enter into continuing care contracts granted by the Department of Social Services is neither a guarantee of performance by the providers nor an endorsement of any continuing care contract provisions, prospective residents must carefully consider the risks, benefits, and costs before signing a continuing care contract and should be encouraged to seek financial and legal advice before doing so.
- The provider shall biennially conduct a resident satisfaction survey that shall be made available to the resident association or its governing body, or, if neither exists, to a committee of residents at least 14 days prior to the next semiannual meeting of residents and the governing board of the provider required by [CA Health and Safety Code Sec. 1771.7](#). A copy of the survey shall be posted in a conspicuous location at each facility.
- Each continuing care retirement community shall prominently post in areas accessible to the residents and visitors a notice that a copy of rights applicable to residents pursuant to this section and any governing regulation issued by the [Continuing Care Contracts Branch of the State Department of Social Services](#) is available upon request from the provider. The notice shall also state that the residents have a right to file a complaint with the Continuing Care Contracts Branch for any violation of those rights and shall contain information explaining how a complaint may be filed, including the telephone number and address of the Continuing Care Contracts Branch.
- Board of Directors
 - The residents of continuing care retirement communities have a unique and valuable perspective on the operations of, and services provided in, the community in which they live.
 - Encourage the formation of a resident association by interested residents who may elect a governing body. The provider shall provide space and post notices for meetings and provide assistance in attending meetings for those residents who request it. To promote a free exchange of ideas, at least part of each meeting shall be conducted without the presence of any continuing care

retirement community personnel. The association may, among other things, make recommendations to management regarding resident issues that impact the residents' quality of life, quality of care, exercise of rights, safety and quality of the physical environment, concerns about the contract, fiscal matters, or other issues of concern to residents. The management shall respond, in writing, to a written request or concern of the resident association within 20 working days of receiving the written request or concern.

- Meetings shall be open to all residents to attend as well as to present issues. Executive sessions of the governing body shall be attended only by the governing body.

Ohio

Consumer Protections for residents in CCRCs include:

- A voice in decisions affecting health, welfare, and financial security.
- Transparency regarding the financial stability of the CCRC provider.
- Timely notification of developments affecting the facility (e.g., ownership changes, financial condition, construction).

Pennsylvania

- Disclosure and Financial Transparency: CCRCs charging large upfront entrance fees are regulated by the [Pennsylvania Insurance Department](#). CCRCs must disclose their financial status annually, allowing prospective residents to assess their long-term viability.
- Resident Bill of Rights: [Public Act No. 15-115](#) establishes a Bill of Rights for CCRC residents, ensuring their voice in decisions affecting health, welfare, and financial security.
- Legal Safeguards: Residents' rights and obligations are outlined in the facility's Disclosure Agreement and the Resident's Agreement. These legal safeguards protect residents' interests and provide clarity on their rights within the CCRC.

Texas

- CCRC residents have specific rights including a voice in decisions affecting their health, welfare, and financial security.
- Transparency is required regarding the financial stability of the CCRC provider.
- Residents must receive timely notifications about developments affecting the facility, such as ownership changes or financial conditions.

Illinois

- Disclosure and Financial Transparency: CCRCs should provide consumers with information about the provider, management, affiliations with religious or charitable groups, summaries of recent state examinations, property descriptions, amenities and services, copies of contracts (including termination provisions), financial assistance policies, requirements for admission or discharge from different care levels, rules and regulations, and policies regarding life changes (such as marriage or the death of a spouse).
- [Resident Rights Provisions](#): Provides that CCRC residents are entitled general protections that are addressed more specifically in other sections of the law.
 - Governance and Communication: Resident Council and Participation in

- governance, Resident Satisfaction Surveys.
- Health care decisions and reasonable accommodations
- Three Year limit on Return of refunds
- Require Resident Notices: Increase to periodic or recurring feeds, Major construction, modification, renovation or expansion, change in ownership, revisions to CCRC Statutes Governing Providers, disclosure statements.
- Continuing care contract

North Carolina

- [N.C.G.S. § 58-64-40](#) requires the board of directors or other governing body of a provider, or its designated representative, to hold semi-annual meetings with the residents of each facility operated by the provider for free discussions of subjects including, but not limited to, income, expenditures, and financial trends and problems as they apply to the facility, and discussions of proposed changes in policies, programs and services. In addition, upon request of the most representative residents' organization, a member of the governing body of the provider, such as a board member, a general partner, or a principal owner shall attend such meetings. Residents shall be entitled to at least seven days advance notice of each meeting, and any agenda or other materials that will be distributed by the governing body at the meetings is to remain available upon request to residents.

Virginia

- CCRCs are regulated by the [Commonwealth of Virginia, State Corporation Commission, Bureau of Insurance](#).
- 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.
- 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.
- 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.
- Residents have the right to participate in free discussions 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.
- The CCRC must promptly notify residents of any change in the CEO or management of the firm.

Recommendation #6 – Clarify resident access to contracted services.

Summary of other state practices

Review of contracts and financial prior to operation:

Florida

- In Florida, the state confirms Continuing Care Retirement Community (CCRC) resident contracts before they are used. [The Florida Office of Insurance Regulation \(FLOIR\) is responsible for reviewing and approving these contracts to ensure they comply with state regulations.](#) This process helps protect residents by ensuring that the contracts meet all necessary legal and financial standards.

California

- In California, the state confirms Continuing Care Retirement Community (CCRC) resident contracts before they are used. [The California Department of Social Services \(CDSS\) is responsible for reviewing and approving these contracts to ensure they comply with statutory requirements.](#) This process helps protect residents by ensuring that the contracts meet all necessary legal and financial standards.

Pennsylvania

- In Pennsylvania, CCRCs are reviewed by the [Pennsylvania Insurance Department \(PID\)](#) and the Departments of Public Welfare (DPW) and Health (DOH). The PID examines the financial records of each CCRC to ensure the CCRC is operating on a solid financial basis and in a financially responsible manner.

Illinois

- In Illinois, the state confirms Continuing Care Retirement Community (CCRC) resident contracts before they are used. The Illinois Department of Public Health (IDPH) regulates these contracts under the Illinois Life Care Facilities Act. [The IDPH reviews and approves residency agreements, known as “Life Care Contracts,” to ensure they meet statutory requirements.](#)

Virginia

- In Virginia all contracts and financials are reviewed for compliance with state statutes. <https://scc.virginia.gov/getattachment/6c1252ee-0060-41c9-b3db-28fb3379cbb7/ccrcguide.pdf>

North Carolina

- In North Carolina, the state confirms Continuing Care Retirement Community (CCRC) resident contracts before they are used. [The North Carolina Department of Insurance \(NCDOI\) is responsible for reviewing and approving these contracts to ensure they comply with state regulations.](#) This process helps protect residents by ensuring that the contracts meet all necessary legal and financial standards.

Ohio

- The state does not specifically “confirm” these contracts before they are put into use. [Instead, the contracts must comply with state regulations and laws, ensuring they meet certain standards and protections for residents.](#)

Appendix D: Stakeholder Responses

Stakeholders were offered the opportunity to reply with a 2-3 page response after reviewing the draft, below are the responses received.

Please note: Revisions and edits to the report have been made in response to the additional stakeholder input. Therefore, the stakeholder comments may have already been addressed in the report and may not apply to the final version.

- [LeadingAge](#)
- [Residents](#)
 - [Reiter, Don – Resident](#)
 - [Richardson, Judy – Resident](#)
- [WACCRA](#)

LeadingAge

LeadingAge Washington Response to the Report to the Legislature Regarding a Regulatory Oversight Plan for CCRCs in Washington State (submitted 8/29/24)

LeadingAge Washington appreciates the opportunity to participate in the creation of a regulatory oversight plan for CCRCs, as directed by the Washington State Legislature, “focusing primarily on establishing and implementing consumer protections”. As the Plan emphasizes, **“it is important to balance the opportunities for improvement with the business needs of the CCRCs, so that this type of housing and care resource remains viable”**.

The most important recommendation in the Plan is #7, “Define data needs and requirements for regulatory monitoring and oversight.” Any major changes to our state’s regulatory oversight of CCRCs must be based on good data and a clear understanding of the burdens and benefits of proposed actions. The Plan calls for a workgroup to take on that task. **Until such work can be completed, major statutory change would be premature, expensive and potentially harmful to consumers and providers. We recommend taking the necessary time to do this right.**

The conclusions and recommendations contained in the Plan are based on information from only eight of the 41 states that regulate CCRCs. As the Plan notes, “the mandatory requirements and degree of oversight vary drastically from one state to another.” Due to these wide variations by region and state, strategies adopted by other states are not necessarily the right path for Washington. Our state cannot simply cut and paste practices from other states.

Washington State has many positive elements of CCRC regulation and oversight already in place, including:

- A well-defined CCRC registration process overseen by DSHS;
- CCRC providers with a solid history of disclosure and transparency for residents and consumers;
- An existing “Commitment to Continuing Care Retirement Community Practices” negotiated between LeadingAge Washington and WaCCRA and implemented in 2021;
- Robust consumer protections under the existing authority of the Attorney General’s Office.

We support building on these existing foundations, which have been developed in the context of our state and with input from Washington State CCRC residents and providers, and **we recommend that all parties exercise caution before making fundamental changes to a system that needs adjustments rather than an overhaul.** At this point there is insufficient objective data to demonstrate the need for a major (and expensive) overhaul.

Washington is fortunate to have a healthy and diverse group of CCRCs offering senior living and health care options that are attractive to consumers and already accountable to DSHS and AGO under existing laws and regulations. Those statutes can be clarified and improved with modest changes, some of which are identified in this Plan. However, **many of the recommendations contained in the Plan would require creating entirely new roles and burdening both the state and the CCRC operators with significant new complexities and expense.** LeadingAge Washington supports a strategy of making measured improvements to existing statutes in areas supported by all stakeholders, while recognizing that a larger overhaul of our state’s regulatory monitoring and oversight of CCRCs will require significant additional study and discussion. All parties must ensure that changes are in the interests of current *and*

potential CCRC residents and the providers who serve them, and any changes should be implemented on a timeline that allows providers ample time to adapt and prepare. **We should not allow an artificial sense of urgency to push the process forward without adequate deliberation and consideration of the complexities involved.**

Oversight Structure and Authority

The Plan aims to “clarify the authority of DSHS and the AGO . . . to meet the increased responsibilities recommended in the Plan.” LeadingAge Washington agrees with the Plan that “Washington will be better served by expanding the authority of DSHS and clarifying the authority of the AGO to build on their unique expertise and current roles.” **The AGO should remain focused on its area of proven competency related to consumer protection from unfair or deceptive business practices, while concerns or complaints related to CCRC operations and regulatory compliance should remain the responsibility of DSHS.**

RECOMMENDATION #1: Establish more financial protections and transparency

Increase financial requirements for registration: The Plan proposes new requirements including “Summaries of actuarial analyses, actuarial opinions . . . accreditations . . . and solvency requirements.” It notes, “The State will need to review and analyze the financial submissions. DSHS does not currently have the expertise or resources . . . DSHS/ALISA does not have the necessary expertise to conduct an in-depth financial review and evaluate the CCRC’s financial health.” We believe that **existing financial disclosure requirements (including audited financials) allow the consumer to make an informed decision** and give residents the ability to monitor the CCRC’s ongoing financial health.

We have concerns about the statement, “Financials must be accessible and presented in ways that the consumer can understand.” Financial reporting follows industry and GAAP standards and practices, and residents and consumers can enlist the help of financial or legal professionals as they choose. **The CCRC should not be made responsible for adapting documents that meet normal business and industry standards.** Informing residents regarding the financial status of the CCRC takes many forms: written summaries of financial statements, presentations during Town Hall style meetings with opportunities for Q&A, presentations to resident councils and/or resident finance committees, and other mechanisms to ensure transparency and foster understanding of the information. Residents are able and encouraged to seek independent review using their own consultants, if desired.

As the Plan notes, residents already have preferred unsecured creditor status in CCRC bankruptcy proceedings.

In the list of “potential requirements” the Plan mentions defining “requirements and oversight mechanism for timely refund . . . of entrance fees.” The existing Commitment to Practices contains agreed upon provisions related to timely entry fee refunds, which could be adapted in any proposed statutes. Refundable entry fee options have been developed to meet consumer demand, and any consumer choosing a refundable entry fee option is making an informed choice of their own volition. Many different payment and refund options exist, providing consumers with choices. **Defining refund provisions in statute would limit consumer choice**, and any specific requirements would need to undergo in-depth analysis of financial impact, to determine necessary exceptions and timing provisions.

Require registration renewal annually: Any new regulations should recognize that newer CCRCs merit a different level of oversight from stable and established CCRCs. CCRCs which are established and stable can focus on appropriate disclosure but do not need the same level of oversight and review as newer CCRCs. Longer renewal periods and/or different renewal requirements would be appropriate for established CCRCs.

RECOMMENDATION #2 -Establish a more robust registration process

Expand the review, verification, and validation of materials currently submitted for CCRC registration: The Plan recommends that the department “review the content of the materials submitted in support of CCRC registrations and verify the materials are in compliance with the requirements.” This would require expertise and staff that DSHS does not currently possess, adding significant cost and complexity to the registration process. The Plan notes that “DSHS does not currently have the expertise or resources.” The added cost will either be passed on to the taxpayer or passed through to CCRC residents. Experience in other states (and examples in other regulatory areas of our own state) indicates that the review/verification/validation process can create significant delays and bottlenecks, which do not serve the consumer’s interest and can undermine the financial health of the CCRC.

RECOMMENDATION #3 -Clarify AGO's statutory authority to enforce RCW 18.390

Remove RCW 18.390.080(2) and amend RCW 18.390.080: The existing consumer protections available to current and prospective CCRC residents are the same as those for any other consumer. The role of the AGO is to protect the consumer from unfair or deceptive business practices, and (as noted in our comments under Oversight Structure and Authority), concerns or complaints related to CCRC operations and regulatory compliance should remain the responsibility of DSHS unless the concern or complaint clearly relates to unfair or deceptive business practices. The AGO should remain focused on their areas of proven competency, which would include complaints such as providers marketing themselves as CCRCs without registering as a CCRC (an unfair or deceptive business practice).

RECOMMENDATION #4 -Establish an ombuds or other advocate program specifically for CCRC residents

It is not clear what unmet need this recommendation seeks to address. No other states have taken this rather drastic step. Implementing this recommendation would be duplicative, expensive, and confusing due to overlapping ombuds roles. Such a program would demand a high level of expertise in sophisticated details of CCRC operations.

- Vulnerable residents of CCRCs already have access to an ombuds with expertise in the areas of assisted living and skilled nursing. Changing that structure would be a detriment rather than a benefit to them.
- Staffing and training a new ombuds or advocacy role would be expensive. Since our vulnerable adults already have protections, this would require state-only funding with no federal match and the cost would either be passed on to the taxpayer or passed through to CCRC residents (who are also taxpayers).
- Independent seniors interested in the CCRC option are already well-positioned to obtain advice and support from many outside sources without being dependent on a state ombuds. This recommendation would divert resources away from protecting low income seniors to provide unneeded protections for wealthier seniors.

RECOMMENDATION #5 -Establish more operational transparency for residents

Many of the details included in the Plan go far beyond transparency.

Define operational quality standards and require those standards be published: Would these be aspirational or minimal standards? CCRCs vary widely in structure, in scale, in contract types, etc.

Defining “operational quality standards” should not be the responsibility of the state and should not be the purpose of state statutes. Standards for a community with all Type A contracts would be very different from standards based on Type C or D contracts.

Require notification to residents of changes in operational structure or ownership: We support the **reasonable notifications already required by existing statute**. The language in the Plan is vague and overly subjective.

Require contracts be written for easy readability: Contracts are legal documents and must be written for legal clarity. **The resident is responsible to access the support they need to understand a contract before signing.**

Create an opportunity for resident representation on the board of directors, if it does not already exist: We support *allowing* a qualified resident to serve on an organization’s board if the board so chooses, but resident representation on a board should not be *required*. **Residency in a CCRC is not automatic evidence of qualification for board service**, particularly as many organizations’ operations extend beyond just CCRCs. Any board member would need to represent the interests of the organization as a whole, not the narrow interest of residents. A resident’s qualifications should match those of any other board member and be consistent with bylaws and/or RCW 24.03A.

RECOMMENDATION #6 -Secure the CCRC’s promise of guaranteed future health care

No one can “guarantee future health care.” A host of situations such as hospitalizations, behavioral health, capacity limits, etc. fall outside contract obligations. The focus of any regulatory oversight should be on disclosing what the resident or consumer is agreeing to when they choose a particular contract option offered at a particular CCRC.

Require disclosure – in plain language - if the contract does not guarantee all levels of care in existence at the time the client joins the CCRC: We support such disclosure, which is already included in the existing statute.

Require disclosure – in plain language - if the contract does not guarantee all services will be provided on-site: We support such disclosure, while noting that language like “guarantee all services” is unreasonably broad.

State financial review includes verification that the CCRC is financially positioned to provide levels of service: State verification of a CCRC’s financial position is an enormous promise. Per our comments on Recommendation #2, **the state is not qualified to verify a CCRC’s financial stability beyond a straightforward measure** such as an agreed upon level of reserves. Depending on the specific financial structure of the CCRC, well-intentioned actions (such as liens) can actually work against financial stability and can create rather than protect from financial instability.

RECOMMENDATION #7 -Define data needs and requirements for regulatory monitoring and oversight

See opening comments. **Much more data and discussion is needed, and we recommend taking the time to do this right.**

Residents

Reiter, Don – Resident of Timber Ridge at Talus

A Stakeholders Response

to the

Regulatory Oversight Plan for CCRCs in Washington State

Prepared by the Department of Social and Health Services

for the Washington State Legislature

BACKGROUND AND PERSPECTIVE:

I am a resident of Timber Ridge at Talus located in Issaquah, WA. This is a for-profit Type A Life Plan Community. I am a ten year resident who lost his wife to Alzheimer's in 2021. I have served on the Resident Association's Resident Council as a Board Officer including being the President. I have been the Chairman and member of the Resident Association's Finance Committee which meets monthly with management to review monthly and year-to-date financial information. My profession is investment management. I am a Chartered Financial Analyst (CFA) and Chartered Financial Consultant (ChFC). Being a resident of Timber Ridge has given me perspective. I have observed what works for the business but also for the residents at Timber Ridge and other communities. Successful managements endorse and support open communication, collaboration, and financial transparency with their resident community. When these elements are not fully supported by managements and residents alike conflict often arises.

I thank the DSHS, the AGO and the OIC for the fine report they have prepared and the opportunity to respond.

Recommendation 1: More financial protections and transparency

Preface: There are approximately 23 CCRCs in Washington. The actual number is uncertain. I believe that three type A and two type B Life Plan Communities are registered in WA.

These 5 (perhaps 6) require a varying sizeable deposit with variable repayment provisions written into the resident's contract. The balance of Washington's CCRC's do not require a large deposit to enter with an increasingly higher monthly fee for each additional level of service (SKN, AL, MC and RH). These CCRC's are considered rental type communities and higher levels of service are usually provided by other business entities. The question is what level of registration is needed for the breadth and graduation of services that the WA CCRCs provide.

Solution 1: Yes, the State should enhance/amend the registration process so that the requirements are followed and residents are provided relevant financial information including the most recent Audited Financial Statements. Prospective residents for Life Plan Communities are generally wealthy and educated and have the legal and financial resources if needed.

Solution 2: Expertise is needed. The question is what should be reviewed since the breadth of CCRC services is wide.

Solution 3: This is the best solution. Enhance the registration process and require that relevant information be provided to prospective and existing residents. The reason for State oversight has not

been factually supported.

Recommendation 2: Establish a more robust registration process.

Yes. Enhance the process. Have the facility attest to the accuracy of information provided to prospective and existing residents. Such information should be updated every year. Management should prepare an annual report to their residents in understandable language summarizing the prior year's results including current occupancy levels and trends, operating revenues (fees), operating expenses and capital expenditures (actuals vs budget). A summary of annual deposits and repayments during the prior 3-5 years should be provided if relevant to the type of CCRC. A resident Finance Committee should be strongly recommended if not required. This committee should be provided a summary review of the community's Annual Audited Financial Statement with explanation of the Fund Flow Statement's meaning and relevance.

Recommendation 3: Clarify AGOs Statutory authority to enforce RCW 18.390.

Depends on what level of oversight the State believes necessary and whether there is sufficient evidence to support a more involved response by the AGO's office. I have seen no evidence to support that level of response. CCRC resident contracts provide for complaint resolution via arbitration. While other states have requirements to take enforcement action, the question appears to be the scope and extent of the specific enforcement objectives and the effectiveness of the objectives.

Recommendation 4: Establish an independent ombuds or other advocate program specifically for CCRC residents.

No. Expensive and time consuming. If, when establishing the scope, time and resources, then the additional costs to CCRC residents should be considered. Adequate avenues for resolution currently exist.

Recommendation 5: Establish more operational transparency for residents

Of Course! Stated previously "open communications, collaboration and financial transparency" are essential ingredients for a well-managed CCRC. Timber Ridge has a Resident Council that meets monthly with the Executive Director who provides updates. We have resident committees (Food and Beverage, Plant operations, Finance, e.g.) that meet with the corresponding Director of that operating department. The goal is to work together collaboratively. While this issue seems related to the lack of communication between some managements and their residents, it goes deeper. Some residents believe that they should have a say in what management wants to do, i.e. a veto power. Managements should have the legal right to manage for the benefit of current and **future** residents.

Recommendation 6: Secure the CCRC's promise of guaranteed future health care.

This is a perfect way for the CCRC/Life Plan industry not to do business in Washington State. The cost of the "guarantee" would be borne by the CCRC resident, who, if asked, would likely say no. The audited financial statement of Timber Ridge has a footnote "Obligation to Provide Future Services" that says the following: "If the present value of the net cost of future services and the use of facilities exceeds the deferred entrance fees and estimated monthly service fees, a liability is recorded with the corresponding charge to income." This should be adequate warning to prospective and existing residents to seek action.

Recommendation 7: Define data needs and requirements for regulatory monitoring and oversight.

Better to define the problem before seeking a solution.

Richardson, Judy – Resident of Emerald Heights

As I understand the report, it provides information to the legislature to decide which pieces to implement. As a result, I don't oppose anything except recommendation # 4. I think establishing an ombuds or other advocate program for CCRC residents is unnecessary and would be costly to residents.

WACCRA

Report to the Legislature, ESSB 5187

Washington Continuing Care Residents Association (WACCRA) Response

August 29, 2024

Introduction

WACCRA appreciates the work of the Department of Social and Health Services (DSHS), the Office of the Insurance Commissioner (OIC) and the Attorney General's Office (AGO) over the last nine months as they have undertaken their investigation and produced their report. They have been thoughtful in their interactions with stakeholders and provided the forum for many valuable discussions on the issues facing both the Washington CCRC industry and residents.

This report highlights the need to move from Washington's current reactive regulatory approach which cannot forestall future failures of CCRCs to a well-managed, proactively monitored CCRC marketplace that will ensure consumer protections are available to residents and their families. To achieve those protections WACCRA thinks particular focus should be on (1) the definition and licensure of CCRCs, (2) the financial expertise brought by the State in the review of CCRCs, and (3) the enforcement of those protections by the State.

It should be noted that in evaluating different approaches to protections, DSHS used a 2024 Newsweek/Statista publication ranking CCRCs in the country. DSHS identified eight states having the greatest number (60) of high-ranking CCRCs, whose regulations were then used to compare to the recommendations made by the Agencies in the report. In this response we point out that two of the report's recommendations are contrary to what the highest-ranking states are doing and recommend instead utilizing what these states have legislated.

Definition of CCRCs

Critical to the appropriate regulation of Continuing Care Retirement Communities (CCRCs), or Life Plan Communities, is a clear and concise definition of the types of senior living arrangements to be regulated. Because of the wide variety of housing options available to seniors, it is necessary to define a CCRC based on the services provided and the payment methodologies used to purchase those services.

WACCRA recommends that a CCRC be defined as it is today in Washington, an entity that provides the combination of housing and residential health care services that are fully or partially prepaid through an entrance fee and the monthly service fees. The definition stipulates that the CCRC and the resident are under a contractual agreement lasting for a period of greater than one year. Any entity meeting that definition should be subject to the CCRC regulations.

However, today in Washington a CCRC does not have to submit to any oversight unless it represents itself or refers to itself in advertising and marketing materials as a "registered continuing care retirement community" or "continuing care retirement community," as defined by chapter 18.390 RCW. This leaves it up to the individual entity to determine if they are subject to the State's registration process. This is a significant loophole that must be closed.

Other entities providing residential services to seniors outside of a CCRC, licensed assisted living facility, or skilled nursing facility should have protections afforded other "renters" in Washington as well.

However, these rental-type entity residents may also need future legislative protections for their expectations/rights.

Recommendation 2 in the study states: “Establish a more robust registration process.” This is contrary to the position of the states with the highest rated number of CCRCs. Seven of the eight states used to compare with Washington require licensure. In fact, most of the thirty-eight states where CCRC’s are regulated hold CCRCs to a licensure standard. This report suggests that registration is sufficient, but licensure is a higher standard and reflects a more stringent review of the capacity of an entity to meet its obligations. WACCRA believes that CCRCs should be licensed, and remain licensed, as long as they hold contractual obligations as defined above.

Oversight Structure and Authority

The omission of the OIC from a formal role in the plan for Oversight Structure and Authority is a critical concern. Neither the current office of aging in DSHS nor the AGO has the level of financial experience or knowledge to analyze and review financial protections and transparency envisioned in Recommendation 1. The plan for oversight structure and authority should be expanded to designate the OIC as the agency in reviewing, analyzing, and assessing all financial and actuarial data designed to ensure fiscal stability of CCRCs. Their work papers and results should be public and shared with CCRC management and current and prospective residents.

The OIC’s 2022 Report to the Legislature suggested a single-agency approach but acknowledged that although the recommendation might be ideal, it might not be realistic. Six of the eight state comparison groups used have a single-agency regulatory body. Only one, California, has multi-state oversight. As we have often stated, CCRC contracts are Long-term Care insurance products; other states have recognized this and regulated accordingly. We believe that the expertise the OIC has in the review and regulation of future healthcare expenses must be exercised in the review of CCRC financials to help ensure that the entities can meet their obligations.

Critical to the initial licensure of CCRCs is the inclusion of a certified actuarial plan. Such a plan must show financial projections demonstrating funding is available and adequate to ensure long-term future health care needs are met. This actuarial plan is to be updated with actual and projected data every three years, or as requested by the controlling agency, demonstrating that the CCRC continues to maintain the resources necessary to meet current and projected needs for the current and projected population. Accounting reports and displays need to identify the resources required to maintain financial viability.

They should also include an assessment of how the actual expenditures and revenue agree or differ from those projected.

Enforcement of Resident Rights and Protections

The report recommends significant improvements in the statutory framework for protecting and enforcing resident rights/expectations. We strongly support the clarification of the AGO’s authority under RCW 18.390 to treat violations of the resident rights/expectations provided in that Act as “per se” violations of the Consumer Protection Act without the restrictions in RCW 18.390.080(2). This will enable the AGO to intervene more quickly in cases involving violations of residents’ rights/expectations.

We also strongly support the use of California’s statutory protections for CCRC residents as a model for appropriate enforcement powers in Washington State. Particularly important are (1) the ability to seek court supervision of a community in financial distress and (2) the ability to impose a statutory lien on the facility’s property for amounts owed to residents and former residents for payments made to secure future health care. A statutory lien, enforceable in bankruptcy court, will also increase the likelihood that residents will receive all or a greater part of their refundable deposits than treating those claims as “preferred unsecured claims.”

Finally, we recommend a few enhancements to the State’s enforcement “toolbox.” First, that the controlling agency/ies be given specific statutory authority to issue enforceable “cease and desist” orders when a probable violation of resident rights/expectations has occurred. Orders create a stronger tool than mediation to bring a facility into compliance with the law. “Cease and desist” orders are used by AGOs in other states in Consumer Protection Act violations, (National Association of Attorneys General, Consumer Protection 101; www.naag.org//issues/consumer-protection/consumer-protection-101/). Similar authority is given to the Washington State AGO in cases of unlawful solicitation of charitable contributions (RCW19.09.277). Second, refundable entrance fee contracts include a provision by which the refund would accrue interest at the Federal Treasury Bill rate plus 2-3% or a similarly indexed rate. This would have the effect of encouraging refund repayment within a reasonable time as they would no longer be interest-free loans.

Conclusion

Again, WACCRA appreciates the work that DSHS, OIC and AGO have put into this report; these are complex issues, and they have summarized the work groups’ discussions and recommendations well. As the Agencies’ report states, “where there is no recourse there is no remedy.” WACCRA would like the legislature to recognize that without resources to enforce the regulations, there is no meaningful protection or remedy for Washington’s seniors living in CCRCs. The funding, resources, and recourse that legislation provides will proactively protect Washington’s CCRC residents.