



Residents News-Mail

BREAKING NEWS

The report from the Department of Social and Health Services (DSHS), the Attorney General's Office (AGO) and the Office of the Insurance Commissioner (OIC) has been released to the Legislature. The report is entitled "Addressing a Regulatory Oversight plan for Continuing Care Retirement Communities in Washington State" and represents over 9 months of work by the agencies and stakeholders, including WACCRA and LeadingAge WA. A copy of the report can be found [by clicking here](#).

As a reminder, the report and WACCRA's recommendations are focused on residents in **Independent Living** within CCRCs; the residents in higher levels of care already have consumer and other protections through state and federal regulations.

Six recommendations for improving consumer protection for residents of CCRCs

The agencies' report identified six recommendations for improving consumer protection for residents of CCRCs. They were:

1) Provision of more financial protection and transparency to residents by assigning a state agency to review financial/actuarial documentation along with resident contracts to ensure that a CCRC will be able to meet its long-term obligations. Further, the recommendation is to have that information available in a format that consumers can easily understand. These are critical as mandatory reporting of financials increases the transparency of the CCRC's financial condition providing an early warning system to help prevent instability and

assure that the CCRC has adequate assets to fund future care.

2) Expansion of the State's role in the review, verification, and validation of materials currently submitted by CCRCs in the registration process. The State's analysis of these materials ensures the integrity of CCRCs.

3) Extension of the AGO's statutory authority to include protections for residents under the consumer protection laws of Washington State. The ability of the state to intercede on behalf of residents is critical as there is no right without a remedy.

4) Establishment of an ombuds program focused on issues faced by CCRC residents. This gives residents defined rights supported and protected by the State without resorting to costly independent legal action.

5) Enhancement of CCRC operational transparency with defined operational standards and communication to residents of operational, policy or ownership changes including Board of Directors representation by residents all designed to provide residents with more visibility into their CCRC's operations.

6) Clarification of contracted services to be provided to residents, including the provision of off-campus services, in a manner that is clearly written in understandable language.

In addition, the report recommended that DSHS be the sole agency responsible for administration of such monitoring and oversight, with the AGO building on their current expertise in protection of consumer rights. In summary, the report highlights the need to move from Washington's current reactive regulatory approach, which cannot forestall future failures of CCRCs, to a better-managed CCRC marketplace.

WACCRA's Response to the DSHS Report

WACCRA finds that the report provides strong recommendations to enhance and expand consumer protection and transparency in CCRC operations. However, WACCRA has identified additional regulations that would further strengthen consumer protection, based on language found in other states' statutes governing CCRCs.

- Financial expertise brought by the State in the review of CCRCs must rely on

the OIC's expertise in the regulation of comparable products and services. Their experience in the actuarial and fiscal analysis of long-term financial promises is critical to ensuring CCRC financial stability. **WACCRA believes that the OIC must play the principle role in the review and evaluation of the financial stability of CCRCs.**

- Registration of CCRCs must be enhanced to require licensure of any organization offering a CCRC contract with pre-paid long-term care services because licensure provides a higher standard of review by the State.

WACCRA's position is that CCRCs must be licensed.

- Enforcement tools available to the State must be enhanced and include the ability to seek court-ordered supervision of a community in financial distress, the ability to impose a statutory lien to secure resident payments for future health care in bankruptcy or other financial downturns, the ability for the state to issue "cease and desist" orders, and the addition of an interest accrual feature (Prime plus 2-3% for example) to encourage re-payment of what are today interest-free loans on refund-eligible deposits. **WACCRA believes these enforcement tools must be part of the CCRC regulations.**

In addition, the DSHS report does not specifically address several issues that we believe must be included in legislation. These include:

- **Frequency of Actuarial Reporting:**

WACCRA seeks to have actuarial reports submitted every 3 years.

- **Oversight of and requirements regarding the use of a CCRC's funds for services not directly beneficial to residents of that CCRC:**

WACCRA endorses a more proactive approach that would require a CCRC obtain regulatory approval prior to entering transactions with its parent corporation or any affiliate or subsidiary and bars a CCRC from guaranteeing the obligations of its parent corporation or any affiliate or subsidiary.

- **Independent resident representation on the CCRC's Board of Directors.**

WACCRA believes that at least two residents should serve on the Board of Directors, that they be elected by a vote of all the residents and that official Board minutes, excluding matters discussed in executive session, be shared with residents.

- **Guarantees of future health care promised in CCRC contract.**

No state currently protects the CCRC's promise of future health care in the manner that they apply to other types of insurance policies. WACCRA believes that the CCRC promise of future health care protection in exchange for a pre-paid entrance fee meets the definition of an insurance contract worthy of protection under Washington State insurance regulations.

With these enhancements to Washington's CCRC regulations, our state will move from its current reactive regulatory approach, which cannot forestall future failures of CCRCs, to a well-managed CCRC marketplace. That marketplace will reflect lessons learned from states around the country, provide for meaningful transparency in the administration and financing of CCRCs, ensure financial and consumer protections for Washington seniors and take a progressive stand that the CCRC contract, with its pre-payment of health care costs, is an insurance contract worthy of protection.

If you have questions or comments about the report, contact your liaison or send an email to WACCRA.News@outlook.com.

As part of our continuing efforts to improve protections for residents in independent living in Washington CCRCs, WACCRA's legislative committee is working on a plan for contacting legislators across the state. We will be asking you to participate and will have more to announce as we get closer to the start of the legislative session in January. Stay tuned!

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