

CHAPTER 19
CONTINUING CARE RETIREMENT
COMMUNITY RULES

Authority

N.J.S.A. 52:27D-358.

Source and Effective Date

R.2003 d.282, effective June 17, 2003.
See: 34 N.J.R. 3413(a), 35 N.J.R. 3297(b).

Chapter Expiration Date

Chapter 19, Continuing Care Retirement Community Rules, expires on June 17, 2008.

Chapter Historical Note

Chapter 19, Rules of Practice of Bureau of Housing Inspection, was adopted as R.1971 d.94, effective June 18, 1971. See: 3 N.J.R. 75(b), 3 N.J.R. 129(b).

Chapter 19, Rules of Practice of Bureau of Housing Inspection, was repealed by R.1989 d.205, on May 8, 1980, effective June 1, 1980. See: 12 N.J.R. 305(a).

Chapter 19, Continuing Care Retirement Community Rules, was adopted as new rules by R.1988 d.60, effective February 1, 1988. See: 19 N.J.R. 597(a), 20 N.J.R. 256(b).

Subchapter 8, Nonbinding Reservation Agreements, was adopted as R.1988 d.190, effective May 2, 1988. See: 20 N.J.R. 347(a), 20 N.J.R. 976(a).

Pursuant to Executive Order No. 66(1978), Chapter 19, Continuing Care Retirement Community Rules, was readopted as R.1993 d.79, effective January 15, 1993. See: 24 N.J.R. 1146(a), 25 N.J.R. 686(b).

Pursuant to Executive Order No. 66(1978), Chapter 19, Continuing Care Retirement Community Rules, was readopted as R.1998 d.59, effective December 22, 1997. See: 29 N.J.R. 3761(a), 30 N.J.R. 335(a).

Chapter 19, Continuing Care Retirement Communities, was readopted as R.2003 d.282, effective June 17, 2003. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 5:19-1.1 Purpose
- 5:19-1.2 Affirmative determination
- 5:19-1.3 Definitions

SUBCHAPTER 2. CERTIFICATION

- 5:19-2.1 Certification required
- 5:19-2.2 Nonapplicability
- 5:19-2.3 Request for Letter of Nonapplicability
- 5:19-2.4 Application for certification; submission and fees
- 5:19-2.5 Notice of filing
- 5:19-2.6 Order of certification
- 5:19-2.7 Notice of correction
- 5:19-2.8 Order of rejection
- 5:19-2.9 Petition for reconsideration
- 5:19-2.10 Automatic certification
- 5:19-2.11 Order of revocation
- 5:19-2.12 Cease and desist orders; injunctions
- 5:19-2.13 Annual report
- 5:19-2.14 Consolidated filing
- 5:19-2.15 Cyclical inspections

SUBCHAPTER 3. APPLICATION FOR CERTIFICATION

- 5:19-3.1 Contents of application for certification
- 5:19-3.2 Form of the application for certification
- 5:19-3.3 Amendment of the application for certification
- 5:19-3.4 Review of requests for amendment
- 5:19-3.5 Public inspection of application for certification
- 5:19-3.6 Copies of the application for certification

SUBCHAPTER 4. DISCLOSURE STATEMENT

- 5:19-4.1 Disclosure statement required
- 5:19-4.2 Contents of disclosure statement
- 5:19-4.3 Form of disclosure statement
- 5:19-4.4 Filing of disclosure statement
- 5:19-4.5 Amendment of the disclosure statement
- 5:19-4.6 Review of request for amendments
- 5:19-4.7 Use of the disclosure statement
- 5:19-4.8 Assistance by provider
- 5:19-4.9 Annual disclosure statement

SUBCHAPTER 5. ADVERTISING

- 5:19-5.1 General standards
- 5:19-5.2 Specific standards

SUBCHAPTER 6. CONTRACTS

- 5:19-6.1 General standards
- 5:19-6.2 Notice of rescission
- 5:19-6.3 Deposits and application fees
- 5:19-6.4 Provisions required
- 5:19-6.5 Rescission and removal

SUBCHAPTER 7. FINANCIAL RESPONSIBILITY

- 5:19-7.1 Liquid reserves
- 5:19-7.2 Financial responsibility
- 5:19-7.3 Department's lien
- 5:19-7.4 Escrow requirements
- 5:19-7.5 Provider's collateral
- 5:19-7.6 Bankruptcy or insolvency of provider
- 5:19-7.7 Initial occupancy

SUBCHAPTER 8. NONBINDING RESERVATION AGREEMENTS

- 5:19-8.1 Scope
- 5:19-8.2 Application
- 5:19-8.3 Advertising standards
- 5:19-8.4 Reservation form
- 5:19-8.5 Effective period
- 5:19-8.6 Notice
- 5:19-8.7 Period of validity of certification

SUBCHAPTER 9. ADMINISTRATION

- 5:19-9.1 Enforcing agency designated
- 5:19-9.2 Complaints and investigations
- 5:19-9.3 Rights to a hearing
- 5:19-9.4 Conduct of hearing
- 5:19-9.5 Consent orders
- 5:19-9.6 Applicability
- 5:19-9.7 Construction
- 5:19-9.8 Waiver
- 5:19-9.9 Severability

SUBCHAPTER 1. GENERAL PROVISIONS

5:19-1.1 Purpose

The Continuing Care Retirement Community Regulation and Financial Disclosure Act (P.L.1986, c. 103, N.J.S.A.

52:27D-330 et seq.) became effective March 2, 1987. The rules contained in this chapter are intended to enable the Department of Community Affairs to implement the Act and to enable affected providers to more easily and more fully comply with the requirements of the Act.

5:19-1.2 Affirmative determination

(a) The Department shall issue a certificate of authority upon its affirmative determination that all of the following requirements have been met:

1. The provider can fulfill its obligations under the continuing care agreement if the resident complies with the terms of the offer;

2. There is reasonable assurance that all proposed improvements can be completed as represented;

3. The provider, its officers and/or principals have not been convicted of a crime in this State, the United States, or any other state or foreign country within the past 10 years, the seriousness of which, in the opinion of the Department, warrants the denial of certification;

4. The provider, its officers and/or principals have not been subject to any permanent injunction or final administrative order restraining a false or misleading plan involving a facility disposition, the seriousness of which, in the opinion of the Department, warrants the denial of certification; and

5. The disclosure statement requirements have been satisfied.

5:19-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

“Act” means the Continuing Care Retirement Community Regulation and Financial Disclosure Act (P.L.1986, Chapter 103, N.J.S.A. 52:27D-330 et seq.), together with any amendatory or supplementary acts.

“Advertising” means and includes the publication or causing to be published of any information offering for disposition or for the purpose of causing or inducing any other person to enter into a continuing care agreement in a continuing care retirement community, including the continuing care agreement to be used and any photographs or drawings or artist’s representation of physical conditions or facilities on the property existing or to exist by means of any:

1. Newspaper or periodical;
2. Radio or television broadcast;
3. Written, printed or photographic matter;

4. Billboards or signs;

5. Display of model facilities or units;

6. Material used in connection with the disposition or offer of the facility by radio, television, telephone or any other electronic means; or

7. Material used by provider or their agents to induce prospective residents to visit the facility, particularly gift certificates which require the holders of such certificates to attend or submit to a sales presentation by providers or their agents.

The term “advertising” does not include stockholder communications, such as annual reports, interim financial reports, proxy materials, certification statements, securities prospectuses, applications for listing securities on stock exchanges, and the like, and any and all communications addressed and relating to the account of any person who has previously executed a continuing care agreement.

“Application fee” means the fee an individual is charged, in addition to an entrance fee or any other fee, to cover the provider’s reasonable cost for processing the individual’s application to become a resident at the facility.

“Blanket encumbrance” means a trust deed, mortgage, judgment or other lien or encumbrance, including an option or contract to sell or a trust agreement, affecting a continuing care retirement community of more than one unit therein, but does not include any lien or other encumbrance arising as the result of the imposition of any tax assessment by any public authority.

“Commissioner” means the Commissioner, Department of Community Affairs.

“Continuing care” means the provision of lodging and nursing, medical or other health related services at the same or another location to an individual pursuant to an agreement effective for the life of the individual or for a period greater than one year, including mutually terminable contracts, and in consideration of the payment of an entrance fee with or without other periodic charges. An individual who is provided continuing care is one who is not related by consanguinity or affinity to the person who provides the care.

“Department” means the Department of Community Affairs.

“Entrance fee” means a transfer to a provider of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of a specified person as a resident in a facility, and includes a fee which is refundable upon the death, departure or option of the resident.