

Preliminary Exposure Draft

For Comment and Review

Text of Model Financial Responsibility Law

1. This Law shall be known as “The Continuing Care Retirement Community Financial Responsibility Act” and may be referred to as the CCRC Financial Responsibility Act.
2. The legislature finds that it is desirable that residents of a Continuing Care Retirement Community (CCRC) or participants in a Continuing Care At Home (CCAH) program have the means to provide for their care without becoming a burden on the state or causing an undue financial drain on the CCRC or CCAH at large.
3. The legislature further finds that few such residents or participants, or prospective residents or participants, are able to evaluate the prospective cost of long term care and this means that some residents or participants may be ill-equipped financially to meet those costs when and if they arise. Therefore, it is best that needed means to meet these costs be established before residence or participation begins.
4. All residents of a CCRC or all participants in a CCAH program shall at all times be able to establish financial responsibility as defined below, and shall be able to provide evidence of such financial responsibility at any time during such residence or participation on demand by an appropriate authority for good reason within 48 hours of proper notice.
5. “Financial Responsibility” means demonstration of ability to meet the full cost of higher level confinement. Such demonstration may be by deposit, surety bond, long term care insurance or any combination of the same. The full cost shall be the actual per diem cost of the CCRC or CCAH from time to time for the highest acuity level of care multiplied by a duration of confinement equal to the 95th percentile of the longest expected longevity of a person of like age. In the absence of evidence to the contrary such duration shall be deemed to be 1,500 days.

6. If a facility wishes to use a standard other than the deemed standard of 1,500 days, then longevity for the purposes of this Act shall be determined using a mortality table certified by a qualified actuary to be applicable to the population enrolled in the particular CCRC or CCAH or, in the absence of sufficient experience data, applicable to a CCRC population according to the most recent published CCRC mortality data. "Qualified actuary" means a person who meets qualifications set by the State in which a CCRC or CCAH contract is issued with due regard to the qualifications established for Associates or Fellows of the Society of Actuaries or standards set by other actuarial organizations found by the state to be equivalent.
7. "Evidence of financial responsibility" means any of the following (but only to the quantified extent that the particular evidence reduces or eliminates the longevity exposure otherwise involved):
 - a. Provision of a full-care inclusive CCRC or CCAH contract (a Type A contract) by the provider shall absolve the provider and the resident or participant of any further obligations under this CCRC Financial Responsibility Act.
 - b. Evidence of long term care insurance coverage including proof that the coverage is in effect at the time such evidence is provided,
 - c. Evidence of an escrowed deposit in an amount sufficient to meet the financial responsibility obligation,
 - d. Evidence of a surety bond likewise in an amount sufficient to meet the financial responsibility obligation,
 - e. Certification of a support commitment by a charitable organization in an amount sufficient to meet the financial responsibility obligation, provided such charity has been in existence for at least five years and has the means to meet such commitment, or
 - f. Any combination of the above sufficient to demonstrate financial responsibility as defined hereunder.

8. The provider of the CCRC or the CCAH shall be responsible for ensuring that such evidence of financial responsibility exists at the time that a contract for residence or care is entered into and shall reestablish continued financial responsibility annually on or within one month of the anniversary of such contract.
9. Failure of a CCRC resident or CCAH participant to maintain in full force and effect such financial responsibility shall relieve the provider organization of any obligations under this Act.
10. Failure of the CCRC or CCAH provider to comply with the financial responsibility provisions of this Act shall obligate the provider to provide care at higher levels of care acuity at no additional cost to the resident or participant.
11. This law shall be effective for all contracts entered into for CCRC or CCAH services on or after an effective date of January 1, 20??.