

Guide to Continuing Care Retirement Community Dispute Resolution for Independent Living

During 2009 and 2010, the Florida Association of Homes and Services for the Aging (FAHSA) and the Florida Life Care Residents Association (FLiCRA) have convened a joint task force to review issues of mutual interest.

One of the by-products of this year's work was to ensure that residents and providers are informed about existing rights under the law that ensure communication to resolve disputes even the most minor.

The following information is provided as a best practice step-by-step process to facilitate communication.

Continuing care retirement communities (CCRC's) are home to over 25,000 older Floridians. The advantages of entering into a CCRC contract are many, including an active lifestyle with the assurance of knowing that nursing care and other long-term care services will be available if needed.

Although continuing care contract holders are typically satisfied with the services they receive, there are times when problems arise that are not easily resolved. When this happens, contract holders have several options available to them.

In recommended order:

- **Take Your Complaint to Management** -- The first place to start is with the chief executive officer or executive director of the CCRC. Resident satisfaction is important and often used as an indicator of staff performance. Management understands that if residents are unhappy, it can affect the general morale and environment of the community. It can also affect marketing.

With rare exceptions, management will make every effort to respond to complaints. Often times, concerns can stem from poor communication or a misunderstanding that a one-time meeting can solve.

Keep in mind that management's responsibility is to ensure the financial health of the community and the satisfaction of contract holders as a group. There are times when the good of the whole must take precedence over the desire of an individual or small group of residents.

- **Use the Resident's Council as a resource** -- If management is not responsive or a desired resolution is not achieved, the next step is to bring your issue to the resident's council. The people you elect to represent you on the resident's council may be willing to intervene on your behalf, especially if the complaint affects other contract holders. If nothing else, the resident's council can be an effective sounding board. The resident's council by law is the formal body to represent resident interests in a community.

- **Contact the Appropriate Association** –FAHSA and FLiCRA do not have legal authority to solve a complaint. However, each association when appropriate can intervene in a complaint resolution process. They can sometimes provide helpful information or insight about the laws or rules governing CCRCs. They may also be able to refer you to a resident group or a chief executive officer from another CCRC that had a similar problem that was resolved to the satisfaction of affected parties.
- **File a Complaint with the Department of Financial Services, Division of Consumer Services** – Florida law provides a complaint process for residents for all disputes other than challenges involving increases in monthly maintenance fees. You can contact this office at 850-413-5818 or 1-877-693-5236.
- **Request an OIR Inspection** -- The Office of Insurance Regulation (OIR) has the responsibility to oversee CCRCs. Pursuant to section 651.111, Florida Statutes, any interested party may request an inspection of the records and related financial affairs of a CCRC by submitting a signed request that describes the alleged violation of law or rule. Unless OIR determines that the complaint is without merit, OIR must make an inspection of the community within 30 days. OIR must notify the complainant of the inspection outcome and the course of action that will be taken. It's important to note that the OIR can only intercede when there is a violation of statute; it does not have authority to mediate disputes relative to a resident contract.

You may contact them at:

Florida Office of Insurance Regulation
Life and Health Financial Oversight, CCRC Section
200 East Gaines Street
Tallahassee, Florida 32399-0327

- **Request Mediation or Arbitration** -- Chapter 651.123, Florida Statutes, provides an alternative dispute process with two options:

A resident or provider can seek non-binding mediation and or binding arbitration when mediation fails to resolve the dispute. Disputes over increases in monthly maintenance fees are not subject to mediation or arbitration. Rules 690-193.062 and 193.063, Florida Administrative Code, explain how the process works and the fees involved. A copy of this rule is available from FLiCRA.

Authored by:
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