Florida Life Care Residents Association
FLiCRA
A resident-led association to ensure quality of life in retirement communities

The Resident CONNECTION

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President's Message

The Florida Life Care Residents Association (FLiCRA) has experienced remarkable success for over 27 years with its proposed legislation enacted for the benefit and protection of residents of continuing care retirement communities (CCRCs). This success did not come about automatically. With strong membership support, the success represents work throughout each year on the part of the FLiCRA Board, FLiCRA executive director, general counsel, and legislative advocacy staff. Some of this success can also be attributed to the fact that issues involving CCRCs can be seen as non-partisan and thereby should not be as vulnerable to political party divisions. Of tremendous importance are the ongoing actions FLiCRA has taken to accomplish its mission through strategic collaboration and maintaining relationships with the legislature and relevant state regulatory agencies.

The State Legislative Delegation public hearings in legislative districts throughout the state were held this year well before the start of the 2017 Legislative Session. It was good to have reports from the board and its regional directors that this year more and more FLiCRA presentations were made at those hearings. Those brief presentations were designed to let the state elected officials be aware of FLiCRA and its purpose, mission, goals and legislative success, and to request their support of any upcoming proposed FLiCRA bill(s).

As to what that bill or bills turn out to be brings us to an exceptional challenge confronted in this new year. The timeline regarding proposed legislation always has to focus on the fact that the 60-day state legislative session not only starts early in the year, but the legislative process begins in the months before that time when bills must be filed and heard in the House and Senate committees that determine which proposed bills to consider before they can move forward for full legislative deliberation (if at all).

A Joint Task Force of FLiCRA and LeadingAge Florida (the association of owners, operators and management of CCRCs) in the summer of 2016 proposed several amendments to Chapter 651, Florida Statutes, with intent to file a bill to file for the 2017 Session. There was full agreement that a bill must be drafted that addressed the abuse of the current process that resulted in substantial delay in OIR's ability to take remedial action involving the contested new ownership of University Village, a Tampa CCRC. The situation has significantly impacted the residents at University Village both from a financial perspective and quality of life perspective.

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"A Resident-Led Association to Ensure Quality of Life in Retirement Communities"

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After nearly two years of court proceedings, last fall University Village filed for bankruptcy.

A draft bill with a possible four to five proposed provisions was agreed on by the Joint Task Force and respective association boards in late 2016.

Then a game changing development occurred. In mid-December, the Office of Insurance Regulation sent a draft of another bill to FLiCRA and LeadingAge Florida. This multi-page bill proposed numerous amendments throughout Chapter 651. When it was presented to the Governor's Continuing Care Advisory Council (GCCAC) at a special January meeting, the Council Chairman (who is also a member of LeadingAge Florida and a member of the 2016 FLiCRA/LeadingAge Florida Joint Task Force) voiced strong objections to the scale and much of the content and context of the changes sought in the OIR agency bill.

Aware of LeadingAge's negative reaction to the new proposals, FLiCRA had directed a letter to the Council before the meeting that laid out FLiCRA's concern on the possible influence on the "dynamics that are present with the existing relationships between OIR, FLiCRA and LeadingAge Florida." The GCCAC urged OIR to meet with FLiCRA and LeadingAge for a solution.

The challenge to be met by FLiCRA, as outlined to GCCAC, comes freighted with decision-making involving known contentious territory, requiring significant skill and caution in handling, weighted by the intention to avoid a rift with either, or both, LeadingAge and OIR.

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The Region 6 Director position is open. Interested residents in Southwest Florida may contact Bennett Napier, CAE at bennett@executiveoffice.org for more information.

CCRC Reform

The following two news items were released in January as a FLiCRA E – Newsletter.

They are being reprinted in the 1st Quarter Resident Connection as some members are not on the email alert system.

FLiCRA Letter to Governors Continuing Care Advisory Council

January 10, 2017

Joel Anderson, CEO
Village on the Isle
920 Tamiami Trail South
Venice, FL 34285

RE: Governors Continuing Care Advisory Council

Dear Mr. Chairman,

We appreciate the role of the Governors Continuing Care Advisory Council as it relates to Chapter 651, Florida Statutes. The Council meeting on January 18th will be an important event to set the tone for current and future legislation. Additionally, it may also influence the dynamics that are present with the existing relationships between OIR, FLiCRA and LeadingAge Florida.

As an individual, you personally have participated in Joint Work Groups/Task Forces with FLiCRA and LeadingAge Florida. Through that exposure you have witnessed the power of open communication and positive outcomes that have been achieved from collaborative debate and decision making.

The FLiCRA Board of Directors believes it would be difficult to not have some legislative reform in 2017 knowing full well the scope and seriousness of what occurred at University Village. FLiCRA is committed to an open and collaborative relationship to achieve middle ground relative to final legislative proposals that are put forth, especially those that directly impact CCRC residents. However, FLiCRA believes that taking no action in 2017 is not a viable option.

FLiCRA does understand and accept that individual members of the Council want to ensure adequate deliberations have occurred before any comprehensive reform takes place.

With that said, FLiCRA also recognizes that University Village presented a unique set of circumstances that has never been witnessed before. Although, only one CCRC presented a considerable backdrop and drive for some of the proposals in the OIR bill, some of the loopholes could be abused by other providers in the future without change(s) to the current statute.

I think everyone involved in the CCRC industry believes that the vast majority of CCRC operators, owners and managers are well-experienced, well-intended and successful in their roles delivering quality services to thousands of seniors on a daily basis. However, it cannot be ignored that the quality of life and financial footing of over 500 residents at University Village in Tampa has been significantly impacted and forever eroded and the CCRC model in terms of consumer confidence has been damaged with the less than favorable news coverage during the last year and a half.

We appreciate the Council's thoughtful consideration of this monumental task at hand.

CCRC Reform Article
by Mike Moline

Proposed reforms to Florida's continuing care retirement community regulations ran into heavy flak Wednesday January 18 during an advisory council meeting, with the body's president lamenting a breakdown of trust in the Office of Insurance Regulation.

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Joel Anderson, chairman of the Governor's Continuing Care Advisory Council, complained that office staff unexpectedly unloaded a 61-page rewrite of the statute governing the facilities, also known as CCRCs.

Anderson said he hoped the staff would not view his comments as overly "inflammatory," saying the council has worked productively with them in the past.

Then he unloaded.

"I promise you that these proposed changes to the law would cause an immediate impact on good-performing CCRCs with proven track records, and also lead to severe consequences for the future of Florida's CCRCs," he said.

As an executive at the Village on the Isle retirement community in Venice, he impresses on his colleagues the importance of "trust, rapport, and credibility with each other," he said.

"These core beliefs apply to us as well, and I am concerned that they do not exist in today's working relationship with the office and the council and for the Florida CCRCs," he continued.

"My question is, 'What has happened … to cause the OIR to act on its own and abandon this approach when it has been proven to work for decades," Anderson said.

"We won't survive if we don't trust each other and trust the process. A unilateral move by any stakeholder, even with the best intentions, can cause a misstep for us as a whole."

Following hours of testimony and debate, the council voted to encourage the office to continue to investigate increased oversight of ownership changes in financially troubled communities.

But the members turned thumbs-down on proposals to tighten minimum liquidity reserves and other proposed regulations. They wanted emergency repairs where necessary this year, and time to draft broader reforms for the 2018 legislative session.

"We really need a proper vetting of these issues overall, with all the stakeholders involved," Anderson said in an interview following the meeting.

Of the insurance office staff, he said: "We hope that they will continue to use the council as their resources for advice and support in any of these changes." He offered to confer with the office via telephone conference call or in person.

The dressing-down came during a special meeting of the council, which advises the insurance office about CCRC regulation. It comprises representatives of the industry, accountants and facility residents.

Anderson complained that, during its last meeting in September, office staff said they planned reforms in reaction to a series of CCRC bankruptcies — most notably that of University Village in Tampa.

The office has accused the facility of filing false information, failing to pay more than $4 million in refunds to residents, taking on new residents while being "financially insolvent," and conducting business in a fraudulent or dishonest manner.

The council asked the office to meet with LeadingAge Florida, a trade organization representing most Florida CCRCs, and the Florida Life Care Residents Association, to come up with a solution.

But council members never had warning of the scale of the changes the office would seek, Anderson said.

"I never believed that we'd end up where we are today," Anderson said.

Rich Robleto, deputy commissioner for life and health, replied that staff members were trying to solve a threat to senior citizens who place their trust in an insurance product. "That trust relies in part on the understanding that the office oversees the CCRC industry, and they expect that the office can intervene when the CCRC's ability to meet its promises is in jeopardy," Robleto said.

In light of the insolvencies, "further legal protections are needed for us to be able to fulfill that trust that's put on us. We think it's dangerous when people think the government can do something for them that it cannot."

OIR believes the reforms would give the office greater oversight of facility finances, including over dividends and reserves designed to make sure CCRCs meet their obligations to house and care for residents. According to the OIR presentation, such reserves would have to be banked with the state Bureau of Collateral Management.

The office would also oversee ownership changes and facilities expansions. Residents would see improved consumer protections, including notice of any examination reports or legal proceedings.

Anderson and other members of the council — including CCRC representatives and Jacksonville CPA Trey Gunn — worried the regulations would put a financial straitjacket on the facilities. And punish well-run facilities along with the bad.

Ed Kenny, president and CEO of Des Moines-based LCS, which operates CCRCs, said his company has pulled out of plans to acquire a troubled Florida community because of the proposals.

Robleto said the office did confer with LeadingAge Florida and the residents, and planned continued discussions. The draft bill, he said, staff presented for purposes of discussion.

Following the meeting, Robleto said he was grateful for the council's advice.

"We will take these back, and we will see what we can do without proposed legislation to recognize some of the good points they made," he said.

"They didn't direct us to change the bill," he continued. "They gave us advice. We will continue to work with other parties. We're still in the gathering-of-information stage, but this has been very helpful for us."

http://floridapolitics.com/archives/230566-ccrc-reform

Update to CCRC Reform

In December 2016, the Office of Insurance Regulation released a 62-page draft bill for CCRC Reform. This bill went beyond proposed legislation that had been developed between FLiCRA and LeadingAge Florida during the summer and fall of 2016.

During January, FLiCRA and LeadingAge Florida as well as a number of individuals and companies involved in the CCRC industry, both in the state and nationally provided input to OIR on their December draft bill. On January 27, 2017, a revised 49-page bill was released by OIR.

The Senate sponsor is Tom Lee. The House sponsor was not released prior to the printing of this newsletter. Due to timing, neither bill has a bill number for members to reference since they were not officially released from the bill drafting office prior to printing of this newsletter.

The FLiCRA board of directors met February 15th to finalize its position on CCRC reform relative to the January 27th proposed legislation. This newsletter was printed before the board meeting was held so FLiCRA's final position is not included in this newsletter.

In January, the LeadingAge Florida board voted to oppose the OIR bill. However, LeadingAge Florida has continued open communication with FLiCRA and is willing to work on some reform.

On February 17th, the Governors Continuing Care Advisory Council held a teleconference meeting to provide the opportunity for further input on draft legislation to OIR.

Insurance Commissioner Announces Agreements for 10-Year Long-Term Care Insurance Rate Guarantees by MetLife & Unum

Tallahassee, Fla. – Florida Insurance Commissioner David Altmaier has made rate filing decisions on long-term care insurance products for Metropolitan Life Insurance Company ("MetLife") and two subsidiaries of the Unum Group, Unum Life Insurance Company of America and Provident Life and Accident Insurance Company ("Unum"). These decisions reflect agreements by MetLife and Unum to give their policyholders guaranteed certainty about the cost of their long-term care insurance for the next 10 years. Rates approved by the Office will be phased-in by the insurance companies incrementally over an initial three-year period, with average monthly premium increases ranging from $4 to $44 for MetLife and $5 to $55 for Unum. During the next seven-year period, rates will be guaranteed, with no additional rate changes for affected policyholders. In addition to the rate guarantee, policyholders will also be given a range of benefit options to choose from in mitigating the rate increase. These include allowing the policyholder to accept a reduction or removal of the inflation factor, reduction in the daily benefit provided for in the policy or an increased elimination period. It also includes a non-forfeiture provision that allows policyholders who do not wish to make future premium payments to accept a paid-up policy with maximum benefits equal to the premiums they have already paid for in the policy.

At hearings held in August to receive public input about the proposed long-term care rate increases, policyholders testified about the need to plan for insurance premium increases and to have certainty about future projected costs. This testimony and the hundreds of comments received from policyholders and others proved invaluable in structuring the rate guarantee and benefit options.

"The Office will continue to encourage other long term care insurers to approach rate needs in a similar fashion for the benefit of their policyholders, many of whom are on fixed incomes. This plan effectively balances the company's need for rate increases against the impact that those increases have on policyholders who have invested in these products over a period of many years," said Commissioner Altmaier.

The increases for MetLife and Unum will go into effect over the next year, although the exact date may vary based on anniversary date and form number. The companies will send notices to the policyholders before the increases take effect, along with information outlining other benefit options they may choose to mitigate the increase. A summary of the Office's approved rate changes are included as an exhibit in each company's Consent Order, which can be found in the "Additional Information" section below.

For MetLife policyholders, the individual monthly premium impacts associated with the rate changes are listed on page 7.

FLiCRA Promotional Shirts

Recently, FLiCRA Chapter 126, Indian River Estates East, in Vero Beach designed promotional shirts with Morningstar Screen Printing. Joe Scattaregia, chapter president has offered to coordinate efforts with other chapters to obtain "large lot" pricing with the vendor. Interested chapters may contact Mr. Scattaregia at (321) 505-4881.

MetLife (range $4 to $44)

Long-term Care Insurance Policy Form Series Products File Log #:16-09734	Average Monthly Premium Increase Year 1	Average Monthly Premium Increase Year 2	Average Monthly Premium Increase Year 3	Average Monthly Premium Increase Years 4-10	Total Monthly Premium Increase Over 10 Years
Series LTC97 1LTC-97-FL	$25	$29	$35	$0	**$89**
Series VIP1 LTC-IDEAL-FL, LTC-PREMIER-FL, LTC-VALUE-FL	$31	$37	$44	$0	**$112**
Series VIP2 (Era 1) LTC-IDEAL-FL	$30	$35	$40	$0	**$105**
Series VIP2 (Era 2) LTC-VAL-FL, LTC2-PREM-FL	$19	$21	$23	$0	**$63**
Series Group GPNP99-LTC	$4	$5	$5	$0	**$14**
Series TIAA LTC-FL.02 Ed. 11-91, LTC-E-FL.02 Ed. 11-91, LTC-FL.02 Ed. 2-98, LTC-E-FL.02 Ed. 2-98, LTC.03 (FL)	$25	$28	$32	$0	**$85**

For Unum policyholders, the individual monthly premium impacts associated with the rate changes are listed below:
Unum (range of $5 to $55)

Long-term Care Insurance Policy Form Series Products File Log #: 16-08161 and 16-15455	Average Monthly Premium Increase Year 1	Average Monthly Premium Increase Year 2	Average Monthly Premium Increase Year 3	Average Monthly Premium Increase Years 4-10	Total Monthly Premium Increase Over 10 Years
B.LTC, TQB.LTC	$5	$6	$7	$0	**$18**
NH5092,NH5192,NH5292,NH5392,NH5492, NH5592	$35	$43	$55	$0	**$133**
LTC94, LTC94Q	$31	$39	$50	$0	**$120**
RLTCP03, LTCP03, LTCT03 (These three forms were issued by Provident Life & Accident Insurance Company)	$24	$30	$37	$0	**$91**

**A premium increase was not requested for policy form numbers LTC5091, LTC5191, LTC5291, LTC5391, LTC5491, LTC5591 (Individual Long-Term Care Indemnity Policy) and GLTC04, RGLTCO4 (Group Long-Term Care Indemnity Policy, Group Long-Term Care Reimbursement Policy) within these filings and therefore the schedule above does not apply to these policies.*

For general information about long-term insurance or the public hearings involving MetLife and Unum, visit the Office's "Long-Term Care Public Hearings website at http://www.floir.com/Sections/LandH/LongTermCareHearing.aspx

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President's Message Cont.

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Since that fateful meeting, through interactions with LeadingAge, FLiCRA does have indications that LeadingAge is open to addressing certain aspects of reform to F.S. 651 during 2017. LeadingAge Florida desires more time to allow broad deliberation and research on the "other more complex topics in the OIR bill." It's possible those areas could be worked on by a Joint Task Force over the spring and summer to file an additional bill for the 2018 Legislative Session.

This shared responsibility from differing standpoints, to continue to achieve the best care in CCRCs, has been shown over a number of years to maintain more than just a semblance of balance through the demonstrated respect of each other's perspective and abilities to work in our separate roles. Working together in this format, along with OIR, has historically forestalled potential opposition during the legislative process, as known problematic issues were worked out in advance in practical consideration of what proposals have the greatest chance of getting passed, while remaining effective in achieving a common goal.

Be assured that the main consideration for your FLiCRA Board representatives on the Task Force and state board as a whole is for the best interest of residents, while recognizing that the abiding emphasis must be balanced with overall resident welfare being served by a healthy industry, and by enforceable legislation.

Strong FLiCRA Membership Means a Strong FLiCRA Voice.

Pat Arends
FLiCRA President