



The Resident CONNECTION

4th Quarter 2020



President's Message

It has been almost a year since our lives were changed by what became a world-wide pandemic. If we list our losses, we can count our feelings of isolation, our loss of travel opportunities, our freedom of association with

groups and activities we so enjoyed, and especially the loss of loved ones who succumbed to the COVID-19 virus.

In-person visits to most communities had to be canceled. I had planned to meet with many of you to talk about Florida Life Care Residents Association (FLiCRA), its accomplishments and the value of membership.

Our Annual Membership meeting was held as usual in November. By using the wonderful technology of Zoom, we had more attendees than usual and more of us were able to hear directly about the development of new regulations by the Office of Insurance Regulation. The passage of revisions to Florida Statutes 651 in 2019, that took effect January 1, 2020 after several years of working towards its passage, resulted in more security for residents in Continuing Care Retirement Communities.

The work of FLiCRA continued. FLiCRA staff continued to keep us informed of the ongoing communications with Florida's legislators and the Governor's office. Conversations continue with Leading Age Florida to monitor market trends for Florida CCRCs.

FLiCRA is producing a new video that will describe FLiCRA, its purpose and accomplishments. It will be available by the end of December 2020 and distributed to local chapters. It is intended to be a resource for your chapters to introduce new residents in your communities to FLiCRA and to encourage their membership.

The FLiCRA office has updated the FLiCRA CCRC Finances Handbook for Chapters based on the new state law and rules that were developed following the passage of the recent legislation. In addition, the guide is available in layman's terms.

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This guide is available for all chapters and the layman's terms document is available for download from the FLiCRA website at www.flicra.com/news/florida-statute-651-layman/.

Your state board continued to meet, not in person, but by using Zoom. Board members have been busily engaged in preparing a guide to help chapters coordinate activity when there is a Call to Action for us to influence elected officials in their decisions.

There are many avenues of activity you can take, including phone calls, letter writing, emailing, and personal appearances. This guide will assist you in preparing in advance so when time is of the essence, you will have a plan of action in place.

As we look to the new year, we can be hopeful that a vaccine will be available for all of us, that we will feel confident and safe in resuming our in-person activities, and that we can successfully continue our mission to keep all residents of Continuing Care Retirement Communities secure and healthy.

Diane Dalsimer, FLiCRA State Board President

EMMA - An Online Resource for Residents

Many/most CCRCs rely on municipal bond financing as part of their financing portfolio. These public bond issues and municipal securities market are regulated by the Municipal Securities Rulemaking Board (MSRB). EMMA is a service of the MSRB, a self-regulatory organization whose mission is to protect investors, state and local governments and other municipal entities, and the public interest by promoting a fair and efficient municipal securities market. The MSRB fulfills this mission by regulating the municipal securities firms, banks and municipal advisors that engage in municipal securities and advisory activities.

If your CCRC is financed by bonds through public bonds, then data is available. For those CCRCs where financing is from banking institutions, those CCRC's information is not part of the EMMA system.

To further protect market participants, the MSRB provides market transparency through its EMMA website. The MSRB also serves as an objective resource on the municipal market, conducts extensive education and outreach to market stakeholders, and provides market leadership on key issues.

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Best Practices for Calls to Action - Updated Fall 2020

Purpose: The purpose of this document is to provide FLiCRA chapters with guidance on procedures to follow when implementing “Calls to Action” from the FLiCRA state board of directors. Because of the variety of chapter sizes and management structures, there are no “one size fits all” procedural steps to take. Rather, the following information and suggestions focus on what might be done to best use the assets at your CCRC when responding to these calls.

Background: FLiCRA is the oldest and largest CCRC resident-led association in the United States, with nearly 14,000 members. Since its start in 1989, FLiCRA has had a very positive influence on many legislative actions that have benefited CCRC residents.

Much of this success has resulted from “grassroots action” taken by CCRC residents in response to Calls to Action issued by FLiCRA. Calls to Action may occur at any time during the year. They basically describe the background, content and impact of the issue being addressed (usually proposed legislation). They also provide the contact information, both electronic and mail, of the recipients, as well as sample letters and a deadline for submission.

There is usually a short time frame between when Calls to Action are received by the Chapters and the deadline for action to be completed. For this reason, it would be very helpful for Chapters to have plans ready to implement in advance of when Calls to Action are received.

Preparations: There are two necessary steps in responding to Calls to Action, (1) spreading the word and (2) facilitating the response. Some factors to consider are:

A. Well-informed residents are usually the most responsive to Calls to Action. During the legislative session, weekly electronic reports and/or Calls to Action are circulated to all FLiCRA members that have provided their email addresses to our staff in Tallahassee. Use tools already in place to get as

many members as possible on that email list. Instructions on how members can be included on this email list are contained in FLiCRA’s quarterly The Resident Connection. Residents can stay informed by reading FLiCRA’s electronic reports and The Resident Connection.

B. A top priority for those receiving Calls to Action from FLiCRA should be having systems in place to distribute Calls to Action to residents. An e-blast system is the quickest way to distribute information to residents. There are two ways to set up an e-blast system, in both, permission from the CCRC may be required. First, check with your CCRC to see if they have an e-blast system available for resident use. If not, ask for a resident email list that the chapter may use to send e-blasts to residents. Use bulletin boards to post notices. If you have an in-house TV channel, check with management to determine if information related to Alerts can be shared on that channel. Be prepared to make paper copies for each resident and distribute them via campus mail.

C. You will need volunteers to help prepare materials and to meet with other residents to assist them in responding. The first to consider would, of course, be current and past members of your local FLiCRA chapter board of directors. Some chapters have reported having received various forms of assistance from their local resident council. Having the source of volunteers arranged in advance is highly recommended.

Implementation: In a perfect world, all that we would need to do would be to give each resident a copy of the Call to Action and she/he would prepare an original communication (e.g., letter, email or telephone call) and ensure it was completed well in advance of the deadline. Some residents will do exactly that, but many others may need more help. In those cases, you might consider the following:

A. Provide prepared letters and envelopes for those that need them. Your local chapter board members could assemble mailing kits and use the other volunteers to coordinate with their assigned residents.

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New Law Protects Seniors from Financial Exploitation

I wish I could tell you that in my 24 years of working with seniors, I never saw financial exploitation. Unfortunately, I have witnessed theft of property, investments, money, jewelry and more.

Most of these crimes are perpetrated by someone the older person knows and trusts like family, neighbors and caregivers. One in five people over the age of 65 have been the victim of financial fraud and it is estimated that senior financial abuse is now over \$36.5 billion last year alone!

So what is Florida doing about it? On July 1, Gov. Ron DeSantis signed into law a new bill (statute 517.34) that is designed to protect vulnerable senior investors from financial exploitation. The new “Vulnerable Investor” statute permits an entirely new group of professionals to not only take action and report suspected financial abuse of a senior, but provides the ability for them to “freeze” a transaction.

This group includes investment advisers and security dealers who, up until now, had no recourse if they suspected abuse of an elderly client. Privacy issues, laws and liability issues prevented them from acting in the past, even if they suspected exploitation was happening. Now they are mandated to report suspected abuse but will be immune from civil liability if acting in good faith.

If an investment adviser “reasonably believes that financial exploitation has occurred, is occurring, has been attempted, or will be attempted in connection with a disbursement or transaction,” this adviser can now, with this new law, delay or “freeze,” any transaction for up to 15 business days after the date they received a request. The new law also allows them to notify a “trusted contact” of the problematic transaction— i.e., sending money to a scammer overseas.

The person initiating the delay is then required within three days to notify in writing “all persons authorized to transact business on the account and any trusted contacts on the account,” unless the person to be contacted is the person engaged in the

suspected exploitation. They must then notify the Florida Office of Financial Regulation of the delay and all related records must be made available.

Before you cry foul, understand that this statute clearly defines who this applies to. Called “Protection of Specified Adults,” the definition of a vulnerable adult was expanded and defined as 65 or older, with an impaired ability to perform activities of daily living or to provide for his or her own care or protection due to a “mental, emotional, sensory long-term physical or developmental disability or dysfunction, or brain damage or the infirmities of aging.”

I do wish they had come up with a phrase more politically correct than “infirmities of aging,” but let’s not get picky. According to Alex J. Sabo, a South Florida attorney specializing in vulnerable seniors who was very involved in the writing and passage of this bill, “the new legislation contains a strong statement of legislative intent, recognizing the freedom of individuals covered by the statute to manage assets, make investment decisions, and spend their funds as they see fit, but at the same time providing for their protection.”

To put this bill in context, Florida passed a groundbreaking bill in 2014 that established a much broader definition of exploitation against seniors that included persons “in a position of trust and confidence with the elderly person.” It allowed (finally) for both criminal and civil charges to be brought against people who steal from joint accounts or who use their status as an agent under power of attorney to pay their own bills or make gifts to themselves.

In July 2018, Florida passed another statute that allowed for immediate injunctions and if warranted, investigations of those exploiting vulnerable adults, another effective tool to foil perpetrators.

With this new bill, financial advisers can now take actions to prevent someone with cognitive impairment, for example, from being taken advantage of. No longer do they need to watch their

clients lose everything to a scammer or exploiter and be powerless to stop it.

Kudos to the Florida Securities Dealers Association, Financial Services Institute, the Securities Industry and Financial Markets Association (SIMFA), and Gainesville's own North Central Florida Senior Advocacy Network, of which I am a member. All of these groups worked with the Florida Office of Financial Regulations and the Elder Law Section of The Florida Bar.

Finally, good news in these troubled times. This proves that diverse political groups and organizations can come together and pass legislation for the real benefit of our elders. Our Florida seniors will be safer for it!

Star Bradbury, Senior Living Strategies

Source: <https://www.gainesville.com/story/sports/columns/dooley/2020/08/17/star-bradbury-new-law-protects-seniors-from-financial-exploitation/42223447/>

2021 Florida Public Policy Objectives

The members of the Florida Life Care Residents Association (FLiCRA) are senior citizens who reside in the state's licensed continuing care retirement communities (CCRC). There are 30,000 seniors living in CCRCs.

These communities are regulated by the Office of Insurance Regulation. The assisted living and skilled nursing portions of the communities are regulated by the Agency for Health Care Administration.

CCRCs offer independent living, assisted living and skilled nursing care in one long-term care campus setting.

COVID-19 has significantly impacted all long-term care communities and the residents they serve including CCRCs.

As the Florida Legislature convenes during the next regular session, FLiCRA asks for legislators to be mindful of FLiCRA's core objectives for 2021:

Oppose Blanket Immunity for Long-Term Care Providers: FLiCRA supports reasonable liability reform/immunity related to COVID-19 related claims. However, FLiCRA supports the right of residents and their families to file a claim against a provider for gross negligence even if the occurrence(s) took place during the pandemic, as established by local, state or federal guidance/orders.

Oppose "Liability Waivers" Used by Owner/Operators of Long-Term Facilities/Communities: FLiCRA is opposed to the use and distribution of "waivers" that include language that directly or indirectly construe that a resident or their family cannot utilize established legal redress to file claims, for such claims that meet the bar of gross negligence.

Support Use of "Informed" Consent Forms" by Owner/Operators of Long-Term Care Facilities/Communities: FLiCRA supports the ability and right of long-term care owner/operators to utilize "Informed Consent" forms whereby residents, visitors and vendors coming into a long-term care community are made aware of "community" protocols that are intended to mitigate the spread of COVID-19 within the community.

Support the Ability and Right of Long-Term Care Owner/Operators to Set Policies to Mitigate Community Spread Within a Long-Term Care Facility/Community: FLiCRA supports policies relative to use of distancing, including the use of masks, and other reasonable precautions that can assist in mitigating community spread within a long-term care community. Such policies should be reasonable in nature and duration, and commensurate with current local, state or federal guidance or mandates.

New & Updated CCRC Website Launched by Florida Office of Insurance Regulation

The Florida Office of Insurance Regulation recently updated its CCRC website. Below is a summary of documents available through the website.

Continuing Care Retirement Communities

Provider Resources

Residents can review the forms, filing instructions, guidance, and communications from the OIR that providers have to complete regarding Continuing Care Retirement Communities (CCRCs).

Residents can view forms such as:

- Annual Report (OIR-A3-470)
- Quarterly Report (OIR-A3-974)
- Monthly Report (OIR-A3-973)
- Minimum Liquid Reserve Calculation (OIR-A3-477)
- Sales and Financial Report for a Non-Operational Facility (OIR-A3-1245)

Supplemental Filings

- Request for Waiver of Minimum Liquid Reserve Requirement (OIR-A3-1068)
- Request for Withdrawal from Minimum Liquid Reserves (OIR-A3-1284)

Applications

OIR provides resources to providers wishing to obtain a Certificate of Authority for a CCRC.

- Continuing Care Provider - Provisional Certificate of Authority
- Continuing Care Provider - Certificate of Authority
- Continuing Care Provider - Consolidated Application for Provisional Certificate of Authority and Certificate of Authority
- Continuing Care Provider - Simultaneous Acquisition of a Continuing Care Facility and Issuance of a Certificate of Authority
 - This application is used when a person seeks to acquire and become the provider for a facility. The provider currently possessing a Certificate of Authority for the facility will not be the provider for the facility after the transaction.

- Application for Acquisition of a Specialty Insurer
 - This application is used when a person seeks to assume the role of general partner of a provider or to otherwise assume ownership or possession of, or control over, 10 percent or more of a provider, a controlling company of the provider, or a provider's assets, based on the balance sheet from the most recent financial audit report filed with the Office. The provider currently possessing a Certificate of Authority for the facility will be the provider for the facility after the transaction.
- Continuing Care Facility Provider - Expansion

The OIR routinely issues guidance and communications to regulated entities. Listed below is recent guidance to CCRCs. A list of all Informational Memoranda can be found on the website as well including:

- **Informational Memorandum OIR-20-03M**
Understanding that recommended COVID-19 prevention and treatment measures may disrupt normal business operations, OIR issued Informational Memorandum OIR-20-03M directing all insurers and entities regulated by OIR to review and update their Business Continuity Plans and/ or Continuity of Operation Plans immediately. The plans must provide a framework for the continuation of company operations, including key insurance functions such as policy issuance, premium collection, claims adjustment and payment and policyholder service. The continuity plans should also account for DOH and CDC guidance surrounding COVID-19, including executive orders issued at the state and national level.
- **Informational Memorandum OIR-20-04M**
Among other considerations, this Informational Memorandum provided guidance to regulated entities, including CCRCs, regarding electronic communications, teleworking, and utilizing electronic signatures. In addition, OIR granted a 30-day extension for any annual statements due to

be filed with OIR by a regulated entity on or before May 1, 2020, including CCRCs.

OIR Reports

Residents can also find the most recent CCRC industry reports and presentations prepared by the Office.

- 2019 Continuing Care Retirement Community (CCRC) Annual Industry Report
- Presentation to the Continuing Care Advisory Council – 2019

Public Information and Resources

Residents can find the most up-to-date laws related to CCRCs and the best way to request additional information.

- Chapter 651, Florida Statutes

- Chapter 690-193, Florida Administrative Code
- Search CCRC Contract and Addendum Filings
- You may request additional documents from the Office's Public Records Office at PublicRecords@floir.com or (850) 413-4223.

Report a Violation

You may report an alleged violation of Chapter 651, Florida Statutes, by contacting the Department of Financial Services, Division of Consumer Services at (877) 693-5236 (in-state only) or (850) 413-3089; or OIR at CCRCTeam@floir.com or (850) 413-3153.

To visit the CCRC Section of the OIR website, visit:

<https://www.floir.com/Sections/Specialty/CCRCIndex.aspx>

EMMA - An Online Resource for Residents Cont.

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The MSRB is a Congressionally-chartered, self-regulatory organization governed by a 21-member board of directors that has a majority of public members, in addition to representatives of regulated entities. The MSRB is subject to oversight by the Securities and Exchange Commission, which designated the EMMA website as the official repository for municipal securities disclosures in 2009.

The EMMA website was established to increase transparency of the municipal securities market by providing free public access to municipal securities documents and data. EMMA provides investors, state and local governments and other market participants with key information about individual municipal bonds as well as tools to assess bond prices and market trends.

Information about Specific Municipal Securities

- Official statements (the prospectus for a municipal bond)
- Trade prices, yields and other data about a bond's trading history
- Financial disclosure documents from the issuer of the bond

- Other ongoing disclosure documents about events affecting the bond
- Information about 529 savings plans and ABLE programs

Market-Wide Information

- Yield curves and indices from third-party providers
- Calendar of municipal securities scheduled to be offered
- Calendar of upcoming economic reports and events that may have an impact on the municipal bond market
- Market statistics about overall trading patterns and most active securities

The public data shares yields, trade dates, disclosure forms, and ratings (if applicable).

To search for CCRC financing visit:

<https://emma.msrb.org/Search/Search.aspx>

If you do an online search, you will need to make sure you have the right "Doing Business As DBA" name for your CCRC provider (owner/operator) and will enter that information under the "Issuer Name" section.



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Best Practices for Calls to Action - Updated Fall 2020 Cont.

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When working with volunteers from your resident council, close liaison between your chapter president and president of the resident council is a must.

B. Provide an area where residents can get knowledgeable assistance in sending electronic responses. Most legislators have websites that can receive opinions on pending legislation.

C. Involve assisted living and nursing home residents with opportunities to participate if their situations permit.

D. Provide postage as needed. Some CCRCs end up sending numerous letters in one container but, if possible, it is more impressive if the communication is more personal.

E. Residents should also be encouraged to contact their legislator by telephone. An outline of “what to say” might prove helpful in these cases.

F. Some chapters have used petitions as a form of response. While not very personal, it most certainly counts as a response and provides the resident with the satisfaction of participating in a worthwhile and meaningful endeavor.

Conclusion: As a resident-led association working in a public policy arena, our efforts to advocate for legislation to ensure the quality of life of our fellow residents are from time to time opposed by some highly funded provider organizations. In spite of the differences in financial resources, FLiCRA holds its own due to our comprehensive grassroots program. The success of this program is largely determined by how well our chapters respond to FLiCRA’s Calls to Action.