

Chapter 728

(Senate Bill 804)

AN ACT concerning

Continuing Care at Home – Certificate of Need – Exemption

FOR the purpose of providing that the definition of a health care facility, for the purpose of providing an exemption from the certificate of need requirement, does not include certain facilities that are for the exclusive use of the provider's subscribers who have executed continuing care at home agreements and paid certain entrance fees; establishing an exception to certain application requirements for certain continuing care at home providers; and generally relating to continuing care at home and exemptions to certificate of need.

BY repealing and reenacting, with amendments,
 Article – Health – General
 Section 19–114(d)(2)(ii)
 Annotated Code of Maryland
 (2019 Replacement Volume and 2021 Supplement)

BY repealing and reenacting, with amendments,
Article – Human Services
Section 10–458
Annotated Code of Maryland
(2019 Replacement Volume and 2021 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – Health – General

19–114.

(d) (2) “Health care facility” does not include:

(ii) For the purpose of providing an exception to the requirement for a certificate of need under § 19–120 of this subtitle, a facility to provide comprehensive care constructed by a provider of continuing care, as defined in § 10–401 of the Human Services Article, if:

1. Except as provided under § 19–123 of this subtitle, the facility is for the exclusive use of the provider's subscribers who have executed continuing care agreements, **INCLUDING CONTINUING CARE AT HOME AGREEMENTS**, and paid entrance fees that are at least equal to the lowest entrance fee charged for an independent

living unit [or], an assisted living unit, **OR A CONTINUING CARE AT HOME AGREEMENT** before entering the continuing care community, regardless of the level of care needed by the subscribers at the time of admission;

2. The facility is located on the campus of the continuing care community; and

3. The number of comprehensive care nursing beds in the community does not exceed:

A. 24 percent of the number of independent living units in a community having less than 300 independent living units; or

B. 20 percent of the number of independent living units in a community having 300 or more independent living units;

Article – Human Services

10–458.

(a) A provider may not provide continuing care at home services until the Department issues a certificate of registration to the provider.

(b) An application for a certificate of registration shall:

(1) be filed in a form satisfactory to the Department; and

(2) include at least the following information:

(i) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, verification that the required number of agreements has been executed and the corresponding deposits collected;

(ii) the form and substance of any proposed advertisements, advertising campaigns, or other promotional materials for the program that are available at the time of filing and that have not been filed previously with the Department;

(iii) verification that any other license or certificate required by other appropriate State units has been issued to the provider; and

(iv) any other information that the Department requires.

(c) The Department shall issue a certificate of registration to a provider if the Department determines that:

(1) the information and documents submitted with the feasibility study and application for a preliminary certificate of registration are current and accurate or have been updated to make them accurate;

(2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, the required number of agreements has been executed and the corresponding deposits collected;

(3) any other license or certificate required by other appropriate State units has been issued to the provider;

(4) the provider has submitted all proposed advertisements, advertising campaigns, and other promotional materials for the program;

(5) the form and substance of all advertisements, advertising campaigns, and other promotional materials submitted are not deceptive, misleading, or likely to mislead; and

(6) the provider has submitted any other information that the Department required.

(D) SUBSECTIONS (B)(2)(I) AND (C)(2) OF THIS SECTION DO NOT APPLY TO A PROVIDER OF CONTINUING CARE AT HOME SERVICES THAT:

(1) MEETS ANY CAPITAL RESERVE REQUIREMENTS; AND

(2) UNTIL THE PROVIDER HAS ENROLLED THE MINIMUM NUMBER OF SUBSCRIBERS NEEDED FOR ITS REVENUES TO AT LEAST EQUAL ITS EXPENSES:

(I) HOLDS IN ESCROW THE ENTIRETY OF ALL ENTRANCE FEES;

OR

(II) MAINTAINS A SURETY BOND OF AT LEAST \$1,000,000 OR AN EQUIVALENT REPLACEMENT SECURITY SUCH AS CASH, IRREVOCABLE LETTERS OF CREDIT, CERTIFICATES OF DEPOSIT, OR TREASURY BILLS.

[(d)] (E) If a provider intends to advertise before the Department issues a certificate of registration under subsection (c) of this section, the provider shall submit to the Department any advertisement, advertising campaign, or other promotional materials before using it.

[(e)] (F) If a certificate of registration is not issued to a provider within 24 months after the Department approves a feasibility study, or a longer time allowed by the Department for good cause shown, the provider shall refund all deposits collected and stop offering continuing care at home services under that application.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October~~ July 1, 2022.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.