



The CCRC provider survey questions are reflected below with responses in **Red**. The responses are an amalgamation of thinking by certain members of the Executive Committee of NorCCRA:

1. What are the major risks facing CCRC providers?

Additional tax burdens/fewer exemptions which could exponentially increase costs to providers and ultimately residents. The biggest risks to providers come from unforeseen, or imperfectly thought out, changes in regulation, changes in tax status, and events heretofore entirely off-the-radar (e.g. coronavirus) that have not been factored into operational schedules and financial operation. Future residents with greater health and/or addiction issues, which may increase cost of care. Difficulty in keeping profitable occupancy due to numerous new options for retirement living. Upgrading old facilities to compete with newer ones. Retirement reserves of future residents may not be as adequate as current residents since many corporations have done away with retirement plans.

2. What are the major risks facing CCRC residents?

Long term financial soundness/security of CCRCs while maintaining resident cost increases commensurate with Federal cost of living increases. These are the flip side of risks to providers—actions and events that increase

costs to residents and cause substantial changes in operation and lifestyle of residents. CCRC providers who are more interested in profit than the welfare of the resident, affordability either due to taxation, profitability, or longevity. Relaxing of current legislation protecting CCRC residents. Not having residents on CCRC's board of directors. Lack of transparency and resident input between management and residents. Changing contracts that do not allow benefit of continued residency if resident's funds are exhausted.

3. Should CCRCs be regulated differently based on the type of continuing care contract offered? If so, how? The first order of business must be differentiating between Life Plan Communities (LPCs) and Continuing Care Retirement Communities (CCRCs). These terms should not be used interchangeably, as there could be many subtle differences in how the terms are used. The current NC statutes currently use the term CCRCs – a change in this usage could be very bad. Specifically, we recommend that North Carolina Statutes (N.C.G.S.) Chapter 8, Article 64 be changed as follows: 58-64-1. Definitions – Section (1) would remain “Continuing Care,” add section (1a) Continuing Care Retirement Community, and provide a definition as currently defined/utilized throughout the current statute. Add a new section (2), and renumber the remaining definitions. Section (2) to be titled “Life Plan Communities (LPCs)”, with a definition that includes the statement “Life Plan Communities may or may not be Continuing Care Retirement communities, and the reader must be aware of the sometimes subtle differences.” It is important to distinguish between Life Plan and traditional CCRCs. The title of the entire statute must retain “Continuing Care Retirement Communities” although it could be shortened to “Continuing Care and Life Plan Retirement Communities” We would not favor this, but it is a compromise to the Life Plan interests. Section 1 needs

two sections after the definition of continuing care, one on Continuing Care Retirement Community, defined as: “age” age-restricted properties that include a combination of independent living, assisted living and skilled nursing services (or independent living and skilled nursing) available to residents all on one campus. Resident payment plans vary and include entrance fee, condo/co-op, and rental programs” and one of Life Plan Community defined as: “A community that offers more than one level of care on one campus, is focused on promoting an active lifestyle among residents, and is socially responsible and gives back to the larger community. Such a community may or may not offer continuing care.” Not for profit and for profit CCRCs and Life Plan communities should have the same regulatory protection. Protecting entry fee is important, but even residents in rental communities without entry fees, and assisted care facilities (not within CCRCs) need more protection than they are getting.

4. What general recommendations would you suggest to improve regulation of CCRCs?

Pertaining to Type A contracts, what recommendations would you suggest to improve regulation? We could not find contract types described in 58-64. Assuming “Type A” contracts refer to Commission on Accreditation of Rehabilitation Facilities [CARF] contract types, it must be assured that any changed wording intended to include LPCs does not detract from the current wording associated with CCRCs. Maintain strong requirements for full and financial disclosure and fiscal stability contained in the current statute. These are the heart and soul of understanding a retirement community and their integrity needs to be assured in statute. The three types of CCRC contracts are not mentioned in the statute and it is arguable whether they should be. For sake of completeness they could be included in a new section titled “Types of Continuing Care Contracts.” This would make sense only if they

are mentioned further in the statute either for regulation, for reference, or clarity. If they are included in the statute, then the sections on disclosure and contract specifications should be revised to require mention and explanation of the type of contract(s) in force at a Continuing Care or Life Plan Community. DOI needs to maintain the strength of its current statute Chapter 58 Article 64, but add that every CCRC/Life Plan community have resident representation on the Board of Directors. Also, there should be no differentiation between a Life Plan Community and CCRC.; it should be up to the individual community what they want to call themselves. (Life Plan Community was/is a marketing ploy – had nothing to do with life-long care.) There should be residents on board of directors. State should have legislation that would prevent similar situation to Florida’s University Village -- e.g. State could not be prevented from intervening to protect residents because the provider had tied things up in court cases.

5. What recommendations would you make to improve regulations of multi-site and multi-state providers to adequately protect North Carolina CCRC residents? It must be assured that multi-state providers are not given any special considerations with respect to their communities within North Carolina (i.e., all licensed communities within North Carolina are all held to the same DOI standards) No concessions or short cuts should be provided for multi-state or multi-site communities. It also very important no concessions or short cuts be made to for-profit communities. All communities regulated by the statute should be equally regulated. Multi-site and multi-state providers should have to abide by NC regulations, and NC regulations protecting the residents should not be weakened in order to accommodate multi-state or multi-site providers. Insurance companies have different requirements in different states, so can CCRCs. Regulations should be based on the good of the resident and North Carolina, not the

advantage of the provider. How does NC avoid the situation of a Brookdale Palo Alto facility that has sold the community to a developer, who is repurposing the facility, and has literally dumped 90 year old residents onto the streets, many of whom will become homeless because of financial impoverishment, and/or cost of living in the geography. Regulations should protect NC citizens from irresponsible businesses.

6. Taking into consideration the various organizational/debt structures that may involve a provider, what financial statements do you believe should be provided to the State, residents, and potential residents for review? All community assets and liabilities (long and short term) should be reportable to all stakeholders (i.e., totally transparency). The current requirements seem adequate. Any change should ensure that full and complete disclosure of the financial structure of an entity should be required. Imperative that the State continue to require multi-year financial disclosure similar to current statements for prospective residents of CCRC/Life Plan Community, existing residents, and for the state to monitor financial health of community. For multi-site and multi-state providers, a break out of that individual NC CCRC should be required, as well as a statement of the financial responsibility the parent organization accepts for the individual CCRC in NC.
7. In addition to the current requirement of an operating reserve, would a reserve for the benefit of residents, in an amount determined by an actuary to be appropriate given the amount of a provider's contractual obligations to residents, including refunds and potential future medical care, be useful for purposes of protecting the residents? Absolutely yes.
Why? Future and current residents should have full confidence that any and all funds promised to them in the contract should be readily available. It is assumed by some that the reserve called for in the statute would cover the

sorts of things envisioned in “a reserve for the benefit of residents” that were part of “total operating costs.” If this is not the case, then a separate reserve is appropriate, or the current description of the reserve should be amended to ensure that commitments made to residents are covered by the required reserve. The size of the reserve based on percentage of occupancy makes sense and protects residents of communities that are chronically underpopulated. How else can residents and DOI determine if a provider can meet promised obligations.

8. In what ways can regulations addressing agreements between a provider and an affiliate ensure that terms are fair and reasonable? Please explain. Sales personnel and propaganda should be totally straight forward concerning all financial aspects of the contract. This disclosure should include written questions and answers addressing all aspects of the contract. Q & As have a tendency to evoke deeper thought into areas not likely to surface if just handed a pile of contract information. A fully knowledgeable buyer should be able to determine what terms are fair and reasonable for them.

In what ways can regulations be imposed on dividends and other types of provider distributions to ensure that residents are protected? Please explain. A reserve for the benefit of residents, in an amount determined by an actuary to be appropriate given the amount of a provider’s contractual obligations to residents, including refunds and potential future medical care, should be provided for the purpose of protecting the residents.

9. Are there areas of opportunity or improvement that you recommend?

What information would you consider vital to the North Carolina Department of Insurance to fulfill its regulatory role? Fully defining the term Continuing Care Retirement Communities, and retaining a level of DOI oversight at least as good as currently exists. Clearly distinguishing the potential differences between CCRCs, and the categories of competitors

using the term Life Plan Communities. Also pointing out what conditions of non-CCRCs that DOI does not oversee. Address the topic of “For Profit” and “Not for Profit” communities, and point out the potential differences to/for future/current residents. Increase the number of residents (directors) on the DOI decision making board(s). And ensure that NorCCRA is consulted for input as to the resident members. An important opportunity is to admit up front that the current statute has worked and does not need major revision. Rather, it needs fine tuning (such as addition of definitions of continuing care and life plan communities) to reflect the changing character of the business. Above all else, do not weaken the provisions of the current statute. It has been a model for other states and has served North Carolina well since the early days of continuing care communities in the state. There needs to be an explanation of the differences between non-profit and for-profit communities, and the disclosure of financial status requirements should be modified to reflect the different financial structure of the two. The same can be said for chain and multi-state operations. They require closer regulation as the provisions regarding their operation in other states may not be consistent with North Carolina requirements. In no case, should the statute weaken requirements for multi-state entities. Continue the NC DOI CCRC Reference Guide, which is invaluable for those considering a NC CCRC, but also useful information for current residents of CCRCs.