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May 14, 2025

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Re: S478 An Act Relative to Disclosing Continuing Care **Retirement Community ("CCRC") Entrance Fees** 

Dear Chairs Jehlen and Stanley:

I am writing on behalf of the Massachusetts Chapter of the National Academy of Elder Law Attorneys ("MassNAELA"), in support of the passage of S478, a bill that would require a clear consumer disclosure to CCRC residents about the refund of their entrance fees.

#### **Consumer Protection Concerns**

CCRCs promise "peace of mind" and the opportunity for older adults to "age in place." They offer a continuum of residential and support services from independent living through nursing care, in exchange for a hefty entrance fee plus adjustable monthly fees. Moving to a CCRC requires a substantial investment and, in some cases, considerable risk.

No federal laws or regulations provide consumer protections for CCRC residents. In its 2010 investigation of the CCRC industry, the U.S. Senate Special Committee on Aging commented, "Entering into an agreement with [a CCRC] can pose financial risk. If these companies are going to take the life savings of seniors, they need to be able to guarantee that they will be around to provide the lifetime of care they promise." (emphasis added). The committee called on state regulators to "beef up their oversight" of CCRCs. However, no state agency has enforcement authority over Massachusetts CCRCs.

Massachusetts CCRCs are required to make certain disclosures to residents and prospective residents and to the Executive Office of Aging and Independence (AGE). If its financial

statements or admission agreements change, a CCRC must file the new materials with AGE within 30 days. AGE makes the providers' information available to the public to help prospective residents make informed choices about care alternatives.

These requirements provide scant protection for Massachusetts consumers. A recent review of AGE's website revealed that many of the disclosure statements and admission agreements on file with AGE are out of date. AGE does not make consumer complaints regarding problems with CCRCs available to the public. The statute gives AGE no enforcement powers over CCRCs and the agency takes no action against CCRCs for alleged violations of the statute or of residents' rights.

# Elder advocates report that the single greatest areas of concern to CCRC residents are:

- The CCRC "Entrance Fee." Boston-area CCRCs charge entrance fees of \$500,000 or more, and at least one CCRC charges \$1 million. For many residents, the entrance fee constitutes most, if not all, of their life savings. The CCRC statute requires CCRCs to refund a portion of the fee when the resident dies or moves out, but practices vary widely among providers on both the amount and timing of the refund.
- CCRC Monthly Fees The CCRC statute does not limit the frequency or amount of monthly fee increases.
- Resident Rights and Autonomy Residents expecting to "age in place" may encounter arbitrary CCRC policies regarding transfers to higher levels of care and the resulting fee increases.

The CCRC statute requires operators to refund the entire entrance fee -- minus no more than one per cent for each month of occupancy -- when the resident leaves the facility or dies. However, operators are not required to hold entrance fees in a segregated account or otherwise protect the funds from the claims of creditors. In other words, residents are essentially making an unsecured loan of their life savings to the CCRC operators. CCRC operators' practice of applying entrance fees to their daily operating expenses creates significant risk for residents -- if the CCRC becomes insolvent, residents may lose their entire investment.

Even under ordinary circumstances with successfully operating CCRCs, some consumers and advocates report delays of two years or more before residents (or their estates) receive a refund of the entrance fee. The CCRC statute specifies no deadline or schedule for CCRCs to refund entrance fees. There is no uniform practice among providers regarding the return of entrance fees and policies vary among providers, with varying levels of complexity (see Appendix for sample refund provisions). This critical information is typically buried in a 30-40 page admission agreement, which leaves consumers without a clear understanding of the conditions for receiving their refund.

Most CCRC residents have had to sell their long-time homes to pay their CCRC entrance fees. Once they've paid the entrance fee, they find themselves "trapped" if they need to leave the CCRC for any reason. Consumers have no leverage in this situation. Given what is at stake for residents, this raises grave concerns for advocates.

## **Escalating Monthly Fees**

The CCRC statute requires operators to include information about their history of rate increases in their disclosure materials, but this information is not always included. Even when it is provided, consumers are often overwhelmed by the complexity of the CCRC documents and do not always have the opportunity to review the materials thoroughly and make an informed decision about moving to a CCRC.

## Aging in Which Place?

CCRC residents are attracted by the range of services under a single roof and the promise of being able to "age in place." However, CCRC contracts often address the question of "place" in vague language or leave decisions to the unfettered discretion of the administration. For example, one CCRC gives its "care team" sole discretion to move residents from one level of care to another. Another CCRC states that its management team "in its sole discretion, will determine, after consultation with Resident, whether additional healthcare services are necessary for Resident's continued well-being in the present Living Accommodation." This may leave residents uncertain about their options for aging in place and their rights to remain in their homes.

### **Proposed Legislation**

Older adults may risk losing their life savings when they move to a CCRC and may face strict limits on their autonomy and rights to self-determination. Prospective CCRC residents do not always consult with an attorney before signing their admission agreements. Given the current lack of oversight of CCRCs, this puts consumers at serious risk. At a minimum, prospective residents need to be able to make an informed decision before paying a CCRC entrance fee and signing the entrance agreement.

MassNAELA believes that the proposed disclosure legislation would enable consumers to make a better-informed decision about whether to invest in a CCRC. MassNAELA requests the legislature's support for this CCRC bill.

Sincerely,

Clarence Richardson, Executive Director

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#### **About MassNAELA**

The National Academy of Elder Law Attorneys (NAELA), the premier organization of elder and special needs law attorneys in the country, is dedicated to developing awareness of issues concerning the elderly and those with special needs. Over 400 attorneys are members of the Massachusetts Chapter. Members work directly with the elderly and those with special needs in areas as diverse as planning for catastrophic care costs, disability planning, age discrimination in employment, housing issues including nursing homes and assisted living residences, benefits planning, estate planning, veterans' benefits and more.