

1-1 By: Galindo, et al. (Senate Sponsor - Menéndez) H.B. No. 2697
1-2 (In the Senate - Received from the House May 4, 2015;
1-3 May 5, 2015, read first time and referred to Committee on Health
1-4 and Human Services; May 22, 2015, reported favorably by the
1-5 following vote: Yeas 9, Nays 0; May 22, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to services provided by continuing care facilities.
1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-21 SECTION 1. Section 246.002(3), Health and Safety Code, is
1-22 redesignated as Section 246.0025, Health and Safety Code, and
1-23 amended to read as follows:
1-24 Sec. 246.0025. DEFINITION OF CONTINUING CARE. (a) In this
1-25 chapter, "continuing [~~(3)~~ "~~Continuing~~] care" means the furnishing
1-26 of a living unit, together with personal care services, nursing
1-27 services, medical services, or other health-related services,
1-28 regardless of whether the services and the living unit are provided
1-29 at the same location:
1-30 (1) [~~(A)~~] to an individual who is not related by
1-31 consanguinity or affinity, as determined under Chapter 573,
1-32 Government Code, to the person furnishing the care; and
1-33 (2) [~~(B)~~] under a continuing care contract.
1-34 (b) The term "continuing care" includes the furnishing of
1-35 services described by Subsection (a) to an individual in the
1-36 individual's residence or otherwise enabling the individual to
1-37 remain in the individual's residence.
1-38 SECTION 2. Sections 246.002(5), (6), (10), and (12), Health
1-39 and Safety Code, are amended to read as follows:
1-40 (5) "Entrance fee" means an initial or deferred
1-41 transfer of money or other property valued at an amount exceeding
1-42 three months' payments for rent or services, made, or promised to be
1-43 made, as full or partial consideration for acceptance by a provider
1-44 of a specified individual entitled to receive continuing care under
1-45 a continuing care contract [~~as a resident~~]. The term does not
1-46 include a deposit made under a reservation agreement.
1-47 (6) "Facility" means an establishment that [a place in
1-48 which a person] provides continuing care to an individual. The term
1-49 does not include an individual's residence if the residence is not a
1-50 living unit provided by a provider.
1-51 (10) "Provider" means a person who undertakes to
1-52 provide continuing care under a continuing care contract to a
1-53 resident [~~in a facility~~].
1-54 (12) "Resident" means an individual entitled to
1-55 receive continuing care under this chapter [~~in a facility~~].
1-56 SECTION 3. Section 246.041(a), Health and Safety Code, is
1-57 amended to read as follows:
1-58 (a) A provider shall file with the board a current
1-59 disclosure statement that meets the requirements of this subchapter
1-60 and shall file copies of the agreements establishing the escrows
1-61 under Subchapter D or a verified statement explaining that an

2-1 escrow is not required before the provider:

2-2 (1) contracts to provide continuing care to a resident
 2-3 ~~[in a facility located or to be located]~~ in this state;

2-4 (2) extends the term of an existing continuing care
 2-5 contract with a resident ~~[in a facility that is located or to be~~
 2-6 ~~located]~~ in this state ~~[and]~~ that requires or allows an entrance fee
 2-7 from any person, regardless of whether the extended contract
 2-8 requires an entrance fee; or

2-9 (3) including a person acting on the provider's
 2-10 behalf, solicits for an individual who is a resident of this state a
 2-11 continuing care contract in this state.

2-12 SECTION 4. Section 246.048, Health and Safety Code, is
 2-13 amended to read as follows:

2-14 Sec. 246.048. CONTENTS OF DISCLOSURE STATEMENT: CONTRACTS
 2-15 AND FEES. The disclosure statement must describe:

2-16 (1) the services provided ~~[at the facility]~~ under a
 2-17 continuing care contract, including:

2-18 (A) the extent to which medical care is
 2-19 furnished; and

2-20 (B) those services that are included for
 2-21 specified basic fees for continuing care and those services that
 2-22 are made available at extra charge;

2-23 (2) all fees required of residents, including the
 2-24 entrance fee and any periodic charges;

2-25 (3) the conditions under which a continuing care
 2-26 contract ~~[at the facility]~~ may be canceled by the provider or the
 2-27 resident;

2-28 (4) any conditions under which all or part of the
 2-29 entrance fee is refundable on cancellation of the contract by the
 2-30 provider or the resident, or by the death of the resident before or
 2-31 during the occupancy of a living unit or otherwise before or during
 2-32 the term of the contract; and

2-33 (5) the manner by which the provider may adjust
 2-34 periodic charges or other recurring fees and any limitations on
 2-35 those adjustments.

2-36 SECTION 5. Section 246.049, Health and Safety Code, is
 2-37 amended to read as follows:

2-38 Sec. 246.049. CONTENTS OF DISCLOSURE STATEMENT: CHANGE OF
 2-39 CIRCUMSTANCES. The disclosure statement for a continuing care
 2-40 contract to provide continuing care in a living unit of a facility
 2-41 must state:

2-42 (1) the policy of the facility regarding changes in
 2-43 the number of people residing in a living unit because of marriage
 2-44 or other relationships;

2-45 (2) the policy of the facility relating to the
 2-46 admission of a spouse to the facility and the consequences if the
 2-47 spouse does not meet the requirements for admission;

2-48 (3) the conditions under which a living unit occupied
 2-49 by a resident may be made available by the facility to a different
 2-50 resident other than on the death of the previous resident; and

2-51 (4) the health and financial conditions required for
 2-52 acceptance as a resident and for continuation as a resident,
 2-53 including the effect of any change in the health or financial
 2-54 condition of an individual between the date of the continuing care
 2-55 contract and the date on which the individual initially occupies a
 2-56 living unit.

2-57 SECTION 6. Section 246.050(a), Health and Safety Code, is
 2-58 amended to read as follows:

2-59 (a) The disclosure statement must:

2-60 (1) describe any provisions made or to be made to
 2-61 provide reserve funding or security to enable the provider to fully
 2-62 perform its obligations under a continuing care contract ~~[at a~~
 2-63 ~~facility]~~, including:

2-64 (A) the establishment of escrow accounts,
 2-65 trusts, or reserve funds and the manner in which those funds will be
 2-66 invested; and

2-67 (B) the name and experience of any individual in
 2-68 the direct employment of the provider who will make the investment
 2-69 decisions; and

3-1 (2) provide financial statements of the provider,
3-2 including:

3-3 (A) a balance sheet as of the end of the most
3-4 recent fiscal year; and

3-5 (B) income statements and a statement of cash
3-6 flow for each of the three most recent fiscal years that the
3-7 provider has been in existence.

3-8 SECTION 7. Section 246.056(b), Health and Safety Code, is
3-9 amended to read as follows:

3-10 (b) A resident who executes a continuing care contract to
3-11 provide continuing care in a living unit of a facility may not be
3-12 required to move into the facility before the expiration of the
3-13 period during which the contract may be rescinded.

3-14 SECTION 8. Section 246.057(a), Health and Safety Code, is
3-15 amended to read as follows:

3-16 (a) A continuing care contract to provide continuing care in
3-17 a living unit in a facility is canceled if the resident:

3-18 (1) dies before occupying a living unit in the
3-19 facility; or

3-20 (2) is precluded under the terms of the contract from
3-21 occupying a living unit in the facility because of illness, injury,
3-22 or incapacity.

3-23 SECTION 9. Subchapter D, Chapter 246, Health and Safety
3-24 Code, is amended by adding Section 246.0737 to read as follows:

3-25 Sec. 246.0737. CARE IN RESIDENCE. The commissioner by rule
3-26 shall establish requirements for escrow release different from
3-27 those under Section 246.073 for money received as an entrance fee in
3-28 connection with a continuing care contract in circumstances in
3-29 which a living unit is not furnished to the resident.

3-30 SECTION 10. Section 246.111(a), Health and Safety Code, is
3-31 amended to read as follows:

3-32 (a) To secure the obligations of the provider under any
3-33 continuing care contract, a lien attaches on the date a resident
3-34 first occupies a facility or receives services under a continuing
3-35 care contract. The lien covers the real and personal property of the
3-36 provider located at the facility. The provider shall prepare a
3-37 written notice sworn to by an officer of the provider for each
3-38 county where the provider has a facility. The notice must contain
3-39 the name of the provider, the legal description of each facility of
3-40 the provider, and a statement that the facility is subject to this
3-41 chapter and the lien provided by this section. The provider shall
3-42 file for record the notice in the real property records of each
3-43 county where the provider has a facility on or before the later of
3-44 January 1, 1994, or the date of the execution of the first
3-45 continuing care contract relating to the facility.

3-46 SECTION 11. Not later than December 1, 2015, the
3-47 commissioner of insurance shall adopt rules necessary to implement
3-48 the changes in law made by this Act.

3-49 SECTION 12. This Act takes effect immediately if it
3-50 receives a vote of two-thirds of all the members elected to each
3-51 house, as provided by Section 39, Article III, Texas Constitution.
3-52 If this Act does not receive the vote necessary for immediate
3-53 effect, this Act takes effect September 1, 2015.

3-54 * * * * *