

# Bill as Introduced

HB 1363 - AS INTRODUCED

2010 SESSION

10-2400  
01/10

HOUSE BILL           **1363**

AN ACT               relative to continuing care communities.

SPONSORS:           Rep. Hammond, Hills 3

COMMITTEE:          Health, Human Services and Elderly Affairs

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ANALYSIS

This bill clarifies the law regulating continuing care communities when a person has not yet moved into the facility, but is receiving continuing care services at home.

This bill is a request of the insurance department.

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Explanation:        Matter added to current law appears in ***bold italics***.  
                          Matter removed from current law appears ~~[in brackets and struck through.]~~  
                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Ten*

AN ACT relative to continuing care communities.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Continuing Care Communities; Definitions. Amend RSA 420-D:1, III to read as follows:

2 III. "Continuing care" or "life care" means furnishing to a person, other than one who is  
3 related by consanguinity or affinity up to, but not including, the third degree, services ***provided in***  
4 ***the person's home or in the facility*** that shall include board or lodging, or both, and may include  
5 nursing services, medical services, or other health related services, irrespective of whether the  
6 lodging and services are provided at the same location or provided by a third party, pursuant to a  
7 contractual agreement extending for the life of such person or for a period of a year or more in  
8 consideration of payment of an entrance fee which may also include additional periodic charges for  
9 the services provided and including contracts which are terminable by either party.

10 2 Continuing Care Communities; Definitions. Amend RSA 420-D:1, V to read as follows:

11 V. "Entrance fee," "entrance deposit," or "accommodation fee" means an initial or deferred  
12 payment, agreed upon in the contract, of a sum, usually a lump sum, in cash or in kind, to a provider  
13 in return for acceptance as a resident ~~[in a facility]~~. This definition shall not apply to the payment of  
14 a sum which is less than the total of periodic payments, as defined in paragraph X of this section, for  
15 one year or \$10,000.

16 3 Continuing Care Communities; Definitions. Amend RSA 420-D:1, X-XII to read as follows:

17 X. "Periodic payments" or "monthly care fees" means those payments in addition to the  
18 entrance fee ~~[and]~~ made by a resident to a provider for continuing care during the entire period ~~[of~~  
19 ~~residence in a facility]~~ ***that the contractual agreement for continuing care is in effect.***

20 XI. "Provider" means a person contracting to provide continuing care at ***the resident's***  
21 ***home or at*** a facility. This may be a natural person, partnership, or any other type of business  
22 organization, whether organized for profit or not.

23 XII. "Resident" means a person entitled, pursuant to a contract with the provider, to receive  
24 continuing care in ~~[a]~~ ***the person's home or facility.***

25 4 Continuing Care Communities; Definitions. Amend RSA 420-D:1, XIV(a) to read as follows:

26 XIV.(a) "Unearned portion of entrance fee" means that portion of the entrance fee which a  
27 provider contracts to return to a resident should the resident ~~[decide to leave a facility]~~ ***cancel the***  
28 ***contract for continuing care.*** This may be nothing, or the contract may call for the provider to  
29 "earn" a specific percentage of the entrance fee per month.

30 5 New Paragraph; Certificate of Authority Required. Amend RSA 420-D:2 by inserting after  
31 paragraph III the following new paragraph:

1 IV. A provider may contract to provide continuing care to a resident who remains at home  
2 and has not moved into a living unit or other room or area within the facility, provided the provider:

3 (a) Holds a certificate of authority under this chapter and is in good standing, not  
4 subject to action by the commissioner pursuant to RSA 420-D:5.

5 (b) Has direct control and oversight over the provision of services to the resident in the  
6 resident's own home and does not delegate this control and oversight to any third party. Any person  
7 employed by the provider to assist the provider in providing control or oversight over provision of  
8 services in the resident's home shall be physically present in the state and available to the resident  
9 to address any questions or concerns.

10 (c) Has procedures in place to ensure that any third party that contracts with the  
11 provider to provide services to the resident in the resident's home is trustworthy and certified,  
12 licensed, or otherwise qualified under state law to provide those services.

13 (d) Provides information satisfactory to the commissioner that any contract to provide  
14 continuing care services in the resident's home will not place the provider in an unsound financial  
15 condition and will not be injurious or hazardous to the resident receiving services at home.

16 6 Continuing Care Communities; Entrance Fee Escrow Account. Amend RSA 420-D:10, I to  
17 read as follows:

18 I. An escrow account for entrance fees shall be established and approved by the  
19 commissioner before a certificate of authority under this chapter shall be issued. Entrance fees *from*  
20 *any prospective resident* paid by *the* prospective [residents] *resident* before occupancy of a facility  
21 living unit [~~and which total~~], *or if services are provided in the resident's home, before the*  
22 *resident begins to receive services under the contractual agreement, and totaling* over  
23 \$1,000 shall be placed in this account. All entrance fees subject to this section shall be placed in the  
24 account on the first working day after receipt. Interest on such fees shall be paid at the current  
25 market rate as established by the commissioner to the prospective resident if the resident is not  
26 allowed by the provider, for any reason, to enter the facility.

27 7 New Subparagraph; Entrance Fees. Amend RSA 420-D:10, III by inserting after  
28 subparagraph (b) the following new subparagraph:

29 (c) If the resident does not move into a living unit or other area within the facility but  
30 receives services at home, when the resident is eligible to receive or begin to receive services under  
31 the contractual agreement.

32 8 Continuing Care Communities; Contracts With Residents. Amend RSA 420-D:12, I to read as  
33 follows:

34 I. Each contract between a provider and a resident shall:

35 (a) Be written in plain, non-technical language.

36 (b) Cover only one resident, or 2 if sharing the same unit, and shall include the total  
37 amount transferred by the resident, or on behalf of the resident, to the provider. If securities or real

1 or personal property are transferred to the provider instead of cash, the provider shall describe  
 2 exactly the securities, property, or other goods transferred and the market value of securities or the  
 3 professional appraised value of property or goods as of the date they were tendered.

4 (c) State specifically and in full detail all services and items to be provided to the  
 5 resident including the locations where services and items will be provided, the duration of such  
 6 services, and how often they are to be provided. The contract shall also describe which services or  
 7 items are included in the agreement for continuing care and which services or items will be made  
 8 available by the provider at an extra cost to the resident.

9 (d) State the conditions upon which the provider may evict a resident and the conditions  
 10 upon which a resident may terminate his *or her* residency. A statement as to what portion of the  
 11 entrance fee shall be returned under each condition shall also be included in accordance with RSA  
 12 420-D:12, II.

13 *(e) State the conditions upon which the provider or resident may terminate the*  
 14 *contractual agreement. A statement as to what portion of the entrance fee shall be*  
 15 *returned and under what conditions shall also be included in accordance with RSA 420-*  
 16 *D:12, II.*

17 ~~(e)~~ (f) Describe conditions required for a person to continue as a resident.

18 ~~(f)~~ (g) Describe any conditions under which a person delinquent in his *or her* periodic  
 19 payments may remain and if there is a specific time limit.

20 ~~(g)~~ (h) State the entrance fees and periodic payment changes that may occur if a  
 21 resident marries or if a spouse joins a resident *in a living unit*. It shall also state the fee changes  
 22 that may occur if either one of the 2 people who occupy the same living unit dies or otherwise leaves  
 23 that living unit.

24 ~~(h)~~ (i) Describe the terms and conditions under which a provider or a resident may  
 25 cancel an agreement for continuing care. The contract shall also state that a minimum of 30 days'  
 26 notice of cancellation must be given, except that a written medical finding by 2 doctors that a  
 27 resident is a danger to himself or others shall require only reasonable notice.

28 ~~(i)~~ (j) Describe in clear detail all the terms under which a contract is cancelled upon  
 29 the departure or death of a resident.

30 ~~(j)~~ (k) State the basis upon which the entrance fees are earned by the provider at the  
 31 death of a resident, what portion, if any, shall be turned over to the estate of the resident, and the  
 32 formula for calculating all amounts earned by the provider.

33 ~~(k)~~ (l) Describe the conditions under which periodic payments may change. The  
 34 contract shall state that a 60-day notice is required before a change in periodic payments shall take  
 35 effect, except those periodic payments required by federal or state assistance programs.

1            ~~[(4)]~~ (m) State that periodic payments for care paid in a lump sum shall not be changed  
2 during the period covered, unless the resident is receiving federal or state assistance and the change  
3 is mandated by those programs.

4            ~~[(m)]~~ (n) Provide a period of 10 days during which a prospective resident may cancel a  
5 contract and have his *or her* deposit returned and that there is no requirement to move in during  
6 those 10 days.

7            ~~[(n)]~~ (o) Provide that, within the 10 days under subparagraph ~~[(m)]~~ (n), the provider  
8 shall make a full refund of all money, securities, goods, or property tendered by the prospective  
9 resident, except for any non-refundable initial application fee that does not exceed one month's  
10 periodic charges and any payments for actual services or goods provided to the prospective resident.

11           ~~[(o)]~~ (p) Describe under what conditions a resident may be transferred to another living  
12 unit or another part of the facility together with the financial adjustments to be made as a result of  
13 such changes.

14           ~~[(p)]~~ (q) Provide for full refund, except any initial non-refundable application fee of less  
15 than one month's periodic payment, if, before occupancy, death occurs or if there is a medically  
16 certified incapacity to move in.

17           9 Effective Date. This act shall take effect January 1, 2011.

# Amendments

Amendment to HB 1363

1 Amend the bill by replacing all after the enacting clause with the following:

2  
3 1 Continuing Care Communities; Definitions. Amend RSA 420-D:1, III to read as follows:

4 III. "Continuing care" or "life care" means furnishing *or promising to furnish* to a person,  
5 other than one who is related by consanguinity or affinity up to, but not including, the third degree,  
6 services that shall include board or lodging, or both, and may include nursing services, medical  
7 services, or other health related services, irrespective of whether the *board*, lodging, and services  
8 are provided at the same location or provided by a third party, pursuant to a contractual agreement  
9 extending for the life of such person or for a period of a year or more in consideration of payment of  
10 an entrance fee which may also include additional periodic charges for the services provided and  
11 including contracts which are terminable by either party. *Continuing care or life care includes*  
12 *contracts with residents meeting the requirements in this paragraph, where the resident*  
13 *contracts to receive board or lodging or both in the future and does not move immediately*  
14 *into the facility.*

15 2 Continuing Care Communities; Definitions. Amend RSA 420-D:1, V and VI to read as follows:

16 V. "Entrance fee," "entrance deposit," or "accommodation fee" means an initial or deferred  
17 payment, agreed upon in the contract, of a sum, usually a lump sum, in cash or in kind, to a provider  
18 in return for acceptance as a resident [~~in a facility~~]. This definition shall not apply to the payment of  
19 a sum which is less than the total of periodic payments, as defined in paragraph X of this section, for  
20 one year or \$10,000.

21 VI. "Facility" means any facility or institution [~~offering continuing care to an individual~~]  
22 *providing board, lodging, or other services under a contract for continuing care.*

23 3 Continuing Care Communities; Definitions. Amend RSA 420-D:1, VIII to read as follows:

24 VIII. "Living unit" means a room, apartment, or other area within a facility used exclusively  
25 by one or more, but usually no more than 2[,] residents *living independently and does not*  
26 *include a nursing home unit, skilled nursing facility, hospital room, assisted living unit,*  
27 *or any other similar units or facility licensed under RSA 151.* [~~This definition of living unit~~  
28 ~~shall not mean shelter care, a personal care unit, nursing home, or infirmary bed.~~]

29 4 Continuing Care Communities; Definitions. Amend RSA 420-D:1, X to read as follows:

30 X. "Periodic payments" or "monthly care fees" means those payments in addition to the  
31 entrance fee [~~and~~] made by a resident to a provider for continuing care during the entire period [~~of~~  
32 ~~residence in a facility~~] *that the contractual agreement for continuing care is in effect.*



**Amendment to HB 1363**

**- Page 2 -**

1           5 Continuing Care Communities; Definitions. Amend RSA 420-D:1, XIV(a) to read as follows:

2           XIV.(a) "Unearned portion of entrance fee" means that portion of the entrance fee which a  
3 provider contracts to return to a resident should the resident [~~decide to leave a facility~~] **cancel the**  
4 **contract for continuing care**. This may be nothing, or the contract may call for the provider to  
5 "earn" a specific percentage of the entrance fee per month.

6           6 New Section; Continuing Care at Home Contracts. Amend RSA 420-D by inserting after  
7 section 3 the following new section:

8           420-D:3-a Continuing Care at Home Contracts.

9           I. A provider may contract to provide continuing care to a resident who remains at home and  
10 does not move immediately into a facility if the provider:

11               (a) Holds a certificate of authority issued under this chapter to provide continuing care;

12               (b) Owns and operates a facility located in New Hampshire where the resident has the  
13 right to receive board, lodging, or both, and other services.

14               (c) Satisfies the commissioner or that the proposal to offer continuing care contracts to  
15 residents who do not move immediately into the facility will not place the provider in an unsound  
16 financial condition and will not be injurious or hazardous to any resident contracting with the  
17 provider for continuing care.

18               (d) Otherwise complies with all requirements of this section and RSA 420-D.

19           II. Any provider that issues contracts under this section shall:

20               (a) Be in good standing with the commissioner, not subject to action pursuant to RSA  
21 420-D:5.

22               (b) Be responsible for all services the provider or any third party provides to the resident  
23 in the resident's home pursuant to the contract, and shall exercise direct control and oversight over  
24 any individual or entity providing those services.

25               (c) Have procedures to ensure that any third party providing services to the resident in  
26 the resident's home pursuant to the contract, is trustworthy and certified, licensed, or otherwise  
27 qualified under state law to provide those services.

28           III. The provider and any person employed by the provider that assists in delivery of  
29 services to the resident in the resident's home shall have a business location within the state of New  
30 Hampshire, hold appropriate licenses and shall be available to address complaints, questions and  
31 concerns of residents.

32           7 Continuing Care Communities; Revocation or Suspension of Certificate of Authority. Amend  
33 RSA 420-D:5, I(j) to read as follows:

34               (j) Such unsound financial condition or any other practice which may be hazardous or  
35 injurious to [~~the~~] residents [~~of the facility~~] or to the general public.

36           8 Continuing Care Communities; Annual Reports. Amend RSA 420-D:7, II(c) to read as follows:

37               (c) An estimated financial statement for the new fiscal year with an estimate in case of

Amendment to HB 1363

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1 all major changes expected during the year. The commissioner shall adopt rules under RSA 541-A  
2 relative to the definition of major changes. Reports containing the information under this  
3 subparagraph shall not be distributed to residents [~~of a facility~~] unless prior approval has been  
4 obtained from the commissioner.

5 9 continuing Care Communities; Lien on Behalf of Residents. Amend RSA 420-D:9 to read as  
6 follows:

7 420-D:9 Lien on Behalf of Residents. The commissioner shall file a lien on all real and personal  
8 property of a provider if he deems it necessary to protect the interests of the residents [~~of a facility~~].  
9 Such lien shall be effective for the period determined necessary by the commissioner and may be  
10 renewed if the circumstances warrant it. A lien shall only be foreclosed to protect the investment of  
11 residents, and the proceeds shall be distributed in a manner to satisfy any continuing care contracts  
12 in effect at that time.

13 10 Continuing Care Communities; Entrance Fee Escrow Account. Amend RSA 420-D:10, I to  
14 read as follows:

15 I. An escrow account for entrance fees shall be established and approved by the  
16 commissioner before a certificate of authority under this chapter shall be issued. Entrance fees paid  
17 by prospective residents before occupancy of a facility living unit *or by prospective residents*  
18 *under a contract issued pursuant to RSA 420-D:3-a*, and which total over \$1,000 shall be placed  
19 in this account. All entrance fees subject to this section shall be placed in the account on the first  
20 working day after receipt. Interest on such fees shall be paid at the current market rate as  
21 established by the commissioner to the prospective resident if the resident is not allowed by the  
22 provider, for any reason, to enter the facility, *provided however if the entrance fee is paid*  
23 *pursuant to a contract under RSA 420-D:3-a, the entrance fee shall be returned to the*  
24 *consumer with interest, if the contract is not signed or the consumer exercises the right of*  
25 *rescission under RSA 420-D:12, I(m).*

26 11 New Subparagraph; Continuing Care Communities; Entrance Fees. Amend RSA 420-D:1, III  
27 by inserting after subparagraph (b) the following new subparagraph:

28 (c) For a resident that has not moved into the facility pursuant to RSA 420-D:3-a, 10  
29 days after the contract is fully executed by all parties.

30 12 Continuing Care Communities; Contracts With Residents. Amend RSA 420-D:12, I(d)-(g) to  
31 read as follows:

32 (d) State the conditions upon which the provider may evict a resident *or terminate the*  
33 *contract for continuing care* and the conditions upon which a resident may terminate his *or her*  
34 *residency or terminate the contract for continuing care*. A statement as to what portion of the  
35 entrance fee shall be returned under each condition shall also be included in accordance with RSA  
36 420-D:12, II.

37 (e) Describe conditions required for a person to continue as a resident.

**Amendment to HB 1363**

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1           (f) Describe any conditions under which a person delinquent in his *or her* periodic  
2 payments may remain and if there is a specific time limit.

3           (g) State the entrance fees and periodic payment changes that may occur if a resident  
4 marries or if a spouse joins a resident *in a living unit*. It shall also state the fee changes that may  
5 occur if either one of the 2 people who occupy the same living unit dies or otherwise leaves that living  
6 unit.

7           2 Effective Date. This act shall take effect January 1, 2011.

8

Amendment to HB 1363

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Continuing Care Communities; Definitions. Amend RSA 420-D:1, III to read as  
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5 III. "Continuing care" or "life care" means furnishing *or promising to furnish*  
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7 including, the third degree, services that shall include board or lodging, or both, and  
8 may include nursing services, medical services, or other health related services,  
9 irrespective of whether the *board*, lodging, and services are provided at the same  
10 location or provided by a third party, pursuant to a contractual agreement extending  
11 for the life of such person or for a period of a year or more in consideration of payment  
12 of an entrance fee which may also include additional periodic charges for the services  
13 provided and including contracts which are terminable by either party. *Continuing*  
14 *care or life care includes contracts with residents meeting the requirements in this*  
15 *paragraph, where the resident contracts to receive board or lodging or both in the*  
16 *future and does not move immediately into the facility.*

17 2 Continuing Care Communities; Definitions. Amend RSA 420-D:1, V and VI to  
18 read as follows:

19 V. "Entrance fee," "entrance deposit," or "accommodation fee" means an initial  
20 or deferred payment, agreed upon in the contract, of a sum, usually a lump sum, in  
21 cash or in kind, to a provider in return for acceptance as a resident [~~in a facility~~]. This  
22 definition shall not apply to the payment of a sum which is less than the total of  
23 periodic payments, as defined in paragraph X of this section, for one year or \$10,000.

24 VI. "Facility" means any facility or institution [~~offering continuing care to an~~  
25 ~~individual~~] *providing board, lodging, or other services under a contract for continuing*  
26 *care.*

27 3 Continuing Care Communities; Definitions. Amend RSA 420-D:1, VIII to read as  
28 follows:

29 VIII. "Living unit" means a room, apartment, or other area within a facility  
30 used exclusively by one or more, but usually no more than 2[~~7~~] residents *living*  
31 *independently and does not include a nursing home unit, skilled nursing facility,*

1 *hospital room, assisted living unit, or any other similar units or facility licensed under*  
2 *RSA 151.* [~~This definition of living unit shall not mean shelter care, a personal care~~  
3 ~~unit, nursing home, or infirmary bed.~~]

4 4 Continuing Care Communities; Definitions. Amend RSA 420-D:1, X to read as  
5 follows:

6 X. "Periodic payments" or "monthly care fees" means those payments in  
7 addition to the entrance fee [and] made by a resident to a provider for continuing care  
8 during the entire period [~~of residence in a facility~~] *that the contractual agreement for*  
9 *continuing care is in effect.*

10 5 Continuing Care Communities; Definitions. Amend RSA 420-D:1, XIV(a) to read  
11 as follows:

12 XIV.(a) "Unearned portion of entrance fee" means that portion of the entrance  
13 fee which a provider contracts to return to a resident should the resident [~~decide to~~  
14 ~~leave a facility~~] *cancel the contract for continuing care.* This may be nothing, or the  
15 contract may call for the provider to "earn" a specific percentage of the entrance fee  
16 per month.

17 6 New Section; Continuing Care at Home Contracts. Amend RSA 420-D by  
18 inserting after section 3 the following new section:

19 420-D:3-a Continuing Care at Home Contracts.

20 I. A provider may contract to provide continuing care to a resident who remains  
21 at home and does not move immediately into a facility if the provider:

22 (a) Holds a certificate of authority issued under this chapter to provide  
23 continuing care;

24 (b) Owns and operates a facility located in New Hampshire where the  
25 resident has the right to receive board, lodging, or both, and other services.

26 (c) Satisfies the commissioner or that the proposal to offer continuing care  
27 contracts to residents who do not move immediately into the facility will not place the  
28 provider in an unsound financial condition and will not be injurious or hazardous to  
29 any resident contracting with the provider for continuing care.

30 (d) Otherwise complies with all requirements of this section and RSA 420-D.

31 II. Any provider that issues contracts under this section shall:

32 (a) Be in good standing with the commissioner, not subject to action  
33 pursuant to RSA 420-D:5.

34 (b) Be responsible for all services the provider or any third party provides to  
35 the resident in the resident's home pursuant to the contract, and shall exercise direct  
36 control and oversight over any individual or entity providing those services.

37 (c) Have procedures to ensure that any third party providing services to the

Amendment to HB 1363

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1 resident in the resident's home pursuant to the contract, is trustworthy and certified,  
2 licensed, or otherwise qualified under state law to provide those services.

3 III. The provider and any person employed by the provider that assists in  
4 delivery of services to the resident in the resident's home shall have a business  
5 location within the state of New Hampshire, hold appropriate licenses and shall be  
6 available to address complaints, questions and concerns of residents.

7 7 Continuing Care Communities; Revocation or Suspension of Certificate of  
8 Authority. Amend RSA 420-D:5, I(j) to read as follows:

9 (j) Such unsound financial condition or any other practice which may be  
10 hazardous or injurious to ~~[the]~~ residents ~~[of the facility]~~ or to the general public.

11 8 Continuing Care Communities; Annual Reports. Amend RSA 420-D:7, II(c) to  
12 read as follows:

13 (c) An estimated financial statement for the new fiscal year with an  
14 estimate in case of all major changes expected during the year. The commissioner  
15 shall adopt rules under RSA 541-A relative to the definition of major changes. Reports  
16 containing the information under this subparagraph shall not be distributed to  
17 residents ~~[of a facility]~~ unless prior approval has been obtained from the commissioner.

18 9 continuing Care Communities; Lien on Behalf of Residents. Amend RSA 420-  
19 D:9 to read as follows:

20 420-D:9 Lien on Behalf of Residents. The commissioner shall file a lien on all real  
21 and personal property of a provider if he deems it necessary to protect the interests of  
22 the residents ~~[of a facility]~~. Such lien shall be effective for the period determined  
23 necessary by the commissioner and may be renewed if the circumstances warrant it.  
24 A lien shall only be foreclosed to protect the investment of residents, and the proceeds  
25 shall be distributed in a manner to satisfy any continuing care contracts in effect at  
26 that time.

27 10 Continuing Care Communities; Entrance Fee Escrow Account. Amend RSA  
28 420-D:10, I to read as follows:

29 I. An escrow account for entrance fees shall be established and approved by the  
30 commissioner before a certificate of authority under this chapter shall be issued.  
31 Entrance fees paid by prospective residents before occupancy of a facility living unit *or*  
32 *by prospective residents under a contract issued pursuant to RSA 420-D:3-a*, and  
33 which total over \$1,000 shall be placed in this account. All entrance fees subject to  
34 this section shall be placed in the account on the first working day after receipt.  
35 Interest on such fees shall be paid at the current market rate as established by the  
36 commissioner to the prospective resident if the resident is not allowed by the provider,  
37 for any reason, to enter the facility, *provided however if the entrance fee is paid*

1 *pursuant to a contract under RSA 420-D:3-a, the entrance fee shall be returned to the*  
2 *consumer with interest, if the contract is not signed or the consumer exercises the*  
3 *right of rescission under RSA 420-D:12, I(m).*

4 11 New Subparagraph; Continuing Care Communities; Entrance Fees. Amend  
5 RSA 420-D:1, III by inserting after subparagraph (b) the following new  
6 subparagraph:

7 (c) For a resident that has not moved into the facility pursuant to RSA 420-  
8 D:3-a, 10 days after the contract is fully executed by all parties.

9 12 Continuing Care Communities; Contracts With Residents. Amend RSA 420-  
10 D:12, I(d)-(g) to read as follows:

11 (d) State the conditions upon which the provider may evict a resident *or*  
12 *terminate the contract for continuing care* and the conditions upon which a resident  
13 may terminate his *or her* residency *or terminate the contract for continuing care*. A  
14 statement as to what portion of the entrance fee shall be returned under each  
15 condition shall also be included in accordance with RSA 420-D:12, II.

16 (e) Describe conditions required for a person to continue as a resident.

17 (f) Describe any conditions under which a person delinquent in his *or her*  
18 periodic payments may remain and if there is a specific time limit.

19 (g) State the entrance fees and periodic payment changes that may occur if  
20 a resident marries or if a spouse joins a resident *in a living unit*. It shall also state the  
21 fee changes that may occur if either one of the 2 people who occupy the same living  
22 unit dies or otherwise leaves that living unit.

# Speakers





# Hearing Minutes

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1363

**BILL TITLE:** relative to continuing care communities.

**DATE:** 2-2-10

**LOB ROOM:** 302      **Time Public Hearing Called to Order:** 1335

**Time Adjourned:** 1340

(please circle if present)

**Committee Members:** Reps. Butler, DeStefano, Kopka, McEachern, Hammond, Nord, Winters, Meader, Gidge, Schlachman, Keans, DeSaron, Hunt, Quandt, Belanger, D. Flanders, R. Holden, Dowling, Headd, Nevins and Palfrey.

**Bill Sponsors:** Rep. Hammond

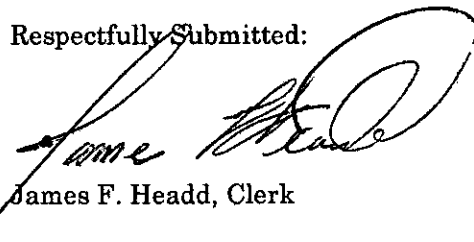
TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

\*Rep. Jill Hammond, sponsor – Opened bill; sponsor of bill on behalf of the insurance department. Read from prepared statement in file.

Michael Wilkey, NH Insurance Dept. – Supports bill. Handed out an amendment to the bill and read and discussed his amendment. The department supports the bill.

Respectfully Submitted:



James F. Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

PUBLIC HEARING ON HB 1363

BILL TITLE: relative to continuing care communities.

DATE: 2-2-10

LOB ROOM: 302

Time Public Hearing Called to Order:

1335

Time Adjourned:

(please circle if present)

Committee Members: Reps. Butler, DeStefano, Kopka, McEachern, Hammond, Nord, Winters, Meader, Gidge, Schlachman, D. Eaton, Hunt, Quandt, Belanger, D. Flanders, R. Holden, Dowling, Headd, Nevins and Palfrey.

Bill Sponsors: Rep. Hammond

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

- #1 Rep Hammond - opened Bill - sponsor of Bill  
brought Bill forward on behalf of his Post  
Read from prepared statement -  
written statement in file
- #2 Mike Wilkey - NHTD -  
handed out an amendment to the  
Bill and read and discussed the  
amendment -  
the Department supports the Bill

# Testimony

## **HB 1363 - Continuing Care Retirement Communities**

Prime Sponsor: Rep. Hammond

### INTRODUCTION

02/02/10

Since 1988, the New Hampshire Insurance Department has been responsible for the regulation and financial oversight of continuing care retirement communities pursuant to RSA 420-D. The Legislature provided a declaration of purpose when enacting the law in 1988 that states in part....."the general court recognizes that continuing care communities are an important and necessary alternative to serve the long term residential, social, and health care needs of many older citizens...."

HB 1363 is a request of the Insurance Department. The Department has an amendment to HB 1363 as introduced that replaces all after the enacting clause. The amendments in the proposed amendment handout expand upon the provisions contained in the originally introduced bill to provide greater clarity to the applicability of the law, as well as to enable continuing care retirement communities to offer and provide "at home" care services.

Today, there are seven continuing care retirement communities in New Hampshire (Havenwoods-Heritage Heights, Concord; Hillcrest Terrace, Manchester; Kendal at Hanover, Hanover; Peterborough Retirement at Upland Farm, Peterborough; Riverwoods, Exeter; Taylor Home, Laconia; and The Huntington, Nashua).

Employees of the Insurance Department are here to provide more indepth information about HB 1363 and to answer any questions you may have.

Thank you.

(legis10hb1363ccrcintro020210)

- **Amend HB 1363, by replacing all after the enacting clause with the following:**

- **Amend RSA 420-D:1 III., to read as follows:**

III. ""Continuing care" or ""life care" means furnishing **or promising to furnish** to a person, other than one who is related by consanguinity or affinity up to, but not including, the third degree, services that shall include board or lodging, or both, and may include nursing services, medical services, or other health related services, irrespective of whether the **board**, lodging and services are provided at the same location or provided by a third party, pursuant to a contractual agreement extending for the life of such person or for a period of a year or more in consideration of payment of an entrance fee which may also include additional periodic charges for the services provided and including contracts which are terminable by either party. **Continuing care or life care includes contracts with residents meeting the requirements above, where the resident contracts to receive board or lodging or both in the future and does not move immediately into the facility.**

- **Amend RSA 420-D:1 V., to read as follows:**

V. ""Entrance fee", ""entrance deposit" or ""accommodation fee" means an initial or deferred payment, agreed upon in the contract, of a sum, usually a lump sum, in cash or in kind, to a provider in return for acceptance as a resident **[in a facility]**. This definition shall not apply to the payment of a sum which is less than the total of periodic payments, as defined in paragraph X of this section, for one year or \$10,000.

- **Amend RSA 420-D:1 VI., to read as follows:**

VI. ""Facility" means any facility or institution **providing board, lodging or other services under a contract for continuing care [offering continuing care to an individual]**.

- **Amend RSA 420-D:1 VIII., to read as follows:**

VIII. ""Living unit" means a room, apartment, or other area within a facility used exclusively by one or more, but usually no more than 2[, ] residents **living independently, and does not include a nursing home unit, skilled nursing facility, hospital room, assisted living unit or any other similar units or facility licensed under RSA 151.** [This definition of living unit shall not mean shelter care, a personal care unit,

nursing home, or infirmary bed.]

- Amend RSA 420-D:1 X., to read as follows:

X. "Periodic payments" or "monthly care fees" means those payments in addition to the entrance fee [and] made by a resident to a provider for continuing care during the entire period that the contractual agreement for continuing care is in effect [of residence in a facility].

- Amend RSA 420-D:1 XIV.(a), to read as follows:

XIV. (a) "Unearned portion of entrance fee" means that portion of the entrance fee which a provider contracts to return to a resident should the resident cancel the contract for continuing care [decide to leave a facility]. This may be nothing, or the contract may call for the provider to "earn" a specific percentage of the entrance fee per month.

- Amend RSA 420-D, to add new Section 3-a, to read as follows:

420-D:3-a Continuing Care at Home Contracts.

I. A provider may contract to provide continuing care to a resident who remains at home and does not move immediately into a facility if the provider:

(a) Holds a certificate of authority issued under this chapter to provide continuing care;

(b) Owns and operates a facility located in New Hampshire where the resident has the right to receive board, lodging or both and other services.

(c) Satisfies the commission that the proposal to offer continuing care contracts to residents who do not move immediately into the facility will not place the provider in an unsound financial condition and will not be injurious or hazardous to any resident contracting with the provider for continuing care.

(d) Otherwise complies with all requirements of this section and Chapter 420-D.

II. Any provider that issues contracts under this section shall:

(a) Be in good standing with the commissioner, not subject to action pursuant to RSA 420-D:5;



(b) Be responsible for all services the provider or any third party provides to the resident in the resident's home pursuant to the contract, and shall exercise direct control and oversight over any individual or entity providing those services.

(c) Have procedures to ensure that any third party providing services to the resident in the resident's home pursuant to the contract, is trustworthy and is certified, licensed, or otherwise qualified under state law to provide those services.

III. The provider and any person employed by the provider that assists in delivery of services to the resident in the resident's home shall have a business location within the state of New Hampshire, hold appropriate licenses and shall be available to address complaints, questions and concerns of residents.

- **Amend RSA 420-D:5 I. (j), to read as follows:**

(j) Such unsound financial condition or any other practice which may be hazardous or injurious to [the] residents [of the facility] or to the general public.

- **Amend RSA 420-D:7 II. (c), to read as follows:**

(c) An estimated financial statement for the new fiscal year with an estimate in case of all major changes expected during the year. The commissioner shall adopt rules under RSA 541-A relative to the definition of major changes. Reports containing the information under this subparagraph shall not be distributed to residents [of a facility] unless prior approval has been obtained from the commissioner.

- **Amend RSA 420-D:9, to read as follows:**

#### **Section 420-D:9**

**420-D:9 Lien on Behalf of Residents.** – The commissioner shall file a lien on all real and personal property of a provider if he deems it necessary to protect the interests of the residents [of a facility]. Such lien shall be effective for the period determined necessary by the commissioner and may be renewed if the circumstances warrant it. A lien shall only be foreclosed to protect the investment of residents, and the proceeds shall be distributed in a manner to satisfy any continuing care contracts in effect at that time.

- **Amend RSA 420-D:10 I., to read as follows:**

I. An escrow account for entrance fees shall be established and approved by the commissioner before a certificate of authority under this chapter shall be issued. Entrance fees paid by prospective residents before occupancy of a facility living unit or by prospective residents under a contract issued pursuant to RSA 420-D:3-a, and which

total over \$1,000 shall be placed in this account. All entrance fees subject to this section shall be placed in the account on the first working day after receipt. Interest on such fees shall be paid at the current market rate as established by the commissioner to the prospective resident if the resident is not allowed by the provider, for any reason, to enter the facility, **provided however if the entrance fee is paid pursuant to a contract under RSA 420-D:3-a, the entrance fee shall be returned to the consumer with interest as described above, if the contract is not signed or the consumer exercises the right of rescission under RSA 420-D:12, I. (m).**

- **Amend RSA 420-D:10 I., to add new paragraph (c), to read as follows:**

(c) For a resident that has not moved into the facility pursuant to rSA 420-D:3-a, 10 days after the contract is fully executed by all parties.

- **Amend RSA 420-D:12 I. (d), (f), and (g), to read as follows:**

(d) State the conditions upon which the provider may evict a resident **or terminate the contract for continuing care** and the conditions upon which a resident may terminate his **or her** residency **or terminate the contract for continuing care**. A statement as to what portion of the entrance fee shall be returned under each condition shall also be included in accordance with RSA 420-D:12, II.

(f) Describe any conditions under which a person delinquent in his **or her** periodic payments may remain and if there is a specific time limit.

(g) State the entrance fees and periodic payment changes that may occur if a resident marries or if a spouse joins a resident **in a living unit**. It shall also state the fee changes that may occur if either one of the 2 people who occupy the same living unit dies or otherwise leaves that living unit.

# Voting Sheets

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1363

**BILL TITLE:** relative to continuing care communities.

**DATE:** 2-4-10

**LOB ROOM:** 302

**Amendments:**

Sponsor: Rep. Commerce OLS Document #: 2010 0463h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Hammond

Seconded by Rep. Schlachman

Vote: 18-0 (Please attach record of roll call vote.)

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Hammond

Seconded by Rep. Schlachman

Vote: 18-0 (Please attach record of roll call vote.)

**CONSENT CALENDAR VOTE:** Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep. James F. Headd, Clerk

HOUSE COMMITTEE ON COMMERCE AND CONSUMER AFFAIRS

EXECUTIVE SESSION on HB 1363

BILL TITLE: relative to continuing care communities.

DATE: 2-4-10

LOB ROOM: 302

Amendments: 0463 h

Sponsor: Rep. Hammond OLS Document #:

Sponsor: Rep. Schlauchman OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Hammond  
Seconded by Rep. Schlauchman

Vote: 180 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: Consent or Regular (Circle One)

(Vote to place on Consent Calendar must be unanimous.)

18-2

Statement of Intent: Refer to Committee Report

Respectfully submitted,  
Rep. James F. Headd, Clerk

COMMERCE AND CONSUMER AFFAIRS

Bill #: HB 1363 Title: Continuing Care Retirement

PH Date:      /      /      Exec Session Date: 21410

Motion: OTF Amendment #: 04636

MEMBER	YEAS	NAYS
Butler, Edward A, Chairman	/	
Schlachman, Donna L, V Chairman	/	
DeStefano, Stephen T	/	
Kopka, Angeline A	/	
Meador, David R	/	
McEachern, Paul	/	
Hammond, Jill Shaffer	/	
Nord, Susi	/	
Winters, Joel F	/	
Keans, Sandra B		
Gidge, Kenneth N	/	
Hunt, John B	/	
Quandt, Matt J	/	
Belanger, Ronald J	/	
Flanders, Donald H	/	
Holden, Rip	/	
Dowling, Patricia A	/	
Headd, James F, Clerk	/	
Nevins, Chris F		
Palfrey, David J	/	
	18-0	

COMMERCE AND CONSUMER AFFAIRS

Bill #: HB 1363 Title: Continuing Care Communities  
 PH Date:      /      /      Exec Session Date: 21 4 10

Motion: OTR/A Amendment #:     

MEMBER	YEAS	NAYS
Butler, Edward A, Chairman	✓	
Schlachman, Donna L, V Chairman	✓	
DeStefano, Stephen T	✓	
Kopka, Angeline A	✓	
Meador, David R	✓	
McEachern, Paul	✓	
Hammond, Jill Shaffer	✓	
Nord, Susi	✓	
Winters, Joel F	✓	
Keans, Sandra B	✓	
Gidge, Kenneth N	✓	
Hunt, John B	✓	
Quandt, Matt J	✓	
Belanger, Ronald J	✓	
Flanders, Donald H	✓	
Holden, Rip	✓	
Dowling, Patricia A	✓	
Headd, James F, Clerk	✓	
Nevins, Chris F	✓	
Palfrey, David J	✓	
	14-0	

# Committee Report



**CONSENT CALENDAR**

**February 17, 2010**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Committee on COMMERCE AND CONSUMER  
AFFAIRS to which was referred HB1363,

AN ACT relative to continuing care communities.

Having considered the same, report the same with the  
following amendment, and the recommendation that  
the bill OUGHT TO PASS WITH AMENDMENT.

**Rep. Jill Shaffer Hammond**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>COMMERCE AND CONSUMER AFFAIRS</b>
Bill Number:	<b>HB1363</b>
Title:	<b>relative to continuing care communities.</b>
Date:	<b>February 9, 2010</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT</b>

### STATEMENT OF INTENT

This bill allows continuing care retirement communities (CCRCs) to enter into 'at-home' continuing care contracts. CCRCs are bricks and mortar

operations where an individual or couple contracts with the company for lodging, board, and medical care, by paying a substantial entrance or accommodation fee, for housing ranging from independent apartments, townhouses or cottages, through assisted living units, nursing home facilities, to Alzheimer units. This bill would allow a CCRC to deliver at-home care to a contractee who will be a future resident at such a facility, but still resides and receives services in their independent home.

Vote 18-0.

Rep. Jill Shaffer Hammond  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## **CONSENT CALENDAR**

### **COMMERCE AND CONSUMER AFFAIRS**

**HB1363**, relative to continuing care communities. **OUGHT TO PASS WITH AMENDMENT.**  
Rep. Jill Shaffer Hammond for **COMMERCE AND CONSUMER AFFAIRS**. This bill allows continuing care retirement communities (CCRCs) to enter into 'at-home' continuing care contracts. CCRCs are bricks and mortar

operations where an individual or couple contracts with the company for lodging, board, and medical care, by paying a substantial entrance or accommodation fee, for housing ranging from independent apartments, townhouses or cottages, through assisted living units, nursing home facilities, to Alzheimer units. This bill would allow a CCRC to deliver at-home care to a contractee who will be a future resident at such a facility, but still resides and receives services in their independent home.  
**Vote 18-0.**

Original: House Clerk  
Cc: Committee Bill File

Blurb for 1417:

Angie Kopka:

This bill is enabling legislation that will allow a restaurant owner, at his/her discretion, to permit well-behaved companion dogs into public areas of a food service establishment. Dogs would not be permitted to enter any food preparation or production areas. The restaurant owner must post notice prominently displayed at all public entrances advising patrons that companion dogs are permitted on the premises. This does not change the use of service dogs, which are already allowed in restaurants under the Americans with Disabilities Act.

Blurb for 1363:

Jill Shaffer Hammond

This bill allows continuing care retirement communities (CCRCs) to enter into 'at-home' continuing care contracts. CCRCs are bricks and mortar operations where an individual or couple contracts with the company for lodging, board, and medical care, by paying a substantial entrance or accommodation fee, for housing ranging from independent apartments, town houses or cottages, through assisted living units, nursing home facilities, to Alzheimer units. This bill would allow a CCRC to deliver at-home care to a contractee who will be a future resident at such a facility, but still resides and receives services in their independent home.

Blurb for 1282:

Jill Shaffer Hammond

This bill would have required insurance companies to send a copy of any claim which is denied to the insured and to the provider. This would have added unnecessarily to paper work requirements in insurance, especially since insureds are already notified when a claim is denied and providers are sent lists of denied claims from the insurers.

Blurb for 1597:

Jill Shaffer Hammond

This bill sought to provide a safety net for workers who lose their jobs by extending indefinitely COBRA coverage beyond 18-months, until an insured either was eligible for another employer-based group plan or for Medicare. It would also have prohibited an insurer from denying a policy or coverage to an individual due to pre-existing condition. As it stands now, those who continue with COBRA (a rather expensive option for someone unemployed) are often those with pre-existing conditions who would find it nearly impossible to get affordable coverage otherwise. As these people stay on an employer's coverage, the employer may find that older ex-employees, or their dependents, may adversely affect that small business' group rating. The mechanism for addressing the needs of hard-to-cover individuals is through the state's high risk pool. It is clear that some reforms and expansion of coverage for the unemployed, addressing access and affordability issues, are still needed. The insurance department will be reporting back to the Commerce Committee in May regarding how this can be achieved through modifications to the state's high risk pool policy.

**Stapler, Carol**

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**From:** EdoftheNotch@aol.com  
**Sent:** Monday, February 08, 2010 2:56 PM  
**To:** Stapler, Carol  
**Subject:** blurbs  
**Attachments:** Blurb for 1417,etc from Jill 2-10.doc

Carol, these are OK.

Ed