



The Resident CONNECTION

4th Quarter 2023



President's Message

As I end my first year as your president, I want to pay homage to the previous presidents who have served FLiCRA so diligently. They have guided this organization to a steady success, even through the stormy waters of

the pandemic, and we can credit them and others with where we are today.

As we approach the end of the year, I'd like to take the opportunity to highlight some of our accomplishments.

Early in the year, we started to refine some of the language in Florida Statute 651, which is the law that directly affects residents of continuing care facilities. The major change updated language related to the designated resident representative, as it brought to light the importance of having a resident interact with the providers that operate these properties we call home.

The designated resident representative is authorized by law to be present when any discussions related to changes in fees or services occur which affect residents' financial obligations. These changes were in HB 1573, successfully passed by the legislature which took effect on July 1, 2023.

Non-compliance was overlooked by some in prior years, but because of higher than average increases in monthly maintenance fees since the pandemic, the role of the designated resident representative is now very important to residents.

It wasn't flashy, however, it was important and took yeoman's work by not just your board, but by Bennett Napier and his team in Tallahassee.

In my last newsletter, I explained that the cost of doing business in Tallahassee has increased considerably since FLiCRA was first organized in 1989. I asked each of the chapters to consider making a donation to FLiCRA headquarters, for the good of the order, if they felt comfortable in releasing some of the money in their bank account that they didn't anticipate using. I am pleased to report that several chapters have already sent checks and several others are contemplating donating.

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Starting in the summer a task force was formed to discuss the possibilities of generating revenue outside of raising dues.

This Future Forward task force has concluded that the priority for new revenue should focus on recruitment of new members and retention of existing members.

The task force will come back to the state board in 2024 with final recommendations on the best use of any new non-dues revenue.

The following examples illustrate some potential projects:

- Create educational resources to assist resident councils and designated resident representatives to effectively perform their duties.
- Enhance reserves that will enable FLiCRA to hire additional lobbyists on a short or long-term basis to augment our current contract lobbying resources when needed.
- Allow consideration for FLiCRA to sponsor third-party research that would highlight the economic benefit of CCRCs in Florida.

In keeping with our efforts to attract non-FLiCRA CCRCs to join our organization, I am happy to tell you that we are very close to bringing on several additional FLiCRA chapters in early 2024. Our entire state board has been focused on spreading the FLiCRA mission to other communities and that is beginning to bear fruit.

I do want to mention that our annual meeting held at Indian River Estates in Vero Beach in October was a great success. There were 100 resident leaders in attendance from 30 CCRCs and our speaker, Michael Yaworsky, Commissioner of Insurance, provided an informative and interesting message. He answered many questions from the audience. Indian River Estates did an excellent job in hosting the event.

I've found my first year as your president to be both challenging and enjoyable. I've had the pleasure of visiting several CCRCs and I look forward to visiting others as I serve another year on the board of this great organization. Best wishes to all of you for a happy holiday and a healthy 2024.

Patricia Burdsall
FLiCRA President

Regulatory Reminder for Continuing Care/Life Plan Communities

Several changes were made to Chapter 651, F.S., through the enactment of HB 1573. These changes took effect July 1, 2023. Below are a few regulatory requirements related to the new provisions, along with a couple of others, that could easily be overlooked.

Escrow Accounts – One of the modifications to Ch. 651, F.S., eliminates the requirement that escrow accounts must be held in a financial institution with a Florida branch. If there is a change in the escrow agent or agreement because of this new provision or for any other reason, it must be filed electronically via the Portal and the Regulatory Electronic Filing System (REFS) as a periodic filing and approved by the Office of Insurance Regulation (OIR) prior to its use. To improve the timeliness of the review, a provider should include a red-line comparison in addition to the new agreement.

Notice of Material Change – Continuing care/life plan communities are required to notify the OIR of any material changes that occur from what was described in the license (COA) application. This could include downsizing or eliminating a nursing home, ceasing to offer continuing care contracts, affiliating with another entity, a change of ownership, etc. If you are not sure if a change is reportable, it's best to confer with the OIR.

Rule 69 O-193.058, F.A.C., Continuous Updates states, "Each provider shall immediately notify the Office and file pertinent documents within five business days regarding:

- (1) Any litigation alleging a felonious act by a provider or any person affiliated with or controlled by a provider;
- (2) Any proceeding for denial, suspension, or revocation of any license or permit needed to operate a facility;
- (3) Any other information that might adversely affect the ability of a provider, facility, or its management to operate under the assumptions made in the most recent license application; or
- (4) Any change in the name or fictitious name of a provider or facility."

Disclosure Packet – Ch. 651, F.S., as amended by HB 1573, includes three new disclosure requirements, one of which must be added to the disclosure packet given to prospective residents before entering into a continuing care contract. A provider must disclose "whether it has one or more residents serving on its board or governing body and whether that resident has a vote or is serving in a non-voting, ex-officio capacity."

Providers must submit revised disclosure packets to the OIR through the REFS before using them. OIR approval is not required so you probably will not hear from the OIR unless the reviewer has questions. For ease of review, it is a good idea to red-line changes.

Designated Resident Representative – The residents' council is now required to nominate and elect a resident representative to attend meetings of the board or governing body where "the annual budget and proposed changes or increases in resident fees or services are on the agenda or will be discussed." Prior to the passage of HB 1573, the law required the residents' council to designate a resident representative. Please remind your residents' council of this change.

Change in Management – Providers must notify the residents' council chair or president in writing of a change in management within 10 business days. Pursuant to s. 651.011(19), F.S., "Manager," "management," or "management company" means a person who administers the day-to-day business operations of a facility for a provider, subject to the policies, directives, and oversight of the provider. When this change was discussed, the intent was that the resident council chair or president would be notified of a change in management company, the executive director, or chief executive officer, whichever applies to the administration of the community.

Source: LeadingAge Florida

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Designated Resident Representative Job Description

The primary function of the Designated Resident Representative (DRR) is to represent the members before the board of the provider on any matter affecting changes or fees or services to the residents. The DRR must be a life care contract holder and shall serve a term of a minimum of one calendar year.

Desired experience for a DRR: *

Education/Experience: a degree in economics, finance, accounting, or other related fields or work experience that encompass working knowledge of non-profit or for-profit finance and budgeting.

Skills: ability to effectively review and discuss “the annual budget and proposed changes or increases in resident fees or services.”

Previous service on a CCRC Resident Finance Committee.

*Criteria based on FLiCRA publication “Best Practices for Consideration” to implement FL Statute 651.085 amended and effective July 1, 2023.

Responsibilities:

1. Attends all provider meetings when the annual budget and/or proposed changes or increases in resident fees or services are on the agenda and will be discussed.

2. It is recommended the DRR reviews available financial information on the community which includes the annual report filed with the Florida Office of Insurance Regulation and any other financial information on the community that is available through a public records request by contacting:

Office of Insurance Regulation
Attn: Public Records Office
200 E Gaines Street
Tallahassee, Florida 32399-4206
(850) 413-4223
PublicRecords@flor.com

3. Forms ad hoc committees, as necessary, to assist in preparation for meetings.

4. When attending meetings relative to the role of the DRR, the DRR should have basic understanding of the roles and authority of the members of the governing body as well as the collective body. Further, at each invited meeting the DRR should come prepared with specific and relevant questions to pose to the governing body. If time allows, sending advance questions before the meeting may be beneficial. Meeting with the governing body of the provider provides an opportunity for learning and dialogue. The DRR from a regulatory standpoint is the designated individual in this setting to represent the interests of the resident population.

5. After each meeting where the DRR meets with the governing body of the provider, the DRR should prepare written reports for the resident council. These reports will guide the decision making of the council relative to future efforts of the DRR related to the provisions of 651.085.

Statutory Reference:

651.085 Quarterly meetings between residents and the governing body of the provider; resident representation before the governing body of the provider.

(2) A residents’ council formed pursuant to s. 651.081, members of which are elected by the residents, shall nominate and elect a designated resident representative to represent them before the governing body of the provider on matters specified in subsection (3). The initial designated resident representative elected under this section shall be elected to serve at least 12 months. The designated resident representative does not have to be a current member of the residents’ council; however, such an individual must be a resident, as defined in s. 651.011.

Source: Job Description developed by FLiCRA

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Continuing Care/Life Plan Communities Prepare for 2024 Increase in Monthly Fee

Continuing care/life plan communities are in the process of determining the monthly fee increase for 2024. The October 9th *Ziegler Senior Living Z-News* included survey results from 250 respondents from around the country on resident monthly fee increases for 2023 and projected increases for 2024. For 2023, the median percentage increase in monthly fees was 6.00%, which is significantly more than the typical 3.00% increase of previous years, and higher than the 2022 median increase of 4.48%. However, the projections for 2024, by all metrics, are lower than 2023. The median projected increase is 5%; the maximum is 12% compared to 15% in 2023.

A question was posed on the survey regarding mid-year increases. Roughly seven percent (7%) reported that they implemented such an increase this year. When asked about the year ahead, nearly 40% indicated that they are keeping this option open for 2024.

Florida providers are required to do the following when increases in monthly maintenance fees occur:

“The designated resident representative shall be notified by a representative of the provider at least 14 days in advance of any meeting of the full governing body at which the annual budget and proposed changes or increases in resident fees or services are on the agenda or will be discussed. The designated resident representative shall be invited to attend and participate in that portion of the meeting designated for the discussion of such changes. Designated resident representatives shall perform their duties in good faith. For providers that own or operate more than one facility in the state, each facility must have its own designated resident representative.” (s. 651.085(3), F.S.)

“At a quarterly meeting prior to the implementation of any increase in the monthly maintenance fee, the designated representative of the provider must provide the reasons, by department cost centers, for any increase in the fee that exceeds the most recently published Consumer Price Index for All

Urban Consumers, all items, Class A Areas of the Southern Region. Nothing in this subsection shall be construed as placing a cap or limitation on the amount of any increase in the monthly maintenance fee, establishing a presumption of the appropriateness of the Consumer Price Index as the basis for any increase in the monthly maintenance fee, or limiting or restricting the right of a provider to establish or set monthly maintenance fee increases.” (s. 651.085(4), F.S.)

Designated Resident Representative - Continued from Page 4

(3) The designated resident representative shall be notified by a representative of the provider at least 14 days in advance of any meeting of the full governing body at which the annual budget and proposed changes or increases in resident fees or services are on the agenda or will be discussed. The designated resident representative shall be invited to attend and participate in that portion of the meeting designated for the discussion of such changes. Designated resident representatives shall perform their duties in good faith. For providers that own or operate more than one facility in the state, each facility must have its own designated resident representative.

CCRC FINANCE GUIDEBOOK

FLiCRA chapters can purchase copies of the “CCRC Finances, A Guidebook for Members of CCRC Resident Finance Committees.”

The guidebook is intended to assist interested residents with achieving a basic understanding of their CCRC’s financial position and performance as reflected in its financial statements and other key documents.

Printed guidebooks are available for \$14.90 each and electronic copies are free. Orders can be placed by contacting the FLiCRA Office at (850) 906-9314 or by email at lauren@executiveoffice.org.

2023 Annual Conference & Chapter Delegates Meeting Wrap-Up



2023-2024 FLiCRA Board

Front Row (from Left to Right): Ray Neff, Region 7 Director; Patricia Burdsall, President; Charlotte Cummings, Secretary & Region 1 Director; Hugh Strachan, Treasurer.

Back Row (from Left to Right): Fred Falkner, Director-at-Large; Gary Hughes, Region 2 Director; George Dann, Region 4 Director; Richard Greatwood, Region 3 Director; Cindy Barber, Region 6 Director; Tom Gire, Region 8 Director.

Not Pictured: Kenneth Shanahan, Vice President; Michael League, Director-at-Large; David Bayer, Region 5 Director.



Left: FLiCRA Executive Director Bennett Napier, CAE; Keynote Speaker Michael Yaworsky, Florida Commissioner of Insurance and FLiCRA President Patricia Burdsall.

Michael Yaworsky's presentation on *Florida CCRC Trends & Overall Florida Insurance Market Trends* received high marks from the conference attendees.

The recorded presentation is available online at:
youtube.com/watch?v=ryzP2HqnbX4

2023 Annual Conference & Chapter Delegates Meeting Wrap-Up



Above (from Left to Right): FLICRA Legislative Representative William H. Stander; Keynote Speaker Michael Yaworsky, Florida Commissioner of Insurance and FLICRA President Patricia Burdsall.

Below Left (from Left to Right): FLICRA President Patricia Burdsall presents Charles “Chuck” Schneider with a plaque for his hard work and dedication to FLICRA as Region 4 Director.

Below Right (from Left to Right): FLICRA President Patricia Burdsall presents Chet Janes with a plaque for his hard work and dedication to FLICRA as a Director-at-Large.





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Regulatory Reminder for Continuing Care/Life Plan Communities Cont.

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OIR Examination Report – Continuing care/life plan communities must provide a copy of the final examination report and corrective action plan to the residents’ council chair or president as well as the executive officer of the provider’s board or executive body within 60 days of the issuance of the report. This is in addition to posting in a prominent place a summary of the report and corrective action plan with page numbers of the full report referenced that identify where the full report may be reviewed.

Rental Contracts -- If you are considering adding a rental contract as an option, OIR approval of the contract is not required. However, you should inform the OIR that you plan to make this change.

Source: *LeadingAge Florida*

Important 2024 Florida Legislative Session Dates

January 9, 2024

Regular Session convenes
12:00 p.m., deadline for filing bills for introduction

February 24, 2024

Motion to reconsider made and considered the same day
All bills are immediately certified

February 27, 2024

50th day - last day for regularly scheduled committee meetings

March 8, 2024

60th day - last day of Regular Session