

A Guide to the Regulation of Continuing Care Retirement Communities in Virginia

**Prepared by the
Bureau of Insurance
State Corporation Commission
Commonwealth of Virginia**



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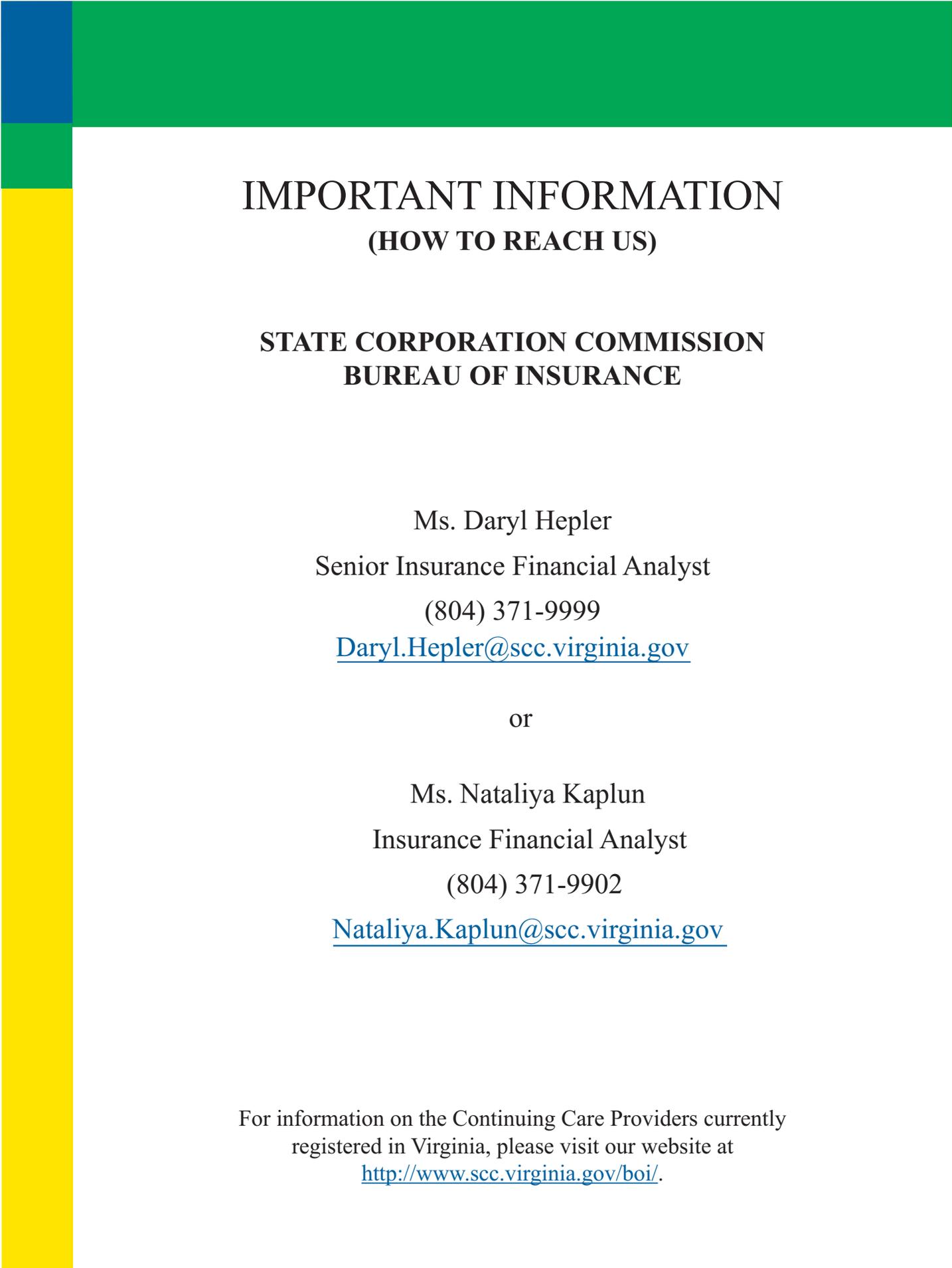
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For information on the Continuing Care Providers currently
registered in Virginia, please visit our website at
<http://www.scc.virginia.gov/boi/>.

SCC Authority and CCRC Regulation

The State Corporation Commission Bureau of Insurance has regulated Continuing Care Retirement Communities (“CCRCs”) in Virginia since July 1, 1985. Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia (“the Code”) provides for regulatory oversight of CCRCs by the State Corporation Commission. Oversight includes ensuring that proper disclosures are made by the CCRC as well as monitoring the CCRC’s financial condition.

Sections 38.2-4902 and 38.2-4904 require that certain disclosures be made in the disclosure statement. Section 38.2-4905 requires that certain provisions be included in the continuing care contract. Sections 38.2-4925 and 38.2-4931 provide for the financial monitoring of CCRCs and authorize the Commission to issue an order to restrain and enforce compliance with Chapter 49. Section 38.2-4932 allows the Commission to impose a fine or penalty on a provider for violating any provision of Chapter 49.

CCRC Filing Requirements in Virginia

CCRCs are required to submit the following filings with the State Corporation Commission Bureau of Insurance:

Initial Registration and Disclosure Statement

- Prior to operating in Virginia, every continuing care provider (“provider”) files a registration statement, disclosure statement, continuing care contracts, and audited financial statements.
- Bureau of Insurance staff has 90 days to complete the review of these documents for compliance with the Code requirements.
- Facilities under construction are required to file additional information regarding construction costs and financing.

Annual Disclosure Statement

- Annually within four months of the provider’s fiscal year end, the provider is required to file an updated disclosure statement, continuing care contracts, and audited financial statements.
- The annual filing is required to include a narrative describing material differences between the prior year’s pro forma income statement and the actual results of operations.

Amended Disclosure Statement

- Amended filings are required any time a provider determines an amendment is necessary due to a material change.

Composition of a Disclosure Statement

The disclosure statement includes a narrative description of the identity and experience of the provider, admission requirements, services provided, fees required, refund provisions, and complaint procedures. The disclosure statement also includes copies of the continuing care contracts, audited financial statements, and additional exhibits the provider may wish to include.

A brief summary of each part of the disclosure statement may be found below:

Narrative

- Information on the Continuing Care Provider
 - Name, address, and business type of provider
 - Ownership and control over provider
 - Names and business addresses of officers, directors, and owners
 - Business experience of provider, officers, directors, owners, and management
 - Criminal, civil, or administrative convictions or investigations
- Ownership of property and buildings
- Location and description of property
- Affiliation with religious, charitable, or nonprofit organizations and information on tax exemptions
- Description of services provided under continuing care contracts
- Fees Required of Residents
 - Entrance fees and monthly fees
 - Uses of fees
 - Escrowing and refunding provisions
 - Description of the manner by which the provider may adjust periodic fees
 - Tables detailing rate changes
- Reserve funding
- Admission of residents
- Access to facility by nonresidents
- Information required for facilities under construction

Resident's Contract

The Bureau of Insurance reviews the continuing care contract to determine if the following provisions required by Section 38.2-4905 have been included:

- Continuing care provided to each resident.
- Details of values of property transferred by or for residents.
- Specific details of services to be provided to residents.

- Description of health and financial condition that may require resident to relinquish space.
- Description of health and financial condition required to continue as resident.
- Current fees if resident marries and terms concerning spouse's entry into the facility.
- Description of good cause provision for cancellation of contract.
- Details of refund provisions.
- Terms for contract cancellation by death.
- Terms for at least 30 days advance notice before any changes in fees or services.
- Resident's right to rescind the contract.
- Resident's rights prior to occupying the facility.

In accordance with Section 38.2-4928, the State Corporation Commission shall have no jurisdiction to adjudicate controversies concerning CCRC contracts.

Audited Financial Statements

- Certified financial statements of the provider including a balance sheet and income statement for the two most recent fiscal years are required.

Financial Monitoring

The Bureau of Insurance reviews the audited financial statements to determine if, in the opinion of the auditor, the provider will remain as a going concern (be able to continue operations), and to determine the financial position of the provider.

In accordance with Section 38.2-4931, the Commission may issue an order to require the provider to cease and desist from engaging in any act or practice that constitutes a violation of Chapter 49. The Commission may also issue a temporary or permanent injunction or a restraining order to enforce compliance with the Chapter. The Commission may issue an order to protect residents and prospective residents when the Commission determines that:

- A provider has been or will be unable to meet the pro forma income or cash flow projections filed and such failure may endanger its ability to perform its obligations.
- A provider is bankrupt, insolvent, under reorganization pursuant to federal bankruptcy laws, or in imminent danger of becoming bankrupt or insolvent.

Resident's Rights

Residents are afforded the following rights under Chapter 49:

To self-organize

- Residents shall have the right of self-organization.
- No retaliatory conduct is permitted against a resident for participating in a residents' organization or filing a complaint.

To receive copies of submissions

- A provider is required to provide all prospective residents with a copy of the disclosure statement at least three days prior to the execution of a continuing care contract.
- A provider is required to give the resident's association a copy of all submissions made to the Commission.
- A provider is required to make available by written notice a copy of the annual or amended disclosure statement.

To attend quarterly meetings

- The Board of Directors or its designated representative is required to hold meetings with residents at least quarterly.
- Residents must receive seven days notice of each meeting.

To participate in free discussion of issues relating to the facility

- Issues may include income, expenditures, and financial matters as they apply to the facility and proposed changes in policies, programs, facilities, and services.

To receive notification of a change in chief executive officer or management firm

- Notification must be prompt.

