

§6209. Disclosure statement

1. Disclosure statement required. A provider shall provide a disclosure statement to a prospective subscriber or the person with whom the provider shall enter into an agreement to provide continuing care for the benefit of a prospective subscriber at least 10 days prior to the transfer of any money or other property to the provider by or on behalf of the prospective subscriber. The disclosure statement shall contain the date on which the disclosure was provided to the prospective subscriber and shall be written in a clear and coherent manner using words with common and everyday meanings. [PL 1987, c. 482, §1 (NEW).]

2. Required contents. Each disclosure statement shall contain:

A. The name, business address and form of organization of the provider; and [PL 1987, c. 482, §1 (NEW).]

B. A statement in bold print at the top of the first page which reads:

"This matter involves a substantial financial commitment and a legally binding contract. In evaluating this disclosure statement and this contract prior to any commitment being made by you, it is recommended that you consult with an attorney and financial advisor of your choice, who can review these documents with you." [PL 1987, c. 482, §1 (NEW).]

[PL 1987, c. 482, §1 (NEW).]

3. Conditionally required contents. The disclosure statement shall contain the following information, unless such information is already contained in the continuing care agreement or other materials provided to the subscriber or the person with whom the provider will enter into a continuing care agreement:

A. The state or foreign jurisdiction and date of the providers' organization, the general character and location of its business and a description of its physical properties or equipment; [PL 1987, c. 482, §1 (NEW).]

B. The names and business addresses of the officers, directors and any persons or entities having a 10% or greater equity or beneficial interest in the provider and a description of that person's interest in or occupation with the provider; [PL 1987, c. 482, §1 (NEW).]

C. The identity of any 3rd-party operator if the facility is to be managed on a day-to-day basis by some party other than the provider or a person directly employed by the provider; [PL 1987, c. 482, §1 (NEW).]

D. A statement of the extent to which any affiliated organization is responsible for the financial and contractual obligations of the provider and a statement of the provisions of the United States Internal Revenue Code, if any, under which the provider or an affiliate is exempt from payment of income tax; [PL 1987, c. 482, §1 (NEW).]

E. The location and description of the physical property of the facility, both existing and proposed, and, with respect to a proposed facility or improvement, the estimated completion date, the date construction began or shall begin and the contingencies subject to which construction may be deferred; [PL 1987, c. 482, §1 (NEW).]

F. The provisions that have been made or will be made, if any, to provide any type of reserve funding which will enable the provider to fully perform its obligations under contracts to provide continuing care, including, but not limited to, the establishment of escrow accounts, trusts or reserve accounts, the manner in which the funds shall be invested and the names and experience of persons who will make the investment decisions on these funds; [PL 1987, c. 482, §1 (NEW).]

G. Certified financial statements of current origin prepared in accordance with generally accepted accounting principles showing the provider's assets, liabilities and surplus position. These financial statements shall include as supplementary data a description of the sources of financial support; [PL 1987, c. 482, §1 (NEW).]

H. An examined pro forma projected financial statement for the coming 5 years, including notes of that statement, presented in conformity with guidelines for forecasting as prescribed by the American Institute of Certified Public Accountants and including a narrative description of the basis of assumptions utilized. The pro forma projected financial statement need not be included in the disclosure statement after the facility has commenced operations; [PL 1995, c. 452, §26 (AMD).]

I. If the facility is already in operation or, if the provider or operator operates one or more similar facilities within the State, tables showing the frequency and average dollar amount of each increase in periodic rates at each facility for the previous 5 years, or as many years as the facility has been operated by the provider or operator, whichever is less; [PL 1995, c. 452, §27 (AMD).]

J. Any other material information that the provider wishes to include in the disclosure statement or that the superintendent or department requires by rule; and [PL 1995, c. 452, §27 (AMD).]

K. Whether the provider has misappropriated funds or otherwise breached the terms of a deposit agreement to the detriment of a subscriber. [PL 1995, c. 452, §28 (NEW).]
[PL 1995, c. 452, §§26-28 (AMD).]

SECTION HISTORY

PL 1987, c. 482, §1 (NEW). PL 1995, c. 452, §§26-28 (AMD).

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