

Georgia Office of Insurance Issues Escrow Requirement Reminder to Continuing Care Communities

February 16, 2015

On February 9, the Georgia Office of the Insurance Commissioner (OIC) issued Directive 15-EX-1 reminding providers of continuing care and limited continuing care communities to maintain and demonstrate compliance with the escrow account and escrow agreement required by O.C.G.A. § 33-45-8 (the “Escrow Requirement”). Continuing care communities require upfront investment by prospective residents. The Escrow Requirement mandates that providers maintain these upfront fees in escrow accounts whereby the funds can only be released pursuant to certain specified statutory provisions. The Escrow Requirement is required to protect prospective residents from losing their entire investment as a result of a provider’s possible financial difficulties or insolvency. The Directive was issued in response to reports that continuing care providers may be operating without holding such funds in the required escrow accounts. It further reminds providers that failure to comply with the Escrow Requirement constitutes a substantial and knowing violation of law. To maintain compliance, continuing care providers must provide the following information to the OIC on or before March 20, 2015:

- A brief narrative description of the process and procedures implemented or to be implemented to ensure compliance with the Escrow Requirements;
- A copy of the escrow agreement maintained to comply with the Escrow Requirement;
- A month-end February 2015 bank statement from the financial institution where the escrow account is maintained; and
- A description and reconciliation of all amounts which are held in escrow.

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