Questions to Steve Johnson, NCDOI, 2018 Annual Meeting

The Executive Committee posed some questions to Steve Johnson, Manager of Special Entitites with the N.C. DOI, before the annual meeting. Topics included CCRC licenses issued or in progress, profit vs. non-profit, bankruptcies, disclosure statements, criteria required to be defined as a CCRC, and the NC Ombudsmen Program. His replies follow. The slides he refers to are found in the "Annual Meeting" section of NorCCRA's website.

- There are 60 **licensed CCRCs** in NC, 11 for profit and 49 non-profit. There is a surge both in NC and nationally in the for-profit applications. In 2017 there were 21% profit and 79% non-profit nationally; **NC was 16% profit and 84% non-profit.** He anticipates this trend will continue.
- During the year, in NC, there are 6 CCRC NOI's (notices of intent), 5 start-ups, 5 preliminary certifications, 6 permanent licenses, and 3 Continuing Care at Home licenses issued. (To understand this process of licensure better, see Mr. Johnson's slides on the NorCCRA website.)
- NC has never had a financially failed CCRC because the DOI will work closely with any struggling CCRC. Mr. Johnson's slides #14 & 15 explain this in more detail. He was asked: *"In the case of a **bankruptcy**, how would the DOI protect CCRC residents? There is a section (GS § 58-64-60 Contracts as preferred claims on liquidations) which states that "such (resident) claims are subordinate to the liquidator's cost of administration or any secured claim." Would secured claims be such things as bank loans? If so what happens to the residents' claims?"* His answer: *We don't even like to think that this could happen! However, being realistic, residents would be secured claims in line with other secured claims like bank loans etc…In most cases that I've seen in different states, the CCRC is often sold*

to a new provider and the residents remain whole!! The Commissioner can release cash in an operating reserve to meet the operating expenses of a struggling CCRC.

- There us no typical length of a **disclosure statement**. It depends on the size and complexity of the CCRC, the number of different resident contract versions, the size and complexity of the provider's audited financial statements, feasibility study, actuarial data presented and organizational levels. Disclosure statements are not necessarily more complicated in for-profit CCRCs.
- ***GS § 58-64-40(b)*** outlines what is required to be presented in a disclosure statement. (Note: easy access to N.C. statute 58 is found on NorCCRA's website at bottom of table on left of home page "Chapter 58 Article 64.")
- Mr. Johnson's slide #9 states to be classified as a **CCRC in NC two criteria** must be met. 1) they must offer independent living and at least one licensed health related service, and 2) the term of the contract must be for the life of the individual or for a term in excess of one year.
- Mr. Johnson was asked: *"What is the definition of a long term care facility in the state and are CCRC residents (both in independent living and higher levels of support) covered by the **North Carolina Ombudsmen program**?"* His answer: **§ 131E-101. Definitions**. As used in this Part, unless otherwise specified:

  "Adult care home", as distinguished from a nursing home, means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration

of medication is supervised. Continuing planned medical and nursing care to meet the resident's needs may be provided under the direct supervision of a physician, nurse, or home health agency. Adult care homes are to be distinguished from nursing homes subject to licensure under this Part.

The Long Term Care Ombudsman Program consists of an Office of the State Long Term Care Ombudsman and 16 Offices of the Regional Long Term Care Ombudsman that are housed in Area Agencies on Aging. Long Term Care Ombudsmen assist residents of long term care facilities in exercising their rights and attempt to resolve grievances between residents, families and facilities. The regional ombudsmen help support the efforts of Adult Care Home and Nursing Home ***Community Advisory Committees (N.C.G.S. 131E-128 and 131D-3).***

The services provided by the Ombudsman Program include:

- Answering questions and giving guidance about the long term care system. An ombudsman will:
  - Explain long term care options.
  - Provide advice on selecting a long term care facility and provide information on specific facilities.
  - Explain residents' rights and other federal and state laws and regulations affecting long term care facilities and residents.
  - Give guidance on the Medicaid and Medicare programs. Specifically on coverage criteria, application procedures and what services these programs cover.
  - Give guidance on matters such as powers of attorney, living wills and guardianship.

- Educating community groups and long term care providers on various topics such as residents' rights, restraint use, care planning, activities and new laws.
- Investigating and assessing matters to help families and residents resolve concerns and problems. Common areas of complaints include:
    - Inadequate medical and personal services being provided to residents such as problems with medication, nutrition and personal hygiene.
    - Financial concerns such as handling of residents' funds, Medicare, Medicaid and Social Security.
    - Rights of residents, such as the right to be treated with courtesy and to have individual requests and preferences respected.
    - Nursing home administrative decisions such as admission to or discharge from a facility.
- Working with appropriate regulatory agencies and referring individuals to such agencies when resolutions of concerns or grievances are not possible through the Long Term Care Ombudsman Program alone.
- Raising long term care issues of concern to policymakers.