



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

COVENANT VILLAGE OF FLORIDA, INC.

AS OF

January 31, 2013

FLORIDA COMPANY CODE 88017

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PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a periodic market conduct examination of Covenant Village of Florida, Inc. (hereinafter “Covenant Village of Florida”) pursuant to Section 651.105, Florida Statutes. The scope period of this examination was from February 1, 2008 through January 31, 2013. The on-site and desk examination procedures were completed on February 4, 2014.

The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes and Chapter 690-193, Florida Administrative Code Rules. This market conduct examination did not encompass a financial compliance examination.

This final report is based upon information from the examiner’s draft report, additional research conducted by the Office, and additional information provided by Covenant Village of Florida. This report is a report by exception, and the information within has been limited to identification of exceptions, errors or unusual problems noted during the examination.

COMPANY OPERATIONS

Covenant Village of Florida, a not-for-profit Continuing Care Retirement Community located in Plantation, Florida, was granted a certificate of authority by the Office to offer continuing care contracts on June 11, 1980. Covenant Village of Florida is managed by Covenant Village Retirement Communities, Inc., an affiliated entity.

As of January 31, 2013, Covenant Village of Florida reported: 338 Continuing Care Units consisting of 294 Independent Units and 44 Assisted Living Units; 60 Skilled Nursing Units consisting solely of Sheltered Beds and no Rental Units. As of the same date, Covenant Village of Florida reported 323 individuals residing at the community.

FORMS

Effective July 1, 2011, Section 651.022(2)(g), Florida Statutes, was amended to require wait list contract and reservation contract forms be approved by the Office prior to being used. Covenant Village of Florida provided a list containing 101 continuing care contracts executed during the scope period of the examination. A random sample consisting of 44 contract files was selected from the list. Of the 44 files examined, there were nine contract files, each with a “Reservation Agreement” that was executed on or after July 1, 2011. The nine reservation contract forms were examined for compliance with Section 651.022(2)(g), Florida Statutes.

Findings:

In all nine instances, Covenant Village of Florida utilized a reservation contract form that was not approved by the Office as required by Section 651.022(2)(g), Florida Statutes.

FORMS (Continued)

Recommendation: The Office recommends Covenant Village of Florida establish adequate procedures and controls to ensure all forms which require statutory approval are submitted to, and approved by the Office prior to use.

Subsequent Event: On February 6, 2014, Covenant Village of Florida filed a copy of its reservation contract form with the Office for approval. The reservation form was approved March 5, 2014.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Covenant Village of Florida provided a list containing the 101 continuing care contracts executed during the scope period of the examination. A random sample consisting of 44 transactions was selected from the list. Of the 44 contracts in the sample, 21 contracts were executed on or after July 1, 2010. The 21 contracts were tested for compliance with Section 651.055(2), Florida Statutes.

Findings:

For continuing care contracts executed on or after July 1, 2010, Section 651.055(2), Florida Statutes, provides that during the seven-day rescission period, the resident's funds must be held in escrow unless otherwise requested by the resident, pursuant to Section 651.033(3)(c), Florida Statutes. Section 651.033(3)(c), Florida Statutes, provides that, at the request of an individual resident of a facility, the provider may hold the check for the seven-day period and shall not deposit it during this time period.

In all 21 instances, Covenant Village of Florida failed to deposit resident funds into the escrow account for the seven-day rescission period of the continuing care contract, or obtain authorization from the prospective resident to hold and not deposit the check for the seven-day period.

Recommendation: The Office recommends Covenant Village of Florida ensure that during the seven day rescission period of the continuing care contract resident funds are properly handled in accordance with Section 651.055(2), Florida Statutes.

Subsequent Event: On April 11, 2014, the Office was informed that Covenant Village of Florida has clarified its policy and procedure to ensure all deposits are immediately deposited into escrow; unless otherwise directed by the resident in writing. In addition, the Office was informed of an additional review policy wherein the executive director will review resident files to ensure compliance with the escrow procedures.

REQUIRED DISCLOSURES

Covenant Village of Florida provided a list containing 101 continuing care contracts executed during the scope period of the examination. A random sample consisting of 44 contracts was selected from the list and tested for compliance with Section 651.091(3), Florida Statutes.

Findings:

Section 651.091(3), Florida Statutes, provides in pertinent part, that before entering into a contract to furnish continuing care, the provider undertaking to furnish the care, or the agent of the provider, shall make full disclosure, and provide copies of the disclosure documents to the prospective resident or to his or her legal representative.

1. **In three instances, Covenant Village of Florida failed to timely provide the required disclosure documents to prospective residents or their legal representative, as required by Section 651.091(3), Florida Statutes.** The required disclosure documents were provided; however they were not provided to the prospective residents prior to their execution of the continuing care contract.

1a. **Recommendation:** The Office recommends Covenant Village of Florida establish adequate controls and procedures to ensure all required disclosure documents are properly delivered to the prospective resident or their legal representative and that documentation is obtained and maintained pursuant to Section 651.091(3), Florida Statutes.

Subsequent Event: On April 11, 2014, the Office was informed that Covenant Village of Florida has addressed the above issue by including, on the written receipt for the disclosure documents, the date on which the facility provided (personally or by mail) the disclosure to the prospective resident.

Findings:

Effective July 1, 2010, Section 651.091(3)(h), Florida Statutes, required the provider to include, as a required disclosure document, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership". Of the 44 contracts in the sample, 21 contracts were executed on or after July 1, 2010. All 21 transactions were reviewed to determine compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes.

2. **In 18 instances, Covenant Village of Florida failed to provide as a required disclosure to the prospective resident or their legal representative, a copy of Section 651.071, Florida Statutes, as required by Section 651.091(3)(h), Florida Statutes.**

2a. **Recommendation:** The Office recommends Covenant Village of Florida establish adequate procedures to ensure all required disclosures are properly afforded to prospective residents or their legal representatives.

REQUIRED DISCLOSURES (Continued)

Subsequent Event: Upon notification of this disclosure requirement, Covenant Village of Florida promptly added a copy of Section 651.071, Florida Statutes, to its disclosure documents provided to each prospective resident or their legal representative.

ACCESS TO RECORDS

Records necessary to conduct the examination and determine the degree of compliance with Chapter 651, Florida Statutes, and Rule 69O-193, Florida Administrative Code, were requested from Covenant Village of Florida in accordance with Section 651.105(1), Florida Statutes.

Findings:

In two instances, Covenant Village of Florida failed to maintain and provide documents for examination as required by Section 651.105(1), Florida Statutes. In both instances, Covenant Village of Florida failed to produce for examination the resident's notice of cancellation of their continuing care contract. Consequently, the Office could not adequately determine compliance with Section 651.055(1)(g)2, Florida Statutes, as to the proper issuance of the corresponding refunds.

Recommendation: In order for the Office to determine the degree of compliance with Chapter 651, Florida Statutes, and Rule 69O-193, Florida Administrative Code, the Office recommends Covenant Village of Florida establish adequate procedures and controls to ensure proper documentation that is reflective of the actual transaction is maintained and made available for examination purposes.

Subsequent Event: On April 11, 2014, the Office was informed that Covenant Village of Florida has instituted a policy whereby notices of cancellation or documentation pertaining to the death of the resident will be placed in the respective resident's file.

EXAMINATION FINAL REPORT SUBMISSION

The Office hereby issues this Final Report based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Covenant Village of Florida.