



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

LIFE CARE ST. JOHNS, INC.

D/B/A

GLENMOOR

AS OF

June 30, 2014

FLORIDA COMPANY CODE 88172

Report Issued:
January 13, 2015

TABLE OF CONTENTS

Purpose and Scope1

Company Operations.....1

Forms1

Required Escrow Deposits or Waivers2

Required Disclosures3

Quarterly Meetings with Residents.....5

Examination Final Report Submission5

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a periodic market conduct examination of Life Care St. Johns, Inc. d/b/a Glenmoor (hereinafter "Glenmoor") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2008 through June 30, 2014. The onsite and desk examination procedures were completed on November 3, 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. Due to the Glenmoor's bankruptcy filing and resulting Plan of Reorganization, the examination of refund payments was limited in scope; the results of which are not reflected in this report.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Glenmoor. 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

Life Care St. Johns, Inc., d/b/a Glenmoor, a Florida non-profit corporation, located in St Augustine, Florida, was granted a certificate of authority by the Office to offer continuing care contracts on November 23, 1999. As of December 31, 2013, Glenmoor reported 157 Independent Living Units and 36 Assisted Living Units. In addition, there were 30 Skilled Nursing Units reported, all of which were classified as Sheltered Beds. As of the same date, there were 243 individuals residing at the community.

Glenmoor filed for reorganization under Chapter 11 of the U.S. Bankruptcy Code on July 3, 2013, and subsequently emerged from bankruptcy on April 16, 2014, with a Plan of Reorganization. The Plan of Reorganization provides, among other things, for the restructuring of the organization's bonds payable, notes payable issued for entrance fee refund obligations in arrears, funding of certain reserves and escrow accounts, the use of a priority payment structure, and requirements to maintain certain financial and operating ratio covenants.

FORMS

Glenmoor provided a list of 95 continuing care contracts executed during the scope period of the examination. A sample consisting of 44 contract files was selected, 20 of which also included a reservation contract executed after July 1, 2011. The 20 reservation contracts were reviewed for compliance with Section 651.022(2)(g), Florida Statutes.

FORMS (Continued)

Finding:

Effective July 1, 2011, Section 651.022(2)(g), Florida Statutes, was amended to require reservation contract forms be approved by the Office prior to being used.

1. **In 19 instances, Glenmoor utilized a reservation contract form that was not approved by the Office, as required by Section 651.022(2)(g), Florida Statutes.**

1a. **Recommendation:** The Office recommends Glenmoor establish adequate procedures and controls to ensure all forms which require statutory approval are approved by the Office prior to use.

Subsequent Event: Glenmoor subsequently submitted a reservation contract form to the Office that was approved in August 2014.

Glenmoor provided a list of the 23 wait list contracts executed during the scope period of the examination. Of the 23 wait list contracts, four were executed after July 1, 2011 and were reviewed for compliance with Section 651.022(2)(g) Florida Statutes.

Finding:

Effective July 1, 2011, Section 651.022(2)(g), Florida Statutes, was amended to require wait list contract forms be approved by the Office prior to being used.

2. **In four instances, Glenmoor utilized a wait list contract form that was not approved by the Office, as required by Section 651.022(2)(g), Florida Statutes.**

2a. **Recommendation:** The Office recommends Glenmoor establish adequate procedures and controls to ensure all forms which require statutory approval are approved by the Office prior to use.

Subsequent Event: Glenmoor subsequently submitted a waitlist contract form to the Office that was approved in August 2014.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Glenmoor provided a list containing the 95 continuing care contracts executed during the scope period of the examination. A random sample consisting of 44 contracts files was selected and reviewed for compliance with Section 651.055(2), Florida Statutes.

REQUIRED ESCROW DEPOSITS OR WAIVERS (Continued)

Finding:

Effective July 1, 2010, Section 651.055(2), Florida Statutes, was amended to require that, during the seven-day rescission period of the continuing care contract, the resident's funds must be held in an escrow account unless otherwise requested by the resident that the provider hold and not deposit the funds for the rescission period, pursuant to Section 651.033(3)(c), Florida Statutes.

In three instances, Glenmoor failed to deposit residents funds into the escrow account for the seven-day rescission period of the continuing care contract, or obtain authorization from the residents to hold and not deposit the funds for the rescission period, as required by Section 651.055(2), Florida Statutes. Specifically, Glenmoor failed to maintain the residents' funds in the escrow account for the entire rescission period; the funds were withdrawn from the escrow account prior to the expiration of the seven-day rescission period.

Recommendation: The Office recommends Glenmoor establish adequate procedures and controls to ensure resident funds are managed in accordance with Section 651.055(2), Florida Statutes.

Subsequent Event: Glenmoor notified the Office of newly adopted and implemented procedures to ensure that funds are maintained in escrow for the full seven day rescission period of the continuing care contract.

REQUIRED DISCLOSURES

Glenmoor provided a list containing 95 continuing care contracts executed during the scope period of the examination. A random sample consisting of 44 contracts was selected and reviewed for compliance with Sections 651.055(4) and 651.091(3), Florida Statutes.

Finding:

Section 651.055(4), Florida Statutes, provides that before the transfer of any money or other property to a provider by, or on behalf of a prospective resident, the provider shall present a copy of the contract to the prospective resident and all other parties to the contract and obtain a signed and dated statement from each party to the contract certifying that a copy of the contract with the specified attachments was received.

1. **In 30 instances, Glenmoor either failed to timely provide a copy of the continuing care contract or failed to obtain a signed statement from each party to the contract certifying that a copy of the contract had been provided prior to the transfer of money or other property, as required by Section 651.055(4), Florida Statutes.**

REQUIRED DISCLOSURES (Continued)

- 1a. **Recommendation:** The Office recommends Glenmoor establish adequate procedures and controls to ensure a copy of the continuing care contract is timely provided and a signed and dated statement is obtained from each party to the contract certifying that a copy of the contract was received.

Finding:

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

2. **In 17 instances, Glenmoor failed to timely provide the required disclosure documents to prospective residents or their legal representative, as required by Section 651.091(3), Florida Statutes.** Specifically, in 16 of the 17 instances, the disclosure document receipt was signed after the continuing contract was executed. In the remaining instance, the disclosure document receipt to substantiate proper delivery of the disclosure document was missing.

- 2a. **Recommendation:** The Office recommends Glenmoor establish adequate procedures and controls to ensure all required disclosure documents are properly delivered to the prospective resident or their legal representatives and that documentation is obtained and maintained.

Finding:

Effective July 1, 2010, Section 651.091(3)(h), Florida Statutes, requires 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, 27 contracts were executed on or after July 1, 2010. All 27 transactions were reviewed to determine compliance with Section 651.091(3)(h), Florida Statutes.

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

- 3a. **Recommendation:** The Office recommends Glenmoor establish adequate procedures to ensure all required disclosures are properly afforded to prospective residents or their legal representatives. The Office further recommends that Glenmoor provide a copy of Section 651.071, Florida Statutes, to all current residents that executed a continuing care contract after July 1, 2010, that had not previously received the disclosure.

QUARTERLY MEETINGS WITH RESIDENTS

The quarterly meeting agendas, notices to residents, minutes, and the dates of the meetings contained in the annual reports filed for the scope period were reviewed for compliance with Section 651.085, Florida Statutes.

Finding:

Section 651.085(1), Florida Statutes, provides in pertinent part that the governing body of a provider, or the designated representative of the provider, hold quarterly meetings with residents of the continuing care community.

Glenmoor failed to hold a quarterly meeting with residents during the third quarter of calendar year 2013, as required by Section 651.085(1), Florida Statutes.

Recommendation: The Office recommends Glenmoor establish adequate procedures to ensure quarterly meetings with residents are timely noticed and held.

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 Life Care St. Johns, Inc.