



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

OAK HAMMOCK AT THE UNIVERSITY OF FLORIDA, INC.

AS OF

December 31, 2011

FLORIDA COMPANY CODE 88174

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EXECUTIVE SUMMARY

Pursuant to the provisions of Section 651.105, Florida Statutes, an examination was conducted of the books, records, and affairs of Oak Hammock at the University of Florida, Inc. (hereinafter "Oak Hammock"). The scope period of the examination was January 1, 2008 through December 31, 2011. The following table represents general findings; however, specific details are found in each section of the report.

TABLE OF TOTAL VIOLATIONS

Statute or Rule Cite	Description	Total Files (for scope period)	Files Reviewed	Number of Violations
Section 651.055(1)(g)2, Florida Statutes	Oak Hammock failed to issue a refund within 120 days of the residents' notice of cancellation.	27	27	1
Section 651.055(2), Florida Statutes	During the seven day contract rescission period Oak Hammock failed to deposit the resident's funds into an escrow account or obtain authorization from the resident to hold and not deposit funds into escrow.	19	19	19
Section 651.091(3), Florida Statutes	Oak Hammock failed to timely provide the required disclosure documents to prospective residents or their legal representatives.	104	50	4
Section 651.105(1), Florida Statutes	Oak Hammock failed to provide for examination adequate and sufficient records pertaining to waiting list deposits.	135	56	3

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a routine market conduct examination of Oak Hammock at the University of Florida, Inc. ("Oak Hammock") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2008 through December 31, 2011.

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 Oak Hammock. 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

Oak Hammock is a Florida not-for-profit corporation that was granted a certificate of authority by the Office to offer continuing care contracts on October 17, 2002. Oak Hammock is located in Gainesville, Florida. As of December 31, 2011, Oak Hammock reported: 306 continuing care units that consisted of 269 independent living units and 37 assisted living units; 42 skilled nursing units, all of which were categorized as sheltered beds; and 24 rental units. As of that date, there were 475 individuals reported residing at this facility; 434 of which were residing under a continuing care contract, 24 residing under a rental agreement and 17 skilled nursing-community patients (non-CCRC).

CANCELLATIONS AND REFUNDS

Oak Hammock provided a list of 27 continuing care contracts that were cancelled during the scope period of the examination. All 27 contract cancellations were examined to verify the amount of the refund paid, if any, and whether refunds were properly issued. Of the 27 cancellations examined, 25 were eligible for refunds.

Findings:

Section 651.055(1), Florida Statutes requires in part that certain provisions be included in a continuing care contract and that each continuing care contract and each addendum to such contract be approved by the Office prior to its use in this state. Section 651.055(1)(g)2, Florida Statutes, further requires the refund for a continuing care contract in which the resident does not receive a transferable membership or ownership right in the facility, and has occupied his or her unit, be paid no later than 120 days after giving the notice of intention to cancel.

CANCELLATIONS AND REFUNDS (Continued)

In one instance, Oak Hammock failed to timely issue a refund within 120 days after the delivery of a resident's notice of cancellation, in violation of Section 651.055(1)(g)2, Florida Statutes. The refund was in the correct amount, however, it was issued five days late or, 125 days after the notice of cancellation was delivered by the resident.

Recommendation: The Office recommends Oak Hammock establish adequate procedures to ensure applicable refunds are issued within statutorily required timeframes.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Oak Hammock provided a list containing the 104 continuing care contracts executed during the scope period of the examination. A random sample consisting of 50 contracts was selected from the list. Of the 50 contracts in the sample, 19 contracts were executed on or after July 1, 2010. The 19 contracts were tested for compliance with Section 651.055(2), Florida Statutes.

Findings:

Section 651.055(2), Florida Statutes, provides that a resident has a right to rescind a continuing care contract and receive a full refund of any funds paid, without penalty or forfeiture, within seven days after executing the contract. 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 s. 651.033(3)(c), Florida Statutes. Section 651.033(3)(c), Florida Statutes, further 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 19 instances where Oak Hammock failed to deposit resident funds into an escrow account for the seven day rescission period of the contract or obtain authorization from the resident to hold and not deposit the check for the seven day period. Specifically, the funds paid by residents related to the 19 continuing care contracts executed on or after July 1, 2010 were not deposited into escrow. Moreover, none of the 19 residents requested that Oak Hammock hold the funds in lieu of depositing them into the escrow account.

Recommendation: The Office recommends Oak Hammock establish adequate procedures to ensure that resident funds are properly handled during the continuing care contract seven day rescission period.

REQUIRED DISCLOSURES

Oak Hammock provided a list containing the 104 continuing care contracts executed during the scope period of the examination. A sample consisting of 50 contracts was selected and tested for compliance with Section 651.055(4), Florida Statutes and 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 specific disclosure documents to the prospective resident or his or her legal representative.

In four instances Oak Hammock failed to timely provide to the prospective resident or their legal representative any of the disclosure documents prior to entering into a continuing care contract, a violation of Section 651.091(3), Florida Statutes. The examination revealed that in these four instances the required disclosure documents were provided after the date the individuals executed the continuing care contracts.

Recommendation: The Office recommends Oak Hammock establish adequate procedures to ensure that all prospective residents or their legal representatives are afforded the required disclosure documents prior to entering into a continuing care contract and, obtain documentation to substantiate compliance.

ACCESS TO RECORDS

Records necessary to conduct the examination and determine the degree of compliance with Chapter 651, Florida Statutes and Rule 690-193, Florida Administrative code were requested from Oak Hammock in accordance with Section 651.105, Florida Statutes.

Findings:

In three instances Oak Hammock failed to make available for examination documents pertaining to waiting list deposits, in violation of Section 651.105(1), Florida Statutes. The Office was unable to determine if these waiting list deposits were managed in accordance with by Section 651.033(4), Florida Statutes and Rule 690-193.018, Florida Administrative Code.

Recommendation: In order for the Office to determine the degree of compliance with Chapter 651, Florida Statutes and Rule 690-193, Florida Administrative Code, the Office recommends Oak Hammock establish adequate procedures to ensure complete and adequate records are properly maintained and made accessible to the Office, as required by Section 651.105, Florida Statutes.

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 Oak Hammock.