



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

REGENCY OAKS, LLC

AS OF

December 31, 2013

FLORIDA COMPANY CODE 88151

**Report Issued:
January 9, 2015**

TABLE OF CONTENTS

Purpose and Scope	1
Company Operations	1
Cancellations and Refunds	1
Forms	2
Required Escrow Deposits or Waivers	3
Quarterly Meetings with Residents	3
Access to Records	4
Examination Final Report Submission	4

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (“Office”), Market Investigations Unit, conducted a periodic market conduct examination of Regency Oaks, LLC, pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2011 through December 31, 2013. The on-site and desk examination procedures were completed October 17, 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 Regency Oaks. 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

Regency Oaks, LLC, a for-profit Delaware Limited Liability Company was granted a certificate of authority by the Office to offer continuing care contracts on June 28, 1988. Regency Oaks is located in Clearwater, Florida. Regency Oaks’ fiscal year is from July 1st to June 30th. As of June 30, 2013, Regency Oaks reported 385 Continuing Care Units, comprised solely of Independent Living Units and No Rental Units. As of the same date, there were 421 individuals residing at the community. Skilled Nursing and Assisted Living services are contractually provided off-site by an affiliated entity namely, Sylvan Health Systems, LLC.

CANCELLATIONS AND REFUNDS

Regency Oaks provided a list of 130 continuing care contracts that were cancelled during the scope period of the examination. A sample consisting of 54 contract cancellations was selected and examined to verify the amount of the refund due, if any, and whether refunds were properly issued.

Finding:

Section 651.055(1)(g)1, Florida Statutes, requires that the continuing care contract provide the terms governing the refund of any portion of the entrance fee due to cancellation by the resident, person who provides the funds for care of the resident, or the provider

1. **In five instances, Regency Oaks failed to timely issue entrance fee refunds within the timeframe specified by the terms of the underlying continuing care contract, as required by Section 651.055(1)(g), Florida Statutes.** The five refunds were issued from 3 to 19 days beyond the 120-day period as provided by the terms of the contracts. A similar finding was addressed in the last Market Conduct Report of Examination issued by the Office.

CANCELLATIONS AND REFUNDS (continued)

- 1a. **Recommendation:** The Office recommends Regency Oaks establish adequate procedures and controls to ensure applicable refunds are issued in accordance with Section 651.055(1), Florida Statutes.

Finding:

Section 651.055(1)(h), Florida Statutes, requires that each continuing care contract state the terms under which the contract is cancelled by the death of the resident, to include entrance fee refunds, if any.

2. **In four instances, Regency Oaks failed to timely issue entrance fee refunds within the timeframe specified by the terms of the underlying continuing care contract, pursuant to Section 651.055(1)(h), Florida Statutes.** The four instances were attributed to the death of the resident. In two of the four instances, the contract provided the refund be issued within 120 days of contract termination; the refunds were issued 4 and 48 days beyond the 120-day refund period. In the remaining two instances, the contract provided for the refund to be issued within 170 days of contract termination; the refunds were issued 6 and 29 days beyond the 170-day refund period.
- 2a. **Recommendation:** The Office recommends Regency Oaks establish adequate procedures and controls to ensure applicable refunds are issued in accordance with the terms of the approved continuing care contract.

FORMS

Regency Oaks provided a list of 116 continuing care contracts executed during the scope period of the examination. A sample consisting of 53 contract files was selected and reviewed for compliance with Section 651.055(1), Florida Statutes.

Finding:

Section 651.055(1), Florida Statutes, provides that each continuing care contract and each addendum to such contract be approved by the Office prior to its use in this state.

In four instances, Regency Oaks utilized an addendum to a continuing care contract entitled "Trust Assignment Addendum" that was not approved by the Office, as required by Section 651.055(1), Florida Statutes. A similar finding was addressed in the last Market Conduct Report of Examination issued by the Office.

Recommendation: The Office recommends Regency Oaks submit the form for approval by the Office and establish adequate procedures and controls to ensure that forms requiring statutory approval by the Office have been approved prior to their use.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Regency Oaks provided a list containing the 116 continuing care contracts executed during the scope period of the examination. A random sample consisting of 53 contract files was selected and reviewed for compliance with Section 651.055(2), Florida Statutes.

Finding:

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

In 20 instances, Regency Oaks failed to deposit resident funds into a properly established escrow account for the seven-day rescission period of the contract or obtain authorization from the resident to hold and not deposit the funds for the rescission period, as required by Section 651.055(2), Florida Statutes. It should be noted that all 20 instances occurred after Regency Oaks had submitted their corrective action plan, in response to a similar finding in the prior Market Conduct Report of Examination issued by the Office on January 18, 2013.

Recommendation: The Office recommends Regency Oaks establish adequate procedures and controls to ensure resident funds are handled in accordance with the provisions of Section 651.055(2), Florida Statutes.

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, requires that the governing body of the provider, or its designated representative, hold quarterly meetings with the residents. The statute further states that, residents are entitled to at least seven days advance notice of each quarterly meeting.

1. **In nine instances, Regency Oaks failed to substantiate that residents were provided at least seven days advanced notice of the quarterly meetings with residents, as required by Section 651.085(1), Florida Statutes.** Specifically, the nine notices for the quarterly meetings did not include the date the notice of the meeting was provided to residents.
- 1a. **Recommendation:** The Office recommends Regency Oaks establish adequate procedures and controls to ensure residents are given at least seven days advance notice of resident quarterly meetings and such notices reflect the date of distribution.

QUARTERLY MEETINGS WITH RESIDENTS (continued)

Finding:

Section 651.085(1), Florida Statutes, also requires that the provider report to the Office in the annual report the dates on which the quarterly meetings were held during the reporting period.

2. **Regency Oaks failed to accurately state in three Annual Reports filed with the Office the dates on which 10 quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes.** The 10 instances were comprised as follows: June 30, 2011 Annual Report – four instances; June 30, 2012 Annual Report – four instances; and June 30, 2013 Annual Report – two instances.
- 2a. **Recommendation:** The Office recommends Regency Oaks establish adequate procedures and controls to ensure that the dates quarterly meetings with residents dates are held are accurately reported in the annual reports filed with the Office.

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 Regency Oaks, in accordance with Section 651.105(1), Florida Statutes.

Finding:

In two instances, Regency Oaks failed to make certain documents available for examination, as required by Section 651.105(1), Florida Statutes. Specifically, the notices of cancellation of a continuing care contract were not made available for examination.

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 Regency Oaks establish adequate procedures and controls to ensure documentation is maintained and made available for examination purposes.

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 Regency Oaks.