

**Report on Examination**

**of**

**Presbyterian Retirement Communities, Inc.**

**d/b/a**

**Westminster Communities of Bradenton**

**Bradenton, Florida**

**as of**

**June 30, 2019**



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## **SCOPE OF EXAMINATION**

The Florida Office of Insurance Regulation (“OIR”), Life & Health Financial Oversight unit conducted a routine examination of Presbyterian Retirement Communities, Inc. d/b/a Westminster Communities of Bradenton (“Westminster Communities of Bradenton”), pursuant to Section 651.105, Florida Statutes. The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes, and Rule Chapter 69O-193, Florida Administrative Code. The examination covered the period of April 1, 2012 through June 30, 2019.

## **COMPANY HISTORY**

Presbyterian Retirement Communities, Inc., a Florida not-for-profit corporation was granted a certificate of authority by the OIR to offer continuing care contracts on May 5, 1980. Presbyterian Retirement Communities, Inc., operates the continuing care retirement community (“CCRC”) facility Westminster Communities of Bradenton located in Bradenton, Florida. Westminster Communities of Bradenton is managed by Westminster Services, Inc., an affiliated entity.

Westminster Communities of Bradenton operates on the fiscal year April 1 through March 31. As of March 31, 2019, Westminster Communities of Bradenton reported in its Annual Report filed with the OIR: 570 Continuing Care Units consisting of 405 Independent Living Units and 165 Assisted Living Units; 179 Skilled Nursing Units consisting of 46 Sheltered Beds and 133 Community Beds; and 52 Rental Units. As of that date, there were 750 individuals reported residing at Westminster Communities of Bradenton: 580 pursuant to a continuing care agreement; 52 pursuant to a rental agreement; and 118 skilled nursing-community patients (non-CCRC).

## SUMMARY OF FINDINGS

### ANNUAL REPORT

Section 651.026(2)(c)6., Florida Statutes, provides in part that if a provider has more than one certificated facility it shall submit a balance sheet, statement of income and expenses, statement of equity of fund balances, and statement of cash flows for each facility licensed under this chapter as supplemental information to the audited financial statements.

#### Finding:

Westminster Communities of Bradenton failed to include in its fiscal year 2019 Annual Report filing to the OIR, Audited Financial Statements that included, as supplemental information for each of its certificated facilities, a balance sheet, statement of income and expenses, statement of equity of fund balances, and statement of cash flows, as required by Section 651.026(2)(c)6., Florida Statutes.

### CONTINUING CARE CONTRACT FORMS

#### Finding:

In five instances, Westminster Communities of Bradenton utilized a prior version of its continuing care contract form that was not in compliance with the requirements of Section 651.055, Florida Statutes, at the time the resident and Westminster Communities of Bradenton executed the contract.

### WAIT LIST FORMS

Westminster Communities of Bradenton provided a list of 290 wait list deposits received during the scope period of the examination. A sample of 95 wait list deposits was selected and reviewed for compliance with Sections 651.022(2)(g) and 651.033(4), Florida Statutes, and Rule 69O-193.018, Florida Administrative Code.

Finding:

Section 651.022(2)(g), Florida Statutes, provides in part that wait list contract forms be submitted to the OIR and approved prior to use.

In 95 instances, Westminster Communities of Bradenton failed to utilize a wait list contract form that was approved by the OIR, as required by Section 651.022(2)(g), Florida Statutes. In 62 instances, Westminster Communities of Bradenton accepted and acknowledged receipt of wait list deposits from individuals on form "WS PRC TR 5-9-10". In 30 instances, form "88014, 88050, 88048, 88056 -- Res\_Deposit\_Escrow Rev. 5/9/17" was utilized. In the remaining three instances, form "Presbyterian Retirement Communities Transaction Recpt WS Presbyterian Retirement Communities 4-14-09" was utilized.

Subsequent Event: In response to this examination, Westminster Communities of Bradenton filed wait list contract forms with the OIR and they were approved on January 11, 2023.

RESERVATION FORMS

Westminster Communities of Bradenton provided a list of 719 continuing care contracts entered into during the scope period of the examination. A sample of 99 transactions was selected and reviewed for compliance with Section 651.022(2)(g), Florida Statutes.

Finding:

Section 651.022(2)(g), Florida Statutes, provides in part that reservation contract forms be submitted to the OIR and approved prior to use.

In 99 instances, Westminster Communities of Bradenton failed to utilize a reservation contract form approved by the OIR, as required by Section 651.022(2)(g), Florida Statutes. In 54 instances, Westminster Communities of Bradenton accepted and acknowledged receipt of reservation deposits from individuals on form "WS PRC TR 5-9-10". In 23 instances, form "Presbyterian Retirement Communities Transaction Recpt WS Presbyterian

Retirement Communities 4-14-09” was utilized. In the remaining 22 instances, form “88014, 88050, 88048, 88056 -- Res\_Deposit\_Escrow Rev. 5/9/17” was utilized.

Subsequent Event: In response to this examination, Westminster Communities of Bradenton filed reservation contract forms with the OIR and they were approved on January 11, 2023.

#### QUARTERLY MEETINGS WITH RESIDENTS

Quarterly meeting minutes, meeting notices, agendas, and Annual Reports filed with the OIR during the scope period of the examination were reviewed for compliance with Section 651.085, Florida Statutes.

#### Finding 1:

Section 651.085(1), Florida Statutes, provides in part that the governing body of the provider, or the designated representative of the provider, shall hold quarterly meetings with the residents of the continuing care facility for the purpose of free discussion of subjects including, but not limited income, expenditures, financial trends, and problems as they apply to the facility, as well as, discussion on proposed changes in policies, programs, and services.

In one instance, Westminster Communities of Bradenton failed to hold the Section 651.085(1), Florida Statutes, quarterly meetings with residents or failed to provide documentation to demonstrate the quarterly meetings were properly noticed and held. Accordingly, in this instance the examination was unable to determine if this quarterly meetings were properly noticed and held.

Fiscal Year	Quarter
2017	2 <sup>nd</sup>

Finding 2:

Section 651.085(1), Florida Statutes, provides in part that residents shall be provided at least 7 days' advance notice of each quarterly meeting between the governing body of the provider, or the designated representative of the provider and the residents.

In two instances, Westminster Communities of Bradenton failed to provide residents with at least 7 days' advance notice of the quarterly meeting with residents that were held on February 28, 2018, and May 25, 2016, as required by Section 651.085(1), Florida Statutes. The examination revealed residents were provided advance notice of only 2 days and 5 days for each meeting, respectively.

In an additional three instances, Westminster Communities of Bradenton failed to provide residents at least 7 days' advance notice required by Section 651.085(1), Florida Statutes, or provide documentation to demonstrate the meetings were properly noticed. In these instances, the examination was not able to determine if these quarterly meetings were properly noticed.

Finding 3:

Section 651.085(1), Florida Statutes, provides in part that the annual report pursuant to Section 651.026, Florida Statutes, shall include the dates on which quarterly meetings were held during the reporting period.

In 38 instances, Westminster Communities of Bradenton failed to accurately report in the Annual Reports filed with the OIR for the fiscal years ending March 31, 2013, 2015, 2016, 2017, 2018, and 2019, the dates on which quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes.

## NEW FINANCING, ADDITIONAL FINANCING OR REFINANCING

Information was obtained and reviewed related to new financing, additional financing, and refinancing during the scope period of the examination to determine compliance with Section 651.019, Florida Statutes (2018).

### Finding 1:

Section 651.019(1), Florida Statutes (2018), requires the provider to submit to the OIR a general outline including the intended use of proceeds, with respect to any new financing, additional financing, or refinancing at least 30 days before the closing date of such transaction.

In one instance, Westminster Communities of Bradenton failed to provide the OIR a general outline including the intended use of proceeds at least 30 days before the closing date of a financing transaction, as required by Section 651.019(1), Florida Statutes (2018). The financing transaction was entered into on June 15, 2015, notification related to the financing transaction was provided to the OIR 19 days prior to the closing of the transaction on May 27, 2015.

### Finding 2:

Section 651.019(2), Florida Statutes (2018), requires the provider to submit to the OIR copies of the executed financing documents within 30 days after the closing date of the transaction.

In one instance, Westminster Communities of Bradenton failed to provide the OIR with copies of the executed financing documents within 30 days after the closing of the financing transaction, as required by Section 651.019(2), Florida Statutes. In this instance, Westminster Communities of Bradenton entered into a financing agreement on or about



December 1, 2016; the OIR was provided copies of the executed financing documents 44 days later on January 14, 2017.

#### NOTIFICATION TO THE OIR

The Florida Department of State, Division of Corporations website ([www.sunbiz.com](http://www.sunbiz.com)) was reviewed for items of significance.

#### Finding:

Westminster Communities of Bradenton amended its Articles of Incorporation, effective May 17, 2017, and failed to notify the OIR and file pertinent documents within five business days, as required by Rule 69O-193.058, Florida Administrative Code. In addition, Westminster Communities of Bradenton failed to disclose this amendment to its Articles of Incorporation in their June 30, 2017, Quarterly Report Interrogatories filed with the OIR.

#### RESIDENTS' COUNCIL DISCLOSURES

Documentation was reviewed to determine compliance with the residents' council disclosure requirements, pursuant to Sections 651.081 and 651.085(3), Florida Statutes, as well as, and Section 651.091(2), Florida Statutes (2018).

#### Finding:

Section 651.091(2)(g), Florida Statutes, (2018), provides that each continuing care facility deliver to the president or chair of the residents' council a copy of each quarterly statement within 30 days after the quarterly statement is filed with the OIR if the facility is required to file quarterly.

Westminster Communities of Bradenton failed to deliver to the President or Chair of the Residents' Council a copy of the March 31, 2013, March 31, 2017, and December 31, 2018, Quarterly Statements filed with the OIR, as required by Section 651.091(2)(d), Florida Statutes (2018).

### **MINIMUM LIQUID RESERVE**

As of March 31, 2019, the Westminster Communities of Bradenton's Minimum Liquid Reserve was funded in accordance with Section 651.035, Florida Statutes (2018).

### **SUMMARY OF RECOMMENDATIONS**

#### ANNUAL REPORT

The OIR recommends Westminster Communities of Bradenton ensures that it includes all supplemental information required to be filed as part of its Annual Report to the OIR in accordance with Section 651.026(2)(c) Florida Statutes.

#### CONTINUING CARE CONTRACT FORMS

The OIR recommends Westminster Communities of Bradenton submit to the OIR within 45 days of the issuance of the Final Examination Report its plan to bring the five contracts referenced in the Report into compliance with the statutory requirements in effect at the time each contract was executed.

### WAIT LIST FORMS

The OIR recommends Westminster Communities of Bradenton establish adequate procedures and controls to ensure wait list contract forms are approved by the OIR prior to use, in accordance with Section 651.022(2)(g), Florida Statutes.

### RESERVATION FORMS

The OIR recommends Westminster Communities of Bradenton establish adequate procedures and controls to ensure reservation contract forms are approved by the OIR prior to use, in accordance with Section 651.022(2)(g), Florida Statutes..

### QUARTERLY MEETINGS WITH RESIDENTS

Findings 1 and 2: The OIR recommends Westminster Communities of Bradenton establish adequate procedures and controls to ensure the statutory quarterly meetings with residents are held and properly noticed, in accordance with Section 651.085(1), Florida Statutes.

Finding 3: The OIR recommends Westminster Communities of Bradenton establish adequate procedures and controls to ensure the dates on which quarterly meetings with residents held are accurately reported in the Annual Reports filed with the OIR, in accordance with Section 651.085(1), Florida Statutes.

### NEW FINANCING, ADDITIONAL FINANCING, OR REFINANCING

Findings 1 and 2: The OIR recommends Westminster Communities of Bradenton ensure compliance with Section 651.019, Florida Statutes.

### NOTIFICATIONS TO THE OIR

The OIR recommends Westminster Communities of Bradenton ensure the OIR is timely provided information and documentation, in accordance with requirements of Chapter 651, Florida Statutes and Rule Chapter 690-193, Florida Administrative Code.

### RESIDENTS' COUNCIL REQUIRED DISCLOSURES

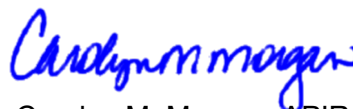
Finding: The OIR recommends Westminster Communities establish adequate procedures and controls to ensure all required Residents' Council disclosures are provided, in accordance with Section 651.091, Florida Statutes, and documentation is obtained to demonstrate the disclosures were provided.

### **CONCLUSION**

This Final Report of Examination is based upon the information provided to the OIR from Presbyterian Retirement Communities, Inc. d/b/a Westminster Communities of Bradenton and additional research conducted by the OIR.

The following individuals from the Office of Insurance Regulation participated in the examination: Bernie L. Stoffel, Senior Management Analyst Supervisor; Alicia Thompkins-Perryman, CFE, APIR, Financial Specialist; and Kyle Barber, Financial Specialist.

Respectfully submitted,



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Florida Office of Insurance Regulation  
Date Signed: 7/7/23