

Report on Examination

of

Palm Shores Retirement Community, Inc.

d/b/a

Westminster Palms

St. Petersburg, Florida

as of

June 30, 2019



Contents

Scope of Examination	1
Company History	1
Summary of Findings	2
Summary of Recomendations	7
Conclusion	9

SCOPE OF EXAMINATION

The Florida Office of Insurance Regulation (“OIR”), Life & Health Financial Oversight unit, conducted a routine examination of Palm Shores Retirement Community, Inc. d/b/a Westminster Palms, 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 690-193, Florida Administrative Code. The scope period of the examination was April 1, 2012 through June 30, 2019.

COMPANY HISTORY

Palm Shores Retirement Community, Inc., a Florida not-for-profit corporation was granted a certificate of authority by the OIR to offer continuing care contracts on January 15, 1980. Palm Shores Retirement Community operates Westminster Palms, a continuing care retirement community (“CCRC”) facility located in St. Petersburg, Florida. Palm Shores Retirement Community is managed by Westminster Services, Inc., an affiliated entity.

Palm Shores Retirement Community operates on the fiscal year April 1 through March 31. As of March 31, 2019, Palm Shores Retirement Community reported in its Annual Report filed with the OIR: 191 Continuing Care Units consisting of 151 Independent Living Units and 40 Assisted Living Units; 42 Skilled Nursing Units consisting solely of Community Beds; and 17 Rental Units. As of that date, there were 251 individuals reported residing at the facility: 193 pursuant to a continuing care contract; 45 pursuant to a rental agreement; and 13 skilled nursing community patients (non-CCRC).

SUMMARY OF FINDINGS

CANCELATIONS AND REFUNDS

Palm Shores Retirement Community provided a list of 188 continuing care contracts canceled during the scope period of the examination. A sample of 46 contract cancelations was selected and reviewed to verify the amount of refund due, if any, and whether refunds were properly issued. Of the 46 contract cancelations sampled, 31 were eligible for refunds.

Finding:

Section 651.055(1)(h), Florida Statutes (2018), provides in part that each continuing care contract provide the terms governing the refund of any portion of the entrance fee. Section 651.055(1)(i), Florida Statutes (2018), provides that each contract state the terms under which a contract is canceled by the death of the resident.

Palm Shores Retirement Community failed to issue a refund in accordance with the terms of the continuing care contract, as required by Section 651.055(1)(i), Florida Statutes. In this instance, the contract cancelation was due to the death of the resident. The applicable refund terms of the contract provided that the refund was to be paid within 120 days from the date of death. Palm Shores Retirement Community issued the refund 125 days later.

CONTINUING CARE CONTRACT FORMS

Finding:

In three instances, Palm Shores Retirement Community utilized a prior version of its continuing care contract form that was not in compliance with Section 651.055, Florida Statutes, at the time the resident and Palm Shores Retirement Community executed the contract.

WAIT LIST FORMS

Palm Shores Retirement Community provided a list of 169 wait list deposits received during the scope period of the examination. A sample of 44 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 42 instances, Palm Shores Retirement Community 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 22 instances, Palm Shores Retirement Community accepted and acknowledged receipt of wait list deposits from individuals on form "88014, 88050, 88048, 88056 --- Res_Deposit_Escrow Rev. 5/9/17". In 20 instances, form "Palm Shores Retirement Community, Inc. d/b/a Westminster Palms Transaction Receipt 4/03" was utilized.

RESERVATION FORMS

Palm Shores Retirement Community provided a list of 242 continuing care contracts entered into during the scope period of the examination. A sample of 47 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 47 instances, Palm Shores Retirement Community failed to utilize a reservation contract form approved by the OIR, as required by Section 651.022(2)(g), Florida Statutes. In 41 instances, Palm Shores Retirement Community accepted and acknowledged receipt of reservation deposits from individuals on form "Palm Shores Retirement Community, Inc. d/b/a Westminster Palms Transaction Receipt 4/03". In six instances, form "88014,88050,88048,88056--Res_Deposit_Escrow 5/9/17" was utilized.

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 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, Palm Shores Retirement Community failed to provide the OIR with a general outline, including 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 or about June 15, 2015; notification 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 instances, Palm Shores Retirement Community 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 (2018). In this instance, Palm Shores Retirement Community entered into a financing transaction on or about December 1, 2016; the OIR was provided copies of the executed financing documents 44 days later on January 14, 2017.

NOTIFICATIONS TO THE OIR

Finding:

In three instances, Palm Shores Retirement Community failed to notify the OIR, and file pertinent documents, within 5 business days of the addition of new Directors to its Board of Directors, as required by Rule 69O-193.058, Florida Administrative Code. The examination revealed the following additions to the Board of Directors: two individuals were appointed on or about July 19, 2018; and one individual was appointed on or about October 25, 2018.

In addition, Palm Shores Retirement Community failed to disclose the additions to its Board of Directors in their Quarterly Report Interrogatories filed with the OIR for the periods ending September 30, 2018, and December 31, 2018, respectively.

DISCLOSURE DOCUMENTS

The disclosure documents utilized by Palm Shores Retirement Community during the scope period of the examination were reviewed for compliance with Section 651.091(3), Florida Statutes (2018), as well as, Section 651.091(4), Florida Statutes.

Finding:

Section 651.091(4), Florida Statutes, provides in part that a true and complete copy of the full disclosure document to be used must be filed with the OIR before use.

In one instance, Palm Shores Retirement Community failed to file with the OIR a true and complete copy of its full disclosure documents prior to use, as required by Section 651.091(4), Florida Statutes. The examination revealed that the then-current disclosure documents provided by Palm Shores Retirement Community differed in certain aspects from the disclosure documents filed with the OIR on January 16, 2017. This version of the disclosure documents was not filed with the OIR. Noted were changes pertaining to the disclosures required by Sections 651.091(3)(d) and 651.091(3)(e), Florida Statutes.

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 Section 651.091(2), Florida Statutes (2018).

Finding 1:

Section 651.081(2)(a), Florida Statutes, provides in part that within 30 days of the election of a newly elected president or chair of the residents' council, the provider shall give the elected president or chair a copy of Chapter 651, Florida Statutes, and Rule Chapter 690-193, Florida Administrative Code, or direct him or her to the appropriate public website to obtain this information.

In one instance, Palm Shores Retirement Community failed to provide to the newly elected President of the Residents' Council a copy of Chapter 651, Florida Statutes, and Rule

Chapter 690-193, Florida Administrative Code, or to direct the individual to the appropriate public website to obtain the information, as required by Section 651.081(2)(a), Florida Statutes.

Minimum Liquid Reserve

As of March 31, 2019, the Palm Shores Retirement Community's Minimum Liquid Reserve was funded in accordance with Section 651.035, Florida Statutes (2018).

SUMMARY OF RECOMMENDATIONS

CANCELATIONS AND REFUNDS

The OIR recommends Palm Shores Retirement Community ensure refunds are timely issued, in accordance with Section 651.055(1), Florida Statutes.

Continuing Care Contract Form

The OIR recommends Palm Shores Retirement Community submit to the OIR within 45 days of the issuance of the Final Examination Report its plan to bring the three contracts referenced above into compliance with the statutory requirements in effect at the time each contract was executed

WAIT LIST FORMS

The OIR recommends Palm Shores Retirement Community 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. Further, the OIR recommends Palm Shores Retirement Community submit to the OIR for approval, a wait list contract form within 45 days after issuance of the Final Report of Examination.

RESERVATION FORMS

The OIR recommends Palm Shores Retirement Community 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. Further, the OIR recommends Palm Shores Retirement Community submit to the OIR for approval a reservation contract form within 45 days after issuance of the Final Report of Examination.

NEW FINANCING, ADDITIONAL FINANCING, OR REFINANCING

Findings 1 & 2: The OIR recommends Palm Shores Retirement Community ensure compliance with Section 651.019, Florida Statutes.

NOTIFICATION TO THE OIR

The OIR recommends Palm Shores Retirement Community establish adequate procedures and controls to ensure that any changes to its Board of Directors are timely reported to the OIR, in accordance with Rule 69O-193.058, Florida Administrative Code.

DISCLOSURE DOCUMENTS

The OIR recommends Palm Shores Retirement Community ensure a true and complete copy of the full disclosure document is filed with the OIR prior to use, in accordance with Section 651.091(4), Florida Statutes.

RESIDENTS' COUNCIL REQUIRED DISCLOSURES

The OIR recommends Palm Shores Retirement Community establish adequate procedures and controls to ensure all required Residents' Council disclosures are provided, in accordance with

Sections 651.081 and 651.085, Florida Statutes, and documentation is obtained to substantiate that the disclosures were provided. The OIR further recommends Palm Shores Retirement Community obtain documentation to indicate that the required disclosures were provided.

CONCLUSION

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

The following individuals from the Florida 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,



Carolyn M. Morgan, APIR
Director
Life & Health Financial Oversight
Florida Office of Insurance Regulation
Date Signed: 7/7/23