

**Report on Examination**

**of**

**Presbyterian Retirement Communities, Inc.**

**d/b/a**

**Westminster Towers**

**Orlando, 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 Towers (“Westminster Towers”), 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. d/b/a Westminster Towers, a Florida not-for-profit corporation, was granted a certificate of authority by the OIR to offer continuing care contracts on January 5, 1981. Presbyterian Retirement Communities, Inc., operates Westminster Towers, a continuing care retirement community (“CCRC”) facility located in Orlando, Florida, that is managed by Westminster Services, Inc., an affiliated entity.

Westminster Towers operates on the fiscal year April 1 through March 31. As of March 31, 2019, Westminster Towers reported in its Annual Report filed with the OIR: 202 Continuing Care Units consisting of 158 Independent Living Units and 44 Assisted Living Units; 120 Skilled Nursing Units consisting of 115 Community Beds and 5 Sheltered Beds; and 51 Rental Units. As of that date, there were 352 individuals reported residing at Westminster Towers: 203 pursuant to a continuing care agreement; 51 pursuant to a rental agreement; and 98 skilled nursing-community patients (non-CCRC).

## SUMMARY OF FINDINGS

### ANNUAL REPORT

Section 651.026(2)(c)6., Florida Statutes (2018), 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 Towers 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 (2018).

### WAIT LIST FORMS

Westminster Towers provided a list of 54 wait list deposits received during the scope period of the examination. A sample of 40 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 33 instances, Westminster Towers 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, Westminster Towers accepted and acknowledged receipt of wait list deposits from individuals on form "WS PRC TR 5-9-10". In 11 instances, form "88014, 88050, 88048, 88056 -- Res\_Deposit\_Escrow Rev. 5/9/17" was utilized.

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

RESERVATION FORMS

Westminster Towers provided a list of 200 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 45 instances, Westminster Towers failed to utilize a reservation contract form approved by the OIR, as required by Section 651.022(2)(g), Florida Statutes. In 37 instances, Westminster Towers accepted and acknowledged receipt of reservation deposits from individuals on form "WS PRC TR 5-9-10". In 8 instances, form "88014, 88050, 88048, 88056 -- Res\_Deposit\_Escrow Rev. 5/9/17" was utilized.

Subsequent Event: In response to this examination, Westminster Towers 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 :

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 with residents were held during the reporting period.

In 14 instances, Westminster Towers failed to accurately report in the Annual Reports filed with the OIR 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 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 Towers 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 or about June 15, 2015. Notification of the financing transaction was provided to the OIR on May 27, 2015, 19 days prior to the closing of the transaction.

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 Towers 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). Westminster Towers 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.

NOTIFICATIONS 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 Towers 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 (2018). In addition, Westminster Towers

failed to disclose this amendment to its Articles of Incorporation in their June 30, 2017, Quarterly Report Interrogatories filed with the OIR.

#### RESIDENTS' COUNCIL REQUIRED DISCLOSURES

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

#### Finding:

Section 651.091(2)(g), Florida Statutes (2018), provides in part that the continuing care facility shall 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.

In one instance, for the quarter ending 6/30/2019 (2020Q1), Westminster Towers failed to deliver a copy of the Quarterly Statement to the President or Chair of the Residents' Council within 30 days the Quarterly Statement is filed with the OIR, as required by Section 651.091(2)(g), Florida Statutes (2018).

#### UNFAIR TRADE & DECEPTIVE PRACTICES

Pursuant to Section 651.106(15), Florida Statutes, the certificate of authority of a continuing care provider may be suspended or revoked if the OIR finds that the provider in the conduct of business under the license, is engaging in unfair methods of competition or in unfair or deceptive acts or practices prohibited under Part IX of Chapter 626, Florida Statutes, the Unfair Insurance Trade Practices Act.



Section 626.9541(1)(j), Florida Statutes, of the Unfair Insurance Trade Practices Act, provides that a provider shall maintain a complete record of all complaints received since the date of the last examination and defines “complaint” as any written communication primarily expressing a grievance.

Finding:

Westminster Towers failed to maintain a complete record of all complaints received since the date of the last examination, as required by Section 626.9541(1)(j), Florida Statutes.

**MINIMUM LIQUID RESERVE**

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

**SUMMARY OF RECOMMENDATIONS**

ANNUAL REPORT

The OIR recommends Westminster Towers 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)6, Florida Statutes.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Findings 1 and 2: The OIR recommends Westminster Towers establish adequate procedures and controls to ensure resident funds are properly held during the 7-day rescission period of the continuing care contract, in accordance with Section 651.055(2), Florida Statutes, and related documentation is maintained and made available to the OIR for examination, in accordance with Sections 651.055(2) and 651.105, Florida Statutes.

### WAIT LIST FORMS

The OIR recommends Westminster Towers 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 Towers 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

The OIR recommends Westminster Towers establish adequate procedures and controls to ensure the dates on which quarterly meetings with residents are 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 Towers ensures compliance with Section 651.019, Florida Statutes.

### NOTIFICATIONS TO THE OIR

The OIR recommends Westminster Towers establish adequate procedures and controls to ensure the OIR is timely provided information and documentation, in accordance with requirements of Chapter 651, Florida Statutes, and Rule Chapter 69O-193, Florida Administrative Code.

### RESIDENTS' COUNCIL REQUIRED DISCLOSURES

The OIR recommends Westminster Towers ensures 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.

### UNFAIR AND DECEPTIVE TRADE PRACTICES

The OIR recommends Westminster Towers establish adequate procedures and controls to ensure a complete record of all the complaints received since the date of the last examination is maintained, in accordance with Section 626.9541(1)(j), Florida Statutes.

## **CONCLUSION**

This Final Report of Examination is based upon the information provided to the OIR from Presbyterian Retirement Communities, Inc. d/b/a Westminster Towers 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