



# **THE STATE OF FLORIDA**

## **OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS**

### **MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**BAY VILLAGE OF SARASOTA, INC.**

**AS OF**

**December 31, 2013**

**FLORIDA COMPANY CODE 88013**

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**Report issued  
October 10, 2014**

## TABLE OF CONTENTS

<b>Purpose and Scope .....</b>	<b>1</b>
<b>Company Operations.....</b>	<b>1</b>
<b>Required Disclosures .....</b>	<b>1</b>
<b>Examination Final Report Submission .....</b>	<b>2</b>

## PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a periodic market conduct examination of Bay Village of Sarasota, Inc., (hereinafter "Bay Village") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2010 through December 31, 2013. The on-site and desk examination procedures were completed on August 26, 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 Bay Village. 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

Bay Village is a Florida non-profit corporation located in Sarasota, Florida. Bay Village was issued a certificate of authority by the Office to offer continuing care contracts on August 15, 1980. As of December 31, 2013, Bay Village reported: 283 Continuing Care Units consisting of 266 Independent Living Units and 17 Assisted Living Units; 95 Skilled Nursing beds consisting solely of community beds; and 25 Rental Units. As of that date there were a total of 400 individuals residing at the facility.

## REQUIRED DISCLOSURES

Bay Village provided a list of 120 continuing care contracts executed during the scope period of the examination. A sample consisting of 54 contract files was selected to determine compliance with Sections 651.055(4) and 651.091(3), Florida Statutes.

### Finding:

Section 651.055(4), Florida Statutes, provides in pertinent part that before the transfer of any money or other property to a provider by or on behalf of a prospective resident, the provider shall present a copy of the contract to the prospective resident and all other parties to the contract. The statute further provides that the provider shall secure a signed, dated statement from each party to the contract certifying that a copy of the contract with the specified attachment was received.

1. **In all 54 instances, Bay Village failed to timely provide a copy of the continuing care contract and obtain a signed statement from each party to the contract certifying that a copy of the contract had been provided prior to the transfer of money or other property, as required by Section 651.055(4), Florida Statutes.**

## REQUIRED DISCLOSURES (Continued)

- 1a. **Recommendation:** The Office recommends Bay Village establish adequate procedures and controls to ensure a copy of the contract is provided before the transfer of money or property and a signed and dated statement is secured from each party to the contract certifying that a copy of the contract was properly received.

**Subsequent Event:** On August 28, 2014; Bay Village provided to the Office a copy of a receipt document that will be utilized to address the requirements of 651.055(4).

### **Finding:**

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 disclosure documents to the prospective resident or to his or her legal representative.

Effective July 1, 2010, Section 651.091(3)(h), Florida Statutes, requires the provider to include, as a required disclosure document, a copy of Section 651.071, Florida Statutes. Of the 54 contracts in the sample, 46 contracts were executed on or after July 1, 2010. All 46 transactions were reviewed to determine compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes.

2. **In 14 instances, Bay Village failed to provide as a required disclosure to the prospective resident or their legal representative, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership" as required by Section 651.091(3)(h), Florida Statutes.**

- 2a. **Recommendation:** The Office recommends Bay Village establish adequate procedures and controls to ensure all required disclosures are timely provided to prospective residents or their legal representatives.

## 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 Bay Village.