

**Report on Examination**

**of**

**John Knox Village of Florida, Inc.**

**Pompano Beach, 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 John Knox Village of Florida, Inc., 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 scope period of the examination was January 1, 2012, through June 30, 2019.

## **COMPANY HISTORY**

John Knox Village of Florida, Inc., a Florida not-for-profit corporation was granted a certificate of authority by the OIR to offer continuing care contracts on February 15, 1980. John Knox Village of Florida operates a continuing care retirement community (“CCRC”) facility located in Pompano Beach, Florida. John Knox Village of Florida is self-managed and does not use a manager or management company as defined by Rule 69O-193.002(13), Florida Administrative Code (2019).

John Knox Village of Florida operates on a calendar year. As of December 31, 2018, John Knox Village of Florida reported in its Annual Report filed with the OIR: 770 Continuing Care Units consisting of 706 Independent Living Units and 64 Assisted Living Units; 194 Skilled Nursing Units consisting of 124 Sheltered Beds and 70 Community Beds; and 4 Rental Units. As of that date, there were 954 individuals reported residing at the facility: 886 pursuant to a continuing care contract; 7 pursuant to a rental agreement; and 61 skilled nursing community patients (non-CCRC).

## SUMMARY OF FINDINGS

The following is a summary of findings. The findings are discussed in more detail in the pages that follow with recommendations beginning on page 12.

### AUDITED FINANCIAL STATEMENTS

The audited financial statements John Knox Village of Florida filed with the OIR during the scope period of the examination were reviewed for compliance with Section 651.026, Florida Statutes (2018).

#### Finding:

Section 651.026(1), Florida Statutes (2018), provides in part that the provider shall file an annual report and such other information and data showing its condition as of the last day of the preceding year (calendar or fiscal). Section 651.026(2)(b), Florida Statutes (2018), requires the annual report filing to include financial statements audited by an independent certified public accountant which must contain, for two or more periods if the facility has been in existence that long, all of the following: an accountant's opinion, and in accordance with generally accepted accounting principles: a balance sheet; a statement of income and expenses; a statement of equity and fund balances; and a statement of changes in cash flows.

John Knox Village of Florida failed to file with the OIR audited financial statements for the calendar years ended 2012, 2013, 2014, 2015, 2016, 2017, and 2018, in accordance with Section 651.026(2)(b), Florida Statutes (2018). The audited financial statements submitted to the OIR were not solely of the Provider, John Knox Village of Florida, Inc., and its for-profit wholly-owned subsidiary, John Knox Home Health Agency, Inc., but, were

consolidated audited financial statements that included John Knox Village of Florida Foundation, Inc., a not-for-profit affiliated entity.

### REQUIRED DISCLOSURES

John Knox Village of Florida provided a list of 668 continuing care contracts executed during the scope period of the examination. A sample of 57 transactions was selected and reviewed for compliance with Sections 651.055(4), and 651.091(4), Florida Statutes, as well as, Section 651.091(3), Florida Statutes (2018).

### Finding 1:

Section 651.055(4), Florida Statutes, provides 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 typewritten or printed copy of the contract to the prospective resident and all other parties to the contract. 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.

In six instances, John Knox Village of Florida failed to provide to the prospective resident and all other parties to the contract a copy of the contract and secure a signed, dated statement from each party to the contract certifying that a copy of the contract was received prior to the transfer of money to the provider, as required by Section 651.055(4), Florida Statutes. In one instance, a copy of the contract was provided after the transfer of money to John Knox Village of Florida. In three instances, a signed, dated statement certifying a copy of the contract was received was not obtained. In the remaining two instances, the statement acknowledging receipt of the contract was signed, but was not dated.

## Finding 2:

Section 651.091(3), Florida Statutes (2018), provides in 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 disclosures, and provide copies of specific disclosure documents to the prospective resident or his or her legal representative.

In six instances, John Knox Village of Florida failed to provide to the prospective resident or their legal representative the required disclosures, pursuant to Section 651.091(3), Florida Statutes (2018) or make available for examination documentation to demonstrate the required disclosure documents were provided. In one instance, the required disclosures were provided after the prospective resident entered into the contract for continuing care. In three instances, no signed statement acknowledging receipt of the disclosure documents or other documentation was provided for examination to demonstrate all required disclosure documents were provided. In the remaining two instances, a signed and dated statement confirming receipt of the required disclosures was secured from only one of the two prospective residents to each contract.

## REQUIRED ESCROW DEPOSITS OR WAIVERS

John Knox Village of Florida provided a list of 668 continuing care contracts executed during the scope period of the examination. A sample of 57 transactions was selected and reviewed for compliance with Section 651.055(2), Florida Statutes.

Section 651.055(2), Florida Statutes, provides in part that a resident has the right to rescind a continuing care contract within 7 days after executing the contract. During this rescission period the resident's funds must be held in escrow, unless the resident requests the provider hold and not deposit the check during the 7-day period, pursuant to Section 651.033(3)(c), Florida Statutes.

Finding 1:

In three instances, John Knox Village of Florida failed to deposit resident funds into an escrow account for the 7-day rescission period of the continuing care contract or obtain authorization from the resident to hold and not deposit their check for the 7-day period, as required by Section 651.055(2), Florida Statutes.

Finding 2:

In one instance, John Knox Village of Florida failed to provide for examination documentation to demonstrate that resident funds were either deposited into an escrow account for the 7-day rescission period of the continuing care contract or authorization was obtained from the resident to hold and not deposit their check for the 7-day period, as required by Section 651.055(2), Florida Statutes. In this instance, the examination was unable to determine if the funds were properly handled during the 7-day rescission period of the continuing care contract.

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 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 eight instances, John Knox Village of Florida failed to provide residents with at least 7 days' advance notice of quarterly meetings that were held between the governing body of the provider, or the designated representative of the provider and the residents, as required by Section 651.085(1), Florida Statutes.

Date Meeting Held	Date Meeting Noticed
9/10/2012	9/5/2012
11/12/2012	11/6/2012
3/11/2013	3/5/2013
11/11/2013	11/11/2013
5/12/2014	5/6/2014
9/8/2014	9/2/2014
9/14/2015	9/8/2015
11/9/2015	11/9/2015

Finding 2:

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 18 instances, John Knox Village of Florida failed to accurately report in the 2015, 2016, 2017 and 2018 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.

Date Meeting Reported in Annual Report	Date Meeting Actually Held
1/15/2015	1/12/2015
3/2/2015	3/9/2015
5/4/2015	5/11/2015
7/6/2015	7/13/2015
9/7/2015	9/14/2015
11/2/2015	11/9/2015
1/9/2016	1/11/2016
3/13/2016	3/14/2016
5/8/2016	5/9/2016

Date Meeting Reported in Annual Report	Date Meeting Actually Held
7/10/2016	7/11/2016
9/11/2016	9/12/2016
11/13/2016	11/14/2016
1/3/2017	1/9/2017
3/13/2017	3/13/2017
5/4/2017	5/8/2017
7/6/2017	7/10/2017
9/5/2017	9/12/2017
11/6/2017	11/27/2017



## 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 closing date of such transaction.

In two instances, John Knox Village of Florida failed to provide the OIR a general outline including intended use of proceeds at least 30 days before closing date of the financing transaction, as required by Section 651.019(1), Florida Statutes (2018). The OIR was not provided the required notifications for the financing transactions that closed on or about February 12, 2015 and July 27, 2018.

### 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 two instances, John Knox Village of Florida 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 one instance, the financing transaction closed on or about February 12, 2015; the OIR was provided copies of executed financing documents 92 days later on May 15, 2015. In the remaining instance, the

financing transaction closed was on or about July 27, 2018; the OIR was provided copies of executed financing documents 378 days later on August 9, 2019.

### DISCLOSURE DOCUMENTS

The disclosure documents utilized by John Knox Village of Florida during the scope period of the examination were reviewed for compliance with Sections 651.091(3), Florida Statutes (2018) and Section 651.091(4), Florida Statutes.

Section 651.091(3), Florida Statutes (2018), provides in 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 specific disclosures to the prospective resident or his or her legal representative.

### 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, John Knox Village of Florida failed to file with the OIR a true and complete copy of its full disclosure document prior to use, as required by Section 651.091(4), Florida Statutes. The examination revealed the disclosure document version "Rev. 01/2018" filed with the OIR did not include the following disclosures required pursuant to Sections 651.091(3)(g), 651.091(3)(h), and 651.091(3)(i), Florida Statutes (2018):

- The amount and location of any reserve funds, and the name of the person or entity having a claim to such reserve funds in the event of bankruptcy, foreclosure, or rehabilitation proceeding;
- A copy of Section 651.071, Florida Statutes; and
- A copy of residents' rights as described in Section 651.083, Florida Statutes.

## RESIDENTS' COUNCIL DISCLOSURES

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

### Finding:

Section 651.085(1), Florida Statutes, provides in part that a written summary of the reasons for raising the fee as specified in Section 651.085(4), Florida Statutes, be provided in writing to the president or chair of the residents' council.

Section 651.085(3), Florida Statutes, provides in part that the designated representative of the residents' council shall be notified at least 14 days in advance of any meeting of the full governing body at which proposed changes in resident fees or services will be discussed. The representative shall be invited to attend and participate in that portion of the meeting designated for the discussion of such changes.

Section 651.091(2)(d), Florida Statutes (2015), provides that each continuing care facility shall distribute a copy of the full annual statement to the president or chair of the residents' council within 30 days after filing the annual report with the OIR.

Section 651.091(2)(g), Florida Statutes (2015), provides that each 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 if the facility is required to file quarterly.

For the years 2012, 2013, 2014 and 2015, John Knox Village of Florida failed to provide required disclosures to representatives of the Residents' Council or provide documentation

to demonstrate the disclosures required pursuant to Sections 651.085(1), 651.085(3), Florida Statutes, as well as, Sections 651.091(2)(d) and 651.091(2)(g), Florida Statutes (2015), were provided to the representatives of the Residents' Council. Accordingly, the examination was unable to determine if the aforementioned disclosures were made.

### UNFAIR TRADE & DECEPTIVE PRACTICES

#### Finding:

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.

John Knox Village of Florida 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.

### ACCESS TO RECORDS

#### Finding:

Section 651.105(1), Florida Statutes, provides in part that any provider being examined shall, upon request, give reasonable and timely access to all of its records. Records necessary to conduct the examination and determine the degree of compliance with Chapter 651, Florida Statutes, and Rule

Chapter 690-193, Florida Administrative Code, were requested from John Knox Village of Florida in accordance with Section 651.105, Florida Statutes.

John Knox Village of Florida failed to provide for examination, documents necessary for the OIR to determine compliance with applicable statutes and rules, as required by Section 651.105(1), Florida Statutes. Specifically, John Knox Village of Florida failed to provide for examination:

- Notice of cancelation or death documentation for two contract cancelations;
- Cancelation and refund documentation for four contract cancelations;
- Approved escrow agreement utilized for the debt service reserve account; and
- Eight executed wait list contracts.

#### **MINIMUM LIQUID RESERVE**

As of December 31, 2018, John Knox Village of Florida's Minimum Liquid Reserve was funded in accordance with Section 651.035, Florida Statutes (2018).

## **SUMMARY OF RECOMMENDATIONS**

### AUDITED FINANCIAL STATEMENTS

The OIR recommends John Knox Village of Florida file as part of its Annual Report to the OIR financial reports audited by an independent certified public accountant, in accordance with Section 651.026, Florida Statutes.

### REQUIRED DISCLOSURES

Finding 1: The OIR recommends John Knox Village of Florida establish adequate procedures and controls to ensure 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 typewritten or printed copy of the contract to the prospective resident and all other parties to the contract. 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, in accordance with Section 651.055(4), Florida Statutes.

Finding 2: The OIR recommends John Knox Village of Florida establish adequate procedures and controls to ensure prospective residents, and/or their legal representatives are provided with the required disclosure documents prior to entering into a continuing care contract and a written acknowledgement of receipt of the disclosure documents is obtained, in accordance with Section 651.091(3), Florida Statutes.

### REQUIRED ESCROW DEPOSIT OR WAIVER

Findings 1 and 2: The OIR recommends John Knox Village of Florida establish adequate procedures and controls to ensure that resident funds are handled in accordance with Section 651.055(2), Florida Statutes. In addition, the OIR recommends that documentation is obtained and

made available to the OIR for examination relating to the handling of resident funds during the 7-day rescission period of the continuing care contract.

#### QUARTERLY MEETINGS WITH RESIDENTS

Findings 1 and 2: The OIR recommends John Knox Village of Florida establish adequate procedures and controls to ensure quarterly meetings with residents are noticed and held. The OIR further recommends John Knox Village of Florida establish adequate procedures and controls to ensure the dates on which the quarterly meetings with residents are held are accurately reported in the Annual Reports filed with the OIR, in accordance with Section 651.085, Florida Statutes.

#### NEW FINANCING, ADDITIONAL FINANCING, OR REFINANCING

Findings 1 and 2: The OIR recommends John Knox Village of Florida establish adequate procedures and controls to ensure compliance with Section 651.019, Florida Statutes.

#### DISCLOSURE DOCUMENTS

The OIR recommends John Knox Village of Florida establish adequate procedures and controls to 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 John Knox Village of Florida establish adequate procedures and controls to ensure all required Residents' Council disclosures are provided, in accordance with Sections 651.081, 651.085, and 651.091, Florida Statutes. The OIR further recommends that documentation to substantiate the disclosures have been provided is obtained and made available for examination.

### UNFAIR AND DECEPTIVE TRADE PRACTICES

The OIR recommends John Knox Village of Florida 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.

### ACCESS TO RECORDS

In order for the OIR to determine the degree of compliance with Chapter 651, Florida Statutes and Rule Chapter 690-193, Florida Administrative Code, the OIR recommends John Knox Village of Florida establish adequate procedures and controls to ensure complete and adequate records are properly maintained and made available to the OIR for examination, as required by Section 651.105, Florida Statutes.



## CONCLUSION

This Final Report of Examination is based upon the information provided to the OIR from John Knox Village of Florida, Inc., 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,



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Carolyn M. Morgan, APIR  
Director, Life & Health Financial Oversight  
Florida Office of Insurance Regulation