

**Report on Examination**

**of**

**Oak Hammock at the University of Florida, Inc.**

**Gainesville, Florida**

**as of**

**December 31, 2016**



**FLORIDA OFFICE OF  
INSURANCE REGULATION**

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## **SCOPE OF EXAMINATION**

The Florida Office of Insurance Regulation (“Office”), Life & Health Financial Oversight unit conducted a routine examination of Oak Hammock at the University of Florida, Inc., (“Oak Hammock”), 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 January 1, 2012, through December 31, 2016.

## **COMPANY HISTORY**

Oak Hammock, a Florida not-for-profit corporation was granted a certificate of authority by the Office to offer continuing care contracts on October 17, 2002. Oak Hammock operates a continuing care retirement community facility located in Gainesville, Florida. During the scope period of the examination Oak Hammock was managed by Praxeis, LLC. As of January 2017, Oak Hammock completed the transition from a management company to self-managed and no longer utilizes an individual or entity to perform the functions of a “manager” or “management company”, as defined by Rule 69O-193.002(13), Florida Administrative Code (2016).

As of December 31, 2016, Oak Hammock reported: 329 Continuing Care Units consisting of 269 Independent Living Units and 60 Assisted Living Units; 73 Skilled Nursing Units consisting of 39 Sheltered Beds and 34 Community Beds; and 10 Rental Units. As of that date, there were 470 individuals reported residing at Oak Hammock: 439 pursuant to a continuing care agreement; 10 pursuant to a rental agreement; and 21 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 8.

### REQUIRED ESCROW DEPOSITS OR WAIVERS

Oak Hammock provided a list of 103 continuing care contracts executed during the scope period of the examination. A sample of 45 transactions was selected and reviewed for compliance with Section 651.055(2), Florida Statutes.

#### Finding:

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

In five instances, Oak Hammock failed to hold resident funds in the escrow account for the full seven-day rescission period of the continuing care contract, as required by Section 651.055(2), Florida Statutes. In each instance the funds were removed from the escrow account on the final day of the rescission period of the continuing care contract.

### WAIT LIST

Oak Hammock provided a list of 102 wait list contracts executed during the scope period of the examination. A sample consisting of 39 transactions 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 approved by the Office prior to use.

In 33 instances, Oak Hammock utilized a wait list contract form that was not approved by the Office, as required by Section 651.022(2)(g), Florida Statutes.

CONTINUING CARE CONTRACT FORMS

Oak Hammock provided a list of 103 continuing care contracts entered into during the scope period of the examination. A sample of 45 transactions was reviewed to determine compliance with Section 651.055, Florida Statutes.

Finding:

Section 651.055(1), Florida Statutes, provides that each continuing care contract and each addendum to such contract shall be submitted to and approved by the Office before its use in this state.

In one instance, Oak Hammock utilized an addendum to a continuing care contract titled "Entrance Fee Extension Agreement" that was not approved by the Office, as required by Section 651.055(1), Florida Statutes.

REQUIRED POSTINGS

The required postings related to the Certificate of Authority, Examination Report and Annual Statement were reviewed to determine compliance with Section 651.091(2), Florida Statutes.

Finding 1:

Section 651.091(2)(b), Florida Statutes, requires every continuing care facility post in a prominent position in the facility which is accessible to all residents and the general public a concise summary of the last examination report issued by the Office, the actions taken to rectify any deficiencies, and indicate in such summary where the full report may be inspected in the facility.

Oak Hammock failed to post in a prominent position in the facility accessible to all residents and the general public a summary of the latest Market Conduct Examination Report and Financial Examination Report issued by the Office and the actions taken to rectify any deficiencies noted, as required by Section 651.091(2)(b), Florida Statutes.

Finding 2:

Section 651.091(2)(c), Florida Statutes (2016), requires every continuing care facility post in a prominent position in the facility which is accessible to all residents and the general public a summary of the latest annual statement, indicating in such summary where the full annual statement may be inspected in the facility.

Oak Hammock failed to post a summary of the latest Annual Statement in a prominent position in the facility accessible to all residents and the general public, as required by Section 651.091(2)(c), Florida Statutes (2016).

During the examination process the statutory posting requirements were discussed with Oak Hammock's management. Management promptly posted the information detailed in Findings 1 and 2 in a prominent position in the facility accessible to all residents and the general public.

## REQUIRED DISCLOSURES

Disclosure documents utilized during the scope period of the examination were reviewed for compliance with Sections 651.091(3) and (4), Florida Statutes.

### Finding 1:

Section 651.091(3), Florida Statutes, 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 disclosure documents to the prospective resident or his or her legal representative. Section 651.091(3)(a), Florida Statutes, identifies as a required disclosure, a copy of the continuing care contract.

In three instances, Oak Hammock failed to deliver to the prospective resident or their legal representative a copy of the current and applicable continuing care contract, as required by Section 651.091(3)(a), Florida Statutes. Specifically, in 2015 the prospective residents were provided disclosure documents that included the 2015 version of Oak Hammock's continuing care contract. However, in each instance the prospective resident did not sign the 2015 version of the continuing care contract, but instead executed the 2016 version of the continuing care contract which was significantly different in its terms from the 2015 contract.

### Finding 2:

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 Office before use.

Oak Hammock failed to file with the Office a true and complete copy of its 2014 version of disclosure documents prior to being utilized, as required by Section 651.091(4), Florida Statutes.

#### ADVERTISEMENTS

Advertisements utilized during the scope period, including Oak Hammock's website, were reviewed for compliance with Section 651.095, Florida Statutes (2016), and Rules 69O-193.038 and 69O-193.040, Florida Administrative Code.

#### Finding:

Rule 69O-193.038(6)(b)1., Florida Administrative Code, provides in part that an advertisement shall not refer to a sponsor, holding company, or subsidiary of a continuing care retirement community unless it fully discloses that it is a separate entity and is not responsible for the financial condition or contractual obligations of the continuing care retirement community.

In nine instances, Oak Hammock failed to disclose in its advertisements that a sponsor, the University of Florida, is a separate entity and is not responsible for the financial condition or contractual obligations of the continuing care retirement community, as required by Rule 69O-193.038(6)(b)1., Florida Administrative Code. Specifically, four instances were identified in 2014, four instances were identified in 2015, and one instance was identified in 2016. The examination also revealed this disclosure was properly made in other Oak Hammock advertisements.



## **MINIMUM LIQUID RESERVE**

As of December 31, 2016, the Oak Hammock's Minimum Liquid Reserve was funded in accordance with Section 651.035, Florida Statutes.

## **SUMMARY OF RECOMMENDATIONS**

### REQUIRED ESCROW DEPOSITS OR WAIVERS

The Office recommends Oak Hammock establish adequate procedures and controls to ensure resident funds are properly held in escrow, in accordance with the provisions of Section 651.055(2), Florida Statutes.

### WAIT LIST

The Office recommends Oak Hammock establish adequate procedures and controls to ensure wait list contract forms are filed and approved by the Office prior to use, in accordance with Section 651.022(2)(g), Florida Statutes.

### CONTINUING CARE FORMS

The Office recommends Oak Hammock establish adequate procedures and controls to ensure compliance with the forms filing and approval provisions of Section 651.055(1), Florida Statutes.

### REQUIRED POSTINGS

The Office recommends Oak Hammock establish adequate procedures and controls to ensure the required information is properly posted, in accordance with Section 651.091(2), Florida Statutes.

### REQUIRED DISCLOSURES

Finding 1: The Office recommends Oak Hammock establish adequate procedures and controls to ensure prospective residents and/or their legal representatives are provided a current copy of the required disclosure documents, to include the continuing care contract, prior to entering into a continuing care contract, and obtain documentation to substantiate required disclosure documents were provided.

Finding 2: The Office recommends that Oak Hammock establish adequate procedures and controls to ensure that a true and complete copy of the full disclosure documents are filed with the Office before use and that documentation is maintained pertaining to the disclosure documents filed with the Office.

#### ADVERTISEMENTS

The Office recommends Oak Hammock establish adequate procedures and controls to ensure all advertisements are in compliance with Section 651.095, Florida Statutes and Rule 69O-193.038, Florida Administrative Code. The Office further recommends Oak Hammock review its current advertisements and advertisements available for use to ensure the proper disclosures are included, as applicable.

## **SUBSEQUENT EVENTS**

In September 2017, Oak Hammock refinanced approximately \$34 million in debt. Oak Hammock complied with the requirements of Sections 651.019(1) and (2), Florida Statutes (2017), pertaining to new financing, additional financing or refinancing, and the submission of certain information by providing documentation to the Office pertaining to its refinancing transaction.

## CONCLUSION

This Final Report of Examination is based upon the information provided to the Office from Oak Hammock at the University of Florida and additional research conducted by the Office.

The following individuals from the Office of Insurance Regulation participated in the examination: Bernie L. Stoffel, Senior Management Analyst Supervisor; Alicia Thompkins-Perryman, APIR, Financial Specialist; Hannah Scott, Insurance Analyst II; and Lisa M. Parker, ASA, MAAA, APIR, Actuary.

Respectfully submitted,

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