

Report on Examination

of

Federation CCRC Operations Corp.

d/b/a

Toby and Leon Cooperman Sinai Residences of Boca Raton

Boca Raton, 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 Federation CCRC Operations Corp. d/b/a Toby & Leon Cooperman Sinai Residences of Boca Raton, 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 March 6, 2014 (date of licensure) through June 30, 2019 (the “Scope Period”). This is the first examination of Federation CCRC Operations Corp.

COMPANY HISTORY

Federation CCRC Operations Corp., a Florida not-for-profit corporation was granted a Certificate of Authority by the OIR on March 6, 2014, to offer continuing care contracts. Federation CCRC Operations Corp. operates a continuing care retirement community facility located in Boca Raton, Florida and is managed by Life Care Services, LLC (a non-affiliated company).

Federation CCRC Operations Corp. operates on the fiscal year of September 1 through August 31. As of August 31, 2019, Federation CCRC Operations Corp. reported in its Annual Report filed with the OIR: 252 Continuing Care Units consisting of 234 Independent Living Units and 18 Assisted Living Units; 60 Skilled Nursing Units consisting of 26 Sheltered Beds and 34 Community Beds; and 56 Rental Units. As of that date, there were 413 individuals reported residing at the facility: 307 pursuant to a continuing care contract; 58 pursuant to a rental agreement; and 48 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 14.

RESIDENT CONTRACTS

Finding:

Section 651.055(1)(b), Florida Statutes, requires that each continuing care contract specify all services that are to be provided by the provider to each resident, including, in detail, all items that each resident will receive, whether the items will be provided for a designated time period or for life, and whether the services will be available on the premises or at another specified location. The provider shall indicate which services or items are included in the contract for continuing care and which services or items are made available at or by the facility at extra charge. Such items include, but are not limited to, food, shelter, personal services or nursing care, drugs, burial, and incidentals.

Federation CCRC Operations Corp. provided a list of 126 continuing care contracts entered into that at the time of execution by the prospective resident included services and items that were not yet available at the facility. A sample of 21 transactions was reviewed to determine if Federation CCRC Operations Corp. amended the terms of the continuing care contract to address these temporary limitations of services and items to be provided. Federation CCRC Operations Corp. filed with the OIR Acknowledgement of Limited Services forms and Acknowledgment of Limited Amenities forms, versions of which were ultimately approved by the OIR on May 11, 2016.

In 17 instances, Federation CCRC Operations Corp. entered into a continuing care contract that included certain services and items that were not currently available at the facility at the time the individuals executed the continuing care contract, in contravention of Section

651.055(1)(b), Florida Statutes. In remaining four instances, Federation CCRC Operation Corp. utilized an Acknowledgement of Limited Services addendum and an Acknowledgement of Limited Amenities addendum to address the temporary limitation to certain services and items specified in the continuing care contract. The Acknowledgement of Limited Services form approved by the OIR on May 11, 2016, listed as services not yet available: Assisted living in the Health Center at Sinai Residences, Memory Care in the Health Center at Sinai Residences, and Nursing Care in the Health Center at Sinai Residences. The Acknowledgement of Limited Amenities form approved by the OIR on May 11, 2016, listed as common use amenities not yet available (include but are not limited to): Wellness Center, Salon, Pool, Community Center, Library, and Large and Small Card Rooms.

CANCELATIONS AND REFUNDS

Federation CCRC Operations Corp. provided a list of 49 continuing care contracts canceled during the scope period of the examination. All 49 contract cancelations were reviewed to verify the amount of the refund due, if any, and whether refunds were properly issued. All contract cancelations were eligible for refunds.

Finding:

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

Federation CCRC Operations Corp. 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. The

contract cancelation was due to the death of the resident. Federation CCRC Operations Corp. timely issued a refund in the amount of \$425,600. Based on the review of the continuing care contract and relevant documents the examination calculated the refund in the amount of \$437,400, representing a refund shortage of (\$11,750).

Subsequent Event: Upon notification by the OIR and review by Federation CCRC Operations Corp. an additional \$11,750 refund was promptly issued.

REQUIRED DISCLOSURES

Federation CCRC Operations Corp. provided a list of 278 continuing care contracts executed during the scope period of the examination. A sample of 75 transactions was selected and reviewed for compliance with Section 651.055(4), Florida Statutes and Section 651.091(3), Florida Statutes (2018).

Finding:

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 24 instances, Federation CCRC Operations Corp. failed to provide the prospective residents and all parties to the continuing care contract a copy of the contract and/or secure a signed and dated statement from each party to the contract certifying that a copy of the contract was received prior to the transfer of money or other property, as required by Section 651.055(4), Florida Statutes. In 21 instances, a copy of the contract was provided after the transfer of money to Federation CCRC Operation Corp. In two instances, no documentation was provided for examination to demonstrate that Federation CCRC Operations Corp.

complied with the provisions of Section 651.055(4), Florida Statutes. In the final instance, the statement acknowledging receipt of the contract was signed, but was not dated. In this instance, the examination was unable to determine if a copy of the contract was timely provided.

DISCLOSURE DOCUMENTS

The disclosure documents utilized by Federation CCRC Operations Corp. during the scope period of the examination were reviewed for compliance with Section 651.091(3), Florida Statutes (2018) and Section 651.091(4), Florida Statutes.

Finding:

Section 651.091(3)(e), Florida Statutes, requires the provider to include as a required disclosure copies of the rules and regulations of the facility and an explanation of the responsibilities of the resident.

In five versions of its disclosure documents Federation CCRC Operations Corp. failed to include as a required disclosure copies of the rules and regulations of the facility and an explanation of the responsibilities of the resident, as required by Section 651.091(3)(e), Florida Statutes. The disclosure document versions that did not include these disclosures were dated 12/18/2015, 7/7/2017, 10/31/2017, 11/29/2018, and 5/29/2019.

QUARTERLY MEETING WITH RESIDENTS

Quarterly meeting minutes, meeting notices, agenda, and meeting dates contained in the 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 the annual report required pursuant to Section 651.026, Florida Statutes, shall include the dates on which quarterly meetings with residents were held during the reporting period.

In two instances, Federation CCRC Operations Corp. failed to accurately report in the Annual Reports filed with the OIR for the fiscal years ended August 31, 2018, and 2019, the dates on which quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes.

<u>Fiscal Year Annual Report</u>	<u>Date Meeting Held Per Annual Report</u>	<u>Date Meeting Actually Held</u>
2018	10/1/2017	10/25/17
2019	No 2 nd Quarter Meeting Reported	12/20/18

Finding 2:

Section 651.085(4), Florida Statutes, provides in pertinent part that at a quarterly meeting between residents and the governing body of the provider prior to the implementation of any increase in the monthly maintenance fee, the designated representative of the provider must provide the reasons, by department cost centers, for any increase in the fee that exceeds the most recently published Consumer Price Index for All Urban Consumers, all items, Class A Areas of the Southern Region.

For Fiscal Year 2017, Federation CCRC Operations Corp. failed to provide at a quarterly meeting with residents prior to the increase in monthly maintenance fees, the reasons, by department cost centers for the monthly maintenance fee increase that exceeded the Consumer Price Index for All Urban Consumers, all items, Class A Areas of the Southern Region, as required by Section 651.085(4), Florida Statutes.

RESIDENT FEE INCREASES

Resident fee increases that occurred during the scope period of the examination were reviewed to determine compliance with Section 651.055(1)(j), Florida Statutes.

Finding:

Section 651.055(1)(j), Florida Statutes, provides in pertinent part that residents must be provided advance notice of at least 60 days, before any changes in fees or charges or the scope of care or services is effective, except for changes required by state or federal assistance programs.

Federation CCRC Operations Corp. failed to provide residents with at least 60 days advance notice of a change in fees, as required by Section 651.055(1)(j), Florida Statutes. Specifically, for the fee increase that was effective on April 1, 2017, residents were provided with notice on February 8, 2017, 52 days prior to the effective date.

NEW FINANCING, ADDITIONAL FINANCING OR REFINANCING

Information related to new financing, additional financing and refinancing during the scope period of the examination was obtained and reviewed 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 the proceeds, with respect to any new financing, additional financing, or refinancing at least 30 days before the closing date of such financing transaction.

Federation CCRC Operations Corp. failed to provide to the OIR a general outline, including intended use of the proceeds, with respect to a new financing, additional financing, or refinancing transaction at least 30 days before the closing date of such financing transaction, as required by Section 651.019(1), Florida Statutes (2018). Federation CCRC Operations Corp. closed on a new financing transaction on March 15, 2019. Notification was provided to the OIR 18 days prior to the closing of the financing transaction on February 25, 2019.

Finding 2:

Section 651.019(2), Florida Statutes (2018), requires the provider to submit to the OIR copies of executed financing documents within 30 days after the closing date of such financing transaction.

Federation CCRC Operations Corp. failed to provide to the OIR copies of the executed financing documents within 30 days after the closing date of the transaction, as required by Section 651.019(2), Florida Statutes (2018). Federation CCRC Operations Corp. closed on a financing transaction on May 1, 2014; and the related executed financing documents were submitted to the OIR 75 days later on July 15, 2014.

RESIDENTS' COUNCIL 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 1:

Section 651.085(3), Florida Statutes, provides 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 and the representative shall be invited to attend and participate in that portion of the meeting designated for the discussion of changes.

In two instances, Federation CCRC Operations Corp. failed to notify and invite the designated representative of the Residents' Council to meetings of the Boards of Directors for fiscal years 2018 and 2019 at which proposed changes in resident fees were discussed, as required by Section 651.085(3), Florida Statutes.

Finding 2

Section 651.085(1), Florida Statutes, provides in pertinent part that at a quarterly meeting where monthly maintenance fees are discussed, a summary of the reasons for raising the fee as specified in Section 651.085(4), Florida Statutes, must be provided in writing to the president or chair of the residents' council.

Federation CCRC Operations Corp. failed to provide the Residents' Council President or Chair with a written summary of the reasons for the maintenance fee increases for the fiscal years 2018 and 2019, as required by Section 651.085(1), Florida Statutes.

Finding 3:

Section 651.091(2)(d), Florida Statutes (2018), provides that each continuing care facility distribute a copy of the full annual statement and a copy of the most recent third-party financial audit filed with the annual report to the president or chair of the residents' council within 30 days after filing the annual report with the OIR.

Federation CCRC Operations Corp. failed to provide documentation to demonstrate that the President or Chair of the Residents' Council was provided a copy of the third-party financial audit for the fiscal year ended August 31, 2018, as required by Section 651.091(2)(d), Florida Statutes (2018). Federation CCRC Operations Corp. provided a receipt signed by the Residents' Council President that confirmed receipt of the "FYE 8/31/2018 Annual Report and Minimum Liquid Reserve Calculation." Since a copy of the third-party financial audit was not a named document in the receipt the examination was unable to determine if that document had been provided.

Finding 4:

Section 651.091(2)(e), Florida Statutes (2018), provides that every continuing care facility shall notify the residents' council of any plans filed with the OIR to obtain new financing, additional financing, or refinancing for the facility and of any applications to the OIR for any expansion of the facility.

Federation CCRC Operations Corp. failed to notify the Residents' Council of plans for new financing that was entered into March 2019, as required by Section 651.091(2)(e), Florida Statutes (2018).

REQUIRED POSTINGS

The required postings related to the certificate of authority, examination report, and annual statement in the facility were reviewed to determine compliance with Section 651.091(2), Florida Statutes.

Finding:

Section 651.091(2)(c), Florida Statutes (2018), requires every continuing care facility to post in a prominent position in the facility, which is accessible to all resident and the general public, a summary of the latest annual statement, indicating in the summary where the full annual statement may be inspected in the community.

Federation CCRC Operations Corp. failed to post in a prominent position in the facility, accessible to all residents and the general public a summary of the latest annual statement, as required by Section 651.091(2)(c), Florida Statutes (2018). The document posted consisted of a general description of some of the different sections comprising the annual statement form. No financial information was depicted.

Subsequent Event: During the examination the statutory posting requirements pertaining to the summary of the latest annual statement were discussed with Federation CCRC Operations Corp. Management promptly posted the annual statement information in a prominent position in the facility accessible to all residents and the general public.

NOTIFICATIONS TO THE OIR

Board of Directors meeting minutes and the Florida Department of State, Division of Corporations website (www.sunbiz.org) were reviewed for items of significance.

Finding 1:

Federation CCRC Operations Corp. appointed a new Chairman of the Board of Trustees and failed to timely notify the OIR and file pertinent documents within five business days, as required by Rule 69O-193.058(3), Florida Administrative Code. According to the Florida Department of State, Division Corporations website Federation CCRC Operations Corp.'s 2018 Florida Not for Profit Corporation Annual Report filed on March 13, 2018, included a new Chairman of the Board of Trustees. On September 21, 2018, the OIR was informed by a representative of Federation CCRC Operations Corp. that the individual's term started on April 24, 2018.

In addition, the background information required pursuant to Rule 69O-193-060, Florida Administrative Code (2018) was received by the OIR on or about September 26, 2018, 197 days after the 2018 Florida Not for Profit Corporation Annual Report was filed with the Florida Department of State, Division of Corporations and 155 days after the individual's term commenced.

Finding 2:

Federation CCRC Operations Corp. failed to timely notify the OIR and file pertinent documents within five business days of its merger with another corporate entity, as required by Rule 69O-193.058(3), Florida Administrative Code. Federation CCRC Property Corp. merged with and into Federation CCRC Operations Corp. on or about May 15, 2014, with Federation CCRC Operations Corp. being the surviving entity. The OIR was notified of the merger 228 days later on December 29, 2014.

In addition, Federation CCRC Operations Corp. failed to disclose this merger in their May 31, 2014 Periodic interrogatories filed with the OIR on June 25, 2014 and May 31, 2014 Quarterly Report interrogatories filed with the OIR on July 15, 2014.

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 69O-193, Florida Administrative Code, were requested from Federation CCRC Operations Corp. in accordance with Section 651.105, Florida Statutes.

In one instance, Federation CCRC Operations Corp. failed to provide for examination, an executed waiting list contract for an individual that was necessary for the OIR to determine compliance with applicable statutes and rules, as required by Section 651.105(1), Florida Statutes.

MINIMUM LIQUID RESERVE

As of June 30, 2019, Federation CCRC Operations Corp.'s Minimum Liquid Reserve (MLR) was funded in accordance with Section 651.035, Florida Statutes (2018).

SUMMARY OF RECOMMENDATIONS

RESIDENT CONTRACTS

The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure that each continuing care contract specify all services that are to be provided by the provider to each resident, including, in detail, all items that each resident will receive, whether the items will be provided for a designated time period or for life, whether the services will be available on the premises or at another specified location and indicate which services or items are included in the contract for continuing care and which services or items are made available at or by the facility at extra charge, in accordance with Section 651.055(1)(b), Florida Statutes.

CANCELATION AND REFUNDS

The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure that refunds are issued, in accordance with Section 651.055(1), Florida Statutes.

REQUIRED DISCLOSURES

The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure that before the transfer of any money or other property to the provider a typewritten or printed copy of the contract is presented to the prospective resident and all other parties to the contract and a signed and dated statement is secured from each party to the contract, certifying that a copy of the contract was received, in accordance with Section 651.055(4), Florida Statutes.

DISCLOSURE DOCUMENTS

The OIR recommends Federation CCRC Operations Corp. review its current disclosure documents to ensure the disclosures comply with Section 651.091(3) Florida Statutes; amend the disclosure documents, if needed; and file with the OIR a true and complete copy of the full disclosure documents before use, in accordance with Section 651.091(4), Florida Statutes.

QUARTERLY MEETING WITH RESIDENTS

Finding 1. The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure that actual dates on which the quarterly meetings with residents are held, are accurately reported in the Annual Reports filed with the Office, in accordance with Section 651.085(1), Florida Statutes.

Finding 2. The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure quarterly meetings with residents are held in compliance with Section 651.085, Florida Statutes, to include, providing the reasons, by department cost centers, for any increase in the fee that exceeds the most recently published Consumer Price Index for all Urban Customers, all items, Class A Areas of the Southern Region, as applicable.

RESIDENT FEE INCREASES

The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure that residents are timely provided notice of fee increases, in accordance with Section 651.055(1)(j), Florida Statutes.

NEW FINANCING, ADDITIONAL FINANCING OR REFINANCING

Findings 1 and 2. The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure compliance with Section 651.019, Florida Statutes.

RESIDENTS' COUNCIL REQUIRED DISCLOSURES

Findings 1 through 4. The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure that all required Residents' Council disclosures are properly delivered to the appropriate individuals, in accordance with Chapter 651, Florida Statutes. The OIR further recommends Federation CCRC Operations Corp. obtain documentation to demonstrate the disclosures were provided.

REQUIRED POSTINGS

The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure the required information is properly displayed and posted, in accordance with Section 651.091(2), Florida Statutes.

NOTIFICATIONS TO THE OFFICE

Findings 1 and 2. The OIR recommends Federation CCRC Operations Corp. establish adequate procedures and controls to ensure that the OIR is timely provided with information and/or documentation as may be required by Chapter 651, Florida Statutes and Rule Chapter 69O-193, Florida Administrative Code.

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 Federation CCRC Operations Corp. ensure complete and adequate records are 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 by Federation CCRC Operations Corp. and additional research conducted by the OIR.

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

Respectfully submitted,



12/16/22

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