

Report on Examination

of

Florida Presbyterian Homes, Inc.

Lakeland, Florida

as of

December 31, 2018



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SCOPE OF EXAMINATION

The Florida Office of Insurance Regulation (“Office”), Life & Health Financial Oversight unit, conducted a routine examination of Florida Presbyterian Homes, 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 December 31, 2018.

COMPANY HISTORY

Florida Presbyterian Homes, Inc., a Florida not-for-profit corporation was granted a certificate of authority by the Office to offer continuing care contracts on March 6, 1980. Florida Presbyterian Homes operates a continuing care retirement community (“CCRC”) facility located in Lakeland, Florida, is self-managed, and does not utilize 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 (2018).

Florida Presbyterian Homes operates on the calendar year January 1 through December 31. As of December 31, 2018, Florida Presbyterian Homes reported in its Annual Report filed with the Office: 219 Continuing Care Units consisting of 177 Independent Living Units and 42 Assisted Living Units; 68 Skilled Nursing Units consisting of 34 Sheltered Beds and 34 Community Beds; and no Rental Units. As of that date, there were 322 individuals reported residing at the facility consisting of 290 pursuant to a continuing care contract and 32 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.

CANCELATIONS AND REFUNDS

Florida Presbyterian Homes provided a list of 150 continuing care contracts canceled during the scope period of the examination. A sample of 47 contract cancelations was selected and reviewed to verify the amount of the refund due, if any, and whether refunds were properly issued. Of the 47 cancelations selected for review, 26 were eligible for refunds.

Finding 1:

Section 651.055(1)(h), Florida Statutes (2018), provides in part that each continuing care contract provide the terms governing the refund of any portion of the entrance fee.

In two instances, Florida Presbyterian Homes failed to issue entrance fee refunds in accordance with Section 651.055(1)(h), Florida Statutes (2018), and the terms of the approved continuing care contract. The applicable refund terms in both contracts were the Life Occupancy Fee (entrance fee) paid, minus the sum of (a) 1.6% of the Life Occupancy Fee for each month between the occupancy date and date of termination of the contract, plus (b) an administrative fee equal to 4% of the Life Occupancy Fee. Upon review of the continuing care contracts and related documentation the refund amounts were calculated as follows:

Net Amount Refunded by Florida Presbyterian Homes	Net Refund Due per Examination	Difference
\$24,750	\$26,928	(\$2,178)
\$51,938	\$57,600	(\$5,662)

Finding 2:

Section 651.055(1)(i), Florida Statutes, provides that each continuing care contract state the terms under which a contract is canceled by the death of the resident.

In four instances, Florida Presbyterian Homes failed to timely issue entrance fee refunds in accordance with the terms of the continuing care contract, as required by Section 651.055(1)(i), Florida Statutes. In each instance, the contract was canceled due to the death of the resident.

Date of Death	Date Refund Issued	Contract Refund Timing Terms	Days until Refund Issued
12/23/2014	6/4/2015	Within 120 days of notification date	163
10/6/2016	2/10/2017	Within 120 days of notification date	127
3/26/2017	7/26/2017	Within 120 days of notification date	122
7/10/2018	10/12/2018	Within 90 days after Contract is Terminated & Residence is Vacated	94

In two instances, Florida Presbyterian Homes failed to timely issue entrance fee refunds, as required by Sections 651.055(1)(g)(2) Florida Statutes (2014). In both instances, the contract was canceled by the resident.

Date Cancel Notification	Date Refund Issued	Contract Refund Timing Terms	Days until Refund Issued
3/24/2015	8/27/2015	Within 120 days of notification date	156
8/20/2015	12/29/2015	Within 120 days of notification date	131

REQUIRED ESCROW DEPOSIT OR WAIVERS

Florida Presbyterian Homes provided a list of 153 continuing care contracts entered into during the scope period of the examination. A sample of 48 transactions was selected and reviewed for compliance with Section 651.055(2), Florida Statutes.

Finding 1:

Section 651.055(2), Florida Statutes, provides that a resident has the right to rescind a continuing care contract within 7 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 7-day period, pursuant to Section 651.033(3)(c), Florida Statutes.

Section 651.033(3)(c), Florida Statutes, provides that at the request of an individual resident of a facility, the provider may hold the check for the 7-day period and shall not deposit it during this time period. If the resident rescinds the contract within the 7-day period, the check shall be immediately returned to the resident. Upon the expiration of the 7 days, the provider shall deposit the check.

In twenty instances, Florida Presbyterian Homes failed to hold and not deposit a resident's check for the 7-day rescission period of the continuing care contract, as required by Sections 651.055(2) and 651.033(3)(c), Florida Statutes. The examination revealed in all twenty instances the residents' checks were deposited and not held for the full 7-day rescission period of the continuing care contract as requested by the residents.

Finding 2:

In nine instances, Florida Presbyterian Homes failed to provide documentation to demonstrate resident funds were held in an escrow account for the 7-day rescission period of the continuing care contract or upon their request the checks were held and not deposited during the 7-day rescission period, as required by Section 651.055(2), Florida Statutes.

REQUIRED DISCLOSURES

Florida Presbyterian Homes provided a list of 153 continuing care contracts entered into during the scope period of the examination. A sample of 48 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 five instances, Florida Presbyterian Homes failed to provide a typewritten or printed copy of the contract to the prospective resident and all other parties to the contract prior to the transfer of any money or other property, as required by Section 651.055(4), Florida Statutes. In each instance, the document acknowledging receipt of a copy of the contract was dated after the transfer of money to Florida Presbyterian Homes.

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 disclosure, and provide copies of the specific disclosure documents to the prospective resident or his or her legal representative.

In four instances, Florida Presbyterian Homes failed to timely provide to the prospective resident or their legal representative the required disclosure documents, as required by Section 651.091(3), Florida Statutes (2018). In each instance, the disclosure document receipt acknowledging receipt of the required disclosures was executed after the continuing care contract was signed.

Date Resident Signed Contract	Date Resident Signed Disclosure Document Receipt
6/13/2012	6/15/2012
3/14/2015	3/15/2015
6/9/2016	6/16/2016
4/5/2016	5/9/2016

WAIT LIST CONTRACTS

Florida Presbyterian Homes provided a list of 257 Wait List contracts entered into during the scope period of the examination. A sample consisting of 41 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 pertinent part that wait list contract forms be filed and approved by the Office prior to use.

In all instances, Florida Presbyterian Homes failed to utilize a Wait List contract form that was approved by the Office, as required by Section 651.022(2)(g), Florida Statutes. The examination revealed that Florida Presbyterian Homes did not have a Wait List contract form that was approved by the Office.

QUARTERLY MEETINGS WITH RESIDENTS

Quarterly meeting minutes, notices to residents, agenda, and meeting dates contained in the Annual Reports filed with the Office 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 are entitled to at least 7 days' advance notice of each quarterly meeting between the provider or its designated representative and the residents.

In six instances, Florida Presbyterian Homes failed to provide residents at least 7 days' advance notice of a statutory quarterly meeting, as required by Section 651.085(1), Florida Statutes.

Date Meeting Held	Date Meeting Notice
1/18/2012	not provided
4/18/2012	not provided
7/18/2012	not provided
10/17/2012	not provided
3/20/2013	not provided
8/19/2015	8/15/2015

Finding 2:

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 10 instances, Florida Presbyterian Homes failed to accurately report in the 2012, 2015 and 2018 Annual Reports filed with the Office the dates on which quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes.

Date Meeting Actually Held	Date Meeting Reported in Annual Report
1/18/2012	1/23/2012
4/18/2012	4/23/2012
2/18/2015	no date reported
5/2020/15	no date reported
8/19/2015	no date reported
10/28/2015	no date reported
2/21/2018	only month reported ("Feb 2018")
5/16/2018	only month reported ("May 2018")
8/15/2018	only month reported ("August 2018")
10/24/2018	only month reported ("October 2018")

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:

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

Florida Presbyterian Homes failed to provide to the Office copies of the executed financing documents within 30 days after the closing date of a financing transaction, as required by Section 651.019(2), Florida Statutes (2018). Florida Presbyterian Homes closed on a

financing transaction on or about December 9, 2015, and the related executed financing documents were submitted to the Office 71 days later on February 18, 2016.

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 651.081(2)(a), Florida Statutes, provides in part that within 30 days of the election of a newly elected president or chair of the residents' council, the provider shall give the elected president or chair a copy of Chapter 651, Florida Statutes, and Rule Chapter 69O-193, Florida Administrative Code, or direct him or her to the appropriate public website to obtain this information.

For the scope period of the examination, Florida Presbyterian Homes failed to provide the newly elected President of the Residents' Council a copy of Chapter 651, Florida Statutes, and Rule Chapter 69O-193, Florida Administrative Code or to direct the individual to the appropriate public website to obtain the information, as required by Section 651.081(2)(a), Florida Statutes.

Finding 2:

Section 651.091(2)(d), Florida Statutes (2018), states that each continuing care facility shall 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 Office.

- A. Florida Presbyterian Homes failed to distribute to the Residents' Council President or Chair a copy of the 2012, 2013, 2014, 2015, 2016 and 2017 Annual Report within 30 days after filing the respective Annual Report with the Office, as required by Section 651.091(2)(d), Florida Statutes (2018).

- B. Florida Presbyterian Homes failed to distribute to the Residents' Council President or Chair a copy of the 2016 and 2017 third-party financial audits within 30 days after filing the respective Annual Reports with the Office, as required by Section 651.091(2)(d), Florida Statutes (2018).

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 Office 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.

Florida Presbyterian Homes 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. Specifically, no record of complaints received was provided for inspection

covering the period from the date of the last examination (December 31, 2011 through 2019) when the current Executive Director was hired.

NOTIFICATIONS TO THE OFFICE - AMENDMENT TO ARTICLES OF INCORPORATION

Finding:

Florida Presbyterian Homes failed to notify the Office and provide pertinent documents within five business days of an amendment to its Articles of Incorporation, as required by Rule 69O-193-058, Florida Administrative Code. According to the Florida Department of State, Division of Corporations website (www.sunbiz.org) Florida Presbyterian Homes filed Articles of Amendment to its Articles of Incorporation on or about June 9, 2014.

In addition, Florida Presbyterian Retirement Homes failed to include this information in the 2014 Annual Report filed with the Office, as required by Section 651.026(2)(a), Florida Statutes.

MINIMUM LIQUID RESERVE

As of December 31, 2018, Florida Presbyterian Homes' Minimum Liquid Reserve (MLR) was funded in accordance with Section 651.035, Florida Statutes (2018).

SUMMARY OF RECOMMENDATIONS

CANCELATIONS AND REFUNDS

Finding 1 and 2: The Office recommends Florida Presbyterian Homes establish adequate procedures and controls to ensure refunds are timely issued and in the appropriate amounts. Additionally, the Office recommends Florida Presbyterian Homes review the calculations of the two entrance fee refunds referenced in this Examination Report. After such review, the Office further recommends Florida Presbyterian Homes provide the Office the results of the review and refund any amounts that may be due to residents, their estates or assigns; and provide the additional refund documentation within 45 days after the issuance of the Final Report of Examination, as may be applicable.

REQUIRED ESCROW DEPOSIT OR WAIVERS

Finding 1 and 2: The Office recommends Florida Presbyterian Homes establish adequate procedures and controls to ensure that during the 7-day rescission period of the continuing care contract resident funds are deposited and maintained in a statutory escrow account or upon the request of the resident, their check is held and not deposited for the 7-day rescission period, in accordance with Section 651.055(2), Florida Statutes.

REQUIRED DISCLOSURES

Finding 1: The Office recommends Florida Presbyterian Homes establish adequate procedures and controls to ensure that prior to the transfer of any money or other property, a copy of the contract is presented to the prospective resident and all other parties to the contract and a signed, dated statement is secured 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 Office recommends Florida Presbyterian Homes establish adequate procedures and controls to ensure copies of the disclosure documents are provided to the prospective resident or their legal representative and written acknowledgement of receipt is obtained, in accordance with Section 651.091(3), Florida Statutes.

Wait List Contract Forms

The Office recommends Florida Presbyterian Homes establish adequate procedures and controls to ensure that wait list contract forms and other forms requiring statutory approval are submitted to, and approved by the Office before use in this state, in accordance with Sections 651.022(2)(g) and 651.055(1), Florida Statutes. Further, the Office recommends Florida Presbyterian Homes submit to the Office for approval a wait list contract form within 45 days of the issuance of the Final Report of Examination.

QUARTERLY MEETINGS WITH RESIDENTS

Finding 1: The Office recommends Florida Presbyterian Homes establish adequate procedures and controls to ensure the dates of the quarterly meetings with residents are accurately reported in the Annual Reports filed with the Office, in accordance with Section 651.085(1), Florida Statutes.

Finding 2: The Office recommends Florida Presbyterian Homes establish adequate procedures and controls to ensure residents are properly provided notice of quarterly meetings, in accordance with Section 651.085(1), Florida Statutes

NEW FINANCING, ADDITIONAL FINANCING OR REFINANCING

The Office recommends Florida Presbyterian Homes establish adequate procedures and controls to ensure compliance with Section 651.019, Florida Statutes, in regard to new financing, additional financing or refinancing.

RESIDENTS' COUNCIL DISCLOSURES

Findings 1 and 2: The Office recommends Florida Presbyterian Homes establish adequate procedures and controls to ensure that all required Residents' Council disclosures are properly delivered to the appropriate individuals and that documentation is obtained to substantiate the disclosures were provided.

UNFAIR AND DECEPTIVE TRADE PRACTICES

The Office recommends Florida Presbyterian Homes 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.

NOTIFICATIONS TO THE OFFICE - AMENDMENT TO ARTICLES OF INCORPORATION

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

CONCLUSION

This Final Report of Examination is based upon the information provided to the Office from Florida Presbyterian Homes, Inc., 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, 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