

**Report on Examination**

**of**

**Westminster Pines, Inc.**

**d/b/a**

**Westminster St. Augustine**

**St. Augustine, Florida**

**as of**

**June 30, 2019**



## Contents

Scope of Examination .....	1
Company History .....	1
Summary of Findings .....	2
Summary of Recomendations .....	10
Conclusion .....	13

## **SCOPE OF EXAMINATION**

The Florida Office of Insurance Regulation (“OIR”), Life & Health Financial Oversight unit, conducted a routine examination of Westminster Pines, Inc. d/b/a Westminster St. Augustine 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 October 12, 2017 (date of licensure) through June 30, 2019.

## **COMPANY HISTORY**

Westminster Pines, a Florida not-for-profit corporation was granted a certificate of authority by the OIR to offer continuing care contracts on October 12, 2017. Westminster Pines operates the continuing care retirement community facility Westminster St. Augustine which is located in St. Augustine, Florida. Westminster Pines is managed by Westminster Services, Inc., an affiliated entity.

Westminster Pines operates on the fiscal year April 1 through March 31. As of March 31, 2019, Westminster Pines reported in its Annual Report filed with the OIR: 189 Continuing Care Units consisting of 156 Independent Living Units and 33 Assisted Living Units; 30 Skilled Nursing Units consisting of 25 Sheltered Beds and 5 Community Beds; and 28 Rental Units. As of that date, there were 222 individuals reported residing at the facility: 205 pursuant to a continuing care contract; 10 pursuant to a rental agreement; and 7 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 10.

### CONTINUING CARE CONTRACT FORMS

Westminster Pines provided a list of 41 continuing care contracts entered into during the scope period of the examination. All transactions were 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 OIR before its use in this state.

In four instances, Westminster Pines utilized an addendum to a continuing care contract titled "Relocation Addendum to Residency Contract Approved by the Florida Department of insurance 11/17/00" that was not approved by the OIR, as required by Section 651.055(1), Florida Statutes.

### WAIT LIST FORMS

Westminster Pines provided the OIR with a list of 38 wait list deposits received during the scope period of the examination. All 38 wait list transactions were 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 filed and approved by the OIR prior to use.

In 38 instances, Westminster Pines failed to utilize a wait list contract form approved by the OIR, as required by Section 651.022(2)(g), Florida Statutes. Westminster Pines accepted and acknowledged receipt of wait list deposits from individuals on form "32385-Res\_Deposit\_Escrow Rev. 10/23/17". This form was not approved by the OIR.

RESERVATION FORMS

Westminster Pines provided a list of 41 continuing care contracts entered into during the scope period of the examination. All 41 continuing care contracts were reviewed for compliance with Section 651.022(2)(g), Florida Statutes.

Finding:

Section 651.022(2)(g), Florida Statutes, provides in part that reservation contract forms be filed and approved by the OIR prior to use.

In 41 instances, Westminster Pines failed to utilize a Reservation Contract form approved by the OIR, as required by Section 651.022(2)(g), Florida Statutes. Westminster Pines accepted and acknowledged receipt of reservation deposits from individuals on form "32385-Res\_Deposit\_Escrow Rev. 10/23/17". This form was not approved by the OIR.

## REQUIRED DISCLOSURES

Westminster Pines provided a list of 41 continuing care contracts entered into during the scope period of the examination. All 41 transactions were reviewed for compliance with Sections 651.055(4) and 651.091(4), Florida Statutes and Section 651.091(3), Florida Statutes (2018).

### Finding 1:

Section 651.055(4), Florida Statutes, provides in 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 typewritten or printed copy of the contract to the prospective resident and all other parties to the contract and secure a signed, and dated statement from each party to the contract certifying that the copy of the contract with the specified attachment was received.

In 22 instances, Westminster Pines failed to provide to prospective residents a typewritten or printed copy of the continuing care contract and/or to secure a signed and dated statement certifying that a copy of the contract was received prior to the transfer of money, as required by Section 651.055(4), Florida Statutes. In 19 instances' the statement acknowledging the receipt of a copy of the contract was executed after the transfer of money. In the remaining three instances, there were no signed and dated statements certifying a copy of the contract was provided prior to the transfer of money or property.

### Finding 2:

In eight instances, Westminster Pines failed to present a typewritten or printed copy of the contract to all prospective residents and all other parties to the contract as required by Section 651.055(4), Florida Statutes. In all instances Westminster Pines only secured a signed and dated statement from only one of the two parties to the contract.

Finding 3:

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

In 15 instances, Westminster Pines failed to timely provide the required disclosure documents to the prospective residents or their legal representatives and/or provide for examination documentation that the Section 651.091(3), Florida Statutes (2018) required disclosures were provided. In 12 instances, the disclosure documents were provided after the prospective residents signed the continuing care contract. In the remaining 3 instances, there were no disclosure document receipts or other documentation provided for examination to demonstrate the required disclosures were properly provided to the prospective residents or their legal representatives.

Finding 4:

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

In eight instances, Westminster Pines failed to provide the required disclosure documents to prospective residents or their legal representative prior to entering into a contract to furnish care, as required by Section 651.091(3), Florida Statutes (2018). In all instances only one of the two prospective residents were provided with required disclosures.

## QUARTERLY MEETINGS WITH RESIDENTS

Quarterly meeting information, documentation, 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 residents are entitled to 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 four instances, Westminster Pines failed to provide at least 7 days' advance notice of quarterly meetings 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 of Meeting	Date of Meeting Notice provided to Residents
March 1, 2018	March 1, 2018
October 3, 2018	October 1, 2018
June 6, 2019	June 1, 2019
February 7, 2019	None

### 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 three instances, Westminster Pines failed to accurately report in its 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,

Fiscal Year Annual Report	Date Meeting Held Per Annual Report	Date Meeting Actually Held
2018	December 18, 2017	October 25, 2017
2019	July 24, 2018	July 12, 2018
2019	October 3, 2018	November 25, 2018

Finding 3:

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 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 2019 Westminster Pines 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.

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 OIR copies of executed financing documents within 30 days after the closing date of such financing or refinancing transaction.

Westminster Pines failed to provide to the OIR 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). Westminster Pines closed on a financing transaction on December 1, 2017; and the related executed financing documents were submitted to the OIR 55 days later on January 25, 2018.

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:

Section 651.091(2)(g), Florida Statutes (2018), provides that each continuing care facility 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.

Westminster Pines failed to provide to the President or Chair of the Residents' Council copies of the Quarterly Statements for the periods ended September 30, 2018, December 31, 2018, and June 30, 2019 within 30 days of filing with the OIR, as required by Section

651.091(2)(g), Florida Statutes (2018). In these instances, the examination was unable to determine if the required disclosures had been provided.

### NOTIFICATIONS TO THE OIR

#### Finding:

In three instances, Westminster Pines failed to timely notify the OIR and file pertinent documents within 5 business days of the addition of new directors to its Board of Directors, as required by Rule 690-193.058(3), Florida Administrative Code. The examination revealed that two individuals were appointed to the Board of Directors on or about July 19, 2018 and the remaining individual was appointed to the Board of Directors on or about October 25, 2018.

In addition, Westminster Pines failed to disclose the addition of two new directors appointed to the Board, referenced above, in their Periodic and Quarterly Report Interrogatories filed with the OIR for the periods ending July 31, 2018 and September 30, 2018, respectively. In the remaining instance, Westminster Pines failed to disclose the addition of a new director to the Board, referenced above, in their Periodic and Quarterly Report Interrogatories filed with the OIR for the periods ending October 31, 2018 and December 31, 2018, respectively.

### **MINIMUM LIQUID RESERVE**

As of March 31, 2019, the Westminster Pines' Minimum Liquid Reserve was funded in accordance with Section 651.035, Florida Statutes (2018).

## **SUMMARY OF RECOMMENDATIONS**

### CONTINUING CARE CONTRACT FORMS

The OIR recommends Westminster Pines establish adequate procedures and controls to ensure continuing care contract forms and each addendum to such contract forms be filed and approved by the OIR, in accordance with Section 651.055(1), Florida Statutes. Further, the OIR recommends Westminster Pines submit to the OIR for approval the contract addendum referenced in this report, or its successor form, within 45 days after issuance of the Final Report of Examination.

### WAIT LIST FORMS

The OIR recommends Westminster Pines establish adequate procedures and controls to ensure wait list contract forms are approved by the OIR prior to use, in accordance with Section 651.022(2)(g), Florida Statutes. Further, the OIR recommends Westminster Pines submit to the OIR for approval a wait list contract form within 45 days after issuance of the Final Report of Examination.

### RESERVATION FORMS

The OIR recommends Westminster Pines establish adequate procedures and controls to ensure reservation contract forms are approved by the OIR prior to use, in accordance with Section 651.022(2)(g), Florida Statutes. Further, the OIR recommends Westminster Pines submit to the OIR for approval a reservation contract form within 45 days after issuance of the Final Report of Examination.

## REQUIRED DISCLOSURES

Findings 1 and 2: The OIR recommends Westminster Pines 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.

Findings 3 and 4: The OIR recommends Westminster Pines establish adequate procedures and controls to ensure that prospective residents', and/or their legal representatives are provided with all 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.

## QUARTERLY MEETINGS WITH RESIDENTS

Finding 1: The OIR recommends Westminster Pines establish adequate procedures and controls to ensure that residents are properly notified of quarterly meetings with the governing body, in accordance with Section 651.085(1), Florida Statutes.

Finding 2: The OIR recommends Westminster Pines establish adequate procedures and controls to ensure that 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(1), Florida Statutes.

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

The OIR recommends Westminster Pines establish adequate procedures and controls to ensure compliance with Section 651.019, Florida Statutes.

#### RESIDENTS' COUNCIL REQUIRED DISCLOSURES

The OIR recommends Westminster Pines 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 Westminster Pines obtain documentation to demonstrate the disclosures were provided.

#### NOTIFICATIONS TO THE OIR

The OIR recommends Westminster Pines establish adequate procedures and controls to ensure the OIR is timely provided information and documentation, in accordance with 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 OIR from Westminster Pines, Inc. d/b/a Westminster St. Augustine 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; Kyle Barber, Financial Specialist.

Respectfully submitted,



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