



# **THE STATE OF FLORIDA**

## **OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS**

**MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**PRESBYTERIAN RETIREMENT COMMUNITIES, INC.**

**D/B/A**

**WESTMINSTER COMMUNITIES OF BRADENTON**

**ISSUED**

**August 20, 2013**

**FLORIDA COMPANY CODE 88014**

---

## TABLE OF CONTENTS

<b>Purpose and Scope</b> .....	<b>1</b>
<b>Company Operations</b> .....	<b>1</b>
<b>Amended By-Laws</b> .....	<b>1</b>
<b>Quarterly Meetings with Residents</b> .....	<b>2</b>
<b>Required Disclosures</b> .....	<b>2</b>
<b>Access to Records</b> .....	<b>3</b>
<b>Examination Final Report Submission</b> .....	<b>4</b>

## **PURPOSE AND SCOPE OF EXAMINATION**

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a routine market conduct examination of Presbyterian Retirement Communities, Inc., d/b/a Westminster Communities of Bradenton pursuant to Section 651.105, Florida Statutes. The scope period of this examination was April 1, 2008 through March 31, 2012. The on-site and desk examination procedures were completed on May 2, 2013.

The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes and Chapter 690-193, Florida Administrative Code Rules. This market conduct examination did not encompass a financial compliance examination.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Westminster Communities of Bradenton. This report is a report by exception, and the information within has been limited to identification of exceptions, errors or unusual problems noted during the examination.

## **COMPANY OPERATIONS**

Westminster Communities of Bradenton, a Florida not-for-profit corporation, was granted a certificate of authority by the Office to offer continuing care contracts on May 9, 1980. Westminster Communities of Bradenton is located in Bradenton, Florida and is one of several affiliated Florida Continuing Care Retirement Communities operating under a management agreement with Westminster Services, Inc., an affiliated company. As of March 31, 2012, Westminster Communities of Bradenton reported 615 Continuing Care Units, of which 419 were Independent Living Units and 196 Assisted Living Units. In addition, there were 40 Rental Units reported. Westminster Communities of Bradenton also reported 179 Skilled Nursing Units of which, 97 were classified as Community Beds and 82 as Sheltered Beds. As of the same date, there were 577 individuals residing at the community.

## **AMENDED BY-LAWS**

Minutes from the Board of Directors meetings held during the scope period of examination were reviewed for items of significance and items which require notification to the Office.

### **Findings:**

Section 651.026, Florida Statutes sets forth the requirements for the filing and content of annual reports to be submitted to the Office by providers. Section 651.026(2)(a), Florida Statutes provides in pertinent part that the annual report shall contain any change of status with respect to the information required to be filed under Section 651.022(2), Florida Statutes. Section 651.022(2)(a), Florida Statutes, addresses organizational documents to include by-laws.

## AMENDED BY-LAWS (Continued)

Westminster Communities of Bradenton amended and restated its by-laws at the October 27, 2011 Board of Directors meeting and failed to notify the Office, as required by Section 651.026, Florida Statutes. Westminster Communities of Bradenton did not provide this information in the March 31, 2012 Annual Report filed with the Office. Furthermore, in the December 31, 2011 quarterly statement filed with the Office Westminster Communities of Bradenton responded "NO" to interrogatory No. 2, which asks in pertinent part if there have been any changes to the organizational documents, including by-laws, since the last submission.

**Recommendation:** The Office recommends Westminster Communities of Bradenton establish adequate procedures to ensure the Office is timely notified of changes to its organizational documents.

## QUARTERLY MEETINGS WITH RESIDENTS

The quarterly meeting agendas, notices to residents, minutes, and the dates of the meetings contained in the annual reports filed for the scope period were reviewed for compliance with Section 651.085, Florida Statutes.

### **Findings:**

Section 651.085(1), Florida Statutes, provides that a facility shall report to the Office, in the annual report, the dates on which quarterly meetings with residents are held.

Westminster Communities of Bradenton failed to accurately state in the 2009 through 2012 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. Specifically, in response to question 14b of the four Annual Reports filed for the periods ending March 31, 2009 through March 31, 2012, Westminster Communities of Bradenton provided the monthly dates on which resident council meetings were held, rather than the dates on which the quarterly meetings with residents were held.

**Recommendation:** The Office recommends Westminster Communities of Bradenton establish adequate procedures to ensure that the actual dates on which quarterly resident meetings are held are properly reported in the annual reports filed with the Office.

## REQUIRED DISCLOSURES

Westminster Communities of Bradenton provided a list containing the 332 continuing care contracts executed during the scope period of the examination. A random sample consisting of 68 contracts was selected from the list and tested for compliance with Section 651.055(4), Florida Statutes.

## REQUIRED DISCLOSURES (Continued)

### Findings:

Section 651.055(4), Florida Statutes, provides in pertinent 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 copy of the contract to the prospective resident and all other parties to the contract. The statute further provides that the provider secure a signed and dated statement from each party to the contract certifying that a copy of the contract with the specified attachments was received.

1. **In two instances, Westminster Communities of Bradenton failed to timely provide to the prospective residents and all parties to the contract a copy of the contract; and to 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 to the provider, as required by Section 651.055(4), Florida Statutes.**

- 1a. **Recommendation:** The Office recommends Westminster Communities of Bradenton establish adequate procedures to ensure a signed and dated statement is secured from each party to the contract certifying that a copy of the contract was properly received.

### Findings:

In addition, effective July 1, 2010 Section 651.091(3)(h), Florida Statutes, required the provider to include as a required disclosure document, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership." Of the 68 contracts in the sample, 30 contracts were executed on or after July 1, 2010. The 30 transactions were reviewed to determine compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes .

2. **In three instances, Westminster Communities of Bradenton failed to provide as a required disclosure, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership", to the prospective residents or their legal representative, as required by Section 651.091(3)(h), Florida Statutes.**

- 2a. **Recommendation:** The Office recommends Westminster Communities of Bradenton establish adequate procedures to ensure all required disclosures are properly afforded to prospective residents or their legal representatives.

## ACCESS TO RECORDS

Records necessary to conduct the examination and determine the degree of compliance with Chapter 651, Florida Statutes and Rule 690-193, Florida Administrative Code were requested from Westminster Communities of Bradenton in accordance with Section 651.105(1), Florida Statutes.

## ACCESS TO RECORDS (continued)

### Findings:

**There were four instances in which, Westminster Communities of Bradenton failed to make certain documents available for examination.** In the first two instances, the documents pertained to the residents' written notices to cancel their continuing care contracts. In the remaining two instances, the cancelled continuing care contracts were not available for examination.

**Recommendation:** In order for the Office to determine the degree of compliance with Chapter 651, Florida Statutes and Rule 690-193, Florida Administrative Code, the Office recommends Westminster Communities of Bradenton establish adequate procedures and controls to ensure documentation is maintained and made available for examination purposes.

## EXAMINATION FINAL REPORT SUBMISSION

The Office hereby issues this Final Report based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Presbyterian Retirement Communities, Inc., d/b/a Westminster Communities of Bradenton.