



THE STATE OF FLORIDA

OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

PLYMOUTH HARBOR INCORPORATED

AS OF

December 31, 2012

FLORIDA COMPANY CODE 88039

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PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a periodic market conduct examination of Plymouth Harbor Incorporated (hereinafter "Plymouth Harbor") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was January 1, 2010 through December 31, 2012. The on-site and desk examination procedures were completed on October 3, 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 Plymouth Harbor. 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

Plymouth Harbor, a not for-profit Florida corporation, was granted a certificate of authority by the Office to offer continuing care contracts on February 15, 1980. Plymouth Harbor is located in Sarasota, Florida. As of December 31, 2012, Plymouth Harbor reported 220 Continuing Care Units consisting of 210 Independent Living Units, 10 Assisted Living Units and 60 Skilled Nursing Sheltered Beds. No Rental Units were reported. As of the same reporting period, there were 306 individuals residing at this 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 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.

Plymouth Harbor amended its by-laws at the October 29, 2011 Board of Directors meeting and failed to notify the Office, as required by Section 651.026, Florida Statutes.

AMENDED BY-LAWS (Continued)

In addition, in the Interrogatories filed with the Office for the quarter ending December 31, 2011, Plymouth Harbor responded “NO” to interrogatory No. 2, which asks in pertinent part if there have been any changes to the information originally filed under Section 651.022(2), Florida Statutes.

Recommendation: The Office recommends Plymouth Harbor establish adequate procedures to ensure the Office is timely notified of changes to its organizational documents.

REQUIRED DISCLOSURES

Plymouth Harbor submitted a list containing the 65 continuing care contracts executed during the scope period of the examination. A random sample consisting of 29 contracts was selected from the list and tested for compliance with Section 651.091(3), Florida Statutes.

Findings:

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 29 contracts, 24 were entered into on or after July 1, 2010.

In all 24 instances wherein the continuing care contract was entered into on or after July 1, 2010, Plymouth Harbor failed to provide as a required disclosure, a copy of Section 651.071, Florida Statutes, to prospective residents or their legal representative prior to entering into a continuing care contract as required by Section 651.091(3)(h), Florida Statutes.

Subsequent Event: On or about July 15, 2013, Plymouth Harbor amended its disclosures documents to include a copy of Section 651.071, Florida Statutes.

Recommendation: The Office recommends Plymouth Harbor establish adequate procedures and controls to ensure all disclosures are provided to prospective residents or their legal representatives.

RESIDENTS’ COUNCIL DISCLOSURES

Effective July 1, 2010, Section 651.081(2), Florida Statutes, requires in pertinent part that, within 30 days of the election of a newly elected President or Chair of the Residents’ Council, the Provider give the elected President or Chair a copy of Chapter 651 and Rule 69O-193, Florida Administrative Code, or direct him or her to the appropriate public website to obtain this information.

RESIDENTS' COUNCIL DISCLOSURES (Continued)

Findings:

In two instances Plymouth Harbor failed to provide the newly elected President or Chair of the Residents' Council a copy of Chapter 651, Florida Statutes and Rule 690-193, Florida Administrative Code Rules or direct him or her to the appropriate public website to obtain the information, as required by Section 651.081(2), Florida Statutes.

Recommendation: The Office recommends Plymouth Harbor establish adequate procedures and controls to ensure all Residents' Council required disclosures are properly delivered and that documentation is obtained to evidence compliance.

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 Plymouth Harbor.