



# **THE STATE OF FLORIDA**

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

### **MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**LIFE CARE PONTE VEDRA, INC.**

**D/B/A**

**VICAR'S LANDING**

**AS OF**

**December 31, 2013**

**FLORIDA COMPANY CODE 88124**

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**Report issued  
October 29, 2014**

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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 Life Care Ponte Vedra, Inc. d/b/a Vicar's Landing (hereinafter "Vicar's Landing") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was from January 1, 2008 through December 31, 2013. The desk examination procedures were completed on August 26, 2014.

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 Vicar's Landing. 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**

Vicar's Landing, a Florida not-for-profit corporation located in Ponte Vedra Beach, Florida was granted a Certificate of Authority by the Office on April 27, 1987. Vicar's Landing is affiliated with Life Care St. Johns, Inc. d/b/a Glenmoor, an authorized Continuing Care Retirement Community located in St. Augustine, Florida; and with LCPS Management, Inc. Vicar's Landing is currently under a management agreement with LCPS Management, Inc. As of December 31, 2013, Vicar's Landing reported: 265 Continuing Care Units, consisting of 227 Independent Living Units, 38 Assisted Living Units, and 60 Skilled Nursing Units, all of which are classified as Sheltered Beds. There are no Rental Units. As of the same date, Vicar's Landing reported 362 individuals residing at the community.

## **FORMS**

Vicar's Landing provided a list containing 206 wait list deposits collected during the scope period of the examination. A sample consisting of 60 wait list deposit transactions was selected from the list; 27 of the wait list contracts were executed on or after July 1, 2011. The 27 wait list contracts were tested for compliance with Section 651.022(2)(g), Florida Statutes.

### **Finding:**

Effective July 1, 2011, Section 651.022(2)(g), Florida Statutes, was amended to require wait list contract and reservation contract forms be approved by the Office prior to being used.

## FORMS (Continued)

**The examination found that in all 27 instances Vicar's Landing utilized a wait list contract form that was not approved by the Office as required by Section 651.022(2)(g), Florida Statutes.**

**Recommendation:** The Office recommends Vicar's Landing establish adequate procedures and controls to ensure that all forms which require statutory approval are submitted to, and approved by, the Office prior to use.

**Subsequent Event:** Vicar's Landing subsequently submitted the wait list contract form to the Office for approval. The form was approved on August 12, 2014.

## REQUIRED ESCROW DEPOSITS OR WAIVERS

Vicar's Landing provided a list of the 208 continuing care contracts executed during the scope period of the examination. A sample of 60 contract files was selected and tested for compliance with Sections 651.055(2) and 651.033(3)(c), Florida Statutes.

### **Finding:**

Section 651.055(2), Florida Statutes, provides that during the seven-day rescission period, the resident's funds must be held in escrow unless otherwise requested by the resident, pursuant to Section 651.033(3)(c), Florida Statutes. Section 651.033(3)(c), Florida Statutes, further provides that, at the request of an individual resident of a facility, the provider may hold the check for the seven-day period and shall not deposit it during this time period.

**In five instances Vicar's Landing failed to maintain resident funds in the escrow account for the entire seven-day rescission period of the continuing care contract, as required by Section 651.055(2), Florida Statutes.** In each of the five instances, Vicar's Landing deposited the funds into escrow prior to the commencement of the rescission period; however, in two of the five instances, the funds were also withdrawn prior to the start of the rescission period. In the remaining three instances, the funds were withdrawn prior to the conclusion of the rescission period.

**Recommendation:** The Office recommends that Vicar's Landing establish adequate procedures and controls to ensure that resident funds are managed in accordance with Section 651.055(2), Florida Statutes.

**Subsequent Event:** Vicar's Landing notified the Office that, effective May 12, 2014, the existing process had been modified to more fully comply with Florida Statutes.

## 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.

### Finding:

Section 651.085(1), Florida Statutes, states that, "The governing body of a provider, or the designated representative of the provider, shall hold quarterly meetings with the residents of the continuing care facility for the purpose of free discussion of subjects including, but not limited to, income, expenditures, and financial trends and problems as they apply to the facility, as well as a discussion on proposed changes in policies, programs, and services."

1. **Vicar's Landing failed to hold one quarterly meeting with residents, as required by Section 651.085(1), Florida Statutes.** Specifically, Vicar's Landing reported in the 2012 Annual Report filed with the Office that the first quarter meeting with residents was held on March 26, 2012. The examination disclosed that the first quarterly meeting of 2012 was actually held in the second quarter, on April 11, 2012.

1a. **Recommendation:** The Office recommends Vicar's Landing implement procedures to ensure quarterly meetings with residents are timely held and noticed, as required by Section 651.085(1), Florida Statutes.

### Finding:

Section 651.085, Florida Statutes, further provides that the facility report to the Office, in the annual report required under Section 651.026, Florida Statutes, the dates on which the quarterly meetings were held during the reporting period.

2. **In three instances Vicar's Landing filed Annual Reports with the Office that failed to accurately state the dates on which quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes.** In total, there were eight quarterly meeting dates stated in the 2009, 2011 and 2012 Annual Reports that conflicted with the actual meeting dates, as follows:

| Date Meeting Held<br>(per examination) | Date Meeting Held<br>(per Annual Report) |
|--|--|
| 06/24/09                               | 06/25/09                                 |
| 09/17/09                               | 09/24/09                                 |
| 03/10/11                               | 03/16/11                                 |
| 06/16/11                               | 06/15/11                                 |
| 09/15/11                               | 09/14/11                                 |
| 11/17/11                               | 11/16/11                                 |
| 04/11/12                               | 03/26/12                                 |
| 06/28/12                               | 05/17/12                                 |

**QUARTERLY MEETINGS WITH RESIDENTS (Continued)**

- 2a. **Recommendation:** The Office recommends Vicar's Landing implement procedures to ensure the actual dates on which the quarterly meetings are held with residents are stated in the annual report. The Office further recommends proper records be maintained to substantiate 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 Vicar's Landing.