

EXAMINATION WARRANT # 09-CP-560

REPORT OF EXAMINATION

OF THE

**BIRCHWOOD SNE, LLC
NANTICOKE, PENNSYLVANIA**

AS OF

DECEMBER 31, 2010

For Informational Purposes Only

BIRCHWOOD SNF, LLC

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Harrisburg, Pennsylvania
September 14, 2011

Honorable Stephen J. Johnson, CPA
Deputy Insurance Commissioner
Office of Corporate and Financial Regulation
Pennsylvania Insurance Department
Harrisburg, Pennsylvania

Dear Sir:

In compliance with instructions contained in Examination Warrant Number 09-CP-560 dated April 15, 2011, and in accordance with provisions of the Pennsylvania Continuing Care Provider and Registration and Disclosure Act, 40P.S. § 3219, an examination was conducted of the records and affairs of

BIRCHWOOD SNF, LLC.

a continuing care retirement community hereafter referred to as the "Provider". This examination was conducted at the administrative office of the Provider located at 395 East Middle Road, Nanticoke, Pennsylvania.

The report of this examination is hereby respectfully submitted.

SCOPE OF EXAMINATION

This is the first examination of the Provider. This examination covered the sixteen-month period from August 24, 2009 through December 31, 2010, and consisted of a general survey of the Provider's business practices and management, and an evaluation of the Provider's financial condition, based upon the results of their annual audits, as of the latter date. Material subsequent events were also reviewed.

Work programs employed in the performance of this examination were designed to comply with the standards promulgated by the Commonwealth of Pennsylvania Insurance Department ("Department").

The format of this report is consistent with the current practices of the Department and is limited to a description of the Provider, a discussion of key financial items that are of specific regulatory concern, and a disclosure of other significant regulatory information.

The objective of this examination was to determine the extent of the Provider's compliance with 40 P.S. § 3202 and 31 Pa. Code§ 151.

For the years 2009 and 2010, the financial statements were audited by the Certified Public Accounting ("CPA") firm of Brand Sonnenschine, LLP. For both years covered by the examination, the CPA rendered an unqualified opinion of the financial statements based on generally accepted accounting principles.

HISTORY

The Provider became a Pennsylvania Domiciled Limited Liability Company ("LLC") on July 5, 2007 and received a Certificate of Authority to operate a Continuing Care Retirement Community from the Department on August 24, 2009.

The Provider is a for-profit LLC under Section K, Chapter 1, Subtitle A of the Internal Revenue Code.

DESCRIPTION OF FACILITY

The Provider operates one facility doing business as Birchwood Nursing and Rehabilitation Center. The Provider has a six-bed combination personal care and independent living facility at the Villa at Nanticoke, 50 North Walnut Street, Nanticoke, Luzerne County, Pennsylvania, which is located within two miles of its main campus. The main campus is called the Birchwood Rehabilitation and Nursing Center, a 121 bed skilled nursing facility located in a two-story building situated on approximately five acres in a suburban setting at 395 East Middle Road, Nanticoke, Luzerne County, Pennsylvania.

The six apartments are subleased from New Hope Personal Care at Nanticoke, LLC d/b/a Villa at Nanticoke through CCRC I, LLC, a Pennsylvania company affiliated with the Provider.

As of December 31, 2010, there was one independent living resident occupying one of the six units.

FEES AND SERVICES

As of December 31, 2010, the Entrance Fee was \$17,000 which includes the Entrance Fee and the Reservation Fee. If the resident accepts occupancy on or the before the Designated Occupancy Date, the Reservation Fee is credited towards the Entrance Fee. The Monthly Maintenance Fees were \$1,350 per month for single occupancy and \$1,450 for double occupancy. There are numerous services offered by the Provider as part of the Monthly Fee. The specific services are outlined in the Resident Agreement.

In addition to the agreement with the Provider, the resident entered into an Admissions Agreement with Villa at Nanticoke.

REFUND POLICY

Before Occupancy

The Reservation and Entrance Fees paid will be refunded in full if a resident rescinds the agreement within seven (7) days of its execution in accordance with the Notice of Right To Rescind. In the event of termination of an agreement by death of a resident before the Designated Occupancy Date, or in the event the resident prior to the Designated Occupancy Date is precluded from becoming a resident due to illness, injury, or incapacity, then the Provider will make a full refund of the Reservation Fee and all Entrance Fee payments less any amounts deducted to cover expenses incurred by the Provider at the specific request of the resident. If a resident does not terminate an agreement within the seven (7) day rescission period but terminates prior to the Designated Occupancy Date, for reasons not caused by illness, injury, incapacity, or death, then the Provider will retain four percent (4%) of the Entrance Fee. Any additional payments would be refunded to a resident less any amounts deducted to cover expenses incurred by the Provider at the specific written request of a resident.

For Any Reason Other Than Death

The Entrance Fee will be amortized and accrue to the benefit of the Provider at the rate of twenty percent (20%) per year pro-rated monthly for a period of five years from the Designated Occupancy Date or date of occupancy, whichever is earlier. After the lapse of five years, the Entrance Fee is earned in full by the Provider and no part of it will be refunded. In the event of termination by reason other than death of a resident during the five year amortization period, any unamortized amounts are pro-rated on a monthly basis, less amounts deducted to cover costs incurred by the Provider to refurbish, restore or repair the living unit in the event of unreasonable wear and tear, or to cover costs incurred at the specific request of the resident or to satisfy unpaid charges, will be refunded to the resident in accordance with conditions of payment specified in the agreement.

No Accrual of Interest

The agreement states that no interest will accrue to the benefit of the resident on any amounts required to be refunded under the agreement, and no interest will be paid on termination.

Conditions and Due Date for Refund Payments

Prior to occupancy, all applicable refunds will be made after termination and within sixty days of the resident's request. After occupancy, all applicable refunds will be made only after the resident's, or in situations of double occupancy, both co-residents', vacated living unit has been reoccupied by another resident, and the Entrance Fee for the reoccupied living unit has been paid in full, and the agreement has been terminated. In the event the resident's vacated living unit is reoccupied by a then current resident of the Provider through an internal living unit transfer, then only at such time as the Provider receives an Entrance Fee in full for the living unit vacated by the existing resident transferring to the resident's living unit under the agreement, will a refund be due. As long as the resident, or the case of double occupancy, a co-resident,

continues to occupy any living accommodation within the Provider, including accommodations in the health center, no refund will be due and no refund will be paid until the death, permanent transfer outside the Provider, discharge, or voluntary departure outside the Provider by the resident, or in situations of double occupancy, both co-residents, and/or the termination of the agreement. The amount of any refund due will be calculated by reference to the date of surrender of the living unit. Where a living unit is occupied by co-residents, there will be no refund, partial or otherwise, upon the death, permanent transfer within or outside the Provider, discharge or voluntary departure from the Provider of only one of the two co-residents.

Distribution of Refund Upon Death

In the case of single occupancy, refunds to the resident's estate will be paid to the duly appointed representative of the estate after proof of such appointment is provided to the Provider in the form of a certified copy of the testamentary letters confirming such appointment. In situations of double occupancy, any applicable refund will be paid by the Provider to the estate of the last surviving co-resident unless otherwise agreed in writing.

MANAGEMENT AND CONTROL

Nathan Stern is the single owner, Chief Executive Officer and Secretary of the Provider. Mr. Stern is also the owner of CCRC I, LLC, ("CCRC I") and Global Healthcare Services Group, LLC ("Global"). CCRC I leases the six combination independent living and personal care units from Villa at Nanticoke on behalf of the Provider. Global is the sole management company of the Provider.

It is recommended, under "Good Business Practices", the Provider draft an agreement between Birchwood SNF, LLC, and CCRC I outlining the specific services, duties, responsibilities, fees, and related business affairs that govern the conduct of the company.

The business and affairs of the Provider is managed by Nathan Stern.

CORPORATE RECORDS

CERTIFICATE OF ORGANIZATION

As of December 31, 2010, there were no changes to the Provider's Certificate of Organization as an LLC during the period of the examination.

ANNUAL DISCLOSURE STATEMENT

A review was made of the 2009 Annual Disclosure Statement for compliance with the Pennsylvania Continuing Care Provider Registration and Disclosure Act ("the Act"), namely 40 P.S. § 3207, Sections (a) through (d), and Pennsylvania Insurance Regulations ("the Regulations"), 31 Pa. Code § 151.7, Sections (a) through (f) and 31 Pa. Code § 151.9, Sections

(a) through (f). The 2009 Disclosure Statement was found to contain all information required by the Act and the Regulations.

RESIDENT AGREEMENT

The most current Resident Agreement was reviewed for compliance with 40 P.S. § 3214, Sections (a) through (f), of the Act, and 31 Pa. Code § 151.8 Sections (a) through (g), and 31 Pa. Code § 151.9 Sections (a) through (f), of the Regulations. The Resident Agreement contains the necessary information required of the Act and the Regulations.

PENDING LITIGATION

There was no known pending legal action or any known potential legal action which could have a materially adverse affect on the Provider's financial condition as of the examination date.

FINANCIAL STATEMENTS

The financial condition of the Provider, as of December 31, 2010, and the results of its operations for the last two years under examination are reflected in the following statements:

Comparative Balance Sheet;
Comparative Statement of Earnings and Members' Equity and;
Comparative Statement of Cash Flows

There were no changes made to the financial statements as a result of this examination.

**Comparative Balance Sheet
as of December 31,**

	2010	2009
ASSETS		
Current assets		
Cash and cash equivalents	\$ 184,319	\$ 572,533
Cash - restricted (patient funds)	65,004	83,179
Cash - limited use	9,367	-
Accounts receivable - net	1,428,053	1,232,821
Due from related entities	3,083	-
Prepaid expenses and other	24,052	24,286
Total current assets	1,713,878	1,912,819
Property and equipment - net	518,725	344,607
TOTAL ASSETS	\$ 2,232,603	\$ 2,257,426
LIABILITIES AND MEMBERS' EQUITY (DEFICIENCY)		
Current liabilities		
Notes payable - bank	\$ 660,042	\$ 660,042
Accounts payable	986,805	2,250,651
Accrued expenses and withheld taxes	130,287	119,528
Capital lease payable	12,938	-
Deferred revenue	30,767	-
Due to previous owner	12,829	11,809
Patients' funds and deposits payable	176,467	126,384
Total current liabilities	2,010,135	3,168,414
Capital lease payable	53,103	-
Total liabilities	2,063,238	3,168,414
Members' equity (deficiency)	169,365	(910,988)
TOTAL LIABILITIES AND MEMBERS' EQUITY (DEFICIENCY)	\$ 2,232,603	\$ 2,257,426

**Comparative Statement of Earnings and Members' Equity
for the Year Ended December 31,**

	2010	2009
Revenues	\$ 10,231,660	\$ 9,612,205
Operating expenses	9,663,970	9,874,552
Earnings (loss) from operations	567,690	(262,347)
Non-operating revenue (expenses):		
Interest income	13	123
Interest expense	(68,450)	(22,924)
Earnings (loss) before provision for income taxes	499,253	(285,148)
Provision for income taxes	(12,800)	(26,647)
NET EARNINGS (LOSS)	486,453	(311,795)
Members' deficiency - beginning of year	(910,988)	(324,193)
	(424,535)	(635,988)
Net members' equity contributed (distributed)	593,900	(275,000)
MEMBERS' EQUITY (DEFICIENCY) - END OF YEAR	\$ 169,365	\$ (910,988)

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**Comparative Statement of Cash Flows
For the Year Ended December 31,**

	<u>2010</u>	<u>2009</u>
Cash flows from operating activities		
Net earnings (loss)	\$ 486,453	\$ (311,795)
Adjustments to reconcile net earnings (loss) to net cash provided by (used in) operating activities		
Depreciation and amortization	94,531	68,926
Deferred revenue	30,767	-
(Increase) decrease in assets		
Accounts receivable	(195,232)	350,444
Prepaid expenses	(258)	11,329
Increase (decrease) in liabilities		
Accounts payable	(1,264,135)	1,056,228
Accrued expenses and withheld taxes	11,538	(850,079)
Due from related entities	(3,083)	-
Patients' funds and deposits payable	50,083	(23,486)
Net cash provided by (used in) operating activities	<u>(789,336)</u>	<u>301,567</u>
Cash flows from investing activities		
Purchase of equipment	(193,478)	(140,809)
Net cash used in investing activities	<u>(193,478)</u>	<u>(140,809)</u>
Cash flows from financing activities		
Amounts due previous owner	1,020	-
Capital lease payments	(9,128)	-
Net members' equity contributed (distributed)	593,900	(275,000)
Increase in notes payable	-	350,000
Net cash provided by financing activities	<u>585,792</u>	<u>75,000</u>
Net increase (decrease) in cash and cash equivalents	(397,022)	235,758
Cash and cash equivalents - beginning of year	655,712	419,954
CASH AND CASH EQUIVALENTS - END OF YEAR	<u>\$ 258,690</u>	<u>\$ 655,712</u>

NOTES TO THE FINANCIAL STATEMENTS

STATUTORY MINIMUM LIQUID RESERVE

\$9,367

The Pennsylvania Continuing Care Provider Registration and Disclosure Act, 40 P.S. § 3209, requires the Provider to establish and maintain a statutory liquid reserve in an amount equal to or exceeding the greater of:

- (1) The total of all principal and interest payments due during the next 12 months on account of any mortgage loan or other long-term financing of the facility;
- or
- (2) Ten percent of the projected annual operating expenses of the facility exclusive of depreciation.

Of the above two requirements, number (1) is \$292 and number (2) is \$9,367 as of December 31, 2010. The Provider had funds set aside as assets whose use is limited of \$9,367 as of December 31, 2010. The Provider's current assets applied satisfied the statutory requirement.

RECOMMENDATIONS

PRIOR RECOMMENDATIONS

This is the Provider's first examination.

CURRENT RECOMMENDATIONS

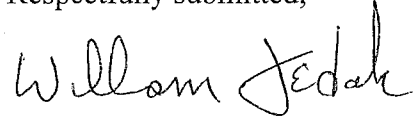
1. It is recommended that under "Good Business Practices", the Provider draft an agreement between Birchwood SNF, LLC, and CCRC I outlining the specific services, duties, responsibilities, fees, and related business affairs that govern the conduct of the company. (See "Management and Control," page 4.)

CONCLUSION

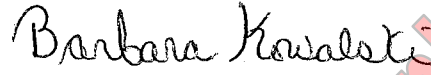
The examination of Birchwood SNF, LLC, made as of December 31, 2010, has determined that it is in compliance with all applicable Pennsylvania laws and regulations as pertaining to Continuing Care Retirement Communities with the exception noted under "Current Recommendations."

This examination was conducted by Nicholas A. Kofira and Barbara Kowalski.

Respectfully submitted,



William Fedak, CFE
Exam Manager
Bureau of Financial Examinations



Barbara Kowalski,
Examiner

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