

Examination Warrant Number 18-232771024-CP-2

Report of Examination of

**Senior Choice, Inc.
d/b/a The Patriot, A Choice Community
Somerset, Pennsylvania**

As of December 31, 2018

For Informational Purposes Only

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For Informational Purposes Only

Harrisburg, Pennsylvania
February 19, 2020

Honorable Joseph DiMemmo, CPA
Deputy Insurance Commissioner
Commonwealth of Pennsylvania
Insurance Department
Harrisburg, Pennsylvania

Dear Sir:

In accordance with instructions contained in Examination Warrant Number 18-232771024-CP-2, dated August 23, 2019, and in accordance with provisions of the Pennsylvania Continuing Care Provider Registration and Disclosure Act (“the Act”), as cited in 40 P.S. § 3219, an examination was made of

Senior Choice, Inc. d/b/a The Patriot, A Choice Community

a continuing-care retirement community (“CCRC”), hereinafter referred to as the “Provider.” The examination was conducted at the Provider’s facility, located at 495 West Patriot Street, Somerset, Pennsylvania 15501.

A report of this examination is hereby respectfully submitted.

SCOPE OF EXAMINATION

This is the second examination of the Provider. The Pennsylvania Insurance Department (“Department”) last performed an examination of the Provider as of December 31, 2013. This examination covered the period from January 1, 2014 through December 31, 2018 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 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 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 the Act and 31 Pa. Code § 151 (“the Regulations”).

For each year during the period under examination, the certified public accounting firm of Baker Tilly Virchow Krause, LLP (“CPA”) provided an unmodified audit opinion on the Provider’s year-end financial statements based on generally accepted accounting principles. Relevant work performed by the CPA, during its annual audit of the Provider, was reviewed during the examination and incorporated into the examination workpapers.

The Provider entered into agreements with its auditors, for some years under examination, which included indemnity clauses. This is discussed in more detail in the Annual Disclosure Statement section of this report on page 4.

HISTORY

The Provider took ownership of the facility in late 2004. Since that time, it has been managed by Affinity Health Services of Indiana, Pennsylvania. The Provider was issued a certificate of authority to operate as a CCRC on July 9, 2009. In June of 2010, the first CCRC residents moved into the facility.

DESCRIPTION OF FACILITY

The Provider is located in Somerset Borough, on West Patriot Street. The first floor consists of 21 nursing beds, the second floor consists of 76 personal care beds which includes 4 independent living units, and the third floor contains 79 additional nursing beds. The site has been designated as rural although it is a small town.

FEES AND SERVICES

As of December 31, 2018, the entrance fee was \$53,751.17 per unit for single occupancy and \$80,626.76 for double occupancy per single unit. The daily fee for single occupancy is \$145 per day and for double occupancy is \$217.50 per day.

REFUND POLICY

The following describes the Provider's refund policy which does comply with the Pennsylvania Act and Regulations.

Refund During the Recession Period

All fees including the reservation fee or entrance fees will be refunded to the resident, less any costs incurred by the Provider, at the specific written request of the resident, if the resident rescinds the resident agreement within seven (7) days in accordance with the Notice of Right to Rescind.

Refund Prior to Occupancy

If the resident agreement is terminated after the seven (7) day rescission period and prior to occupancy, the resident will forfeit the reservation fee paid at the time of executing the reservation agreement and applied to the entrance fee, plus any costs incurred by the Provider that were incurred at the specific written request of the resident. If the resident dies before occupying the unit or through documented illness, injury or incapacity, any fees paid, less any costs incurred by the Provider shall be refunded to the resident or resident's estate.

Refund After Occupancy

The entrance fee is only refundable in the first year of occupancy as a result of death or discharge of a resident. The refund is calculated by taking the number of days remaining in the initial year divided by the number of total days of the year. The factor is multiplied by entrance fee to arrive at the refundable amount.

MANAGEMENT AND CONTROL

BOARD OF DIRECTORS

Management of the Provider is vested in its Board of Directors (“Board”), which was comprised of the following members as of the examination date:

Name and Address	Principal Occupation
William Robert Bastian Friedens, PA	Retired
Eric T. Lawlor Bridgeville, PA	Executive Vice-President Ohio Valley Hospital
Craig Saylor Hollsopple, PA	Chief Executive Officer Somerset Hospital
Jodie Corle Babich Johnstown, PA	Registered Nurse Conemaugh Memorial Hospital

OFFICERS

As of the examination date, the following officers were appointed and serving in accordance with the Provider’s By-laws:

Name	Title
Denise McQuown-Hatter	President
William Robert Bastian	Treasurer/Secretary

CORPORATE RECORDS

ARTICLES OF INCORPORATION

No amendments were made to the Articles of Incorporation during the period of examination.

BY-LAWS

No amendments were made to the By-laws during the period of examination.

ANNUAL DISCLOSURE STATEMENT

The Provider's Annual Disclosure Statement was reviewed for compliance with the Act and Regulations, specifically § 151.7 and § 151.9. The examiner found that the 2018 Annual Disclosure Statement was not in compliance with all information required by the Act and the Regulations, as described below.

The Provider did not insert the appropriate language specifying the provisions that have been made, if any, to provide reserve funding or security to enable the provider to fully perform its obligations under contracts or provide continuing care at the facility.

It is recommended that the Provider insert the appropriate language in their Disclosure Statement as stated in 40 P.S. § 3207(a)(8).

The Provider did not insert the appropriate language specifying the number of acres occupied by the facility.

It is recommended that the Provider insert the appropriate language in their Disclosure Statement as stated in 31 Pa. Code § 151.7(c)(4)(ii).

The Provider did not insert the appropriate language specifying the minimum age for admission, including for spouses/companions.

It is recommended that the Provider insert the appropriate language in their Disclosure Statement as stated in 31 Pa. Code § 151.7(c)(5).

The Provider entered into an agreement with its auditors, for years 2014, 2015 and 2018 which included indemnity clauses. The Provider's engagement letter indemnified the auditors from any claims, liabilities, costs, and expenses, for the services provided for its consolidated audit.

According to 31 Pa. Code § 147.6(b)(4), the Department will not recognize a firm as a qualified CPA when "the person or firm has entered into an agreement of indemnity, or other release from liability, that would shift, transfer, or limit in any manner the potential liability of the person or firm for failure, whether by omission or commission, to adhere to applicable auditing or professional standards, whether or not the failure would result in whole or in part from misrepresentations made by the insurer or its representatives."

It is recommended that the Provider submit with its Annual Disclosure Statement, financial statements which were audited by a qualified independent certified public accountant who has not entered into indemnity clauses, which are prohibited in 31 Pa. Code § 147.6(b)(4).

RESIDENT AGREEMENT

The Provider's 2018 Resident Agreement was reviewed for compliance with the Act, 40 P.S. § 3214, and the Regulations, specifically § 151.8 and § 151.9. The 2018 Resident Agreement was not in compliance with all information required by the Act and the Regulations.

The Provider did not insert the appropriate language specifying care for one resident, or two or more persons.

It is recommended that the Provider add the appropriate language to the Resident Agreement as described in 40 P.S. § 3214(a)(1).

The Provider did not insert the appropriate language specifying no act, agreement, or statement of any resident, or any individual purchasing care for a resident under any agreement to furnish care.

It is recommended that the Provider add the appropriate language to the Resident Agreement as described in 40 P.S. § 3214(e).

PENDING LITIGATION

There was no known pending legal action or any known potential legal action as of the date of the examination report.

FINANCIAL STATEMENTS

The financial condition of the Provider, as of December 31, 2018, and the results of its operations for the period under examination, are reflected in the following statements*:

Consolidated Comparative Balance Sheet;
Consolidated Comparative Statement of Operations and Changes in Net Deficit; and
Consolidated Comparative Statement of Cash Flow

*Note: Some financials shown in this report may contain immaterial differences to those reported in the Company's filed Annual Statements due to rounding errors.

**Audited Financial Statements are filed on a consolidated basis.

Senior Choice, Inc. d/b/a The Patriot, A Choice Community

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**Consolidated Comparative Balance Sheet
For the Year Ended December 31,**

<u>ASSETS</u>	<u>2018</u>	<u>2017</u>
Current Assets		
Cash and cash equivalents	\$ 649,272	\$ 728,840
Accounts receivable, residents	2,993,981	2,530,648
Accounts receivable, nursing home assessment	286,916	683,915
Prepaid expenses and other current assets	183,019	171,961
Resident trust funds	81,052	107,116
Total current assets	4,194,240	4,222,480
Investments	4,253,708	4,627,518
Assets Whose Use is Limited	288,454	280,514
Assets Whose Use is Limited, Act 82 Reserve	27,526	18,513
Property and Equipment, Net	7,176,679	7,716,115
Other Assets	633,623	684,204
Total assets	<u>\$ 16,574,230</u>	<u>\$ 17,549,344</u>
<u>LIABILITIES AND NET ASSETS (DEFICIT)</u>		
Current Liabilities		
Current maturities of long-term debt	\$ 506,362	\$ 490,966
Accounts payable, trade	937,212	467,939
Accounts payable, nursing home assessment	594,048	608,785
Accrued payroll and related liabilities	593,670	715,169
Other accrued expenses	638,642	507,789
Other current liabilities	92,280	-
Resident trust funds	81,052	107,116
Total current liabilities	3,443,266	2,897,764
Long-Term Debt, Net	17,520,837	18,021,957
Deferred Revenue from Advance Fees	114,812	80,042
Total liabilities	21,078,915	20,999,763
Net Assets (Deficit) Without Donor Restrictions	<u>(4,504,685)</u>	<u>(3,450,419)</u>
Total liabilities and net assets (deficit)	<u>\$ 16,574,230</u>	<u>\$ 17,549,344</u>

Senior Choice, Inc. d/b/a The Patriot, A Choice Community

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**Consolidated Comparative Statement of Operations
and Changes in Net Deficit
For the Year Ended December 31,**

	<u>2018</u>	<u>2017</u>
Operating Revenues		
Net patient service revenues	\$ 16,131,492	\$ 16,309,477
Net resident service revenues	3,400,074	3,635,005
Pennsylvania nursing home assessment	1,424,796	1,367,830
Total operating revenues	<u>20,956,362</u>	<u>21,312,312</u>
Operating Expenses		
Resident care	10,981,307	11,350,708
Dietary	2,224,089	2,223,465
General and administrative	2,014,471	2,194,568
Pennsylvania nursing home assessment	1,202,833	1,217,569
Utilities and maintenance	1,097,960	1,090,501
Housekeeping and laundry	967,603	964,999
Depreciation	962,825	886,675
Interest	831,540	840,457
Activities and social services	657,122	722,752
Management fees	595,073	602,420
Total operating expenses	<u>21,534,823</u>	<u>22,094,114</u>
Operating loss	<u>(578,461)</u>	<u>(781,802)</u>
Nonoperating (Expenses) Revenues		
Investment (loss) income	(265,155)	499,962
Other nonoperating	(210,650)	-
Unrestricted contributions	-	697
Total nonoperating revenues (expenses)	<u>(475,805)</u>	<u>500,659</u>
Revenues (less than) in excess of expenses and changes and increase in net deficit without donor restrictions	(1,054,266)	(281,143)
Net Assets (Deficit), Beginning of Year	<u>(3,450,419)</u>	<u>(3,169,276)</u>
Net Assets (Deficit), End of Year	<u><u>\$ (4,504,685)</u></u>	<u><u>\$ (3,450,419)</u></u>

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

	<u>2018</u>	<u>2017</u>
Cash Flows From Operating Activities		
Increase in net deficit	\$ (1,054,266)	\$ (281,143)
Adjustments to reconcile increase in net deficit to net cash provided by operating activities:		
Depreciation	962,825	886,675
Amortization of debt issuance costs	5,299	5,299
Provision for doubtful collections	138,682	125,284
Proceeds from advance fees	92,674	48,191
Amortization of advance fees	(57,904)	(35,146)
Net realized and unrealized loss (gain) on investments	370,899	(404,815)
Changes in assets and liabilities:		
Accounts receivable, residents	(602,015)	(179,923)
Accounts receivable, nursing home assessment	396,999	-
Prepaid expenses and other current assets	(11,058)	(57,767)
Other assets	50,581	50,581
Accounts payable, trade	469,273	(61,543)
Accounts payable, nursing home assessment	(14,737)	-
Accrued payroll and related liabilities	(121,499)	32,853
Other accrued expenses	130,853	119,813
Other current liabilities	92,280	-
Net cash provided by operating activities	<u>848,886</u>	<u>248,359</u>
Cash Flows from Investing Activities		
Purchase of property and equipment	(423,389)	(601,810)
Net (purchases) sales of investments and assets whose use is limited	(14,042)	55,804
Net cash used in investing activities	<u>(437,431)</u>	<u>(546,006)</u>
Cash Flows From Financing Activities		
Repayment of long-term debt	(491,023)	(458,788)
Proceeds of long-term debt	-	58,394
Net cash used in financing activities	<u>(491,023)</u>	<u>(400,394)</u>
Net decrease in cash and cash equivalents	(79,568)	(698,041)
Cash and Cash Equivalents, Beginning of Year	<u>728,840</u>	<u>1,426,881</u>
Cash and Cash Equivalents, End of Year	<u>\$ 649,272</u>	<u>\$ 728,840</u>
Supplemental Disclosure of Cash Flow Information		
Interest Paid	<u>\$ 831,041</u>	<u>\$ 839,758</u>

NOTES TO FINANCIAL STATEMENTS

STATUTORY MINIMUM LIQUID RESERVE

\$27,526

In accordance with 40 P.S. § 3209, the Provider must 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, the value of (1) is \$26,590 and the value of (2) is \$19,795. As of December 31, 2018, the Provider had established and reported a reserve of \$27,526 for this purpose.

ESCROW ACCOUNT REQUIREMENTS

The Provider does accept deposits from CCRC residents and maintains an escrow account; however, there was no escrow agreement in place detailing the purpose and use of the escrow account.

It is recommended that the Provider reduce to writing the purpose and use of the escrow account with the bank, trust or other escrow agent as established in 40 P.S. § 3212.

SUBSEQUENT EVENTS

The examiner was not made aware of any events that could have significant effect on the solvency of the Provider subsequent to the examination date.

RECOMMENDATIONS

PRIOR EXAMINATION

The prior examination report contained the following recommendations:

- (1) We recommend the Provider distribute a copy of the annual disclosure statement to all continuing care residents or prospective residents as required by 40 P.S. § 3207(c).

The Provider has complied with this recommendation.

- (2) We recommend the Provider revise its resident agreement to state the fees that will be charged if the resident marries while at the facility and the terms concerning the entry of a spouse to the facility as required by 40 P.S. § 3214(a)(6).

The Provider has complied with this recommendation.

CURRENT EXAMINATION

As a result of the current examination, the following recommendations are being made:

- (1) It is recommended that the Provider insert the appropriate language in their Disclosure Statement as stated in 40 P.S. § 3207(a)(8). (See Annual Disclosure Statement page 4)*
- (2) It is recommended that the Provider insert the appropriate language in their Disclosure Statement as stated in 31 Pa. Code § 151.7(c)(4)(ii). (See Annual Disclosure Statement page 4)*
- (3) It is recommended that the Provider insert the appropriate language in their Disclosure Statement as stated in 31 Pa. Code § 151.7(c)(5). (See Annual Disclosure Statement page 4)*
- (4) It is recommended that the Provider submit with its Annual Disclosure Statement, financial statements which were audited by a qualified independent certified public accountant who has not entered into indemnity clauses, which are prohibited in 31 Pa. Code § 147.6(b)(4). (See Annual Disclosure Statement page 4)*
- (5) It is recommended that the Provider add the appropriate language to the Resident Agreement as described in 40 P.S. § 3214(a)(1). (See Resident Agreement page 4)*
- (6) It is recommended that the Provider add the appropriate language to the Resident Agreement as described in 40 P.S. § 3214(e). (See Resident Agreement page 4)*
- (7) It is recommended that the Provider reduce to writing the purpose and use of the escrow account with the bank, trust or other escrow agent as established in 40 P.S. § 3212. (See Escrow Account Requirements page 9)*

CONCLUSION

The examination of Senior Choice, Inc. d/b/a The Patriot, A Choice Community, as of December 31, 2018, was determined to be not in compliance with all applicable Pennsylvania laws and regulations as pertaining to CCRCs.

This examination was conducted by Jessica H. Fulton.

Respectfully,

Melissa Greiner

Melissa L. Greiner
Director
Bureau of Financial Examinations

William M. Fedak

William M. Fedak, CFE
Examination Manager

Jessica Fulton

Jessica H. Fulton
Examiner-in-Charge

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