



Process Available to Appeal Findings in Draft OIR Examination Report

Continuing care/life plan communities that have undergone an Office of Insurance Regulation (OIR) examination over the past 18 months have begun receiving a “Draft Report of Examination.” The transmittal letter accompanying the draft report gives the provider up to 30 days to request a hearing pursuant to [section 624.319\(1\), Florida Statutes](#).

Although the word “hearing” is used, it is not a formal hearing within the scope of chapter 120, Florida Statutes. Instead, according to [Rule 69N-121.066, Florida Administrative Code](#), it is an informal conference at which the CCRC/LPC has the opportunity to resolve disputed provisions in the draft examination report in a fair and efficient manner.

If a hearing is not requested within 30 days, the provider will be deemed to have waived the right to a hearing, and the report will become a public document, a summary of which must be posted in a conspicuous place within the community. The summary must state where a full copy of the full report is available for review. In addition, HB 1033 requires providers to notify prospective residents of a final Report of Examination, including where the report may be inspected and, upon request, provide an electronic copy or specific website from which the report may be downloaded at no cost. Because the final report is a public document that could affect marketing, there may be times when a provider should consider requesting a hearing to pursue desired modifications.

Although the hearing is informal, depending on the number and type of findings in question, an attorney or consultants may be helpful. As with any appeal, providers may benefit from the assistance of an expert familiar with chapter 651, Florida Statutes, and the OIR hearing process while preparing supporting materials to dispute examination findings. According to a consultant familiar with the hearing process for insurance entities (not CCRCs/LPCs), it is not uncommon for OIR to clarify, change, or delete a finding after reviewing additional documentation. It should be noted that we do not know of any CCRC/LPC that has requested a hearing in recent years so we do not have any member experience to draw on.

If you request a hearing after receiving a “Draft Report of Examination,” please let us know. Mary Ellen Early, LeadingAge Florida Public Policy Liaison, has been tracking examinations of CCRCs/LPCs and may be of help. She can be reached at 386/734-7681 or mearly@earthlink.net.

This article is the sixth in a series of articles on key provisions in CS/CS/CS HB 1033 that will be included in upcoming e-newsletters. If you have any questions or comments, please contact Mary Ellen Early, Public Policy Liaison via phone (386) 734-7681 or email mearly@earthlink.net. To view the first five articles visit www.LeadingAgeFlorida.org.