

REPORT ON EXAMINATION

OF

KINGSTON REGIONAL SENIOR LIVING CORP.

d/b/a WOODLAND POND AT NEW PALTZ

AS OF

DECEMBER 31, 2011

DATE OF REPORT

APRIL 21, 2015

EXAMINER

VICTOR ESTRADA

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NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

April 21, 2015

Honorable Benjamin M. Lawsky
Superintendent of Financial Services
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law and acting in accordance with the instructions contained in Appointment Number 30880, dated September 10, 2012, attached hereto, I have made an examination of Kingston Regional Senior Living Corp., d/b/a Woodland Pond at New Paltz, a not-for-profit Continuing Care Retirement Community granted a certificate of authority pursuant to the provisions of Article 46 of the New York Public Health Law, as of December 31, 2011, and respectfully submit the following report thereon.

The examination was conducted at the home office of Woodland Pond at New Paltz, located at 100 Woodland Pond Circle, New Paltz, NY.

Wherever the designations “Woodland Pond” or the “Community” or “appear herein, without qualification, they should be understood to indicate Woodland Pond at New Paltz.

Wherever the designation “Health Alliance” appears herein, without qualification, it should be understood to indicate Health Alliance Senior Living Corporation, the ultimate parent of the Community.

Wherever the designation the “Department” appears herein, without qualification, it should be understood to indicate the New York State Department of Financial Services.

As of December 31, 2011, the Community’s required actuarial surplus, pursuant to Part 350.9 of New York Insurance Regulation 140 (11 NYCRR 350.9), as determined using generally accepted actuarial standards and applying statutory requirements, was impaired in the amount of \$(8,321,721). The Community is currently operating under a Plan of Correction that was accepted by the New York Department of Financial Services on April 16, 2015. It is noted that between the as of date of this examination, December 31, 2011 and April 16, 2015, the Community was operating without an approved Plan of Correction. This is because the Plan of Correction was dependent upon revenue sourced from outside admissions to the Community’s facilities, which had not been approved by the New York State Department of Health (“DOH”). This is further described in Section Five of this report. On March 31, 2015, the DOH granted a waiver allowing outside admissions and so, the Department was able to accept the Plan of Correction.

1. SCOPE OF THE EXAMINATION

The Community was formed on October 3, 2002 and commenced operations on September 25, 2009. This examination covered the period from inception through December 31, 2011. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

Representatives of the New York State Department of Financial Services conducted a site survey of the Community's facility on September 5, 2012, pursuant to the requirements of Section 4614(1) of the New York Public Health Law.

The examination comprised a verification of assets and liabilities of the Community as of December 31, 2011, in accordance with generally accepted accounting principles ("GAAP"), as modified by the Department pursuant to Insurance Regulation No. 140 (11 NYCRR 350), a review of income and disbursements deemed necessary to accomplish such verification, and utilized, to the extent considered appropriate, work performed by the Community's independent certified public accountants. It is noted that the balance sheet included herein was reported as of December 31, 2011, on a statutory actuarial basis, pursuant to Insurance Regulation No. 140 (11 NYCRR 350).

A review was also made of the following items:

- Community documents
- Compliance with By-laws
- Occupancy levels
- Financial documents
- Board of Directors' minutes of meetings

This report on examination is confined to financial statements and comments on those matters which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

The firm of PriceWaterhouseCoopers LLC (“PWC”) was retained by the Community to audit the Community’s financial statements of financial position during the calendar years 2009 through 2011, and the related statements of operations and cash flows for the years then ended.

PWC concluded that the financial statements present fairly, in all material respects, the financial position of the Community at the respective audit dates. Balances reported in these audited financial statements were reconciled to the corresponding years’ annual statements with no discrepancies noted.

2. DESCRIPTION OF THE COMMUNITY

The Community was formed on October 3, 2002 as a Continuing Care Retirement Community (“CCRC”), as defined under Article 46 of the New York Public Health Law. The Community received a Certificate of Authority from the New York State Continuing Care Retirement Council, effective October 26, 2007. The Community commenced operations on September 25, 2009. Woodland Pond is a New York not-for-profit organization and is tax exempt pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code.

Woodland Pond is designed for older adults who are in good physical health and able to live independently. The Community consists of two hundred one independent living units, with one hundred seventy-seven apartments and twenty-four cottages. Additionally, there are sixty enriched housing units, including twenty units dedicated to people with cognitive disability, and forty skilled nursing beds. The Community also contains a community center, which includes

dining rooms, administrative offices, a library and computer center, lounges, lobbies, and other social and recreational facilities.

Woodland Pond provides residents with a continuum of services, including independent living, enriched housing and skilled nursing home care. As a condition precedent to providing these services, the Community enters into a continuing care contract with each prospective resident that sets forth the responsibilities of both parties. Each resident is required to pay an initial entrance fee and, after taking occupancy, a monthly service fee for the right to occupy a living unit and to use the living accommodations and services provided by the Community for its residents. The monthly service fee is based on the size, type, and number of occupants in the unit.

A. Corporate Governance

Pursuant to the Community's charter and by-laws, management of the Community is vested in a board of directors consisting of not less than seven, nor more than eleven directors. As of the examination date, the board of directors was comprised of eleven members.

As of December 31, 2011, the directors of the Community and their principal business affiliations were as follows:

<u>Name and Residence</u>	<u>Principal Affiliation</u>
Dr. Laurel M. Garrick Duhaney New Paltz, NY	Associate Provost and Dean, Graduate School, SUNY at New Paltz
Alan Dunefsky Port Ewen, NY	Special Assistant for Projects, SUNY at New Paltz
Beverly Finnegan Kingston, NY	Retired

<u>Name and Residence</u>	<u>Principal Affiliation</u>
Joseph R. Grieco Andes, NY	Retired
Craig Haight** New Paltz, NY	Retired
Robert A. Hansut Highland, NY	Retired
Thomas W. Jacobi Kingston, NY	President, Schneider's Jewelers
Patricia S. Johnson Kingston, NY	Retired
David W. Lundquist * Kingston, NY	President & Chief Executive Officer, Health Alliance Senior Living Corp.
Marc Schain High Falls, NY	President, Schain & Company
Dan Schuster Stone Ridge, NY	President, Schuster Associates

* Ex-officio as required by the Community's by-laws.

** Resident ex-officio as required by the Community's by-laws.

The Community's board met at least once each quarter during the exam period, in compliance with its by-laws.

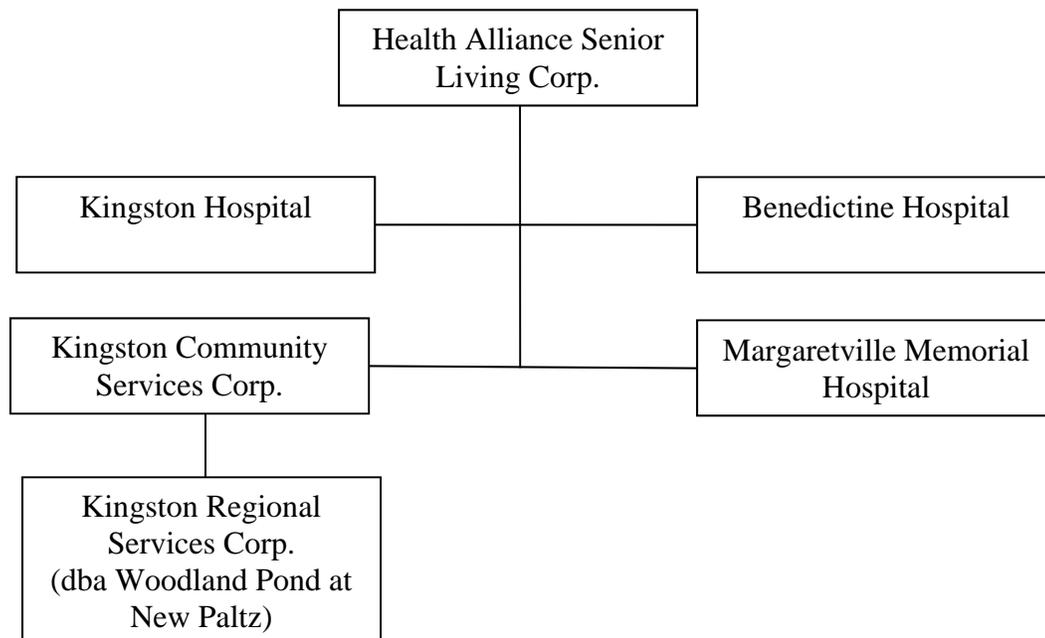
A review of the attendance records of the board of directors' meetings held during the period under examination revealed that the meetings were generally well attended, with all members attending at least one half of the meetings they were eligible to attend.

The principal officers of the Community at December 31, 2011 were as follows:

<u>Officers</u>	<u>Title</u>
Thomas W. Jacobi	Chairman of the Board
Patricia S. Johnson	Vice-Chair
Beverly Finnegan	Secretary
Robert A. Hansut	Treasurer

B. Holding Company System

Woodland Pond is a subsidiary of Kingston Community Services Corp. (“KCSC”). Health Alliance Senior Living Corp. is the sole corporate member of KCSC. Other affiliated entities for which Health Alliance is the parent include The Kingston Hospital and subsidiaries, Benedictine Hospital and subsidiaries and Margaretville Memorial Hospital and subsidiaries. These relationships are shown in the chart below.



As of the examination date, the Community received administrative services, subject to the terms of an amended and restated corporate services agreement with its parent, Health Alliance Senior Living Corp., effective May 4, 2010. Generally, Health Alliance provides all management services, including the following: advisory services, administrative services, financial analysis, cost controls and personnel administration, as may be necessary to assist the Community's goal of operating a CCRC and providing retirement housing services. Health Alliance is responsible for the general day-to-day management of the Community and certain supervisory oversight services. In addition to the aforementioned management services, Health Alliance provides specific services, including but not limited to personnel, accounting and financial, marketing and public relations, purchasing, health care and quality assurance, dietary, laundry, housekeeping and maintenance, capital expenditures, and the maintenance of insurance and third party contracts. In consideration for the management and all other services performed by Health Alliance, the Community is required to pay Health Alliance a bi-weekly management fee equal to the total percentage of time that Health Alliance staff and contractors perform services for and on behalf of the Community.

The Community incurred \$512,275 and \$322,644 for management fees in 2010 and 2011, respectively. As of December 31, 2011 the Community reported \$4,227,150 due to parent, subsidiaries and affiliates.

C. Conflict of Interest Policy

Health Alliance has a system-wide written Code of Conduct for its employees and directors. It describes what standards and behavior are required of its employees, including what activities or practices constitute a conflict of interest for its directors and employees.

Woodland Pond generally follows the standards, policies and procedures of its Parent, in regard to code of conduct.

Conflict of interest statements are required to be filed by members of the Community's Board of Directors on an annual basis. The Community was unable to provide two forms soliciting the disclosure of conflicts of interest from board members during 2010, including one that was from a non-voting member.

It is recommended that all conflict of interest statements required to be filed with the corporate secretary be fully completed, signed and returned by each board member annually.

D. Plan of Operation

The Community provides residents with lifetime residency in an independent living unit ("ILU") and access, as needed, to an adult home enriched housing unit and a nursing center (the "Health Care Center"). A resident may choose among several contract options that provide different levels of prepaid nursing care benefit days and different refund options.

The consideration paid for entering into the contract and becoming a Woodland Pond resident is the entrance fee and a monthly maintenance fee, the amount of which is determined

by the size and layout of the residence, as well as the percentage of the entrance fee that is refundable, if any, and the number of nursing care benefit days available to the resident.

Entrance Fee Deposit

Each prospective resident is required to pay a 10% Entrance Fee Deposit. The balance, as disclosed within the Initial Disclosure Statement is due on the date of residency, but in no event later than sixty days following the date upon which the resident's living accommodation is available for occupancy. If the resident fails to take residency within sixty days of the date the living accommodation is ready for occupancy, or within any extension period approved at the Community's sole discretion, the Community may cancel the agreement and refund the resident's entrance fee deposit without interest within thirty days of the cancellation of the agreement.

Monthly Fee Requirement

After the contract is endorsed and the entrance fee is paid, the resident is subject to a monthly maintenance fee that is prorated for any partial month that the resident begins or ends occupancy. The Community is required to give sixty days written notice before increasing the amount of the monthly fee, except for changes required by state and federal assistance programs and regulatory authorities. Any increase is either to be approved by the Department, or arrived at by using a methodology that was previously approved by the Superintendent of Financial Services.

Contract Options

Woodland Pond offers different entrance fee plans to prospective residents, a Life Care Plan, and a Continuing Care Plan. The Continuing Care Plans provides for sixty cumulative lifetime days of temporary or permanent care in skilled nursing and thirty cumulative lifetime days of temporary or permanent care in enriched housing with no increase in the monthly fee. After using the cumulative days of free care, a resident will then pay the current private pay rate while in enriched housing or skilled nursing.

Alternatively, a resident may choose to opt for the Life Care Plans. This option declines at two percent per month with an additional four percent taken in the first month, as an administrative fee. After 48 months there will be no refund available. In return for paying the additional charge, residents receive lifetime care in the enriched housing and skilled nursing facilities at the rate of their monthly service fee.

Initial Disclosure Statement

The Initial Disclosure Statement is attached to and distributed with the residency agreement to applicants that have been accepted into the Community. The Community's disclosure statement, for the period under examination, contained all the necessary provisions required by Section 4606 of the New York Public Health Law.

3. COMMUNITY DEMOGRAPHICS

A. Occupancy Levels

As of the year ending December 31, 2011, the Community maintained 144 occupied independent living units, 24 occupied enhanced housing units and 34 occupied skilled nursing beds. The overall occupancy level at the year ending December 31, 2011, was sixty-six percent.

The following reflects the occupancy rates at each year-end during the examination period for each of the facilities within the Community:

	<u>2009</u>	<u>2010</u>	<u>2011</u>
Independent living units	42.3%	63%	72%
Enriched Housing/ Adult Care	0%	18%	40.5%
Skilled Nursing facility	0%	50%	85%

Note: The Community commenced operations on September 25, 2009.

B. Disaster Recovery/Business Continuity Plans

As of December 31, 2011, the Community maintained a disaster recovery plan which provides for the essential maintenance of services to the Community's residents in the event of a disaster. This plan was not reviewed for best practices.

C. Fees

Pursuant to the requirements of Section 4608(9) of the New York Public Health Law, sixty-day notices were approved by the New York State Department of Financial Services.

4. **FINANCIAL STATEMENTS**

The following statements show the assets, liabilities, and actuarial surplus as of December 31, 2011, as contained in the Community's 2011 filed annual statement presented on a statutory actuarial basis pursuant to Insurance Regulation No. 140 (11 NYCRR 350), a condensed summary of operations, and a reconciliation of the actuarial surplus account for the years under review.

The examiner's review of a sample of transactions did not reveal any differences which materially affected the Community's financial condition as presented in its financial statements as of December 31, 2011.

A. Balance SheetAssetsCurrent assets

Cash and investments	\$ 9,599,822
Accounts receivable	<u>1,800,038</u>

Total current assets \$ 11,399,860

Fixed assets

Property plant and equipment \$ 105,606,549

Other assets

Deferred finance costs	\$ 4,193,393
Deferred marketing costs	<u>2,677,868</u>

Total other assets \$ 6,871,261

Total assets \$123,877,669

Liabilities

Loans payable	\$ 73,399,000
Actuarial reserve liabilities	<u>58,800,390</u>

Total liabilities \$132,199,390

Net Surplus

Net actuarial surplus \$ (8,321,721)

Total liabilities and net actuarial surplus \$123,877,669

1. It should be noted that the net asset values herein are reported on a statutory/actuarial basis. As such, the values differ from the certified financial statements prepared by the Community's certified public accountants using generally accepted accounting principles (GAAP basis).

2 As of December 31, 2011, the Community's required actuarial surplus, pursuant to Part 350.9 of New York Insurance Regulation 140 (11 NYCRR 350.9), as determined using generally accepted actuarial standards and applying statutory requirements, was impaired in the amount of \$(8,321,721). The Community is currently operating under a Plan of Correction that was accepted by the New York Department of Financial Services on April 16, 2015. It is noted that between the as of date of this examination, December 31, 2011 and the April 16, 2015, the Community was operating without an approved Plan of Correction. This is because the Plan of Correction was dependent upon revenue sourced from outside admissions to the Community's facilities, which had not been approved by the New York State Department of Health ("DOH"). This is further described in Section Five of this report. On March 31, 2015, the DOH granted a waiver allowing outside admissions and so, the Department was able to accept the Plan of Correction.

B. Statement of Revenue and Expenses and Change in Actuarial Surplus

The statement of revenue and expenses is presented on a GAAP basis, as modified pursuant to Insurance Regulation No. 140, for the period of operation September 25, 2009 through December 31, 2011, as follows:

Operating revenue

Resident service fees	\$ 19,823,677
Other revenue	<u>140,296</u>

Total operating revenue		\$ 19,963,973
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Operating expenses

Salaries and wages	\$ 10,175,055
Employee benefits	1,888,496
Management fees	1,451,987
Supplies and other expenses	8,751,442
Provision for bad debts	106,978
Interest expense	9,546,320
Letter of credit and remarketing fees	1,464,320
Depreciation and amortization	<u>11,176,069</u>

Total operating expenses		<u>\$(44,560,667)</u>
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Net operating loss		<u>\$(24,596,694)</u>
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Changes in Actuarial Surplus

Surplus decreased \$8,321,721 during the period of operation, September 25, 2009 through December 31, 2011, detailed as follows:

Surplus as of the commencement of operations, January 1, 2009	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	\$ 0
GAAP basis net loss	\$	\$(24,596,694)	
Net realized capital gains	119,522		
Other non-operating losses		(4,894)	
Unrealized losses on investment		(43,075)	
Investment income	194,928		
Statutory adjustment	16,008,492		
Net increase in surplus			<u>\$(8,321,721)</u>
Surplus per report on examination, as of December 31, 2011			<u><u>\$(8,321,721)</u></u>

5. SUBSEQUENT EVENTS

On November 25, 2013, the Community submitted a revised Actuarial Study, as of December 31, 2012.

On August 29, 2014, the New York State Department of Health and the Department of Financial Services approved the Community's request that it be permitted to refinance long-term debt in the amount of \$14.62 million. Such transaction was completed on September 1, 2014.

On March 31, 2015, the New York State Department of Health provided the Community with a waiver, as authorized under Department of Health Regulation 10 NYCRR 900.8(b) and 900.8(c) to accept up to 35 outside admissions to the Article 7 Adult Care Facility and Article 28 Skilled Nursing Facility.

6. CONCLUSION

As of December 31, 2011, the Community's required actuarial surplus, pursuant to Part 350.9 of New York Insurance Regulation 140 (11 NYCRR 350.9), as determined using generally accepted actuarial standards and applying statutory requirements, was impaired in the amount of \$(8,321,721). The Community is currently operating under a Plan of Correction that was accepted by the New York Department of Financial Services on April 16, 2015. It is noted that between the as of date of this examination, December 31, 2011 and April 16, 2015, the Community was operating without an approved Plan of Correction. This is because the Plan of Correction was dependent upon revenue sourced from outside admissions to the Community's facilities, which had not been approved by the New York State Department of Health ("DOH"). This is further described in Section Five of this report. On March 31, 2015, the DOH granted a waiver allowing outside admissions and so, the Department was able to accept the Plan of Correction.

7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>		<u>PAGE NO.</u>
A.	<u>Surplus</u>	
	As of December 31, 2011, the Community’s required actuarial surplus, pursuant to Part 350.9 of New York Insurance Regulation 140 (11 NYCRR 350.9), as determined using generally accepted actuarial standards and applying statutory requirements, was impaired in the amount of \$(8,321,721). The Community is currently operating under a Plan of Correction that was accepted by the New York Department of Financial Services on April 16, 2015. It is noted that between the as of date of this examination, December 31, 2011 and April 16, 2015, the Community was operating without an approved Plan of Correction. This is because the Plan of Correction was dependent upon revenue sourced from outside admissions to the Community’s facilities, which had not been approved by the New York State Department of Health (“DOH”). This is further described in Section Five of this report. On March 31, 2015, the DOH granted a waiver allowing outside admissions and so, the Department was able to accept the Plan of Correction.	2, 14, 17
B.	<u>Management and Controls</u>	
	It is recommended that all conflict of interest statements required to be filed with the corporate secretary be fully completed, signed and returned by each board member annually.	9

Respectfully submitted,

_____/S/_____
Victor Estrada
Senior Insurance Examiner

STATE OF NEW YORK)
) SS
)
COUNTY OF NEW YORK)

Victor Estrada, being duly sworn, deposes and says that the foregoing report submitted by him is true to the best of his knowledge and belief.

_____/S/_____
Victor Estrada

Subscribed and sworn to before me
this _____ day of _____ 2015.

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, BENJAMIN M. LAWSKY, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

Victor Estrada

as a proper person to examine the affairs of the

Woodland Pond

and to make a report to me in writing of the condition of said

CCRC

with such other information as he shall deem requisite.

*In Witness Whereof, I have hereunto subscribed my name
and affixed the official Seal of the Department
at the City of New York*

this 10th day of September, 2012

*BENJAMIN M. LAWSKY
Superintendent of Financial Services*

By:

Steph J. Wiest

Stephen J. Wiest
Deputy Bureau Chief
Health Bureau

