



Department
of Health

Glen Arden CCRC

Follow up and Discussion

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Recap from March 16, 2018 Meeting

Issues of concern raised during the March 16 CCRC Council meeting

- Disclosure of the financial condition of Glen Arden CCRC to prospective and current residents
- Ability of Glen Arden CCRC to meet current liabilities
- Long term viability of Glen Arden CCRC

Follow up: Disclosure of financial condition

Disclosure of financial condition of the CCRC to prospective and current residents

The CCRC Council expressed concerns that the financial condition of the CCRC was not being properly portrayed to current and prospective residents.

At the meeting, the Department of Health indicated it would issue notice to Glen Arden regarding the need to revise the Initial Disclosure Statement.

Departmental action taken

DOH issued a Failure to Comply Notice to Glen Arden noting that the Initial Disclosure Statement used in marketing did not comply with Section 4613 of Public Health Law (PHL):

No person, partnership, corporation, company, trust or association, or any agent or employee thereof, shall publish or cause to be published, circulated, or disseminated any financial statement, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective residents of continuing care retirement communities that contains statements or illustrations that are untrue, deceptive, misleading, or omit material facts or omit any other information required by regulations appropriate to a continuing care retirement community.

Departmental action taken (cont.)

The notice required Glen Arden to revise the Initial Disclosure Statement to reflect recent financial information provided to the CCRC Council, Department of Health, and Department of Financial Services. This information was deemed material for prospective residents and their families to make informed decisions about their future housing and care needs.

The revised Initial Disclosure Statement needs to be compliant with the requirements of PHL 4613.

Glen Arden response to Departmental action

Glen Arden revised the Initial Disclosure Statement and submitted to DOH and DFS on April 11, 2018. DOH and DFS deemed the Initial Disclosure Statement to be acceptable under PHL 4613 and approved its use in Glen Arden's marketing and contracting activities.

Glen Arden's response to Council concerns regarding disclosure to current residents

Glen Arden conducted two meetings with representative groups of the CCRC's residents to discuss the CCRC's financial matters:

1. A March 23rd meeting with Glen Arden's Resident Council
2. A March 28th meeting with Glen Arden's Resident Association

Glen Arden contract addendum to escrow entrance fees for first 90 days of occupancy

Since Glen Arden is not maintaining sufficient cash reserves, the CCRC implemented an addendum to all new residency agreement contracts that provides for the escrow of the entrance fee during the first ninety days of occupancy to assure funds would be available for refund. Under PHL section 4609(2): During the first 90 days of occupancy, the resident shall receive a refund of not less than the entry fee and any other pre-payments less the actual cost of any services actually provided and the actual cost of refurbishing the unit for resale.



Follow up: Ability of the CCRC to meet current liabilities

Ability of the CCRC to meet current liabilities

Representatives of Glen Arden indicated that payment of some accounts payable were being delayed due to a lack of cash resources because operational cash deficits were incurred by the CCRC. The CCRC also provided the Department of Health and Department of Financial Services with a revised Actuarial Study that demonstrated an approximate total cash shortfall of \$2 million over the next two years (combined 2018 and 2019).

Departmental action taken

DOH and DFS required Glen Arden to submit weekly cash flow projection reports detailing the CCRC's projected week ending cash balances for the upcoming 12 week period. Weekly cash flow projection reports were required to contain detailed revenue and expense lines and include reconciling items to demonstrate how the CCRC would account for any projected cash shortfalls. The CCRC was also required to reconcile actual cash outlays to previous weekly cash projections and explain significant variances.

Outcomes from action taken

Glen Arden staff submits weekly cash flow projection reports on Mondays. DOH and DFS use the reports to work with Glen Arden staff to assess the short term cash needs of the CCRC and assure that operational cash deficits are funded and current expenses are paid, including entrance fee refunds due.

Future liquid cash resources of Elant have been identified that may be available to fund projected operational cash shortfalls, should they occur.

Latest Weekly Cashflow Projection Report

- Operating cash now appears adequate through July 2018
- Includes \$466k in net proceeds received from sale of Elant's Fishkill property, now in Glen Arden operating account
- Reflects an additional \$480k from Elant Foundation: \$140k left from Elant nursing home sales, \$140k recent donation, \$200k available for capital improvement purposes only
- New entrance fees – now escrowed for first 90 days. New entrance fee revenue will be available and needed to fund operational expenses after July 2018
- Approximately \$700k of refunds are due in late Fall of 2018

Follow up: Long term viability of the CCRC

Medium-Term Cashflow Outlook

- Minimum liquid operating reserve is mostly unfunded (approximately \$47k out of required \$3.6 million)
- Disregarding new entrance fees and entrance fee refunds due, Glen Arden is running an operational cash deficit of approximately \$250k per month
- Cashflow projections from the 2017 actuarial study show a negative cash flow of about \$2.0 million for the 2-year period of 2018-19 (negative \$1.2 million in 2018 and negative \$0.8 million in 2019). This includes projected new entrance fees and projected entrance fee refunds due.

Compliance with financial requirements

PHL section 4611 Reserves and supporting assets:

1. An operator shall maintain reserve liabilities and supporting assets in an amount and for the purposes set forth in a regulation issued by the Superintendent of Financial Services. Liquid assets must be maintained for the following reserve liabilities:

- a. Principal and interest payments and payments for taxes and insurance for up to twelve months;
- b. Total estimated operating costs for up to six months as set by the superintendent;
- c. Repairs and replacements for up to twelve months; and
- d. In addition, the amount of liquid assets must meet any cash flow requirements and conditions as set forth in a regulation.

2. The assets in support of reserve liabilities of subdivision one of this section shall meet quantitative and qualitative standards set forth in regulations issued by the Superintendent of Financial Services



MINIMUM LIQUID RESERVE REQUIREMENTS

Department of Financial Services Insurance Regulation 140 (11 NYCRR 350.6) Assets supporting reserve liabilities

(a) Once a continuing care retirement community has commenced operations and funds held in escrow are released pursuant to section 4610 of the Public Health Law, the continuing care retirement community shall maintain a debt reserve fund as described in paragraph (1) of this subdivision and an operating reserve fund as described in paragraph (2) of this subdivision.

(1) A continuing care retirement community shall maintain liquid assets in an amount greater than or equal to the aggregate of all interest and principal payments becoming due within the next 12 months under a mortgage loan, bond indenture or other long term financing of the community. Assets used to meet this requirement, which can include assets held in a debt service reserve fund established by or pursuant to a mortgage loan, bond indenture or other long term financing agreement, must be available to pay long term debt interest and principal payments should the operating revenues be insufficient for these purposes and must meet the eligibility requirements in paragraph (3) of this subdivision. Assets used to meet this requirement shall exclude assets used to meet the requirement in paragraph (2) of this subdivision.

MINIMUM LIQUID RESERVE REQUIREMENTS (cont.)

(2)(i) A continuing care retirement community shall maintain liquid assets in an amount greater than or equal to 35 percent of the sum of the following amounts:

(a) the projected operating expenses of the community during the next 12 months, which shall include such comparable expenses related to providing services to non residents of the community during the next 12 months;

(b) the projected aggregate of all taxes and insurance expenses that are related to the capital assets of the community and the responsibility of the community and due within the next 12 months;

(c) the projected debt interest payments of the community becoming due within the next 12 months, excluding debt interest payments included in paragraph (1) of this subdivision; and

(d) the projected and/or actual refund expenses of the community becoming due within the next 12 months, except where such refund is dependent on the resale of the unit.



PREVIOUS MINIMUM LIQUID RESERVE FUNDING COMMITMENT FROM GLEN ARDEN/ELANT

Due to the consistent significant deficiencies reported in the operating reserve fund, the New York State Department of Financial Services (DFS) required commitments (dated July 2, 2015) from the Board of Elant, Inc. and the Elant Foundation to fully fund Glen Arden's Operational Reserve Fund at the conclusion of the nursing home asset sale. However, despite nursing home assets being sold, the net proceeds realized were not sufficient to fund Glen Arden's Operational Reserve Fund; thus, the commitments made to DFS were not fulfilled.

MINIMUM LIQUID RESERVE REQUIREMENTS

MINIMUM LIQUID RESERVE REQUIREMENTS						
	Required Debt Reserve Fund	Assets Supporting Debt Reserve Fund	Adequacy / (Deficiency)	Required Operating Reserve Fund	Assets Supporting Operating Reserve Fund	Adequacy / (Deficiency)
2014	1,932,531	2,087,106	154,575	3,283,091	16,125	(3,266,966)
2015	1,958,625	1,975,432	16,807	3,819,460	1,014,212	(2,805,248)
2016	1,936,141	1,982,813	46,673	4,099,866	46,484	(4,053,382)
2017	1,931,016	1,990,389	59,373	3,457,701	46,825	(3,410,875)
2/28/18	1,957,750	1,943,523	(14,227)	3,623,923	46,748	(3,577,175)

Lack of Actuarial Balance / No Acceptable Plan of Correction

- Need a positive actuarial surplus to be in actuarial balance
- If in a current actuarial deficit, must be able project a positive surplus within 7 years to have an acceptable correction plan
- End 2014 -- \$10.3 million deficit, 8 years to turn positive
- End 2016 -- \$10.7 million deficit, 8 years to turn positive
- End 2017 -- \$13.6 million deficit, 9 years to turn positive
- Full impact of unauthorized discounts now in 2017 study
- Other challenge – long-term capital improvement plan

Long-Term Financial Outlook for Glen Arden

- The CCRC is likely to need capital infusions for various purposes:
 - ❑ To fully fund minimum liquid operating reserve to avoid future operational cash shortfalls
 - ❑ To make necessary capital improvements to maintain market appeal of community
- Size of capital infusion must be large enough to produce positive actuarial surplus (now, or within 7-year timeframe)
- Must achieve a stable ILU occupancy of 85% or more
- Type C fee-for-service contract may help

Departmental action taken

On April 3, 2018, the Departments conducted a teleconference with Elant's Board of Directors and representatives of Glen Arden to discuss concerns over operations at the CCRC. Through the meeting and follow-up conversations, it was determined that a strategic plan would be developed by the Board to restore Glen Arden to financial stability and compliance with financial requirements under DFS insurance regulations for CCRCs.

The strategic plan would include a timeline with deliverables and milestones to be achieved.

Elant/Glen Arden actions taken to date

- Elant committed to sell a 10.4 acre piece of property with the sale proceeds to be used to help restore financial reserve requirements. The property is currently listed on the market.
- Elant has identified additional resources available in the future to be used to help restore the financial reserve requirements. This includes the closing on the sale of a Fishkill property and future monies to be realized by Elant.
- Implementation of a Type C contract offering. A pricing structure was developed and Type C contract language is under review by the Departments.

Elant/Glen Arden actions taken to date (cont.)

- Sale of the CCRC. Elant has developed a timeline and key objectives for the sale of the CCRC. Elant is currently engaging potential purchasers who are interesting in purchasing the CCRC for the purpose of continuing CCRC operations.
- Glen Arden has implemented an austerity budget and is trying to identify opportunities for operational efficiencies.
- Elant is engaging a consultant to assist in the development of a strategic plan and possible sale of the CCRC.

Questions?

Next Steps

Objectives for a Plan of Correction

Main objective: to reduce and eventually eliminate operational cash deficits at the CCRC with the aim of generating cash surpluses that can be used with additional cash provided by Elant to meet financial reserve requirements for CCRCs and obtain actuarial balance within the required timeframes. The CCRC must become self sufficient in a stand alone model.

Secondary objective:

To assure that adequate cash is available to meet expense obligations should operational cash shortfalls occur.

Challenges to Consider

- Timeliness of available cash to cover operational cash shortfalls. Elant may have to convert non-liquid assets or wait for future cash resources to become available.
- Need for a realistic and effective plan of correction that includes obtaining the necessary occupancy levels to generate sufficient monthly revenue to sustain operations.
- Timeframes required to implement necessary actions steps within a plan of correction.
- Risk for continued operational cash shortfalls to erode available cash resources that are required to restore operating reserves and fund capital improvement needs.

Need for Results

- What action(s) can be taken to ensure that a corrective action plan is developed, implemented and achieves the desired results?
- What is the timeline for results to be achieved?
- How will progress be monitored?
- What should occur if results are not achieved?

Authority of the CCRC Council

Pursuant to NY Pub Health §4602(2)(h), the Council can revoke, suspend, limit or annul a Certificate of Authority under conditions set forth in §4615, including when such action is being taken at the specific request of any participating agency.

Given the lack of an acceptable corrective action plan, and based on the continued deficient funding of the required operating reserve, DOH and DFS have determined that action by the CCRC Council in this matter is necessary.

Request to the CCRC Council by DOH and DFS

Pursuant to NY Pub Health §4615(3), the Department of Health and the Department of Financial Services request the CCRC Council to commence a hearing seeking to limit Glen Arden's Certificate of Authority until Glen Arden satisfies conditions imposed by the Departments of Health and Financial Services.

Conditions to be satisfied

- Fully fund the Operating Reserve Fund, over a period of time agreed to by the DOH and DFS, in an escrowed account with a 3rd party financial institution licensed in New York State. This requirement was estimated at approximately \$3.6 million at the end of February 2018. DOH and DFS approval would be required to access escrowed funds.
- Development of a strategic plan/corrective action plan within 60 days, approved by DOH and DFS, to reduce and eventually eliminate the operational cash deficits at Glen Arden. The plan must include a timeline with deliverables to be met and milestones to be achieved.
- Retention of an independent qualified organization within 60 days, approved by DOH and DFS, to monitor Glen Arden's progress and performance against a strategic plan/corrective action plan. Regular reports must be provided to DOH, DFS and the CCRC Council on progress being made and necessary adjustments to the plan should substantial progress not occur.

Recommendation to aid in meeting the required conditions

It is recommended that Glen Arden CCRC continue to engage and solicit input from The New York State and National CCRC Industry. To facilitate this input, Glen Arden may wish to explore the following possible strategies:

- Solicit best practices from other CCRCs.
- Assemble a panel of NYS CCRC Industry experts to provide input and feedback on strategies being considered and actions being taken.
- Regularly attend, in person or via telephone, LeadingAgeNY CCRC cabinet meetings.
- Review the educational sessions being offered at LeadingAge New York's CCRC Summer Summit in Endwell, NY to determine if educational opportunities exist that may benefit key Glen Arden staff.