

FLORIDA OFFICE OF
INSURANCE REGULATION

Presentation to the Governor's Continuing Care Advisory Council

September 29, 2016



Reading of the Conflict of Interest Statement

Chapter 112, Florida Statutes



Duties of the Advisory Council

- **Meet at least once a year**
- **Elect officers**
- **Hold other meetings as required**
- **Keep a record of its proceedings**
- **Act in an advisory capacity to the Office**
- **Recommend to the Office needed changes in statutes and rules**
- **Upon the request of the Office, assist with any corrective action, rehabilitation, or cessation of business plan of a provider**



Distribution of Travel Reimbursement Forms



Travel Voucher

STATE OF FLORIDA VOUCHER FOR REIMBURSEMENT OF TRAVEL EXPENSES		TRAVELER: EXAMPLE			DEPARTMENT OF INSURANCE & TREASURER					
		SOCIAL SECURITY NO.:	XXX-XX-XXXX		NON-EMPLOYEE		HEADQUARTERS: TALLAHASSEE			
		ORGANIZATION NO.:	43-82-23-10-000R1				RESIDENCE (CITY):	THE CITY YOU RESIDE IN		
Date	Travel Performed From Point of Origin To Destination	Purpose or Reason (Name of Conference)	Hour of Departure and Hour of Return	Meals for Class A & B Travel	Per Diem or Actual Lodging Expense	Class C Meals	Map Mileage Claimed	Vicinity Mileage Claimed	Other Expenses/ Common Carrier Paid by Traveler	
									Amount Type	
09/17/2013	CITY TO TALLAHASSEE AND RETURN	ANNUAL CONTINUING CARE ADVISORY COUNCIL MEETING	TIME DEPARTED						HOTEL	
			TIME RETURNED						TOLLS AIRPORT PARKING AVIS CAR RENTAL	
							MILES			
REMEMBER TO SIGN THE VOUCHER AND ATTACH ALL ORIGINAL RECEIPTS										
Statement of Benefits to the State or Attach Authorization Form (Conference or Convention):					Column Total	Column Total	Column Total	0 MI. @MI.	Column Total	SUMMARY TOTAL
PLEASE NOTE THAT THIS VOUCHER IS JUST AN EXAMPLE OF EXPENSES THAT MAY OCCUR. ALL EXPENSES MAY NOT APPLY TO EVERY PERSON. PLEASE REMEMBER TO SIGN THE VOUCHER AND ATTACH ALL ORIGINAL RECEIPTS.					TOTAL		TOTAL			
					LESS CLASS C MEALS (Employees Only)					
REVOLVING FUND: CHECK NO.:		MAIL CHECK TO:			NET AMOUNT DUE FOR ACCOUNTING USE ONLY:			OBJECT		TOTALS AMOUNT
CHECK DATE:					ORG: _____			_____		_____
AGENCY VOUCHER NO.:					EO: _____			_____		_____
					NET AMOUNT DUE \$					
I hereby certify or affirm that the above expenses were actually incurred by me as necessary travel expenses in the performance of my official duties; attendance at a conference or convention was directly related to official duties of the agency; any meals or lodging included in a conference or convention registration have been deducted from this travel claim; and that this claim is true and correct in every material matter and same conforms in every respect with the requirements of section 110.061, Florida Statutes.					Pursuant to Section 112.031(3)(a), Florida Statutes, I hereby certify or affirm that to the best of my knowledge the above travel was on official business of the State of Florida and was performed for the purpose(s) stated above.					
TRAVELER'S SIGNATURE: X TITLE: Council Member					SUPERVISOR'S SIGNATURE: _____					
DATE PREPARED: X					SUPERVISOR'S NAME: _____					
					SUPERVISOR'S TITLE: _____ DATE: _____					
TRAVEL PERFORMED BY COMMON CARRIER OR STATE VEHICLE <i>THIS SECTION REQUIRED TO BE COMPLETED ONLY WHEN COMMON CARRIER IS BILLED DIRECTLY TO THE STATE AGENCY.</i>										
DATE	Ticket Number or State Vehicle Number	From	To	Amount	Name of Common Carrier or State Agency owning vehicle					

**Review & Approval of Minutes of
the Governor's Continuing Care
Advisory Council Meeting
(September 29, 2015)**



University Village Status Update



Acquisition Statute Overview

Section 628.4615, Florida Statutes



Actions Requiring an Acquisition Filing

- Section 628.4615(13)(a), Florida Statutes
 - “Acquisition” includes any form of change in control whereby any person or affiliated person acquires or attempts to acquire, directly or indirectly, 10 percent or more of the ownership interest or assets of a CCRC or of a controlling company.
- Examples include but are not limited to:
 - Purchase of interest in a provider or parent company
 - Purchase of a facility’s asset(s)
 - Change of the general partner of a provider
 - Mergers



Application Requirements

- An acquirer is required to file a Letter of Notification within 5 days of the agreement to acquire or within 5 days after the acquisition of the ownership interest;
- The acquisition application is required to be filed within 30 days after the acquisition has occurred;

and

- The Office has approved the acquisition.



Application Requirements (cont.)

- During the pendency of the proceeding or review period by the Office, any person or affiliated person complying with the filing requirements of this section may proceed and take all steps necessary to conclude the acquisition so long as the acquisition becoming final is conditioned upon obtaining office approval.
- As a practical matter, pre-approval is considered necessary. A transaction may be required to be unwound if the provisions of the acquisition statute are not followed.



Unapproved Acquisitions

- An acquisition that does not comply with Section 628.4615, Florida Statutes, is void.
- If an interest in a Provider is acquired without approval, the Office may:
 - Suspend or revoke the Certificate of Authority of the Provider
 - Issue an Order directing the unlawful acquirer to divest itself of its interest in the Provider
 - Refer the matter to DFS to file a petition for appointment of a receiver



Regulatory Actions Overview



Administrative Fines

- Section 651.108, Florida Statutes
- If one or more grounds exist for discretionary revocation or suspension of a Certificate of Authority, the Office may impose a fine upon the provider in an amount not to exceed \$1,000 per violation.
 - Grounds are enumerated in Section 651.106, Florida Statutes, and include failure to comply with, or violation of, any proper order or rule of the Office or violation of any provision of Chapter 651, Florida Statutes.
- If it is found that the provider has knowingly and willfully violated a lawful order of the Office or a provision of Chapter 651, Florida Statutes, the Office may impose a fine in an amount not to exceed \$10,000 for each such violation.



Suspension or Revocation: The Process

- Sections 651.106, 651.107, and Chapter 120, Florida Statutes
- Initial Order of Suspension or Revocation
 - Alleges grounds for suspension or revocation pursuant to Section 651.106, Florida Statutes
 - Notice of Rights attached
 - Provider has 21 days to file a Petition requesting a hearing
- Hearing
 - Disputed issues of material fact - Division of Administrative Hearings (DOAH)
 - No disputed issues of material fact - Office of Insurance Regulation
- Proposed Recommended Orders filed
- Recommended Order issued by hearing officer
- Final Order issued by the Office
- Suspension or revocation does not take effect until a Final Order is issued
- A provider may appeal the Final Order to the Florida First District Court of Appeal



Suspension: The Effect

- Suspension period is up to 1 year.
- Provider is prohibited from writing new contracts until the suspension is lifted.
- Provider must continue to honor its existing contracts.
- Provider must continue to file its annual statement and pay license fees and taxes.
 - If the provider does not file, its Certificate of Authority terminates.
- Upon expiration of the suspension period:
 - Certificate of Authority is reinstated if:
 - The Certificate of Authority has not terminated;
 - The causes of suspension have been removed; and
 - The Provider is in compliance with Chapter 651.
 - If not reinstated, the Certificate of Authority is deemed to be revoked as of the end of the suspension period or upon failure to continue during the suspension period, whichever event occurs first.



Revocation: The Effect

- Provider's Certificate of Authority is permanently revoked.
- Revocation does not relieve a provider from the provider's obligation to residents under the terms and conditions of any continuing care or continuing care at-home contract between the provider and residents or the provisions of this chapter.
- Provider must continue to file its annual statement and pay license fees, and taxes as required under Chapter 651 as if the certificate of authority had continued in full force.
- Provider is permanently prohibited from writing new continuing care contracts.



Receivership: The Process

- Section 651.114 and Part I of Chapter 631, Florida Statutes.
- Office finds that sufficient grounds exist for rehabilitation, liquidation, conservation, reorganization, seizure, or summary proceedings.
- Office shall notify the chair of the Continuing Care Advisory Council before invoking its powers under Part I of Chapter 631, Florida Statutes.
- Office refers the provider to the Department of Financial Services, Division of Rehabilitation and Liquidation (“DFS”) to petition for the appointment of receiver.
- DFS files a petition for the appointment of receiver in Leon County Circuit Court.
- DFS and Provider participate in discovery process.
- Hearing takes place.
- Judge rules on whether or not DFS should be appointed as receiver.



Receivership: The Effect

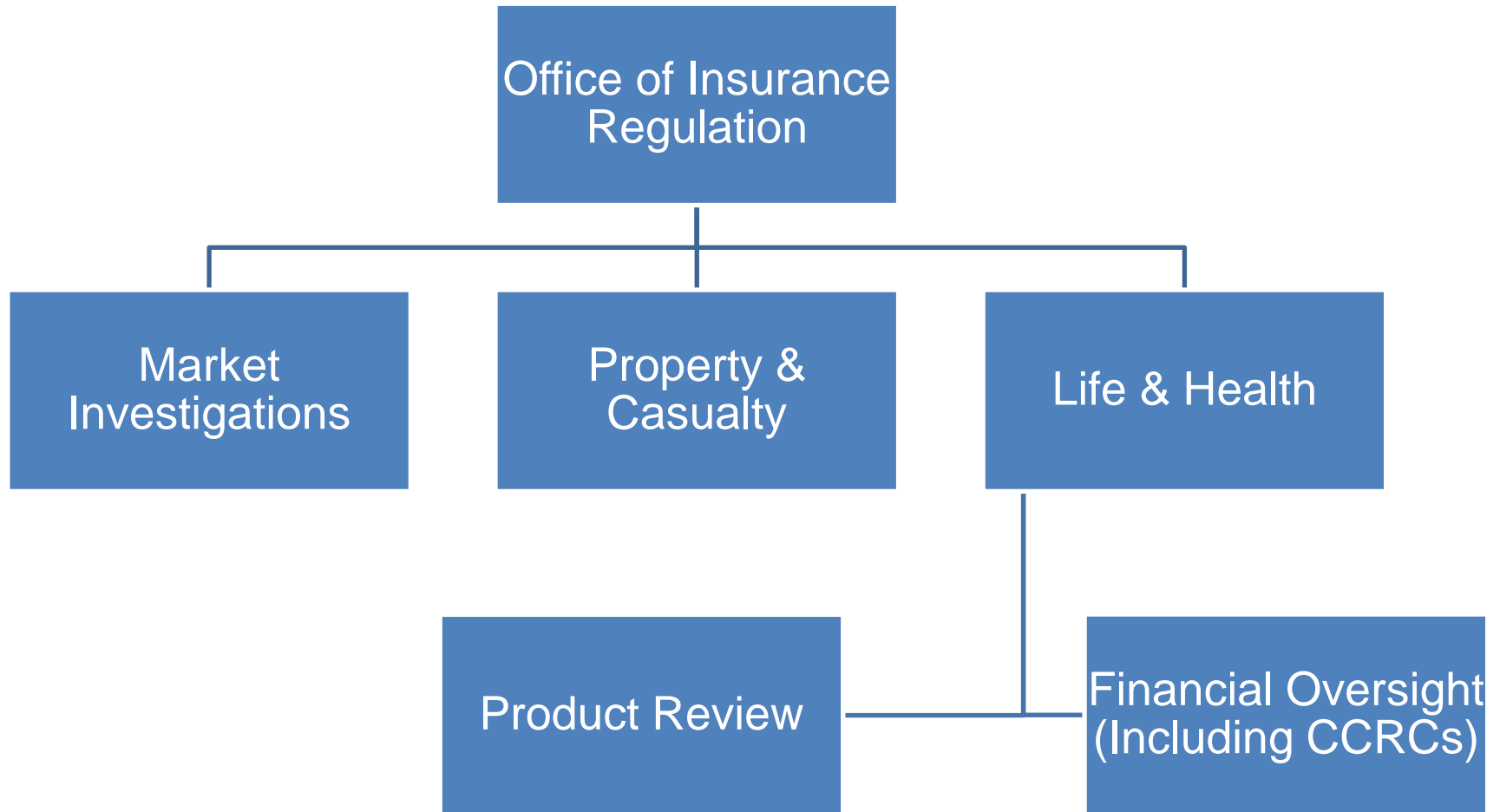
- If a receiver is appointed, DFS is the entity that will be appointed as receiver by the court.
- A Deputy Receiver is appointed by DFS to oversee the receivership process and will be in charge of any on-site receivership operations.
- If receivership is for the purpose of rehabilitation, the facility continues to operate under the supervision of the receiver.
- A team is placed on-site to manage the daily operations of the provider.
- DFS stands in the shoes of the provider and can take actions on its behalf, including arranging a sale.



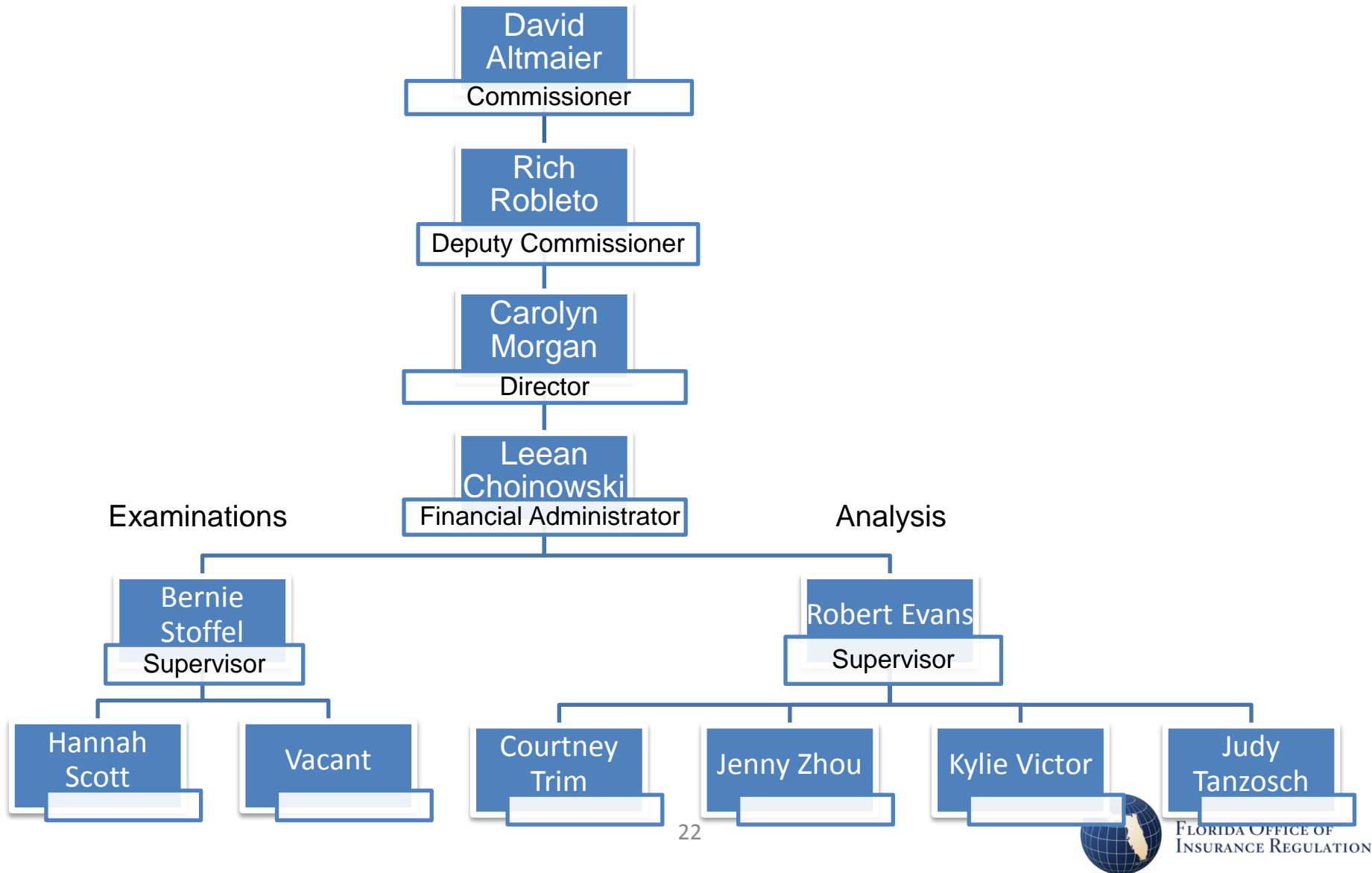
Filing Process Overview



Simplified OIR Organization Chart



Simplified CCRC Organization Chart



Consolidated CCRC Oversight

- Applications
- Financial Filings and Reports
- Contract and Addendum Form Filings
- Disclosure Documents
- Escrow Agreements
- Examinations: Market Conduct and Financial
- Investigations
- Data Calls



Consumer Resources

- Department of Financial Services, Division of Consumer Services
 - Consumer Complaints
 - Inquiries
 - Mediation Services
- Consumer Helpline Contact Information
 - Statewide Toll-Free: 1-877-MY-FL-CFO (1-877-693-5236)
 - Out of State Callers: 850-413-3089
 - Email Address:
Consumer.Services@myfloridacfo.com



Public Records

- Providers, management companies, consumers, and others requesting public records should contract the Office's Public Records Office.
- Written public records requests should be sent to PublicRecords@flor.com.
- Telephonic requests are accepted by the Public Records Office at 850-413-4223.



Applications

- File Applications in iApply
 - <https://iportal.fldfs.com/iframe/fass/default.asp>
- Applications include:
 - Provisional Certificates of Authority;
 - Certificates of Authority;
 - Expansions (in development);
 - Acquisitions;
 - Waiver of Acquisition;
 - New Officers or Directors; and
 - Corporate Amendments



Application Process

- Pre-filing meetings
- Pre-review of applications
- First clarification letter issued within 30 days
- Additional clarification letters issued as required
- Consent Order effectuating licensure
- Applications typically approved or disapproved within 90 days
- Note: Applications should present a complete, approvable plan that allows the Office to make the findings statutorily required for licensure.



Application Resources

- Company Admissions Information
 - http://www.floir.com/sections/appcoord/is_ac_index.aspx
- Introductory Guide to Online Company Admissions
 - http://www.floir.com/siteDocuments/Introductory_Guideto_Online_Company_Admissions_11.09.09.pdf
- Provisional Certificate of Authority Application
 - <http://www.floir.com/siteDocuments/OIR-C1-471.pdf>
- Certificate of Authority Application
 - http://www.floir.com/siteDocuments/CC_COA.pdf
- Expansion Application
 - <http://www.floir.com/siteDocuments/oir-a3-476.pdf>
- Acquisition of a Specialty Insurer Application
 - <http://www.floir.com/siteDocuments/OIR-C1-448.pdf>



Contract and Addendum Form Filings: The Process

- Submit Contract and Addendum Form Filings via I-File
 - <https://iportal.fldfs.com/ifile/fass/default.asp>
- Submitted forms should be in final form
- When submitting an addendum, amendment, or endorsement for approval, the provider must identify the previously approved forms with which the addendum, amendment, or endorsement will be used
 - Include the filing number of the previous approval
 - If the number cannot be provided, a stamped copy of the form must be uploaded as a Miscellaneous Document
- Checklist of requirements available:
 - Residency Contracts: <http://www.floir.com/siteDocuments/CCRCResidentContractWorksheet.pdf>
 - Reservation Contracts: <http://www.floir.com/siteDocuments/CCRCReservationContractWorksheet.pdf>
- First clarification letter issued within 30 days
- Submit written responses to the Office's clarification letter questions and revised forms
- Submitting a redlined version of the form will expedite the review process. Please upload redlined versions of forms as "Miscellaneous Documents" not "Forms"
- Forms typically approved or disapproved within 45 days



Data Calls

- A data call is a type of target examination that allows the Office to collect, aggregate, and analyze detailed information from an entire market.
- Submit response via the Data Collection and Analysis Modules (“DCAM”) system
 - <https://apps8.fldfs.com/DCAM/Logon.aspx>
- To respond to a Data Call, provider must submit:
 - Responsive information; and
 - A notarized affidavit.
- Failure to respond to a Data Call is a violation of the examination statute.



Other Filings

- All other filings should be submitted via REFS
 - <https://apps8.fldfs.com/refs/Account/Login>
- Other filings include:
 - Monthly, Quarterly, and Annual Reports
 - Notices regarding new financing, additional financing, or refinancing
 - Escrow Agreements for approval
 - Disclosure Documents



Summary and Comparison of CCRC Data





Florida CCRCs

2015

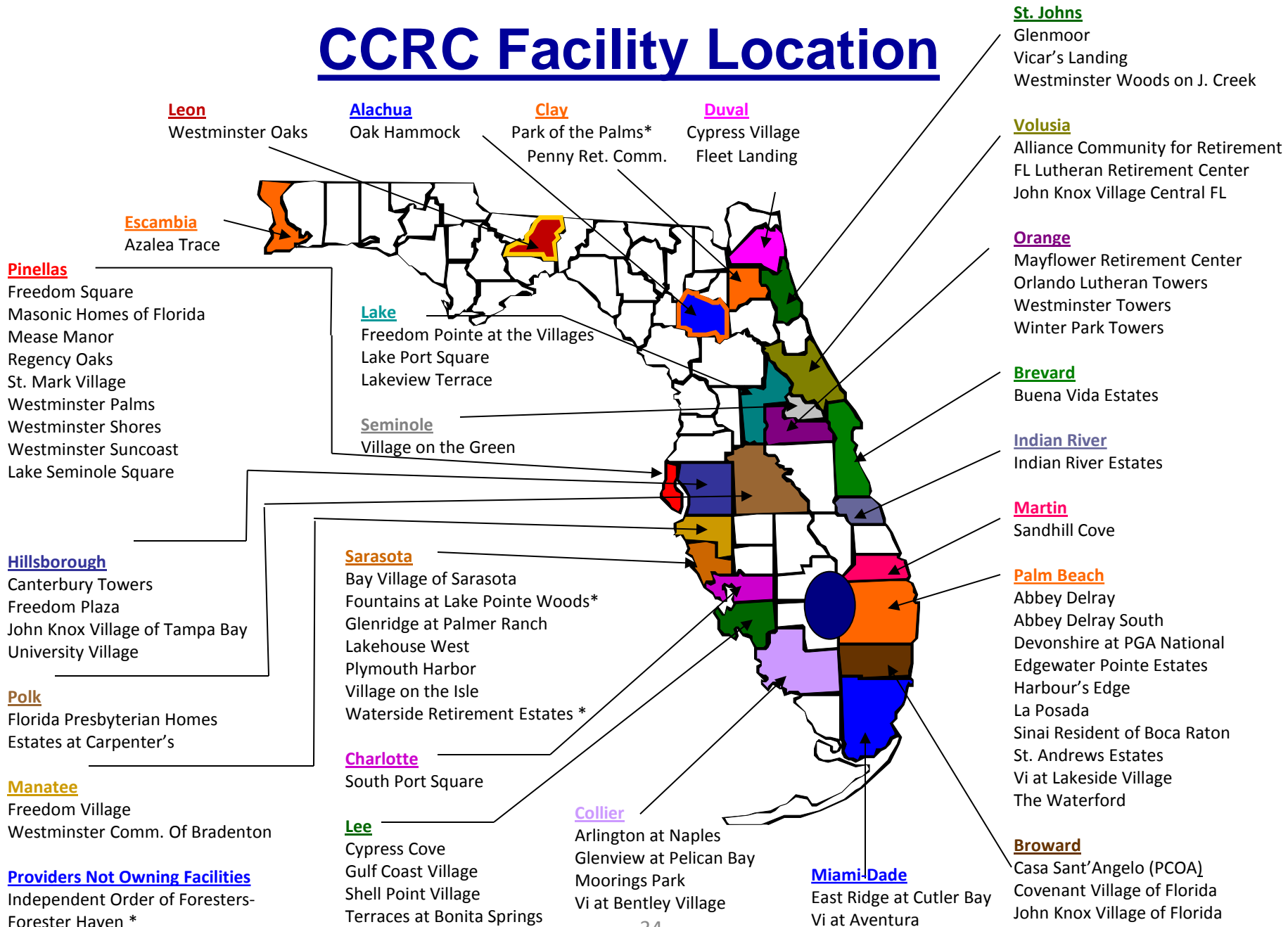
- 71 licensed CCRCs
- 1 PCOA
- 8 Monthly Reporters
- 58 Quarterly Reporters
- 9 Accredited Providers
- 4 CCRCs in Run-Off

2016

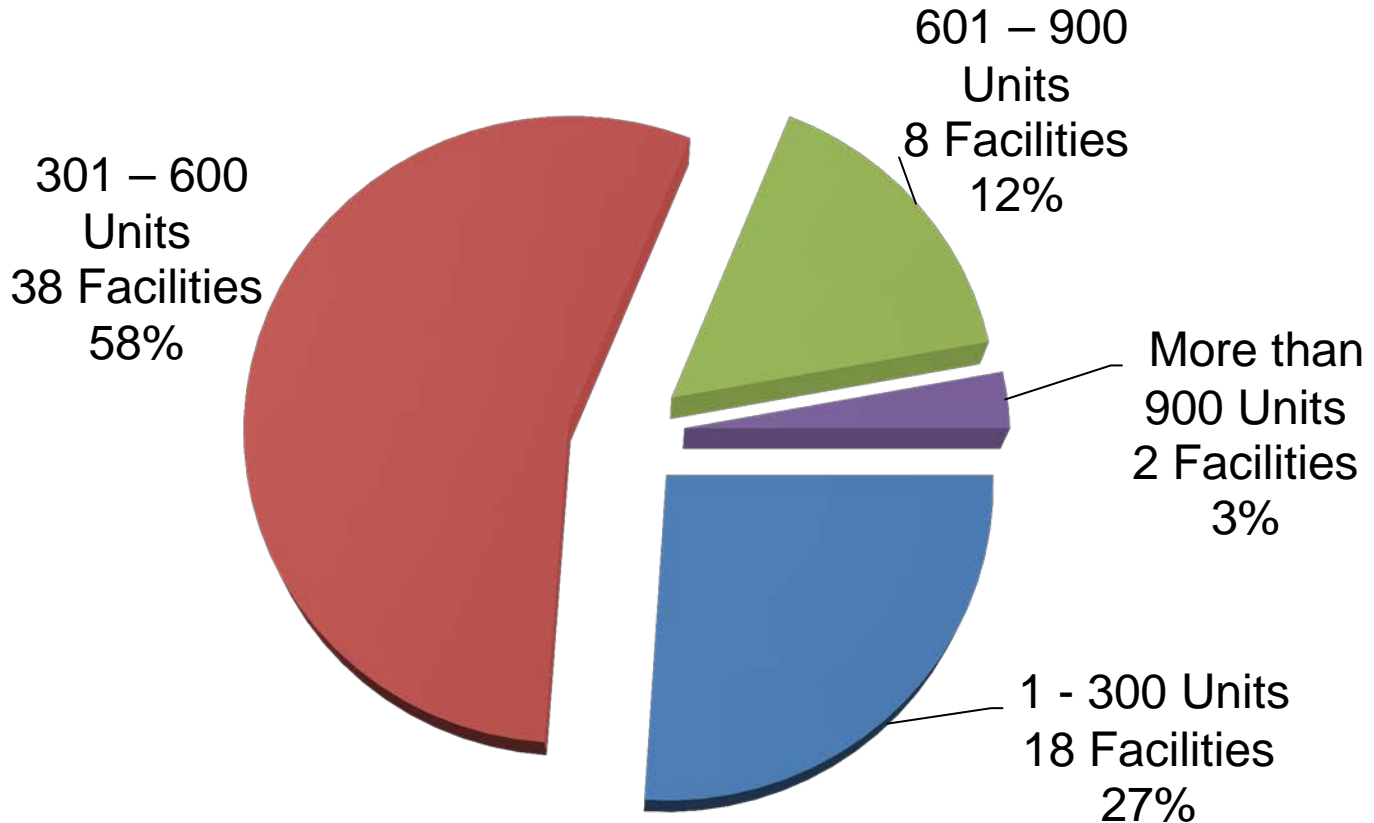
- 71 licensed CCRCs
- 1 PCOA
- 7 Monthly Reporters
- 64 Quarterly Reporters
- 9 Accredited Providers
- 4 CCRCs in Run-Off



CCRC Facility Location



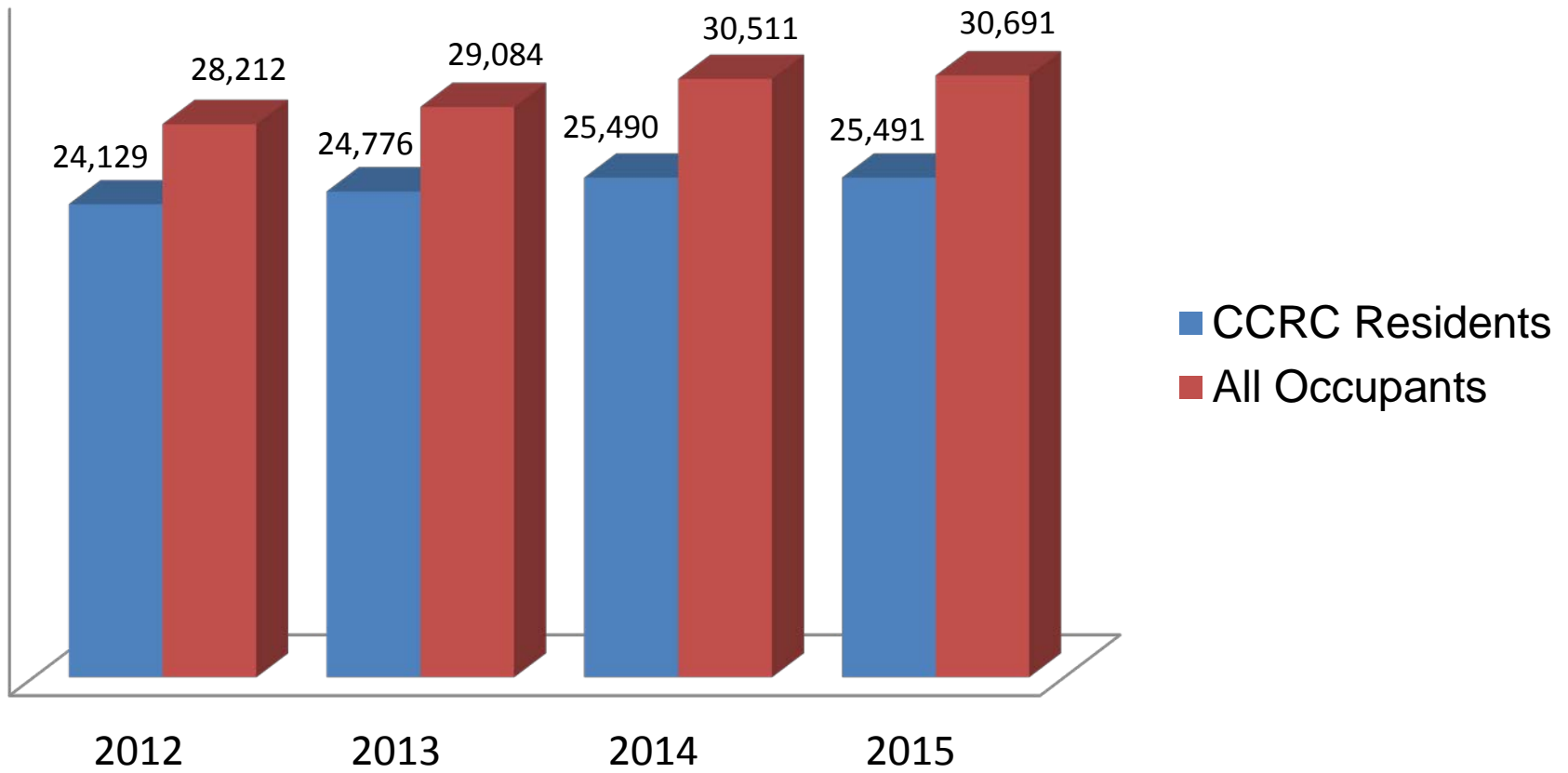
Facility Size by Unit Count



- One CCRC failed to submit an annual report for 2015.



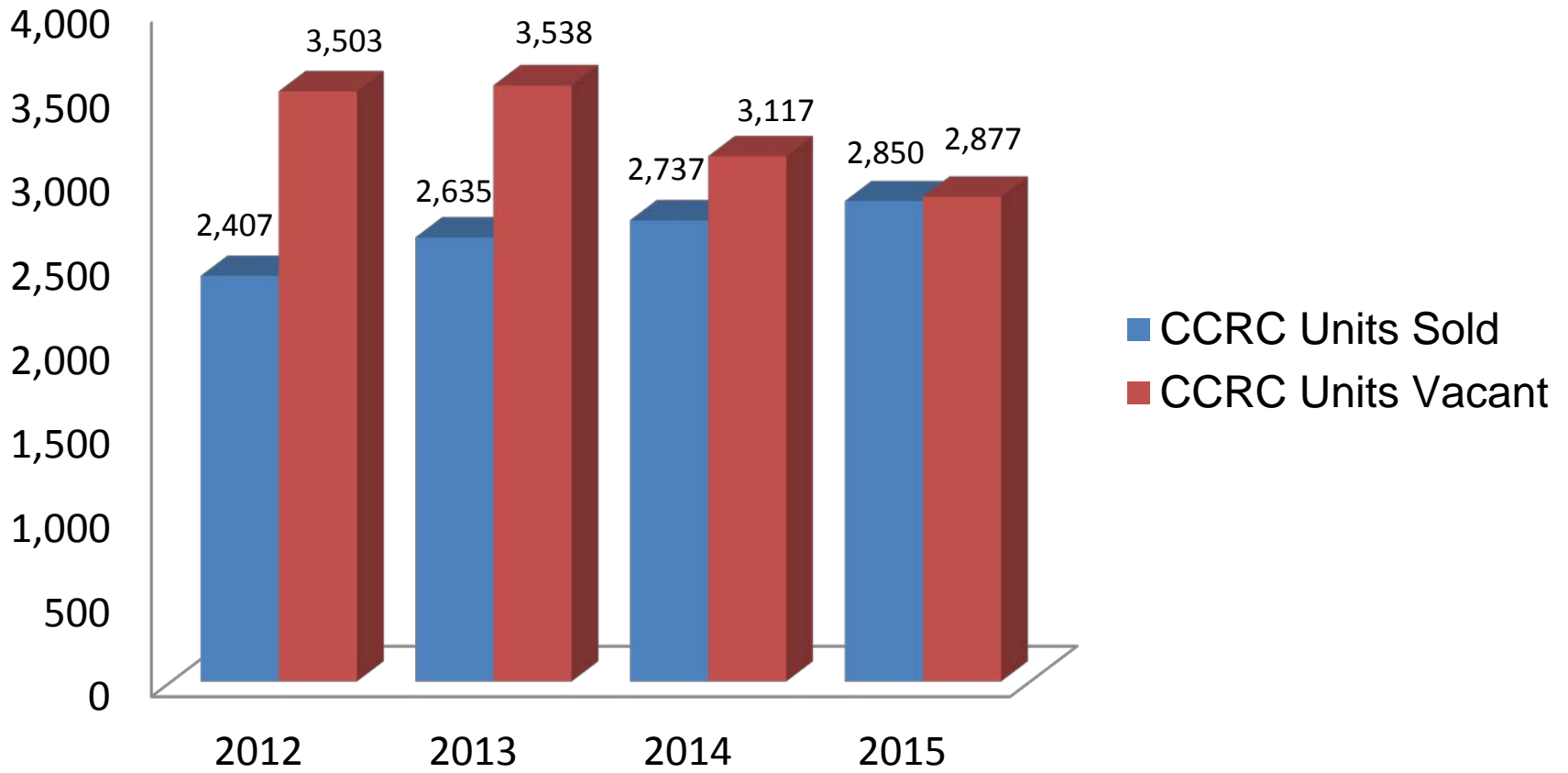
Total Occupancy



- One CCRC failed to submit an annual report for 2015.



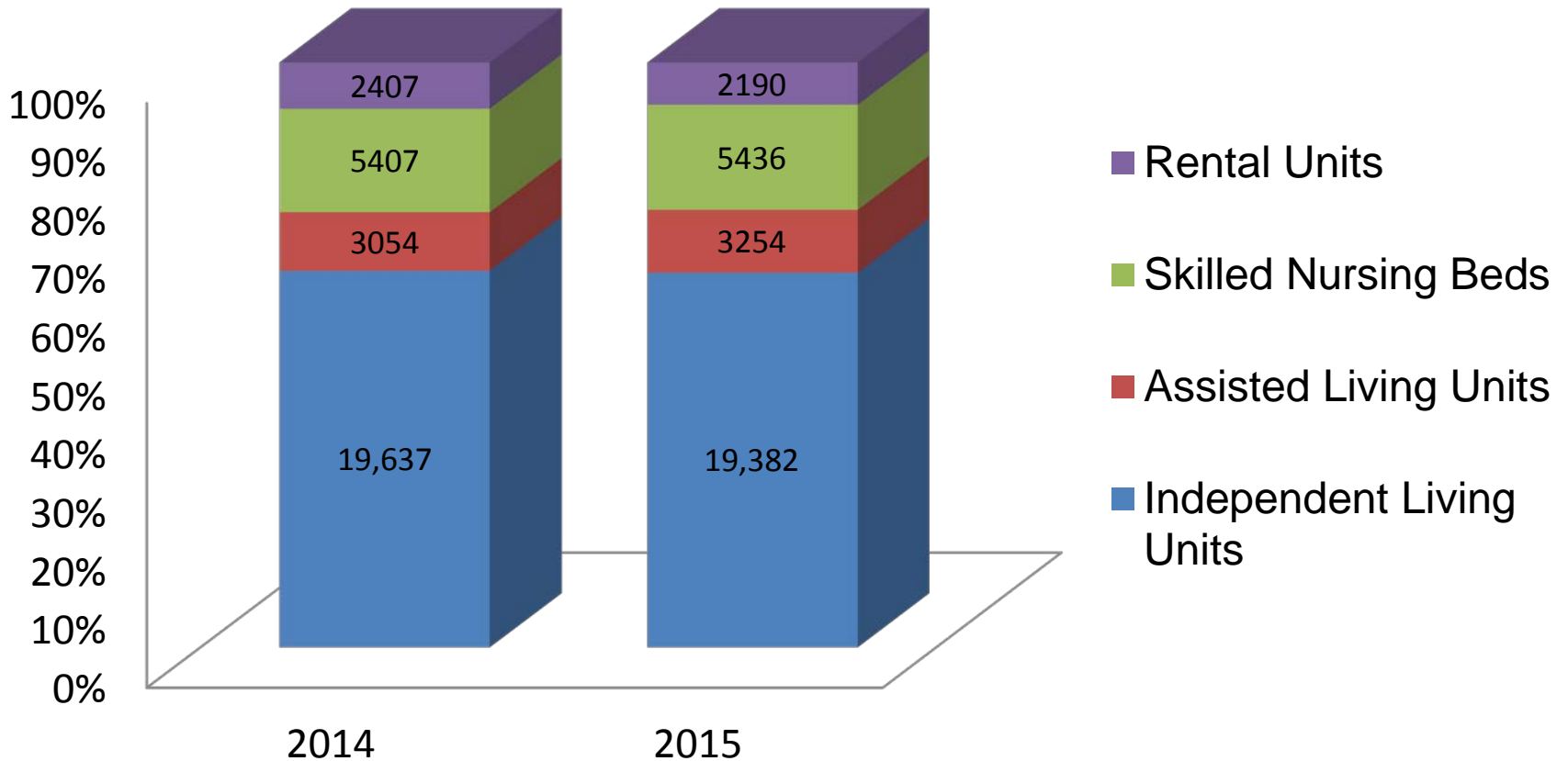
CCRC Units



- One CCRC failed to submit an annual report for 2015.



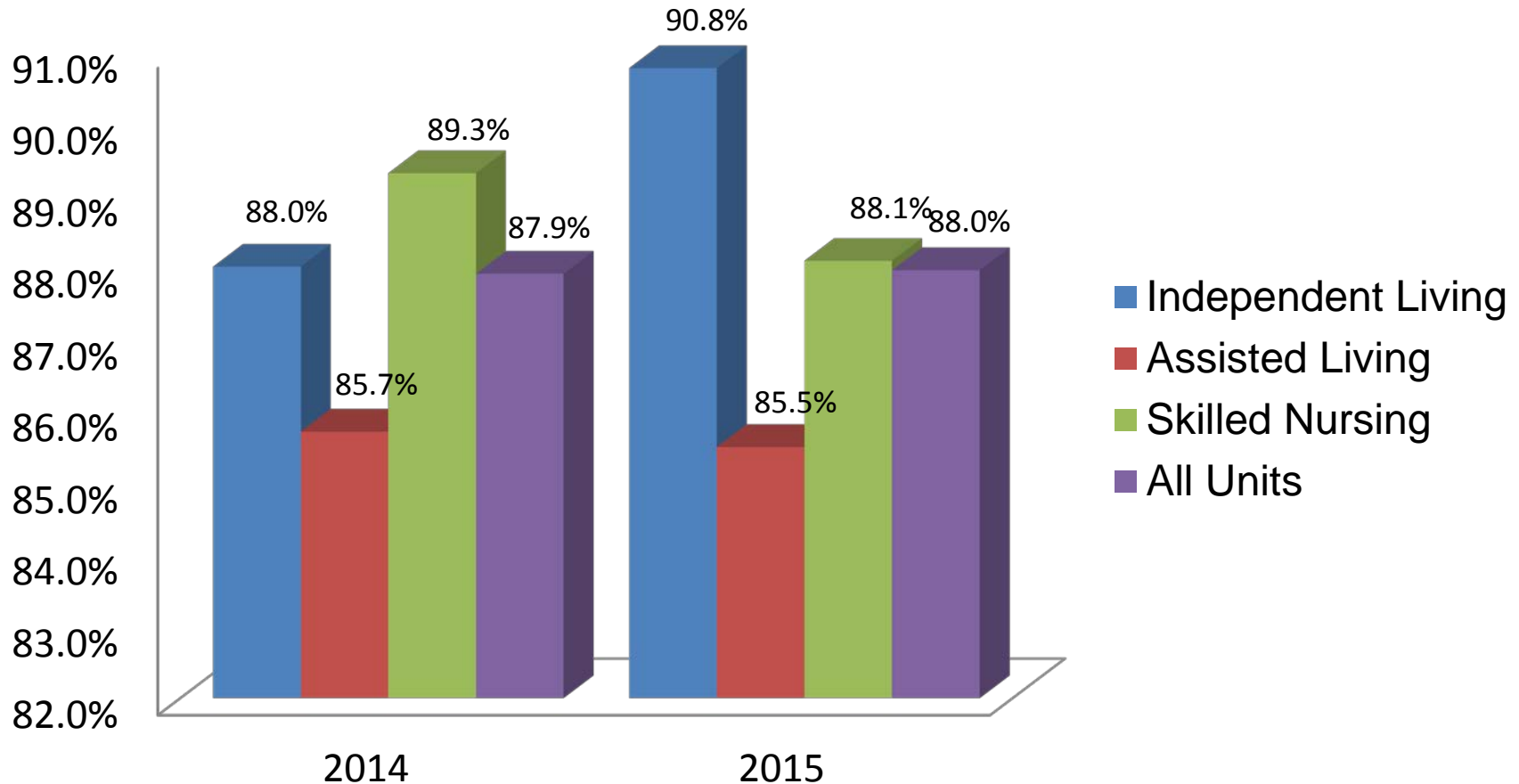
CCRC Units (cont.)



- One CCRC failed to submit an annual report for 2015.



Median Occupancy All Units



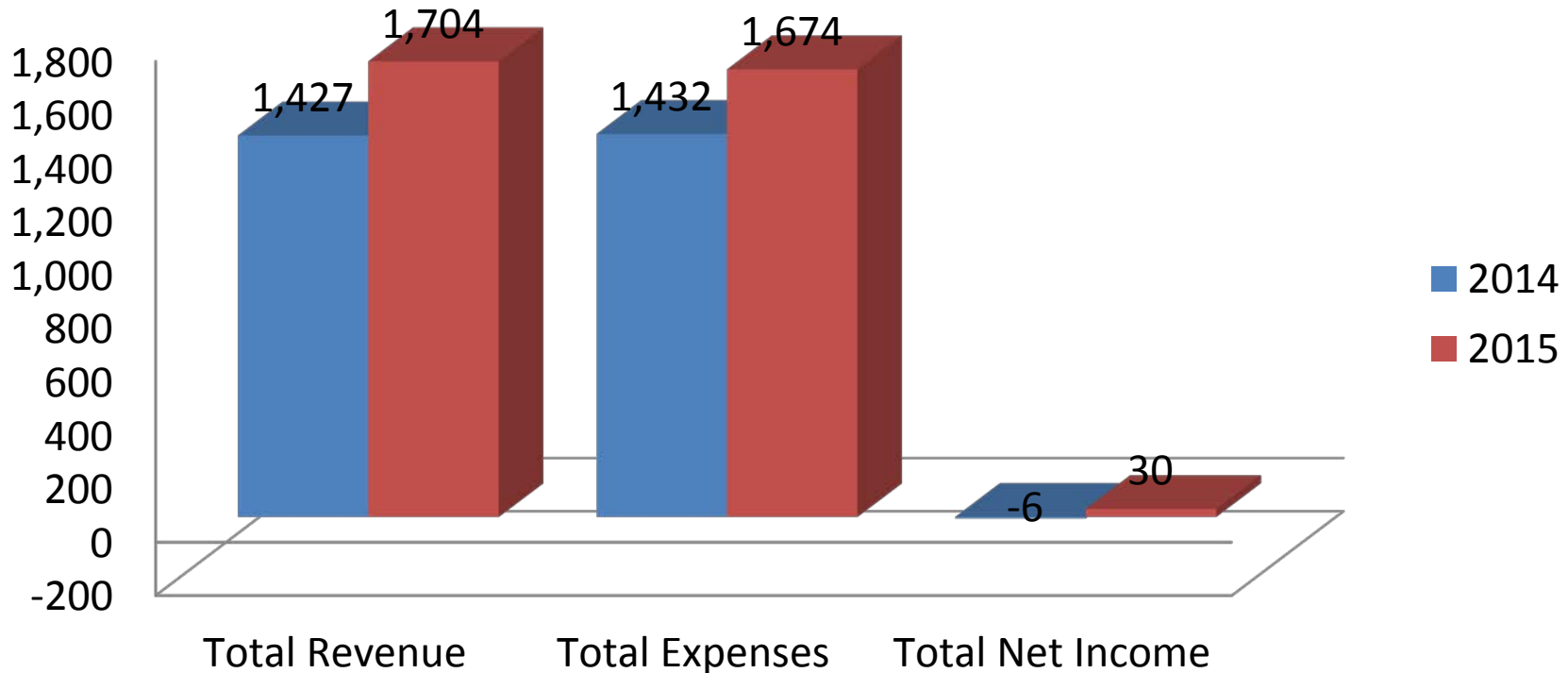
- One CCRC failed to submit an annual report for 2015.



Florida CCRC Industry Data

CCRCs Total Revenue, Expenses and Net Income

(In millions)

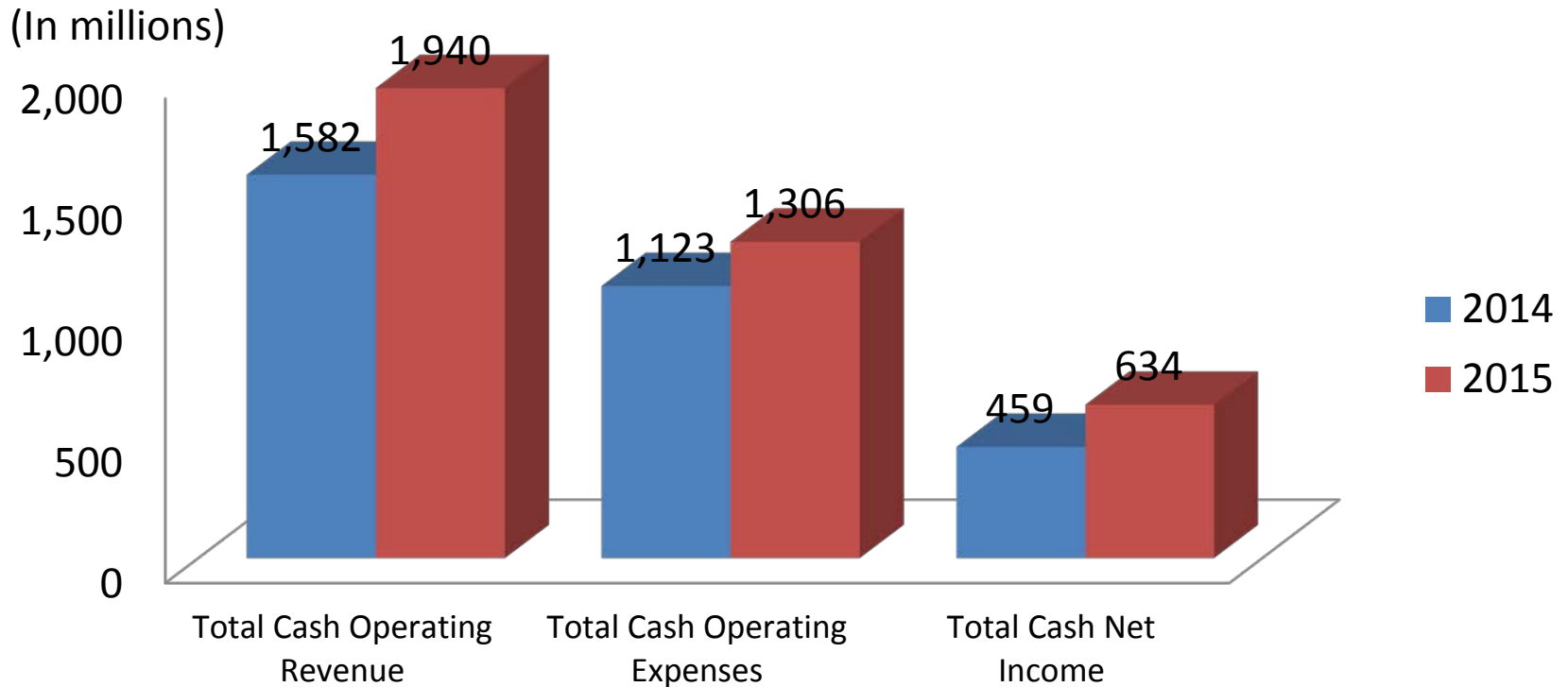


- One CCRC failed to submit an annual report for 2015.



Florida CCRC Industry Data (cont.)

CCRCs Total Cash Operating Revenue, Cash Operating Expenses and Cash Net Income



Total Cash Operating Revenue = Total Revenue (including Entrance Fees Received) excluding Amortized Entrance Fees

Total Cash Operating Expenses = Total Expenses less Facility Interest, Depreciation, and Amortization Expense

- One CCRC failed to submit an annual report for 2015.



Median CCRC Data

2014

- Median Revenue
 - \$18,885,015
- Median Expenses
 - \$18,776,753
- Median Net Income
 - \$89,903
- Median Cash Net Income
 - \$4,401,488
- Median Revenue Growth
 - Monthly Fees 4.00%
 - Health Care Revenue 4.15%
 - Other Income 21.62%

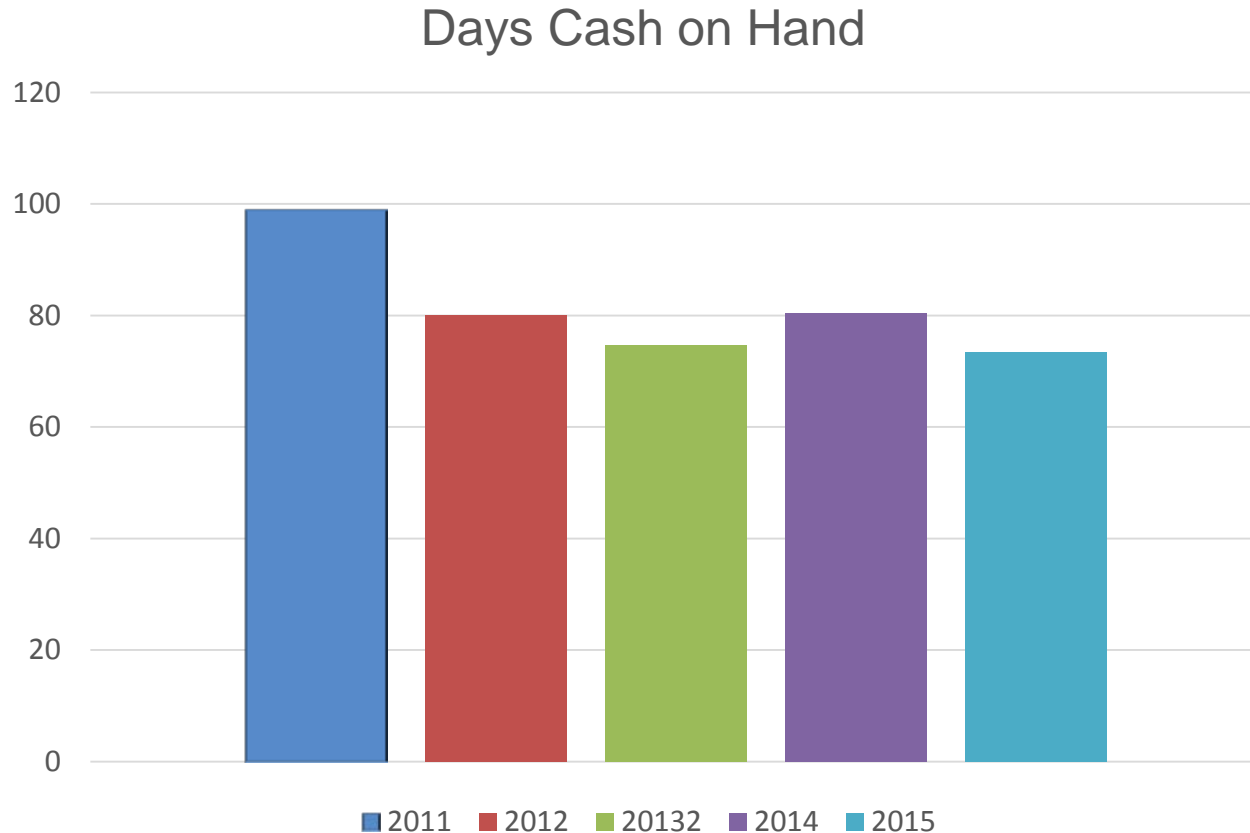
2015

- Median Revenue
 - \$22,220,431
- Median Expenses
 - \$21,767,782
- Median Net Income
 - \$ (73,238)
- Median Cash Net Income
 - \$5,372,759
- Median Revenue Growth
 - Monthly Fees 2.95%
 - Health Care Revenue 4.86%
 - Other Income (15.97%)

- One CCRC failed to submit an annual report for 2015.



CCRC Median Ratios

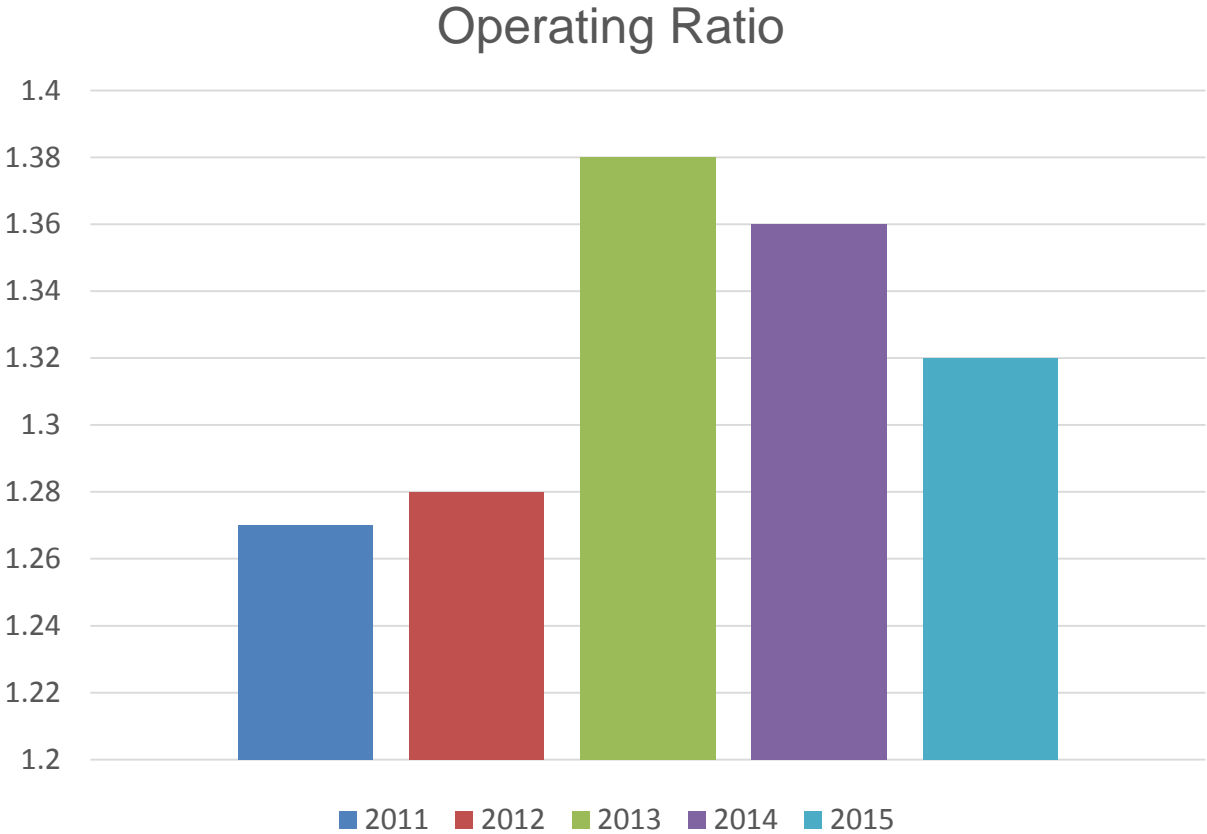


Calculated pursuant to Rule 69O-193.006(6)(b)2., Florida Administrative Code

- One CCRC failed to submit an annual report for 2015.



CCRC Median Ratios (cont.)



Calculated pursuant to Rule 69O-193.006(6)(a), Florida Administrative Code

- One CCRC failed to submit an annual report for 2015.



Consumer Services: CCRC Complaints

July 1, 2015 - June 30, 2016



Complaint Resolution

1. Claim Payment: 07/27/2015

- A refund that had not yet been paid that had a claim payable for less than what was expected.
- Status: Closed
- Resolution: Company position was explained.

2. Claim Dispute: 08/07/2015

- A dispute regarding the refund amount due after move-in of the resident.
- Status: Closed
- Resolution: Impasse



Complaint Resolution

3. Billing Issue: 08/27/2016

- A health claim billing dispute regarding clarity on how money is being applied.
- Status: Closed
- Resolution: Facility's position was explained.

4. Claim Issue: 09/14/2016, 02/03/2016

- Request for mediation by provider with resident
- Status: Closed
- Resolution: Settled prior to mediation.



Complaint Resolution

5. Requesting Refund: 09/24/2015

- A dispute regarding an overdue refund to a resident who left the facility.
- Status: Closed
- Resolution: Notice Issued – No Relief

6. PIP Refund: 02/04/2016

- A dispute regarding a refund that was not paid due to contractual rules that were not given to the resident.
- Status: Closed
- Resolution: Notice Issued – No Relief



Data Call: Refunds



Refund Data Calls

- The refund data call is an ongoing target examination.
- The Office collects information about the entrance fee refunds that are outstanding on the “as of” date of the data call.
- The Office collects this information from all CCRC facilities twice annually, as of June 30 and December 31.

2014	2015	2016
August 31, 2014	June 30, 2015	June 30, 2016
December 31, 2014	December 31, 2015	

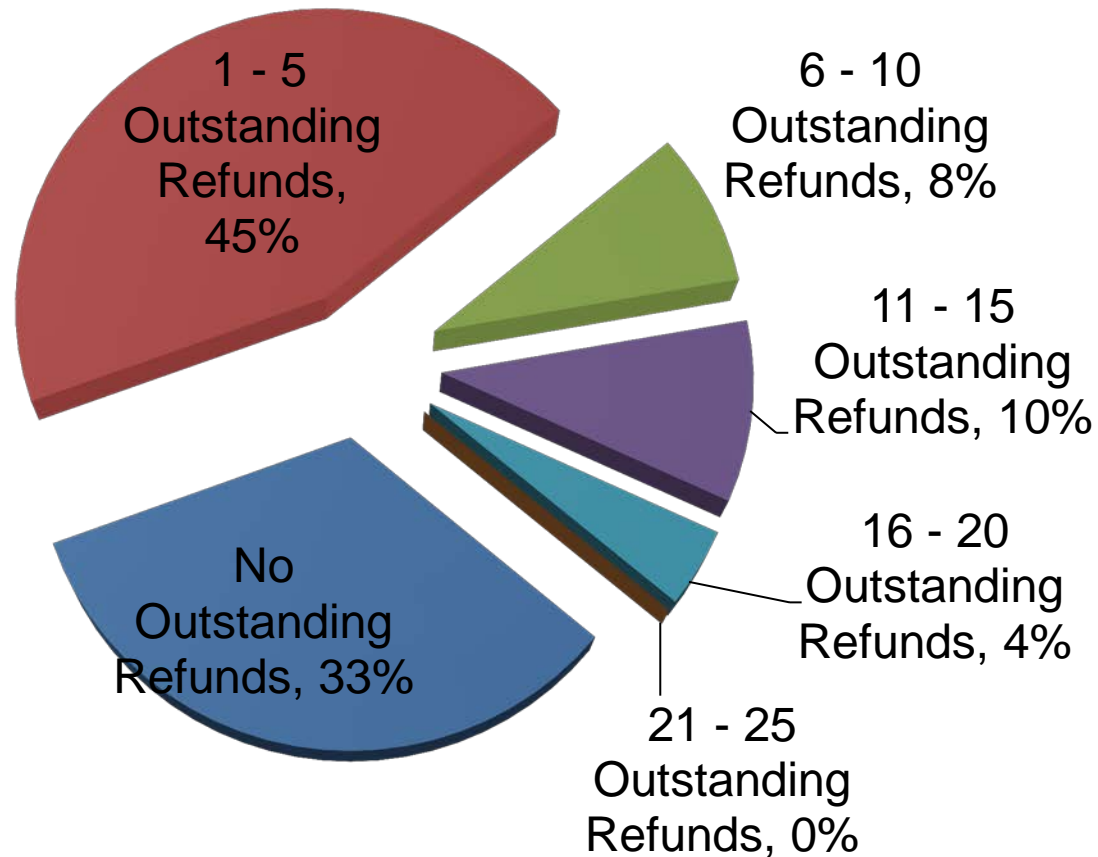


Refund Data Call Results

	Jun 2015	Dec 2015	Jun 2016
# of facilities responded	72	72	72
# of facilities did not respond	1	1	1
# of facilities had outstanding refunds	42	47	48
# of outstanding refunds	289	275	266
# of facilities reporting overdue refunds	-	1	1
# of refunds due from next entrance fee	101	106	88
Reason for contract cancellation			
<i>Withdrawal of Resident</i>	89	125	90
<i>Passing of Resident</i>	200	150	176
Total outstanding refunds	\$40.32M	\$40.73M	\$38.06M
# of facilities have refunds outstanding that are over 1 year	6	14	8
# of outstanding refunds beyond one year are out of compliance with contractual obligations	-	0	0
# of outstanding refunds beyond one year are due to old contracts that tie the refund to the sale of the unit that is vacated	-	34	14



June 2016 Refunds Data Call Results



Advice to the Office on matters pertaining to the operation and regulation of continuing care facilities

Presented by
Governor's Continuing Care Advisory Council



Discussion Regarding Needed Changes in Statutes and Rules



Election of Officers Date, Time, and Place of Next Meeting



Public Comment

