

A Message From

# Oak Hammock Administration

**Tuesday, May 7, 2024**

## **Revised Policy for Residential Transfers Within Independent Living** **Kevin Ahmadi, CEO**

Hello Oak Hammock community,

Before moving into Oak Hammock, each resident signs a written contract providing for continuing care and the ability to reside in a specific residential unit. Some Independent Living residents have recently expressed concerns that requests to move to another residence within IL have been denied by management or have not been approved within the residents' requested timeframe. In the past, such requests were rarely denied because sufficient units were available, and the financial costs to the Oak Hammock community associated with these transfers were minimal. Moreover, in those circumstances where requests to transfer were often granted, Oak Hammock conveyed those practices (i.e., granting requests to move to other IL residences) to some prospective residents. The contracts used then (and thereafter) do not say that residents are allowed to move to another IL residence in the future upon request, and Oak Hammock's statements correctly described the situation and practices at that time.

Circumstances have changed, however, and accommodating all or nearly all requests for transfer is no longer either feasible or in the best interests of the Oak Hammock community. The primary reasons are twofold. First, unlike in the past when transfer requests were rarely denied, Oak Hammock is currently at or near full occupancy, which limits the number of units available to fulfill transfer requests. Second, due to Oak Hammock's ongoing need to implement significant upgrades to units before re-occupation, the financial implications of unrestricted transfers are substantial.

Because of the above-described concerns, the reality of changed circumstances, and some residents' expressed expectations that prior transfer practices would continue indefinitely, the Oak Hammock Board of Directors and management have undertaken a two-part effort to help

everyone in the Oak Hammock community understand the human and legal bases for making decisions about internal transfer requests.

First, to ensure (i) that a common and correct understanding exists of what the contracts between residents and Oak Hammock provide regarding transfers, (ii) that Oak Hammock has fulfilled and is fulfilling its obligations under its agreements with residents, and (iii) that a forward-looking policy on internal transfers will comply with all contractual obligations and any other pertinent legal requirements, the board and management sought and obtained advice from outside legal counsel with expertise in continuing care contract law. As part of this process, counsel reviewed resident contracts, the Independent Living Resident Handbook (including prior editions) (hereafter referred to as the “Resident Handbook”) and other documents. Second, an updated policy, which replaces previous statements regarding transfers in the Resident Handbook, has been adopted to provide a basis to guide future decisions on individual resident requests to transfer to a different IL residence.

## **GUIDING PRINCIPLES**

Outside counsel’s advice, which followed counsel’s review of Oak Hammock’s contracts and other documents, has provided the board and management with the information necessary to prepare a policy on IL transfers that adheres to and implements the terms of the contracts between residents and Oak Hammock. The guiding principles of this policy are as follows:

- Residents may apply in writing for an internal transfer and, if granted, must comply with the conditions for such a transfer set forth in their contracts.
- Oak Hammock management has sole discretion to grant a resident’s written request for an internal transfer.
- The latest version of the Resident Handbook is a statement of current rules, regulations, policies and procedures at Oak Hammock. When a contract between a resident and Oak Hammock is signed, the parties acknowledge that Oak Hammock’s rules, regulations, policies and procedures are subject to change. Therefore, the applicable version of the Resident Handbook for all residents is the latest (i.e., the current) version of the Resident Handbook, regardless of when the contract between the resident and Oak Hammock was signed.
- Under the express terms of all versions of the resident contract that have been used at Oak Hammock, verbal statements or representations (i) regarding or describing transfer policies or practices or (ii) predicting or promising future decisions on prospective internal transfer requests are not a part of the contract or agreement between residents and Oak Hammock and are not enforceable.
- A policy setting forth the process for making decisions to approve or disapprove transfer requests must be flexible enough so as not to preclude consideration of unique circumstances, including those that create a need to give priority to particular requests.

- The priority in all cases is the well-being of the individual resident throughout the continuum of care at Oak Hammock, consistent with the resident's contract.
- Management will not disclose the particulars of a given resident's request or situation or, except to the resident seeking the request, the reasons for the disposition of the request. All residents deserve this consideration. Management will adhere to strict confidentiality even when information shared with others by residents applying for transfers is inconsistent, even substantially so, with the information shared with management. The decision for an internal transfer is one that Oak Hammock takes extremely seriously, and private information concerning the request and decision should remain private.
- This policy does not negate any applicable responsibilities or obligations set forth in residents' contracts.

## **PROCEDURES FOR INTERNAL TRANSFER REQUESTS**

- Requests for internal transfers will be considered as they are submitted. Individuals requesting a transfer will be expected to provide evidence that the request is legitimate and worthy of consideration.
- Transfer requests must be submitted in writing to the CEO to be considered.
- The CEO may require additional information and/or evaluations before approving or disapproving a specific request.
- Requests that are approved will be prioritized for fulfillment based on legitimate financial, compassionate and/or physical needs of the resident rather than on the length of time of residency at Oak Hammock, the resident's personal preferences, the date of the original transfer request or the date of approval of the request.
- Availability of units may be a factor that determines the timing of an approved move.
- When a unit is offered to a resident to fulfill an approved request, a timeline for the resident's decision to accept or decline that offered unit will be established by the CEO and communicated to the resident.
- The CEO has the discretion to limit the number of units offered to a resident whose transfer request has been approved. If this limit is reached, the approval of the transfer request will be rescinded and deemed ineffective, but this will not preclude the resident from submitting a new request.
- Units that have not been upgraded may be offered "as is" to the requesting resident, but all offered units will be thoroughly cleaned and painted as necessary.

- Residents may be assessed costs for units that have been upgraded, with such costs to be mutually agreed upon in advance by both parties.
- If actions or special requests by the moving resident result in a delay such that two units are concurrently unavailable for resale, the resident will be required to pay the monthly fee associated with both units until the move can be accomplished and the original unit vacated.
- A written agreement will be prepared and will be signed by both parties before fulfilling an internal transfer request.
- When an approved transfer request is fulfilled, a one-time fee of \$2,000 will be paid by the resident to help cover the housekeeping, maintenance and administrative costs associated with the transfer. This fee may be waived at the discretion of the CEO if the transfer is for verified financial reasons.

This policy is effective as of May 7, 2024, is hereby incorporated into the Independent Living Resident Handbook and will be reflected in the next printings thereof.

We appreciate your patience as we have revisited our policy regarding internal transfers within IL.

Thank you,

*Kevin Ahmadi*

Kevin Ahmadi  
CEO, Oak Hammock at the University of Florida