



THE STATE OF FLORIDA
FINANCIAL SERVICES COMMISSION

OFFICE OF INSURANCE REGULATION
MARKET INVESTIGATIONS

MARKET CONDUCT FINAL EXAMINATION REPORT

OF

MAYFLOWER RETIREMENT CENTER, INC.

AS OF

June 30, 2012

FLORIDA COMPANY CODE 88026

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EXECUTIVE SUMMARY

Pursuant to the provisions of Section 651.105, Florida Statutes, an examination was conducted of the books, records, and affairs of Mayflower Retirement Center, Inc. (hereinafter "Mayflower"). The scope period of the examination was July 1, 2008 through June 30, 2012. The following table represents general findings; however, specific details are found in each section of the report.

TABLE OF TOTAL VIOLATIONS

Statute or Rule Cite	Description	Total Files (for scope period)	Files Reviewed	Number of Violations
Section 651.055(1)(g)2, Florida Statutes	Mayflower failed to timely issue two refunds in accordance to the terms of the approved continuing care contract.	116	53	2
Section 651.055(2) Florida Statutes	During the seven-day contract rescission period Mayflower failed to deposit residents' funds into an escrow account or obtain authorization from the residents to hold and not deposit the check.	121	21	9
Section 651.085(1), Florida Statutes	Mayflower failed to hold a quarterly meeting with residents in calendar year 2008	16	16	1
Section 651.085(1), Florida Statutes	Mayflower failed to accurately state in the Annual Reports filed with the Office the dates, on which quarterly resident meetings were held.	16	16	12
Section 651.091(3)(h), Florida Statutes	Mayflower failed to provide prospective residents or their legal representatives, who executed a continuing care contract after July 1, 2010, a copy of Section 651.071, Florida Statutes.	121	21	21
Section 651.105(1), Florida Statutes	Mayflower failed to provide for examination two continuing care contracts that were cancelled during the scope period and the seven-day advance notices of the quarterly meetings with residents, as required by section 651.085(1), Florida Statutes.	132	69	13

PURPOSE AND SCOPE OF EXAMINATION

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a routine market conduct examination of Mayflower Retirement Center, Inc. (hereinafter "Mayflower") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was July 1, 2008 through June 30, 2012.

The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes and Chapter 690-193, Florida Administrative Code Rules. This market conduct examination did not encompass a financial compliance examination.

This Final Report is based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Mayflower. This report is a report by exception, and the information within has been limited to identification of exceptions, errors or unusual problems noted during the examination.

COMPANY OPERATIONS

Mayflower is a Florida not-for-profit Corporation located in Winter Park, Florida. Mayflower was granted a certificate of authority by the Office to offer continuing care contracts on March 15, 1988. As of June 30, 2012, Mayflower reported 296 Continuing Care Units (268 Independent Living Units and 28 Assisted Living Units); 60 Skilled Nursing Units (24 Community Beds and 36 Sheltered Beds) and three Rental Units. As of December 31, 2011, there were 374 individuals residing at this facility: 351 residents were residing under Continuing Care Contracts; 19 were residing as Skilled Nursing Community patients (non-CCRC); and four were residing under Rental Agreements.

CANCELLATIONS AND REFUNDS

Mayflower provided a list 116 of continuing care contracts cancelled during the scope period of the examination. A sample consisting of 53 contract cancellations was selected and tested to verify the amount of the refund paid, if any, and whether such refunds were properly issued. Of the 53 contracts examined, 23 were eligible for refunds.

Findings:

Section 651.055(1)(g)2, Florida Statutes provides in pertinent part that, the refund shall be calculated on a pro rata basis with the facility retaining up to 2 percent per month of occupancy by the resident and up to a four percent processing fee. Such refund must be paid within 120 days after giving the notice of intention to cancel.

CANCELLATIONS AND REFUNDS (Continued)

Mayflower failed to timely issue two refunds, as required by Section 651.055(1)(g)2, Florida Statutes. The terms of the continuing care contracts provided for the refund to be paid within 120 days of the notification of termination of the contract. One refund was paid three days after the 120-day period; the second refund was paid 19 days after the 120-day period.

Recommendation: The Office recommends Mayflower establish adequate procedures to ensure applicable refunds are issued in accordance to the prevailing statute and the terms of the approved continuing care contract.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Mayflower provided a list of 121 continuing care contracts executed during the scope period of the examination. A random sample consisting of 49 contracts was selected from the list. Of the 49 contracts in the sample, 21 contracts were executed on or after July 1, 2010. These 21 contracts were tested for compliance with Section 651.055(2), Florida Statutes.

Findings:

For continuing care contracts executed on or after July 1, 2010, Section 651.055(2), Florida Statutes, provides that during the seven-day rescission period, the resident's funds must be held in escrow unless otherwise requested by the resident, pursuant to Section 651.033(3)(c), Florida Statutes. Section 651.033(3)(c), Florida Statutes, further provides that at the request of the individual resident, the provider may hold the check for the seven-day period and shall not deposit it during this time period.

In nine instances Mayflower failed to timely deposit residents' funds into the escrow account for the seven-day rescission period of the contract, or to obtain authorization from the resident to hold and not deposit the check for the seven-day rescission period. Specifically, the funds paid by residents related to the nine continuing care contracts executed on or after July 1, 2010 were not deposited into the escrow account until after the seven-day rescission period had expired.

Recommendation: The Office recommends Mayflower take steps to establish adequate procedures to ensure resident funds are managed in accordance with Section 651.055(2), Florida Statutes.

QUARTERLY MEETINGS WITH RESIDENTS

The quarterly meeting agendas, meeting notices to residents, meeting minutes, and the dates of the meetings contained in the annual reports filed for the scope period were reviewed for compliance with Section 651.085, Florida Statutes.

QUARTERLY MEETINGS WITH RESIDENTS (continued)

Findings:

Section 651.085(1), Florida Statutes, states in pertinent part that, "The governing body of a provider, or the designated representative of the provider, shall hold quarterly meetings with the residents of the continuing care facility for the purpose of free discussion of subjects..."

1. **Mayflower failed to hold a quarterly meeting with the residents for the third quarter of calendar year 2008, as required by Section 651.085(1), Florida Statutes.**
- 1a. **Recommendation:** The Office recommends Mayflower establish adequate procedures to ensure that the quarterly meetings with residents are properly held, as required by Section 651.085(1), Florida Statutes

Findings:

Section 651.085(1), Florida Statutes, provides in pertinent part that a facility shall report to the Office, in the annual report, the dates on which quarterly meetings with residents were held during the reporting period.

2. **Mayflower failed to accurately state in the 2008 through 2011 Annual Reports filed with the Office, the dates on which 12 quarterly meetings with residents were held, as required by Section 651.085(1), Florida Statutes.** In the 12 instances, the meeting dates stated in the annual reports did not coincide with the dates on which the quarterly meetings with residents were actually held.
- 2a. **Recommendation:** The Office recommends Mayflower establish adequate procedures to ensure that the actual dates on which quarterly meetings with residents are held are properly reported in the annual reports filed with the Office.

REQUIRED DISCLOSURES

Findings:

Effective July 1, 2010 Section 651.091(3)(h), Florida Statutes, requires the provider to include as a disclosure document, a copy of Section 651.071, Florida Statutes, entitled "Contracts as preferred claims on liquidation or receivership." Of the 49 continuing care contracts sampled, 21 were entered into on or after July 1, 2010. These 21 transactions were reviewed for compliance with disclosure requirements of Section 651.091(3)(h), Florida Statutes.

In 21 instances Mayflower failed to provide a copy of Section 651.071, Florida Statutes, entitled, "Contracts as preferred claims on liquidation or receivership" to prospective residents or their legal representative, as required by Section 651.091(3)(h), Florida Statutes.

REQUIRED DISCLOSURES (Continued)

Recommendation: The Office recommends Mayflower establish adequate procedures to ensure all required disclosure documents are properly delivered to prospective residents or their legal representatives, as required by Section 651.091(3), Florida Statutes. The Office further recommends that a copy of the full disclosure documents be filed with the Office, as required by Section 651.091(4), Florida Statutes.

ACCESS TO RECORDS

Records necessary to conduct the examination and determine the degree of compliance with Chapter 651, Florida Statutes and Rule 69O-193, Florida Administrative Code were requested from Mayflower in accordance with Section 651.105, Florida Statutes.

Findings:

Mayflower failed to make available for examination, documents pertaining to two continuing care contracts that were cancelled during the scope period, as required by Section 651.105(1), Florida Statutes.

In addition, there were 11 instances where Mayflower failed to make available for examination, documents pertaining to the seven-day advance notice of the quarterly resident meetings, as required by Section 651.085(1), Florida Statutes. Specifically, Mayflower failed to substantiate that residents were given proper advance notice of the quarterly resident meetings.

Recommendation:

In order for the Office to determine the degree of compliance with Chapter 651, Florida Statutes and Rule 69O-193, Florida Administrative Code, the Office recommends Mayflower establish adequate procedures and controls to ensure documentation is maintained and made available for examination purposes.

EXAMINATION FINAL REPORT SUBMISSION

The Office hereby issues this Final Report based upon information from the examiner's draft report, additional research conducted by the Office, and additional information provided by Mayflower.