

Report on Examination

of

Mayflower Retirement Center, Inc.

Winter Park, Florida

as of

March 31, 2019



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SCOPE OF EXAMINATION

The Florida Office of Insurance Regulation (“Office”), Life & Health Financial Oversight unit conducted a routine examination of Mayflower Retirement Center, Inc., pursuant to Section 651.105, Florida Statutes. The objective of the examination was to determine the extent of compliance with the provisions of Chapter 651, Florida Statutes, and Rule Chapter 69O-193, Florida Administrative Code. The examination covered the period of July 1, 2012 through March 31, 2019.

COMPANY HISTORY

Mayflower Retirement Center, Inc., a Florida not-for-profit corporation was granted a certificate of authority by the Office to offer continuing care contracts on March 31, 1988. Mayflower Retirement Center operates a continuing care retirement community facility located in Winter Park, Florida. Mayflower Retirement Center is self-managed and does not utilize an individual or entity to perform the functions of a “manager” or “management company”, as defined by Section 651.011(18), Florida Statutes.

As of December 31, 2018, Mayflower Retirement Center reported: 295 Continuing Care Units consisting of 267 Independent Living Units and 28 Assisted Living Units; 60 Skilled Nursing Units consisting of 36 Sheltered Beds and 24 Community Beds; and 3 Rental Units. As of that date, there were 356 individuals reported residing at Mayflower Retirement Center: 332 pursuant to a continuing care agreement; 21 skilled nursing-community patients (non-CCRC); and 3 pursuant to a rental agreement.

SUMMARY OF FINDINGS

The following is a summary of findings. The findings are discussed in more detail in the pages that follow with recommendations beginning on page 10.

REQUIRED ESCROW DEPOSITS OR WAIVERS

Mayflower Retirement Center provided a list of 263 continuing care contracts executed during the scope period of the examination. A sample of 50 transactions was selected and reviewed for compliance with Section 651.055(2), Florida Statutes.

FINDING:

Section 651.055(2), Florida Statutes, provides in part that a resident has the right to rescind a continuing care contract and receive a full refund of any funds paid, without penalty or forfeiture, within 7 days after executing the contract and during the 7-day period, the resident's funds must be held in an escrow account unless otherwise requested by the resident that the provider hold and not deposit the check during the 7-day period, pursuant to Section 651.033(3)(c), Florida Statutes.

In 33 instances, Mayflower Retirement Center failed to hold resident funds in an escrow account for the 7-day rescission period of the continuing care contract, as required by Section 651.055(2), Florida Statutes. In each instance, funds were removed from the escrow account prior to the expiration of the 7-day rescission period of the continuing care contract.

REQUIRED DISCLOSURES

Mayflower Retirement Center provided a list of 263 continuing care contracts executed during the scope period of the examination. A sample of 50 transactions was selected and reviewed for

compliance with Section 651.055(4), Florida Statutes and Section 651.091(3), Florida Statutes (2018).

Finding 1:

Section 651.055(4), Florida Statutes, provides in part that before the transfer of any money or other property to a provider by or on behalf of a prospective resident, the provider shall present a typewritten or printed copy of the contract to the prospective resident and all other parties to the contract. The provider shall also secure a signed, dated statement from each party to the contract certifying that a copy of the contract with the specified attachment was received.

In eight instances, Mayflower Retirement Center failed to provide a typewritten or printed copy of the contract prior to the transfer of money or property, as required by Section 651.055(4), Florida Statutes. In each instance, a copy of the contract was provided to the prospective resident after the transfer of money to Mayflower Retirement Center.

Finding 2:

Section 651.091(3), Florida Statutes (2018), provides in part that before entering into a contract to furnish continuing care, the provider undertaking to furnish the care, or the agent of the provider, shall make full disclosure, and provide copies of specific disclosure documents to the prospective resident or his or her legal representative.

In four instances, Mayflower Retirement Center failed to provide, or make available for examination documentation to establish that all prospective residents or their legal representatives were timely provided the required disclosure documents, pursuant to Section 651.091(3), Florida Statutes (2018).

DISCLOSURE DOCUMENTS

The disclosure documents utilized by Mayflower Retirement Center during the scope period of the examination were reviewed for compliance with Section 651.091(3), Florida Statutes (2018) and Section 651.091(4), Florida Statutes.

Section 651.091(3), Florida Statutes (2018), provides in part that before entering into a contract to furnish continuing care, the provider undertaking to furnish the care, or the agent of the provider, shall make full disclosure, and provide copies of specific disclosures to the prospective resident or his or her legal representative.

Finding 1:

Section 651.091(3)(b), Florida Statutes, includes as a required disclosure a concise summary of the last examination report issued by the Office.

Mayflower Retirement Center failed to include in four versions of its disclosure documents a concise summary of the last examination report issued by the Office, as required by Section 651.091(3)(b), Florida Statutes. The disclosure document versions were titled: "Disclosure Documents 2012-2014"; "Disclosure Documents 2015-2017"; "Disclosure Documents 2018-2019"; and "Disclosure Documents 2019".

Finding 2:

Section 651.091(3)(c), Florida Statutes, includes as a required disclosure the disclosure of all ownership interests.

Mayflower Retirement Center failed to include in four versions of its disclosure documents information pertaining to all ownership interests, as required by Section 651.091(3)(c),

Florida Statutes. The disclosure document versions were titled: “Disclosure Documents 2012-2014”; “Disclosure Documents 2015-2017”; “Disclosure Documents 2018-2019”; and “Disclosure Documents 2019”.

Finding 3:

Section 651.091(4), Florida Statutes, provides in part that a true and complete copy of the full disclosure document to be used must be filed with the Office before use.

In three instances, Mayflower Retirement Center failed to file with the Office a true and complete copy of its full disclosure documents titled: “Disclosure Documents 2015-2017”; “2018-2019 Disclosure Documents”; and “Disclosure Documents 2019”, as required by Section 651.091(4), Florida Statutes.

In September 2019, Mayflower Retirement Center filed with the Office its Section 651.091(3), Florida Statutes, disclosure documents which included a concise summary of the last examination report issued by the Office and information pertaining to all ownership interests.

WAIT LIST FORMS

Mayflower Retirement Center provided a list of 299 wait list contracts executed during the scope period of the examination. A sample consisting of 55 transactions was selected and reviewed for compliance with Sections 651.022(2)(g), 651.033(4), Florida Statutes, and Rule 69O-193.018, Florida Administrative Code.

Finding:

Section 651.022(2)(g), Florida Statutes, provides in part that wait list contract forms be approved by the Office prior to use.

Mayflower Retirement Center utilized six wait list contract forms that were not approved by the Office, as required by Section 651.022(2)(g), Florida Statutes. The wait list contract forms were titled: "\$2,000 Waiting List Policy Agreement; "\$2,000 Waiting List Policy Agreement revised 12/31/2010"; "10% Priority Waiting List Policy & Agreement revised 12/31/2010"; "Insignia Level Waiting List Policy and Agreement Disclosure Documents (rev 031417)"; "Medallion Level Waiting List Policy and Agreement Disclosure Documents (031417)"; and "New Construction Deposit Policy and Agreement".

On June 10, 2019, Mayflower Retirement Center submitted to the Office for approval three wait list contract forms: "Insignia Level Waiting List Policy and Agreement Disclosure Documents (rev 031417)"; "Medallion Level Waiting List Policy and Agreement Disclosure Documents (031417)"; and "New Construction Deposit Policy and Agreement". The wait list contract forms were approved by the Office July 9, 2019.

RESERVATION FORMS

Mayflower Retirement Center provided a list of 263 continuing care contracts executed during the scope period of the examination. A sample of 50 transactions was selected and reviewed for compliance with Section 651.022(2)(g), Florida Statutes.

Finding

Section 651.022(2)(g), Florida Statutes, provides in part that reservation contract forms be approved by the Office prior to use.

In 44 instances, Mayflower Retirement Center utilized a reservation contract form titled "88141 08/02/99 RESERV Contract" that was not approved by the Office, as required by Section 651.022(2)(g), Florida Statutes.

NEW FINANCING, ADDITIONAL FINANCING, OR REFINANCING

Information was obtained and reviewed related to new financing, additional financing and refinancing during the scope period of the examination to determine compliance with Section 651.019, Florida Statutes (2018).

Finding:

Section 651.019(2), Florida Statutes (2018), requires the provider to submit to the Office copies of executed financing documents within 30 days after the closing date of such financing or refinancing transaction.

Mayflower Retirement Center failed to provide to the Office copies of the executed financing documents within 30 days after the closing date of the transaction, as required by Section 651.019(2), Florida Statutes (2018). In this instance, Mayflower Retirement Center closed on a financing transaction on May 12, 2012; the related executed financing documents were submitted to the Office on or about August 7, 2012.

UNFAIR INSURANCE TRADE PRACTICES ACT

Pursuant to Section 651.106(15), Florida Statutes, the certificate of authority of a continuing care provider may be suspended or revoked if the provider engages in unfair methods of competition or in unfair or deceptive acts or practices prohibited by Part IX of Chapter 626, Florida Statutes, Unfair Insurance Trade Practices Act. Section 626.9541(1)(j), Florida Statutes, provides in pertinent part that the provider maintain a complete record of all complaints received since the date of the last examination and defines "complaint" as any written communication primarily expressing a grievance.

Finding:

Mayflower Retirement Center failed to maintain a record of all complaints received since the date of the last examination, as required by Section 626.9541(1)(j), Florida Statutes.

Required Background Information Submission

Finding:

Rule 69O-193.060(1), Florida Administrative Code, provides in part that pursuant to Section 651.022(2)(c), Florida Statutes, each person who is required to be named in an application submitted to the Office must submit: biographical statement; fingerprint card furnished by the Office, with required fees; and a financial and character report by an independent reporting company approved by the Office.

Mayflower Retirement Center failed to submit to the Office the required background information on three individuals appointed to the board of directors on or about December 10, 2018, as required by Rule 69O-193.060(1), Florida Administrative Code.

The required background information for the three individuals was subsequently submitted to Office on or about September 14, 2019 and November 15, 2019.

RESIDENTS' COUNCIL DISCLOSURES

Documentation was reviewed to determine compliance with the Residents' Council disclosure requirements, pursuant to Sections 651.081, 651.085(3), Florida Statutes and Section 651.091(2), Florida Statutes (2018).

Finding:

Section 651.085(3), Florida Statutes, provides in part that the designated representative of the residents' council shall be notified at least 14 days in advance of any meeting of the full governing body at which proposed changes in resident fees or services will be discussed and the representative shall be invited to attend and participate in that portion of the meeting designated for the discussion of such changes.

In two instances, Mayflower Retirement Center failed to notify and invite the designated representative of the Residents' Council to meetings of the Board of Directors held on September 30, 2013 and October 28, 2013, at which proposed changes in resident fees were discussed, as required by Section 651.085(3), Florida Statutes.

MINIMUM LIQUID RESERVE

As of March 31, 2019, the Mayflower Retirement Center's Minimum Liquid Reserve was funded in accordance with Section 651.035, Florida Statutes (2018).

SUMMARY OF RECOMMENDATIONS

REQUIRED ESCROW DEPOSITS OR WAIVERS

The Office recommends Mayflower Retirement Center establish adequate procedures and controls to ensure resident funds are properly handled during the 7-day rescission period of the continuing care contract, in accordance with Section 651.055(2), Florida Statutes.

REQUIRED DISCLOSURES

Finding 1. The Office recommends Mayflower Retirement Center ensure that before the transfer of any money or other property to the provider a typewritten or printed copy of the contract is presented to the prospective resident and all other parties to the contract and a signed and dated statement is secured from each party to the contract, certifying that a copy of the contract was received, in accordance with Section 651.055(4), Florida Statutes.

Finding 2. The Office recommends Mayflower Retirement Center ensure prospective residents and/or their legal representatives are provided the required disclosure documents prior to entering into a continuing care contract and a written acknowledgement of receipt of the disclosure documents is obtained, in accordance with Section 651.091(3), Florida Statutes.

DISCLOSURE DOCUMENTS

Findings 1-3. The Office recommends Mayflower Retirement Center establish adequate procedures and controls to ensure its disclosure documents are in compliance with Section 651.091(3), Florida Statutes, and are filed with the Office before use, in accordance with Section 651.091(4), Florida Statutes.

WAIT LIST FORMS

The Office recommends Mayflower Retirement Center establish adequate procedures and controls to ensure wait list contract forms are approved by the Office prior to use, in accordance with Section 651.022(2)(g), Florida Statutes.

RESERVATION FORMS

The Office recommends Mayflower Retirement Center establish adequate procedures and controls to ensure reservation contract forms are approved by the Office prior to use, in accordance with Section 651.022(2)(g), Florida Statutes.

NEW FINANCING, ADDITIONAL FINANCING OR REFINANCING

The Office recommends Mayflower Retirement Center establish adequate procedures and controls to ensure that notifications and executed documents related to new financing, additional financing or refinancing are submitted to the Office, in accordance with Section 651.019, Florida Statutes.

UNFAIR INSURANCE TRADE PRACTICES ACT

The Office recommends Mayflower Retirement Center establish adequate procedures and controls to ensure a complete record of all complaints received since the date of the last examination compliance is maintained, in accordance with Sections 651.106(15) and 626.9541(1)(j), Florida Statutes.

REQUIRED BACKGROUND INFORMATION SUBMISSION

The Office recommends Mayflower Retirement Center establish adequate procedures and controls to ensure background information is submitted to the Office, in accordance with Rule 69O-193.060(1), Florida Administrative Code.

RESIDENTS' COUNCIL DISCLOSURES

The Office recommends Mayflower Retirement Center establish adequate procedures and controls to ensure all required Residents' Council disclosures are provided, in accordance with Sections 651.081, 651.085 and 651.091, Florida Statutes, and documentation is obtained to substantiate compliance.

CONCLUSION

This Final Report of Examination is based upon the information provided to the Office from Mayflower Retirement Center, Inc., and additional research conducted by the Office.

The following individuals from the Office of Insurance Regulation participated in the examination:

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Respectfully submitted,



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