



# **THE STATE OF FLORIDA**

## **OFFICE OF INSURANCE REGULATION MARKET INVESTIGATIONS**

### **MARKET CONDUCT FINAL EXAMINATION REPORT**

**OF**

**MEASE MANOR, INC.**

**AS OF**

**December 31, 2012**

**FLORIDA COMPANY CODE 88032**

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## TABLE OF CONTENTS

<b>Purpose and Scope .....</b>	<b>1</b>
<b>Company Operations.....</b>	<b>1</b>
<b>Forms .....</b>	<b>1</b>
<b>Required Escrow Deposits and Waivers.....</b>	<b>2</b>
<b>Required Disclosures .....</b>	<b>3</b>
<b>Examination Final Report Submission .....</b>	<b>3</b>

## **PURPOSE AND SCOPE OF EXAMINATION**

The Office of Insurance Regulation (Office), Market Investigations unit, conducted a periodic market conduct examination of Mease Manor, Inc. (hereinafter "Mease Manor") pursuant to Section 651.105, Florida Statutes. The scope period of this examination was from January 1, 2010 through December 31, 2012. The on-site and desk examination procedures were completed on April 8, 2014.

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 Mease Manor. 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**

Mease Manor, a non-profit Continuing Care Retirement Community located in Lakeland, Florida, was issued a certificate of authority by the Office to offer continuing care contracts on February 15, 1980. As of December 31, 2012, Mease Manor reported: 113 Continuing Care Units, which consisted solely of Independent Living Units; 100 Skilled Nursing Units which consisted of 60 Community Beds and 40 Shelter Beds and No Rental Units. As of the same date, Mease Manor reported 381 individuals residing at the community.

## **FORMS**

Mease Manor provided a list containing 29 continuing care contracts executed during the scope period of the examination. All 29 transactions were examined for compliance with Section 651.055(1), Florida Statutes.

### **Findings:**

Section 651.055(1), Florida Statutes, provides that "each continuing care contract and each addendum to such contract shall be submitted to and approved by the office before its use in this state. Thereafter, no other form of contract shall be used by the provider until it has been submitted to and approved by the office."

**In two instances, Mease Manor utilized a continuing care contract form prior to the form being approved by the Office, as required by Section 651.055(1), Florida Statutes.**

## FORMS (Continued)

Specifically, Mease Manor was informed by the Office of the unapproved form with the issuance of the prior report of examination dated August 31, 2011. Mease subsequently used the unapproved form in the two additional instances, on September 1, 2011 and October 28, 2011. The form was later approved on December 21, 2011. A similar violation was included in the last report examination.

**Recommendation:** The Office recommends Mease Manor establish adequate procedures and controls to ensure all forms which require statutory approval are submitted and approved by the Office prior to use.

## REQUIRED ESCROW DEPOSITS OR WAIVERS

Mease Manor provided a list containing the 29 continuing care contracts executed during the scope period of the examination. All 29 contracts were executed on or after July 1, 2010. The 29 contracts were tested for compliance with Sections 651.033(3)(c) and 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 of the continuing care contract, 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, provides that at the request of the resident the provider may hold the check or the seven-day period and shall not deposit it during this time period.

1. **In one instance, Mease Manor failed to deposit a resident's funds into an escrow account for the seven-day rescission period of the continuing care contract or obtain authorization from the resident to hold and not deposit the funds, in violation of Section 651.055(2), Florida Statutes.** Specifically, instead of depositing the funds into the escrow account, Mease Manor held the resident's check for three days and then deposited the funds into its operating account.
  - 1a. **Recommendation:** The Office recommends Mease Manor establish adequate procedures and controls to ensure that resident funds are managed in accordance with Section 651.055(2), Florida Statutes.
2. **In another instance, Mease Manor failed to hold and not deposit a resident's funds for the seven-day rescission period of the continuing care contract, in violation of Section 651.033(3)(c), Florida Statutes.**

## **REQUIRED ESCROW DEPOSITS OR WAIVERS (Continued)**

Specifically, the prospective resident entered into the continuing care contract, paid entrance fee funds nine days prior to Mease Manor executing the continuing care contract, and authorized Mease Manor to hold and not deposit the funds. Upon executing the continuing care contract, Mease Manor deposited the funds into the operating account, instead of holding the funds for the seven-day rescission period.

- 2a. **Recommendation:** The Office recommends Mease Manor establish adequate procedures and controls to ensure that resident funds are managed in accordance with Section 651.055(2), Florida Statutes.

## **REQUIRED DISCLOSURES**

Mease Manor provided a list containing 29 continuing care contracts executed during the scope period of the examination. All 29 contracts were tested for compliance with Section 651.091(3), Florida Statutes.

### **Finding:**

Section 651.091(3), Florida Statutes, provides in pertinent 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 the disclosure documents to the prospective resident or his or her legal representative.

**In one instance, Mease Manor failed to timely provide the required disclosure documents to the prospective resident or their legal representative, as required by Section 651.091(3), Florida Statutes.** Specifically, the prospective resident signed the continuing care contract on February 28, 2012; the receipt affirming delivery of the disclosure documents was signed by the resident May 25, 2012 (approximately three months later). A similar violation was included in the last report of examination.

**Recommendation:** The Office recommends Mease Manor establish adequate controls and procedures to ensure all required disclosure documents are properly delivered to prospective residents or their legal representatives and documentation is obtained to demonstrate the disclosure requirements have been met.

## **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 Mease Manor.