

10-21-02

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED

MAR 25 03

AT

AHCA  
DEPARTMENT CLERK

FILED  
03 MAR 26 AM 9:36  
ADMINISTRATIVE  
HEARINGS

AGENCY FOR HEALTH CARE  
ADMINISTRATION,

Petitioner,

vs.

DOAH CASE NO. 02-1659  
AHCA CASE NO. 2001051041  
RENDITION NO.: AHCA-03

CASA FEBE RETIREMENT HOME,  
INC., d/b/a HOME IS WHERE THE  
HEART IS,

DSM-0205

Respondent.

**FINAL ORDER**

This cause was referred to the Division of Administrative Hearings and assigned to an Administrative Law Judge (ALJ) for a formal administrative hearing and the entry of a Recommended Order. The Recommended Order of October 21, 2002, is attached to this Final Order and incorporated herein by reference.

**RULING ON EXCEPTIONS**

This case concerns an assisted living facility (Home Is Where The Heart Is) that was the subject of an administrative complaint alleging that Respondent failed to ensure that a prescription was refilled in a timely manner pursuant to Rule 58A-0185(7)(f), F.A.C. The Agency filed exceptions to findings of fact 12, 14, and 16 of the Recommended Order. The Agency filed exceptions to conclusions of law 20, 22-26, 30-31, and 34-35. Upon a review of the record, the Agency rejects all the exceptions due to the core findings of fact by the ALJ that, after specifically weighing the testimony of the

parties, the Agency failed to prove that a prescription existed. See findings of fact 9, 10, and 11 of the Recommended Order. These findings of fact are based on competent, substantial evidence in the record and may not be rejected or modified by the Agency.

### FINDINGS OF FACT

The Agency adopts the Findings of Fact in the Recommended Order, which is incorporated herein by reference.


### CONCLUSIONS OF LAW

The Agency adopts the Conclusions of Law set forth in the Recommended Order.

### IT IS THEREFORE ADJUDGED THAT:

The Agency finds that Respondent did not violate Rule 58A-5.0185(7)(f), F.A.C., and that Respondent's license rating is restored to standard, *nunc pro tunc*, for the relevant period.

**DONE and ORDERED** this 20<sup>th</sup> day of March, 2003, in Tallahassee, Florida.

  
\_\_\_\_\_  
RHONDA M. MEDOWS, MD., SECRETARY  
Agency for Health Care Administration

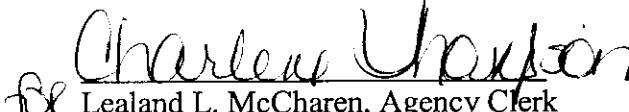
### NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW, WHICH SHALL BE INSTITUTED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A COPY, ALONG WITH THE FILING FEE PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE

FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail, or by the method indicated, to the persons named below on this 25 day of March, 2003.

  
FL Lealand L. McCharen, Agency Clerk  
Agency for Health Care Administration  
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