

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED  
AHCA  
AGENCY CLERK

PHOENIX SENIOR LIVING II, INC.,

2014 MAR 31 A 11: 22

Petitioner,

DOAH NO. 13-1106

v.

AHCA NO. 2013002145

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Respondent.

**FINAL ORDER**

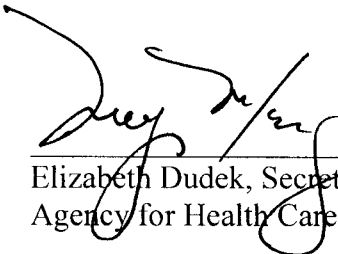
Having reviewed the Notice of Intent to Deny, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

1. The Agency has jurisdiction over the above-named Petitioner pursuant to Chapter 408, Part II, Florida Statutes, and the applicable authorizing statutes and administrative code provisions.
2. The Agency issued the attached Notice of Intent to Deny and Election of Rights form to the Respondent. (Ex. 1) The Election of Rights form advised of the right to an administrative hearing.
3. The Petitioner requested a formal administrative hearing.
4. The Agency filed an Unopposed Motion to Relinquish Jurisdiction with the DOAH and an Order Closing File and Relinquishing Jurisdiction was entered by the Administrative Law Judge.
5. The Agency then filed a Notice of Voluntary Dismissal without Prejudice on January 27, 2014 (Ex. 2), and agreed to grant the Petitioner's request for renewal of license.

Based upon the foregoing, it is **ORDERED**:

1. The Notice of Intent to Deny is withdrawn.

**ORDERED** at Tallahassee, Florida, on this 28 day of March, 2014.

  
\_\_\_\_\_  
Elizabeth Dudek, 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 one copy of a notice of appeal with the Agency Clerk of AHCA, and a second copy, along with filing fee as 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 of proceedings shall be conducted in accordance with the Florida appellate rules. The Notice of Appeal must be filed within 30 days of rendition of the order to be reviewed.

**CERTIFICATE OF SERVICE**

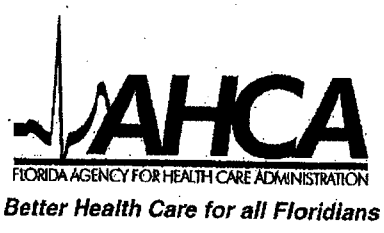
I CERTIFY that a true and correct copy of this Final Order was served on the below-named persons by the method designated on this 31<sup>st</sup> day of March, 2014.



Richard Shoop, Agency Clerk  
Agency for Health Care Administration  
2727 Mahan Drive, Bldg. #3, Mail Stop #3  
Tallahassee, Florida 32308-5403  
Telephone: (850) 412-3630

Jan Mills Facilities Intake Unit (Electronic Mail)	Nelson E. Rodney, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)
Shaddrick Haston, Unit Manager Licensure Unit Agency for Health Care Administration (Electronic Mail)	Gabriela Roman, Administrator Phoenix Senior Living II 5882 NW 73 <sup>rd</sup> Court Parkland, FL 33067 <a href="mailto:Roma1531@gmail.com">Roma1531@gmail.com</a> (US Mail and Electronic Mail)
Todd P. Resavage Administrative Law Judge Division of Administrative Hearings (Electronic Mail)	

2013002145



RICK SCOTT  
GOVERNOR

ELIZABETH DUDEK  
SECRETARY

February 22, 2013

Certified Mail

GABRIELA JANETA ROMAN, ADMINISTRATOR  
PHOENIX SENIOR LIVING II, INC.  
5882 NW 73RD COURT  
PARKLAND, FL 33067

File Number: 11966400  
License Number: 10598

**Certified Article Number**  
7196 9008 9111 8923 3670  
**SENDERS RECORD**

RE: Case Number: 2013002145

RECEIVED  
FACILITY INTAKE UNIT

FEB 26 2013

Agency for Health  
Care Administration

NOTICE OF INTENT TO DENY

Dear Ms. Roman:

It is the decision of this Agency that the Phoenix Senior Living II, Inc.'s renewal application for an Assisted Living Facility license be DENIED.

The Specific Basis for this determination is a pattern of deficient performance as evidenced by failure to pass a complaint survey, conducted on May 3, 2012 and a resurvey conducted on June 28, 2012. There were two Class I, four Class II, and six Class III deficiencies cited on the first survey. None of those deficiencies were corrected on the resurvey visit. During the complaint survey revisit the provider was cited for two additional Class II deficiencies for failure to cooperate with Agency personnel during the resurvey as evidenced by failing to make records available for inspection to ascertain compliance with resident care standards and by denying full access to residents, staff and resident records to determine if previously cited deficiencies had been corrected.

Therefore the Renewal application is DENIED based upon sections 408.806(1)(g); 408.811; 408.815(1)(b), (c) and (d), and 429.14(1)(a), (e) and (k); 429.28(1)(a) and (b); and 429.34, Florida Statutes, and Rule 58A-5.033, Florida Administrative Code.

**EXPLANATION OF RIGHTS**

Pursuant to section 120.569, Florida Statutes, you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under section 120.57(1), Florida Statutes, your request for an administrative hearing must conform to the requirements in section 28-106.201, Florida Administrative Code, and must state the material facts you dispute.

**SEE ATTACHED ELECTION OF RIGHTS FORM**

Sincerely,

Shaddrick A. Haston, Manager  
Assisted Living Unit  
Bureau of Long Term Care Services

SH/alfredj

Copy to: Delray Beach Field Office - 10  
LTCOC District 10

~~PHOENIX SENIOR LIVING II, INC.~~

**EXHIBIT**  
tabbies  
1

2727 Mahan Drive, MS#34  
Tallahassee, Florida 32308

Visit AHCA online at  
ahca.myflorida.com

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

RE: PHOENIX SENIOR LIVING II, INC.

CASE NUMBER: 2013002145

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed Notice of Intent to Deny of the Agency for Health Care Administration (AHCA). The title may be **Notice of Intent to Impose a Fine, Administrative Complaint, or some other notice of intended action by AHCA.**

**An Election of Rights must be returned by mail or by fax within twenty-one (21) days of the day you receive the attached Notice of Intent to Impose a Fine, Administrative Complaint or any other proposed action by AHCA.**

If an **Election of Rights** with your selected option is not received by AHCA within twenty-one (21) days from the date you received this notice of proposed action, you will have given up your right to contest the Agency's proposed action and a **final order will be issued.**

(Please reply using this Election of Rights form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes (2006) and Rule 28, Florida Administrative Code.)

Please return your ELECTION OF RIGHTS to:

Agency for Health Care Administration  
Attention: Agency Clerk  
2727 Mahan Drive, Mail Stop #3  
Tallahassee, Florida 32308  
Phone: (850) 412-3630 Fax: (850) 921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS:

OPTION ONE (1) \_\_\_\_\_ I admit to the allegations of facts and law contained in the Notice of Intent to Impose a Fine, Administrative Complaint, or other notice of intended action by AHCA and I waive my right to object and have a hearing. I understand that by giving up my right to a hearing, a final order will be issued that adopts the proposed agency action and imposes the proposed penalty, fine or action.

OPTION TWO (2) \_\_\_\_\_ I admit to the allegations of facts and law contained in the Notice of Intent to Impose a Fine, Administrative Complaint, or other proposed action by AHCA, but I wish to be heard at an informal proceeding (pursuant to Section 120.57(2), Florida Statutes) where I may submit testimony and written evidence to the Agency to show that the proposed administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) \_\_\_\_\_ I dispute the allegations of facts and law contained in the Notice of Intent to Impose a Fine, Administrative Complaint, or other proposed action by

AHCA, and I request a formal hearing (pursuant to Section 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

**PLEASE NOTE:** Choosing **OPTION THREE (3)**, by itself, is **NOT** sufficient to obtain a formal hearing. You also must file a written petition in order to obtain a formal hearing before the Division of Administrative Hearings under Section 120.57(1), Florida Statutes. It must be received by the Agency Clerk at the address above **within twenty-one (21) days** of your receipt of this proposed administrative action. The request for formal hearing must conform to the requirements of Rule 28-106.2015, Florida Administrative Code, which requires that it contain:

1. Your name, address, and telephone number, and the name, address, and telephone number of your representative or lawyer, if any.
2. The file number of the proposed action.
3. A statement of when you received notice of the Agency's proposed action.
4. A statement of all disputed issues of material fact. If there are none, you must state that there are none.

Mediation under Section 120.573, Florida Statutes, may be available in this matter if the Agency agrees.

License type: Assisted Living Facility

License number: 10598

Licensee Name: PHOENIX SENIOR LIVING II, INC.

Contact person: \_\_\_\_\_

Name Title

Address: \_\_\_\_\_

Street and number City Zip Code

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

Email (optional) \_\_\_\_\_

I hereby certify that I am duly authorized to submit this Notice of Election of Rights to the Agency for Health Care Administration on behalf of the licensee referred to above.

Signed: \_\_\_\_\_ Date \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION**

**PHOENIX SENIOR LIVING II,**

**Petitioner,**

**AHCA No: 2013002145**

**vs.**

**STATE OF FLORIDA, AGENCY  
FOR HEALTH CARE ADMINISTRATION,**

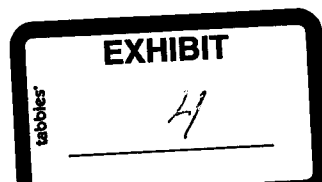
**Respondent.**

---

**NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE**


COMES NOW the Respondent, the Agency for Health Care Administration, by and through undersigned counsel, and states the following:

1. This case was started by a Notice of Intent to Deny issued by Respondent on February 22, 2013.
2. Petitioner requested a formal hearing.
3. The case was set for a hearing within the Division of Administrative Hearings for January 28-29, 2014.
4. An unopposed Motion for the Relinquishment of Jurisdiction was filed on January 23, 2014.
5. Jurisdiction in this case was relinquished back to the Agency for Health Care Administration on January 23, 2014.
6. Respondent now wishes to dismiss the Notice of Intent to Deny the license renewal for Petitioner facility and grant their request for a renewed license.




**WHEREFORE**, Petitioner respectfully requests that the Agency dismiss this case and enter a Final Order granting Petitioner the renewal of their license.

Respectfully submitted this 27<sup>th</sup> day of January, 2014.

  
Nelson E. Rodney

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing has been furnished electronically to Gabriela Roman, Administrator, Phoenix Senior Living II, at roma1531@gmail.com on January 27, 2014.

  
Nelson Rodney, Esquire  
Assistant General Counsel  
Agency for Health Care  
Administration  
8333 N.W. 53<sup>rd</sup> Street Suite 300  
Miami, FL 33166