

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2014 FEB 17 P 3: 25

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

BRANDIA PRESH A d/b/a
PERSONAL CARE II,

Respondent.

DOAH No. 13-3707

AHCA Nos. 2013004279

2013004546

¹License Nos. 8730

4829

File Nos. 11963897

11910130

Provider Type: Assisted Living Facility

RENDITION NO.: AHCA-14-0118-S-OLC

BRANDIA PRESH A d/b/a
PERSONAL CARE II,²

Petitioner,

vs.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

DOAH No. 13-4949

AHCA No. 2013012174

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

BRANDIA PRESH A d/b/a
PERSONAL CARE II,

Respondent.

DOAH No. 14-0009

AHCA No. 2013011217

FINAL ORDER

Having reviewed the Amended Administrative Complaint, the Amended Notice of Intent to Deny Renewal License, the Administrative Complaint, the Agency for Health Care Administration finds

¹ The Final Order adopts a Settlement Agreement that has applies to parties other than the named Respondent.

² The Final Order correctly reflects the applicant as the petitioner in the case style for this licensure action.

and concludes as follows:

1. The Agency has jurisdiction over the above-named Provider pursuant to Chapter 408, Part II, Florida Statutes, and the applicable authorizing statutes and administrative code provisions.
2. The Agency issued the attached Amended Administrative Complaint, Amended Notice of Intent to Deny Renewal License, Administrative Complaint and Election of Rights forms to Brandia Presha d/b/a Personal Care II. (Ex. 1) The Election of Rights forms advised of the right to an administrative hearing. The Settlement Agreement also includes the assisted living facility known as Personal Care, also owned by Brandia Presha. The two assisted living facilities will be referred to as “the Provider.” In addition, the Settlement Agreement includes Tamik Presha.
3. The parties and Tamika Presha have entered into the attached Settlement Agreement. (Ex. 2)

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

1. The Settlement Agreement is adopted and incorporated by reference into this Final Order. The parties shall comply with the terms of the Settlement Agreement.
2. The Provider’s assisted living facility licenses to operate Personal Care II, license number 8730, and Personal Care [“I”], license number 4829, are VOLUNTARILY SURRENDERED effective December 14, 2014. The Provider may consent to a Change of Ownership (“CHOW”) application with an unrelated party for either or both of the facilities with an effective date of, or prior to, December 14, 2014. Should there not be a CHOW with an effective date of, or prior to, December 14, 2014, the Provider is responsible for the safe and orderly discharge of the facility residents.
3. The Provider and Tamika Presha shall not apply for any type of license issued by the Agency or obtain any interest in any private entity which holds a license issued by the Agency for a period of 5 years of the date of this Final Order.
4. An administrative fine of \$2,000.00 is imposed but STAYED against the Provider. The Agency shall not attempt to collect the fine against the Provider absent a breach of this Settlement Agreement. Should either Brandia Presha or Tamika Presha seek any type of license issued by the Agency within five years of the date of this Final Order, the \$2,000.00 shall be immediately due and payable and full payment of the fine shall be a condition precedent for any type of Agency license. If payment is to be made, a check made payable to the “Agency for Health Care Administration” and containing the AHCA ten-digit case number(s) should be sent to:

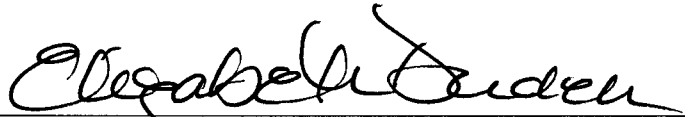
Office of Finance and Accounting
Revenue Management Unit
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 14
Tallahassee, Florida 32308

5. Should there not be a CHOW, the Provider is responsible for any refunds that may be due to any clients.

6. Should there not be a CHOW, the Provider shall remain responsible for retaining and appropriately distributing client records as prescribed by Florida law. The Provider is advised of Section 408.810, Florida Statutes. The Provider should also consult the applicable authorizing statutes and administrative code provisions as well as any other statute that may apply to health care practitioners regarding client records.

7. Should there not be a CHOW, the Provider is given notice of Florida law regarding unlicensed activity. The Provider is advised of Section 408.804 and Section 408.812, Florida Statutes. The Provider should also consult the applicable authorizing statutes and administrative code provisions. The Provider is notified that the cancellation of an Agency license may have ramifications potentially affecting accrediting, third party billing including but not limited to the Florida Medicaid program, and private contracts.

ORDERED at Tallahassee, Florida, on this 17 day of January, 2014.

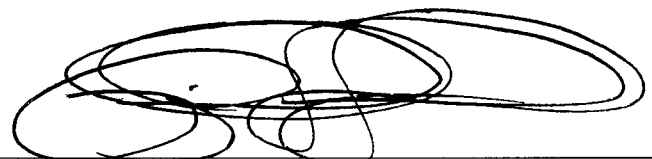

Elizabeth Dudek, Secretary
Agency for Health Care Administration

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 17th day of February, 2014.


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

Jan Mills Facilities Intake Unit (Electronic Mail)	Shaddrick Haston, Unit Manager Licensure Unit Agency for Health Care Administration (Electronic Mail)
Finance & Accounting Revenue Management Unit (Electronic Mail)	Patricia Cauffman, Field Office Manager Local Field Office Agency for Health Care Administration (Electronic Mail)
Katrina Derico-Harris Medicaid Accounts Receivable Agency for Health Care Administration (Electronic Mail)	Suzanne Suarez Hurley, Esq. Office of the General Counsel Agency for Health Care Administration (Electronic Mail)
Shawn McCauley Medicaid Contract Management Agency for Health Care Administration (Electronic Mail)	Corinne Porcher, Esquire Smith & Associates 3301 Thomasville Road, Suite 201 Tallahassee, FL 32308 (U.S. Mail)
Lynne Quimby-Pennock Administrative Law Judge Division of Administrative Hearings (Electronic Mail)	Brandia Presha, Owner/Administrator Personal Care & Personal Care II 120 8 th Avenue West Bradenton, FL 34208 (U.S. Mail)
J. D. Parrish Administrative Law Judge Division of Administrative Hearings (Electronic Mail)	Tamika Presha 120 8 th Avenue West Bradenton, FL 34208 (U.S. Mail)

NOTICE OF FLORIDA LAW

408.804 License required; display.--

(1) It is unlawful to provide services that require licensure, or operate or maintain a provider that offers or provides services that require licensure, without first obtaining from the agency a license authorizing the provision of such services or the operation or maintenance of such provider.

(2) A license must be displayed in a conspicuous place readily visible to clients who enter at the address that appears on the license and is valid only in the hands of the licensee to whom it is issued and may not be sold, assigned, or otherwise transferred, voluntarily or involuntarily. The license is valid only for the licensee, provider, and location for which the license is issued.

408.812 Unlicensed activity.--

(1) A person or entity may not offer or advertise services that require licensure as defined by this part, authorizing statutes, or applicable rules to the public without obtaining a valid license from the agency. A licenseholder may not advertise or hold out to the public that he or she holds a license for other than that for which he or she actually holds the license.

(2) The operation or maintenance of an unlicensed provider or the performance of any services that require licensure without proper licensure is a violation of this part and authorizing statutes. Unlicensed activity constitutes harm that materially affects the health, safety, and welfare of clients. The agency or any state attorney may, in addition to other remedies provided in this part, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of the unlicensed provider or the performance of any services in violation of this part and authorizing statutes, until compliance with this part, authorizing statutes, and agency rules has been demonstrated to the satisfaction of the agency.

(3) It is unlawful for any person or entity to own, operate, or maintain an unlicensed provider. If after receiving notification from the agency, such person or entity fails to cease operation and apply for a license under this part and authorizing statutes, the person or entity shall be subject to penalties as prescribed by authorizing statutes and applicable rules. Each day of continued operation is a separate offense.

(4) Any person or entity that fails to cease operation after agency notification may be fined \$1,000 for each day of noncompliance.

(5) When a controlling interest or licensee has an interest in more than one provider and fails to license a provider rendering services that require licensure, the agency may revoke all licenses and impose actions under s. 408.814 and a fine of \$1,000 per day, unless otherwise specified by authorizing statutes, against each licensee until such time as the appropriate license is obtained for the unlicensed operation.

(6) In addition to granting injunctive relief pursuant to subsection (2), if the agency determines that a person or entity is operating or maintaining a provider without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a client of the provider, the person or entity is subject to the same actions and fines imposed against a licensee as specified in this part, authorizing statutes, and agency rules.

(7) Any person aware of the operation of an unlicensed provider must report that provider to the agency.