

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED  
AHCA  
AGENCY CLERK

2016 SEP -1 A 11:11

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Petitioner,

DOAH No. 15-3858

v.

AHCA Nos. 2015004585

AMERICAN SENIOR LIVING OF  
DADE CITY, FL, LLC, d/b/a EDWINOLA  
RETIREMENT COMMUNITY,

2015005905

2015011937

License No. 7295

File No. 11953430

Respondent.

Provider Type: Assisted Living Facility

RENDITION NO.: AHCA-16-0663-S-OLC

**FINAL ORDER**

THIS CAUSE came on for consideration before the Agency for Health Care Administration (“the Agency”), which finds and concludes as follows:

1. The Agency issued the attached Second Amended Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1) The Election of Rights form advised of the right to an administrative hearing. The parties have since entered into the attached License Surrender Agreement, which is adopted and incorporated by reference into this Final Order. (Ex. 2)

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

2. The Respondent’s license is voluntarily surrendered effective September 30, 2016. The license surrender date is set at September 30, 2016, solely for the purpose of the safe and orderly discharge of the residents. The license of the Facility shall not be the subject of a change of ownership application or otherwise transferred in any manner whatsoever.

3. The Respondent shall pay the Agency \$20,000.00. If full payment has been made, the cancelled check acts as receipt of payment and no further payment is required. If full payment has not been made, payment is due within 30 days of the Final Order. Overdue amounts are subject to statutory interest and may be referred to collections. A check made payable to the “Agency for Health Care Administration” and containing the AHCA ten-digit case number should be sent to:

Central Intake Unit  
Agency for Health Care Administration  
2727 Mahan Drive, Mail Stop 61  
Tallahassee, Florida 32308

4. The Respondent shall refrain from seeking or obtaining, directly or indirectly, any type of license issued by the Agency or ownership of an Agency licensee for a period of 5 years from the date of the Final Order. This prohibition against licensure and ownership of a licensee does not affect the licenses of either related assisted living facility (Oakview Terrace and Fairway Pines At Sun 'N Lake) that shares a common controlling interest with the Licensee.

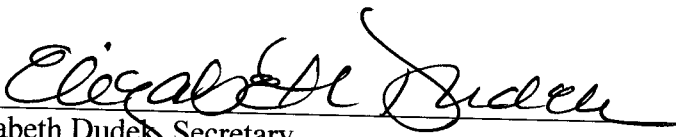
5. The Agency's action for license revocation is withdrawn and the Agency shall not seek any further fines or fees against the Respondent as a result of the surveys or monitoring visits of the Respondent that occurred on or before August 10, 2016. In addition, the moratorium on admissions shall conclude on the day of the license surrender. The Agency shall not use the violations of the Respondent at this facility for any action against the Respondent's other two assisted living facilities (Oakview Terrace and Fairway Pines At Sun 'N Lake) that share a common controlling interest with the Respondent.

6. In accordance with Florida law, the Respondent is responsible for retaining and appropriately distributing all client records within the timeframes prescribed in the authorizing statutes and applicable administrative code provisions. The Respondent is advised of Section 408.810, Florida Statutes.

7. In accordance with Florida law, the Respondent is responsible for making timely refunds that may have to be made to the clients.

8. The Respondent is given notice of Florida law regarding unlicensed activity. The Respondent is advised of Section 408.804 and Section 408.812, Florida Statutes. The Respondent should also consult the applicable authorizing statutes and administrative code provisions. The Respondent is notified that the surrender 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** in Tallahassee, Florida, on this 1 day of September, 2016.

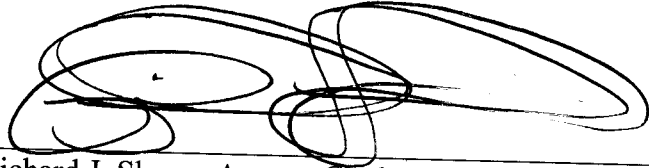
  
Elizabeth Dudek, Secretary  
Agency For Health Care Administration

**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 HEREBY CERTIFY that a true and correct copy of the foregoing was furnished to the below named persons by the method designated on this 15<sup>th</sup> day of September, 2016.



Richard J. Shoop, Agency Clerk  
Agency for Health Care Administration  
2727 Mahan Drive, MS #3  
Tallahassee, FL 32308  
(850) 412-3630

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Catherine Anne Avery, Unit Manager Assisted Living Unit Agency for Health Care Administration (Electronic Mail)
Central Intake Unit Agency for Health Care Administration (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)	Edwin D. Selby, Assistant General Counsel Office of the General Counsel Agency for Health Care Administration (Electronic Mail)
Shawn McCauley Medicaid Contract Management Agency for Health Care Administration (Electronic Mail)	Administrator American Senior Living of Dade City, FL, LLC 14235 Edwinola Way Dade City, Florida 33525 (U.S. Mail)
D. R. Alexander Administrative Law Judge Division of Administrative Hearings (Electronic Filing)	David C. Ashburn, Esquire Greenberg Traurig, P.A. 101 East College Avenue Tallahassee, Florida 32302 (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.