

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED  
AHCA  
AGENCY CLERK

2016 MAR -2 P 2: 09

EL PALMAR HOME CARE, INC.,

Petitioner,

v.

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Respondent.

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Formerly DOAH NO. 15-5000

CASE NO. 15-572PH

AHCA NO. 2015007950

FILE NO. 11966410

LICENSE NO. 10619

FACILITY TYPE: ASSISTED

LIVING FACILITY

RENDITION NO.: AHCA - ~~10~~ -0173

-FOI-OLC

ROSARIO RETIREMENT SENIOR HOME,

Petitioner,

v.

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Respondent.

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Formerly DOAH NO. 15-5001

CASE NO. 15-573PH

AHCA NO. 2015007963

FILE NO. 11964984

LICENSE NO. 9633

FACILITY TYPE: ASSISTED

LIVING FACILITY

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

ALMAR ALF, INC.,

Respondent.

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Formerly DOAH NO. 15-6187

CASE NO. 15-571PH

AHCA NO. 2015007820

FILE NO. 11968205

LICENSE NO. 12128

FACILITY TYPE: ASSISTED

LIVING FACILITY

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

DAMABIAN ALF CENTER, INC.,

Respondent.

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Formerly DOAH NO. 15-6188  
CASE NO. 15-569PH  
AHCA NO. 2015007818  
FILE NO. 11965773  
LICENSE NO. 10121  
FACILITY TYPE: ASSISTED  
LIVING FACILITY

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

MARGARITA ALF HOME CORP d/b/a  
MARGARITA'S ALF HOME CORP. #1,

Respondent.

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Formerly DOAH NO. 15-6189  
CASE NO. 15-570PH  
AHCA NO. 2015007819  
FILE NO. 11911605  
LICENSE NO. 7764  
FACILITY TYPE: ASSISTED  
LIVING FACILITY

MY FUTURE HOME OF MIAMI,

Petitioner,

v.

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Respondent.

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Formerly DOAH NO. 15-6190  
CASE NO. 15-574PH  
AHCA NO. 2015009466  
FILE NO. 11910866  
LICENSE NO. 6050  
FACILITY TYPE: ASSISTED  
LIVING FACILITY

**FINAL ORDER**

After an administrative law judge at the Division of Administrative Hearings entered an order relinquishing jurisdiction due to the absence of any disputed issues of material fact, the Agency Clerk referred these consolidated cases to a hearing officer (hereafter referred to as the Presiding Officer) for a proceeding to be conducted pursuant to Section 120.57(2), Florida

Statutes. The Presiding Officer's Recommended Order, which was signed on February 25, 2016, and filed with the Agency Clerk's office on February 26, 2016, is attached to this Final Order and incorporated herein by reference.

### **FINDINGS OF FACT**

The Agency adopts the findings of fact set forth in the Recommended Order.

### **CONCLUSIONS OF LAW**

The Agency adopts the conclusions of law set forth in the Recommended Order.

### **IT IS THEREFORE ADJUDGED THAT:**

1. In regard to AHCA Nos. 2015007950, 2015007963 and 2015009466, the Agency's Notices of Intent to Deny License Renewal Applications are hereby upheld and the assisted living facility license renewal applications of El Palmar Home Care, Inc., Rosario Retirement Senior Home, and My Future Home of Miami are hereby denied. In regard to AHCA Nos. 2015007818, 2015007819 and 2015007820, the Agency's Amended Administrative Complaints are hereby upheld and the assisted living facility licenses of Damabian ALF Center, Inc., Margarita ALF Home Corp. d/b/a Margarita's ALF Home Corp. #1, and Almar ALF, Inc. are hereby revoked.

2. In order to ensure the health, safety, and welfare of the clients of these facilities, the revocations and license expiration dates are extended for 30 days only as to El Palmar Home Care, Inc., Rosario Retirement Senior Home, Dambian ALF Center, Inc., and Margarita's ALF Home Corp. #1<sup>1</sup> for the sole purpose of allowing the safe and orderly discharge of clients. § 408.815(6), Fla. Stat. As a condition of this extension, these facilities are prohibited from accepting any new admissions during this period and must immediately notify the clients that

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<sup>1</sup> The licenses of the other two assisted living facilities, Almar ALF, Inc., and My Future Home of Miami, were either not renewed or previously revoked.

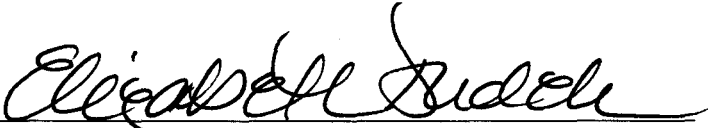
they will soon be discharged. These facilities are subject to monitoring by the Agency and possibly third parties. The Agency may terminate the 30-day extension or modify the conditions at any time. These facilities must comply with all other applicable federal and state laws. At the conclusion of 30 days, or upon the discontinuance of operations, whichever is first in time, these facilities shall promptly return the license certificates which are the subject of this agency action to the appropriate licensure unit in Tallahassee, Florida. Fla. Admin. Code R. 59A-35.040(5).

3. In accordance with Florida law, these facilities are responsible for retaining and appropriately distributing all client records within the timeframes prescribed in the authorizing statutes and applicable administrative code provisions. These facilities are advised of Section 408.810, Florida Statutes.

4. In accordance with Florida law, these facilities are responsible for any refunds that may have to be made to the clients.

5. These facilities are given notice of Florida law regarding unlicensed activity. These facilities are advised of Section 408.804 and Section 408.812, Florida Statutes. These facilities should also consult the applicable authorizing statutes and administrative code provisions. These facilities are 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.

**DONE AND ORDERED** in Tallahassee, Florida, on this 2 day of March, 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 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 CERTIFY that a true and correct copy of this Final Order was served on the below-named persons by the method designated on this 2<sup>nd</sup> day of March, 2016.



RICHARD J. SHOOP, Agency Clerk  
AGENCY FOR HEALTH CARE ADMINISTRATION  
2727 Mahan Drive, MS #3  
Tallahassee, Florida 32308  
Telephone: (850) 412-3689

Copies furnished to:

Jan Mills Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Catherine Avery, Unit Manager Assisted Living Unit Agency for Health Care Administration (Electronic Mail)
Finance & Accounting Revenue Management Unit Agency for Health Care Administration (Electronic Mail)	Arlene Mayo-Davis, Field Office Manager Area 11 Field Office Agency for Health Care Administration (Electronic Mail)
Katrina Derico-Harris Medicaid Accounts Receivable Agency for Health Care Administration (Electronic Mail)	Alba M. Rodriguez, Esquire Assistant General Counsel Agency for Health Care Administration (Electronic Mail)

Shawn McCauley Medicaid Contract Management Agency for Health Care Administration (Electronic Mail)	Adriana Rodriguez, Owner 1801 Northwest 19 <sup>th</sup> Street Miami, Florida 33125 (via electronic mail to ricsal130@comcast.net)
Warren J. Bird, Esquire Presiding Officer (Electronic 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.



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

**EL PALMAR HOME CARE, INC.,**

**Petitioner,**

**vs.**

**Case No. 15-572PH**

**AGENCY FOR HEALTH CARE  
ADMINISTRATION,**

**AHCA No. 2015007950  
(Formerly DOAH No. 15-5000)**

**Respondent.**

\_\_\_\_\_  
**ROSARIO RETIREMENT SENIOR  
HOME,**

**Petitioner.**

**vs.**

**Case No. 15-573PH**

**AGENCY FOR HEALTH CARE  
ADMINISTRATION,**

**AHCA No. 2015007963  
(Formerly DOAH No. 15-5001)**

**Respondent.**

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**AGENCY FOR HEALTH CARE  
ADMINISTRATION,**

**Petitioner,**

**v.**

**Case No. 15-571PH**

**ALMAR ALF, INC.,**

**AHCA No. 2015007820  
(Formerly DOAH No. 15-6187)**

**Respondent.**

\_\_\_\_\_  
**AGENCY FOR HEALTH CARE  
ADMINISTRATION,**

**Petitioner,**

**v.**

**Case No. 15-569PH**

**DAMABIAN ALF CENTER, INC.**

**AHCA No. 2015007818  
(Formerly DOAH No. 15-6188)**

**Respondent.**

**AGENCY FOR HEALTH CARE  
ADMINISTRATION,**

**Petitioner,**

**Case No. 15-570PH**

**v.**

**AHCA No. 2015007819  
(Formerly DOAH No. 15-6189)**

**MARGARITA ALF HOME CORP, d/b/a  
MARGARITA'S ALF HOME CORP. #1,**

**Respondent.**

\_\_\_\_\_  
**MY FUTURE HOME OF MIAMI,**

**Petitioner,**

**Case No. 15-574PH**

**v.**

**AHCA No. 2015009466  
(Formerly DOAH No. 15-6190)**

**AGENCY FOR HEALTH CARE  
ADMINISTRATION,**

**Respondent.**

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**RECOMMENDED ORDER**

**THESE SIX CONSOLIDATED** cases were initiated by the Agency for Health Care Administration (Agency), comprising three administrative complaints to revoke the licenses of Petitioner El Palmar Home Care, Inc. (2015007950), Rosario Retirement Senior Home (2015007963), and My Future Home of Miami (2015009466); and three Notices of Intent to Deny renewal licensure to Respondents, Almar ALF, Inc. (2015007820), Damabian ALF Center, Inc. (2015007818), and Margarita ALF Home Corp, d/b/a Margarita's ALF Home Corp. #1, (2015007819) (hereafter, collectively, "the facilities"). After proceeding to the Division of Administrative Hearings at the request of the facilities, for a hearing involving a dispute of material fact pursuant to Section 120.57(1), Florida Statutes (2015), the Administrative Law Judge there, on November 17, 2016, issued an Order consolidating the cases , and on December 22, 2015, issued an Order Closing Files and Relinquishing Jurisdiction, after finding that there

was no dispute of material fact presented by any of the cases. Thereafter, the matters were assigned to the undersigned for an informal hearing. On February 23, 2016, an informal hearing was held in this matter pursuant to Section 120.57(2), Florida Statutes (2015). Ms. Alba Rodriguez, Assistant General Counsel, represented the Agency at the hearing. Ms. Adriana Rodriguez represented the facilities as owner. A prehearing statement was filed by the Agency as required by the Order of Prehearing Instructions. The facilities filed no prehearing statement.

### **FINDINGS OF FACT**

1. Whereas, the Division of Administrative Hearings considered, and found that no dispute of material fact is presented by the six consolidated cases, and therefore relinquished jurisdiction back to the Agency for an informal hearing pursuant to Section 120.57(2), Florida Statutes (2015), all of the well pled material allegations of fact in the three Administrative Complaints and three Notices of Intent to Deny at issue in these cases are taken as proven.

### **CONCLUSIONS OF LAW**

2. Respondents were issued licenses to operate the respective assisted living facilities at issue in these proceedings, and the owner of all six, Adriana Rodriguez, was therefore at all times required to comply with all applicable statutes and rules, including those necessary to maintain any extant privileges held as a Medicaid provider.

3. Whereas, there is no dispute of material fact regarding the allegations contained in the Administrative Complaints and Notices of Intent at issue, Respondents, through the owner, Adriana Rodriguez, are provided an opportunity, in the informal hearing, to introduce mitigating evidence to seeking modification of the sanctions imposed by the Agency, as set forth in the Administrative Complaints and Notices of Intent.

4. “Evidence is mitigating if, in fairness or in the totality of the defendant’s life or character, it may be considered as extenuating or reducing the degree of moral culpability . . . [.]” Wickham v. State, 593 So.2d 191, 194 (Fla. 1991).

5. The gist of the Agency’s allegations regarding the six facilities, as also found by the Administrative Law Judge in her Order Closing files and Relinquishing Jurisdiction in the instant matters while pending at the Division of Administrative Hearings, is that the 100% owner of all six facilities, Adriana Rodriguez, admitted in deposition testimony that she owns all six facilities, and that Ms. Rodriguez was disqualified as a Medicaid provider “for cause”, pursuant to section 409.913, Florida Statutes, and Rule 59G-9.070, Florida Administrative Code, by Termination Final Order rendered by the Agency on June 22, 2015, in *State of Florida, Agency for Health care Administration v. Solanas Corp.*, MPI Reference No. CI 2015-0001944, Provider No. 142113100, License No. 9633, NPI No. 1427268598. In light of these established facts, the Agency was permitted by Section 408.815(1)(a), Florida Statutes (2015), to revoke or deny renewal of the facilities’ licenses; and was compelled by Section 408.815(4)(b), Florida Statutes (2015), to deny renewal of any of the subject facilities’ licenses, on the sole basis of the termination of Ms. Rodriguez’s privilege to be a Medicaid provider.

6. Upon being given an opportunity to testify in mitigation of the Agency’s intended sanctions, Adriana Rodriguez chose only to comment that she realized that the Agency was not going to renew her licenses and was going to revoke the others. Ms. Rodriguez chose not to testify further when offered several more opportunities to do so at the conclusion of the hearing.

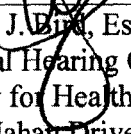
7. In light of the foregoing, the facilities, through Owner Adriana Rodriguez, have not demonstrated mitigation of the sanctions imposed by the Administrative Complaints and Notices of Intent.

8. The allegations of the Agency's Administrative Complaints to revoke, and Notices of Intent to Deny renewal of, the licenses of the facilities, are sustained by the admitted facts, and the sanctions imposed are appropriate.

**RECOMMENDATION**

**IT IS RECOMMENDED** that the Agency enter a Final Order imposing revocation of the licenses of Petitioners, El Palmar Home Care, Inc. (2015007950), Rosario Retirement Senior Home (2015007963), and My Future Home of Miami (2015009466); and denial of the renewal licenses of Respondents, Almar ALF, Inc. (2015007820), Damabian ALF Center, Inc. (2015007818), and Margarita ALF Home Corp, d/b/a Margarita's ALF Home Corp. #1, (2015007819).

**DONE AND ORDERED** at Tallahassee, Leon County, Florida this 25 day of February, 2016.

  
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Warren J. Bird, Esquire  
Informal Hearing Officer  
Agency for Health Care Administration  
2727 Mahan Drive MS-3  
Tallahassee, Florida 32308

Copies furnished to:

Alba Rodriguez, Esquire  
Agency for Health Care Administration  
8333 NW 53<sup>rd</sup> Street  
Miami, Florida 33166  
(Interoffice Mail)

Adriana Rodriguez, Owner  
1801 NW 19<sup>th</sup> Street  
Miami, Florida 33125  
(Via electronic mail to [ricsal130@comcast.net](mailto:ricsal130@comcast.net))