

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

FILED
AHCA
AGENCY CLERK

2017 AUG 24 P 1:20

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

DOAH No. 16-1935

v.

AHCA No. 2016001834

Former License No. 12192

ALITA CHEA HARAN d/b/a

File No. 11965829

ALITA AND JOHN HARAN ALF,

Provider Type: Closed Assisted Living Facility

Respondent.

FINAL ORDER

Having reviewed the Administrative Complaint, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

1. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent seeking license revocation, the imposition of a \$5,000.00 fine and the assessment of a \$193.86 survey fee. (Ex. 1) The Respondent requested a formal hearing and the matter was referred to the Division of Administrative Hearings. Jurisdiction was subsequently relinquished back to the Agency. While the agency action was pending, the Respondent allowed its license to expire and closed. Thereafter, the Respondent abandoned the litigation.

2. On July 26, 2017, after several attempts to contact the Respondent, the Agency moved for an Order to Show Cause to why the Respondent's hearing request should not be dismissed and the case closed due to the Respondent's abandonment. (Ex. 2) The Respondent did not submit a response to the Agency's motion. On August 4, 2017, the Agency Clerk issued an Order on Motion for an Order to Show Cause dismissing the Respondent's Answer and Request for Formal Hearing with Prejudice and upholding the Agency's Administrative Complaint as final. (Ex. 3)

It is therefore ORDERED:

3. The Agency's Order on Motion for an Order to Show Cause dismissing the Respondent's Answer and Request for Formal Hearing with Prejudice is adopted and incorporated by reference into this Final Order.

4. The Respondent's license to operate this assisted living facility is REVOKED.

5. The Respondent is responsible for any refunds that may be due to any clients.

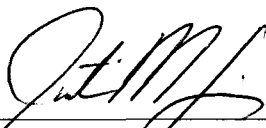
6. The Respondent shall remain responsible for retaining and appropriately distributing client records as prescribed by Florida law. The Respondent is advised of Section 408.810, Florida Statutes. The Respondent should also consult the applicable authorizing statutes and administrative code provisions as well as any other statute that may apply to health care practitioners regarding client records.

7. The Respondent is given notice of Florida law regarding unlicensed activity. The Respondent is advised of Section 408.804, Section 408.815, 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 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.

8. The Respondent shall pay the Agency \$5,193.86. 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

ORDERED at Tallahassee, Florida, on this 24th day of August, 2017.

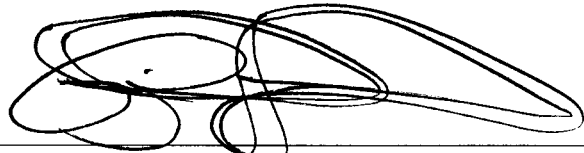

Justin M. Senior, Secretary
Agency for Health Care Administration

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 29th day of August, 2017.



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

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Keisha Woods, Unit Manager Assisted Living Unit Agency for Health Care Administration (Electronic Mail)
Central Intake Unit Agency for Health Care Administration (Electronic Mail)	Arlene Mayo-Davis, 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)	Lourdes A. Naranjo, 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)	Arthur Spiegel, Esquire Arthur Spiegel, Esq., P.A. Counsel for Respondent 10577 Southwest 109 th Court. Miami, Florida 33176 (U.S. Mail)
Mary Li Creasy Administrative Law Judge Division of Administrative Hearings (Electronic Filing)	

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**

**AGENCY FOR HEALTH CARE
ADMINISTRATION,**

Petitioner,

**DOAH No.: 16-1935
AHCA No. 2016001834**

V.

**EILEEN CHEA HARAN d/b/a ALITA AND
JOHN HARAN ALF,**

Respondent.

**AHCA'S MOTION FOR AN ORDER TO SHOW CAUSE TO WHY THIS CASE
SHOULD NOT BE CLOSED AS MOOT OR CONSIDERED TO HAVE BEEN
ABANDONED**

Petitioner, Agency for Health Care Administration (AHCA or Agency) hereby requests for an Order to Show Cause against EILEEN CHEA HARAN d/b/a ALITA AND JOHN HARAN ALF (Respondent or provider or Haran) as to why this case should not be closed as moot, and in support of this motion the Agency states as follows:

- 1) The Agency served Respondent with an Administrative Complaint on or about April 8, 2016 seeking revocation.
- 2) Respondent filed an Election of Rights on April 8, 2014 electing Option 3.
- 3) The Agency served Respondent with Interrogatories, Request for Admissions, and Requests for Production on June 24, 2016.
- 4) Respondent has not answered the discovery.
- 5) On July 12, 2016, the Court entered an Order Closing File and Relinquishing Jurisdiction on the basis that the parties had failed to file a status report by June 30, 2016 and therefore the Court concluded that this cause had been amicably resolved (Ex. 1).
- 6) On or about November of 2016, the Agency sent a settlement agreement to opposing counsel which Respondent was suppose to execute. The settlement agreement has never been executed even after the

Agency has sent multiple requests to opposing counsel.

- 7) Respondent's license (ALF license 12192) expired on May 23, 2016. Respondent did not renew the license.
- 8) Therefore, Respondent no longer has a license.
- 9) Therefore, this case is moot.
- 10) Opposing counsel objects to this motion.

Based on the foregoing, the Agency requests that an Order to Show Cause to be issued as to why this cause should not be closed as abandoned and to enter a final order entered adopting the findings of facts and the conclusions of law set forth in the Administrative Complaint or, in the alternative, to dismiss the case as moot.

Respectfully submitted,

/S/Lourdes A. Naranjo
Lourdes A. Naranjo, Esquire

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished (via electronic mail) to Arthur Spiegel, Esquire, 10577 S.W. 109th Court, Miami, Florida, on this 26th day of July, 2017.

/S/Lourdes A. Naranjo
Lourdes A. Naranjo, Esquire
Florida Bar No. 997315
Assistant General Counsel
Agency for Health Administration
525 Mirror Lake Drive N, Suite 330
St. Petersburg, Florida 33701

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

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STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

2017 AUG -4 A 9:38

Petitioner,

AHCA No. 2016001834

v.

ALITA CHEA HARAN d/b/a ALITA AND
JOHN HARAN ALF,

Respondent.

**ORDER ON MOTION FOR AN ORDER TO SHOW CAUSE [AS] TO WHY THIS
CASE SHOULD NOT BE CLOSED AS MOOT OR CONSIDERED TO HAVE
BEEN ABANDONED**

THIS CAUSE came before the office of the Agency Clerk on Petitioner's Motion for an Order to Show Cause [as] to why this Case should not be Closed as Moot or Considered to have been Abandoned ("Motion") in the above-styled case.

Upon review of the Motion, and noting the fact that Respondent did not file any response to the Motion, the undersigned finds that the issuance of an order to show cause in this matter is not necessary. It is clear from Respondent's inaction that Respondent has abandoned this matter. Thus, it is proper for the Agency to enter a final order upholding the Agency's February 23, 2016 Administrative Complaint as final.

IT IS THEREFORE ORDERED AND ADJUDGED THAT:

The Motion is denied. Instead, the Agency shall enter a final order dismissing Respondent's Answer and Request for Formal Hearing with prejudice due to abandonment, and upholding the Agency's February 23, 2016 Administrative Complaint as final.

EXHIBIT

"3"

DONE and ORDERED on this 7th day of August, 2017, in Tallahassee,

Florida.



RICHARD J. SHOOP, Agency Clerk
State of Florida, Agency for
Health Care Administration
2727 Mahan Drive, MS 3
Tallahassee, Florida 32308
(850) 412-3630

COPIES FURNISHED TO:

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(via electronic mail to Lourdes.Naranjo@ahca.myflorida.com)

Arthur Spiegel, Esquire
Arthur Spiegel, Esq., P.A.
10577 Southwest 109th Court
Miami, Florida 33176
(via electronic mail to arthurspiegel@gmail.com)

Jan Mills
Facilities Intake Unit
(via electronic mail to Janice.Mills@ahca.myflorida.com)