

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2016 OCT 27 A 9:10

DANIELLE BRYANT,

Petitioner,

DOAH No. 16-2065

v.

AHCA No. 2016001905

License No. 6906665

File No. 52963065

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Provider Type: Adult Family Care Home

Respondent.

RENDITION NO.: AHCA-16 0759 -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 Petitioner the attached Second Amended Notice of Intent to Deny Renewal Adult Family Care Home Application. (Ex. 1). The parties have since entered into the attached Settlement Agreement (Ex. 2), which is adopted and incorporated by reference.

2. The Petitioner has since surrendered her license and returned her license certificate to the License Unit and is thus no longer licensed as an adult family care home.

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

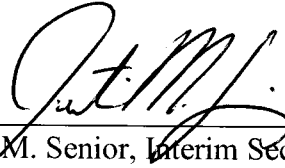
3. The parties shall comply with the terms of the Settlement Agreement. The Second Amended Notice of Intent to Deny is withdrawn conditioned upon the Petitioner’s compliance with the Settlement Agreement.

4. The Petitioner is responsible for any refunds that may be due to any clients.

5. The Petitioner shall remain responsible for retaining and appropriately distributing client records as prescribed by Florida law. The Petitioner is advised of Section 408.810, Florida Statutes. The Petitioner 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.

6. The Petitioner is given notice of Florida law regarding unlicensed activity. The Petitioner is advised of Section 408.804 and Section 408.812, Florida Statutes. The Petitioner should also consult the applicable authorizing statutes and administrative code provisions. The Petitioner 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 in Tallahassee, Florida, on this 26th day of October, 2016.



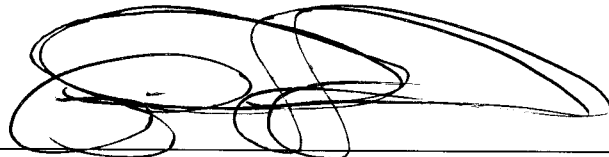
Justin M. Senior, Interim Secretary
Agency for Health Care Administration

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party that is adversely affected by this Final Order is entitled to seek 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 this Final Order was served on the below-named persons by the method designated on this 27th day of October, 2016.



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)	Laura Manville, Unit Manager Licensure Unit Agency for Health Care Administration (Electronic Mail)
Central Intake Unit Agency for Health Care Administration (Electronic Mail)	Donah Heiberg, 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)	D. Carlton Enfinger, Senior Attorney Devan Desai, Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)
Shawn McCauley Medicaid Contract Management Agency for Health Care Administration (Electronic Mail)	Danielle Bryant, Administrator Bryant, Danielle 3181 NW 111 th Place Jasper, FL 32052 (U.S. Mail)
R. Bruce McKibben 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.

Bryant, Danielle
September 9, 2016

September 9, 2016

CERTIFIED

Danielle Bryant, Administrator
Bryant, Danielle
3181 NW 111th Place
Jasper, FL 32052

File Number: 52963065
License Number: 6906665
Application Number: 11984
Provider Type: Adult Family Care Home

RE: Complaint Number 2016001905 3181 NW 111th PL, Jasper

Second Amended Notice of Intent to Deny Renewal Adult Family Care Home Application

Dear Ms. Bryant:

It is the decision of this Agency that Danielle Bryant's renewal application for the Adult Family Care Home (AFCH) license be DENIED.

The Specific Basis for this determination is:

A complaint (CCR# 2015010567) investigation was conducted on October 20, 2015 at 3086 NW 111th Place, Jasper, Florida 32052 by the Gainesville Field Office staff. At the time of the survey, Ms. Bryant, a licensed adult family care home provider at 3181 NW 111th Place, Jasper, Florida 32052, was cited for unlicensed activity.

The licensed Adult Family Care Home (AFCH) provider participated in operating an unlicensed assisted living facility. The Provider provided personal care services including meals, assistance with self-administration of medications and medication management to 4 of 4 residents (Resident #1, #2, #3, and #4) at the unlicensed assisted living facility. The Provider also moved 1 of 4 residents (Resident #1) from her licensed facility to the unlicensed location. The Provider's actions of operating an unlicensed assisted living facility placed all 4 residents at risk of harm, including abuse and neglect.

Findings include:

During a confirmed unlicensed activity complaint (CCR# 2015010567) investigation at 3086 NW 111th PL Jasper, FL 32052 on October 20, 2015 at 3:30 PM, Resident #1 and Resident #2 were observed watching T.V. Also, during a tour, Residents #1, #2, #3, and #4 rooms were observed to have their personal belongings and clothes at the unlicensed location.

During an interview on October 20, 2015 at 3:37 PM, Resident #1 reported he had been at the unlicensed location since 8/21/15 and the Provider transported him directly to the unlicensed facility from Park Meadows Health and Rehabilitation Center, a nursing home. He reported he received assistance with medications, meals, laundry, and house cleaning at the unlicensed location. He reported he gets locked up in the unlicensed location at night and the front and back doors are dead bolted.

A review of Resident #1's Park Meadows Health and Rehabilitation Center nursing and discharge plan notice revealed that he was discharged to the Provider's AFCH on 8/21/15.

During an interview at the unlicensed location on October 20, 2015 at 3:45 PM, Resident #2 reported he has lived at the unlicensed location since October 2014. She stated the staff at the unlicensed home, including the Provider, provided him with assistance with self-administration of medication. He also reported that residents are locked in the unlicensed home at night so staff can make sure the residents comply with the rules for not leaving the unlicensed location.

During an interview on October 29, 2015 at 1:00 PM, Resident #4's Case Manager confirmed that Resident #4 resided at the unlicensed location. She reported that Resident #4 paid his rent to the Provider directly. She also reported that the Provider was the contact person at the unlicensed location and managed Resident #4's medications.

During an interview at the unlicensed location on October 20, 2015 at 4:00 PM, the Operator reported she provided Resident #1, Resident #2, Resident #3, and Resident #4 with meals, laundry services, housekeeping, transportation, and assistance with self-administration of medication. She reported when she is not available, then the Provider provided the services. The Operator of the unlicensed home stated the Provider assisted in recruiting the residents to the unlicensed home.

A review of the Department of Children and Family chronological report dated October 10, 2015 revealed that Resident #2, Resident #3 and Resident #4 reported to the API (Adult Protective Investigator) that the Operator was their Representative Payee.

During an interview on October 20, 2015 at 9:28 PM, the Pharmacist reported that Resident #1, Resident #2, Resident #3, and Resident #4's medications were delivered to the licensed AFCH. He stated the logs showed that the Provider signed the delivery logs for delivery of medications prescribed for residents at the unlicensed location.

During an interview on November 2, 2015 at 10:15 AM, the Pharmacy Billing Personnel reported Resident #1, Resident #2, Resident #3 and Resident #4's billing statements were being sent to the Provider AFCH.

A review of the Pharmacy delivery logs dated June 14, 2015 through October 21, 2015 revealed Resident #1, Resident #2, Resident #3 and Resident #4's medications were delivered to the licensed AFCH and the Provider signed as receiving the medication.

A review of Resident #1, Resident #2, Resident #3 and Resident #4's Pharmacy billing statements dated September 30, 2015 revealed the statements were addressed to the licensed AFCH.

The AFCH renewal applicant failed to obtain a license from the Agency prior to offering or advertising services to the public that required licensure as defined by this part, authorizing statutes, or applicable rules. Therefore, pursuant to Section 408.810(1), Florida Statutes, Section 408.812(1)(2) and (5), Florida Statutes, and Section 408.815(1)(b)(c), Florida Statutes, your renewal application for licensure has been denied.

In addition, the Assisted Living Unit received notification on August 9, 2016 that Danielle Bryant had been arrested for a disqualifying offense on July 28, 2016. Pursuant to Section 429.63(2), Florida Statutes: "Adult family-care homes provide housing and personal care for disabled adults and frail elders who choose to live with an individual or family in a private home. The adult family-care home provider must live in the home. The purpose of this part is to provide for the health, safety, and welfare of residents of adult family-care homes in the

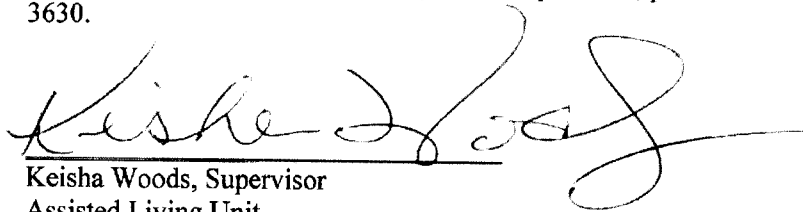
state.” Pursuant to Section 429.67(4), Florida Statutes, adult family care home providers are required to comply with the criminal background screening requirements. Thus, due to her arrest for a disqualifying offense, Ms. Bryant is prohibited by law from being an adult family care home provider. Pursuant to Section 408.810(1), Florida Statutes, the renewal applicant is no longer in compliance with the background screening requirements of Section 408.809, Florida Statutes and Section 435.06, Florida Statutes.

EXPLANATION OF RIGHTS

Pursuant to Section 120.569, F.S., 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), F.S., your request for an administrative hearing must conform to the requirements in Section 28-106.201, Florida Administrative Code (F.A.C), and must state the material facts you dispute.

SEE ATTACHED ELECTION AND EXPLANATION OF RIGHTS FORMS.

If you need further assistance or if you have questions, please contact General Counsel’s Office at (850) 412-3630.

A handwritten signature in black ink, appearing to read "Keisha Woods", written over a horizontal line.

Keisha Woods, Supervisor
Assisted Living Unit
Agency for Health Care Administration

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

DANIELLE BRYANT,

Petitioner,

vs.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

AHCA No.: 2016001905

DOAH No. 16-2065

DOAH No. 16-5494

SETTLEMENT AGREEMENT

Respondent, State of Florida, Agency for Health Care Administration (hereinafter the "Agency"), through its undersigned representatives, and Petitioner, Danielle Bryant (hereinafter "Petitioner"), pursuant to Section 120.57(4), Florida Statutes, each individually, a "party," collectively as "parties," hereby enter into this Settlement Agreement ("Agreement") and agree as follows:

WHEREAS, the Petitioner is an applicant for renewal adult family care home licensure pursuant to Chapters 429, Part II, and 408, Part II, Florida Statutes, and Chapter 58A-14, Florida Administrative Code; and

WHEREAS, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over licensure of Petitioner; and

WHEREAS, the Agency served the Petitioner with a Notice of Intent to Deny for Renewal ("Notice of Intent") dated February 25, 2016, notifying the Petitioner of the Agency's intent to deny its application for licensure; and

WHEREAS, the Agency served the Petitioner with a notice, dated July 29, 2016, indicating that Petitioner's Exemption from Disqualification is voided; and

WHEREAS, the parties have agreed that a fair, efficient, and cost effective resolution of this dispute would avoid the expenditure of substantial sums to litigate the dispute; and

WHEREAS, the parties stipulate to the adequacy of considerations exchanged; and

WHEREAS, the parties have negotiated in good faith and agreed that the best interest of all the parties will be served by a settlement of this proceeding; and

NOW THEREFORE, in consideration of the mutual promises and recitals herein, the parties intending to be legally bound, agree as follows:

1. All recitals are true and correct and are expressly incorporated herein.
2. Both parties agree that the “whereas” clauses incorporated herein are binding findings of the parties.
3. Upon full execution of this Agreement, Petitioner agrees to waive any and all proceedings and appeals to which it may be entitled including, but not limited to, an informal proceeding under Subsection 120.57(2), a formal proceeding under Subsection 120.57(1), appeals under Section 120.68, Florida Statutes; and declaratory and all writs of relief in any court or quasi-court (DOAH) of competent jurisdiction; and further agrees to waive compliance with the form of the Final Order (findings of fact and conclusions of law) to which it may be entitled. Provided, however, that no agreement herein, shall be deemed a waiver by either party of its right to judicial enforcement of this Agreement.
4. Upon full execution of this Agreement, the parties agree to the following:
 - a. The Petitioner’s application for renewal of its adult family care home license (license number 6906665) is voluntarily withdrawn effective upon the Petitioner’s return of its license certificate to the Agency or 7 days after

the date of entry of a Final Order adopting this agreement, whichever is first in time.

- b. The Petitioner shall return its license certificate to the Agency within 7 days after the date of entry of a Final Order adopting this agreement.
- c. The Agency's Notice of Intent is withdrawn.
- d. Petitioner shall withdraw its Petition for Formal Hearing (Case Nos. 16-2065; 16-5494) at the Division of Administrative Hearings.

5. Venue for any action brought to interpret, challenge or enforce the terms of this Agreement or the Final Order entered pursuant hereto shall lie solely in the Circuit Court in Leon County, Florida.

6. By executing this Agreement, the Petitioner neither admits nor denies the facts and legal conclusions raised in the Notice of Intent referenced herein, and the Agency asserts the validity thereof. The Agency is not precluded from using the subject events for any purpose within the jurisdiction of the Agency. Further, Petitioner acknowledges and agrees that this Agreement shall not preclude or estop any federal, state or local agency or office from pursuing any cause of action or taking any action, even if based on or arising from, in whole or in part, the facts raised in the Notice of Intent.

7. Upon full execution of this Agreement, the Agency shall enter a Final Order adopting and incorporating the terms of this Agreement and closing the above-styled case(s).

8. Each party shall bear its own costs and attorney's fees.

9. This Agreement shall become effective on the date upon which it is fully executed by all the parties.

10. The Petitioner for itself and for its related or resulting organizations, its successors or transferees, attorneys, heirs, and executors or administrators, does hereby discharge the Agency and its agents, representatives, and attorneys of all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, arising out of or in any way related to this matter and the Agency's actions, including, but not limited to, any claims that were or may be asserted in any federal or state court or administrative forum, including any claims arising out of this Agreement, by or on behalf of the Petitioner or related or resulting organizations.

11. This Agreement is binding upon all parties herein and those identified in the aforementioned paragraph of this Agreement.

12. In the event that Petitioner is or was a Medicaid provider, this settlement does not prevent the Agency from seeking Medicaid overpayments or from imposing any sanctions pursuant to Rule 59G-9.070, Florida Administrative Code. This agreement does not prohibit the Agency from taking action regarding Petitioner's Medicaid provider status, conditions, requirements or contract.

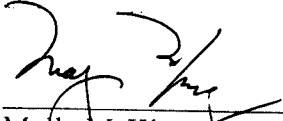
13. The undersigned have read and understand this Agreement and have authority to bind their respective principals to it. Petitioner's representative has the capacity to execute this Agreement. The Petitioner understands that it has the right to consult with counsel and has either consulted with counsel or has knowingly and freely entered into this Agreement without exercising its right to consult with counsel. The Petitioner fully understands that counsel for the Agency represents solely the Agency and Agency counsel has not provided legal advice to or influenced the Petitioner in its decision to enter into this Agreement.

14. This Agreement contains the entire understandings and agreements of the parties.

15. This Agreement supersedes any prior oral or written agreements between the parties. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

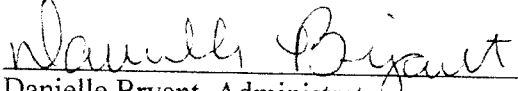
16. All parties agree that a facsimile signature suffices for an original signature.

17. The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.



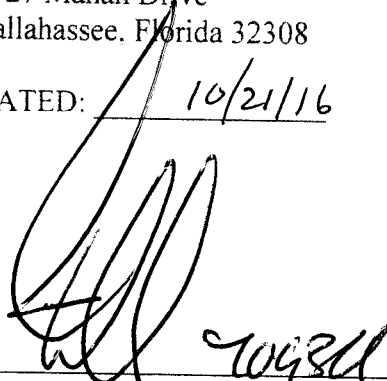
Molly McKinstry, Deputy Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive
Tallahassee, Florida 32308

DATED: 10/21/16




Danielle Bryant, Administrator
Bryant, Danielle
3181 NW 111th Place
Jasper, FL 32052

DATED: 9-29-16



Stuart F. Williams
General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308

DATED: 10/18/2016



Devan Desai
Assistant General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308

DATED: 9/29/16