

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2017 OCT 27 P 2:10

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

AHCA NO. 2014001532
LICENSE NO. 1023095

v.

AVANTE AT BOCA RATON, INC.,

RENDITION NO.: AHCA-17-0635-S-OLC

Respondent.

FINAL ORDER

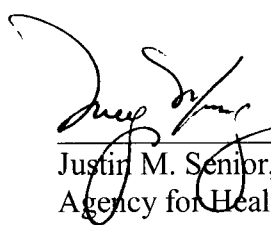
Having reviewed the Administrative Complaint, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

1. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1) The parties have since entered into the attached Settlement Agreement, which is adopted and incorporated by reference into this Final Order. (Ex. 2)

2. The Respondent shall pay the Agency \$10,000.00, and a Conditional License is imposed beginning on 12/23/13 and ending on 1/8/14. 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 90 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 26 day of October, 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 27th day of October, 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)	Central Intake Unit 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)	Suzanne Suarez Hurley, Esquire Suzanne Suarez Hurley, P.A. P.O. Box 13215 Tampa, Florida 33681-3215 (U.S. Mail)
	Vilma Martinez, Esq. VP and General Counsel Avante Group, Inc. 4601 Sheridan Street, Suite 500 Hollywood, Florida 33023 (U.S. Mail)

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

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

Petitioner,

**AHCA No.: 2014001532
Return Receipt Requested:
7015 1730 0000 5066 6005**

v.

AVANTE AT BOCA RATON, INC. ,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW State of Florida, Agency for Health Care Administration (“AHCA” or “Agency” or “Petitioner”), by and through the undersigned counsel, and files this administrative complaint against Avante at Boca Raton, Inc. (hereinafter “Avante ” or “Respondent”), pursuant to Chapter 400, Part II, and Section 120.60, Florida Statutes (2016), and alleges:

NATURE OF THE ACTION

1. This is an action to impose an administrative fine of \$16,000.00 pursuant to Sections 400.23(8), and 400.19, Florida Statutes (2013), for the protection of public health, safety and welfare.
2. This is also an action to impose a Conditional Licensure status beginning on 12//23/13 and ending on 1/8/14 pursuant to Section 400.23(7)(a), Florida Statutes (2012).

EXHIBIT 1

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to Sections 120.569 and 120.57, Florida Statutes (2016), and Chapter 28-106, Florida Administrative Code (2012).
4. Venue lies pursuant to Rule 28-106.207, Florida Administrative Code (2012).

PARTIES

5. AHCA is the regulatory authority responsible for licensure and enforcement of all applicable statutes and rules governing nursing homes pursuant to Chapter 400, Part II, Florida Statutes (2016), and Chapter 59A-4, Florida Administrative Code.

6. Avante is a 144-bed nursing home facility located at 1130 NW 15th Street, Boca Raton, Florida 33486. Avante is licensed as a nursing home facility under license SNF 1023095. A Conditional license was imposed beginning on 12/23/13, certificate number 18718, and ending on 1/8/14 when a Standard License was issued effective 1/18/14, certificate number 18719. Avante was at all times material hereto a licensed facility under the licensing authority of AHCA and was required to comply with all applicable rules and statutes.

COUNT I (TAG N0201)

**AVANTE FAILED TO PROVIDE THE APPROPRIATE SERVICES FOR ONE
OF THREE SAMPLED RESIDENTS**

SECTION 400.022(1)(I), FLORIDA STATUTES

(RIGHT TO ADEQUATE AND APPROPRIATE HEALTH CARE)

CLASS I VIOLATION

7. AHCA re-alleges and incorporates paragraphs (1) through (5) as if fully set forth herein.

8. Avante was cited with deficient practice as the result of a complaint survey that was conducted on 12/23/13.

9. Based on interviews, record review, facility policy, and according to Florida Statute, Chapter 468, Part V, the Respiratory Therapy Act, the facility failed to provide the appropriate services for 1 of 3 sampled residents reviewed for Advance Directives (Resident #1), who was on a ventilator and experienced a cardiac event. The Respiratory Therapist failed to follow a Do Not Resuscitate (DNR) order for Resident #1.

10. The findings constituted the determination of immediate jeopardy, due to a staff member at the facility, a Respiratory Therapist, who serves as the Director of Respiratory Therapy, failing to determine the code status for the resident, prior to initiating CPR. The immediate jeopardy existed beginning 12/4/13, and was removed on 12/23/13. The scope and severity level was decreased from a "J" level to a "D" level. Although the facility implemented multiple corrective actions to remove the immediacy of the deficient practice, the potential for harm remains without the implementation of a plan of correction and the monitoring of the corrective actions.

11. The Respiratory Therapy Act, Florida Statutes Chapter 468, Part V, defines the "Practice of respiratory care" or "respiratory therapy" means the allied health specialty associated with the cardiopulmonary system that is practiced under the orders of a physician licensed under Chapter 458 or Chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board, including the assessment, diagnostic evaluation, treatment, management, control, rehabilitation, education, and care of patients in all care settings.

12. Per record review, Resident #1 was admitted to the facility on 10/21/13, with diagnosis of Chronic Airway Obstruction, Tracheostomy with Ventilator, Gastrostomy, Diabetes Mellitus, Congestive Heart Failure, Neurogenic Bladder, Hypertension, and Generalized Pain. The resident had a pacemaker and a history of Atrial Fibrillation. The resident had signed a "Health Care Surrogate Designation" form on 10/29/13, designating her daughter as her Health Care Surrogate (HCS). The resident had a DNR in place, effective 10/30/13, per review of the "Florida Do Not Resuscitate Order" form, dated 10/30/13. The resident was sent to the hospital on 11/2/13 and was readmitted to the facility on 11/11/13.

13. The resident returned from the hospital without information regarding her DNR status. The resident, with the assistance of her daughter per the resident's request, validated through interview with the Assistant Administrator on 12/20/13, completed another "Florida Do Not Resuscitate Order" form, dated 11/12/13. The physician signed the form on 11/14/13.

14. An interview was conducted with the resident's daughter on 12/20/13 at 9:07 AM, and the daughter expressed that her mother was clear on a DNR order, stating "my mother said they beat on her chest once and said never again". The daughter stated her mother wanted it "pasted on her bed". The resident had a Minimum Data Set (MDS) assessment completed for admission with a reference date of 11/18/13. The MDS indicated a Brief Interview of Mental Status (BIMS) score of 15, which indicated her cognition was intact.

15. A review of the medical record was conducted on 12/20/13. The following sequence of events was revealed: On 12/4/13 at 6:25 AM, the resident who was being progressively weaned off the ventilator was placed back on ventilator support. Between 6:15 AM and 6:25 AM, on 12/4/13, the resident became non-responsive with a heart rate of 56 beats per minute and respiratory rate of 10. Her oxygen saturation level was 87%. After being placed

back on the ventilator, her oxygen saturation increased to 98%, her respirations increased to 13, however her heart rate decreased to 50 beats per minute. A respiratory therapist, present in the facility on 12/4/13 at 6:45 AM was summoned to the resident's room. Shortly thereafter, while on ventilator support, the resident was unable to be aroused, with an absence of carotid pulses, and CPR was initiated by the respiratory therapist. The facility called 911. Review of the facility's Adverse Incident Report stated the resident had been revived, post CPR services rendered, but later passed away in the hospital.

16. An interview was conducted with the Respiratory Therapist on 12/20/13 at 10:57 AM. He validated that he was summoned to the resident's room at 6:45 AM on 12/4/13, and was unable to arouse the resident, as well as obtain any carotid pulses. He validated he initiated CPR on the resident, when he was unable to obtain a carotid pulse. He stated he was not aware the resident had a DNR in place. He stated he did not check the resident's chart himself prior, or designate a staff member to check the resident's chart for the DNR status, while he remained with the resident. He expressed a vulnerability relating to a conflict with the resident's daughter prior to 12/4/13 and "jumped into reactive mode." He validated he was aware of determining a resident's code status before initiating CPR and stated, "My bad. I really screwed up." He acknowledged the resident's code status was located in the resident's chart, near the front, under a tab called "Advance Directives". He explained his job requires him to place residents on ventilators and off ventilators frequently. He stated most residents are full code status, however at times a resident will request a DNR order. He was aware the form is yellow in color as a standard measure for a DNR. Further discussion revealed he was experiencing issues with the resident's responsible party that were progressive, and at one point he stated he was accused of trying to kill the resident. He expressed the staff he supervised reported issues with the

responsible party to him on several occasions. He was unable to answer why he failed to report the issues to Administration, the Director of Nursing, and/or the Director of Social Services as they occurred. He stated he did not fully understand the term "Interdisciplinary" and stated, "I do not know Long Term Care". Additionally he added that under the duties required as the director of the respiratory department, he re-in-serviced all of the respiratory staff on the procedure to determine code status after the incident on 12/4/13 involving Resident#1. He denied speaking to the staff he supervises about reporting conflicts to Administration and/or Social Services. On 12/23/13, the Administrator informed the surveyor that the Respiratory Therapist had resigned on 12/20/13.

17. An investigation of the incident was completed by the Administrator on a form entitled "Potential Adverse Incident Investigation Worksheet". The form did not indicate when it was completed. The form validated the incident occurred on 12/4/13 and under the section "Describe circumstances of the incident" notation read "resident had an advanced directive in her records which was not observed @ the time". Under the section "Were there any staff errors or omissions related to the incident?" the notation read "Advanced directive was overlooked." A written statement supplied by the Respiratory Therapist, as part of the Administrator's investigation, revealed the following: "Given the history of my interaction with the daughter, I felt it necessary to do everything to save the patient. Especially since the daughter had accused me before of wanting to pull the plug on her mother. The daughter and I had a few intense interactions before where she was yelling at me and the staff over the care of her mother." During the interview with the employee, he stated that he supplied a statement to administration when the event was investigated.

18. A review of the facility's policy entitled "Advanced Directives Guidelines (DNR)" validated under the guideline denoted as "Number 2: Document Resident/Responsible Party wishes in the medical record." The policy did not contain a date. Under the "purpose" section of the policy, the following was contained, "To insure that all Residents will be given the option of formulating an advance directive (DNR) and documents will be completed and kept up to date in the medical record."

19. An interview was conducted with the Director of Nursing (DON) and the Assistant Administrator on 12/20/13 at 11:00 AM and ongoing throughout the survey. Both staff members validated the Advance Directive, DNR, for Resident #1 was legally sound and in place at the time the Director of Respiratory Therapy initiated CPR. Both validated the facility policy was to check the resident's chart before initiating CPR to determine code status and this was not done. Both validated on 12/4/13, Resident's #1's medical record contained the most current, yellow DNR form, dated 11/14/13, under the section/tab of "Advanced Directives". The DON stated all staff are aware of the procedure, and neither DON nor the Assistant Administrator were aware of a conflict with the family. Both denied any issues reported to them from the Respiratory Department or Respiratory Therapist/Director of Respiratory Therapy. The DON stated she re-in-serviced all the nursing staff on the procedure after the incident, beginning 12/4/13 and ending 12/23/13. The DON and Assistant Administrator discussed with the surveyor that a daily meeting is held with staff where issues regarding the resident's care and concerns, including family issues, are reported and discussed. They validated the daily meeting is part of ongoing operations and the Respiratory Therapist has attended these regularly, as required.

20. A review of the Respiratory Therapist's personnel file was conducted. Evidence revealed he received training in his orientation program on 8/23/12, on the topics of Resident Rights, Abuse and Neglect, Avante Grievance Policy, and Risk Management. A copy of a current CPR certification was found in the employee's file which was issued February 2013 and expires on February 2015. A review of the employee's file revealed he was a licensed respiratory therapist in the state of Florida.

21. An interview was conducted with the Administrator on 12/23/13 at 10:00 AM, and the Administrator validated that the training was provided to the employee. The Administrator stated, "All staff are provided this training and all are spoken to about Advance Directives." He expressed the employee has been a part of all interdisciplinary meetings, including care plan meetings.

22. The DON and the Assistant Administrator together outlined for the surveyor, the steps taken to correct the situation after the event and the measures put in place to prevent recurrence. The measures were described as follows:

1. All residents were audited for their current and correct code status.
2. All resident charts were audited to ensure the section labelled "Advance Directives" contained no errors.
3. The topic of Advance Directives was added to the daily agenda for the interdisciplinary meeting held every morning.
4. The topic of Advance Directives was added to the agenda of the weekly Risk/Quality of Life meeting.
5. Forty-five (45) of 45 licensed nursing staff (RNs and LPNs), were re-educated on the Advance Directive procedure, including determining code status on a resident first, through reviewing the proper section in the chart.
6. Thirteen (13) of the 15 Respiratory Therapy staff were re-educated on the Advance Directive policies and procedures, including the first step in checking the resident 's chart for code status, before initiating CPR. Two of the RTs are still on medical leave.
7. A "Stop and Watch" program was instituted for all staff, including all ancillary departments. The program was designed for staff to stay alert and keep everyone informed of changes in a resident's status or condition, as they arise. It included reporting any changes or issues to the proper clinical and administrative staff immediately.

8. The topic of Advanced Directives was added to the general orientation program provided to all new staff.
9. A yellow laminated, pocket-sized card (same color as the DNR form) was created and the information contained within reflected all the necessary items and topics the admission nurse/admission process must cover, as soon as a resident enters the facility. A card was given to each nurse employed, as well as posted near each computer in the facility.
10. SBAR (Situation/Baseline/Assessment/Report) form was instituted for the nursing staff, which included reviewing the Advance Directives, as part of the assessment.
11. The Director of Respiratory Therapy was counselled regarding the untoward event on 12/4/13 related to his actions. He resigned on 12/20/13.
12. A "Daily Scrub " of each new admission's medical record will be performed by Administration and all clinical services, within the resident 's first 24 hours. The scrub was designed to ensure all the necessary paperwork is contained in the record.
13. The Administration making plans to improve hospital relations to ensure a new admission comes to the facility with all paperwork intact.
14. Administration preparing to remind all staff to promptly report resident and family concerns, conflicts, and problems to the appropriate staff.

23. The surveyor reviewed two (2) additional residents who were recently re-admitted to the facility, and nine (9) resident records to ensure that the Advance Directive section of the records reflected the correct code status of the resident. No concerns with any of the residents' Advance Directives were noted.

24. Based on the foregoing facts, Avante at Boca Raton, Inc. violated Section 400.022(1)(I), Florida Statutes, herein classified as a Class I violation, which warrants in this case an assessed fine of \$10,000. This violation also gives rise to a conditional license status pursuant to Section 400.23(7)(b), Florida Statutes, beginning on 12/23/13 and ending on 1/8/14, and a fine for \$6,000.00 for a 6 month survey cycle pursuant to Section 400.19, Florida Statutes (2013).

DISPLAY OF LICENSE

Pursuant to Section 408.804(2), Florida Statutes, Avante shall post the license in a prominent place that is in clear and unobstructed public view at or near the place where residents

are being admitted to the facility. The Conditional License and the Standard License are attached hereto as Exhibit "A"

CLAIM FOR RELIEF

WHEREFORE, the Agency requests the Court to order the following relief:

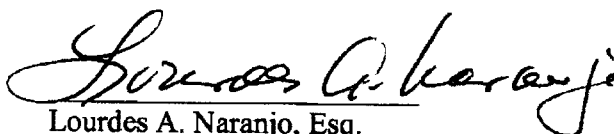
1. Enter a judgment in favor of the Agency for Health Care Administration against Jackson Memorial on Count I.
2. Assess an administrative fine of \$10,000.00 against Avante at Boca Raton, Inc. based on Count I.
3. Assess and assign Conditional Licensure status to Avante at Boca Raton, Inc. beginning on 12/23/13 and ending on 1/8/14 in accordance with Section 400.23(7)(b), Florida Statutes.
4. Assess a fine of \$6,000.00 for a six (6) month survey cycle pursuant to Section 400.19, Florida Statutes (2013).
5. Assess costs related to the investigation and prosecution of this matter, if the Court finds costs applicable.
6. Grant such other relief as this Court deems is just and proper.

Respondent is notified that it has a right to request an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes (2013). Specific options for administrative action are set out in the attached Election of Rights. All requests for hearing shall be made to the Agency for Health Care Administration, and delivered to the *Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, MS #3, Tallahassee, Florida 32308*.

RESPONDENT IS FURTHER NOTIFIED THAT THE FAILURE TO RECEIVE A REQUEST FOR A HEARING WITHIN TWENTY-ONE (21) DAYS OF RECEIPT OF

**THIS COMPLAINT WILL RESULT IN AN ADMISSION OF THE FACTS ALLEGED
IN THE COMPLAINT AND THE ENTRY OF A FINAL ORDER BY THE AGENCY.**

**IF YOU WANT TO HIRE AN ATTORNEY, YOU HAVE THE RIGHT TO BE
REPRESENTED BY AN ATTORNEY IN THIS MATTER**

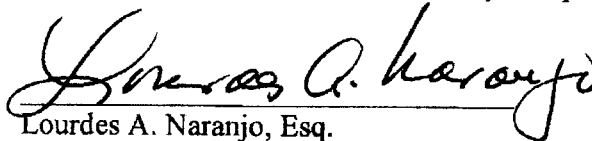


Lourdes A. Naranjo, Esq.
Fla. Bar No.: 997315
Assistant General Counsel
Agency for Health Care Administration
525 Mirror Lake Drive North, suite 330
St. Petersburg, Florida 33702

Copies furnished to:
Arlene Mayo-Davis
Field Office Manager
Agency for Health Care Administration
5150 Linton Blvd. – Suite 500
Delray Beach, Florida 33484

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified Mail, Return Receipt Requested, to Devon Palmer, Administrator, Avante at Boca Raton, Inc., 1130 NW 15th Street, Boca Raton, Florida 33486, on this 6th day of April, 2017.



Lourdes A. Naranjo, Esq.



RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

February 21, 2014

Amin Sanaia, Administrator
Avante At Boca Raton, Inc.
1130 NW 15th Street
Boca Raton, FL 33486

File Number: 95024
License Number: 1023095
Provider Type: Nursing Home

RE: 1130 NW 15th Street, Boca Raton

Dear Administrator:

The enclosed Nursing Home license with license number 1023095 and certificate number 18718 is issued for the above provider effective December 23, 2013 through November 30, 2015. The license is being issued for: status change to conditional during licensure period application.

Review your certificate thoroughly to ensure that all information is correct and consistent with your records. If errors are noted, please contact the Long Term Care Unit.

Please take a short customer satisfaction survey on our website at ahca.myflorida.com/survey/ to let us know how we can serve you better. Additional licensure information can be found at <http://ahca.myflorida.com/longtermcare>.

If we may be of further assistance, please contact me by phone at 850-412-4434 or by email at Lacshauna.Bradwell@ahca.myflorida.com.

Sincerely,

Lacshauna Bradwell
Health Services and Facilities Consultant
Long Term Care Unit
Division of Health Quality Assurance

AGENCY EXHIBIT

"A"



CERTIFICATE #: 18718

LICENSE #: SNF1023095

State of Florida
AGENCY FOR HEALTH CARE ADMINISTRATION
DIVISION OF HEALTH QUALITY ASSURANCE

NURSING HOME
CONDITIONAL

This is to confirm that AVANTE AT BOCA RATON, INC. has complied with the rules and regulations adopted by the State of Florida, Agency For Health Care Administration, authorized in Chapter 400, Part II, Florida Statutes, and as the licensee is authorized to operate the following:


AVANTE AT BOCA RATON, INC.
1130 NW 15th Street
Boca Raton, FL 33486

TOTAL: 144 BEDS

STATUS CHANGE

EFFECTIVE DATE 12/23/2013

EXPIRATION DATE: 11/30/2015


Deputy Secretary, Division of Health Quality Assurance



RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

February 21, 2014

Amin Sanaia, Administrator
Avante At Boca Raton, Inc.
1130 NW 15th Street
Boca Raton, FL 33486

File Number: 95024
License Number: 1023095
Provider Type: Nursing Home

RE: 1130 NW 15th Street, Boca Raton

Dear Administrator:

The enclosed Nursing Home license with license number 1023095 and certificate number 18719 is issued for the above provider effective January 8, 2014 through November 30, 2015. The license is being issued for: status change to standard during licensure period application.

Review your certificate thoroughly to ensure that all information is correct and consistent with your records. If errors are noted, please contact the Long Term Care Unit.

Please take a short customer satisfaction survey on our website at ahca.myflorida.com/survey/ to let us know how we can serve you better. Additional licensure information can be found at <http://ahca.myflorida.com/longtermcare>.

If we may be of further assistance, please contact me by phone at 850-412-4434 or by email at Lacshauna.Bradwell@ahca.myflorida.com.

Sincerely,

Lacshauna Bradwell
Health Services and Facilities Consultant
Long Term Care Unit
Division of Health Quality Assurance



CERTIFICATE #: 18712

LICENSE #: SNF1023095

State of Florida

AGENCY FOR HEALTH CARE ADMINISTRATION
DIVISION OF HEALTH QUALITY ASSURANCE

NURSING HOME STANDARD

This is to confirm that AVANTE AT BOCA RATON, INC. has complied with the rules and regulations adopted by the State of Florida, Agency For Health Care Administration, authorized in Chapter 400, Part II, Florida Statutes, and as the licensee is authorized to operate the following:

AVANTE AT BOCA RATON, INC.
1130 NW 15th Street
Boca Raton, FL 33486

TOTAL: 144 BEDS

STATUS CHANGE

EFFECTIVE DATE 01/08/2014

EXPIRATION DATE: 11/30/2015



Deputy Secretary, Division of Health Quality Assurance

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

Re: Avante at Boca Raton, Inc.

ACHA No. 2014001532

ELECTION OF RIGHTS

This Election of Rights form is attached to an Administrative Complaint. It may be returned by mail or facsimile transmission, but must be received by the Agency Clerk within 21 days, by 5:00 pm, Eastern Time, of the day you received the Administrative Complaint. If your Election of Rights form or request for hearing is not received by the Agency Clerk within 21 days of the day you received the Administrative Complaint, you will have waived your right to contest the proposed agency action and a Final Order will be issued imposing the sanction alleged in the Administrative Complaint.

(Please use this form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes, and Chapter 28, Florida Administrative Code.)

Please return your Election of Rights form to this address:

Agency for Health Care Administration
Attention: Agency Clerk
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
Telephone: 850-412-3630 Facsimile: 850-921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS

OPTION ONE (1) _____ I admit to the allegations of fact and conclusions of law alleged in the Administrative Complaint and waive my right to object and to have a hearing. I understand that by giving up the right to object and have a hearing, a Final Order will be issued that adopts the allegations of fact and conclusions of law alleged in the Administrative Complaint and imposes the sanction alleged in the Administrative Complaint.

OPTION TWO (2) _____ I admit to the allegations of fact alleged in the Administrative Complaint, but wish to be heard at an informal proceeding (pursuant to Section 120.57(2), Florida Statutes) where I may submit testimony and written evidence to the Agency to show that the proposed agency action is too severe or that the sanction should be reduced.

OPTION THREE (3) _____ I dispute the allegations of fact alleged in the Administrative Complaint and request a formal hearing (pursuant to Section 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

PLEASE NOTE: Choosing **OPTION THREE (3), by itself, is **NOT** sufficient to obtain a formal hearing. You also must file a written petition in order to obtain a formal hearing before the Division of Administrative Hearings under Section 120.57(1), Florida Statutes. It must be received by the Agency Clerk at the address above **within 21 days** of your receipt of this**

proposed agency action. The request for formal hearing must conform to the requirements of Rule 28-106.2015, Florida Administrative Code, which requires that it contain:

1. The name, address, telephone number, and facsimile number (if any) of the Respondent.
2. The name, address, telephone number and facsimile number of the attorney or qualified representative of the Respondent (if any) upon whom service of pleadings and other papers shall be made.
3. A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.
4. A statement of when the respondent received notice of the administrative complaint.
5. A statement including the file number to the administrative complaint.

Mediation under Section 120.573, Florida Statutes, may be available in this matter if the Agency agrees.

Licensee Name: _____

Contact

Contact Person: _____ Title: _____

Address: _____
Number and Street City Zip Code

Telephone No. _____ Fax No. _____

E-Mail (optional) _____

I hereby certify that I am duly authorized to submit this Election of Rights form to the Agency for Health Care Administration on behalf of the licensee referred to above.

Signed: _____ Date: _____

Printed Name: _____ Title: _____

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

AVANTE AT BOCA RATON, INC.,

AHCA NO. 2014001532

DOAH 17-2765

License No.1023095

Respondent.

_____ /

SETTLEMENT AGREEMENT

Petitioner, State of Florida, Agency for Health Care Administration (hereinafter the "Agency" or "AHCA"), through its undersigned representatives, and Respondent, Avante at Boca Raton, Inc. (hereinafter "Respondent"), 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, Respondent is a nursing home licensed pursuant to Chapters 400, Part II, and 408, Part II, Florida Statutes, Section 20.42, Florida Statutes and Chapter 59A-4, Florida Administrative Code; and

WHEREAS, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over Respondent, pursuant to Chapters 400, Part II, and 408, Part II, Florida Statutes; and

WHEREAS, the Agency served Respondent with an administrative complaint on or about April 3, 2017, notifying the Respondent of its intent to impose administrative fines in the amount of one thousand dollars (\$16,000.00), and to impose conditional licensure status

EXHIBIT 2

commencing December 23, 2013, and ending on January 8, 2014, resulting from a complaint survey commencing on December 20, 2013 and ending on December 23, 2013.

WHEREAS, the parties have negotiated 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 herein 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, Respondent agrees to waive any and all appeals and proceedings to which it may be entitled including, but not limited to, an informal proceeding under Subsection 120.57(2), Florida Statutes, a formal proceeding under Subsection 120.57(1), Florida Statutes, appeals under Section 120.68, Florida Statutes; and declaratory and all writs of relief in any court or quasi-court of competent jurisdiction; and 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, Respondent agrees to pay ten thousand dollars (\$10,000.00) in administrative fines to the Agency within ninety (90) days of the entry of the Final Order. The Agency will impose a conditional licensure status commencing on December 23, 2013 and ending on January 8, 2014.

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 in Circuit Court in Leon County, Florida.

6. The Respondent and the Agency agree this settlement and all payments, as well as all terms and provisions of this Agreement, are intended to resolve a disputed matter for purpose of settlement and compromise only. Respondent enters into this settlement and its terms without any admission of fault, liability, or wrongdoing, all of which is expressly denied. Therefore, by executing this Agreement, Respondent denies, and the Agency asserts the validity of the allegations raised in the survey referenced herein or in the Administrative Complaint, AHCA 2014001532. No agreement made herein shall preclude the Agency from imposing a penalty against Respondent for any deficiency/violation of statute or rule identified in a future survey of Respondent, pursuant to the provisions of Chapters 400, Part II, 408, Part II, Florida Statutes, and Chapter 59A-4, Florida Administrative Code, including a “repeat” or “uncorrected” deficiency identified in the Survey. In said event, Respondent retains the right to challenge the factual allegations related to the deficient practices/ violations alleged in the instant cause.

7. No agreement made herein shall preclude the Agency from using the deficiencies from the survey in any decision regarding licensure of Respondent, including, but not limited to, a demonstrated pattern of deficient performance. The Agency is not precluded from using the subject events for any purpose within the jurisdiction of the Agency. Further, Respondent acknowledges and agrees that this Agreement shall not preclude or estop any other 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 Survey. This agreement does not

prohibit the Agency from taking action regarding Respondent's Medicaid provider status, conditions, requirements or contract.

8. 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.

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

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

11. Respondent, for itself and for its related or resulting organizations, its successors or transferees, attorneys, heirs, and executors or administrators, does hereby discharge the State of Florida, Agency for Health Care Administration, and its agents, representatives, and attorneys of and from 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 Respondent or related facilities.

12. This Agreement is binding upon all parties herein and those identified in paragraph eleven (11) of this Agreement.

13. In the event that Respondent was a Medicaid provider at the subject time of the occurrences alleged in the complaint herein, this settlement does not prevent the Agency from seeking Medicaid overpayments related to the subject issues or from imposing any sanctions pursuant to Rule 59G-9.070, Florida Administrative Code.

14. Respondent agrees that if any funds to be paid under this agreement to the Agency are not paid within ninety-one (91) days of entry of the Final Order in this matter, the Agency

may deduct the amounts assessed against Respondent in the Final Order, or any portion thereof, owed by Respondent to the Agency from any present or future funds owed to Respondent by the Agency, and that the Agency shall hold a lien against present and future funds owed to Respondent by the Agency for said amounts until paid.

15. The undersigned have read and understand this Agreement and have the authority to bind their respective principals to it.


16. This Agreement contains and incorporates the entire understandings and agreements of the parties.

17. This Agreement supersedes any prior oral or written agreements between the parties.

18. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

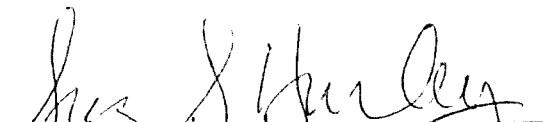
19. All parties agree that a facsimile signature suffices for an original signature.

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, Building #1
Tallahassee, Florida 32308

DATED: 10/26/17



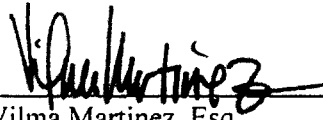
Suzanne Suarez Hurley, Esq.
Attorney for Respondent, Avante at Boca
Raton, Inc.
Suzanne Suarez Hurley, P.A.
P.O. Box 13215
Tampa, FL., 33681-3215
Florida Bar No. 098577

DATED: 09/05/2017



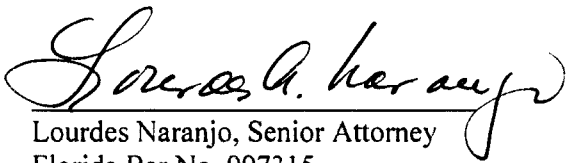
William H. Roberts, ~~Acting~~ General Counsel
Florida Bar No.: 586617
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, MS #3
Tallahassee, Florida 32308

DATED: 10/18/17



Vilma Martinez, Esq.
Florida Bar No. 0075916
VP and General Counsel
Avante Group Inc.
4601 Sheridan Street, Suite 500
Hollywood, Florida 330231
On behalf of and as attorney for Respondent,
Avante at Boca Raton, Inc.

DATED: September 5, 2017



Lourdes Naranjo, Senior Attorney
Florida Bar No. 997315
Office of the General Counsel
Agency for Health Care Administration
525 Mirror Lake Drive North, Suite 330
St. Petersburg, Florida 33701

DATED: Sept. 5, 2017