

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2019 MAY 28 A 11: 54

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

ROSE'S RETIREMENT HOME, INC.,

Respondent.

AHCA Nos. 2018006695
2018006644
2018009562
License Number 58

RENDITION NO.: AHCA- 19 - 0497 -S-OLC

ROSE'S RETIREMENT HOME, INC.,

Petitioner,

v.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

AHCA No. 2018009549
DOAH No. 18-3986

FINAL ORDER

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

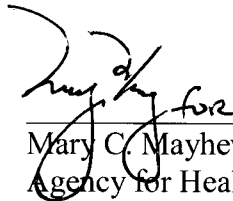
1. The Agency issued the attached Administrative Complaint and Election of Rights form to Rose's Retirement Home (Ex. 1).
2. The Agency issued the attached Notice of Intent to Deny and Election of Rights form to Rose's Retirement Home (Ex. 2).
3. The Election of Rights forms advised of the right to an administrative hearing.
4. The parties have since entered into the attached Settlement Agreement, which is adopted and incorporated by reference into this Final Order. (Ex. 3)
5. The parties shall comply with the terms of the Settlement Agreement.

6. If the Agency has not already completed its review of the application, it shall resume its review of the application.

7. Rose's Retirement Home, Inc., shall pay the Agency \$7,500.00 within 30 days of the entry of this Final Order. 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 28 day of May, 2019.



Mary C. Mayhew, 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 28~~th~~ day of May, 2019.



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

<p>Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)</p>	<p>Teresita A. Vivó, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)</p>
<p>Central Intake Unit Agency for Health Care Administration (Electronic Mail)</p>	<p>Beverly Ramnarine, Administrator Rose's Retirement Home, Inc. 11520 SW 108th Avenue Miami, Florida 33176 (U.S. Mail)</p>
<p>Darren A. Schwartz Administrative Law Judge Division of Administrative Hearings The DeSoto Building 1230 Apalachee Parkway Tallahassee, Florida 32399-3060 (Electronic Mail)</p>	<p>Ronald Chapman, Esquire Attorney for Petitioner 6841 Energy Ct. Sarasota, Florida 34240 (U.S. Mail)</p>

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

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

ROSE'S RETIREMENT HOME, INC.

Respondent.

_____ /

AHCA No.: 2018006695

2018006644

FILE No.: 11911398

LICENSE No.: AL58

Provider Type: Assisted Living Facility

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, State of Florida, Agency for Health Care Administration ("the Agency"), by and through its undersigned counsel, and files this Administrative Complaint against Rose's Retirement Home, Inc. ("the Respondent"), pursuant to Sections 120.569 and 120.57, Florida Statutes (2017), and alleges:

NATURE OF THE ACTION

This is an action against an assisted living facility to impose administrative fines of seven thousand five hundred dollars (\$7,500) based upon 9 uncorrected Class III deficiencies and two (2) unclassified violations.

PARTIES

1. The Agency for Health Care Administration (hereinafter "the Agency"), is the licensure and regulatory authority that oversees assisted living facilities in Florida and enforces the applicable state statutes and rules governing assisted living facilities. Ch. 408, Part II, Ch. 429, Part I, Fla. Stat. (2017), Ch. 58A-5, Fla. Admin. Code. The Agency may deny, revoke, and suspend any license issued to an assisted living facility and impose an administrative fine for a violation of

the Health Care Licensing Procedures Act, the authorizing statutes or applicable rules. §§ 408.813, 408.815, 429.14, 429.19, Fla. Stat. (2017). In addition to licensure denial, revocation or suspension, or any administrative fine imposed, the Agency may assess a survey fee against an assisted living facility. § 429.19(7), Fla. Stat. (2017)

2. The Respondent, Rose’s Retirement Home, Inc. (hereinafter “the Respondent”), was issued a license (AL58) by the Agency to operate a ten (10) bed assisted living facility (hereinafter “Facility”) located at 11520 SW 108 Avenue, Miami, Florida 33176, and was at all material times required to comply with the applicable statutes and rules governing such facilities.

3. As the holder of such a license, the Respondent is a licensee. “Licensee” means “an individual, corporation, partnership, firm, association, or governmental entity that is issued a permit, registration, certificate, or license by the Agency.” § 408.803(9), Fla. Stat. (2017). “The licensee is legally responsible for all aspects of the provider operation.” § 408.803(9), Fla. Stat. (2017). “Provider” means “any activity, service, agency, or facility regulated by the Agency and listed in Section 408.802, Florida Statutes. § 408.803(11), Fla. Stat. (2017). Assisted living facilities are regulated by the Agency under Chapter 429, Part I, Florida Statutes, and listed in Section 408.802, Florida Statutes. § 408.802(13), Fla. Stat. (2017). Assisted living facility patients are thus clients. “Client” means “any person receiving services from a provider.” § 408.803(6), Fla. Stat. (2017).

COUNT I
MEDICATION – STORAGE AND DISPOSAL

4. The Agency re-alleges and incorporates by reference paragraphs 1-3 as if fully set forth herein.

5. Florida law states in pertinent part:

(6) MEDICATION STORAGE AND DISPOSAL.

(a) In order to accommodate the needs and preferences of residents and to encourage residents to remain as independent as possible, residents may keep their medications, both prescription and over-the-counter, in their possession both on or off the facility premises; or in their rooms or apartments, which must be kept locked when residents are absent, unless the medication is in a secure place within the rooms or apartments or in some other secure place that is out of sight of other residents. However, both prescription and over-the-counter medications for residents must be centrally stored if:

1. The facility administers the medication;
2. The resident requests central storage. The facility must maintain a list of all medications being stored pursuant to such a request;
3. The medication is determined and documented by the health care provider to be hazardous if kept in the personal possession of the person for whom it is prescribed;
4. The resident fails to maintain the medication in a safe manner as described in this paragraph;
5. The facility determines that because of physical arrangements and the conditions or habits of residents, the personal possession of medication by a resident poses a safety hazard to other residents; or
6. The facility's rules and regulations require central storage of medication and that policy has been provided to the resident before admission as required in Rule 58A-5.0181, F.A.C.

(b) Centrally stored medications must be:

1. Kept in a locked cabinet, locked cart, or other locked storage receptacle, room, or area at all times;
2. Located in an area free of dampness and abnormal temperature, except that a medication requiring refrigeration must be refrigerated. Refrigerated medications must be secured by being kept in a locked container within the refrigerator, by keeping the refrigerator locked, or by keeping the area in which refrigerator is located locked;
3. Accessible to staff responsible for filling pill-organizers, assisting with self-administration, or administering medication. Such staff must have ready access to keys or codes to the medication storage areas at all times; and
4. Kept separately from the medications of other residents and properly closed or sealed.

(c) Medication that has been discontinued but has not expired must be returned to the resident or the resident's representative, as appropriate, or may be centrally stored by the facility for future use by the resident at the resident's request. If centrally stored by the facility, the discontinued medication must be stored separately from medication in current use, and the area in which it is stored must be marked "discontinued medication." Such medication may be reused if prescribed by the resident's health care provider.

(d) When a resident's stay in the facility has ended, the administrator must return all medications to the resident, the resident's family, or the resident's guardian unless otherwise prohibited by law. If, after notification and waiting at least 15 days, the resident's medications are still at the facility, the medications are considered abandoned and may be disposed of in accordance with paragraph (e).

(e) Medications that have been abandoned or have expired must be disposed of within 30 days of being determined abandoned or expired and the disposal must be documented in the resident's record. The medication may be taken to a pharmacist for disposal or may be destroyed by the administrator or designee with one witness.

(f) Facilities that hold a Special-ALF permit issued by the Board of Pharmacy may return dispensed medicinal drugs to the dispensing pharmacy pursuant to Rule 64B16-28.870, F.A.C.

Rule 58A-5.0185(6) Fla. Admin. Code

Survey 10/05/2017

6. A Standard Biennial Survey was conducted on 10/05/2017 at the Respondent Facility. Deficiencies were found at time of the survey.

7. Based on observation and interview, the Facility failed to keep medications locked at all times.

8. On 10/05/2017 at 10:05 A.M., the medication cabinet located in the dining room area was observed unlocked.

9. Staff C walked away with the key and stated, "I was reviewing the medication for that reason was open."

10. Respondent's actions and/or inactions constitute a Class III deficiency.

11. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which

the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed. § 408.813(2)(c), Fla. Stat. (2017).

12. The Respondent was cited with a Class III deficiency.

13. The Agency provided Respondent with a mandatory correction date of 12/03/2017.

Survey 12/12/2017

14. A Standard Biennial Revisit Survey was conducted on 12/12/2017 at the Respondent Facility. Deficiencies were found at time of the survey.

15. Based on observation an interview, the Facility failed to keep medication locked at all times.

16. On 12/12/2017 at 9:15 A.M. observed unlocked medications, Nicotine TD DIS 21Mg/24h, dated 08/21/2017 for Resident #8.

17. On 12/12/2017 at 9:45 A.M. an interview was conducted with the Administrator. The Administrator acknowledged the deficiency and reviewed the unlocked medication.

18. The Respondent was cited for an uncorrected class III deficiency.

19. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than Class I or Class II violations. The agency shall impose an administrative fine as provided in this section for a cited Class III violation. § 408.813(2)(c), Fla. Stat. (2017).

20. Class "III" violations are defined in s. 408.813. The agency shall impose an administrative fine for a cited Class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. § 429.19 (2)(c), Fla. Stat. (2017).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$500.00 against Respondent.

COUNT II
ASSISTANCE WITH SELF-ADMINISTERED MEDICATION

21. The Agency re-alleges and incorporates by reference paragraphs 1-3 and Count I as if fully set forth herein.

22. Florida law states in pertinent part:

ASSISTANCE WITH SELF-ADMINISTERED MEDICATION AND MEDICATION MANAGEMENT. Unlicensed persons who will be providing assistance with self-administered medications as described in Rule 58A-5.0185, F.A.C., must meet the training requirements pursuant to Section 429.52(5), F.S., prior to assuming this responsibility. Courses provided in fulfillment of this requirement must meet the following criteria:

(a) Training must cover state law and rule requirements with respect to the supervision, assistance, administration, and management of medications in assisted living facilities; procedures and techniques for assisting the resident with self-administration of medication including how to read a prescription label; providing the right medications to the right resident; common medications; the importance of taking medications as prescribed; recognition of side effects and adverse reactions and procedures to follow when residents appear to be experiencing side effects and adverse reactions; documentation and record keeping; and medication storage and disposal. Training shall include demonstrations of proper techniques and provide opportunities for hands-on learning through practice exercises.

(b) The training must be provided by a registered nurse or licensed pharmacist who shall issue a training certificate to a trainee who demonstrates an ability to:

1. Read and understand a prescription label;
2. Provide assistance with self-administration in accordance with Section 429.256, F.S., and Rule 58A-5.0185, F.A.C., including:
 - a. Assist with oral dosage forms, topical dosage forms, and topical ophthalmic, otic and nasal dosage forms;
 - b. Measure liquid medications, break scored tablets, and crush tablets in accordance with prescription directions;
 - c. Recognize the need to obtain clarification of an "as needed" prescription order;

- d. Recognize a medication order which requires judgment or discretion, and to advise the resident, resident's health care provider or facility employer of inability to assist in the administration of such orders;
 - e. Complete a medication observation record;
 - f. Retrieve and store medication; and
 - g. Recognize the general signs of adverse reactions to medications and report such reactions.
- (c) Unlicensed persons, as defined in Section 429.256(1)(b), F.S., who provide assistance with self-administered medications and have successfully completed the initial 4 hour training, must obtain, annually, a minimum of 2 hours of continuing education training on providing assistance with self-administered medications and safe medication practices in an assisted living facility. The 2 hours of continuing education training shall only be provided by a licensed registered nurse, or a licensed pharmacist.

Rule 58A-5.0191(5) Fla. Admin. Code.

Survey 10/05/2017

23. A Standard Biennial Survey was conducted on 10/05/2017 at the Respondent Facility. Deficiencies were found at time of the survey.
24. Based on record review and interview, the Facility failed to provide documentation that three out of four staff received 4 hours of training on assisting residents with self-administration of medication (Staff B, C, and D).
25. Staff record review showed that there was no documentation of 4 hours of training on assisting residents with self-administration of medication for Staff B, C, and D.
26. The last training pertaining to 4 hours of training on assisting residents with self-administration of medication documented the following:
- a. Two hours training for Staff B dated 04/04/2015.
 - b. Two hours of training for Staff C dated 02/18/2016.
 - c. Two hours of training for Staff D dated 04/04/2015.

27. On 10/05/2017 at 10:38 A.M., an interview was conducted with the Owner. The employee book was provided to the Owner to review for updated documentation. The Owner stated, "The next time the Administrator will have this documentation for you."

28. Respondent's actions and/or inactions constitute a class III deficiency.

29. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed. § 408.813(2)(c), Fla. Stat. (2017).

30. The Respondent was cited with a Class III deficiency.

31. The Agency provided Respondent with a mandatory correction date of 12/03/2017.

Survey 12/12/2017

32. A Standard Biennial Revisit Survey was conducted on 12/12/2017 at the Respondent Facility. Deficiencies were found at time of the survey.

33. Based on record review and interview, the Facility failed to provide documentation that two out of six sampled staff received updated annually, a minimum of 2 hours of continuing education training on providing assistance with self-administered medications and safe medication practices in an assisted living facility (Staff B and D). The Facility also failed to ensure that staff received the initial 4 hours of medication training for one out of six sampled staff (Staff E).

34. Record review showed the Facility did not have any documentation that Staff B and Staff D received the annual minimum of 2 hours training on assisting residents with self-administration of medication.

35. The last training documented for Staff B was dated 12/04/2014 (4 hours).

36. The last training documented for Staff D was dated 04/04/2015 (2 hours).

37. On 12/12/2017 at 12:19 P.M., an interview was conducted with the Administrator. The Administrator stated, "We did medication training but they did not give us the certification." She further stated, "I had the post-test result here but not the certificate."

38. On 12/12/2017 at 9:15 A.M. an interview was conducted with Staff E. Staff E stated, "I just finished assisting residents with their medication during breakfast time, I'm going to initial the MORs now."

39. During an interview on 12/12/2017 at 9:47 A.M., the Administrator stated, "Staff E was hired a week ago, because the other staff left." The Administrator further stated there was no personnel file for Staff E.

40. The Respondent's actions and/or inactions constituted an uncorrected Class III deficiency.

41. The Agency provided Respondent with a mandatory correction date of 02/07/2018

Survey 02/13/2018 to 02/22/2018

42. A Standard Biennial Second Revisit Survey was conducted from 02/13/2018 and concluded on 02/22/2018 at the Respondent Facility. Deficiencies were found at time of the survey.

43. Based on record review and interview, the Facility failed to provide documentation that three of eight sampled staff received updated annually, a minimum of 2 hours of continuing

education training on providing assistance with self-administered medications and safe medication practices in an assisted living facility (Staff A, B, and G).

44. Record review showed the Facility did not have any documentation that Staff A, B and G received the annual minimum 2 hours training in person on assisting residents with self-administration of medication. The training found in personnel records were completed online.

45. On 02/13/2018 at 2:40 P.M. during exit conference the Administrator was informed about deficiencies found during survey. The Administrator acknowledged that medication training needed to be completed.

46. The Respondent's actions and/or inactions constituted a twice uncorrected Class III deficiency.

47. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than Class I or Class II violations. The agency shall impose an administrative fine as provided in this section for a cited Class III violation. § 408.813(2)(c), Fla. Stat. (2017).

48. Class "III" violations are defined in s. 408.813. The agency shall impose an administrative fine for a cited Class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. § 429.19 (2)(c), Fla. Stat. (2017).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$1,000.00 against Respondent.

COUNT III
PHYSICAL PLANT – SAFE LIVING ENVIRONMENT

49. The Agency re-alleges and incorporates by reference paragraphs 1-3 as if fully set forth herein.

50. Florida law states in pertinent part:

(3) OTHER REQUIREMENTS.

(a) All facilities must:

1. Provide a safe living environment pursuant to Section 429.28(1)(a), F.S.;
2. Be maintained free of hazards; and
3. Ensure that all existing architectural, mechanical, electrical and structural systems, and appurtenances are maintained in good working order.

(b) Pursuant to Section 429.27, F.S., residents must be given the option of using their own belongings as space permits. When the facility supplies the furnishings, each resident bedroom or sleeping area must have at least the following furnishings:

1. A clean, comfortable bed with a mattress no less than 36 inches wide and 72 inches long, with the top surface of the mattress at a comfortable height to ensure easy access by the resident;
2. A closet or wardrobe space for hanging clothes;
3. A dresser, chest or other furniture designed for storage of clothing or personal effects;
4. A table or nightstand, bedside lamp or floor lamp, and waste basket; and
5. A comfortable chair, if requested.

(c) The facility must maintain master or duplicate keys to resident bedrooms to be used in the event of an emergency.

(d) Residents who use portable bedside commodes must be provided with privacy during use.

(e) Facilities must make available linens and personal laundry services for residents who require such services. Linens provided by a facility must be free of tears, stains and must not be threadbare.

Rule 58A-5.023(3) Fla. Admin. Code

Survey 10/05/2017

51. A Standard Biennial Survey was conducted on 10/05/2017 at the Respondent Facility. Deficiencies were found at time of the survey.

52. Based on observation and interview, the Facility failed to ensure that the roof and ceiling were maintained and did not have stains.

53. On 10/05/2017 at 9:24 A.M., a tour of the facility was conducted. Two male residents and one female resident were observed watching television in the common room. The

ceiling in the common room area and the dining room area were both observed to have yellowish brown stains. The Facility appeared to have a leaking roof.

54. On 10/05/2017 at 9:24 A.M. an interview was conducted with Staff C. Staff C stated the roof leaks.

55. Respondent's actions and/or inactions constitute a class III deficiency.

56. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed. § 408.813(2)(c), Fla. Stat. (2017).

57. The Respondent was cited with a Class III deficiency.

58. The Agency provided Respondent with a mandatory correction date of 12/03/2017.

Survey 12/12/2017

59. A Standard Biennial Revisit Survey was conducted on 12/12/2017 at the Respondent Facility. Deficiencies were found at time of the survey.

60. Based on observation and interview, the Facility failed to ensure the roof and ceilings were maintained. The Facility also failed to ensure that the plumbing system was in good working order.

61. Observations on 12/12/2017 at 9:05 A.M. found a roofing worker on the roof. During a tour of the Facility, the common room ceiling and the dining room ceiling were both observed to have yellowish brown stains.

62. During a tour of the Facility the bathroom sink was observed clogged with water.

63. On 12/12/2017 at 12:50 P.M., an interview was conducted with the Administrator.

The Administrator stated a company was hired to make repairs to the facility.

64. The Respondent's actions and/or inactions constituted an uncorrected Class III deficiency.

65. The Agency provided Respondent with a mandatory correction date of 02/07/2018

Survey 02/13/2018 to 02/22/2018

66. A Standard Biennial Second Revisit Survey was conducted from 02/13/2018 and concluded on 02/22/2018 at the Respondent Facility. Deficiencies were found at time of the survey.

67. Based on observation and interview, the Facility failed to ensure that all existing, mechanical, electrical, and furniture were maintained in good working order.

68. On 02/13/2018 at 10:00 A.M. the Administrator and Owner were informed that the facility was warm. The Administrator stated, "The air conditioner was set at 78."

69. Observation of the sofas in the common room revealed the furniture was in poor repair as evident by torn and peeling material.

70. On 02/13/2018 at 1:00 P.M. Agency employee reviewed the thermostat. The thermostat reflected the temperature in the room at 80 degrees.

71. The Facility Administrator and Owner offered a fan and opened the front door to cool the Facility.

72. The Respondent's actions and/or inactions constituted a twice uncorrected Class III deficiency.

73. Class "III" violations are those conditions or occurrences related to the operation

and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than Class I or Class II violations. The agency shall impose an administrative fine as provided in this section for a cited Class III violation. § 408.813(2)(c), Fla. Stat. (2017).

74. Class “III” violations are defined in s. 408.813. The agency shall impose an administrative fine for a cited Class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. § 429.19 (2)(c), Fla. Stat. (2017).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$1,000.00 against Respondent.

COUNT IV
RECORDS – STAFF

75. The Agency re-alleges and incorporates by reference paragraphs 1-3 as if fully set forth herein

76. Florida law states in pertinent part:

(2) The administrator or owner of a facility shall maintain personnel records for each staff member which contain, at a minimum, documentation of background screening, if applicable, documentation of compliance with all training requirements of this part or applicable rule, and a copy of all licenses or certification held by each staff who performs services for which licensure or certification is required under this part or rule.

§429.275(2), Fla. Stat.

77. Florida law states in pertinent part:

(2) STAFF RECORDS.

(a) Personnel records for each staff member must contain, at a minimum, a copy of the employment application, with references furnished, and documentation verifying freedom from signs or symptoms of communicable disease. In addition, records must contain the following, as applicable:

1. Documentation of compliance with all staff training and continuing education required by Rule 58A-5.0191, F.A.C.;

2. Copies of all licenses or certifications for all staff providing services that require licensing or certification;
 3. Documentation of compliance with level 2 background screening for all staff subject to screening requirements as specified in Section 429.174, F.S., and Rule 58A-5.019, F.A.C.;
 4. For facilities with a licensed capacity of 17 or more residents, a copy of the job description given to each staff member pursuant to Rule 58A-5.019, F.A.C.;
 5. Documentation verifying direct care staff and administrator participation in resident elopement drills pursuant to paragraph 58A-5.0182(8)(c), F.A.C.
- (b) The facility is not required to maintain personnel records for staff provided by a licensed staffing agency or staff employed by an entity contracting to provide direct or indirect services to residents and the facility. However, the facility must maintain a copy of the contract between the facility and the staffing agency or contractor as described in Rule 58A-5.019, F.A.C.
- (c) The facility must maintain the written work schedules and staff time sheets for the most current 6 months as required by Rule 58A-5.019,

Rule 58A-5.024(a)(b)(c) Fla. Admin. Code

Survey 10/05/2017

78. A Standard Biennial Survey was conducted on 10/05/2017 at the Respondent Facility. Deficiencies were found at time of the survey.
79. Based on observation and record review, the Facility failed to have a completed application with references for one out of four sampled employee (Staff C).
80. On 10/05/2017 at 9:20 A.M., Staff C was observed assisting nine residents with activities of daily living.
81. Record review revealed Staff C did not have a completed employment application in her personnel file for review.
82. The Respondent's actions and/or inactions constituted a Class III deficiency.
83. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or

potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed. § 408.813(2)(c), Fla. Stat. (2017).

84. The Respondent was cited with a Class III deficiency.

85. The Agency provided Respondent with a mandatory correction date of 12/03/2017.

Survey 12/12/2017

86. A Standard Biennial Revisit Survey was conducted on 12/12/2017 at the Respondent Facility. Deficiencies were found at time of the survey.

87. Based on observation, record review, and interview, the Facility failed to have a personnel record for one out of six sampled employees (Staff E).

88. On 12/12/2017 at 9:05 A.M. Staff E answered the door at the Facility. Staff E identified herself as Staff D. Staff E stated that she was caring for the residents. Staff E conducted the Facility tour and identified the residents.

89. On 12/12/2017 at 9:15 A.M., Staff E stated, "I just finished assisting the residents with their medication during breakfast time. I'm going to initial the medication observation records (MORs) now."

90. Record review showed Staff E did not have a personnel record for review.

91. On 12/12/2017 at 9:47 A.M., an interview was conducted with the Administrator. The Administrator stated Staff E was hired a week ago, because the other staff left. The Administrator further stated, she did not have a personnel file for Staff E.

92. The Respondent's actions and/or inactions constituted an uncorrected Class III deficiency.

93. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than Class I or Class II violations. The agency shall impose an administrative fine as provided in this section for a cited Class III violation. § 408.813(2)(c), Fla. Stat. (2017)

94. Class "III" violations are defined in s. 408.813. The agency shall impose an administrative fine for a cited Class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. § 429.19 (2)(c), Fla. Stat. (2017).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$500.00 against Respondent

COUNT V
RECORDS – RESIDENT

95. The Agency re-alleges and incorporates by reference paragraphs 1-3 and Counts I through IV as if fully set forth herein.

96. Florida law states in pertinent part:

(3) RESIDENT RECORDS. Resident records must be maintained on the premises and include:

(a) Resident demographic data as follows:

1. Name;
2. Sex;
3. Race;
4. Date of birth;
5. Place of birth, if known;
6. Social security number;
7. Medicaid and/or Medicare number, or name of other health insurance carrier;

8. Name, address, and telephone number of next of kin, legal representative, or individual designated by the resident for notification in case of an emergency; and

9. Name, address, and telephone number of the health care provider and case manager, if applicable.

(b) A copy of the Resident Health Assessment form, AHCA Form 1823 described in Rule 58A-5.0181, F.A.C.

(c) Any orders for medications, nursing services, therapeutic diets, do not resuscitate orders, or other services to be provided, supervised, or implemented by the facility that require a health care provider's order.

(d) Documentation of a resident's refusal of a therapeutic diet pursuant to Rule 58A-5.020, F.A.C., if applicable.

(e) The resident care record described in paragraph 58A-5.0182(1)(e), F.A.C.

(f) A weight record that is initiated on admission. Information may be taken from AHCA Form 1823 or the resident's health assessment. Residents receiving assistance with the activities of daily living must have their weight recorded semi-annually.

(g) For facilities that will have unlicensed staff assisting the resident with the self-administration of medication, a copy of the written informed consent described in Rule 58A-5.0181, F.A.C., if such consent is not included in the resident's contract.

(h) For facilities that manage a pill organizer, assist with self-administration of medications or administer medications for a resident, copies of the required medication records maintained pursuant to Rule 58A-5.0185, F.A.C.

(i) A copy of the resident's contract with the facility, including any addendums to the contract as described in Rule 58A-5.025, F.A.C.

(j) For a facility whose owner, administrator, staff, or representative thereof, serves as an attorney in fact for a resident, a copy of the monthly written statement of any transaction made on behalf of the resident as required in Section 429.27, F.S.

(k) For any facility that maintains a separate trust fund to receive funds or other property belonging to or due a resident, a copy of the quarterly written statement of funds or other property disbursed as required in Section 429.27, F.S.

(l) If the resident is an OSS recipient, a copy of the Department of Children and Families form Alternate Care Certification for Optional State Supplementation (OSS), CF-ES 1006, October 2005, which is hereby incorporated by reference and available for review at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-04004>. The absence of this form will not be the basis for administrative action against a facility if the facility can demonstrate that it has made a good faith effort to obtain the required documentation from the Department of Children and Families.

(m) Documentation of the appointment of a health care surrogate, health care proxy, guardian, or the existence of a power of attorney, where applicable.

(n) For hospice patients, the interdisciplinary care plan and other documentation that the resident is a hospice patient as required in Rule 58A-5.0181, F.A.C.

(o) The resident's Do Not Resuscitate Order, DH Form 1896, if applicable.

(p) For independent living residents who receive meals and occupy beds included within the licensed capacity of an assisted living facility, but who are not receiving any personal, limited nursing, or extended congregate care services, record keeping may be limited to the following at the discretion of the facility:

1. A log listing the names of residents participating in this arrangement;
2. The resident demographic data required in this paragraph;
3. The health assessment described in Rule 58A-5.0181, F.A.C.;
4. The resident's contract described in Rule 58A-5.025, F.A.C.; and
5. A health care provider's order for a therapeutic diet if such diet is prescribed and the resident participates in the meal plan offered by the facility.

(q) Except for resident contracts, which must be retained for 5 years, all resident records must be retained for 2 years following the departure of a resident from the facility unless it is required by contract to retain the records for a longer period of time. Upon request, residents must be provided with a copy of their records upon departure from the facility.

(r) Additional resident records requirements for facilities holding a limited mental health, extended congregate care, or limited nursing services license are provided in Rules 58A-5.029, 58A-5.030 and 58A-5.031, F.A.C., respectively.

Rule 58A-5.024(3) Fla. Admin. Code

97. Florida law states in pertinent part:

As part of the continued residency criteria, a resident must have a face-to-face medical examination by a licensed health care provider at least every 3 years after the initial assessment, or after a significant change, whichever comes first. A significant change is defined in Rule 58A-5.0131, F.A.C. The results of the examination must be recorded on AHCA Form 1823, which is incorporated by reference in paragraph (2)(b) of this rule. The form must be completed in accordance with that paragraph.

Rule 58A-5.0181(4) Fla. Admin. Code

Survey 10/05/2017

98. A Standard Biennial Survey was conducted on 10/05/2017 at the Respondent Facility. Deficiencies were found at time of the survey.

99. Based on record review and interview, the Facility failed to maintain a completed resident record for two out of seven (#2, and #6) sampled residents.

100. Record review revealed the Facility did not have resident records Residents #2 and Resident #6.

101. During a phone interview on 10/05/2017 at 12:16 P.M., the case manager for Resident #6 revealed that the resident was admitted on 06/08/2017.

102. During an interview on 10/05/2017 at 12:10 P.M., the Owner stated, "I don't have records for Resident #2 and Resident #6."

103. Respondent's actions and/or inactions constitute a class III deficiency.

104. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed. § 408.813(2)(c), Fla. Stat. (2017).

105. The Respondent was cited with a Class III deficiency.

106. The Agency provided Respondent with a mandatory correction date of 12/03/2017.

Survey 12/12/2017

107. A Standard Biennial Revisit Survey was conducted on 12/12/2017 at the

Respondent Facility. Deficiencies were found at time of the survey.

108. Based on record review and interview, the Facility failed to have an informed consent to assistance with medications by unlicensed personnel and a signed contract by the legal guardian for one out of eight sampled residents (Resident #5).

109. The Facility also failed have a new face-to-face medical examination by a health care provider at least every 3 years after the initial assessment for one out of eight sampled residents (Resident #3).

110. Record review showed that Resident #5's did not had an informed consent to assistance with medication by unlicensed personnel. The form was not in the record for review.

111. Record review showed Resident #5 was admitted on 01/01/2017 and the contract was signed by the resident.

112. Further review revealed a guardianship court order for Resident #5. The order is dated 3/10/2016. The order states Resident #5 was restricted to contract, to determine her residency with the right to choose where to live, to choose to live along and make all decision and arrangement related thereto.

113. On 12/12/2017 at 11:02 A.M., the Administrator reviewed the record for Resident #5. The Administrator was not able to provide the informed consent to assist with medications by unlicensed personnel.

114. The Administrator reviewed the legal guardian order for Resident #5 and stated, "I didn't know that. I'm going to call the legal guardian now."

115. A review of Resident #3's record revealed the resident was admitted on 05/23/2004.

Resident #3's health assessment had the following diagnoses: chronic obstructive pulmonary disease (COPD), arteriosclerotic heart disease (ASHD), Schizophrenia Chronic Paranoid (SCP). The health assessment was dated 09/10/2013

116. On 12/12/2017 at 11:57 A.M., the Administrator reviewed Resident #3's record and Stated there was no updated health assessment for review.

117. The Respondent's actions and/or inactions constituted an uncorrected Class III deficiency.

118. The Agency provided Respondent with a mandatory correction date of 02/07/2018

Survey 02/13/2018 to 02/22/2018

119. A Standard Biennial Second Revisit Survey was conducted from 02/13/2018 and concluded on 02/22/2018 at the Respondent Facility. Deficiencies were found at time of the survey:

120. Based on record review and interview, the facility failed to maintain completed records for three out of eight sampled residents (Residents #3, #5, #7).

121. On 02/13/2018 at 12:33 P.M. observed Resident #5 during lunch take a plate and placed the food in a plastic container.

122. Record review showed Resident #5 was admitted to the Facility on 01/01/2017. Resident #5's contract signed by legal guardian did not have the monthly fee.

123. Further record review for Resident #5 found a physician's order dated 12/04/2016. The physician ordered Resident #5's weight to be checked weekly. The Facility's weight record was blank.

124. Resident #5's health assessment dated 10/25/2017 showed that resident needed assistance with activities of daily living. The weight was documented at 87 pounds.

125. On 02/13/2018 at 1:45 P.M. the Administrator weighed Resident #5. Resident #5's weight was 80 pounds.

126. On 02/13/2018 at 1:17 P.M. the Administrator stated, "Resident #7 is in a guardianship program". The contract was signed by the resident on 08/30/2013 with agreement to pay a monthly fee of \$ 683.40 dollars. Per Administrator the Resident pays \$771.00 monthly.

127. A review of Resident #3's health assessment had the following diagnoses: chronic obstructive pulmonary disease (COPD), arteriosclerotic heart disease (ASHD), Schizophrenia Chronic Paranoid (SCP). The health assessment was dated 09/10/2013 The Facility did not have an updated health assessment for Resident #3.

128. On 02/13/2018 at 1:56 P.M. the Administrator stated there was no new health assessment for Resident #3. The Administrator further stated she couldn't find it in his record."

129. The Respondent's actions and/or inactions constituted an uncorrected Class III deficiency.

130. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than Class I or Class II violations. The agency shall impose an administrative fine as provided in this section for a cited Class III violation. § 408.813(2)(c), Fla. Stat. (2017)

131. Class "III" violations are defined in s. 408.813. The agency shall impose an administrative fine for a cited Class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. § 429.19 (2)(c), Fla. Stat. (2017).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$1,500.00 against Respondent.

COUNT VI
LMH – RECORDS

132. The Agency re-alleges and incorporates by reference paragraphs 1-3 and Count V as if fully set forth herein.

133. Florida law states in pertinent part:

(3) A facility that has a limited mental health license must:

(a) Have a copy of each mental health resident's community living support plan and the cooperative agreement with the mental health care services provider or provide written evidence that a request for the community living support plan and the cooperative agreement was sent to the Medicaid managed care plan or managing entity under contract with the Department of Children and Families within 72 hours after admission. The support plan and the agreement may be combined.

(b) Have documentation provided by the department that each mental health resident has been assessed and determined to be able to live in the community in an assisted living facility that has with a limited mental health license or provide written evidence that a request for documentation was sent to the department within 72 hours after admission.

(c) Make the community living support plan available for inspection by the resident, the resident's legal guardian or, the resident's health care surrogate, and other individuals who have a lawful basis for reviewing this document.

(d) Assist the mental health resident in carrying out the activities identified in the resident's community living support plan.

(4) A facility that has with a limited mental health license may enter into a cooperative agreement with a private mental health provider. For purposes of the limited mental health license, the private mental health provider may act as the case manager.

§429.075(3) and (4), Fla. Stat.

134. Florida law states in pertinent part:

(2) RECORDS.

(a) A facility with a limited mental health license must maintain an up-to-date admission and discharge log containing the names and dates of admission and discharge for all mental health residents. The admission and discharge log required in Rule 58A-5.024, F.A.C., satisfies this condition provided that all mental health residents are clearly identified.

(b) Staff records must contain documentation that designated staff have completed limited mental health training as required by Rule 58A-5.0191, F.A.C.

(c) Resident records must include:

1. Documentation, provided by a mental health care provider within 30 days of the resident's admission to the facility, that the resident is a mental health resident as defined in Section 394.3474, F.S., and that the resident is receiving social security disability or supplemental security income and optional state supplementation as follows:

a. An affirmative statement on the Alternate Care Certification for Optional State Supplementation (OSS) form, CF-ES 1006, October 2005, which is hereby incorporated by reference and available for review at: <http://www.flrules.org/Gateway/reference.asp?No =Ref-03988> that the resident is receiving SSI or SSDI due to a psychiatric disorder;

b. Written verification provided by the Social Security Administration that the resident is receiving SSI or SSDI for a mental disorder. Such verification may be acquired from the Social Security Administration upon obtaining a release from the resident permitting the Social Security Administration to provide such information ; or

c. A written statement from the resident's case manager or other mental health care provider that the resident is an adult with severe and persistent mental disorder. The case manager or other mental health care provider must consider the following minimum criteria in making that determination:

(I) The resident is eligible for, is receiving, or has received mental health services within the last 5 years; or

(II) The resident has been diagnosed as having a severe or persistent mental disorder.

2. An appropriate placement assessment provided by the resident's mental health care provider within 30 days of admission to the facility that the resident has been assessed and found appropriate for residence in an assisted living facility. Such assessment must be conducted by a psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or an individual supervised by one of these professionals.

a. Any of the following documentation that contains the name of the resident and the name, signature, date, and license number, if applicable, of the person making the assessment, meets this requirement:

(I) Completed Alternate Care Certification for Optional State Supplementation (OSS) form, CF-ES Form 1006;

(II) Discharge Statement from a state mental hospital completed no more than 90 days before admission to the assisted living facility

provided it contains a statement that the individual is appropriate to live in an assisted living facility; or

(III) Other signed statement that the resident has been assessed and found appropriate for residency in an assisted living facility.

b. A mental health resident returning to a facility from treatment in a hospital or crisis stabilization unit will not be considered a new admission and will not require a new assessment. However, a break in a resident's residency that requires the facility to execute a new resident contract or admission agreement will be considered a new admission and the resident's mental health care provider must provide a new assessment.

3. A Community Living Support Plan.

a. Each mental health resident and the resident's mental health case manager must, in consultation with the facility administrator, prepare a plan within 30 days of the resident's admission to the facility or within 30 days after receiving the appropriate placement assessment in paragraph (2)(c), whichever is later, that:

(I) Includes the specific needs of the resident that must be met in order to enable the resident to live in the assisted living facility and the community;

(II) Includes the clinical mental health services to be provided by the mental health care provider to help meet the resident's needs, and the frequency and duration of such services;

(III) Includes any other services and activities to be provided by or arranged for by the mental health care provider or mental health case manager to meet the resident's needs, and the frequency and duration of such services and activities;

(IV) Includes the obligations of the facility to facilitate and assist the resident in attending appointments and arranging transportation to appointments for the services and activities identified in the plan that have been provided or arranged for by the resident's mental health care provider or case manager;

(V) Includes a description of other services to be provided or arranged by the facility;

(VI) Includes a list of factors pertinent to the care, safety, and welfare of the mental health resident and a description of the signs and symptoms particular to the resident that indicate the immediate need for professional mental health services;

(VII) Is in writing and signed by the mental health resident, the resident's mental health case manager, and the assisted living facility administrator or manager and a copy placed in the resident's file. If the resident refuses to sign the plan, the resident's mental health case manager must add a statement that the resident was asked but refused to sign the plan;

(VIII) Is updated at least annually;

(IX) May include the Cooperative Agreement described in subparagraph (2)(c)4. If included the mental health care provider must also sign the plan; and

(X) Must be available for inspection to those who have legal authority to review the document.

b. Those portions of a service or treatment plan prepared pursuant to Rule 65E-4.014, F.A.C., that address all the elements listed in sub-subparagraph (2)(c)3.a. above may be substituted.

4. Cooperative Agreement. The mental health care provider for each mental health resident and the facility administrator or designee must prepare a written statement, within 30 days of the resident's admission to the facility or receipt of the resident's appropriate placement assessment, whichever is later. The statement:

a. Provides procedures and directions for accessing emergency and after-hours care for the mental health resident. The provider must furnish the resident and the facility with the provider's 24-hour emergency crisis telephone number;

b. Must be signed by the administrator or designee and the mental health care provider, or by a designated representative of a Medicaid prepaid health plan if the resident is on a plan and the plan provides behavioral health services in Section 409.912, F.S.;

c. May cover all mental health residents of the facility who are clients of the same provider; and

d. May be included in the Community Living Support Plan described in subparagraph (2)(c)3. Missing documentation will not be the basis for administrative action against a facility if the facility can demonstrate that it has made a good faith effort to obtain the required documentation from the Department of Children and Families, or the mental health care provider.

58A-5.029(2)(a)(b)(c) Fla. Admin. Code

Survey 10/05/2017

135. A Standard Biennial Survey was conducted at the Respondent Facility on 10/05/2017. Deficiencies were found at time of the survey.

136. Based on record review and interview, the Facility failed to have an annual community living support plan for one out seven residents (Resident #3) identified as limited mental health residents.

137. Resident #3's record review showed the health assessment dated 09/27/2013 had the following diagnoses Schizophrenia Chronic Paranoid. Resident #3 received optional state supplementation (OSS) for the amount of \$54.00.

138. Resident #3's last annual community living support plan was dated 09/01/2013 and was not signed by the resident. The record did not have the updated living support plan in the record for review.

139. During an interview on 10/05/2017 at 11:05 A.M., the Owner stated, "I don't know if they have new annual community living support plan, the administrator will send it to you."

140. Respondent's actions and/or inactions constitute a class III deficiency.

141. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed. § 408.813(2)(c), Fla. Stat. (2017).

142. The Respondent was cited with a Class III deficiency.

143. The Agency provided Respondent with a mandatory correction date of 12/03/2017.

Survey 12/12/2017

144. A Standard Biennial Revisit Survey was conducted at the Respondent Facility on 12/12/2017. Deficiencies were found at time of the survey.

145. Based on record review and interview, the Facility failed to have an annual community living support plan for two out eight residents identified as limited mental health residents (Residents #3 and #8).

146. Resident #3's record review showed the health assessment dated 09/27/2013 had the following diagnoses Schizophrenia Chronic Paranoid. Resident #3 received optional state supplementation (OSS).

147. Resident #3's community living support plan dated 10/01/2017 was not signed by Administrator or the resident.

148. Record review revealed Resident #8's record showed the resident's health assessment dated 10/25/2017 had diagnoses: schizophrenia. The Administrator revealed Resident #8 received OSS.

149. Resident #8's community living support plan was dated 09/02/2014. The record did not have the updated living support plan in the record for review.

150. During an interview on 12/12/2017 at 12:11 P.M. the Administrator reviewed Residents #3's and Resident #8's records. The Administrator acknowledged that the records did not contain the updated annual living support plan. She stated, "I had to call their program."

151. The Respondent's actions and/or inactions constituted an uncorrected Class III deficiency.

152. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than Class I or Class II violations. The agency shall impose an administrative fine as provided in this section for a cited Class III violation. § 408.813(2)(c), Fla. Stat. (2017).

153. Class “III” violations are defined in s. 408.813. The agency shall impose an administrative fine for a cited Class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. § 429.19 (2)(c), Fla. Stat. (2017).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$500.00 against Respondent.

COUNT VII
LMH – TRAINING

154. The Agency re-alleges and incorporates by reference paragraphs 1-3 and Counts V through VI as if fully set forth herein.

155. Florida law states in pertinent part:

(1) To obtain a limited mental health license, a facility must hold a standard license as an assisted living facility, must not have any current uncorrected deficiencies or violations, and must ensure that, within 6 months after receiving a limited mental health license, the facility administrator and the staff of the facility who are in direct contact with mental health residents must complete training of no less than 6 hours related to their duties. Such designation may be made at the time of initial licensure or relicensure or upon request in writing by a licensee under this part and part II of chapter 408. Notification of approval or denial of such request shall be made in accordance with this part, part II of chapter 408, and applicable rules. This training will be provided by or approved by the Department of Children and Families.

§429.075(1) Fla. Stat.

156. Florida law states in pertinent part:

(8) LIMITED MENTAL HEALTH TRAINING.

(a) Pursuant to Section 429.075, F.S., the administrator, managers and staff, who have direct contact with mental health residents in a licensed limited mental health facility, must receive the following training:

1. A minimum of 6 hours of specialized training in working with individuals with mental health diagnoses.

- a. The training must be provided or approved by the Department of Children and Families and must be taken within 6 months of the facility's receiving a limited mental health license or within 6 months of employment in a limited mental health facility.
 - b. Staff in "direct contact" means direct care staff and staff whose duties take them into resident living areas and require them to interact with mental health residents on a daily basis. The term does not include maintenance, food service or administrative staff, if such staff have only incidental contact with mental health residents.
 - c. Training received under this subparagraph may count once for 6 of the 12 hours of continuing education required for administrators and managers pursuant to Section 429.52(4), F.S., and subsection (1) of this rule.
2. A minimum of 3 hours of continuing education, which may be provided by the ALF administrator or through distance learning, biennially thereafter in subjects dealing with one or more of the following topics:
 - a. Mental health diagnoses; and
 - b. Mental health treatment such as mental health needs, services, behaviors and appropriate interventions; resident progress in achieving treatment goals; how to recognize changes in the resident's status or condition that may affect other services received or may require intervention; and crisis services and the Baker Act procedures.
 3. For administrators and managers, the continuing education requirement under this subsection will satisfy 3 of the 12 hours of continuing education required biennially pursuant to Section 429.52(4), F.S., and subsection (1) of this rule.
 4. Administrators, managers and direct contact staff affected by the continuing education requirement under this subsection shall have up to 6 months after the effective date of this rule to meet the training requirement.
 - (b) Administrators, managers and staff do not have to repeat the initial training should they change employers provided they present a copy of their training certificate to the current employer for retention in the facility's personnel files. They must also ensure that copies of the continuing education training certificates, pursuant to subparagraph (a)2 of this subsection, are retained in their personnel files.

Rule 58A-5.0191(a)(b) Fla. Admin. Code

Survey 10/05/2017

157. A Standard Biennial Survey was conducted at the Respondent Facility on 10/05/2017. Deficiencies were found at time of the survey.

158. Based on record review and interview, the Facility failed to have three out of four staff trained in working with Limited Mental Health (LMH) residents (Staff B, C and D).

159. Record review showed the Facility held standard license with LMH component.

160. Record review for Staff B documented the last updated 3 hours training of continuing education in working with individuals with mental health diagnosis was by date of 06/30/15.

161. Record review for Staff C did not reflect any training documentation in the file for review.

162. Record review for Staff D documented 3 hours updated training by date of 6/30/15. There was no documentation Staff D had the 6 hours of specialized training working with individuals with mental health diagnosis.

163. An interview was conducted with the Owner on 10/05/17 at 10:38 A.M. The employee books was provided to the Owner to review for updated LMH training documentation. The Owner stated the next time the Administrator will have this documentation for you.

164. Respondent's actions and/or inactions constitute a class III deficiency.

165. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed. § 408.813(2)(c), Fla. Stat. (2017).

166. The Respondent was cited with a Class III deficiency.

167. The Agency provided Respondent with a mandatory correction date of 12/03/2017.

Survey 12/12/2017

168. A Standard Biennial Revisit Survey was conducted at the Respondent Facility on 12/12/2017. Deficiencies were found at time of the survey.

169. Based on record review and interview, the Facility failed to ensure that staff who have direct contact with limited mental health residents receive a minimum of 6 hours of specialized training in working with individuals with mental health diagnoses within 6 months of being hired for one out of six sampled employees (Staff D).

170. Review of Staff D's record revealed a hire date of 05/01/2005. There was no documentation Staff D had the 6 hours limited mental health (LMH) training.

171. On 12/12/2017 at 12:20 P.M. the Administrator reviewed the record. The Administrator was not able to provide 6 hours of LMH training for Staff D.

172. The Respondent's actions and/or inactions constituted an uncorrected Class III deficiency.

173. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than Class I or Class II violations. The agency shall impose an administrative fine as provided in this section for a cited Class III violation. § 408.813(2)(c), Fla. Stat. (2017).

174. Class "III" violations are defined in s. 408.813. The agency shall impose an administrative fine for a cited Class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. § 429.19 (2)(c), Fla. Stat. (2017).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$500.00 against Respondent.

**COUNT VIII
MEDICATION RECORDS**

175. The Agency re-alleges and incorporates by reference paragraphs 1-3 as if fully set forth herein.

176. Florida law states in pertinent part:

(5) MEDICATION RECORDS.

(a) For residents who use a pill organizer managed in subsection (2), the facility must keep either the original labeled medication container; or a medication listing with the prescription number, the name and address of the issuing pharmacy, the health care provider's name, the resident's name, the date dispensed, the name and strength of the drug, and the directions for use.

(b) The facility must maintain a daily medication observation record (MOR) for each resident who receives assistance with self-administration of medications or medication administration. A medication observation record must include the name of the resident and any known allergies the resident may have; the name of the resident's health care provider, the health care provider's telephone number; the name, strength, and directions for use of each medication; and a chart for recording each time the medication is taken, any missed dosages, refusals to take medication as prescribed, or medication errors. The medication observation record must be immediately updated each time the medication is offered or administered.

(c) For medications that serve as chemical restraints, the facility must, pursuant to Section 429.41, F.S., maintain a record of the prescribing physician's annual evaluation of the use of the medication.

Rule 58A-5.0185(5) Fla. Admin. Code

177. A Standard Biennial Revisit Survey was conducted at the Respondent Facility on 12/12/2017. Deficiencies were found at time of the survey:

178. Based on observation, record review, and interview, the Facility failed to ensure that the staff assisting residents with self-administration of medication updated immediately the

Medication Observation Records (MORs) each time the medications were offered or administered for eight of eight sampled residents (Residents #1, #2, #3, #4, #5, #6, #7 and #8).

179. On 12/12/2017 at 9:15 A.M. Staff E stated "I just finished assisting residents with their medication during breakfast time, I'm going to initial the MORs now."

180. Review of medication observation records (MORs) for Residents #1, #2, #3, #4, #5, #6, #7 and #8 revealed the scheduled medications at 7:00 A.M. were not initialed on 12/12/2017.

181. On 12/12/2017 at 9:32 A.M. Staff A (Owner/Caregiver) stated, "I assisted the residents with their meds in the morning and I went to sleep because I had headache, I did not initialed MOR."

182. Respondent's actions and/or inactions constitute a class III deficiency.

183. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed. § 408.813(2)(c), Fla. Stat. (2017).

184. The Respondent was cited with a Class III deficiency.

185. The Agency provided Respondent with a mandatory correction date of 02/07/2018.

Survey 02/13/2018 to 02/22/2018

186. A Standard Biennial Second Revisit Survey was conducted from 02/13/2018 and concluded on 02/22/2018 at the Respondent Facility. Deficiencies were found at time of the survey:

187. Based on record review, interview, and observation, the Facility failed to maintain the Medication Observation Records (MORs) for two out of eight sampled residents (Residents #1 and #6).

188. Review of medication observation records (MORs) for Residents #1 showed Ibuprofen 800 mg, one tablet by mouth every 8 hours as needed for pain was initialed on 02/01/2018. The medication blister had the pill.

189. Review of the MORs for Resident #6 found Divalproex 500 mg, three times a day was initialed at noon only

190. On 02/13/2018 at 10:31 A.M. the Owner stated, "Resident #6 did not have the medication at noon."

191. The Respondent's actions and/or inactions constituted an uncorrected Class III deficiency.

192. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than Class I or Class II violations. The agency shall impose an administrative fine as provided in this section for a cited Class III violation. § 408.813(2)(c), Fla. Stat. (2017).

193. Class "III" violations are defined in s. 408.813. The agency shall impose an administrative fine for a cited Class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. § 429.19 (2)(c), Fla. Stat. (2017).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$500.00 against Respondent.

COUNT IX
STAFFING STANDARDS – LEVELS

194. The Agency re-alleges and incorporates by reference paragraphs 1-3 as if fully set forth herein.

195. Florida law states in pertinent part:

(3) STAFFING STANDARDS.

(a) Minimum staffing:

1. Facilities must maintain the following minimum staff hours per week:

Number of Residents Staff Hours/Week

0-5 168

6-15 212

16- 25 253

26-35 294

36-45 335

46-55 375

56- 65 416

66-75 457

76-85 498

86-95 539

For every 20 residents over 95 add 42 staff hours per week.

2. Independent living residents as referenced in subsection 58A-5.024(3), F.A.C., who occupy beds included within the licensed capacity of an assisted living facility and who receive no personal, limited nursing, or extended congregate care services, are not counted as a resident for purposes of computing minimum staff hours.

3. At least one staff member who has access to facility and resident records in case of an emergency must be in the facility at all times when residents are in the facility. Residents serving as paid or volunteer staff may not be left solely in charge of other residents

while the facility administrator, manager or other staff are absent from the facility.

4. In facilities with 17 or more residents, there must be at least one staff member awake at all hours of the day and night.

5. A staff member who has completed courses in First Aid and Cardiopulmonary Resuscitation (CPR) and holds a currently valid card documenting completion of such courses must be in the facility at all times.

a. Documentation of attendance at First Aid or CPR courses offered by an accredited college, university or vocational school; a licensed hospital; the American Red Cross, American Heart Association, or National Safety Council; or a provider approved by the Department of Health, satisfies this requirement.

b. A nurse is considered as having met the course requirements for both First Aid and CPR. In addition, an emergency medical technician or paramedic currently certified under Part III, Chapter 401, F.S., is considered as having met the course requirements for both First Aid and CPR.

6. During periods of temporary absence of the administrator or manager of more than 48 hours when residents are on the premises, a staff member who is at least 21 years of age must be physically present and designated in writing to be in charge of the facility. No staff member shall be in charge of a facility for a consecutive period of 21 days or more, or for a total of 60 days within a calendar year, without being an administrator or manager.

7. Staff whose duties are exclusively building or grounds maintenance, clerical, or food preparation do not count towards meeting the minimum staffing hours requirement.

8. The administrator or manager's time may be counted for the purpose of meeting the required staffing hours, provided the administrator or manager is actively involved in the day-to-day operation of the facility, including making decisions and providing supervision for all aspects of resident care, and is listed on the facility's staffing schedule.

9. Only on-the-job staff may be counted in meeting the minimum staffing hours. Vacant positions or absent staff may not be counted.

(b) Notwithstanding the minimum staffing requirements specified in paragraph (a), all facilities, including those composed of apartments, must have enough qualified staff to provide resident supervision, and to provide or arrange for resident services in accordance with the residents' scheduled and unscheduled service needs, resident contracts, and resident care standards as described in Rule 58A-5.0182, F.A.C.

(c) The facility must maintain a written work schedule that reflects its 24-hour staffing pattern for a given time period. Upon request,

the facility must make the daily work schedules of direct care staff available to residents or representatives, for that resident's care.

(d) The facility must provide staff immediately when the agency determines that the requirements of paragraph (a) are not met. The facility must immediately increase staff above the minimum levels established in paragraph (a) if the agency determines that adequate supervision and care are not being provided to residents, resident care standards described in Rule 58A-5.0182, F.A.C., are not being met, or that the facility is failing to meet the terms of residents' contracts. The agency will consult with the facility administrator and residents regarding any determination that additional staff is required. Based on the recommendations of the local fire safety authority, the agency may require additional staff when the facility fails to meet the fire safety standards described in Section 429.41(1)(a), F.S., and Rule Chapter 69A-40, F.A.C., until such time as the local fire safety authority informs the agency that fire safety requirements are being met.

1. When additional staff is required above the minimum, the agency will require the submission of a corrective action plan within the time specified in the notification indicating how the increased staffing is to be achieved to meet resident service needs. The plan will be reviewed by the agency to determine if the plan increases the staff to needed levels to meet resident needs.

2. When the facility can demonstrate to the agency that resident needs are being met, or that resident needs can be met without increased staffing, modifications may be made in staffing requirements for the facility and the facility will no longer be required to maintain a plan with the agency.

(e) Facilities that are co-located with a nursing home may use shared staffing provided that staff hours are only counted once for the purpose of meeting either assisted living facility or nursing home minimum staffing ratios.

(f) Facilities holding a limited mental health, extended congregate care, or limited nursing services license must also comply with the staffing requirements of Rule 58A-5.029, 58A-5.030, or 58A-5.031, F.A.C., respectively.

Rule 58A-5.019(3) Fla. Admin. Code

196. A Standard Biennial Revisit Survey was conducted at the Respondent Facility on 12/12/2017. Deficiencies were found at time of the survey.

197. Based on observation, record review, and interview, the Facility failed to maintain a written work schedule that reflects its 24-hour staffing pattern for a given time period.

198. On 12/12/2017 at 9:05 A.M. a woman answered the facility door, Staff E identified herself as Staff D. Staff E stated that she was caring for residents. Staff E conducted the Facility tour and identified the residents.

199. Review staffing scheduled posted for the month of December reflected the following:

- a. Staff F scheduled to work from 7:00 AM to 7:00 PM.;
- b. Staff B (off);
- c. Staff A from 7:00 A.M. to 7:00 P.M.; and
- d. Staff D from 6:00 P.M. to 10:00 P.M.

The Facility did not have Staff E named or scheduled.

200. During an interview on 12/12/2017 at 9:47 A.M., the Administrator stated, "Staff E was hired a week ago, because the other staff left."

201. Respondent's actions and/or inactions constitute a class III deficiency.

202. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than class I or class II violations. The agency shall impose an administrative fine as provided in this section for a cited class III violation. A citation for a class III violation must specify the time within which the violation is required to be corrected. If a class III violation is corrected within the time specified, a fine may not be imposed. § 408.813(2)(c), Fla. Stat. (2017).

203. The Respondent was cited with a Class III deficiency.

204. The Agency provided Respondent with a mandatory correction date of 02/07/2018.

Survey 02/13/2018 to 02/22/2018

205. A Standard Biennial Second Revisit Survey was conducted from 02/13/2018 and concluded on 02/22/2018. The Respondent Facility had deficiencies found at time of the survey.

206. Based on observation, record review, and interview, the Facility failed to maintain a written work schedule that reflects its 24-hour staffing pattern for a given time period.

207. On 02/13/2018 at 9:20 A.M. observed that staffing scheduled was not posted in the facility bulletin board located near the entrance. Staff A and Staff G were observed caring for a census of 8 residents at the Facility.

208. On 02/13/2018 at 10:03 A.M. the Administrator was informed that staffing scheduled was not posted. The Administrator went to her desk and subsequently provided staffing scheduled that was changed with white out.

209. The Respondent's actions and/or inactions constituted an uncorrected Class III deficiency.

210. Class "III" violations are those conditions or occurrences related to the operation and maintenance of a provider or to the care of clients which the agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients, other than Class I or Class II violations. The agency shall impose an administrative fine as provided in this section for a cited Class III violation. § 408.813(2)(c), Fla. Stat. (2017).

211. Class "III" violations are defined in s. 408.813. The agency shall impose an administrative fine for a cited Class III violation in an amount not less than \$500 and not exceeding \$1,000 for each violation. § 429.19 (2)(c), Fla. Stat. (2017).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$500.00 against Respondent.

COUNT X
Background Screening Clearinghouse

212. The Agency re-alleges and incorporates by reference paragraphs 1-3 and Counts I through IX as if fully set forth herein.

213. Florida Statutes state in pertinent part:

(b) Until such time as the fingerprints are enrolled in the national retained print arrest notification program at the Federal Bureau of Investigation, an employee with a break in service of more than 90 days from a position that requires screening by a specified agency must submit to a national screening if the person returns to a position that requires screening by a specified agency.

(c) An employer of persons subject to screening by a specified agency must register with the clearinghouse and maintain the employment status of all employees within the clearinghouse. Initial employment status and any changes in status must be reported within 10 business days.

(d) An employer must register with and initiate all criminal history checks through before referring an employee or potential employee for electronic fingerprint submission to the Department of Law Enforcement. The registration must include the employee's full first name, middle initial, and last name; social security number; date of birth; mailing address; sex; and race. Individuals, persons, applicants and controlling interests that cannot legally obtain a social security number must provide an individual taxpayer identification number.

§435.12(2)(b)(c)(d), Fla. Stat.(2017)

Survey 12/12/2017

214. A Standard Biennial Revisit Survey was conducted at on 12/12/2017. The Respondent facility had deficiencies found at time of the survey.

215. Based on record review, and interview, the Facility failed to register with the clearinghouse and maintain the employment status of all employees within the agency clearinghouse.

216. Review staffing scheduled posted showed Staff D was scheduled to work from 6:00 P.M. to 10:00 P.M. Review of Caregiver D's personnel record revealed a hire date of 05/01/2005.

217. Review of the background screening's clearinghouse database showed the facility's employee roster did not include Staff D.

218. In an interview on 12/12/2017 at 1:00 P.M., the Administrator acknowledged the Facility did not had an updated employee roster in the background screening's clearinghouse database.

219. Under Florida law, the Agency may impose an administrative fine for a violation that is not designated as a class I, class II, class III, or class IV violation. Unless otherwise specified by law, the amount of the fine may not exceed \$500 for each violation. Unclassified violations include: Violating any provision of this part, authorizing statutes, or applicable rules.

§ 408.813(3)(b), Fla. Stat. (2017).

220. Under Florida law, regardless of the class of violation cited, instead of the fine amounts listed in paragraphs (a)-(d), the Agency shall impose an administrative fine of \$500 if a facility is found not to be in compliance with the background screening requirements as provided in section 408.809, Florida Statutes (2017). § 429.19(2)(e), Fla. Stat. (2017).

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, seeks to impose an administrative fine of \$500.00 against the Respondent.

COUNT XI
Background Screening; Prohibited Offenses

221. The Agency re-alleges and incorporates by reference paragraphs 1-3 and Counts I through IX as if fully set forth herein.

222. Florida Statutes state in pertinent part:

(1) Level 2 background screening pursuant to chapter 435 must be conducted through the agency on each of the following persons, who are considered employees for the purposes of conducting screening under chapter 435:

- (a) The licensee, if an individual.
- (b) The administrator or a similarly titled person who is responsible for the day-to-day operation of the provider.
- (c) The financial officer or similarly titled individual who is responsible for the financial operation of the licensee or provider.
- (d) Any person who is a controlling interest if the agency has reason to believe that such person has been convicted of any offense prohibited by s. 435.04. For each controlling interest who has been convicted of any such offense, the licensee shall submit to the agency a description and explanation of the conviction at the time of license application.
- (e) Any person, as required by authorizing statutes, seeking employment with a licensee or provider who is expected to, or whose responsibilities may require him or her to, provide personal care or services directly to clients or have access to client funds, personal property, or living areas; and any person, as required by authorizing statutes, contracting with a licensee or provider whose responsibilities require him or her to provide personal care or personal services directly to clients. Evidence of contractor screening may be retained by the contractor's employer or the licensee.

§408.809(1)(a)-(e), Fla. Stat. (2017).

223. Florida Statutes state in pertinent part:

(2)(a) An employer may not hire, select, or otherwise allow an employee to have contact with any vulnerable person that would place the employee in a role that requires background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment. If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for the disqualification by the agency as provided under s. 435.07.

(c) The employer must terminate the employment of any of its personnel found to be in noncompliance with the minimum standards of this chapter or place the employee in a position for

which background screening is not required unless the employee is granted an exemption from disqualification pursuant to s. 435.07.

(d) An employer may hire an employee to a position that requires background screening before the employee completes the screening process for training and orientation purposes. However, the employee may not have direct contact with vulnerable persons until the screening process is completed and the employee demonstrates that he or she exhibits no behaviors that warrant the denial or termination of employment.

§435.06(2)(a)(c)(d), Fla. Stat. (2017).

224. Under Florida Statutes the term "Employee" means any person required by law to be screened pursuant to this chapter, including, but not limited to, persons who are contractors, licensees, or volunteers. §435.02(2), Fla. Stat. (2017).

225. A Standard Biennial Revisit Survey was conducted at on 12/12/2017. The Respondent Facility had deficiencies found at time of the survey.

226. Based on observation, record review, and interview, the Facility failed to have an eligible level II background for Staff prior providing direct care and services to residents (Staff E).

227. On 12/12/2017 at 9:05 A.M. a woman answered the door. Staff E identified herself as Staff D. Staff E stated that she was caring for the residents. Staff E conducted facility tour and identified the residents

228. On 12/12/2017 at 9:15 A.M. Staff E stated "I just finished assisting the residents with their medication during breakfast time, I'm going to initial the medication observation records (MORs) now."

229. Record review showed Staff E's did not have a personnel record for review.

230. During an interview on 12/12/2017 at 9:47 A.M., the Administrator stated Staff E was hired a week ago, because the other staff left. The Administrator stated, Staff E did not have a personnel file and Staff E has not had a background screening yet.

231. Under Florida law, the Agency may impose an administrative fine for a violation that is not designated as a class I, class II, class III, or class IV violation. Unless otherwise specified by law, the amount of the fine may not exceed \$500 for each violation. Unclassified violations include: Violating any provision of this part, authorizing statutes, or applicable rules. § 408.813(3)(b), Fla. Stat. (2017).

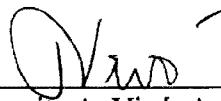
232. Under Florida law, regardless of the class of violation cited, instead of the fine amounts listed in paragraphs (a)-(d), the Agency shall impose an administrative fine of \$500 if a facility is found not to be in compliance with the background screening requirements as provided in section 408.809, Florida Statutes (2017). § 429.19(2)(e), Fla. Stat. (2017).

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, seeks to impose an administrative fine of \$500.00 against the Respondent.

CLAIM FOR RELIEF

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully seeks a final order that:

1. Makes factual and legal findings in favor of the Agency.
2. Imposes the relief set forth above.



Teresita A. Vivó, Assistant General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 7
Tallahassee, Florida 32308
Telephone: (850) 412-3690
Facsimile: (850) 922-9634
Teresita.Vivo@ahca.myflorida.com

NOTICE

Pursuant to Section 120.569, F.S., any party has the right to request an administrative hearing by filing a request with the Agency Clerk. In order to obtain a formal hearing before the Division of Administrative Hearings under Section 120.57(1), F.S., however, a party must file a request for an administrative hearing that complies with the requirements of Rule 28-106.2015, Florida Administrative Code. Specific options for administrative action are set out in the attached Election of Rights form.

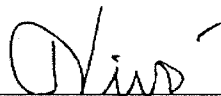
The Election of Rights form or request for hearing must be filed with the Agency Clerk for the Agency for Health Care Administration within 21 days of the day the Administrative Complaint was received. If the Election of Rights form or request for hearing is not timely received by the Agency Clerk by 5:00 P.M. Eastern Time on the 21st day, the right to a hearing will be waived. A copy of the Election of Rights form or request for hearing must also be sent to the attorney who issued the Administrative Complaint at his or her address. The Election of Rights form shall be addressed to: Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 3, Tallahassee, FL 32308; Telephone (850) 412-3630, Facsimile (850) 921-0158.

Any party who appears in any agency proceeding has the right, at his or her own expense, to be accompanied, represented, and advised by counsel or other qualified representative. Mediation under Section 120.573, F.S., is available if the Agency agrees, and if available, the pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Administrative Complaint and Election of Rights were served to the persons or entities named below on this 29th day of

June, 2018.



Teresita A. Vivó, Assistant General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 7
Tallahassee, Florida 32308
Telephone: (850) 412-3690
Facsimile: (850) 922-9634
Teresita.Vivo@ahca.myflorida.com

<p>Keisha Woods, Unit Manager Assisted Living Unit Agency for Health Care Administration (Electronic Mail)</p>	<p>Beverly Ramnarine, Administrator Rose's Retirement Home 11520 SW 108 Avenue Miami, Florida 33176 (Certified Mail: 7012 1010 0003 2493 8391</p>
<p>Arlene Mayo-Davis, Field Office Manager Agency Field Office Agency for Health Care Administration (Electronic Mail)</p>	

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

RE: ROSE'S RETIREMENT HOME, INC.

AHCA No.: 2018006695
2018006644

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed agency action by the Agency for Health Care Administration (AHCA). The title may be Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine or Administrative Complaint. Your Election of Rights may be returned by mail or by facsimile transmission, **but must be filed with the Agency Clerk within 21 days by 5:00 P.M.** of the day that you receive the attached proposed agency action. **If your Election of Rights with your selected option is not received by AHCA within 21 days of the day that you received this proposed agency action, you will have waived your right to contest the proposed agency action and a Final Order will be issued.**

(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** 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 the allegations of facts and conclusions of law contained in the Administrative Complaint and I waive my right to object and to have a hearing. I understand that by giving up my right to a hearing, a final order will be issued that adopts the proposed agency action and imposes the penalty, fine or action.

OPTION TWO (2) _____ I admit the allegations of facts contained in the Administrative Complaint, but I 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 administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) _____ I dispute the allegations of fact contained in the Administrative Complaint and I 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 Person: _____ Title: _____

Address: _____
Number and Street City Zip Code

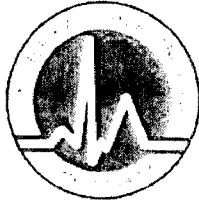
Telephone No. _____ Fax No. _____

E-Mail (optional) _____

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

Signed: _____ Date: _____

Printed Name: _____ Title: _____



717

2018009549

Certified Article Number
9414 7266 9904 2105 0360 33
SENDERS RECORD

RICK SCOTT
GOVERNOR

JUSTIN M. SENIOR
SECRETARY

July 3, 2018

CERTIFIED

Ms. Beverly Ramnarine, Administrator
Rose's Retirement Home
11520 SW 108 Avenue
Miami, FL 33176

File Number: 11911398
License Number: 58
Provider Type: Assisted Living Facility
Application Number: 66818

RECEIVED
FACILITY INTAKE UNIT

JUL 03 2018

Agency for Health
Care Administration

RE: Complaint Number 2018009549 11520 SW 108 Avenue, Miami, FL 33176

Notice of Intent To Deny the Renewal Application for an Assisted Living Facility

Dear Ms. Ramnarine:

It is the decision of this Agency that Rose's Retirement Home renewal application for an Assisted Living Facility license be DENIED.

The Specific Basis for this determination is:

On October 5, 2017 a biennial survey was conducted at Rose's Retirement Home, 17 Class III deficiencies were cited in the following areas:

- Licensure - Requirements
- Admissions – Health Assessment
- Resident Care – Elopement Standards
- Medication – Assistance with Self-Admin
- Medication – Storage and Disposal
- Staffing Standards – Staff
- Training – Staff In-Service
- Training – Assis Self-Admin Meds & Med Mgmt
- Training – Nutrition & Food Service
- Fiscal – Surety Bonds
- Physical Plant – Safe Living Environ/other
- Records – Facility
- Records – Staff
- Records – Resident
- Resident Contracts
- LMH – Records
- LMH – Training

EXHIBIT 2

2727 Mahan Drive • MS#30
Tallahassee, FL 32308
AHCA.MyFlorida.com



Facebook.com/AHCAFlorida
Youtube.com/AHCAFlorida
Twitter.com/AHCA_FL
SlideShare.net/AHCAFlorida

Ms. Ramnarine
Rose's Retirement Home
July 3, 2018
Page 2

On December 12, 2017, a biennial revisit survey was conducted at the facility, three new Class III, two new Unclassified and seven uncorrected Class III deficiencies were cited in the following areas:

- Medication – Records
- Medication – Storage and Disposal
- Staffing Standards – Levels
- Training – Assis Self-Admin Meds & Med Mgmt
- Fiscal – Liability Insurance
- Physical Plant – Safe Living Environ/other
- Records – Staff
- Records – Resident
- LMH – Records
- LMH – Training
- Background Screening Clearinghouse
- Background Screening; Prohibited Offenses

On February 22, 2018, a 2nd revisit survey was conducted at the facility, one new Class III, one new Unclassified and six uncorrected Class III deficiencies were cited in the following areas:

- Medication – Records
- Medication – Labeling and Orders
- Staffing Standards – Staff
- Staffing Standards – Levels
- Training – Assis Self-Admin Meds & Med Mgmt
- Physical Plant – Safe Living Environ/other
- Records – Resident
- Results of Screening & Notification in File

On May 29, 2018, a 3rd revisit survey was conducted at the facility, two new Class III, one new Unclassified and three uncorrected Class III deficiencies were cited in the following areas:

- Resident Care – Elopement Standards
- Staffing Standards – Staff
- Physical Plant – Safe Living Environ/other
- Records – Resident
- Risk Mgmt & Qa; Adverse Incident Report
- Background Screening Clearinghouse

On February 13, 2018, a complaint survey (2017015647) was conducted at the facility, two Class III deficiencies were cited in the following areas:

- Training – First Aid and CPR
- Emergency Plan Approval

Ms. Ramnarine
Rose's Retirement Home
July 3, 2018
Page 3

On May 29, 2018, a complaint revisit survey (2017015647) was conducted at the facility, one Class III deficiency was found to be uncorrected in the following area:

- Emergency Plan Approval

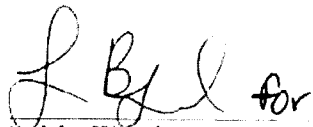
Therefore, pursuant to Sections 408.806 (7)(a), 408.809, 408.810 (1), 408.811(4) 408.815 (1) (c) (d) and 429.14 (1) (e)3(f)(h)(k), Florida Statutes (F.S.) your Assisted Living Facility renewal application is denied.

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 have any questions or need further assistance, please call Rosalind Frazier at (850) 412-4457 or e-mail at Rosalind.Frazier@ahca.myflorida.com.



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

cc: Legal Intake Unit, MS# 3

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

RE: Rose'S Retirement Home

Case Number: 2018009549

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed Notice of Intent to Deem Incomplete and Withdraw from Further Review of the Agency for Health Care Administration (AHCA). The title may be **Notice of Intent to Deem Incomplete and Withdraw from Further Review** or some other notice of intended action by AHCA.

An Election of Rights must be returned by mail or by fax within 21 days of the day you receive the attached Notice of Intent to Deem Incomplete and Withdraw from Further Review or any other proposed action by AHCA.

If an Election of Rights with your selected option is not received by AHCA within twenty-one (21) days from the date you received this notice of proposed action, you will have given up your right to contest the Agency's proposed action and a final order will be issued.

(Please reply using this Election of Rights form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes (2006) and Rule 28, Florida Administrative Code.)

Please return your ELECTION OF RIGHTS to:

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

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS:

OPTION ONE (1) _____ I admit to the allegations of facts and law contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review, or other notice of intended action by AHCA and I waive my right to object and have a hearing. I understand that by giving up my right to a hearing, a final order will be issued that adopts the proposed agency action and imposes the proposed penalty, fine or action.

OPTION TWO (2) _____ I admit to the allegations of facts contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review, or other proposed action by AHCA, but I 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 administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) _____ I dispute the allegations of fact contained in the Notice of Intent to Deem Incomplete and Withdraw from Further Review or other proposed action by AHCA, and I request a formal hearing (pursuant to Section 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

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

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

AHCA Nos. 2018006695
2018006644
2018009562

v.

ROSE'S RETIREMENT HOME, INC.,

Respondent.

_____ /

ROSE'S RETIREMENT HOME, INC.,

Petitioner,

AHCA No. 2018009549
DOAH No. 18-3986

v.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

_____ /

SETTLEMENT AGREEMENT

The State of Florida, Agency for Health Care Administration (hereinafter "the Agency"), and Rose's Retirement Home, Inc., (hereinafter "Rose's Retirement"), through their undersigned representatives, pursuant to Section 120.57(4), Florida Statutes, enter into this Settlement Agreement ("Agreement") and agree as follows:

WHEREAS, Rose's Retirement is an applicant for an assisted living facility licensed pursuant to Chapters 408, Part II, and 429, Part I, Florida Statutes, and Chapter 58A-5, Florida Administrative Code; and

WHEREAS, the Agency has jurisdiction by virtue of being the regulatory and licensing

authority over assisted living facilities pursuant to Chapter 429, Part I, Florida Statutes; and

WHEREAS, the Agency issued Rose's Retirement an administrative complaint [AHCA No.: 2018006695; AHCA No.: 2018006644] on or about June 29, 2018, notifying it of the Agency's intent to impose administrative fines in the amount of \$7,500.00; and

WHEREAS, the Agency issued Rose's Retirement a Notice of Intent to Deny letter [AHCA No.: 2018009549; DOAH No.: 18-3986] on or about July 3, 2018, notifying it of the Agency's decision to deny its renewal application due to Rose's Retirement failure to meet the minimum licensure requirements.

WHEREAS, Rose's Retirement acknowledges that the license for an assisted living facility is a public trust and a privilege and not an entitlement as set forth in Section 429.63, Florida Statutes.

WHEREAS, Rose's Retirement requested a formal administrative hearing administrative proceeding [AHCA No.: 2018009549; DOAH No.: 18-3986] by selecting Option Three (3) on the Election of Rights form; and

WHEREAS, the Agency completed a revisit to the biennial survey [AHCA No.: 2018009562] and a complaint survey of Rose's Retirement on or about May 29, 2018, during which State Tag A0078, State Tag A0152, State Tag A0162, State Tag A0181, and State Tag CZ814 were cited, the citations constituting four uncorrected Class III deficiencies and one background screening violation; and

WHEREAS the citations of State Tag A0078, State Tag A0152, State Tag A0162, State Tag A0181, and State Tag CZ814 , as above described, subject Rose's Retirement to the imposition of administrative fines in the amount of two thousand five hundred dollars (\$2,500.00); and

WHEREAS, the Agency is prepared to issue Rose's Retirement an administrative complaint based on a revisit to the biennial survey and a complaint survey notifying it of the Agency's intent to impose administrative fines as stated above; and

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, Rose's Retirement 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. Rose's Retirement specifically waives the necessity of the drafting of or service of an Administrative Complaint for the revisit to the biennial survey [AHCA No.: 2018009562], and a complaint survey of May 29, 2019 and the corresponding relief stipulated to in this Agreement.
4. Upon full execution of this Agreement, the parties agree to the following:
 - a. Rose's Retirement shall pay administrative fines of \$7,500.00 within thirty (30)

days of the entry of the Final Order adopting this Agreement.

b. Rose's Retirement shall appoint a new CORE trained Administrator within 15 days of the Final Order adopting this Agreement. Within 10 days of the appointment of the CORE trained Administrator, Rose's Retirement shall file the Change of Administrator form, AHCA Form 3180-1006 with the Agency's Licensure Unit in Tallahassee Florida. Beverly Ramnarine shall not serve as either Administrator or Manager of Rose's Retirement.

c. Rose's Retirement shall maintain the one-year contract with the Consultant hired. The Consultant's reports shall be kept at the Facility available for review on request by Agency personnel.

d. The Agency shall withdraw the Notice of Intent to Deny contingent upon the terms set forth above. Nothing in this Agreement, however, shall prohibit the Agency from denying the application again based upon any a violation of this Agreement or a violation of any statute or rule, and if applicable, an unsatisfactory licensure survey. If Rose's Retirement fails to meet the settlement terms set forth above within the time specified, the failure shall serve as grounds for application denial or license revocation. In such an event, the Agency shall provide Rose's Retirement written notice of its action. Upon receipt of the Agency's notice, Rose's Retirement shall be required to provide the Agency a plan for the safe and orderly discharge of the residents as well as provide the residents notice of its closure. If Rose's Retirement decides to contest the Agency's action, it shall have the burden to establish that the Agency's action is unreasonable under the circumstances.

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

6. By executing this Agreement, Rose's Retirement neither admits nor denies the

validity of the allegations raised in the Notice of Intent or the Administrative Complaint, but recognizes that the Agency continues to assert the validity of the allegations.

7. The Agreement does not preclude the Agency from using the deficiencies from the surveys identified in the administrative complaint in any decision regarding licensure of Rose's Retirement, including, but not limited to, licensure for limited mental health, limited nursing services, extended congregate care, or 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, Rose's Retirement acknowledges 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 Administrative Complaints.

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. Rose's Retirement 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 Rose's Retirement or related facilities.

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

13. In the event that Rose's Retirement 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.

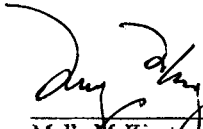
14. Rose's Retirement agrees that if any funds to be paid under this agreement to the Agency are not paid within thirty-one (31) days of entry of the Final Order in this matter, the Agency may deduct the amounts assessed against Rose's Retirement in the Final Order, or any portion thereof, owed by Rose's Retirement to the Agency from any present or future funds owed to Rose's Retirement by the Agency, and that the Agency shall hold a lien against present and future funds owed to Grand Villa 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.

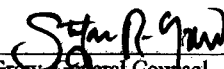
16. This Agreement contains and incorporates the entire understandings and agreements of the parties. This Agreement supersedes any prior oral or written agreements between the parties. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.


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

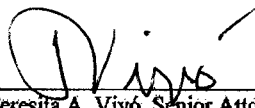
The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.


Molly McKinstry, Deputy Secretary
Division of Health Quality Assurance.
Agency for Health Care Administration
2727 Mahan Drive, MS #3
Tallahassee, Florida 32308
Dated: 5/28/19


Beverly Ramnarine, Administrator
Rose's Retirement Home, Inc.
10900 SW 177 Terrace
Miami, Florida 33157
Dated: march 19, 2019


Stefan Grow, General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive
Tallahassee, Florida 32308
Dated: 5-13-19


Ronald Chapman, Esquire
Attorney for Petitioner
6841 Energy Ct.
Sarasota, Florida 34240
rchapman@chapmanlawgroup.com
Dated: 3-25-19


Teresita A. Vivó, Senior Attorney
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive
Tallahassee, Florida 32308
Dated: 04/12/2019