

2019 SEP -9 A 11: 38

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

YOLETTE ETIENNE,

Respondent.

DOAH No: 19-1522

AHCA No.: 2018017505

Facility Type: Adult Family-Care Home

License No: 6906708

YOLETTE ETIENNE,

Petitioner,

v.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

DOAH No.: 19-1523

AHCA No.: 2018017826

Facility Type: Adult Family-Care Home

License No: 6906708

RENDITION NO.: AHCA-19 - 0715 -S-OLC

FINAL ORDER

Having reviewed the Administrative Complaint and Notice of Intent to Deny for Renewal Adult Family-Care Home Application (hereinafter "Notice"), and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

1. The Agency issued the Provider, Yolette Etienne ("the Provider"), the attached Administrative Complaint and Election of Rights form and Notice of Intent to Deny Renewal Application and Election of Rights Form. (Ex. 1). The parties have since entered into the attached Settlement Agreement (Ex. 2), which is adopted and incorporated by reference.

2. The Provider's license renewal application is withdrawn and its assisted living facility license is cancelled immediately upon entry of the Final Order.

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


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

5. The Provider is given notice of Florida law regarding unlicensed activity. The Provider is advised of Section 408.804 and Section 408.812, Florida Statutes. The Provider should also consult the applicable authorizing statutes and administrative code provisions. The Provider is notified that the cancellation of an Agency license may have ramifications potentially affecting accrediting, third party billing including but not limited to the Florida Medicaid program, and private contracts.

6. An administrative fine \$500.00 is imposed on the Provider, but is STAYED and shall be held in abeyance in accordance with the terms of the Agreement.

7. The Parties, including Ms. Yvette Etienne, shall comply with the remaining terms of the Agreement.

ORDERED at Tallahassee, Florida, on this 9 day of September, 2019.



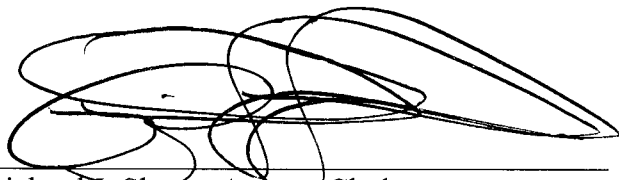
Mary C. Mayhew, Secretary
Agency for Health Care Administration

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 9th day of September, 2019.



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

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Keisha Wood, Unit Manager Licensure Unit Agency for Health Care Administration (Electronic Mail)
Central Intake Unit Agency for Health Care Administration (Electronic Mail)	Theresa DeCanio, Field Office Manager Local Field Office Agency for Health Care Administration (Electronic Mail)
Katrina Derico-Harris Medicaid Accounts Receivable Agency for Health Care Administration (Electronic Mail)	Nicola L. C. Brown, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)
Deborah Warfel Medicaid Contract Management Agency for Health Care Administration (Electronic Mail)	John Thomas Buchan, Esq. Jeffrey S. Howell, P.A. Tom@jsh-pa.com Counsel for Yvette Etienne (Electronic Mail)
The Honorable Hetal Desai Administrative Law Judge Division of Administrative Hearings (Electronic Filing)	

NOTICE OF FLORIDA LAW

408.804 License required; display.--

- (1) It is unlawful to provide services that require licensure, or operate or maintain a provider that offers or provides services that require licensure, without first obtaining from the agency a license authorizing the provision of such services or the operation or maintenance of such provider.
- (2) A license must be displayed in a conspicuous place readily visible to clients who enter at the address that appears on the license and is valid only in the hands of the licensee to whom it is issued and may not be sold, assigned, or otherwise transferred, voluntarily or involuntarily. The license is valid only for the licensee, provider, and location for which the license is issued.

408.812 Unlicensed activity. --

- (1) A person or entity may not offer or advertise services that require licensure as defined by this part, authorizing statutes, or applicable rules to the public without obtaining a valid license from the agency. A licenseholder may not advertise or hold out to the public that he or she holds a license for other than that for which he or she actually holds the license.
- (2) The operation or maintenance of an unlicensed provider or the performance of any services that require licensure without proper licensure is a violation of this part and authorizing statutes. Unlicensed activity constitutes harm that materially affects the health, safety, and welfare of clients. The agency or any state

attorney may, in addition to other remedies provided in this part, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of the unlicensed provider or the performance of any services in violation of this part and authorizing statutes, until compliance with this part, authorizing statutes, and agency rules has been demonstrated to the satisfaction of the agency.

(3) It is unlawful for any person or entity to own, operate, or maintain an unlicensed provider. If after receiving notification from the agency, such person or entity fails to cease operation and apply for a license under this part and authorizing statutes, the person or entity shall be subject to penalties as prescribed by authorizing statutes and applicable rules. Each day of continued operation is a separate offense.

(4) Any person or entity that fails to cease operation after agency notification may be fined \$1,000 for each day of noncompliance.

(5) When a controlling interest or licensee has an interest in more than one provider and fails to license a provider rendering services that require licensure, the agency may revoke all licenses and impose actions under s. 408.814 and a fine of \$1,000 per day, unless otherwise specified by authorizing statutes, against each licensee until such time as the appropriate license is obtained for the unlicensed operation.

(6) In addition to granting injunctive relief pursuant to subsection (2), if the agency determines that a person or entity is operating or maintaining a provider without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a client of the provider, the person or entity is subject to the same actions and fines imposed against a licensee as specified in this part, authorizing statutes, and agency rules.

(7) Any person aware of the operation of an unlicensed provider must report that provider to the Agency.