

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2015 SEP -3 P 3:58

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

AHCA No. 2015005077

CMCP-PINECASTLE LLC d/b/a
BROOKDALE AT PINECASATLE,

Respondent.

FINAL ORDER

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

1. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1) The Election of Rights form advised of the right to an administrative hearing. The Respondent received the Administrative Complaint and Election of Rights form (Ex. 2), but did not timely file the Election of Rights form or other hearing request with the Agency Clerk. The Respondent thus waived the right to a hearing to contest the allegations and sanction sought in the Administrative Complaint. Cann v. Department of Children and Family Services, 813 So.2d 237 (Fla. 2d DCA 2002).

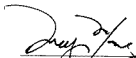
Based upon the foregoing, it is **ORDERED**:

2. The findings of fact and conclusions of law set forth in the Administrative Complaint are adopted and incorporated by reference into this Final Order.

3. The Respondent shall pay the Agency \$500.00. 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 3 day of September, 2015.



Elizabeth Dudek, 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 3rd day of September, 2015.



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

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Central Intake Unit Agency for Health Care Administration (Electronic Mail)
John E. Bradley, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	Eugene Edwin Valentine Administrator Brookdale at Pinecastle 1801 Southeast 24 th Road Ocala, Florida 34471-6073 (U.S. Mail)

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

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

Petitioner,

vs.

Case No.: 2015005077

**CMCP-PINECASTLE LLC d/b/a
BROOKDALE AT PINECASTLE**

Respondent.

ADMINISTRATIVE COMPLAINT

The State of Florida Agency for Health Care Administration (hereinafter "Petitioner" or "Agency"), by and through the undersigned counsel, files this Administrative Complaint against CMCP- Pinecastle LLC d/b/a Brookdale at Pinecastle (hereinafter "Respondent"), pursuant to Section § 120.569 and Section § 120.57, Florida Statutes (2014), and alleges:

NATURE OF THE ACTION

This is an action to impose an administrative fine in the amount of \$500.00 based upon one State Class III uncorrected deficiencies pursuant to Section § 429.19(2)(b), Florida Statutes (2014).

JURISDICTION AND VENUE

1. The Agency has jurisdiction pursuant to Section § 20.42, Section § 120.60 and Chapters 408, Part II, and 429, Part I, Fla. Stat. (2014).
2. Venue lies pursuant to Florida Administrative Code Rule 28-106.207.

PARTIES

3. The Agency is the regulatory authority responsible for licensure of assisted living

facilities and enforcement of all applicable regulations, state statutes and rules governing assisted living facilities pursuant to the Chapters 408, Part II, and 429, Part I, Florida Statutes, and Chapter 58A-5, Florida Administrative Code.

4. Respondent operates a 16-bed assisted living facility (hereafter "ALF") located at 1801 SE 24th Road, Ocala, Florida 34471-6073. It is licensed as an ALF, license number 5397.
5. Respondent was at all times material hereto a licensed facility under the licensing authority of the Agency, and was required to comply with all applicable rules and statutes.

COUNT I –

6. The Agency re-alleges and incorporates paragraphs (1) through (5) as if fully set forth herein.
7. Pursuant to Florida Administrative Rule 58A-5.0181(2):

HEALTH ASSESSMENT. As part of the admission criteria, an individual must undergo a face-to-face medical examination completed by a health care provider as specified in either paragraph (a) or (b) of this subsection.

(a) A medical examination completed within 60 calendar days before to the individual's admission to a facility pursuant to Section 429.26(4), F.S. The examination must address the following:

1. The physical and mental status of the resident, including the identification of any health-related problems and functional limitations;
2. An evaluation of whether the individual will require supervision or assistance with the activities of daily living;
3. Any nursing or therapy services required by the individual;
4. Any special diet required by the individual;
5. A list of current medications prescribed, and whether the individual will require any assistance with the administration of medication;
6. Whether the individual has signs or symptoms of Tuberculosis, Methicillin Resistant Staphylococcus Aureus, Scabies or any other communicable disease, which are likely to be transmitted to other residents or staff;
7. A statement on the day of the examination that, in the opinion of the examining health care provider, the individual's needs can be met in an assisted living facility; and
8. The date of the examination, and the name, signature, address, telephone number, and license number of the examining health care provider. The medical examination may be conducted by a health care provider licensed under Chapters 458, 459 or 464, F.S.

(b) A medical examination completed after the resident's admission to the facility within 30 calendar days of the admission date. The examination must be recorded on AHCA Form 1823, Resident Health Assessment for Assisted Living Facilities,

October 2010. The form is hereby incorporated by reference. AHCA Form 1823 may be obtained <http://www.flrules.org/Gateway/reference.asp?No=Ref-04006>. Faxed or electronic copies of the completed form are acceptable. The form must be completed as instructed.

1. Items on the form that may have been omitted by the health care provider during the examination do not necessarily require an additional face-to-face examination for completion. The facility may obtain the omitted information either orally or in writing from the health care provider.

2. Omitted information must be documented in the resident's record. Information received orally must include the name of the health care provider, the name of the facility staff recording the information, and the date the information was provided.

3. Electronic documentation may be used in place of completing the section on AHCA Form 1823 referencing Services Offered or Arranged by the Facility for the Resident. The electronic documentation must include all of the elements described in this section of AHCA Form 1823.

(c) Any information required by paragraph (a) that is not contained in the medical examination report conducted before the individual's admission to the facility must be obtained by the administrator using AHCA Form 1823 within 30 days after admission.

(d) Medical examinations of residents placed by the department, by the Department of Children and Families, or by an agency under contract with either department must be conducted within 30 days before placement in the facility and recorded on AHCA Form 1823 described in paragraph (b).

(e) An assessment that has been conducted through the Comprehensive, Assessment, Review and Evaluation for Long-Term Care Services (CARES) program may be substituted for the medical examination requirements of Section 429.26, F.S., and this rule.

(f) Any orders for medications, nursing, therapeutic diets, or other services to be provided or supervised by the facility issued by the health care provider conducting the medical examination may be attached to the health assessment. A health care provider may attach a DH Form 1896, Florida Do Not Resuscitate Order Form, for residents who do not wish cardiopulmonary resuscitation to be administered in the case of cardiac or respiratory arrest.

(g) A resident placed on a temporary emergency basis by the Department of Children and Families pursuant to Section 415.105 or 415.1051, F.S., is exempt from the examination requirements of this subsection for up to 30 days. However, a resident accepted for temporary emergency placement must be entered on the facility's admission and discharge log and counted in the facility census; a facility may not exceed its licensed capacity in order to accept such a resident. A medical examination must be conducted on any temporary emergency placement resident accepted for regular admission.

8. On or about January 21, 2015, the Agency completed complaint survey of the

Respondent facility and found the facility out of compliance with the above Rule.

9. Findings include the following facts:

A review of Resident #3's record revealed he was admitted to the facility on 12/30/2014. Contained review showed his initial health assessment (AHCA form 1823) was undated and incomplete. The activities of daily living portion of the form, it showed resident needed supervision or assist but failed to specify what type or amount needed in the comments section. The assessment was not dated by the physician. The assessment did not show Resident #3 had a catheter placed or that Resident #3 had frequent falls. Further review of the health assessment revealed there was no documentation of Resident #3's requirements for nursing services, physical therapy or occupational therapy (which began on 01/01/2015).

An interview was conducted with the Care Manager on 1/21/2015 1:45 PM. The Care manager stated she was unaware of the resident having an indwelling catheter or that the health assessment was not complete. She did agree Resident #3' needs changed since admission but could not state why his health assessment had not been updated.

10. Based on record review and interview the facility failed to ensure the accurate completion of a health assessment form for 1 of 3 residents observed (Resident #3).
11. Class "III" violations are those conditions or occurrences related to the operation and maintenance of the Facility, or to the personal care of Facility residents which the Agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of Facility residents, other than a class I or class II violation. § 429.19(2)(c), Fla. Stat. (2014).
12. The Respondent's actions and/or inactions constituted a class III violation.
13. The Respondent was given thirty days to correct the Class III deficiency.
14. On or about April 9, 2015, the Agency conducted a revisit of the Respondent.
15. Based on interview and record review the facility failed to ensure the accurate completion of a health assessment form for 3 of 7 residents reviewed (Residents # 7, 8, 10).
16. Findings include the following facts:

Resident #7 The 1823 AHCA Resident Health Assessment for Assisted Living Facilities form did not have a list of medications or indicate an attached list, did not indicate the resident needed assistance with self administration of medications, and did not have a date of examination by the health care provider.

Resident #8 The 1823 AHCA Resident Health Assessment for Assisted Living Facilities form Section D did not indicate whether the resident's needs could be met in an assisted living facility which is not a medical, nursing or psychiatric facility.

Resident #10 with a start date of 02/28/2010 had 3 1823 AHCA Resident Health Assessment for Assisted Living Facilities forms

The first one reviewed labeled "A" was undated by the examiner, failed to indicate if the individual needed assistance with self-administration of medication, and the list of medication was not provided.

The second 1823 reviewed labeled "B" did not indicate if the resident needed assistance with self-administration of medications and the date of examination is 09/29/4. The date the form showed faxed to the facility was 09/29/2011.

The third 1823 reviewed labeled "C" did not have a date of examination by the health care provider.

An interview with the Administrator on 04/09/2015 at 9:15 AM revealed he did not have a written plan of correction but had discussed 1823's with the Health and Wellness Director. They decided to review the 1823's and send the ones that needed correction to the physicians a few at a time until they were all corrected. The Administrator said the 1823s (Health Assessments) were being reviewed by the Health and Wellness Director and the Health and Wellness Manager as the new residents moved in. He was not aware of the current incomplete 1823's.

An interview on 04/08/2015 at 9:34 AM with the Health and Wellness Director, Limited Nursing Services Director revealed the 1823's are reviewed by the Health and Wellness Manager and her (the Health and Wellness Director) for completeness.

An interview with the Health and Wellness Manager, on 04/09/2015 at 9:40 AM revealed she was aware of the problems with the 1823's and was sending them to the physicians to be corrected. She and the Health and Wellness Director reviewed them for completeness when they were received. If the 1823 was not complete the 1823 was returned to the provider for completion.

17. The Respondent's actions and/or inactions constituted an uncorrected class III violation.

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

maintenance of the Facility, or to the personal care of Facility residents which the Agency determines indirectly or potentially threaten the physical or emotional health, safety, or security of Facility residents, other than a class I or class II violation. § 429.19(2)(c), Fla. Stat. (2014).

19. 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. (2014).

WHEREFORE, the Agency intends to impose an administrative fine in the amount of \$500.00 against Respondent, an assisted living facility in the State of Florida, pursuant to Section § 429.19(2)(b), Florida Statutes (2014).

CLAIM FOR RELIEF

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully requests the Court to enter a final order granting the following relief:

1. Make findings of fact and conclusions of law in favor of the Agency.
2. Impose the relief against the Respondent as set forth above.

Respectfully submitted on this 7th day of July 2015.

/s/John Bradley

John E. Bradley, Assistant General Counsel
Florida Bar No. 92277
Office of the General Counsel
Agency for Health Care Administration
525 Mirror Lake Drive
St Petersburg, Florida 33701
Phone: (727) 552-1944
John.Bradley@ahca.myflorida.com

NOTICE OF RIGHTS

Respondent is notified that it has a right to request an administrative hearing pursuant to Section 120.569, Florida Statutes. Respondent has the right to retain, and be represented by an attorney in this matter. Specific options for administrative action are set out in the attached Election of Rights.

All requests for hearing shall be made to the Agency for Health Care Administration, and delivered to *Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Bldg #3, MS #3, Tallahassee, FL 32308; Telephone (850) 412-3630.*

RESPONDENT IS FURTHER NOTIFIED THAT THE FAILURE TO REQUEST A HEARING WITHIN 21 DAYS OF RECEIPT OF THIS COMPLAINT WILL RESULT IN AN ADMISSION OF THE FACTS ALLEGED IN THE COMPLAINT AND THE ENTRY OF A FINAL ORDER BY THE AGENCY.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Administrative Complaint has been served by Certified Mail, Return Receipt (7008050000195039584) to: Eugene Edwin Valentine, Administrator, Brookdale at Pinecastle, 1801 SE 24th Road, Ocala, Florida 34471-6073, on this 7th day of July 2015.

/s/John Bradley

John E. Bradley, Assistant General Counsel
Florida Bar No. 92277
Office of the General Counsel
Agency for Health Care Administration
525 Mirror Lake Drive
St Petersburg, Florida 33701
Phone: (727) 552-1944
John.Bradley@ahca.myflorida.com

Copy furnished to: Kriste Mennella

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

RE: Brookdale at Pinecastle

AHCA No: 2015005077

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 within 21 days** 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 to the allegations of facts and law contained in the Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine, or 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 to the allegations of facts contained in the Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine, or 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 Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine, or 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.

License Type: _____ (ALF? Nursing Home? Medical Equipment? Other Type?)

Licensee Name: _____ License Number: _____

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: _____

Print Name: _____ Title: _____

English

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July 9, 2015, 7:25 am	Arrived at Unit	OCALA, FL 34478
July 9, 2015, 2:21 am	Departed USPS Facility	GAINESVILLE, FL 32608
July 8, 2015, 5:45 pm	Arrived at USPS Facility	GAINESVILLE, FL 32608
July 8, 2015, 9:27 am	Arrived at USPS Facility	JACKSONVILLE, FL 32203
July 7, 2015, 10:34 pm	Departed USPS Facility	TAMPA, FL 33630
July 7, 2015, 8:07 pm	Arrived at USPS Facility	TAMPA, FL 33630

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