Agency for Health Care Administration

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	AL11966236	A. BUILDING: _____ B. WING _____	12/16/2019

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
PELICAN GARDEN, LLC	177 EMPRESS AVE SEBASTIAN, FL 32958

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A 000	Initial Comments An unannounced Licensure complaint survey, #2019014185, was conducted on [redacted] at Pelican Garden LLC, License #10510, concluding on [redacted]. The facility had a deficiency at the time of the survey.	A 000		
A 030 SS=G	59A-36.007(6) FAC; 429.28( ) FS 429.27 Resident Care - Rights & Facility Procedures 59A-36.007 (6) RESIDENT RIGHTS AND FACILITY PROCEDURES. (a) A copy of the Resident Bill of Rights as described in section 429.28, F.S., or a summary provided by the Long-Term Care Ombudsman Program must be posted in full view in a freely accessible resident area, and included in the admission package provided pursuant to rule 59A-36.006, F.A.C. (b) In accordance with section 429.28, F.S., the facility must have a written grievance procedure for receiving and responding to resident complaints and a written procedure to allow residents to recommend changes to facility policies and procedures. The facility must be able to demonstrate that such procedure is implemented upon receipt of a complaint. (c) The telephone number for lodging complaints against a facility or facility staff must be posted in full view in a common area accessible to all residents. The telephone numbers are: the Long-Term Care Ombudsman Program, 1(888)831-0404; , Rights Florida, 1(800)342-0823; the Agency Consumer Hotline 1(888)419-3456, and the statewide toll-free telephone number of the Florida Hotline, 1(800)96- or 1(800)962-2873. The telephone numbers must be posted in close proximity to a telephone accessible by residents	A 030		

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A 030	Continued From page 1	A 030		

and the text must be a minimum of 14-point font.
(d) The facility must have a written statement of its house rules and procedures that must be included in the admission package provided pursuant to rule 59A-36.006, F.A.C. The rules and procedures must at a minimum address the facility's policies regarding:
1. Resident responsibilities;
2. [illegible] and tobacco use;
3. Medication storage;
4. Resident elopement;
5. Reporting resident , neglect, and [illegible];
6. Administrative and housekeeping schedules and requirements;
7. control, sanitation, and universal precautions; and,
8. The requirements for coordinating the delivery of services to residents by third party providers.
(e) Residents may not be required to perform any work in the facility without compensation. Residents may be required to clean their own sleeping areas or apartments if the facility rules or the facility contract includes such a requirement. If a resident is employed by the facility, the resident must be compensated in compliance with state and federal wage laws.
(f) The facility must provide residents with convenient access to a telephone to facilitate the resident's right to unrestricted and private communication, pursuant to section 429.28(1)(d), F.S. The facility must allow unidentified telephone calls to residents. For facilities with a licensed capacity of 17 or more residents in which residents do not have private telephones, there must be, at a minimum, a readily accessible telephone on each floor of each building where residents reside.
(g) In addition to the requirements of section

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A 030	Continued From page 2 429.41(1)(k), F.S., the use of physical . . . . . by a facility on a resident must be reviewed by the resident's physician annually. Any device, including half-bed rails, which the resident chooses to use and can remove or avoid without assistance, is not considered a physical . 429.28 Resident bill of rights.- (1) No resident of a facility shall be deprived of any civil or legal rights, benefits, or privileges guaranteed by law, the Constitution of the State of Florida, or the Constitution of the United States as a resident of a facility. Every resident of a facility shall have the right to: (a) Live in a safe and decent living environment, free from and neglect. (b) Be treated with consideration and respect and with due recognition of personal dignity, individuality, and the need for privacy. (c) Retain and use his or her own clothes and other personal property in his or her immediate living quarters, so as to maintain individuality and personal dignity, except when the facility can demonstrate that such would be unsafe, impractical, or an infringement upon the rights of other residents. (d) Unrestricted private communication, including receiving and sending unopened correspondence, access to a telephone, and visiting with any person of his or her choice, at any time between the hours of 9 a.m. and 9 p.m. at a minimum. Upon request, the facility shall make provisions to extend visiting hours for caregivers and out-of-town guests, and in other similar situations. (e) Freedom to participate in and benefit from community services and activities and to pursue the highest possible level of independence, autonomy, and interaction within the community.	A 030		

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(f) Manage his or her financial affairs unless the resident or, if applicable, the resident's representative, designee, surrogate, guardian, or attorney in fact authorizes the administrator of the facility to provide safekeeping for funds as provided in s. 429.27.
(g) Share a room with his or her spouse if both are residents of the facility.
(h) Reasonable opportunity for regular exercise several times a week and to be outdoors at regular and frequent intervals except when prevented by inclement weather.
(i) Exercise civil and religious liberties, including the right to independent personal decisions. No religious beliefs or practices, nor any attendance at religious services, shall be imposed upon any resident.
(j) Assistance with obtaining access to adequate and appropriate health care. For purposes of this paragraph, the term "adequate and appropriate health care" means the management of medications, assistance in making [illegible] for health care services, the provision of or arrangement of transportation to health care [illegible], and the performance of health care services in accordance with s. 429.255 which are consistent with established and recognized standards within the community.
(k) At least 45 days' notice of relocation or termination of residency from the facility unless, for medical reasons, the resident is certified by a physician to require an emergency relocation to a facility providing a more skilled level of care or the resident engages in a pattern of conduct that is harmful or offensive to other residents. In the case of a resident who has been adjudicated mentally [illegible], the guardian shall be given at least 45 days' notice of a nonemergency relocation or residency termination. Reasons for

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A 030	Continued From page 4 relocation shall be set forth in writing. In order for a facility to terminate the residency of an individual without notice as provided herein, the facility shall show good cause in a court of competent jurisdiction. (l) Present grievances and recommend changes in policies, procedures, and services to the staff of the facility, governing officials, or any other person without , interference, coercion, discrimination, or reprisal. Each facility shall establish a grievance procedure to facilitate the residents' exercise of this right. This right includes access to ombudsman volunteers and advocates and the right to be a member of, to be active in, and to associate with advocacy or special interest groups. (2) The administrator of a facility shall ensure that a written notice of the rights, , and prohibitions set forth in this part is posted in a prominent place in each facility and read or explained to residents who cannot read. The notice must include the statewide toll-free telephone number and e-mail address of the State Long-Term Care Ombudsman Program and the telephone number of the local ombudsman council, the Elder Hotline operated by the Department of Children and Families, and, if applicable, , Rights Florida, where complaints may be lodged. The notice must state that a complaint made to the Office of State Long-Term Care Ombudsman or a local long-term care ombudsman council, the names and identities of the residents involved in the complaint, and the identity of complainants are kept confidential pursuant to s. 400.0077 and that retaliatory action cannot be taken against a resident for presenting grievances or for exercising any other resident right. The facility must ensure a resident's access to a telephone to	A 030		

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A 030	Continued From page 5 call the State Long-Term Care Ombudsman Program or local ombudsman council, the Elder [illegible] Hotline operated by the Department of Children and Families, and [illegible], Rights Florida. 429.27 Property and personal affairs of residents.- (1)(a) A resident shall be given the option of using his or her own belongings, as space permits; choosing his or her roommate; and, whenever possible, unless the resident is adjudicated [illegible] or [illegible] under state law, managing his or her own affairs. (b) The admission of a resident to a facility and his or her presence therein shall not confer on the facility or its owner, administrator, employees, or representatives any authority to manage, use, or dispose of any property of the resident; nor shall such admission or presence confer on any of such persons any authority or responsibility for the personal affairs of the resident, except that which may be necessary for the safe management of the facility or for the safety of the resident. This Statute or Rule is not met as evidenced by: Based on interview and record review, the facility failed to honor the rights of 1 of 1 sampled residents (Resident #1) by failing to perform [illegible] ( ) on a nonresponsive resident who did not have a [illegible] ( ) to withhold life sustaining treatment. As evidence of the facility failure to perform [illegible] on Resident #1 when the resident was found unresponsive. The findings included:	A 030		

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A 030	Continued From page 6 The facility's procedure for honoring residents' orders includes circling the " " located on the sheet if a copy is received and on file at the facility. Admission paperwork includes a "Memo' initialed by the resident or representative to acknowledge that the facility has requested a copy of the resident's order, if one exists. If the resident or representative provides the facility with a copy of a order on yellow paper, the facility files the order and places the resident on the " " list. The facility then places a "butterfly" on the of the resident's door in their room with the resident name on the butterfly to notify staff to not perform . Review of the Resident #1's facesheet on revealed the resident had no ( ) order on file. During interview with the Administrator on at 11:00 AM, she confirmed that the resident did not have a order. The typed " " located on the bottom of the resident's facesheet was not circled to show that the resident did not have this documentation (photographic evidence obtained). The facility's ( ) Orders Policy and Procedure documents that the resident or resident's representative was responsible for obtaining a copy of the order for the facility, if one existed. Review of the resident's executed contract dated revealed that this form was requested from the resident's representative as shown by the representative's initials on the policy and procedure page. A full review of the resident's record indicated that the resident did not have a order on file. During an interview on at 11:00 AM, Staff A stated she arrived to work on	A 030		

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A 030	Continued From page 7 for the 7:00 AM shift and, upon arrival, received a phone call at the front of the building from Resident #1's roommate notifying her that Resident #1 was not responding. Staff A went to Resident #1's room at 7:24 AM on . . . . . with other staff assisting (Staff B, C and D). Staff A stated she observed the resident halfway off the side of the bed with her . . on the ground and her . . . between the grab bar (removeable side rail) and the mattress. She stated she moved Resident #1, with assistance from Staff B and C, from this position to lay flat on her bed. After checking her , . . . , seeing that the resident was pale and feeling that the resident's skin was , she determined that the resident had already passed. She then called 911 at 7:36 AM. EMTs (emergency medical technicians) arrived at the facility at 7:42 AM, and assessed the resident as expired at 7:45 AM on . . . . . Staff A stated she did not think the resident needed and that is why she did not start it, because the resident had already expired. The transcripts of the 911 call on show that Staff A's call was received at 7:36 AM, that Staff A advised she is a CNA (certified nursing assistant) at 7:38 AM, and that Staff A stated "it's too late for " at 7:39 AM. (Emergency Medical Services) arrived at 7:42 AM. The resident was pronounced by EMTs at 7:45 AM as documented in the Police Report narrative of the police report. These times were obtained from the Police Department report, the EMT 911 call log and the Adverse Incident report filed by the facility. The EMT call log shows the event was "turned over to Law Enforcement" at 7:57 AM on . . . . . The Police Report notes that the Medical Examiner's office was called by the detective on scene, and that the ME (medical examiners) office advised to call the funeral home	A 030		

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A 030	Continued From page 8 to retrieve the body (no autopsy required). Review of Staff A's personnel file revealed the staff member received a basic life support and ... certification dated ..... with an expiration date of . This staff member was certified to perform .. at the time of this incident. However, still Staff did not initiate the .., nor did any of the other staff perform the task upon arrival. In an interview with the Administrator on ..... at 11:30 AM, she acknowledged the above findings and stated that she did not direct Staff A to perform .. at the time of the incident as the resident was reported to her by Staff A as already expired when found unresponsive. The facility provided no additional information for review at this time. Class II	A 030		