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
	AL11911165	A. BUILDING: _____ B. WING _____	11/04/2021

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
RUSTIC RETREAT	1120 NORTH FEDERAL HIGHWAY BOYNTON BEACH, FL 33435

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
A 000	Initial Comments An unannounced Complaint survey (#2021015283) was conducted on [redacted] at Rustic Retreat. The facility had deficiencies identified at the time of the survey.	A 000		
CZ814	435.12(2)(b-d), FS Background Screening Clearinghouse 435.12 Care Provider Background Screening Clearinghouse.- (2)(b) Until such time as the [redacted] are enrolled in the national retained print [redacted] 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 the clearinghouse before referring an employee or potential employee for electronic [redacted] 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; [redacted]; and race. Individuals, persons, applicants, and controlling interests that cannot legally obtain a social security number must provide an individual taxpayer identification number. This Statute or Rule is not met as evidenced by:	CZ814		

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CZ814	Continued From page 1 Based on record review, interview and observation, the facility failed to ensure that all personnel in the Assisted Living Facility (ALF) and/or person(s) who have direct access to residents and their personal belongings and personal health information are registered with the Background Screening Clearinghouse prior to interacting with the residents or having access to their personal information, specifically related to Staff C. The findings included: During a facility tour conducted on the morning of [redacted], observation was made of a sheet of paper posted on a wall in the facility's kitchen which included phone numbers of staff, phone numbers of transportation services and emergency services, pharmacy phone number and physician phone numbers. Staff C's name and phone number was seventh on this list of 37 names and services. Review of the Background Screening Roster for the facility staff was conducted on 11/04/21 which revealed Staff C, the facility's 'Consultant', was entered on the Roster with a hire date of [redacted] and subsequently removed from the Roster on [redacted] with an effective date of [redacted]. Further review of the Roster revealed that Staff C's status under 'Determination' was a 'New Screening is Required.' Review of the Background Screening Clearinghouse Roster revealed Staff C was not listed as an employee of the facility. On [redacted] at 11:58 AM, an interview was conducted with the Administrator who stated Staff C was not considered a staff member but a "Gopher" and she did not come into the facility.	CZ814		

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CZ814	Continued From page 2 She stated Staff C helps with her policies & procedures, purchases items for her and brings them to the facility and she collects them out of Staff C's car as Staff C does not come into the office. On [redacted] at 12:26 PM, a telephone conference call interview was conducted to include the Administrator and the Agency for Health Care Administration (AHCA) field office Supervisor. The Administrator stated at this time they do not have a written contract with Staff C, only a verbal agreement. The Administrator admitted Staff C was present in the facility and assisted with setting up their Halloween party that took place inside the facility which placed Staff C in direct contact with the facility residents and personal spaces. The Administrator further admitted that Staff C comes into the office which houses the resident's records and assists residents and families to set up [redacted] with the local Medicaid office to assist residents obtaining eligibility for Medicaid coverage. Review of a document dated [redacted] related to Staff C, revealed as of [redacted], Staff C was to have 'No contact with residents at an Adult Family Care Home or Adult Assisted Living Facility and no contact with the environment in which the residents live or their personal information or property.' The document further goes on to state 'Today it was brought to the attention of undersigned counsel that Staff C was employed at this ALF. Consequently, a detective visited the ALF and discovered Staff C was physically present at the ALF and used a key to access an office in the ALF which has all of the residents records containing their personal information.' The document further stated 'Staff C has worked at the ALF since [redacted]	CZ814		

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CZ814	Continued From page 3 The ALF owner described Staff C as her "helper" who assists with bringing her items and making phone calls related to Medicaid to facilitate , , , using the patient's personal information. Staff C has access to the elderly residents and their living spaces. Staff C's conduct is in violation of AHCA's rules and regulations. Staff C is not permitted at the ALF because she would not pass a Level 2 Screening.' On at 1:09 PM, an interview was conducted with the Administrator who confirmed she has not registered Staff C who has access to residents, resident records and resident's personal health information in the Background Screening Clearinghouse. Unclassified	CZ814		
CZ815	408.809(1)( ); 435.02(2); 435.06 FS Background Screening; Prohibited Offenses 408.809 Background screening; prohibited offenses.- (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. (e) Any person, as required by authorizing	CZ815		

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CZ815	Continued From page 4 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, [illegible] with a licensee or provider whose responsibilities require him or her to provide personal care or personal services directly to clients, or [illegible] with a licensee or provider to work 20 hours a week or more who will have access to client funds, personal property, or living areas. Evidence of contractor screening may be retained by the contractor's employer or the licensee. (3) All [illegible] must be provided in electronic format. Screening results shall be reviewed by the agency with respect to the offenses specified in s. 435.04 and this section, and the qualifying or disqualifying status of the person named in the request shall be maintained in a database. The qualifying or disqualifying status of the person named in the request shall be posted on a secure website for retrieval by the licensee or designated agent on the licensee's behalf. (4) In addition to the offenses listed in s. 435.04, all persons required to undergo background screening pursuant to this part or authorizing statutes must not have an [illegible] awaiting final disposition for, must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, and must not have been adjudicated delinquent and the record not have been sealed or expunged for any of the following offenses or any similar offense of another jurisdiction: (a) Any authorizing statutes, if the offense was a	CZ815		

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CZ815	Continued From page 5 felony. (b) This chapter, if the offense was a felony. (c) Section 409.920, relating to Medicaid provider fraud. (d) Section 409.9201, relating to Medicaid fraud. (e) Section 741.28, relating to domestic violence. (f) Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection. (g) Section 784.03, relating to battery, if the victim is a [redacted] adult as defined in s. 415.102 or a patient or resident of a facility licensed under chapter 395, chapter 400, or chapter 429. (h) Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems. (i) Section 817.234, relating to false and fraudulent insurance claims. (j) Section 817.481, relating to obtaining goods by using a false or expired credit card or other credit device, if the offense was a felony. (k) Section 817.50, relating to fraudulently obtaining goods or services from a health care provider. (l) Section 817.505, relating to patient brokering. (m) Section 817.568, relating to criminal use of personal identification information. (n) Section 817.60, relating to obtaining a credit card through fraudulent means. (o) Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony. (p) Section 831.01, relating to forgery. (q) Section 831.02, relating to uttering forged instruments. (r) Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes. (s) Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes. (t) Section 831.30, relating to fraud in obtaining	CZ815		

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CZ815	Continued From page 6	CZ815		

medicinal drugs.
(u) Section 831.31, relating to the sale, manufacture, delivery, or possession with the intent to sell, manufacture, or deliver any counterfeit controlled substance, if the offense was a felony.
(v) Section 895.03, relating to racketeering and collection of unlawful debts.
(w) Section 896.101, relating to the Florida Money Laundering Act.
If, upon rescreening, a person who is currently employed or with a licensee and was screened and qualified under s. 435.04 has a disqualifying offense that was not a disqualifying offense at the time of the last screening, but is a current disqualifying offense and was committed before the last screening, he or she may apply for an exemption from the appropriate licensing agency and, if agreed to by the employer, may continue to perform his or her duties until the licensing agency renders a decision on the application for exemption if the person is eligible to apply for an exemption and the exemption request is received by the agency no later than 30 days after receipt of the rescreening results by the person.

(5) The costs associated with obtaining the required screening must be borne by the licensee or the person subject to screening. Licensees may reimburse persons for these costs. The Department of Law Enforcement shall charge the agency for screening pursuant to s. 943.053(3). The agency shall establish a schedule of fees to cover the costs of screening.

(6)(a) As provided in chapter 435, the agency may grant an exemption from disqualification to a person who is subject to this section and who:

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CZ815	Continued From page 7 1. Does not have an active professional license or certification from the Department of Health; or 2. Has an active professional license or certification from the Department of Health but is not providing a service within the scope of that license or certification. (b) As provided in chapter 435, the appropriate regulatory board within the Department of Health, or the department itself if there is no board, may grant an exemption from disqualification to a person who is subject to this section and who has received a professional license or certification from the Department of Health or a regulatory board within that department and that person is providing a service within the scope of his or her licensed or certified practice. (7) The agency and the Department of Health may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section, chapter 435, and authorizing statutes requiring background screening and to implement and adopt criteria relating to retaining [illegible] pursuant to s. 943.05(2). (8) There is no reemployment assistance or other monetary liability on the part of, and no cause of action for damages arising against, an employer that, upon notice of a disqualifying offense listed under chapter 435 or this section, terminates the person against whom the report was issued, whether or not that person has filed for an exemption with the Department of Health or the agency. 435.06 Exclusion from employment.- (1) If an employer or agency has reasonable cause to believe that grounds exist for the denial or termination of employment of any employee as	CZ815		

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CZ815	Continued From page 8 a result of background screening, it shall notify the employee in writing, stating the specific record that indicates noncompliance with the standards in this chapter. It is the responsibility of the affected employee to contest his or her disqualification or to request exemption from disqualification. The only basis for contesting the disqualification is proof of mistaken identity. (2)(a) An employer may not hire, select, or otherwise allow an employee to have contact with any 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 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. (b) If an employer becomes aware that an employee has been for a disqualifying offense, the employer must remove the employee from contact with any person that places the employee in a role that requires background screening until the is resolved in a way that the employer determines that the employee is still eligible for employment under this chapter. (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	CZ815		

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CZ815	Continued From page 9 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 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. (3) Any employee who refuses to cooperate in such screening or refuses to timely submit the information necessary to complete the screening, including , if required, must be disqualified for employment in such position or, if employed, must be dismissed. (4) There is no reemployment assistance or other monetary liability on the part of, and no cause of action for damages against, an employer that, upon notice of a conviction or for a disqualifying offense listed under this chapter, terminates the person against whom the report was issued or who was , regardless of whether or not that person has filed for an exemption pursuant to this chapter. 435.02 Definitions.-For the purposes of this chapter, the term: (2) "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. This Statute or Rule is not met as evidenced by: Based on record review, interview and observation, the facility failed to ensure that all personnel in the Assisted Living Facility (ALF) and person(s) who have direct access to residents and their personal belongings and personal	CZ815		

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CZ815	Continued From page 10 health information have had a Level 2 Background Screening conducted prior to interacting with the residents or having access to their personal information, specifically Staff C. The findings included: Review of the Background Screening Roster for the facility staff was conducted on 11/04/21 which revealed Staff C, the facility's 'Consultant', was entered on the Roster with a hire date of and subsequently removed from the Roster on with an effective date of . Further review of the Roster revealed that Staff C's status under 'Determination' was a 'New Screening is Required.' A tour of the facility was conducted on the morning of revealing the facility's resident capacity is 30 with a current resident census of 22. Further during the tour, observation was made of a sheet of paper posted on a wall in the facility's kitchen which included phone numbers of staff, phone numbers of transportation services and emergency services, pharmacy phone number and physician phone numbers. Staff C's name and phone number was seventh on this list of 37 names and services. Observation of the facility office revealed this was where resident records and documents are stored. On at 11:58 AM, an interview was conducted with the Administrator who stated Staff C was not considered a staff member but a "Gopher" and she did not come into the facility. She stated Staff C helps with her policies & procedures, purchases items for her and brings them to the facility and she collects them out of Staff C's car as Staff C does not come into the	CZ815		

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CZ815	Continued From page 11 office. On . . . . . at 12:26 PM, a telephone conference call interview was conducted to include the Administrator and the Agency for Health Care Administration (AHCA) field office Supervisor. The Administrator stated at this time they do not have a written contract with Staff C, only a verbal agreement. The Administrator admitted Staff C was present in the facility and assisted with setting up their Halloween party that took place inside the facility which placed Staff C in direct contact with the facility residents and personal spaces. The Administrator further admitted that Staff C comes into the office which houses the resident's records, and assists residents and families to set up , , ... with the local Medicaid office to assist residents obtaining eligibility for Medicaid coverage. Review of a document dated . . . . . related to Staff C, revealed as of , . , Staff C was to have 'No contact with residents at an Adult Family Care Home or Adult Assisted Living Facility and no contact with the environment in which the residents live or their personal information or property.' The document further goes on to state 'Today it was brought to the attention of undersigned counsel that Staff C was employed at this ALF. Consequently, a detective visited the ALF and discovered Staff C was physically present at the ALF and used a key to access an office in the ALF which has all of the residents records containing their personal information.' The document further stated 'Staff C has worked at the ALF since . . . . The ALF owner described Staff C as her "helper" who assists with bringing her items and making phone calls related to Medicaid to facilitate , , , using the patient's personal	CZ815		

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CZ815	Continued From page 12 information. Staff C has access to the elderly residents and their living spaces. Staff C's conduct is in violation of AHCA's rules and regulations. Staff C is not permitted at the ALF because she would not pass a Level 2 Screening.' On at 1:09 PM, an interview was conducted with the Administrator who confirmed she has not conducted a Level 2 Background Screen on Staff C who has access to residents, resident records and resident's personal health information. Unclassified	CZ815		