

Agency for Health Care Administration

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: AL11911881	(X2) MULTIPLE CONSTRUCTION A. BUILDING: _____ B. WING: _____	(X3) DATE SURVEY COMPLETED
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NAME OF PROVIDER OR SUPPLIER DIVINE SENIOR CARE, INC.	STREET ADDRESS, CITY, STATE, ZIP CODE 4707 OLEANDER AVENUE FORT PIERCE, FL 34982
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A 000	Initial Comments An Assisted Living Facility complaint inspection survey (CCR# 2013004821) was conducted on _____ and _____ Divine Senior Care, Inc., had licensure deficiencies found at the time of the visit.	A 000		
A 164 SS=D	58A-5.024(4) FAC Records - Inspection Availability (4) RECORD INSPECTION. (a) All records required by this rule chapter shall be available for inspection at all times by staff of the agency, the department, the district long-term care ombudsman council, and the advocacy center for persons with _____. (b) The resident 's records shall be available to the resident, and the resident 's legal representative, designee, surrogate, guardian, or attorney in fact, case manager, or the resident 's estate, and such additional parties as authorized in writing. (c) Pursuant to Section 429.35, F.S., agency reports which pertain to any agency survey, inspection, monitoring visit, or complaint investigation shall be available to the residents and the public. 1. Requestors shall be required to provide identification prior to review of records. 2. In facilities that are co located with a licensed nursing home, the inspection of record for all common areas shall be the nursing home inspection report. (d) The facility shall ensure the availability of records for inspection. This Statute or Rule is not met as evidenced by: Based on interview it was determined the facility Administrator did not ensure that all records	A 164		

AHCA Form 3020-0001

TITLE

(X6) DATE

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE

STATE FORM

0000

MURD11

If continuation sheet 1 of 11

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A 164	Continued From page 1 required by this rule chapter shall be available for inspection at all time by the staff of the agency, specifically related to background screening records for facility staff. The findings include: During entrance conference conducted with the Direct Care Provider, on _____ at approximately 9:05 AM, she was informed of the purpose of this visit. She was informed this visit was to conduct a complaint inspection and access to employee files would be needed. She stated that she had to call the Administrator to let her know that this surveyor was on site. She proceeded to call the Administrator and then she handed the telephone to this surveyor. This surveyor attempted to explain the purpose of this visit to the Administrator on _____ at approximately 9:15 AM. She was informed the purpose of this inspection was a complaint inspection related to background screenings. The Administrator proceeded to raise her voice and explain that she did have some difficulty getting the results for the most recent background screening that she had conducted. This surveyor informed the Administrator that she would need access to the facility's employee records. The Administrator stated she would not be in until later in the day. The Administrator was informed that access to records is to be available to staff of AHCA at all times. The Administrator stated the Direct Care Provider does not have access to employee files and that facilities have a right to privacy of their business records and do not have to show them to AHCA. The Administrator began to yell and exclaim that surveyors do not know the regulations and that she was going to call Tallahassee because nobody has a right to view	A 164		

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A 164	Continued From page 2 those records. She stated she has had trouble in the past with missing records when staff has been provided access. She continued to yell and exclaim that she was going to call Tallahassee. She was informed that the employee records needed to be available for inspection or the facility would be cited for not providing access to facility records per regulation A164. She continued to yell and exclaim that the facility had a right to privacy of their records. She was informed that this surveyor would not argue with her that she either needed to come to the facility to provide access to the employee records or the facility would be cited for not providing access. She continued to yell and state that she would be in later in the day. She was asked what time she would be in. She stated later in the day. Again, she was asked what time. She replied, " Maybe about 4:30 PM". This surveyor attempted to explain that the staff member on duty should have access to records for inspection purposes. The Administrator continued to yell that she would call Tallahassee. This surveyor explained that A164 for failure to provide access to records would be cited and that this conversation would be discontinued and that this surveyor would not engage in an argument with the Administrator. This surveyor discontinued this conversation with the Administrator by hanging up the telephone. The Administrator made no further attempts to notify surveyor of her return to the facility nor did she provide the requested documentation for review at a later time or date. Class III	A 164			

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AZ815	Continued From page 3	AZ815			
AZ815 SS=C	408.809, 435.02(2), 435.06 Background Screening; Prohibited Offenses 408.809, F.S. (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. (2) Every 5 years following his or her licensure,	AZ815			

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AZ815	Continued From page 4 employment, or entry into a contract in a capacity that under subsection (1) would require level 2 background screening under chapter 435, each such person must submit to level 2 background rescreening as a condition of retaining such license or continuing in such employment or contractual status. For any such rescreening, the agency shall request the Department of Law Enforcement to forward the person ' s fingerprints to the Federal Bureau of Investigation for a national criminal history record check. If the fingerprints of such a person are not retained by the Department of Law Enforcement under s. 943.05(2)(g), the person must file a complete set of fingerprints with the agency and the agency shall forward the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The fingerprints may be retained by the Department of Law Enforcement under s. 943.05(2)(g). The cost of the state and national criminal history records checks required by level 2 screening may be borne by the licensee or the person fingerprinted. Proof of compliance with level 2 screening standards submitted within the previous 5 years to meet any provider or professional licensure requirements of the agency, the Department of Health, the Agency for Persons with , the Department of Children and Family Services, or the Department of Financial Services for an applicant for a certificate of authority or provisional certificate of authority to operate a continuing care retirement community under chapter 651 satisfies the requirements of this section if the person subject to screening has not been unemployed for more than 90 days and such proof is accompanied, under penalty of perjury, by an affidavit of	AZ815			

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AZ815	Continued From page 5 compliance with the provisions of chapter 435 and this section using forms provided by the agency. (3) All fingerprints 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 _____ 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 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 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems. (g) Section 817.234, relating to false and	AZ815			

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AZ815	Continued From page 6 fraudulent insurance claims. (h) Section 817.505, relating to patient brokering. (i) Section 817.568, relating to criminal use of personal identification information. (j) Section 817.60, relating to obtaining a credit card through fraudulent means. (k) Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony. (l) Section 831.01, relating to forgery. (m) Section 831.02, relating to uttering forged instruments. (n) Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes. (o) Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes. (p) Section 831.30, relating to fraud in obtaining medicinal drugs. (q) 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. A person who serves as a controlling interest of, is employed by, or contracts with a licensee on _____, 2010, who has been screened and qualified according to standards specified in s. 435.03 or s. 435.04 must be rescreened by 31, 2015. The agency may adopt rules to establish a schedule to stagger the implementation of the required rescreening over the 5-year period, beginning _____, 2010, through _____, 2015. If, upon rescreening, such person 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	AZ815			

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AZ815	Continued From page 7 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 within 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: 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	AZ815			

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AZ815	Continued From page 8 screening and to implement and adopt criteria relating to retaining fingerprints pursuant to s. 943.05(2). (8) There is no unemployment compensation 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, F.S. (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 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	AZ815			

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AZ815	Continued From page 9 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 from disqualification pursuant to s. 435.07. (3) Any employee who refuses to cooperate in such screening or refuses to timely submit the information necessary to complete the screening, including fingerprints if required, must be disqualified for employment in such position or, if employed, must be dismissed. (4) There is no unemployment compensation 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.	AZ815		

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AZ815	Continued From page 10 435.02(2), F.S. "Employee " means any person required by law to be screened pursuant to this chapter. This Statute or Rule is not met as evidenced by: Based on interview and background screening record review it was determined the facility did not ensure that each employee in a capacity that under subsection (1) would require a background screening under chapter 435 (specifically the facility Administrator), obtained a current background screening every 5 years. Please refer to A164 for Administrator's refusal to access of records, for review for Agency business. During telephone interview, conducted with a Health Services & Facility Consultant with the Background Screening Unit, conducted on _____ beginning at approximately 10:10 AM, he was asked to review the Administrator of Divine Senior Care's most recent background screening. He stated that the most recent background screening for the Administrator was conducted on _____ and has since expired on _____ (7 months ago). This Health Services & Facility Consultant stated that this Administrator is operating in violation of regulatory requirements as background screenings must be conducted (at a minimum) every 5 years. Unclassified.	AZ815			



RICK SCOTT
GOVERNOR

Better Health Care for all Floridians

ELIZABETH DUDEK
SECRETARY

, 2013

Administrator
Divine Senior Care, Inc.
4707 Oleander Avenue
Fort Pierce, FL 34982

Re: CCR #2013004821

Dear Administrator:

This letter reports the findings of a state licensure survey that was conducted on , 2013 by a representative from this office.

Attached is the provider's copy of the State (3020) Form, which indicates the deficiencies that were identified on the day of the visit. Section 408.811(4), Florida Statutes, requires that you correct these deficiencies within thirty days of the date of this letter unless the Agency has approved another timeframe. Staff from this office will conduct a review after , 2013 to verify that the necessary corrections are in place to correct the deficiencies identified on your survey.

The Quality Assurance Questionnaire has long been employed to obtain your feedback following survey activity. This form has been placed on the Agency's website at <http://ahca.myflorida.com/Publications/Forms.shtml> as a first step in providing a web-based interactive consumer satisfaction survey system. You may access the questionnaire through the link under Health Facilities and Providers on this page. Your feedback is encouraged and valued, as our goal is to ensure the professional and consistent application of the survey process.

Thank you for the assistance provided to the representative. Should you have any questions please call this office at (561) 381 - 5840.

Sincerely,


J. Arlene Davis
Field Office Manager

AMD/jw
Enclosure

XG90

