

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

JOHN KNOX VILLAGE OF)
CENTRAL FLORIDA, INC.,)
)
Petitioner,)
)
vs.) Case No. 99-2987
)
AGENCY FOR HEALTH CARE)
ADMINISTRATION,)
)
Respondent.)
_____)

RECOMMENDED ORDER

A hearing was held pursuant to notice, on September 29, 1999, by Stephen F. Dean, assigned Administrative Law Judge of the Division of Administrative Hearings, in Tallahassee, Florida.

APPEARANCES

For Petitioner: Deanna Ferrell, Administrator
John Knox Village of Central
Florida, Inc.
101 Northlake Drive
Orange City, Florida 32763

For Respondent: Michael O. Mathis, Esquire
Agency for Health Care Administration
Building 3, Suite 3231
2727 Mahan Drive
Tallahassee, Florida 32308

STATEMENT OF THE ISSUE

Whether the Petitioner should be subject to an administrative fine for failing to submit a timely renewal of its application within the required time frames to the Agency, and if so, in what amount?

PRELIMINARY STATEMENT

By letter dated June 24, 1999, the Agency for Health Care Administration (AHCA) advised the Petitioner, John Knox Village of Central Florida Inc. (John Knox), of AHCA's intention to impose a \$700 administrative fine for Petitioner's failure to timely submit a license renewal application. On July 2, 1999, Petitioner submitted a request for a formal administrative hearing and this hearing ensued.

At the hearing, Respondent presented the testimony of Jackie Clawson, a Program Specialist, and Facilities Consultant, Home Care Unit, Bureau of Health Facility Compliance for AHCA, and introduced Respondent's Composite Exhibits 1 through 7 which were received into evidence.

Petitioner presented the testimony of Deanna Ferrell, Administrator, John Knox Village of Central Florida, Inc., and did not introduce exhibits at the hearing.

The transcript of the hearing was filed on October 7, 1999. AHCA submitted proposed findings which were read and considered. The Petitioner submitted a letter which was read and considered.

FINDINGS OF FACT

1. At all times pertinent to this case, AHCA was the state agency responsible for the licensing and regulation of home health agencies. John Knox Village of Central Florida, Inc., operates a certified home health agency in Orange City, Florida.

2. AHCA's consultant, Ms. Jackie Clawson, was called as a witness and testified on behalf of AHCA.

3. Ms. Jackie Clawson testified that she was familiar with the facility at John Knox Village of Central Florida, Inc.

4. Ms. Jackie Clawson identified Respondent's Composite Exhibit 1 as a letter that AHCA sends out advising the Petitioner that they needed to renew their license. Ms. Jackie Clawson, also testified that AHCA should have received John Knox's renewal application on or before May 3, 1999. (The actual renewal date fell on a weekend, and, therefore, the next business day was Monday, May 3, 1999.)

5. Ms. Jackie Clawson identified Respondent's Composite Exhibit 2 as a copy of the renewal application for licensure that was received by AHCA with a stamp-date of May 10, 1999.

6. Ms. Jackie Clawson identified Respondent's Composite Exhibit 3 as a copy of Petitioner's prior license with an expiration date of June 30, 1999.

7. Ms. Jackie Clawson identified Respondent's Composite Exhibit 4 as a fine and omission letter that is sent to the facility stating the items that are missing from the original application packet and the fine regarding the late submission of the application.

8. Ms. Jackie Clawson identified Respondent's Composite Exhibit 7 as a copy of a letter from Petitioner requesting a formal administrative hearing.

9. Deanna Terrell, Administrator of John Knox Village admitted the license renewal was submitted late.

CONCLUSIONS OF LAW

10. The Division of Administrative Hearings has jurisdiction over the parties and subject matter in this case. Section 120.57(1), Florida Statutes, and Rule 400, Part IV, Florida Administrative Code.

11. The evidence showed the application was seven days late.

12. The record shows the Petitioner admits she was late in applying for licensure renewal.

13. Section 400.47, Florida Statutes (1997), states as follows:

Sixty days before the expiration date, an application for renewal must be submitted to the Agency for Health Care Administration under oath on forms furnished by it, and a license must be renewed if the applicant has met the requirements established under this part and applicable rules. The home health agency must submit a satisfactory proof of its financial ability to comply with the requirements of this part.

14. Rule 59A-8.0086(4), Florida Administrative Code, states:

Failure to file an application within the time frames specified in this rule shall result in an administrative fine in the amount of \$100 per day constituting a separate violation. In no event shall such fines aggregate more than \$5,000.

15. There is no legal basis for reduction of the fine which is mandatory.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law set forth herein, it is

RECOMMENDED:

That the Agency for Health Care Administration enter a final order finding Petitioner John Knox Village of Central Florida, Inc., submitted an untimely application and levy a fine in the amount of \$700 against Petitioner.

DONE AND ENTERED this 22nd day of November, 1999, in Tallahassee, Leon County, Florida.

STEPHEN F. DEAN
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 22nd day of November, 1999.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this recommended order. Any exceptions to this recommended order should be filed with the agency that will issue the final order in this case.