

8-22-01

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

TAMPA HEALTH CARE CENTER,

Petitioner,

vs.

AGENCY FOR HEALTH CARE
ADMINISTRATION,

Respondent.

DOAH CASE NO. 01-0734
RENDITION NO. AHCA-02 - 0112-FOF-OLC

AT

FILED

APR 29 02

AHCA
CLERK

DMK

C10520

FILED
02 APR 30 AM 9:51
DIVISION OF
ADMINISTRATIVE
HEARINGS

FINAL ORDER

This cause was referred to the Division of Administrative Hearings and assigned to an Administrative Law Judge (ALJ) for a formal administrative hearing and the entry of a Recommended Order. The Recommended Order of August 22, 2001, is attached to this Final Order and incorporated herein by reference.

RULING ON EXCEPTIONS

Petitioner's exceptions have been considered. Although a fine was not at issue in this case, Petitioner's exception is correct regarding the burden of proof required to impose a fine. As to paragraph 37 of the Recommended Order, therefore, the ALJ's reference to the burden of proof required to impose a fine is hereby rejected. Clear and convincing evidence is required to uphold the decision to impose a fine. Department of Banking & Finance v. Osborne Stern, 670 So.2d 932 (Fla. 1996). As the exception relates to the burden of proof required for imposing conditional licensure, however, the exception is denied.

FINDINGS OF FACT

The Agency adopts the findings of fact set forth in the Recommended Order.

CONCLUSIONS OF LAW

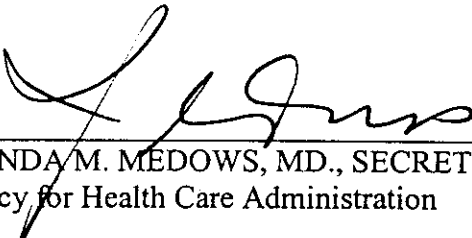
The Agency adopts the conclusions of law set forth in the Recommended Order.

IT IS THEREFORE ADJUDGED THAT:

In accordance with the Recommended Order, the survey reports of July 27, 2000 and September 5, 2000, are hereby revised to delete the deficiencies described under Tags F329 and F431. Additionally, the Conditional rating in this case is hereby replaced with a Standard rating.

DONE and ORDERED in DOAH Case No. 01-0734 this 21 day of

April, 2002, in Tallahassee, Florida.



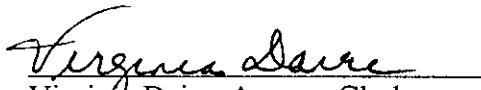
RHONDA M. MEDOWS, MD., SECRETARY
Agency for Health Care Administration

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 THE FILING FEE 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 PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. or interoffice mail to the persons named below on this 29 day of April, 2002.


Virginia Daire, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Building 3
Tallahassee, FL 32308-5403

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