

1-8-03

APR 15 03

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

AT

FILED  
03 APR 17 PM 2:02  
DIVISION OF ADMINISTRATIVE HEARINGS

AGENCY FOR HEALTH CARE  
ADMINISTRATION,

Petitioner,

vs.

DOAH CASE NO. 02-1421  
AHCA NO. 2002015181  
DOAH CASE NO. 02-1905  
AHCA NO. 2001073181  
DOAH CASE NO. 02-4040  
AHCA NO. 2002008161  
RENDITION NO.: AHCA-03-0280-FOFOLC

HLH-Closed

DELTA HEALTH GROUP  
d/b/a ROSEWOOD MANOR,

Respondent.

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**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 January 8, 2003, is attached to this Final Order, and incorporated herein by reference.

**RULING ON EXCEPTIONS**

This case concerns a nursing home (Rosewood Manor) that was the subject of two administrative complaints and a notice of intent to assign conditional licensure status alleging that the nursing home had failed to ensure that a resident's environment was as free of accident hazards as possible, failure to prevent the recurrence of a pressure sore, failure to properly supervise residents, and failed to ensure that a resident with pressure

sores received necessary treatment and services. The Agency filed exceptions findings of fact 14, 54, and 58, and to conclusions of law 65, 67, 68, 76, 79, and 81. Respondent filed a response to the exception. Upon a review of the complete record, the Agency rejects the exceptions for the following reasons.

Findings of fact 14, 54, and 58 are supported by competent, substantial evidence in the record. Review of the record indicates that the ALJ weighed the evidence presented by the parties and ruled based on that evidence. Section 120.57(1)(I), Fla. Stat., provides in pertinent part that “(t)he agency may not reject or modify the findings of fact unless the agency first determines from a review of the entire record...that the findings of fact were not based upon competent substantial evidence)”. See generally Heifetz v. Department of Bus. Regulation, 475 So.2d 1277, 1281 (Fla.1<sup>st</sup> DCA 1985) (holding that an agency “may not reject the hearing officer’s finding (of fact) unless there is no competent, substantial evidence from which the finding could reasonably be inferred.”). (e.s.)

The Agency’s exceptions to conclusions of law 65, 67, 68, 76, 79, and 81 are rejected because, based on the facts found by the ALJ, the Agency is unable to come to differing conclusions that are as or more reasonable as those of the ALJ.

#### **FINDINGS OF FACT**

The Agency adopts the findings set forth in the Recommended Order, which is attached hereto and incorporated by reference.

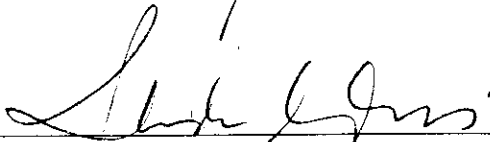
#### **CONCLUSIONS OF LAW**

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

**IT IS THEREFORE ADJUDGED THAT:**

The administrative complaints filed herein are dismissed and the notice of intent to assign conditional licensure status is rescinded.

**DONE and ORDERED** this 9 day of April, 2003, in Tallahassee, Florida.

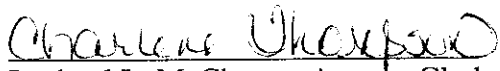
  
RHONDA M. MEDOWS, MD., SECRETARY  
Agency for Health Care Administration

**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 THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A 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 ~~HE~~REBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. Mail, or by the method indicated, to the persons named below on this 11 day of April, 2003.

  
Lealand L. McCharen, Agency Clerk  
Agency for Health Care Administration  
2727 Mahan Drive, MS #3  
Tallahassee, FL 32308-5403

COPIES FURNISHED TO:

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