

6-8-04

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2004 AUG 25 P 1:18

AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

vs.

DOAH CASE NO. 04-0335
AHCA CASE NOS. 2003006548
2003007279

DSM

CWS

RENDITION NO.: AHCA-04-0416-FOFOLC

LAKE MARY HEALTH CARE ASSOCIATES,
INC., d/b/a LAKE MARY HEALTH &
REHABILITATION
CENTER,

Respondent.

AP

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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 June 8, 2004, is attached to this Final Order and incorporated herein by reference, except as noted.

RULING ON EXCEPTIONS

No exceptions were filed in this case.

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, with the exception of paragraph 23. To any extent that paragraph can be read to stand for the proposition that agencies are bound to the same rigid standards of *stare decisis* as are the courts, the conclusion is incorrect. See Mercedes Lighting & Elec. Supply, Inc. v. State, Department of General Services, 560 So.2d 272, 278 (Fla. 1st DCA 1990)(recognizing that "[t]he doctrine of

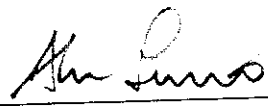
stare decisis is primarily applicable only to judicial decisions and is not generally applicable to decisions of administrative bodies”); Gessler v. Department of Business & Professional Regulation, 627 So. 2d 501, 504 (Fla. 4th DCA 1993) (recognizing that, “[w]hile it is apparent that agencies, with their significant policy-making roles, may not be bound to follow prior decisions to the extent that courts are bound by precedent, it is nevertheless apparent the legislature intends there be a principle of administrative stare decisis in Florida”), superseded by statute as stated in, Caserta v. Department of Business & Professional Regulation, 686 So. 2d 651 (Fla 5th DCA 1996).

Further, that part of the recommendation that suggests that the Agency delete information from the survey report is rejected. The Agency is without authority to alter a federal form.

IT IS THEREFORE ADJUDGED THAT:

The respondent’s conditional licensure status for August 22, 2003 until October 15, 2003 is replaced with a standard rating; the respondent is not guilty of the remaining allegations in the Administrative Complaint; no fine or investigative costs are assessed against the respondent based on the administrative complaint in this matter.

DONE and ORDERED this 18 day of August, 2004, in Tallahassee, Florida.



ALAN LEVINE, 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,

