

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
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2009 SEP 24 A 8:11

TEHC, LLC,,

Petitioner,

DOAH NO: 08-3693

vs.

AHCA NO: 2008007748

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent

AMENDED FINAL ORDER

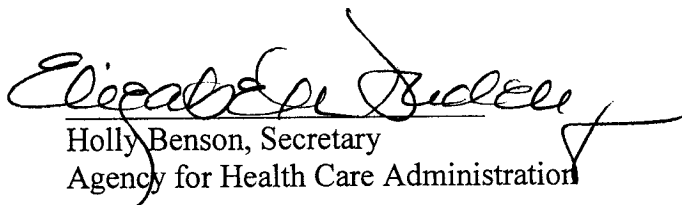
Having reviewed the Notice of Intent to Deny the renewal license application for a home health agency, attached hereto and incorporated herein (Ex. 1), and other matters of records, the Agency for Health Care Administration ("Agency") finds and concludes as follows:

1. By Order dated August 26, 2008, the Administrative Law Judge closed its files in the above-styled case. Petitioner filed a status report withdrawing the application for renewal of license on August 20, 2009, attached hereto and incorporated herein (Ex. 2).
2. The denial of renewal application for a home health agency is deemed moot as the application has been withdrawn.

Upon consideration of the foregoing, it is ORDERED that the Agency's file is hereby closed.

DONE and ORDERED at Tallahassee, Leon County, Florida this 22 day of

September, 2009.


Holly Benson, Secretary
Agency for Health Care Administration

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

Copies furnished to:

Monica L. Rodriguez
Attorney for Petitioner
Dresnick & Rodriguez, P.A.
One Datan Center
91 South Dadeland Blvd, Suite 1610
Miami, Florida 33156
(U.S. Mail)

Nelson E. Rodney
Assistant General Counsel
Agency for Health Care Administration
8350 NW 52nd Terrace, Suite #103
Miami, Florida 33166
(Interoffice Mail)

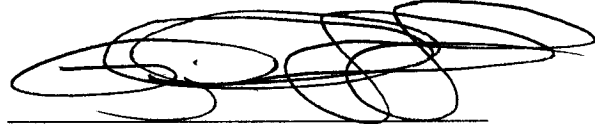
Home Care Unit
Agency for Health Care Administration
2727 Mahan Drive, MS #34
Tallahassee, Florida 32308
(Interoffice Mail)

Stuart M. Lerner
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(U.S. Mail)

Jan Mills
Agency for Health Care Administration
2727 Mahan Drive, Bldg #3, MS #3
Tallahassee, Florida 32308
(Interoffice Mail)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent to the above-named addressees by U.S. Mail, or the method designated, on this 24th day of September, 2009.



Richard Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Building 3
Tallahassee, Florida 32308-5403
(850) 922-5873

2008007748

Certified Article Number

7160 3901 9845 4713 6683

SENDER'S RECEIPT



CHARLIE CRIST
GOVERNOR

HOLLY BENSON
SECRETARY

08-3693

RECEIVED
ADMINISTRATIVE
HEARINGS
JUN 28 PM 4:34

June 23, 2008

CERTIFIED MAIL / RETURN RECEIPT REQUESTED

Kelly Marie Damas, Administrator
TEHC LLC
3317 NW 10th Terr Ste 404
Fort Lauderdale, FL 33309

RECEIVED
GENERAL COUNSEL

License Number: 204390961

JUL 21 2008

Case #: 2008007748

Agency for Health
Care Administration
NOTICE OF INTENT TO DENY

It is the decision of this Agency that the application for renewal licensure as a home health agency, for TEHC, LLC., located at 3317 NW 10th Terrace, Suite 404, Fort Lauderdale, FL 33309, is **DENIED**.

The basis for this action is pursuant to authority of Section 120.60 Florida Statutes (F.S.) and Section 408.815 (1), (c) and (d), F.S. which states as follows:

- (1) In addition to the grounds provided in authorizing statutes, grounds that may be used by the agency for denying and revoking a license ... include any of the following actions by a controlling interest:
- (c) A violation of this part, authorizing statutes, or applicable rules.
- (d) A demonstrated pattern of deficient performance.

The home health agency did not demonstrate compliance with Chapter 400, Part III, F.S. and the state home health agency rules, Chapter 59A-8, Florida Administrative Code (F.A.C.) at the home health agency licensure survey conducted May 5 through May 8, 2008. The plan of correction due June 7, 2008 as submitted to the Agency's Field Office was not acceptable. Non-compliance was found in the following areas:

1. The home health agency failed to ensure the Director of Nursing established and conducted an on-going quality assurance program that evaluated the effectiveness of all the provided service for consistency with professional standards and anticipated outcomes. (H 224)

The pertinent statutes and rules that apply include the following:

59A-8.0095(2) (c), F.A.C. "Director of Nursing:

(c) The director of nursing shall establish and conduct an ongoing quality assurance program which assures:



1. Case assignment and management is appropriate, adequate, and consistent with the plan of care, medical regimen and patient needs;
 2. Nursing and other services provided to the patient are coordinated, appropriate, adequate, and consistent with plans of care;
 3. All services and outcomes are completely and legibly documented, dated and signed in the clinical service record;
 4. Confidentiality of patient data is maintained; and
 5. Findings of the quality assurance program are used to improve services.”
2. The home health agency failed to ensure that the Registered Nurse (RN) provide case management for 5 of 17 nursing and therapy patients. This was evidenced by: failure to provide an assessment prior to documenting a start of care comprehensive assessment for one patient; failure to provide supervision for the Licensed Practical Nurse (LPN) in the performance of duties for two patients and failure to assure progress reports were made to the physician for patients receiving nursing services when the patient’s condition changed for two patients.

The pertinent statutes and rules that apply include the following:

59A-8.0095 (3) (a), F.A.C. “Registered Nurse.

(a) A registered nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and:

1. Be the case manager in all cases involving nursing or both nursing and therapy care.
 2. Be responsible for the clinical record for each patient receiving nursing care; and
 3. Assure that progress reports are made to the physician for patients receiving nursing services when the patient’s condition changes or there are deviations from the plan of care.”
3. The home health agency failed to ensure that the RN retained full responsibility for the care given and making supervisory visits to the patient’s home for 3 of 17 sampled patients as evidenced by failure to provide supervision for the LPN in the performance of duties for two patients; failure to provide supervision for the Home Health Aide (Aide) and failed to prepare a written Aide assignment/instructions for services to be provided to the patient for 3 patients. (H 231)

The pertinent statutes and rules that apply include the following:

59A-8.0095 (3) (b), F.A.C., “Registered Nurse.

(b) A registered nurse may assign selected portions of patient care to licensed practical nurses and home health aides but always retains the full responsibility for the care given and for making supervisory visits to the patient’s home.”

4. The home health agency failed to provide supervision for the LPN in the performance of duties for 2 of 17 patients. (H 235)

The pertinent statutes and rules that apply include the following:

59A-8.0095 (4) (a), F.A.C., "Licensed Practical Nurse.

(a) A licensed practical nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and provide nursing care assigned by and under the direction of a registered nurse who provides on-site supervision as needed, based upon the severity of patients medical condition and the nurse's training and experience. Supervisory visits will be documented in patient files. Provision shall be made in agency policies and procedures for annual evaluation of the LPN's performance of duties by the registered nurse."

5. The home health agency failed to ensure the LPN reported any changes in the patient's condition to the RN and document the changes in the patient's clinical record for 1 of 17 sampled patients. (H 236)

The pertinent statutes and rules that apply include the following:

59A-8.0095 (4) (b), F.A.C., "Licensed Practical Nurse A licensed practical nurse shall:

1. Prepare and record clinical notes for the clinical record;
2. Report any changes in the patient's condition to the registered nurse with the reports documented in the clinical record;
3. Provide care to the patient including the administration of treatments and medications; and
4. Other duties assigned by the registered nurse, pursuant to Chapter 464, F.S."

6. The home health agency failed to ensure that the care provided followed the plan of treatment for 11 of 17 sampled patients. The home health agency also failed to ensure a verbal order obtained by a home health agency nurse was put into writing and signed by the attending physician for 1 of 17 sampled patients. (H 302)

The pertinent statutes and rules that apply include the following:

Section 400.487 (2) F.S., "When required by the provisions of chapter 464; part I, part III, or part V of chapter 468; or chapter 486, the attending physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, shall establish treatment orders for a patient who is to receive skilled care. The treatment orders must be signed by the physician, physician assistant, or advanced registered nurse practitioner before a claim for payment for the skilled services is submitted by the home health agency. If the claim is submitted to a managed care organization, the treatment orders must be signed within the time allowed under the provider agreement. The treatment orders shall be reviewed, as frequently as the patient's illness requires, by the physician, physician assistant, or advanced registered nurse practitioner in consultation with the home health agency."

Chapter 59A-8.0215(2), F.A.C., "Home health agency staff must follow the physician, physician assistant, or advanced registered nurse practitioner's treatment orders that are contained in the plan of care. If the orders cannot be followed and must be altered in some way, the patient's physician, physician assistant, or advanced registered nurse practitioner must be notified and must approve of the change. Any verbal changes are put in writing and signed and dated with the date of receipt by the nurse or therapist who talked with the physician, physician assistant, or advanced registered nurse practitioner's office."

7. The home health agency failed to ensure 9 of 17 patients were advised of the payment for home health agency services before care was started and were clear about the payor source and any charges required from the patient. (H 304)

The pertinent statutes and rules that apply include the following:

Section 400.487 (1), F.S., "Services provided by a home health agency must be covered by an agreement between the home health agency and the patient or the patient's legal representative specifying the home health services to be provided, the rates or charges for services paid with private funds, and the sources of payment, which may include Medicare, Medicaid, private insurance, personal funds, or a combination thereof. A home health agency providing skilled care must make an assessment of the patient's needs within 48 hours after the start of services."

Chapter 59A-8.020 (2), F.A.C., "At the start of services a home health agency must establish a written agreement between the agency and the patient or client or the patient's or client's legal representative, including the information described in Section 400.487(1), F.S. This written agreement must be signed and dated by a representative of the home health agency and the patient or client or the patient's or client's legal representative. A copy of the agreement must be given to the patient or client and the original must be placed in the patient's or client's file."

Chapter 59A-8.020 (3), F.A.C., "The written agreement, as specified in subsection (2) above, shall serve as the home health agency's service provision plan, pursuant to Section 400.491(2), F.S., for clients who receive homemaker and companion services or home health aide services which do not require a physician, physician assistant, or advanced registered nurse practitioner's treatment order. The written agreement for these clients shall be maintained for one year after termination of services."

8. The home health agency failed to demonstrate effective communication between interdisciplinary team members to coordinate services as outlined in the plan of care for 3 of 17 patients and failed to ensure that 8 of 17 sampled patients received the skilled nursing services in accordance with the physician's written plan of care. (H 306)

The pertinent statutes and rules that apply include the following:

Section 400.487 (6), F.S., "The skilled care services provided by a home health agency, directly or under contract, must be supervised and coordinated in accordance with the plan of care."

9. The home health agency failed to ensure the registered nurse completed the initial evaluation visit for 1 of 17 patients. The Director of Nursing who signed the initial evaluation visit never made a home visit to the patient. (H 307)

The pertinent statutes and rules that apply include the following:

59A-8.008 (1), F.A.C., "In cases of patients requiring only nursing, or in cases requiring nursing and physical, respiratory, occupational or speech therapy services, or nursing and dietetic and nutrition services, the agency shall provide case management by a licensed registered nurse directly employed by the agency."

10. The home health agency failed to provide written notice for terminating home health services to 1 of 3 sampled patients. There was no written notification regarding the date of termination; reason for termination or a referral to another agency with a plan for continued services prior to the termination. (H 316)

The pertinent statutes and rules that apply include the following:

Chapter 59A-8.020 (4), F.A.C., "When the agency terminates services for a patient or client needing continuing home health care, as determined by the patient's physician, physician assistant, or advanced registered nurse practitioner, for patients receiving care under a physician, physician assistant, or advanced registered nurse practitioner's treatment order, or as determined by the client or caregiver, for clients receiving care without a physician, physician assistant, or advanced registered nurse practitioner's treatment order, a plan must be developed and a referral made by home health agency staff to another home health agency or service provider prior to termination. The patient or client must be notified in writing of the date of termination, the reason for termination, pursuant to Section 400.491, F.S., and the plan for continued services by the agency or service provider to which the patient or client has been referred, pursuant to Section 400.497(6), F.S. This requirement does not apply to patients paying through personal funds or private insurance who default on their contract through non-payment. The home health agency should provide social work assistance to patients to help them determine their eligibility for assistance from government funded programs if their private funds have been depleted or will be depleted."

11. The home health agency failed to develop a plan of care for 6 of 17 sampled patients that included all of the required items needed to appropriately serve patients including goals to support the physician's treatment orders, level of staff to provide the services to reach the goals, and the frequency of visits to conduct the services by appropriate home health agency staff. (H 320)

The pertinent statutes and rules that apply include the following:

Section 400.487 (2), F.S., "When required by the provisions of chapter 464; part I, part III, or part V of chapter 468; or chapter 486, the attending physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, shall establish treatment orders for a patient who is to receive skilled care...."

Chapter 59A-8.0215 (1), F.A.C., "A plan of care shall be established in consultation with the physician, physician assistant, or advanced registered nurse practitioner, pursuant to Section 400.487, F.S., and the home health agency staff who are involved in providing the care and services required to carry out the physician, physician assistant, or advanced registered nurse practitioner's treatment orders. The plan must be included in the clinical record and available for review by all staff involved in providing care to the patient. The plan of care shall contain a list of individualized specific goals for each skilled discipline that provides patient care, with implementation plans addressing the level of staff who will provide care, the frequency of home visits to provide direct care and case management."

12. The home health agency failed to demonstrate evidence that patients were informed in advance about any changes to the plan of care prior to implementation of the changes for 1 of 17 patients. (H 321)

The pertinent statutes and rules that apply include the following:

Chapter 59A-8.0215 (3), F.A.C., "The patient, caregiver or guardian must be informed by the home health agency personnel that:

- (a) He has the right to be informed of the plan of care;
- (b) He has the right to participate in the development of the plan of care; and
- (c) He may have a copy of the plan if requested."

13. The home health agency failed to maintain a clinical record in accordance with accepted professional standards for 12 of 17 patients. (H 350)

The pertinent statutes and rules that apply include the following:

Section 400.491 (1), F.S., "The home health agency must maintain for each patient who receives skilled care a clinical record that includes pertinent past and current medical, nursing, social and other therapeutic information, the treatment orders, and other such information as is necessary for the safe and adequate care of the patient. When home health services are terminated, the record must show the date and reason for termination...."

14. The home health agency failed to include all of the required items in the discharged patient clinical records for 3 of 3 patients. There were no termination summaries as required. (H 356)

The pertinent statutes and rules that apply include the following:

Chapter 59A-8.022(5), F.A.C., "Clinical records must contain the following:

- (a) Source of referral;
- (b) Physician, physician assistant, or advanced registered nurse practitioner's verbal orders initiated by the physician, physician assistant, or advanced registered nurse practitioner prior to start of care and signed by the physician, physician assistant, or advanced registered nurse practitioner as required in Section 400.487(2), F.S.
- (c) Assessment of the patient's needs;
- (d) Statement of patient or caregiver problems;
- (e) Statement of patient's and caregiver's ability to provide interim services;
- (f) Identification sheet for the patient with name, address, telephone number, date of birth, sex, agency case number, caregiver, next of kin or guardian;
- (g) Plan of care or service provision plan and all subsequent updates and changes;
- (h) Clinical and service notes, signed and dated by the staff member providing the service which shall include:
 - 1. Initial assessments and progress notes with changes in the person's condition;
 - 2. Services rendered;
 - 3. Observations;
 - 4. Instructions to the patient and caregiver or guardian, including administration of and adverse reactions to medications;
- (i) Home visits to patients for supervision of staff providing services;
- (j) Reports of case conferences;
- (k) Reports to physicians, physician assistants, or advanced registered nurse practitioners;
- (l) Termination summary including the date of first and last visit, the reason for termination of service, an evaluation of established goals at time of termination, the condition of the patient on discharge and the disposition of the patient."

15. The home health agency failed to submit their comprehensive emergency management plan to the local county health department for review and approval. (H 376)

The pertinent statutes and rules that apply include the following:

Section 400.497(8) (c), F.S. "Preparation of a comprehensive emergency management plan pursuant to s. 400.492.

- (c) The plan is subject to review and approval by the county health department. During its review, the county health department shall contact state and local health and medical stakeholders when necessary. The county health department shall complete its review to

ensure that the plan is in accordance with the criteria in the Agency for Health Care Administration rules within 90 days after receipt of the plan and shall approve the plan or advise the home health agency of necessary revisions. If the home health agency fails to submit a plan or fails to submit the requested information or revisions to the county health department within 30 days after written notification from the county health department, the county health department shall notify the Agency for Health Care Administration. The agency shall notify the home health agency that its failure constitutes a deficiency, subject to a fine of \$5,000 per occurrence. If the plan is not submitted, information is not provided, or revisions are not made as requested, the agency may impose the fine.”

Chapter 59A-8.027 (2), F.A.C., “The plan, once completed, will be forwarded electronically for approval to the contact designated by the Department of Health.”

Section 400.492, F.S., “Each home health agency shall prepare and maintain a comprehensive emergency management plan that is consistent with the standards adopted by national or state accreditation organizations and consistent with the local special needs plan. The plan shall be updated annually...”

Chapter 59A-8.027(3) and (4), F.S., “The agency shall review its emergency management plan on an annual basis and make any substantive changes.

(4) Changes in the telephone numbers of those staff who are coordinating the agency’s emergency response must be reported to the agency’s county office of Emergency Management and to the local County Health Department. For agencies with multiple counties on their license, the changes must be reported to each County Health Department and each county Emergency Management office. The telephone numbers must include numbers where the coordinating staff can be contacted outside of the agency’s regular office hours. All home health agencies must report these changes, whether their plan has been previously reviewed or not, as defined in subsection (2) above.”

16. The home health agency failed to renew the application for a Certificate of Exemption that authorizes the performance of waived laboratory tests. (H 390)

The pertinent statutes and rules that apply include the following:

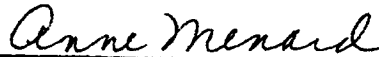
Section 483.091, F.S. “Clinical laboratory license.--A person may not conduct, maintain, or operate a clinical laboratory in this state, except a laboratory that is exempt under s. 483.031, unless the clinical laboratory has obtained a license from the agency....A license is valid only for the person or persons to whom it is issued and may not be sold, assigned, or transferred, voluntarily or involuntarily, and is not valid for any premises other than those for which the license is issued. 483.031 Application of part; exemptions.--This part applies to all clinical laboratories within this state, except: (1) A clinical laboratory operated by the United States Government. (2) A clinical laboratory

that performs only waived tests and has received a certificate of exemption from the agency under s. 483.106. (3) A clinical laboratory operated and maintained exclusively for research and teaching purposes that do not involve patient or public health service. 483.106 Application for a certificate of exemption.--An application for a certificate of exemption must be made under oath by the owner or director of a clinical laboratory that performs only waived tests as defined in s. 483.041. A certificate of exemption authorizes a clinical laboratory to perform waived tests. Laboratories maintained on separate premises and operated under the same management may apply for a single certificate of exemption or multiple certificates of exemption...

EXPLANATION OF RIGHTS

Pursuant to Section 120.569, F.S., you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under Section 120.57(1), F.S., your request for an administrative hearing must conform to the requirements in Section 28-106.201, Florida Administrative Code (F.A.C), and must state the material facts you dispute.

SEE ATTACHED ELECTION AND EXPLANATION OF RIGHTS FORMS.



Anne Menard, Manager
Home Care Unit

cc: Agency Clerk, Mail Stop 3
Legal Intake Unit, Mail Stop 3
Arlene Mayo-David, AHCA Delray Beach Field Office Manager



[Track & Confirm](#)

[FAQs](#)

Track & Confirm

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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

In RE: Licensure Renewal Application of
TEHC, I.I.C

AHCA No. 2008007748
2008007491

License No. 204390961

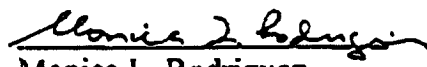
**WITHDRAWAL OF REQUEST FOR FORMAL HEARING AND
WITHDRAWAL OF APPLICATION FOR RENEWAL OF LICENSE**

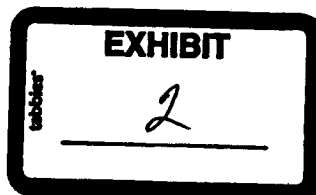
TEHC, I.I.C. by and through undersigned counsel, hereby withdraws its request for a formal hearing in the above-referenced matters, and withdraws its application for renewal of its home health agency license #204390961.

TEHC, LLC. understands that by withdrawing the licensure renewal application, license #204390961 becomes null and void, and may not be renewed.

Respectfully submitted,

DRESNICK & RODRIGUEZ, P.A.
Attorneys for TEHC, I.I.C
One Datan Center
9100 South Dadeland Blvd, Suite 1610
Miami, FL 33156
Off: (305) 670-9800
Fax: (305) 670-9933


Monica L. Rodriguez
Florida Bar No. 986283



AHCA No. 2008007748
2008007491
License No. 204390961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been furnished by telefax and U.S. Mail on August 20, 2009 to: Nelson Rodney, Assistant General Counsel, Agency for Health Care Administration, 8350 N.W. 52nd Terrace, Suite 103, Miami, FL 33166, with a copy via telefax and U.S. Mail to Richard Shoop, Agency Clerk, 2727 Mahan Drive, Mail Stop # 3, Tallahassee, Florida 32308.


Monica L. Rodriguez

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2009 SEP -1 A 10:40

TEHC, LLC,,

Petitioner,

DOAH NO: 08-3693

vs.

AHCA NO: 2008007748

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent

FINAL ORDER

Having reviewed the Notice of Intent to Deny the renewal license application for a home health agency, attached hereto and incorporated herein (Ex. 1), and other matters of records, the Agency for Health Care Administration ("Agency") finds and concludes as follows:

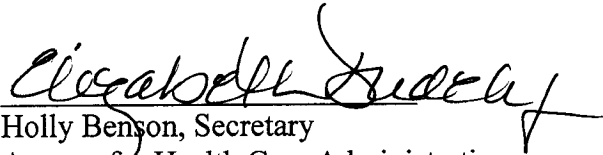
1. By Order dated August 26, 2008, the Administrative Law Judge closed its files in the above-styled case. Petitioner filed a status report withdrawing the application for renewal of license on August 20, 2009, attached hereto and incorporated herein (Ex. 2).

2. The denial of the renewal application for Petitioner home health agency is upheld and the application for license renewal has been withdrawn.

Upon consideration of the foregoing, it is ORDERED that the Agency's file is hereby closed.

DONE and ORDERED at Tallahassee, Leon County, Florida this 31 day of

August, 2009.


Holly Benson, Secretary
Agency for Health Care Administration

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

Copies furnished to:

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Dresnick & Rodriguez, P.A.
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91 South Dadeland Blvd, Suite 1610
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Assistant General Counsel
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Home Care Unit
Agency for Health Care Administration
2727 Mahan Drive, MS #34
Tallahassee, Florida 32308
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Stuart M. Lerner
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
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(U.S. Mail)

Jan Mills
Agency for Health Care Administration
2727 Mahan Drive, Bldg #3, MS #3
Tallahassee, Florida 32308

(Interoffice Mail)

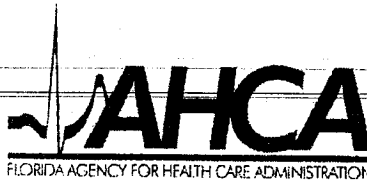
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was sent to the above-named addressees by U.S. Mail, or the method designated, on this 1st day of September, 2009.



Richard Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Building 3
Tallahassee, Florida 32308-5403
(850) 922-5873

2008007748



Certified Article Number
7160 3901 9845 4723 6663
SENDER'S RECORD

CHARLIE CRIST
GOVERNOR

08-3693

HOLLY BENSON
SECRETARY

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DIVISION OF ADMINISTRATIVE HEARINGS
JUL 28 2008 4:34 PM

June 23, 2008

CERTIFIED MAIL / RETURN RECEIPT REQUESTED

Kelly Marie Damas, Administrator
TEHC LLC
3317 NW 10th Terr Ste 404
Fort Lauderdale, FL 33309

RECEIVED
GENERAL COUNSEL

License Number: 204390961

JUL 21 2008

Case #: 2008007748

NOTICE OF INTENT TO DENY

It is the decision of this Agency that the application for renewal licensure as a home health agency, for TEHC, LLC., located at 3317 NW 10th Terrace, Suite 404, Fort Lauderdale, FL 33309, is **DENIED**.

The basis for this action is pursuant to authority of Section 120.60 Florida Statutes (F.S.) and Section 408.815 (1), (c) and (d), F.S. which states as follows:

- (1) In addition to the grounds provided in authorizing statutes, grounds that may be used by the agency for denying and revoking a license ... include any of the following actions by a controlling interest:
 - (c) A violation of this part, authorizing statutes, or applicable rules.
 - (d) A demonstrated pattern of deficient performance.

The home health agency did not demonstrate compliance with Chapter 400, Part III, F.S. and the state home health agency rules, Chapter 59A-8, Florida Administrative Code (F.A.C.) at the home health agency licensure survey conducted May 5 through May 8, 2008. The plan of correction due June 7, 2008 as submitted to the Agency's Field Office was not acceptable. Non-compliance was found in the following areas:

1. The home health agency failed to ensure the Director of Nursing established and conducted an on-going quality assurance program that evaluated the effectiveness of all the provided service for consistency with professional standards and anticipated outcomes. (H 224)

The pertinent statutes and rules that apply include the following:

59A-8.0095(2) (c), F.A.C. "Director of Nursing:

- (c) The director of nursing shall establish and conduct an ongoing quality assurance program which assures:



1. Case assignment and management is appropriate, adequate, and consistent with the plan of care, medical regimen and patient needs;
 2. Nursing and other services provided to the patient are coordinated, appropriate, adequate, and consistent with plans of care;
 3. All services and outcomes are completely and legibly documented, dated and signed in the clinical service record;
 4. Confidentiality of patient data is maintained; and
 5. Findings of the quality assurance program are used to improve services.”
2. The home health agency failed to ensure that the Registered Nurse (RN) provide case management for 5 of 17 nursing and therapy patients. This was evidenced by: failure to provide an assessment prior to documenting a start of care comprehensive assessment for one patient; failure to provide supervision for the Licensed Practical Nurse (LPN) in the performance of duties for two patients and failure to assure progress reports were made to the physician for patients receiving nursing services when the patient’s condition changed for two patients.

The pertinent statutes and rules that apply include the following:

59A-8.0095 (3) (a), F.A.C. “Registered Nurse.

(a) A registered nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and:

1. Be the case manager in all cases involving nursing or both nursing and therapy care.
 2. Be responsible for the clinical record for each patient receiving nursing care; and
 3. Assure that progress reports are made to the physician for patients receiving nursing services when the patient’s condition changes or there are deviations from the plan of care.”
3. The home health agency failed to ensure that the RN retained full responsibility for the care given and making supervisory visits to the patient’s home for 3 of 17 sampled patients as evidenced by failure to provide supervision for the LPN in the performance of duties for two patients; failure to provide supervision for the Home Health Aide (Aide) and failed to prepare a written Aide assignment/instructions for services to be provided to the patient for 3 patients. (H 231)

The pertinent statutes and rules that apply include the following:

59A-8.0095 (3) (b), F.A.C., “Registered Nurse.

(b) A registered nurse may assign selected portions of patient care to licensed practical nurses and home health aides but always retains the full responsibility for the care given and for making supervisory visits to the patient’s home.”

4. The home health agency failed to provide supervision for the LPN in the performance of duties for 2 of 17 patients. (H 235)

The pertinent statutes and rules that apply include the following:

59A-8.0095 (4) (a), F.A.C., "Licensed Practical Nurse.

(a) A licensed practical nurse shall be currently licensed in the state, pursuant to Chapter 464, F.S., and provide nursing care assigned by and under the direction of a registered nurse who provides on-site supervision as needed, based upon the severity of patients medical condition and the nurse's training and experience. Supervisory visits will be documented in patient files. Provision shall be made in agency policies and procedures for annual evaluation of the LPN's performance of duties by the registered nurse."

5. The home health agency failed to ensure the LPN reported any changes in the patient's condition to the RN and document the changes in the patient's clinical record for 1 of 17 sampled patients. (H 236)

The pertinent statutes and rules that apply include the following:

59A-8.0095 (4) (b), F.A.C., "Licensed Practical Nurse A licensed practical nurse shall:

1. Prepare and record clinical notes for the clinical record;
2. Report any changes in the patient's condition to the registered nurse with the reports documented in the clinical record;
3. Provide care to the patient including the administration of treatments and medications; and
4. Other duties assigned by the registered nurse, pursuant to Chapter 464, F.S."

6. The home health agency failed to ensure that the care provided followed the plan of treatment for 11 of 17 sampled patients. The home health agency also failed to ensure a verbal order obtained by a home health agency nurse was put into writing and signed by the attending physician for 1 of 17 sampled patients. (H 302)

The pertinent statutes and rules that apply include the following:

Section 400.487 (2) F.S., "When required by the provisions of chapter 464; part I, part III, or part V of chapter 468; or chapter 486, the attending physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, shall establish treatment orders for a patient who is to receive skilled care. The treatment orders must be signed by the physician, physician assistant, or advanced registered nurse practitioner before a claim for payment for the skilled services is submitted by the home health agency. If the claim is submitted to a managed care organization, the treatment orders must be signed within the time allowed under the provider agreement. The treatment orders shall be reviewed, as frequently as the patient's illness requires, by the physician, physician assistant, or advanced registered nurse practitioner in consultation with the home health agency."

Chapter 59A-8.0215(2), F.A.C., "Home health agency staff must follow the physician, physician assistant, or advanced registered nurse practitioner's treatment orders that are contained in the plan of care. If the orders cannot be followed and must be altered in some way, the patient's physician, physician assistant, or advanced registered nurse practitioner must be notified and must approve of the change. Any verbal changes are put in writing and signed and dated with the date of receipt by the nurse or therapist who talked with the physician, physician assistant, or advanced registered nurse practitioner's office."

7. The home health agency failed to ensure 9 of 17 patients were advised of the payment for home health agency services before care was started and were clear about the payor source and any charges required from the patient. (H 304)

The pertinent statutes and rules that apply include the following:

Section 400.487 (1), F.S., "Services provided by a home health agency must be covered by an agreement between the home health agency and the patient or the patient's legal representative specifying the home health services to be provided, the rates or charges for services paid with private funds, and the sources of payment, which may include Medicare, Medicaid, private insurance, personal funds, or a combination thereof. A home health agency providing skilled care must make an assessment of the patient's needs within 48 hours after the start of services."

Chapter 59A-8.020 (2), F.A.C., "At the start of services a home health agency must establish a written agreement between the agency and the patient or client or the patient's or client's legal representative, including the information described in Section 400.487(1), F.S. This written agreement must be signed and dated by a representative of the home health agency and the patient or client or the patient's or client's legal representative. A copy of the agreement must be given to the patient or client and the original must be placed in the patient's or client's file."

Chapter 59A-8.020 (3), F.A.C., "The written agreement, as specified in subsection (2) above, shall serve as the home health agency's service provision plan, pursuant to Section 400.491(2), F.S., for clients who receive homemaker and companion services or home health aide services which do not require a physician, physician assistant, or advanced registered nurse practitioner's treatment order. The written agreement for these clients shall be maintained for one year after termination of services."

8. The home health agency failed to demonstrate effective communication between interdisciplinary team members to coordinate services as outlined in the plan of care for 3 of 17 patients and failed to ensure that 8 of 17 sampled patients received the skilled nursing services in accordance with the physician's written plan of care. (H 306)

The pertinent statutes and rules that apply include the following:

Section 400.487 (6), F.S., "The skilled care services provided by a home health agency, directly or under contract, must be supervised and coordinated in accordance with the plan of care."

9. The home health agency failed to ensure the registered nurse completed the initial evaluation visit for 1 of 17 patients. The Director of Nursing who signed the initial evaluation visit never made a home visit to the patient. (H 307)

The pertinent statutes and rules that apply include the following:

59A-8.008 (1), F.A.C., "In cases of patients requiring only nursing, or in cases requiring nursing and physical, respiratory, occupational or speech therapy services, or nursing and dietetic and nutrition services, the agency shall provide case management by a licensed registered nurse directly employed by the agency."

10. The home health agency failed to provide written notice for terminating home health services to 1 of 3 sampled patients. There was no written notification regarding the date of termination; reason for termination or a referral to another agency with a plan for continued services prior to the termination. (H 316)

The pertinent statutes and rules that apply include the following:

Chapter 59A-8.020 (4), F.A.C., "When the agency terminates services for a patient or client needing continuing home health care, as determined by the patient's physician, physician assistant, or advanced registered nurse practitioner, for patients receiving care under a physician, physician assistant, or advanced registered nurse practitioner's treatment order, or as determined by the client or caregiver, for clients receiving care without a physician, physician assistant, or advanced registered nurse practitioner's treatment order, a plan must be developed and a referral made by home health agency staff to another home health agency or service provider prior to termination. The patient or client must be notified in writing of the date of termination, the reason for termination, pursuant to Section 400.491, F.S., and the plan for continued services by the agency or service provider to which the patient or client has been referred, pursuant to Section 400.497(6), F.S. This requirement does not apply to patients paying through personal funds or private insurance who default on their contract through non-payment. The home health agency should provide social work assistance to patients to help them determine their eligibility for assistance from government funded programs if their private funds have been depleted or will be depleted."

11. The home health agency failed to develop a plan of care for 6 of 17 sampled patients that included all of the required items needed to appropriately serve patients including goals to support the physician's treatment orders, level of staff to provide the services to reach the goals, and the frequency of visits to conduct the services by appropriate home health agency staff. (H 320)

The pertinent statutes and rules that apply include the following:

Section 400.487 (2), F.S., "When required by the provisions of chapter 464; part I, part III, or part V of chapter 468; or chapter 486, the attending physician, physician assistant, or advanced registered nurse practitioner, acting within his or her respective scope of practice, shall establish treatment orders for a patient who is to receive skilled care...."

Chapter 59A-8.0215 (1), F.A.C., "A plan of care shall be established in consultation with the physician, physician assistant, or advanced registered nurse practitioner, pursuant to Section 400.487, F.S., and the home health agency staff who are involved in providing the care and services required to carry out the physician, physician assistant, or advanced registered nurse practitioner's treatment orders. The plan must be included in the clinical record and available for review by all staff involved in providing care to the patient. The plan of care shall contain a list of individualized specific goals for each skilled discipline that provides patient care, with implementation plans addressing the level of staff who will provide care, the frequency of home visits to provide direct care and case management."

12. The home health agency failed to demonstrate evidence that patients were informed in advance about any changes to the plan of care prior to implementation of the changes for 1 of 17 patients. (H 321)

The pertinent statutes and rules that apply include the following:

Chapter 59A-8.0215 (3), F.A.C., "The patient, caregiver or guardian must be informed by the home health agency personnel that:

- (a) He has the right to be informed of the plan of care;
- (b) He has the right to participate in the development of the plan of care; and
- (c) He may have a copy of the plan if requested."

13. The home health agency failed to maintain a clinical record in accordance with accepted professional standards for 12 of 17 patients. (H 350)

The pertinent statutes and rules that apply include the following:

Section 400.491 (1), F.S., "The home health agency must maintain for each patient who receives skilled care a clinical record that includes pertinent past and current medical, nursing, social and other therapeutic information, the treatment orders, and other such information as is necessary for the safe and adequate care of the patient. When home health services are terminated, the record must show the date and reason for termination...."

14. The home health agency failed to include all of the required items in the discharged patient clinical records for 3 of 3 patients. There were no termination summaries as required. (H 356)

The pertinent statutes and rules that apply include the following:

Chapter 59A-8.022(5), F.A.C., "Clinical records must contain the following:

- (a) Source of referral;
- (b) Physician, physician assistant, or advanced registered nurse practitioner's verbal orders initiated by the physician, physician assistant, or advanced registered nurse practitioner prior to start of care and signed by the physician, physician assistant, or advanced registered nurse practitioner as required in Section 400.487(2), F.S.
- (c) Assessment of the patient's needs;
- (d) Statement of patient or caregiver problems;
- (e) Statement of patient's and caregiver's ability to provide interim services;
- (f) Identification sheet for the patient with name, address, telephone number, date of birth, sex, agency case number, caregiver, next of kin or guardian;
- (g) Plan of care or service provision plan and all subsequent updates and changes;
- (h) Clinical and service notes, signed and dated by the staff member providing the service which shall include:
 - 1. Initial assessments and progress notes with changes in the person's condition;
 - 2. Services rendered;
 - 3. Observations;
 - 4. Instructions to the patient and caregiver or guardian, including administration of and adverse reactions to medications;
- (i) Home visits to patients for supervision of staff providing services;
- (j) Reports of case conferences;
- (k) Reports to physicians, physician assistants, or advanced registered nurse practitioners;
- (l) Termination summary including the date of first and last visit, the reason for termination of service, an evaluation of established goals at time of termination, the condition of the patient on discharge and the disposition of the patient."

15. The home health agency failed to submit their comprehensive emergency management plan to the local county health department for review and approval. (H 376)

The pertinent statutes and rules that apply include the following:

Section 400.497(8) (c), F.S. "Preparation of a comprehensive emergency management plan pursuant to s. 400.492.

- (c) The plan is subject to review and approval by the county health department. During its review, the county health department shall contact state and local health and medical stakeholders when necessary. The county health department shall complete its review to

ensure that the plan is in accordance with the criteria in the Agency for Health Care Administration rules within 90 days after receipt of the plan and shall approve the plan or advise the home health agency of necessary revisions. If the home health agency fails to submit a plan or fails to submit the requested information or revisions to the county health department within 30 days after written notification from the county health department, the county health department shall notify the Agency for Health Care Administration. The agency shall notify the home health agency that its failure constitutes a deficiency, subject to a fine of \$5,000 per occurrence. If the plan is not submitted, information is not provided, or revisions are not made as requested, the agency may impose the fine.”

Chapter 59A-8.027 (2), F.A.C., “The plan, once completed, will be forwarded electronically for approval to the contact designated by the Department of Health.”

Section 400.492, F.S., “Each home health agency shall prepare and maintain a comprehensive emergency management plan that is consistent with the standards adopted by national or state accreditation organizations and consistent with the local special needs plan. The plan shall be updated annually...”

Chapter 59A-8.027(3) and (4), F.S., “The agency shall review its emergency management plan on an annual basis and make any substantive changes.

(4) Changes in the telephone numbers of those staff who are coordinating the agency’s emergency response must be reported to the agency’s county office of Emergency Management and to the local County Health Department. For agencies with multiple counties on their license, the changes must be reported to each County Health Department and each county Emergency Management office. The telephone numbers must include numbers where the coordinating staff can be contacted outside of the agency’s regular office hours. All home health agencies must report these changes, whether their plan has been previously reviewed or not, as defined in subsection (2) above.”

16. The home health agency failed to renew the application for a Certificate of Exemption that authorizes the performance of waived laboratory tests. (H 390)

The pertinent statutes and rules that apply include the following:


Section 483.091, F.S. “Clinical laboratory license.--A person may not conduct, maintain, or operate a clinical laboratory in this state, except a laboratory that is exempt under s. 483.031, unless the clinical laboratory has obtained a license from the agency....A license is valid only for the person or persons to whom it is issued and may not be sold, assigned, or transferred, voluntarily or involuntarily, and is not valid for any premises other than those for which the license is issued. 483.031 Application of part; exemptions.--This part applies to all clinical laboratories within this state, except: (1) A clinical laboratory operated by the United States Government. (2) A clinical laboratory

that performs only waived tests and has received a certificate of exemption from the agency under s. 483.106. (3) A clinical laboratory operated and maintained exclusively for research and teaching purposes that do not involve patient or public health service. 483.106 Application for a certificate of exemption.--An application for a certificate of exemption must be made under oath by the owner or director of a clinical laboratory that performs only waived tests as defined in s. 483.041. A certificate of exemption authorizes a clinical laboratory to perform waived tests. Laboratories maintained on separate premises and operated under the same management may apply for a single certificate of exemption or multiple certificates of exemption...

EXPLANATION OF RIGHTS

Pursuant to Section 120.569, F.S., you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under Section 120.57(1), F.S., your request for an administrative hearing must conform to the requirements in Section 28-106.201, Florida Administrative Code (F.A.C), and must state the material facts you dispute.

SEE ATTACHED ELECTION AND EXPLANATION OF RIGHTS FORMS.



Anne Menard, Manager
Home Care Unit

cc: Agency Clerk, Mail Stop 3
Legal Intake Unit, Mail Stop 3
Arlene Mayo-David, AHCA Delray Beach Field Office Manager

Track & Confirm

Search Results

Label/Receipt Number: 7160 3901 9845 4743 6663
Status: Delivered

Your item was delivered at 11:36 AM on June 26, 2008 in FORT LAUDERDALE, FL 33309.

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**RECEIVED
GENERAL COUNSEL**

JUL 17 2008

**Agency for Health
Care Administration**

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

In RE: Licensure Renewal Application of
TEHC, LLC

AHCA No. 2008007748
License No. 204390961

REQUEST FOR FORMAL HEARING

The law firm of Dresnick & Rodriguez, P.A., notices its appearance as counsel for TEHC, LLC, in conjunction with the above-referenced matter. All pleadings, documents, and other communications should be provided to TEHC's counsel at the address below.

TEHC disputes the allegations of fact contained in the Notice of Intent to Deny and requests that this pleading be considered a demand for a formal hearing, pursuant to Sections 120.569 and 120.57(1), Florida Statutes, and pursuant to Rule 28-106.2015, Florida Administrative Code, before an Administrative Law Judge appointed by the Division of Administrative Hearings.

In support of this Petition, TEHC states the following:

- 1) The Petitioner is TEHC, LLC, 3317 NW 10th Terrace, Suite 404, Fort Lauderdale, FL 33309. TEHC's telephone number is 954-351-1895, and the facsimile number is 954-351-1820.
- 2) TEHC's counsel should be contacted at the address and fax number below.
- 3) TEHC disputes allegations of fact including, but not limited to, those in paragraphs 1, 6, 7, 8, 9, 11, 12, 15 and 16 of the Notice of Intent to Deny, and requests an Administrative Hearing regarding these allegations. In addition, TEHC disputes that they

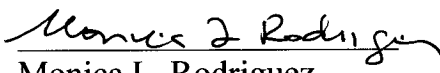
AHCA No. 2008007748
License No. 204390961

have demonstrated a pattern of deficient performance, and that the plan of correction submitted in June, 2008 was not acceptable.

- 4) TEHC received the Notice of Intent to Deny on June 26, 2008.
- 5) The Agency's file number in this case is 2008007748.

Respectfully submitted,

DRESNICK & RODRIGUEZ, P.A.
Attorneys for TEHC, LLC
One Datan Center
9100 South Dadeland Blvd, Suite 1610
Miami, FL 33156
Off: (305) 670-9800
Fax: (305) 670-9933


Monica L. Rodriguez
Florida Bar No. 986283

AHCA No. 2008007748
License No. 204390961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been furnished by telefax and U.S. Mail on July 16, 2008 to: Nelson Rodney, Assistant General Counsel, Agency for Health Care Administration, 8350 N.W. 52nd Terrace, Suite 103, Miami, FL 33166, with a copy via telefax and U.S. Mail to Richard Shoop, Agency Clerk, 2727 Mahan Drive, Mail Stop # 3, Tallahassee, Florida 32308.


Monica L. Rodriguez

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

In RE: Licensure Renewal Application of
TEHC, LLC

AHCA No. 2008007748
2008007491

License No. 204390961

**WITHDRAWAL OF REQUEST FOR FORMAL HEARING AND
WITHDRAWAL OF APPLICATION FOR RENEWAL OF LICENSE**

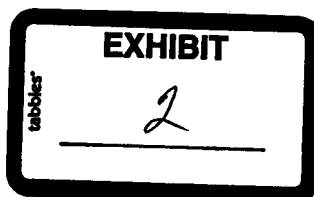
TEHC, LLC, by and through undersigned counsel, hereby withdraws its request for a formal hearing in the above-referenced matters, and withdraws its application for renewal of its home health agency license #204390961.

TEHC, LLC, understands that by withdrawing the licensure renewal application, license #204390961 becomes null and void, and may not be renewed.

Respectfully submitted,

DRESNICK & RODRIGUEZ, P.A.
Attorneys for TEHC, LLC
One Datan Center
9100 South Dadeland Blvd, Suite 1610
Miami, FL 33156
Off: (305) 670-9800
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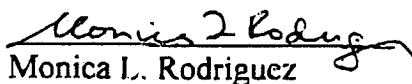
Monica L. Rodriguez
Monica L. Rodriguez
Florida Bar No. 986283



AHCA No. 2008007748
2008007491
License No. 204390961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing has been furnished by telefax and U.S. Mail on August 20, 2009 to: Nelson Rodney, Assistant General Counsel, Agency for Health Care Administration, 8350 N.W. 52nd Terrace, Suite 103, Miami, FL 33166, with a copy via telefax and U.S. Mail to Richard Shoop, Agency Clerk, 2727 Mahan Drive, Mail Stop # 3, Tallahassee, Florida 32308.


Monica L. Rodriguez