

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

2009 NOV -3 A 11: 17

GOOD SHEPHERD HOSPICE, INC.,

Petitioner,

**DOAH CASE NO.: 09-1753CON
AHCA CASE NO.: 2009003916
CON NOS. 10036-10038**

vs.

**STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,**

Respondent.

**HOPE HOSPICE AND COMMUNITY
SERVICES, INC.,**

Petitioner,

**DOAH CASE NO.: 09-1754CON
AHCA CASE NO.: 2009004034
CON NOS. 10036-10038**

vs.

**STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION and
COMPASSIONATE CARE HOSPICE OF
MIAMI-DADE, INC.,**

Respondent.

**ODYSSEY HEALTH CARE OF COLLIER
COUNTY, INC.,**

Petitioner,

Vs.

**DOAH CASE NO.: 09-1755CON
AHCA CASE NO.: 2009003644
CON NOS. 10036-10038**

**STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,**

Respondent.

FINAL ORDER

THIS CAUSE comes before the AGENCY FOR HEALTH CARE ADMINISTRATION (the "Agency") concerning Certificate of Need ("CON") Application No. 10036, which was filed by Compassionate Care Hospice of Miami-Dade, Inc. (hereinafter "Compassionate"), in the Second Batching Cycle of 2008, requesting a CON to establish a hospice program. Compassionate was the approved applicant.

On April 3, 2009, Good Shepherd Hospice, Inc. (hereinafter "Good Shepherd") filed a Petition for Formal Administrative Hearing challenging Agency's approval of CON 10036, which was forwarded by the Agency Clerk to the Division of Administrative Hearings ("DOAH").

On April 3, 2009, Hope Hospice and Community Services, Inc. (hereinafter "Hope") filed a Petition for Formal Administrative Hearing challenging Agency's approval of CON 10036, to Compassionate which was forwarded by the Agency Clerk to the Division of Administrative Hearings ("DOAH").

On April 3, 2009, Odyssey Health Care of Collier County Inc. (hereinafter "Odyssey") filed a Petition for Formal Administrative Hearing challenging Agency's approval of CON 10036 to Compassionate which was forwarded by the Agency Clerk to the Division of Administrative Hearings ("DOAH").

On April 15, 2009, the DOAH Case Nos. 09-1753CON, 09-1754CON, and 09-1755CON were consolidated pursuant to Florida Administrative Code Rule 28-106.108 by the Administrative Law Judge.

On July 24, 2009, Odyssey filed a Notice of Voluntary Dismissal dismissing its challenge to the Agency's approval of CON #10036 to Compassionate. A copy of the Notice of Voluntary Dismissal is attached as Exhibit A.

On August 14, 2009, Hope and Good Shepherd each filed a Notice of Voluntary Dismissal with the Agency Clerk. A copy of the Notice of Voluntary Dismissal filed by Hope is attached as Exhibit B. A copy of the Notice of Voluntary Dismissal filed by Good Shepherd is attached as Exhibit C.

It is therefore **ORDERED** and **ADJUDGED**:

1. The Notice of Voluntary Dismissal of Good Shepherd, Hope and Odyssey is acknowledged and accepted.
2. Certificate of Need ("CON") Application No. 10036, which was filed by Compassionate Care Hospice of Miami-Dade, Inc. (hereinafter "Compassionate") is hereby approved.
3. The above-styled case is hereby closed.

DONE and ORDERED this 30 day of October, 2009,

in Tallahassee, Florida.



THOMAS W. ARNOLD, 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 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 30th day of November, 2009.



RICHARD J. SHOOP, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
(850) 922-5873

COPIES FURNISHED TO:

David M. Maloney
Administrative Law Judge
Division of Administrative Hearings
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1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

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Susan C. Smith, Esquire
Timothy B. Elliott, Esquire
Smith & Associates, P.A.
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Tallahassee, Florida 32308
Attorneys for Compassionate Care Hospice of Miami-Dade, Inc.

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Post Office Box 15828
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Attorneys for Hope Hospice and Community Services

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Attorney for Hope Hospice and Community Services

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Ross D. Kulberg, Esquire
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Attorneys for Odyssey Healthcare of Collier County, Inc.

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Attorney for Good Shepherd Hospice, Inc.

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(By Interoffice Mail)

Janice Mills
Government Analyst II
Facilities Intake
Agency for Health Care Administration
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Tallahassee, Florida 32308
(By Interoffice Mail)

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GOOD SHEPHERD HOSPICE, INC.,)

Petitioner,)

vs.)

Case No. 09-1753CON

AGENCY FOR HEALTH CARE)
ADMINISTRATION,)

Respondent.)

HOPE HOSPICE AND COMMUNITY)
SERVICES, INC.,)

Petitioner,)

vs.)

Case No. 09-1754CON

AGENCY FOR HEALTH CARE)
ADMINISTRATION and)
COMPASSIONATE CARE HOSPICE OF)
MIAMI-DADE, INC.,)

Respondents.)

ODYSSEY HEALTH CARE OF COLLIER)
COUNTY, INC.,)

Petitioner,)

vs.)

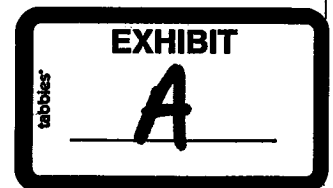
Case No. 09-1755CON

AGENCY FOR HEALTH CARE)
ADMINISTRATION,)

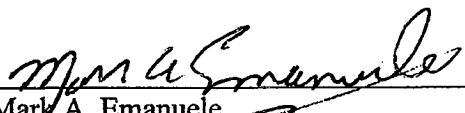
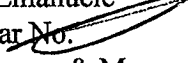
Respondent.)

NOTICE OF VOLUNTARY DISMISSAL

COMES NOW, Petitioner, Odyssey Healthcare of Collier County, Inc., by and through undersigned counsel, and hereby gives notice of the voluntary dismissal, with prejudice, of its Petition For Formal Administrative Hearing in the above-captioned case, and dismissal of its CON Application Number 10038.



Respectfully submitted this 24th day of July, 2009.


Mark A. Emanuele
Florida Bar No. 
Panza, Maurer & Maynard, P.A.
Bank of America Building, Third Floor
3600 North Federal Highway
Fort Lauderdale, Florida 33308

Attorneys for Odyssey Healthcare of Collier County,
Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing have been furnished by email to the following this 23rd day of July, 2009.

Richard Saliba
Assistant General Counsel
Agency for Health Care Administration
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Tallahassee, Florida 32308

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Watkins & Associates, P.A.
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Tallahassee, FL 32308

Seann Frazier
Greenberg Traurig, P.A.
101 East College Avenue
Tallahassee, Florida 32301


MARK A. EMANUELE

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

GOOD SHEPHERD HOSPICE, INC.,

Petitioner,

DOAH Case No. 09-1753CON
AHCA Case No. 2009003916

v.

AGENCY FOR HEALTH CARE ADMINISTRATION,

Respondent,

HOPE HOSPICE AND COMMUNITY SERVICES, INC.,

Petitioner,

DOAH Case No. 09-1754CON
AHCA Case No. 2009004034

v.

AGENCY FOR HEALTH CARE ADMINISTRATION and
COMPASSIONATE CARE HOSPICE OF MIAMI-DADE, INC.,

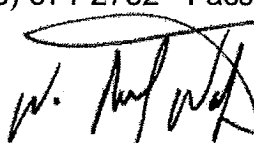
Respondents,

HOPE HOSPICE AND COMMUNITY SERVICES, INC.'S
NOTICE OF VOLUNTARY DISMISSAL

Petitioner, HOPE HOSPICE AND COMMUNITY SERVICES, INC., by and through undersigned counsel, hereby files this notice of voluntary dismissal and dismisses its petition.

RESPECTFULLY SUBMITTED this 14th day of August, 2009:

WATKINS & ASSOCIATES, P.A.
3051 Highland Oaks Terrace, Suite D
P. O. Box 15828
Tallahassee, FL 32317-5828
(850) 671-2644 - Telephone
(850) 671-2732 - Facsimile



W. David Watkins, Esq.
Florida Bar No. 437190



Karl David Acuff, Esq.
Florida Bar No. 587044

and

J. Robert Griffin, Esq.
1342 Timberlane Road, Suite 102-A
Tallahassee, FL 32312

Counsel for Hope Hospice and
Community Services, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original of the foregoing has been filed with the AHCA Clerk via Hand Delivery and served as indicated below this 14th day of August, 2009, to:

Richard J. Saliba, Esquire
Agency for Health Care Administration
2727 Mahan Drive, Building 3
Tallahassee, Florida 32308

Via Electronic Mail

Geoffrey D. Smith, Esquire
Smith and Associates
2873 Remington Green Circle
Tallahassee, Florida 32308

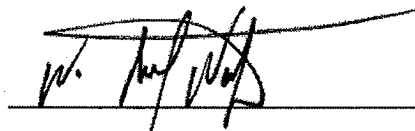
Via Electronic Mail

Seann M. Frazier
GREENBERG TRAUERIG, P.A.
101 E. College Avenue
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Tallahassee, FL 32302

Via Electronic Mail

H. Darrell White
Vice President and General Counsel
HPC Healthcare, Inc.
12973 Telecom Parkway, Suite 100
Temple Terrace, Florida 33637

Via Electronic Mail



W. David Watkins, Esq.

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

RECEIVED
AHCA
GENERAL COUNSEL
AUG 17 2:46

GOOD SHEPHERD HOSPICE, INC.

Petitioner,

FRAES No. 2009004034

CON Nos. 10036

10037

10038

vs.

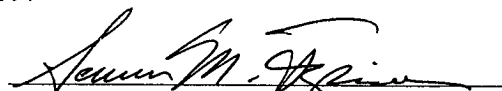
STATE OF FLORIDA, AGENCY
FOR HEALTH CARE ADMINISTRATION,

Respondent.

NOTICE OF VOLUNTARY DISMISSAL

Good Shepherd Hospice, Inc. voluntarily dismisses its petition in this proceeding,
with prejudice.

Dated this 14th day of August, 2009.



Seann M. Frazier, Esq.
GREENBERG TRAUIG, P.A.
101 E. College Avenue
Post Office Drawer 1838
Tallahassee, FL 32302

and

H. Darrell White, Esq.
Vice President and General Counsel
HPC Healthcare, Inc.
12973 Telecom Parkway, Suite 100
Temple Terrace, Florida 33637

*Counsel for Good Shepherd Hospice, Inc.
and LifePath Hospice, Inc.*



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been provided to
the following this 14th day of August, 2009:

Richard Saliba
Assistant General Counsel
Agency for Health Care Administration
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Via Electronic & U.S. Mail

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Via Electronic & U.S. Mail

Geoffrey D. Smith
Susan Smith
Smith & Associates
2873 Remington Green Circle
Tallahassee, Florida 32312

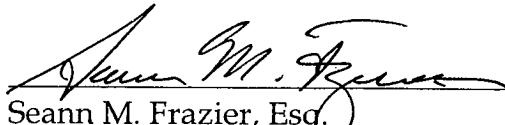
Via Electronic & U.S. Mail

Mark A. Emanuele
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Tallahassee, Florida 32312

Via Electronic & U.S. Mail


Seann M. Frazier, Esq.

**STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION**

FILED
AHCA
AGENCY CLERK

GOOD SHEPHERD HOSPICE, INC.,

2009 AUG 12 A 8:14

Petitioner,

**DOAH CASE NO. 09-1753CON
AHCA CASE NO. 2009003916
CON NOS. 10036-10038**

vs.

**STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,**

Respondent.

**HOPE HOSPICE AND COMMUNITY
SERVICES, INC.,**

Petitioner,

**DOAH CASE NO. 09-1754CON
AHCA CASE NO. 2009004034
CON NOS. 10036-10038**

vs.

**STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION and
COMPASSIONATE CARE HOSPICE OF
MIAMI-DADE, INC.,**

Respondent.

**ODYSSEY HEALTH CARE OF
COLLIER COUNTY, INC.,**

Petitioner,

**DOAH CASE NO. 09-1755CON
AHCA CASE NO. 2009003644
CON NO. 10038**

vs.

**STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION**

Respondent.

FINAL ORDER

FILED
AHCA
AGENCY CLERK

THIS CAUSE comes before the AGENCY FOR HEALTH CARE ADMINISTRATION (the "Agency") concerning Certificate of Need ("CON") Application No. 10038 which was filed by ODYSSEY HEALTHCARE OF COLLIER COUNTY, INC. (hereinafter "Odyssey") in the Second Batching Cycle of 2008, requesting a CON to establish a hospice program. The application was denied.

Thereafter, Odyssey timely filed a Petition for Formal Administrative Hearing with respect to the denial, which was forwarded by the Agency Clerk to the Division of Administrative Hearings ("DOAH").

On July 24, 2009, Odyssey filed its voluntary dismissal of the DOAH case. Notice of Voluntary Dismissal is attached hereto as Exhibit A.

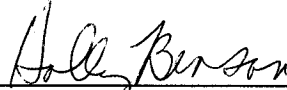
On July 28, 2009, an Order Closing File was issued by DOAH as a result of the voluntary dismissal. Order Closing File is attached hereto as Exhibit B.

It is therefore **ORDERED** and **ADJUDGED**:

1. The voluntary dismissal by Odyssey and the Order Closing File by DOAH are hereby acknowledged and accepted.
2. CON Application No. 10038 is hereby denied.
3. The above-styled case is hereby closed.

DONE and ORDERED this 16th day of August, 2009,

in Tallahassee, Florida.



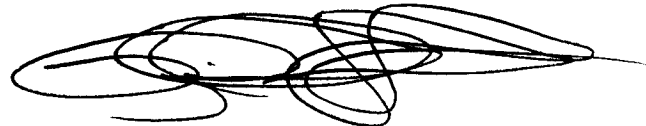
HOLLY BENSON, Secretary
AGENCY FOR HEALTH CARE ADMINISTRATION

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 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 12th day of August, 2009.



RICHARD J. SHOOP, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
(850) 922-5873

COPIES FURNISHED TO:

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Administrative Law Judge
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(By Interoffice Mail)

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(By Interoffice Mail)

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GOOD SHEPHERD HOSPICE, INC.,)
)
Petitioner,)
vs.)
)
AGENCY FOR HEALTH CARE)
ADMINISTRATION,)
)
Respondent.)

Case No. 09-1753CON

HOPE HOSPICE AND COMMUNITY)
SERVICES, INC.,)
)
Petitioner,)
vs.)
)
AGENCY FOR HEALTH CARE)
ADMINISTRATION and)
COMPASSIONATE CARE HOSPICE OF)
MIAMI-DADE, INC.,)
)
Respondents.)

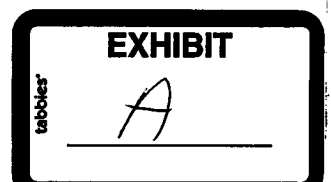
Case No. 09-1754CON

ODYSSEY HEALTH CARE OF COLLIER)
COUNTY, INC.,)
)
Petitioner,)
vs.)
)
AGENCY FOR HEALTH CARE)
ADMINISTRATION,)
)
Respondent.)

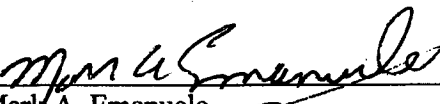
Case No. 09-1755CON

NOTICE OF VOLUNTARY DISMISSAL

COMES NOW, Petitioner, Odyssey Healthcare of Collier County, Inc., by and through undersigned counsel, and hereby gives notice of the voluntary dismissal, with prejudice, of its Petition For Formal Administrative Hearing in the above-captioned case, and dismissal of its CON Application Number 10038.



Respectfully submitted this 24th day of July, 2009.


Mark A. Emanuele
Florida Bar No. _____
Panza, Maurer & Maynard, P.A.
Bank of America Building, Third Floor
3600 North Federal Highway
Fort Lauderdale, Florida 33308

Attorneys for Odyssey Healthcare of Collier County,
Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of the foregoing have been furnished by email to the following this 23rd day of July, 2009.

Richard Saliba
Assistant General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Building 3
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Deborah S. Platz
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101 East College Avenue
Tallahassee, Florida 32301


MARK A. EMANUELE

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

GOOD SHEPHERD HOSPICE, INC.,)
)
 Petitioner,)

vs.)

AGENCY FOR HEALTH CARE)
ADMINISTRATION,)

Respondent.)

Case No. 09-1753CON

HOPE HOSPICE AND COMMUNITY)
SERVICES, INC.,)

Petitioner,)

vs.)

AGENCY FOR HEALTH CARE)
ADMINISTRATION and)
COMPASSIONATE CARE HOSPICE OF)
MIAMI-DADE, INC.,)

Respondents.)

Case No. 09-1754CON

ODYSSEY HEALTH CARE FO COLLIER)
COUNTY, INC.,)

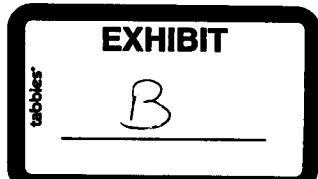
Petitioner,)

vs.)

AGENCY FOR HEALTH CARE)
ADMINISTRATION,)

Respondent.)

Case No. 09-1755CON



ORDER CLOSING FILE

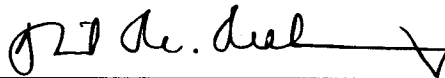
This cause having come before the Administrative Law Judge on the Notice of Voluntary Dismissal of Petitioner, Odyssey Healthcare of Collier County, Inc., filed on July 24, 2009, and the undersigned being fully advised, it is, therefore,

ORDERED that:

1. The final hearing in this cause scheduled for September 1 through 4, 9 through 11, 14 through 18, 21, 22 and 28 through 30, 2009, is hereby canceled in Case No. 09-1755CON.

2. The file of the Division of Administrative Hearings in the above-captioned matter is hereby closed. Jurisdiction is hereby relinquished to the Agency for Health Care Administration.

DONE AND ORDERED this 28th day of July, 2009, in Tallahassee, Leon County, Florida.



DAVID M. MALONEY
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 28th day of July, 2009.

COPIES FURNISHED:

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Tallahassee, Florida 32312-1762

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