

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

LEE MEMORIAL HOME HEALTH,
INC.,

2009 NOV -5 P 2: 57

Petitioner,

DOAH CASE NO.: 09-5361
AHCA CASE NO.: 2009011154

vs.

RENDITION NO.: AHCA-09-1208 -S-OLC

STATE OF FLORIDA,
AGENCY FOR HEALTH CARE
ADMINISTRATION,

Respondent,

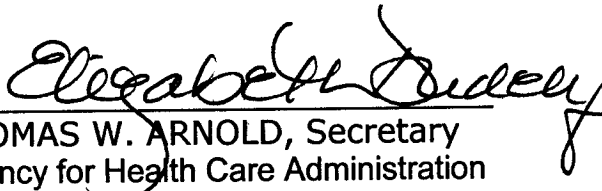
FINAL ORDER

Having reviewed the Denial of the Request to Expand the Geographic Service Area dated April 14, 2009 (Exhibit 1-B) that was issued to the Petitioner, Lee Memorial Home Health, Inc. (hereinafter "the Petitioner"), and all other matters of record, and having entered into a Settlement Agreement with the Petitioner (Exhibit 1); the Agency for Health Care Administration (hereinafter "the Agency"), finds and concludes as follows:

1. The Settlement Agreement is attached hereto and made a part hereof. The parties are directed to comply with the terms of the Settlement Agreement.
2. The Denial of the Request to Expand the Geographic Service Area is withdrawn and the Petitioner's request for expansion of its geographic area to include Collier County, Florida, is APPROVED.
3. The Petitioner's request for formal administrative proceeding is dismissed.
4. Each side shall bear its own attorney's fees and costs.
5. The above-styled case is hereby closed.

DONE AND ORDERED on this 4 day of November 2009, in

Tallahassee, Leon County, 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 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, IN THE DISTRICT COURT OF APPEAL WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW OF PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies furnished to:

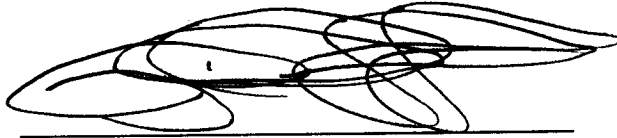
Janice Mills Facilities Intake Agency for Health Care Administration (Interoffice Mail)	Richard Joseph Saliba, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Interoffice Mail)
Anne Menard, Unit Manger Home Care Unit Agency for Health Care Administration (Interoffice Mail)	W. David Watkins, Esquire Watkins and Associates, P. A. Post Office Box 15828 Tallahassee, Florida 32317-5828 (U.S. Mail)
R. Bruce McKibben Administrative Law Judge Division of Administrative Hearings (Electronic Transmission)	

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Final Order was served on the

above-named person(s) and entities by U.S. Mail or the method designated on this

5th 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

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

LEE MEMORIAL HOME HEALTH, INC.

Petitioner,

**DOAH CASE NO: 09-5361
AHCA CASE NO: 200901154**

vs.

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

Respondent.

_____ /

SETTLEMENT AGREEMENT

State of Florida, Agency for Health Care Administration (hereinafter the "AHCA"), through its undersigned representatives, and LEE MEMORIAL HOME HEALTH, INC. (hereinafter "Lee Memorial"), pursuant to Section 120.57(4), Florida Statutes, each individually, a "party," collectively as "parties," hereby enter into this Settlement Agreement ("Agreement") and agree as follows:

WHEREAS, Lee Memorial is home health agency, located at 2070 Carrell Road, Suite B Fort Myers, Florida (HH#20643096);

WHEREAS, AHCA, as the licensing and regulatory agency over home health care facilities, has jurisdiction over the licensure and regulation of Lee Memorial pursuant to Rule 59A-8 Florida Administrative Code and pursuant to Chapter 400, Part III, Florida Statutes;

WHEREAS, on or about December 23, 2008, Lee Memorial requested expansion of geographical services in Collier County (Exhibit A);

WHEREAS the Agency denied such request on or about date of April 14, 2009 (Exhibit B);



WHEREAS, Lee Memorial filed an administrative complaint seeking relief with the Division of Administrative Hearing (Exhibit C); and

WHEREAS, the parties have agreed that a fair, efficient, and cost effective resolution of this dispute would avoid the expenditure of substantial sums to further litigate the dispute.

NOW THEREFORE, in consideration of the mutual promises and recitals herein, the parties intending to be legally bound, agree as follows:

1. All recitals are true and correct and are expressly incorporated herein.
2. Both parties agree that the "whereas" clauses incorporated herein are binding findings of the parties.
3. LEE MEMORIAL agrees to file with the Division of Administrative Hearings a Motion to Relinquish to the Agency the pending action for purposes of effecting this settlement.
4. Upon full execution of this Agreement, Lee Memorial agrees to voluntarily dismiss its pending action and to waive compliance with the form of the Final Order (findings of fact and conclusions of law). No agreement herein will be deemed a waiver of either party's right to judicial enforcement of this Agreement.
5. Upon full execution of this Agreement, the parties agree to the entry of a Final Order by the Agency approving the expansion of Lee Memorial's geographical service area to Collier County, Florida.
6. Venue for any action brought to interpret, challenge, or enforce the terms of this Agreement, or of the Agency's Final Order adopting this Agreement, shall be solely and exclusively in the Circuit Court in Leon County, Florida.
7. Upon full execution of this Agreement, the Agency shall enter a Final Order adopting and incorporating the terms of this Agreement and closing the above styled case.

8. Each party shall be solely responsible for its respective costs and attorneys' fees.

9. This Agreement shall become effective on the date upon which it is fully executed by all parties.

10. Lee Memorial, for itself and for its related or resulting organizations, its successors or transferees, attorneys, heirs, and executors or administrators, does hereby discharge the Agency, and its agents, representative, and attorneys of and from all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, arising out of or in any way related to this matter and the Agency's actions, including, but not limited to, any claims that were or may be asserted in any federal or state court or administrative forum, including any claims arising out of this Agreement, by or on behalf of Lee Memorial or related or resulting organizations.

11. This Agreement is binding upon all parties herein and those identified in paragraph 10.

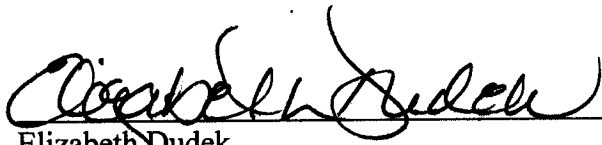
12. The undersigned have read and understand this Agreement and have authority to bind their respective principals to it. Lee Memorial's representative has the capacity to execute this Agreement and has done so with the advice of counsel.

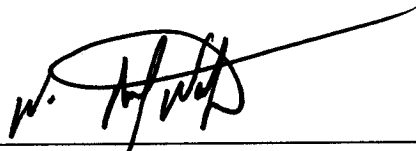
13. This Agreement constitutes the entire understanding and agreement of the parties.

14. This Agreement supersedes any prior oral or written agreement(s) between the parties. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

15. All parties agree that a facsimile signature suffices for an original signature.

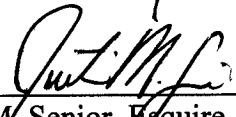
16. The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.


Elizabeth Dudek
HQA, Deputy Secretary

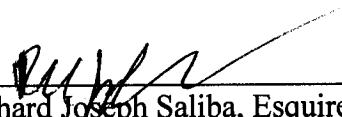

W. David Watkins, Esquire
Florida Bar No. 437190
Watkins & Associates, P. A.
Post Office Box 15828
Tallahassee, FL 32317-5828

DATED: 11/4/2009

DATED: 10/7/09


Justin M. Senior, Esquire
General Counsel
Florida Bar No. 0079741

DATED: 11/3/09


Richard Joseph Saliba, Esquire
Assistant General Counsel
Florida Bar No. 0023851

LEE MEMORIAL HOME HEALTH

Tuesday, December 23, 2008

Agency for Health Care Administration
Home Care Unit
2727 Mahan Drive, Mail Stop # 34
Tallahassee, Fl. 32308

To Whom It May Concern:

RE: Request for the addition of Collier County to Lee Memorial Home Health, Inc. (HH #20643096)

Whereas Lee Memorial Home Health, Inc. (LMHH) is a Medicare / Medicaid certified home health agency, licensed in the State of Florida and accredited by Community Health Accreditation Program, Inc.; we respectfully request that the Agency for Health Care Administration approve the addition of Collier County to our licensed service area. In compliance with 59A-8.007(2), Florida Statutes, below is a plan for "coverage of the professional staff which takes into account the projected number of clients in the requested geographic service area, and supervision of the staff in the requested geographic service area."

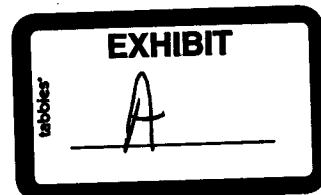
We expect an initial census of approximately twenty-five (25) to fifty (50) intermittent clients within Collier County during calendar year 2009. To meet this need, we will assign our south Lee county team to cover patients with Collier County. This team consists of six registered nurses, five physical therapists, two physical therapy assistants, one occupational therapist, and one home health aid; as well as pro re nata (PRN) registered nurses, speech therapists, and medical social workers. This team will grow, as needed, to meet further demand within Collier County.

LMHH currently treats patients in areas such as Bonita Springs, which is sufficiently close to major population areas within Collier County -- Naples and Golden Gate are approximately fifteen miles from our current service area. We expect that our clinical staff and supervisors will successfully meet the patient needs of Collier County

The following supervisors will be assigned to the team who will treat patients within Collier County:

Regional Clinical Manager: A licensed registered nurse, reporting to the Director of Nursing, who currently supervises the following staff: fifteen registered nurses, two licensed practical nurses, and two home health aides (includes full-time, part-time and PRN).

EXHIBIT 1



LEE MEMORIAL HOME HEALTH

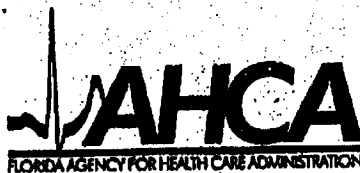
Therapy Supervisor: A licensed physical therapist, reporting to the Administrator, who currently supervises the following staff: seventeen physical therapists, three physical therapy assistants, eight occupational therapists, and one speech therapist (includes full-time, part-time and PRN).

If you have any questions regarding this request, or if there is additional information needed, please feel free to contact my office by phone at 239-418-2900, by e-mail at Cynthia.Christman@leememorial.org, or by mail at 2070 Carrell Rd., Suite B, Fort Myers, FL, 33901.

Respectfully,



Cynthia Christman, R.N., B.S.
Executive Director (Administrator)
Lee Memorial Home Health, Inc.



CHARLIE CRIST
GOVERNOR

HOLLY BENSON
SECRETARY

April 14, 2009

Lee Memorial Home Health
2070 Carrell Rd., STE B
Fort Myers, FL 33901

Dear Administrator:

Our office has received your request to expand your current geographical service area to include Collier County. In accordance with Chapter 59A-8.007 Florida Administrative Code, this agency's administrative actions including fines, suspensions, revocations or injunctions as well as your previous survey history were reviewed to determine your ability to provide quality services within the requested area.

Unfortunately, after careful review it has been determined by the field office that your request can not be granted at this time.

If you have questions, please contact me via email at houstonp@ahca.myflorida.com or by phone at (850) 414-6010.

Sincerely,

Pamela Houston
Senior Human Services Program Specialist
Home Care Unit

2727 Mahan Drive, MS#34
Tallahassee, Florida 32308



Visit AHCA online at
<http://ahca.myflorida.com>

EXHIBIT 2

EXHIBIT

B