

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2011 AUG 15 A 10:00

ODYSSEY HEALTHCARE OF COLLIER
COUNTY, INC. d/b/a ODYSSEY
HEALTHCARE OF CENTRAL FLORIDA,

Petitioner,

vs.

DOAH NO. 10-1624CON
AHCA NO. 2010003080
CON 10062

UNITED HOSPICE OF FLORIDA, INC.,
VITAS HEALTHCARE CORPORATION
OF FLORIDA, AND STATE OF
FLORIDA, AGENCY FOR HEALTH
CARE ADMINISTRATION,

Respondents,

and

COMMUNITY HOSPICE OF
NORTHEAST FLORIDA, INC., AND
NORTH CENTRAL FLORIDA HOSPICE,
INC. d/b/a HAVEN HOSPICE,

Intervenors.

HCR MANOR CARE SERVICES OF
FLORIDA, INC.,

Petitioner,

vs.

DOAH NO. 10-1864CON
ACHA NO. 2010003499
CON 10061-10065

AGENCY FOR HEALTH CARE
ADMINISTRATION AND
VITAS HEALTHCARE CORPORATION
OF FLORIDA,

Respondent.

NORTH CENTRAL FLORIDA HOSPICE,
INC., d/b/a HAVEN HOSPICE,

Petitioner,

vs.

DOAH NO. 10-1868CON
ACHA NO. 2010003313
CON NOS. 10061-10065

AGENCY FOR HEALTHCARE
ADMINISTRATION AND
VITAS HEALTHCARE CORPORATION
OF FLORIDA,

Respondent.

FINAL ORDER

THIS CAUSE comes before the Agency for Health Care Administration ("the Agency") concerning Certificate of Need ("CON") Application Nos. 10061 – 10065 in the second batching cycle of 2009. The Agency published a fixed numeric need for one new hospice program in Area 4A for the second batching cycle of 2009 — Other Beds and Programs Batching Cycle. No one challenged the published fixed need determination.

Compassionate Care Hospice of Florida, Inc. (Compassionate), Odyssey HealthCare of Collier County, Inc. (Odyssey), Seasons Palliative Care of Florida, Inc. (Seasons), United Hospice of Florida, Inc. (United), and VITAS Healthcare Corporation of Florida (VITAS), each submitted letters of intent, initial applications, and omissions responses proposing to establish a new hospice program in Area 4A. The Agency issued its State Agency Action Report (SAAR) preliminarily approving VITAS (CON Application 10065) and denying the others. The Agency published notice of the decision in the March 5, 2010, Florida Administrative Weekly, Volume 36, No. 9, pg. 1079.

United and Odyssey filed petitions challenging their respective denials and the approval of VITAS. Community Hospice of Northeast Florida, Inc. filed a petition challenging all co-

batched applications. VITAS filed a petition supporting its approval and the Agency's denial of the other applications. Other applicants and existing providers filed petitions. The Agency referred the petitions for formal hearing to the Division of Administrative Hearings ("DOAH"), and DOAH consolidated the cases. Several parties dismissed their petitions as set forth below. By the time of the final hearing, the remaining parties were Community, VITAS, United, and the Agency. Community did not oppose approval of one application. It maintained, however, that only one should be approved.

The final hearing in the consolidated cases convened on October 25, 2010, and concluded on November 9, 2010. On March 22, 2011, DOAH issued a recommended order, which was adopted by the Agency in a Final Order filed on May 2, 2011. Pursuant to the Final Order, the CON application of VITAS was granted with the conditions stated in its application and the CON application of United was denied.

Odyssey filed a Petition for Formal Administrative Hearing and Petition for Leave to Intervene contesting the denial of CON Application No. 10062 requesting a CON to establish a hospice program, DOAH Case No. 10-1624CON. On July 23, 2010, Odyssey filed an Amended Notice of Voluntary Dismissal with regard to DOAH Case No. 10-1624CON. On July 26, 2010, DOAH entered an Order Closing File for Case No. 10-1624CON only, and on July 27, 2010, entered an Order Severing Case in regard to DOAH Case No. 10-1624CON.

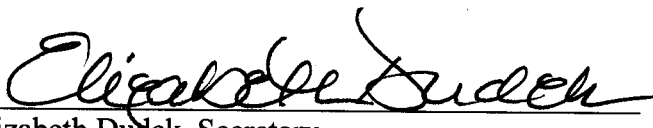
HCR Manor Care Services of Florida, Inc. ("HCR Manor") and North Central Florida Hospice, Inc. d/b/a Haven Hospice ("Haven Hospice") filed petitions for a formal administrative hearing concerning the co-batched CON Application Nos. 10061 – 10065, which were forwarded to DOAH. In their petitions, HRC Manor and Haven Hospice maintained that they were existing hospice providers in the same service area as the applicants' proposed hospices providing

hospice services similar to those proposed by the applicants. On July 19, 2010, HCR Manor filed a Notice of Voluntary Dismissal with regard to DOAH Case No. 10-1864CON. On July 20, 2010, DOAH entered an Order Severing Case and an Order Closing File in regard to DOAH Case No. 10-1864CON. On August 10, 2010, Haven Hospice filed its Notice of Voluntary Dismissal with regard to DOAH Case No. 10-1868. On August 10, 2010, DOAH entered an Order Severing Case and an Order Closing File in regard to DOAH Case No. 10-1868CON.

It is therefore ORDERED:

1. The Amended Notice of Voluntary Dismissal filed by Odyssey is acknowledged and accepted and the denial of CON Application No. 10062 is UPHELD.
2. The Notice of Voluntary Dismissals filed by HCR Manor and Haven Hospice are acknowledged and accepted.

ORDERED on this 12 day of August, 2011, in Tallahassee, Florida.


Elizabeth Dudek, 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. Mail or interoffice mail to the persons named below on this 15th day of August, 2011.



Richard J. Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
(850) 412-3630

COPIES:

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