

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

FILED
ANCA
AGENCY CLERK

2010 NOV 29 P 1:43

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

Petitioner,

**CASE NO: 2010000858
10-2180**

v.

RENDITION NO.: AHCA-10-12660 -S-OLC

**INNOVATIVE SENIOR CARE HOME HEALTH OF TAMPA, LLC
d/b/a INNOVATIVE SENIOR CARE HOME HEALTH,**

Respondent.

_____ /

FINAL ORDER

Having reviewed the administrative complaint dated March 12, 2010, attached hereto and incorporated herein (Ex. 1), and all other matters of record, the Agency for Health Care Administration ("Agency") has entered into a Settlement Agreement (Ex. 2) with the other party to these proceedings, and being otherwise well-advised in the premises, finds and concludes as follows:

ORDERED:

1. The attached Settlement Agreement is approved and adopted as part of this Final Order, and the parties are directed to comply with the terms of the Settlement Agreement.
2. Respondent shall pay an administrative fine in the amount of Four Thousand Five Hundred Dollars (\$4,500). The administrative fine is

due and payable within thirty (30) days of the date of rendition of this Order.

3. Checks should be made payable to the "Agency for Health Care Administration." The check, along with a reference to these case numbers, should be sent directly to:

Agency for Health Care Administration
Office of Finance and Accounting
Revenue Management Unit
2727 Mahan Drive, MS# 14
Tallahassee, Florida 32308

4. Unpaid fines pursuant to this Order will be subject to statutory interest and may be collected by all methods legally available.

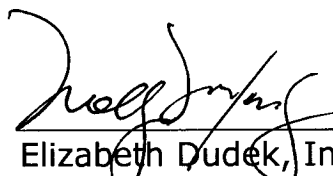
5. Respondent's petition for formal administrative proceedings is hereby dismissed.

6. Each party shall bear its own costs and attorney's fees.

7. The above-styled cases are hereby closed.

DONE and **ORDERED** this 24 day of November, 2010,

in Tallahassee, Leon County, Florida.



Elizabeth Dudek, Interim Secretary
Agency for Health Care Administration

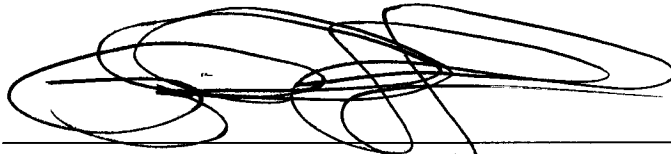
A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW WHICH SHALL BE INSTITUTED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A SECOND COPY, ALONG WITH FILING FEE AS PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE AGENCY MAINTAINS ITS HEADQUARTERS OR WHERE A PARTY RESIDES. REVIEW OF PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

Copies furnished to:

<p>Stacey Meyer, Esq. Brookdale Senior Living, Inc. 6737 West Washington Street Suite 2300 Milwaukee, Wisconsin 53214 (U. S. Mail)</p>	<p>Andrea M. Lang, Senior Attorney Agency for Health Care Administration 2295 Victoria Avenue, Room 346C Fort Myers, Florida 33901 (Interoffice Mail)</p>
<p>Finance & Accounting Agency for Health Care Administration Revenue Management Unit 2727 Mahan Drive, MS #14 Tallahassee, Florida 32308 (Interoffice Mail)</p>	<p>Daniel Manry Administrative Law Judge Division of Administrative Hearings The DeSoto Building 1230 Apalachee Parkway Tallahassee, Florida 32399 (U. S. Mail)</p>
<p>Jan Mills Agency for Health Care Administration 2727 Mahan Drive, Bldg #3, MS #3 Tallahassee, Florida 32308 (Interoffice Mail)</p>	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Final Order was served on the above-named person(s) and entities by U.S. Mail, or the method designated, on this the 27th day of November, 2010.



Richard Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Building #3
Tallahassee, Florida 32308-5403
(850) 412-3630

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

STATE OF FLORIDA,
AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

vs.

Case No. 2010000858

INNOVATIVE SENIOR CARE HOME HEALTH OF TAMPA, LLC
d/b/a INNOVATIVE SENIOR CARE HOME HEALTH,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, State of Florida, Agency for Health Care Administration (hereinafter "the Agency"), by and through its undersigned counsel, and files this Administrative Complaint against the Respondent, INNOVATIVE SENIOR CARE HOME HEALTH OF TAMPA, LLC d/b/a INNOVATIVE SENIOR CARE HOME HEALTH (hereinafter "the Respondent"), pursuant to Sections 120.569 and 120.57, Florida Statutes (2009), and alleges as follows:

NATURE OF THE ACTION

This is an action to impose an administrative fine in the amount of SIX THOUSAND DOLLARS (\$6,000.00) against a home health agency pursuant to Sections 400.474 and 400.484(2)(c) Florida Statutes (2009), based upon one repeat Class III deficiency.

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter pursuant to Sections 120.569 and 120.57, Florida Statutes (2009).
2. The Agency has jurisdiction over the Respondent pursuant to Sections 20.42 and

EXHIBIT

tabbles

1

120.60, Florida Statutes (2009), Chapters 408, Part II, and 400, Part III, Florida Statutes (2009), and Chapter 59A-8, Florida Administrative Code.

3. Venue lies pursuant to Rule 28-106.207, Florida Administrative Code.

PARTIES

4. The Agency is the licensing and regulatory authority that oversees home health agencies and enforces the applicable federal and state statutes, regulations and rules governing home health agencies. Chapter 408, Part II, and Chapter 400, Part III, Florida Statutes (2009), and Chapter 59A-8, Florida Administrative Code. The Agency is authorized to deny, revoke, or suspend a license, or impose an administrative fine, for violations as provided for by Section 400.474, Florida Statutes (2009), and Rules 59A-8.003 and 59A-8.0086, Florida Administrative Code.

5. The Respondent was issued a license by the Agency (License No. 299991676) to operate a home health agency located at 8695 College Parkway, Unit 275, Fort Myers, Florida 33919, and was at all material times required to comply with the applicable federal and state statutes, regulations and rules for home health agencies.

COUNT I

The Respondent Failed To Implement Treatment And Did Not Follow The Plan Of Care In Violation Of Section 400.487(2), Florida Statutes (2009), And Rule 59A-8.0215(2), Florida Administrative Code

6. The Agency re-alleges and incorporates by reference paragraphs one (1) through five (5).

7. Pursuant to Florida law, when required by the provisions of Chapter 464; Part I, Part III, or Part V of Chapter 468; or Chapter 486, Florida Statutes (2008), 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. Section 400.487(2), Florida Statutes (2008).

Pursuant to Florida law, 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. Rule 59A-8.0215(2), Florida Administrative Code.

8. On or about April 9, 2007 through April 11, 2007 the Agency conducted a Relicensure Survey of the Respondent's facility.

9. Based on a review of eleven (11) clinical records and administrative interview, care did not follow the plan of treatment in four 4 cases, specifically Patient number two (2), Patient number five (5), Patient number nine (9), and Patient number ten (10).

10. Patient number two (2) was admitted to the home health agency on January 6, 2007 with a primary diagnosis listed as "Attn REM Surg Dressing" R/T toe amputation. The patient was receiving skilled nursing visits for wound care. A review of the record revealed the skilled nurse completed daily visits for wound care dressing changes with orders received on January 17, 2007 for skilled nursing to continue daily wound care "As of January 17, 2007 QD x

9. 2 PRNs (as needed) for soiled or loose dressing. Patient scheduled for outpatient surgery on January 26, 2007 for removal of 1st digit of 2nd to left foot. Skilled nursing care will resume post-op per MD orders." Orders received on January 26, 2007 (Post-op) for skilled nursing "Leave op drsg intact Saturday (sic January 27, 2007). Change drsg on Sunday (sic January 28, 2007) - Adaptic over surgery - dry gauze - kling. Aquacel AG over 3rd web space (pack into cavity) gauze - kling..." A further review of nursing notes revealed the nurse made a visit to Patient number two (2) on January 27, 2007.

11. The documentation in the record indicated "Skilled Nurse assessed the patient. Left foot dressing saturated and dripping blood onto floor. Removed dressing 2nd covered with adaptic. Wound on 3rd webspace oozing blood when pressure not applied. Secured dressing with adequate pressure..." There was no evidence in the record to indicate the nurse notified the physician and received orders to change the Plan of Care on January 27, 2007. From a review of the record, it was noted on January 29, 2007 the Director of Nursing notified the physician about the post-op wound and dressing change that was completed on January 27, 2007 without benefit of a physician's order.

12. A review of the record for Patient number five (5) revealed a start of care date of March 28, 2007 with orders in the plan of treatment for skilled nursing to complete wound care, observe any systems changes and perform finger stick PT/INR (Protime/International Normalized Ratio) per MD orders.

13. During a home visit on April 9, 2007 with patient's permission, the skilled nurse at 2:15 p.m. was observed to perform a pulse oximetry procedure with results - 98% on room air without benefit of a physician's order. Patient number five (5) had no respiratory complaints and was not observed to be in any respiratory distress. A further review of the clinical record revealed there were no physicians' orders in the record for this procedure to be done on that day.

14. Patient number nine (9) had physician's orders for a nurse to do a finger stick PT/INR (Protime/International Normalized Ratio) on Friday February 9, 2007. This was not done. There was no evidence in the record to indicate the nurse notified the physician the test was not done. On February 12, 2007, the nurse performed the finger stick test. There were no physicians' orders in the record for this procedure to be done on that day.

15. A review of the record for Patient number ten (10) revealed a start of care date of January 11, 2007 with a current certification period of March 12, 2007 through May 10, 2007 and services provided by skilled nursing and physical therapy. On March 22, 2007, a physician's telephone order was received for the skilled nurse to repeat a UA (Urinalysis)/C&S (Culture & Sensitivity) three (3) days post antibiotic therapy (on January 30, 2007). Patient number ten (10) was to take Bactrim DS one (1) tablet BID (twice a day) for five (5) days. A further review of the record revealed the skilled nurse did not complete a home visit on January 30, 2007 and did not obtain the Urinalysis/Culture & Sensitivity until April 5, 2007. There were no physician's orders in the record for this procedure to be done on that day.

16. An interview with the Director of Nursing on April 11, 2007 at approximately 10:30 a.m. confirmed the Urinalysis/Culture & Sensitivity had not been completed on January 30, 2007 as ordered. Per physical therapy orders, visits were to be completed two (2) times per week for five (5) weeks. A record review revealed the physical therapist completed only one (1) visit from March 19, 2007 through March 26, 2007. The record had no explanation for the missed visit including no evidence the physician was aware of the missed visit and approved this change to the Plan of Care.

17. The Respondent's act, omission or practice, had an indirect, adverse effect on the health, safety, or security of a patient constituting a Class III deficiency. Section 400.484(2)(c), Florida Statutes (2006).

18. The Agency cited the Respondent for a Class III violation in accordance with Section 400.484(2)(c), Florida Statutes (2006).

19. The Respondent was given a mandatory correction date of May 11, 2007.

20. On or about May 17, 2007 the Agency conducted a Follow-up visit to the Relicensure Survey of April 9, 2007 through April 11, 2007 and determined that the Respondent had corrected the deficiency.

21. On or about December 7, 2009 through December 10, 2009, the Agency conducted a Relicensure Survey of the Respondent's facility.

22. Based on clinical record review and staff interview, the home health agency failed to ensure six (6) of seventeen (17) sampled patients received care and services in accordance with the physician's established Plan of Care, specifically Patient number one (1), Patient number five (5), Patient number seven (7), Patient number (9), Patient number twelve (12) and Patient number seventeen (17).

23. Patient number twelve (12) was admitted to the home health agency on August 18, 2009 and was recertified for care on October 17, 2009. The Plan of Care included specific orders for the skilled nurse to monitor the patient's weight weekly and notify the physician of a weight variation of five (5) pounds. Documentation in the skilled nurse's notes included the patient had 2+ to 3+ edema (swelling) of the legs bilaterally. The medication regimen of Patient number twelve (12) included the use of Lasix to help with the fluid retention and decrease the swelling. There was no documentation in the record the skilled nurse monitored Patient number twelve's (12) weight as ordered.

24. An interview on December 9, 2009, at 2:50 p.m. with the Assistant Director of Nursing confirmed the findings. A review of the record noted a physician's order, dated November 23, 2009, to clean Patient number twelve's (12) left buttock ulcer with normal saline

apply skin prep to the peri wound area and cover with a foam dressing.

25. During a home visit on December 9, 2009, at 11:10 a.m., the skilled nurse was observed cleaning Patient number twelve's (12) ulcer. The nurse washed her hands with soap and water and applied a clean pair of gloves. She exposed Patient number twelve's (12) buttocks, applied skin prep to the peri wound area and covered with a foam dressing. The skilled nurse did not wash Patient number twelve's (12) wound with the normal saline as per the physician's order. The observation was confirmed by the skilled nurse, at the completion of the wound care.

26. Patient number seven (7) was admitted to the home health agency on September 10, 2009, with diagnoses including, but not limited to, osteoarthritis of shoulders, osteoporosis and muscle weakness. The Plan of Care for the recertification period of November 9, 2009 to January 7, 2010, included orders for physical therapy three (3) times a week for three (3) weeks and occupational therapy three (3) times a week for three (3) weeks. A review of the clinical record on December 9, 2009 documented Patient number seven (7) refused several physical therapy visits (November 19, 2009; November 25, 2009 and November 27/09). Patient number seven (7) refused several occupational therapy visits (November 13, 2009; November 19, 2009; November 23, 2009 and November 27, 2009). Patient number seven (7) complained of not feeling well each time. There was no documentation in the record the physician was notified of frequent refusal of the therapy visits.

27. An interview on December 9, 2009 at 4:10 p.m. with the Administrator confirmed the findings. She stated the physician should have been notified each time and the communication documented on the missed visit form.

28. A review of Patient number one's (1) clinical record noted on March 10, 2009, the physical therapist instructed Patient number one (1) in the use of moist heat to the shoulders. There were no physician's orders for this modality.

29. An interview with administrative staff on December 10, 2009 at 2:45 p.m., confirmed there were no physician's orders in the record.

30. Patient number five (5) was admitted to the home health agency's care on August 25, 2009. The initial orders on the Plan of Treatment were for the nurse to visit every other day for seven (7) days. There after although there continued to be nursing visits, there were no physician's orders for the visits to be made.

31. On October 24, 2009 and November 3, 2009, the therapist instructed Patient number five (5) in the use of moist heat to the shoulders and knees. There were no physician's orders for this care in the record.

32. This was confirmed with administrative staff on December 7, 2009 at 2:00 p.m.

33. Patient number nine (9) was receiving wound care from the home health agency. Included among the physician's orders was the application of a hydrocolloidal dressing to the wound. A review of the nursing notes for October 26 and October 28 revealed the nurse did not provide the wound care in accordance to the physician's orders. On these two (2) visits the documentation revealed the application of PolyMem to the wound in addition to the hydrocolloidal dressing. There were no physician's orders for the use of this product. The documentation between October 30, 2009 through November 27, 2009 noted the nurses added a foam dressing to Patient number nine's (9) wound. There were no physician's orders for the use of this product.

34. Patient number seventeen (17) had physician's orders on the referral dated November 4, 2009 for physical and occupational therapy to provide care to the patient. Care was begun on November 9, 2009 and neither of the therapies was provided to Patient number seventeen (17). There was no explanation noted in the record for not providing the service or notification of the physician.

35. An interview with administrative staff on December 8, 2009 at 2:00 p.m. indicated they were unsure as to the reason this service did not begin as ordered. Later, the administrative staff indicated she thought it was related the Power of Attorney had refused these services. However, she agreed there was no documentation in the record to explain the issue.

36. The Respondent's act, omission or practice, had an indirect, adverse effect on the health, safety, or security of a patient constituting a Class III deficiency. Section 400.484(2)(c), Florida Statutes (2009).

37. The Respondent's deficient act, omission or practice constitutes a repeated Class III deficiency. Section 400.484(2)(c), Florida Statutes (2009).

38. The Respondent was given a mandatory correction date of January 10, 2010.

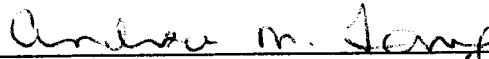
WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, intends to impose an administrative fine against the Respondent in the amount of SIX THOUSAND DOLLARS (\$6,000.00) based upon six (6) occurrences of a repeated Class III deficiency pursuant to Sections 400.474 and 400.484(2)(c), Florida Statutes (2009).

CLAIM FOR RELIEF

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully requests the Court to enter a final order granting the following relief against the Respondent:

1. Make findings of fact and conclusions of law in favor of the Agency.
2. Impose an administrative fine against the Respondent in the amount of SIX THOUSAND DOLLARS (\$6,000.00).
3. Enter any other relief that this court deems just and appropriate.

Respectfully submitted on this 12th day of March, 2010.



Andrea M. Lang, Assistant General Counsel
Florida Bar No. 0364568
Agency for Health Care Administration
Office of the General Counsel
2295 Victoria Avenue, Room 346C
Fort Myers, Florida 33901
Telephone: (239) 338-3203

NOTICE

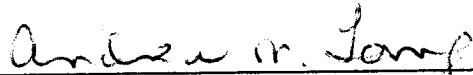
THE RESPONDENT IS NOTIFIED THAT IT/HE/SHE HAS THE RIGHT TO REQUEST AN ADMINISTRATIVE HEARING PURSUANT TO SECTIONS 120.569 AND 120.57, FLORIDA STATUTES. IF THE RESPONDENT WANTS TO HIRE AN ATTORNEY, IT/HE/SHE HAS THE RIGHT TO BE REPRESENTED BY AN ATTORNEY IN THIS MATTER. SPECIFIC OPTIONS FOR ADMINISTRATIVE ACTION ARE SET OUT IN THE ATTACHED ELECTION OF RIGHTS FORM.

THE RESPONDENT IS FURTHER NOTIFIED IF THE ELECTION OF RIGHTS FORM IS NOT RECEIVED BY THE AGENCY FOR HEALTH CARE ADMINISTRATION WITHIN TWENTY-ONE (21) DAYS OF THE RECEIPT OF THIS ADMINISTRATIVE COMPLAINT, A FINAL ORDER WILL BE ENTERED.

THE ELECTION OF RIGHTS FORM SHALL BE MADE TO THE AGENCY FOR HEALTH CARE ADMINISTRATION AND DELIVERED TO: AGENCY CLERK, AGENCY FOR HEALTH CARE ADMINISTRATION, 2727 MAHAN DRIVE, BUILDING 3, MAIL STOP 3, TALLAHASSEE, FLORIDA 32308; TELEPHONE (850) 922-5873.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Administrative Complaint and Election of Rights form have been served to: Lisa Suzanne Roberson, Administrator, Innovative Senior Care Home Health of Tampa LLC d/b/a Innovative Senior Care Home Health, 8695 College Parkway, Unit 275, Fort Myers, Florida 33919, by United States Certified Mail, Return Receipt No. 7008 1140 0003 8887 7855, and to C T Corporation System, Registered Agent for Innovative Senior Care Home Health of Tampa LLC d/b/a Innovative Senior Care Home Health, 1200 South Pine Island Road, Plantation, Florida 33919, by United States Certified Mail, Return Receipt No. 7008 1140 0003 8887 7862 on this 12th day of March, 2010.



Andrea M. Lang, Assistant General Counsel
Agency for Health Care Administration
Office of the General Counsel
2295 Victoria Avenue, Room 346C
Fort Myers, Florida 33901
Telephone: (239) 338-3203

Copies furnished to:

Lisa Suzanne Roberson, Administrator Innovative Senior Care Home Health of Tampa LLC d/b/a Innovative Senior Care Home Health 8695 College Parkway, Unit 275 Fort Myers, Florida 33919 (U.S. Certified Mail)	Andrea M. Lang Assistant General Counsel Agency for Health Care Administration Office of the General Counsel 2295 Victoria Avenue, Room 346C Fort Myers, Florida 33901 (Interoffice Mail)
C T Corporation System, Registered Agent for Innovative Senior Care Home Health of Tampa LLC d/b/a Innovative Senior Care Home Health 1200 South Pine Island Road Plantation, Florida 33324 (U.S. Certified Mail)	Harold Williams Field Office Manager Agency for Health Care Administration 2295 Victoria Avenue, Room 340A Fort Myers, Florida 33901 (Interoffice Mail)

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

STATE OF FLORIDA,
AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

vs.

Case No. 2010000858

INNOVATIVE SENIOR CARE HOME HEALTH OF TAMPA, LLC
d/b/a INNOVATIVE SENIOR CARE HOME HEALTH,

Respondent.
_____ /

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed action by the Agency for Health Care Administration (AHCA). The title may be an **Administrative Complaint, Notice of Intent to Impose a Late Fee, or Notice of Intent to Impose a Late Fine.**

Your Election of Rights must be returned by mail or by fax within twenty-one (21) days of the date you receive the attached Administrative Complaint, Notice of Intent to Impose a Late Fee, or Notice of Intent to Impose a Late Fine.

If your Election of Rights with your elected Option is not received by AHCA within twenty-one (21) days from the date you received this notice of proposed action by AHCA, you will have given up your right to contest the Agency's proposed action and a **Final Order will be issued.**

Please use this form unless you, your attorney or your representative prefer to reply in accordance with Chapter 120, Florida Statutes (2009) and Rule 28, Florida Administrative Code.

PLEASE RETURN YOUR ELECTION OF RIGHTS TO THIS ADDRESS:

Agency for Health Care Administration
Attention: Agency Clerk
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
Phone: 850-922-5873 Fax: 850-921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS

OPTION ONE (1) ____ I admit the allegations of fact and law contained in the Notice of Intent to Impose a Late Fine or Fee, or Administrative Complaint and I waive my right to object and to have a hearing. I understand that by giving up my right to a hearing, a Final Order will be issued that adopts the proposed agency action and imposes the penalty, fine or action.

OPTION TWO (2) ____ I admit the allegations of fact and law contained in the Notice of Intent to Impose a Late Fine or Fee, or Administrative Complaint, but I wish to be heard at

an informal proceeding (pursuant to Section 120.57(2), Florida Statutes) where I may submit testimony and written evidence to the Agency to show that the proposed administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) ____ I dispute the allegations of fact and law contained in the Notice of Intent to Impose a Late Fee, the Notice of Intent to Impose a Late Fine, or Administrative Complaint, and I request a formal hearing (pursuant to Subsection 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

PLEASE NOTE: Choosing OPTION THREE (3) by itself is NOT sufficient to obtain a formal hearing. You also must file a written petition in order to obtain a formal hearing before the Division of Administrative Hearings under Section 120.57(1), Florida Statutes. It must be received by the Agency Clerk at the address above within 21 days of your receipt of this proposed administrative action. The request for formal hearing must conform to the requirements of Rule 28-106.2015, Florida Administrative Code, which requires that it contain:

1. Your name, address, telephone number, and the name, address, and telephone number of your representative or lawyer, if any.
2. The file number of the proposed action.
3. A statement of when you received notice of the Agency's proposed action.
4. A statement of all disputed issues of material fact. If there are none, you must state that there are none.

Mediation under Section 120.573, Florida Statutes may be available in this matter if the Agency agrees.

License Type: _____ (Assisted Living Facility, Nursing Home, Medical Equipment, Other)

Licensee Name: _____ License Number: _____

Contact Person: _____
Name Title

Address: _____
Street and Number City State Zip Code

Telephone No. _____ Fax No. _____ E-Mail (optional) _____

I hereby certify that I am duly authorized to submit this Notice of Election of Rights to the Agency for Health Care Administration on behalf of the above licensee.

Signature: _____

Date: _____

Print Name: _____

Title: _____

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA,
AGENCY FOR HEALTH
CARE ADMINISTRATION,

Petitioner,

vs.

Case No(s): 2010000858
10-2180

INNOVATIVE SENIOR CARE HOME
HEALTH OF TAMPA, LLC d/b/a
INNOVATIVE SENIOR CARE HOME
HEALTH,

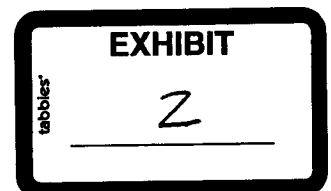
Respondent.

SETTLEMENT AGREEMENT

Petitioner, State of Florida, Agency for Health Care Administration (hereinafter the “Agency”), through its undersigned representatives, and Respondent, Innovative Senior Care Home Health of Tampa, LLC d/b/a Innovative Senior Care Home Health (hereinafter “Respondent”), 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, Respondent is a home health agency licensed pursuant to Chapters 400, Part III, and 408, Part II, Florida Statutes, Section 20.42, Florida Statutes and Chapter 59A-8, Florida Administrative Code; and

WHEREAS, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over Respondent, pursuant to Chapter 400, Part III, Florida Statutes; and



WHEREAS, the Agency served Respondent with an administrative complaint on or about March 17, 2010, notifying the Respondent of its intent to impose administrative fines in the amount of Six Thousand Dollars (\$6,000); and

WHEREAS, Respondent requested a formal administrative proceeding by filing a Petition for Formal Administrative Proceedings; and

WHEREAS, the parties have negotiated and agreed that the best interest of all the parties will be served by a settlement of this proceeding; and

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

1. All recitals herein 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. Upon full execution of this Agreement, and subject to the Agency’s entry of a Final Order adopting, without amendment, the terms of this Agreement, Respondent agrees to waive any and all appeals and proceedings to which it may be entitled including, but not limited to, an informal proceeding under Subsection 120.57(2), Florida Statutes, a formal proceeding under Subsection 120.57(1), Florida Statutes, appeals under Section 120.68, Florida Statutes; and declaratory and all writs of relief in any court or quasi-court of competent jurisdiction; and agrees to waive compliance with the form of the Final Order (findings of fact and conclusions of law) to which it may be entitled, provided, however, that no agreement herein shall be deemed a waiver by either party of its right to judicial enforcement of this Agreement.

4. Upon full execution of this Agreement, Respondent agrees to pay Four Thousand Five Hundred Dollars (\$4,500) in administrative fines to be paid to the Agency within thirty (30) days of the entry of the Final Order.

5. Venue for any action brought to enforce the terms of this Agreement or the Final Order entered pursuant hereto shall lie in Circuit Court in Leon County, Florida.

6. By executing this Agreement, Respondent neither admits nor denies, and the Agency asserts the validity of the allegations raised in the administrative complaint referenced herein. No agreement made herein shall preclude the Agency from imposing a penalty against Respondent for any deficiency/violation of statute or rule identified in a future survey of Respondent, which constitutes a "repeat" or "uncorrected" deficiency from surveys identified in the administrative complaint. The parties agree that in such a "repeat" or "uncorrected" case, the deficiencies from the surveys identified in the administrative complaint shall be deemed found without further proof. Respondent retains the right to challenge the validity of any such deficiency and the deficiency identified in the Administrative Complaint.

7. No agreement made herein shall preclude the Agency from using the deficiencies from the surveys identified in the administrative complaint in any decision regarding licensure of Respondent, including, but not limited to, licensure for limited mental health, limited nursing services, extended congregate care, or a demonstrated pattern of deficient performance. The Agency is not precluded from using the subject events for any purpose within the jurisdiction of the Agency. Further, Respondent acknowledges and agrees that this Agreement shall not preclude or estop any other federal, state, or local agency or office from pursuing any cause of action or taking any action, even if based on or arising from, in whole or in part, the facts raised in the administrative complaint. Notwithstanding the above, should the Agency use the

deficiencies from the survey(s) identified in the Administrative Complaint in any decision regarding licensure of Respondent, Respondent reserves the right to challenge the validity of any such action before an appropriate tribunal.

8. 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.

9. Each party shall bear its own costs and attorney's fees.

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

11. Respondent for itself and for its related or resulting organizations, its successors or transferees, attorneys, heirs, and executors or administrators, does hereby discharge the State of Florida, Agency for Health Care Administration, and its agents, representatives, 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 Respondent or related facilities.

12. This Agreement is binding upon all parties herein and those identified in paragraph eleven (11) of this Agreement.

13. In the event that Respondent was a Medicaid provider at the subject time of the occurrences alleged in the complaint herein, this settlement does not prevent the Agency from seeking Medicaid overpayments related to the subject issues or from imposing any sanctions pursuant to Rule 59G-9.070, Florida Administrative Code.

09-10-'10 10:12 FROM-

T-498 P006/007 F-128

14. Respondent agrees that if any funds to be paid under this agreement to the Agency are not paid within thirty-one (31) days of entry of the Final Order in this matter, the Agency may deduct the amounts assessed against Respondent in the Final Order, or any portion thereof, owed by Respondent to the Agency from any present or future funds owed to Respondent by the Agency, and that the Agency shall hold a lien against present and future funds owed to Respondent by the Agency for said amounts until paid.

15. The undersigned have read and understand this Agreement and have the authority to bind their respective principals to it.

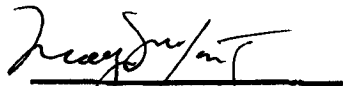
16. This Agreement contains and incorporates the entire understandings and agreements of the parties.

17. This Agreement supersedes any prior oral or written agreements between the parties.


18. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

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


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


Rebecca Knapp
Acting Deputy Secretary
Agency for Health Care Administration
2727 Mahan Drive, Bldg #1
Tallahassee, Florida 32308

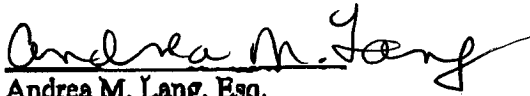
DATED: 11/24/10


Sue Arnes Lisa Susanne Roberson, Administrator
Innovative Senior Care Home Health
8695 College Parkway, Unit 275
Fort Myers, Florida 33919

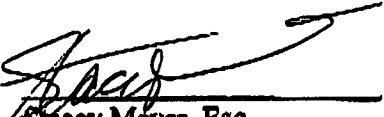
DATED: 9/17/10


Justin Senior, General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308

DATED: 11/23/10


Andrea M. Lang, Esq.
Agency for Health Care Administration
2295 Victoria Avenue, Room 346C
Ft. Myers, Florida 33901

DATED: 11/3/10


Stacey Meyer, Esq.
Attorney for Innovative Senior Care Home
Health of Tampa, LLC d/b/a Innovative
Senior Care Home Health,
6737 West Washington Street, No. 2300
Milwaukee, Wisconsin 53214

DATED: 9/9/10