

STATE OF FLORIDA
AGENCY FOR PERSONS WITH DISABILITIES

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DISABILITIES,

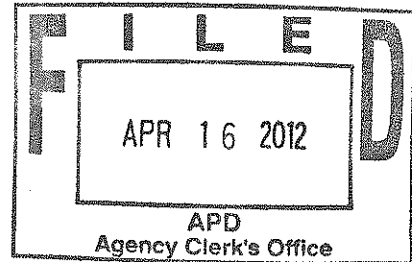
Petitioner,

DOAH Case No.: 11-1620

v.

HELP IS ON THE WAY, INC.

Respondent.



AGENCY FOR PERSONS
WITH DISABILITIES,

Petitioner,

DOAH Case No. 11-2455

v.

TIMBERGREEN GROUP HOME,
HELP IS ON THE WAY, INC.

Rendition No. APD-12-0238-FO

FINAL ORDER

This cause is before the Agency for Persons with Disabilities for entry of a final order following the issuance of a Recommended Order by the Division of Administrative Hearings. A copy of the Recommended Order is attached to this Final Order.

On March 25, 2011, Petitioner Agency sent Respondent a Notice of Licensure Application Denial for its Lake Marion Group Home. On April 29, 2011, Petitioner Agency sent Respondent a Notice of Licensure Application Denial for its Timbergreen Group Home. Respondent requested an administrative hearing for each of the Notices of Denial and the matter was referred to the Division of Administrative Hearings for

assignment of an administrative law judge. The two cases were consolidated and a hearing was conducted on October 15 and November 7, 2011. The Administrative law Judge issued her Recommended Order on February 3, 2012, in which she recommended that the Agency issue a final order approving Respondent's applications for renewal. Neither party filed exceptions. The Findings of Fact and Conclusions of Law in the Recommended Order are approved and adopted.

Therefore, based on the foregoing and being otherwise fully advised in the premises, it is hereby ORDERED that Respondents' application for renewal of their licenses is GRANTED. The Agency shall issue each group home a standard one-year license.

DONE AND ORDERED in Tallahassee, Leon County, Florida, this 16 day of April, 2012.



Michael P. Hansen, Director
Agency for Persons with Disabilities

RIGHT TO APPEAL

A party who is adversely affected by this final order is entitled to judicial review. To initiate judicial review, the party seeking it must file one copy of a "Notice of Appeal" with the Agency Clerk. The party seeking judicial review must also file another copy of the "Notice of Appeal," accompanied by the filing fee required by law, with the First District Court of Appeal in Tallahassee, Florida, or with the District Court of Appeal in the district where the party resides. Review proceedings shall be conducted in accordance with Florida Rules of Appellate Procedure. The Notices must be filed within thirty (30) days of the rendition of this final order.¹

¹ The date of the "rendition" of this Final Order is the date that is stamped on its first page. The Notices of Appeal must be received on or before the thirtieth day after that date.

Copies furnished to:

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APD Area 23 Administrator

Claudia Llado, Clerk of the Division
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this Final Order was provided to the above-named individuals at the listed addresses, by U.S. Mail or electronic mail, this 16 day of April, 2012.



Percy W. Mallison, Jr., Agency Clerk
Agency for Persons with Disabilities
4030 Esplanade Way, Suite 380
Tallahassee, Florida 32399-0950

APPENDIX TO RECOMMENDED ORDER
DOAH CASES 11-1620 and 11-2455

The undersigned has considered Petitioner's Objections to Depositions, filed on November 14, 2011, and Respondent's response to Petitioner's objections, filed on December 8, 2011.

Petitioner's filing asserted a single blanket relevancy objection, without elaboration, but with separate line items for designated lines and pages to which the blanket objection applied. In many instances, Petitioner designated many-page chunks of deposition testimony, sometimes covering 20- or 30-page blocks of questioning and answering, some of which may have been irrelevant, but some of which was at least of marginal relevance.

Petitioner's blanket objection to a single large designated chunk of deposition testimony has not been sustained where the designated chunk included some relevant testimony. It was up to Petitioner to lodge specific objections to irrelevant deposition testimony, and Petitioner cannot by its blanket objection, shift the burden to Respondent or to the undersigned to sort through the relevant and irrelevant portions within large chunks of testimony when Petitioner failed to identify just those irrelevant passages. However, where such deposition testimony was not relevant to the issues to be determined here, or was not relevant to such permissible matters as credibility/impeachment of the deponents, then such testimony was not used as the basis for any findings of fact.

Accordingly, the following specific rulings are made on Petitioner's designated relevancy objections:

Respondent's Exhibit 82
Copy of Deposition Transcript
Heather Monteath, October 5, 2011

Petitioner's relevancy objections to testimony portions cited in line items a. through c. and e. through j. are overruled.

Petitioner's relevancy objection d. (page 77, line 6 through page 78, line 16) is sustained.

Respondent's Exhibit 83
Copy of Deposition Transcript
Melody Taylor, October 7, 2011

Petitioner's relevancy objections a. through h. are overruled.

Petitioner's relevancy objection i. (page 175, line 4 through page 175, line 24) is sustained.

Respondent's Exhibit 84
Copy of Deposition Transcript
Jeannette Estes, October 6, 2011

Petitioner's relevancy objections a. through e., g. through i., and k. through l. are overruled.

Petitioner's relevancy objection f. (page 142, line 24 through page 143, line 20) is sustained.

Petitioner's relevancy objection j. (page 200, line 12 through page 202, line 19) is sustained.