

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

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STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,
v.

DOAH CASE NO. 13-3237MPI
C.I. NO. 13-1101-000
RENDITION NO.: AHCA-14-0313 -FOF-MDO

ROBERT J. MEEK, D.O.,

Respondent.

FINAL ORDER

This case was referred to the Division of Administrative Hearings (DOAH) where the assigned Administrative Law Judge (ALJ), Claude B. Arrington, issued a Recommended Order after conducting a formal hearing. At issue in this proceeding is what sanction should be imposed on the Respondent's participation in the Florida Medicaid Program. The Recommended Order dated February 28, 2014, is attached to this Final Order and incorporated herein by reference.

RULING ON EXCEPTIONS

Petitioner filed exceptions to the Recommended Order, and Respondent filed a response to Petitioner's exceptions.

In Exception #1, Petitioner takes exception to the conclusions of law in Paragraph 47 of the Recommended Order, arguing that the ALJ inappropriately considered "the length of the sentence imposed by the federal government and Board of Osteopathic Medicine in determining the appropriate sanction." However, in the conclusions of law in Paragraph 47 of the Recommended Order, the ALJ only references the penalty imposed by the Board of Osteopathic Medicine. The ALJ's consideration of the penalty imposed by the Board of Osteopathic

Medicine is consistent with Section 409.913(17)(e), Florida Statutes, which states that, “[i]n determining the appropriate administrative sanction ... the agency shall consider ... [a]ny action by a licensing agency respecting the provider in any state in which the provider operates or has operated.” Therefore, the Agency denies Petitioner’s Exception #1.

In Exception #2, Petitioner takes exception to the conclusions of law in Paragraph 48 of the Recommended Order, as well as the ALJ’s Recommendation, arguing that a 20-year termination is the more appropriate penalty. In order to increase an ALJ’s recommended penalty, the Agency must review the complete record and state with particularity its reasons for the penalty increase by citing to the record in justifying its action. § 120.57(1)(I), Fla. Stat.; Criminal Justice Standards Training Comm’n. v. Bradley, 596 So. 2d 661, 663 (Fla. 1992). Petitioner’s exceptions only cite to the Recommended Order itself and offer no additional justification for increasing the ALJ’s recommended penalty. Therefore, the Agency denies Petitioner’s Exception #2.

FINDINGS OF FACT

The Agency adopts the findings of fact set forth in the Recommended Order.

CONCLUSIONS OF LAW

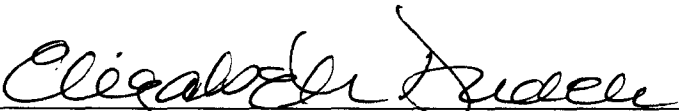
The Agency adopts the conclusions of law set forth in the Recommended Order.

IT IS THEREFORE ADJUDGED THAT:

Respondent is hereby terminated with cause from the Florida Medicaid program for ten (10) years from the date of rendition of this Final Order. If the Florida Medicaid program still exists in its current form at the end of the ten-year period, Respondent may submit a Medicaid provider application to the Agency, and the Agency will process the Medicaid provider

application in accordance with the version of Section 409.907(9), Florida Statutes, that is in effect at that point in time. The parties shall govern themselves accordingly.

DONE and ORDERED this 7 day of April, 2014, in Tallahassee, Florida.

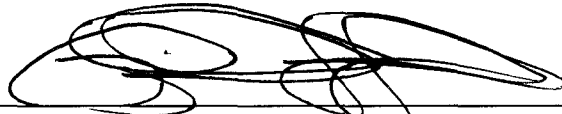

ELIZABETH DUDEK, SECRETARY
AGENCY FOR HEALTH CARE ADMINISTRATION

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. or interoffice mail to the persons named below on this 7th day of April, 2014.



RICHARD J. SHOOP, Agency Clerk
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COPIES FURNISHED TO:

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