

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

FILED
AHCA
AGENCY CLERK

2014 OCT 22 A 11: 24

B & B HOME HEALTH SERVICES, INC.,

Petitioner,

vs.

Case No. 14-282PH

AHCA No. 2014000460

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

FINAL ORDER

THIS CAUSE came on for consideration before the Agency for Health Care Administration (“the Agency”), which finds and concludes as follows:

1. The Agency issued the Petitioner, an applicant for a change of ownership license for a home health agency, the attached Amended Notice of Intent to Deem Application Incomplete and Withdrawn From Further Review. (Ex. 1) The case was forwarded to the Presiding Officer for an informal hearing to be conducted pursuant to Section 120.57(2), Florida Statutes.

2. During the pendency of this proceeding, the Agency filed a Motion To Relinquish Jurisdiction As Moot And for Rendition of Final Order based on the license that is subject of the instant matter no existing due to the denial of the renewal of that license. The Presiding Officer entered a Recommended Order of Dismissal. (Ex. 2) The Agency adopts the findings of fact and conclusions of law set forth in the Recommended Order of Dismissal.

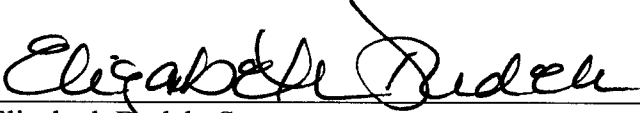
Based upon the foregoing, it is **ORDERED**:

3. The request for hearing is **DISMISSED**.

4. The Amended Notice of Intent to Deem Application Incomplete and Withdrawn From Further Review is **UPHELD**.

5. The Petitioner is given notice of Florida law regarding unlicensed activity. The Petitioner is advised of Section 408.804 and Section 408.812, Florida Statutes. The Petitioner should also consult the applicable authorizing statutes and administrative code provisions. The Petitioner is notified that the cancellation of an Agency license may have ramifications potentially affecting accrediting, third party billing including but not limited to the Florida Medicaid program, and private contracts.

ORDERED at Tallahassee, Florida, on this 21 day of October, 2014.



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 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.

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of this Final Order was served on the below-named persons by the method designated on this 21st day of October, 2014.


Richard Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Bldg. #3, Mail Stop #3
Tallahassee, Florida 32308-5403
Telephone: (850) 412-3630

Jan Mills Facilities Intake Unit (Electronic Mail)	Thomas Jones Health Care Clinic Unit Manager Agency for Health Care Administration (Electronic Mail)
Thomas J. Walsh II, Esquire Presiding Officer Agency for Health Care Administration (Electronic Mail)	Warren J. Bird, Assistant General Counsel Office of the General Counsel Agency for Health Care Administration (Electronic Mail)

Manuel R. Lopez, Esquire Manuel R. Lopez & Associates, P.A. 770 Ponce De Leon Boulevard Penthouse Coral Gables, Florida 33134 (U.S. Mail)	
---	--

NOTICE OF FLORIDA LAW

408.804 License required; display.--

- (1) It is unlawful to provide services that require licensure, or operate or maintain a provider that offers or provides services that require licensure, without first obtaining from the agency a license authorizing the provision of such services or the operation or maintenance of such provider.
- (2) A license must be displayed in a conspicuous place readily visible to clients who enter at the address that appears on the license and is valid only in the hands of the licensee to whom it is issued and may not be sold, assigned, or otherwise transferred, voluntarily or involuntarily. The license is valid only for the licensee, provider, and location for which the license is issued.

408.812 Unlicensed activity. --

- (1) A person or entity may not offer or advertise services that require licensure as defined by this part, authorizing statutes, or applicable rules to the public without obtaining a valid license from the agency. A licenseholder may not advertise or hold out to the public that he or she holds a license for other than that for which he or she actually holds the license.
- (2) The operation or maintenance of an unlicensed provider or the performance of any services that require licensure without proper licensure is a violation of this part and authorizing statutes. Unlicensed activity constitutes harm that materially affects the health, safety, and welfare of clients. The agency or any state attorney may, in addition to other remedies provided in this part, bring an action for an injunction to restrain such violation, or to enjoin the future operation or maintenance of the unlicensed provider or the performance of any services in violation of this part and authorizing statutes, until compliance with this part, authorizing statutes, and agency rules has been demonstrated to the satisfaction of the agency.
- (3) It is unlawful for any person or entity to own, operate, or maintain an unlicensed provider. If after receiving notification from the agency, such person or entity fails to cease operation and apply for a license under this part and authorizing statutes, the person or entity shall be subject to penalties as prescribed by authorizing statutes and applicable rules. Each day of continued operation is a separate offense.
- (4) Any person or entity that fails to cease operation after agency notification may be fined \$1,000 for each day of noncompliance.

(5) When a controlling interest or licensee has an interest in more than one provider and fails to license a provider rendering services that require licensure, the agency may revoke all licenses and impose actions under s. 408.814 and a fine of \$1,000 per day, unless otherwise specified by authorizing statutes, against each licensee until such time as the appropriate license is obtained for the unlicensed operation.

(6) In addition to granting injunctive relief pursuant to subsection (2), if the agency determines that a person or entity is operating or maintaining a provider without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a client of the provider, the person or entity is subject to the same actions and fines imposed against a licensee as specified in this part, authorizing statutes, and agency rules.

(7) Any person aware of the operation of an unlicensed provider must report that provider to the agency.