

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AGENCY CLERK

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

2015 APR -6 P 12:43

Petitioner,

vs.

DOAH NO. 14-4350

AHCA NO. 2014004524

RENDITION NO.: AHCA- 15-0211 -S-OLC

WINTER HAVEN FACILITY OPERATIONS, LLC d/b/a
CONSULATE HEALTH CARE OF WINTER HAVEN,

Respondent.

FINAL ORDER

Having reviewed the Administrative Complaint, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

1. The Agency has jurisdiction over the above-named Respondent pursuant to Chapter 408, Part II, Florida Statutes, and the applicable authorizing statutes and administrative code provisions.
2. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1) The Election of Rights form advised of the right to an administrative hearing.
3. The parties have since entered into the attached Settlement Agreement. (Ex. 2)

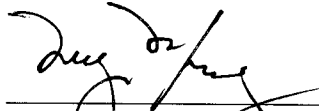
Based upon the foregoing, it is **ORDERED**:

1. The Settlement Agreement is adopted and incorporated by reference into this Final Order. The parties shall comply with the terms of the Settlement Agreement.
2. The Respondent shall pay the Agency \$2,000.00. If full payment has been made, the cancelled check acts as receipt of payment and no further payment is required. If full payment has not been made, payment is due within 30 days of the Final Order. Overdue amounts are subject to statutory interest and may be referred to collections. A check made payable to the "Agency for Health Care Administration" and containing the AHCA ten-digit case number should be sent to:

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

3. Conditional licensure status is imposed on the Respondent beginning on March 31, 2014, and ending on May 1, 2014.

ORDERED at Tallahassee, Florida, on this 6 day of April, 2015.



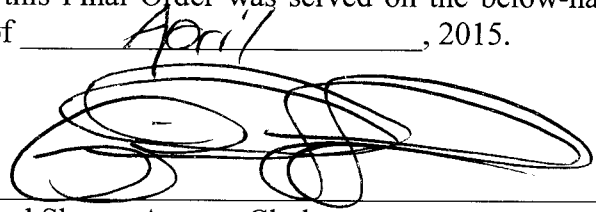
Elizabeth Dudek, Secretary
Agency for Health Care Administration

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 6~~0~~ day of April, 2015.



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)	Finance & Accounting Revenue Management Unit (Electronic Mail)
Thomas J. Walsh II Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	George R. Huffman, Esq. Consulate Health Care 5102 West Laurel Street Suite 700 Tampa, FL 33607 (U.S. Mail)
Hon. William F. Quattlebaum Administrative Law Judge Division of Administrative Hearings (Electronic Mail)	

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

Case Nos. 2014004524

WINTER HAVEN FACILITY
OPERATIONS, LLC d/b/a CONSULATE
HEALTH CARE OF WINTER HAVEN,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW the Agency for Health Care Administration (hereinafter "Agency"), by and through the undersigned counsel, and files this Administrative Complaint against Winter Haven Facility Operations, LLC d/b/a Consulate Health Care of Winter Haven (hereinafter "Respondent"), pursuant to §§120.569 and 120.57 Florida Statutes (2014), and alleges:

NATURE OF THE ACTION

This is an action to change Respondent's licensure status from Standard to Conditional commencing March 31, 2014, and to impose administrative fines in the amount of two thousand five hundred dollars (\$2,500.00), based upon Respondent being cited for one (1) isolated State Class II deficiency.

JURISDICTION AND VENUE

1. The Agency has jurisdiction pursuant to §§ 120.60 and 400.062, Florida Statutes (2014).
2. Venue lies pursuant to Florida Administrative Code R. 28-106.207.

PARTIES

3. The Agency is the regulatory authority responsible for licensure of nursing homes and

EXHIBIT

enforcement of applicable federal regulations, state statutes and rules governing skilled nursing facilities pursuant to the Omnibus Reconciliation Act of 1987, Title IV, Subtitle C (as amended), Chapters 400, Part II, and 408, Part II, Florida Statutes, and Chapter 59A-4, Florida Administrative Code.

4. Respondent operates a one hundred twenty (120) bed nursing home, located at 2701 Lake Alfred Road, Winter Haven, Florida 33881, and is licensed as a skilled nursing facility license number 130470990.

5. Respondent was at all times material hereto, a licensed nursing facility under the licensing authority of the Agency, and was required to comply with all applicable rules, and statutes.

COUNT I

6. The Agency re-alleges and incorporates paragraphs one (1) through five (5), as if fully set forth herein.

7. That pursuant to Florida law, all licensees of nursing homes facilities shall adopt and make public a statement of the rights and responsibilities of the residents of such facilities and shall treat such residents in accordance with the provisions of that statement. The statement shall assure each resident the right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency. § 400.022(1)(1), Fla. Stat. (2013).

8. That Florida law provides the following: “‘Practice of practical nursing’ means the performance of selected acts, including the administration of treatments and medications, in the

care of the ill, injured, or infirm and the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist. A practical nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing.” § 464.003(19), Fla. Stat. (2013).

9. That Florida law provides the following: “A complete, comprehensive, accurate and reproducible assessment of each resident’s functional capacity which is standardized in the facility, and is completed within 14 days of the resident’s admission to the facility and every twelve months, thereafter. The assessment shall be: 1. Reviewed no less than once every 3 months, 2. Reviewed promptly after a significant change in the resident’s physical or mental condition, 3. Revised as appropriate to assure the continued accuracy of the assessment.” Rule 59A-4.109(1)(c), Florida Administrative Code.

10. That on March 31, 2014, the Agency completed a complaint survey visit of Respondent’s facility.

11. That based upon the review of records and interview, Respondent failed to ensure residents receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency, where, inter alia, Respondent failed to timely and appropriately respond to a noted significant change in condition and failed to assess and treat conditions and symptoms which Respondent knew or should have known increased risk related to dehydration, the same violating Respondent’s policy and procedure and minimum requirements of law.

12. That Petitioner's representative reviewed Respondent's policy and procedure entitled "Dehydration Prevention for Environmental or Medical Causes," last revised on 9/1/11, provided by the Director of Nursing (DON), and noted it provided as follows:

- a. "Policy" - "Appropriate medical and nursing care will be provided to residents when the temperature goes above 80 degrees Fahrenheit on resident care units and the air conditioning system is inoperable, or resident has medical condition that puts them at risk for dehydration, i.e.: vomiting/diarrhea, elevated temperature, diuretic usage, etc."
- b. "Procedure" - "If Medical Conditions such as: Fluid loss and increased fluids needs (i.e., diarrhea, fever, uncontrolled diabetes, hot weather, etc.) Step1 - Unless fluids are restricted, they will be offered: 1. With each meal. 2. With each medication administration. 3. At least one other time on day and evening shift while resident is awake. ... Step 5: New dehydration risk factors demonstrated by the resident (i.e., onset of fever, diarrhea, vomiting, significant change in intake/output, refusal to eat or accept fluids, significant increase in edema or weight, etc.) will be described in the PRN nursing notes, and the physician and responsible party will be notified in accordance with the facility notification of change policy. "

13. That Petitioner's representative reviewed Respondent's records related to resident number three (3) during the survey and noted as follows:

- a. The resident is an eighty-seven (87) year old admitted to the facility on February 13, 2014.
- b. Diagnoses included leukocytosis, diabetes mellitus, dementia, urinary tract

infection, hypertension and weakness.

- c. The seven day minimum data set assessment, dated February 20, 2014, revealed under Section C a Brief Interview for Mental Status (BIMS) score of “4” which indicated impaired orientation and recall; Section D revealed the resident independent with eating and drinking with set- up help only; Section H documented incontinent of bowel and bladder; and Section K documented no swallowing disorder.
- d. A "Nursing Home to Hospital Transfer Form," dated March 5, 2014, indicated that the resident was discharged when transported to an acute care hospital, twenty (20) days after admission, with a diagnosis of altered mental status.
- e. The initial physician's orders, dated February 13, 2014, indicated that the resident was to receive a regular, mechanically soft diet with no added salt, and may drink thin liquids.
- f. The Certified Nursing Assistant (CNA) Tracking Form for February and March 2014 reflected as follows:
 - i. The Bowel Function area for February 14 through 28, 2014, indicated that the resident was incontinent of stool at least thirty-seven (37) times during those fourteen (14) days.
 - ii. The Bowel Function area for March 1 through 5, 2014, indicated that the resident was incontinent of stool at least twenty-five (25) times for those five (5) days.
- g. Adding these two sums together reflects that over the course of nineteen (19) days the resident had documentation that the resident was incontinent of stool

sixty-two (62) times.

- h. Lab results reflected a Serology test result dated February 28, 2014; the resident was positive for Clostridium Difficile.
- i. A Basic Metabolic Profile, dated March 5, 2014, documented the resident developed an electrolyte and acid/base imbalance.
- j. The "Fluids Offered" section of the certified nursing assistant Tracking Form for March, 2014, reflected no documentation that fluids were offered on March 1, 2014, for the 7:00 p.m. to 3:00 p.m. shift, no documentation that fluids were offered on March 2, 2014, for the 3:00 p.m. to 11:00 p.m. shift, and no documentation that any fluids were offered to the resident for both shifts from 7:00 a.m. to 11:00 p.m. on March 3 to 4, 2014, when the resident was made "non per ora" (NPO – nothing by mouth) and was receiving no food, fluids or medications by mouth due to a mental status change so severe that she was no longer swallowing.
- k. There was no intake recorded at all for breakfast and lunch on March 1, 2014, and nothing recorded for dinner on March 3, 2014.
- l. The "Daily Skilled Nurse's Notes" for February, 2014, reflected no documentation that indicated fluid status and the prevention of dehydration was being addressed.
- m. The "Daily Skilled Nurse's Notes" for March, 2014, reflected as follows:
 - i. March 1, 2014 - "No Problems" was checked under the section for "Bowel."
 - ii. Although the certified nursing assistants had been documenting frequent

stools, and the resident was diagnosed as having an active C-diff infection, there was no assessment that included checking the resident for signs and symptoms of dehydration, and no interventions documented to provide additional fluids.

- iii. March 2, 2014 - "No Problems" was checked again under the section for "Bowel," although the resident's intake continued to be poor, and diarrhea continued.
- iv. March 3, 2014 - An entry timed 12:55 p.m. indicated that the patient was noted to be "weak and feet cyanotic," and pulse was "irregular."
- v. There was no documentation that the family was notified for this change in condition.
- vi. There was no documentation of what the physician said when he was notified.
- vii. There were no further orders, and no apparent follow-up of this condition change.
- viii. March 4, 2014 - A narrative entry timed 10:00 a.m. on Side 2 indicated that the resident began choking when medications in applesauce had been given. The nurse indicated that she notified speech therapy.
- ix. There was no documentation that the physician and family were notified at that time, only speech therapy.
- x. The next entry timed, 1:30 p.m., indicated that speech therapy recommended that the resident not receive anything by mouth.
- xi. A subsequent entry, timed 2:30 p.m., indicated that the physician was then

notified and orders were received for intravenous fluids and lab tests the following morning.

- xii. March 5, 2014 - An entry timed 8:00 a.m. indicated that normal saline was being infused intravenously as per the orders.
- xiii. The next entry, timed 12:00 p.m., indicated that the resident was transported to the emergency department for further evaluation for dehydration and altered mental status.
- xiv. An SBAR Communication Form dated March 5, 2014, indicated that the physician was called and the request included, "Patient noted being lethargic, change in mental status, unable to swallow. Patient made NPO. Normal saline at 75ml/hour. Family concerns regarding patient condition and wants patient sent to ER."

14. That Petitioner's representative interviewed, on March 19, 2014, the physician for resident number three (3) regarding the resident, and the physician indicated as follows:

- a. He did not recall the resident and referred the surveyor to his documentation in the clinical record that contained two progress notes dated February 19 and 26, 2014.
- b. He reviewed the lab results dated February 28, 2014, that indicated the resident had a C-diff bowel infection, and the basic metabolic profile dated March 5, 2014.
- c. He stated that it appeared that the resident became dehydrated and had a severe infection from the C-diff., and he reviewed his progress notes that included "Gastrointestinal/Abdomen" checked as "normal" on the February

19, 2014, History and Physical.

- d. On the February 26, 2014, progress note he had written, "last BM =?"
- e. There was no documentation in his progress notes regarding the resident's frequent stools and fluid management.
- f. He confirmed he had been unaware of the frequency of diarrhea stools and concerns regarding potential dehydration.
- g. He confirmed that he was made aware of the positive C-diff on February 28, 2014, and treatment began for the C-diff infection as per his orders.

15. That Petitioner's representative interviewed, on March 19, 2014, Respondent's unit manager where resident three (3) was located from admission through March 3, 2014, regarding the resident, and the manager indicated as follows:

- a. The resident "Came in with loose stools, but was negative for C-diff. But, the stool still had the smell of C-diff., so we did another one, and that one was positive. "
- b. She confirmed that residents with diarrhea are at risk for fluid loss and dehydration and such residents should be assessed and encouraged to drink to prevent complications of dehydration.
- c. She thought the resident was only having approximately one stool a day.
- d. She confirmed the documentation of frequent stools on the certified nursing assistant Tracking Form.
- e. She confirmed that "Dehydration/Fluid Management" was not checked as being implemented on the Admission Care Plan.
- f. She was working at the facility on March 4, 2014, and recalled when the

resident had a change in mental status.

- g. Nursing staff was aware that the physician was going to come in the next day, and planned on ensuring that he would see the patient then.
- h. She could not locate any notes that spoke to the resident's fluid status and what was being done to prevent dehydration, since it was a common complication of C- diff.

16. That Petitioner's representative interviewed, on March 19, 2014, Respondent's nurse "B" regarding resident number three (3) and the nurse indicated as follows:

- a. She was assigned to the resident on March 4, 2014.
- b. It was important to ensure a resident's fluid intake was assessed and maintained when they have diarrhea to prevent dehydration.
- c. Nurses and certified nursing assistants are required to provide fluids with each meal and between meals, and assist the residents to drink if necessary.

17. That Petitioner's representative interviewed, on March 31, 2014, Respondent's nurse "A," regarding resident number three (3), who indicated that she had meant to follow up with the physician and make sure that he received the message, but she was moved to the long term care unit. She stated that she gave report to Nurse B.

18. That Petitioner's representative interviewed, on March 21, 2014, Respondent's unit manager where resident three (3) was located from March 3 through 5, 2014, regarding the resident, and the manager confirmed that C-diff is a infection of the gastro-intestinal system associated with severe diarrhea with the potential complication.

19. That the above reflects Respondent's failure to ensure residents receive adequate and appropriate health care and protective and support services, including social services; mental

health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency, where Respondent failed to timely and appropriately respond to a known significant change in condition and knew or should have known a resident suffered from disease and or symptoms indicating increased risk of dehydration, but failed to assess and treat this increased risk of dehydration in violation of facility policy and procedure and law.

20. That the Agency determined that this deficient practice has compromised the resident's ability to maintain or reach his or her highest practicable physical, mental, and psychosocial well-being, as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services. A class II deficiency is subject to a civil penalty of \$2,500 for an isolated deficiency, \$5,000 for a patterned deficiency, and \$7,500 for a widespread deficiency,

21. That Respondent was cited for an isolated Class II deficient practice.

WHEREFORE, the Agency seeks to impose an administrative fine in the amount of two thousand five hundred dollars (\$2,500.00) against Respondent, a skilled nursing facility in the State of Florida, pursuant to § 400.23(8)(b), Florida Statutes (2013).

COUNT II

22. The Agency re-alleges and incorporates paragraphs one (1) through five (5) and Count I of this Complaint as if fully set forth herein.

23. Based upon Respondent's cited State Isolated Class II deficiency, it was not in substantial compliance at the time of the survey with criteria established under Part II of Florida Statute 400, or the rules adopted by the Agency, a violation subjecting it to assignment of a conditional licensure status under § 400.23(7)(a), Florida Statutes (2013).

WHEREFORE, the Agency intends to assign a conditional licensure status to Respondent, a skilled nursing facility in the State of Florida, pursuant to § 400.23(7), Florida Statutes (2013) commencing March 31, 2014.

Respectfully submitted this 27 day of August, 2014.

Thomas J. Walsh II, Esquire
Fla. Bar. No. 566365
Agency for Health Care Admin.
525 Mirror Lake Drive, 330G
St. Petersburg, FL 33701
727.552.1947 (office)
walsht@ahca.myflorida.com

DISPLAY OF LICENSE

Pursuant to § 400.23(7)(e), Fla. Stat. (2013), Respondent shall post the most current license in a prominent place that is in clear and unobstructed public view, at or near, the place where residents are being admitted to the facility.

Respondent is notified that it has a right to request an administrative hearing pursuant to Section 120.569, Florida Statutes. Respondent has the right to retain, and be represented by an attorney in this matter. Specific options for administrative action are set out in the attached Election of Rights.

All requests for hearing shall be made to the attention of: ***The Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Bldg #3, MS #3, Tallahassee, Florida, 32308, (850) 412-3630.***

RESPONDENT IS FURTHER NOTIFIED THAT A REQUEST FOR HEARING MUST BE RECEIVED WITHIN 21 DAYS OF RECEIPT OF THIS COMPLAINT OR WILL RESULT IN AN ADMISSION OF THE FACTS ALLEGED IN THE COMPLAINT AND THE ENTRY OF A FINAL ORDER BY THE AGENCY.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Certified Mail, Return Receipt No: 7013 2250 0001 4950 4766 on August 27, 2014 to Tyrus Hawkins, Administrator, Winter Haven Facility Operations, LLC d/b/a Consulate Health Care of Winter Haven, 2701 Lake Alfred Road, Winter Haven, Florida 33881, and by Regular

U.S. Mail to Corporation Service Company, Registered Agent for Winter Haven Facility
Operations, LLC 1201 Hays Street, Tallahassee, FL 32301-2525.

Thomas J. Walsh, II, Esquire

Copies furnished to: Patricia R. Caufman, FOM

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

**RE: Winter Haven Facility Operations, LLC
d/b/a Consulate Health Care of Winter Haven**

CASE NO. 2014004524

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 **Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine or Administrative Complaint**.

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

If your Election of Rights with your selected 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 according to Chapter 120, Florida Statutes (2006) 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: 850-412-3630 Fax: 850-921-0158.

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS

OPTION ONE (1) _____ I admit to the allegations of facts 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 to the allegations of facts contained in the Notice of Intent to Impose a Late Fee, the Notice of Intent to Impose a Late Fine, 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 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, and 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: _____ (ALF? nursing home? medical equipment? Other type?)

Licensee Name: _____ License number: _____

Contact person: _____

Name Title

Address: _____

Street and number City Zip Code

Telephone No. _____ Fax No. _____ Email(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 licensee referred to above.

Signed: _____ Date: _____

Print Name: _____ Title: _____



RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

June 6, 2014

Tyrus Hawkins, Administrator
Consulate Health Care Of Winter Haven
2701 Lake Alfred Rd
Winter Haven, FL 33881

File Number: 35960929
License Number: 130470990
Provider Type: Nursing Home

RE: 2701 Lake Alfred Rd, Winter Haven

Dear Administrator:

The enclosed Nursing Home license with license number 130470990 and certificate number 18900 is issued for the above provider effective March 31, 2014 through September 30, 2014. The license is being issued for a status change to Conditional.

Review your certificate thoroughly to ensure that all information is correct and consistent with your records. If errors are noted, please contact the Long Term Care Unit.

Please take a short customer satisfaction survey on our website at ahca.myflorida.com/survey/ to let us know how we can serve you better. Additional licensure information can be found at <http://ahca.myflorida.com/longtermcare>.

If we may be of further assistance, please contact me by phone at 850-412-4427 or by email at Kathleen.Munn@ahca.myflorida.com.

Sincerely,

Kathleen Munn
Health Services and Facilities Consultant
Long Term Care Unit
Division of Health Quality Assurance



CERTIFICATE #: 18900

LICENSE #: SNF130470990

State of Florida

AGENCY FOR HEALTH CARE ADMINISTRATION
DIVISION OF HEALTH QUALITY ASSURANCE

NURSING HOME

CONDITIONAL

This is to confirm that WINTER HAVEN FACILITY OPERATIONS, LLC has complied with the rules and regulations adopted by the State of Florida, Agency For Health Care Administration, authorized in Chapter 400, Part II, Florida Statutes, and as the licensee is authorized to operate the following:

CONSULATE HEALTH CARE OF WINTER
HAVEN

2701 Lake Alfred Rd
Winter Haven, FL 33881

TOTAL: 120 BEDS

Status Change

EFFECTIVE DATE 03/31/2014

EXPIRATION DATE: 09/30/2014

Molly J. Kennedy
Deputy Secretary, Division of Health Quality Assurance



RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

June 6, 2014

Tyrus Hawkins, Administrator
Consulate Health Care Of Winter Haven
2701 Lake Alfred Rd
Winter Haven, FL 33881

File Number: 35960929
License Number: 130470990
Provider Type: Nursing Home

RE: 2701 Lake Alfred Rd, Winter Haven

Dear Administrator:

The enclosed Nursing Home license with license number 130470990 and certificate number 18901 is issued for the above provider effective May 1, 2014 through September 30, 2014. The license is being issued for approval of a status change back to Standard.

Review your certificate thoroughly to ensure that all information is correct and consistent with your records. If errors are noted, please contact the Long Term Care Unit.

Please take a short customer satisfaction survey on our website at ahca.myflorida.com/survey/ to let us know how we can serve you better. Additional licensure information can be found at <http://ahca.myflorida.com/longtermcare>.

If we may be of further assistance, please contact me by phone at 850-412-4427 or by email at Kathleen.Munn@ahca.myflorida.com.

Sincerely,

Kathleen Munn
Health Services and Facilities Consultant
Long Term Care Unit
Division of Health Quality Assurance



CERTIFICATE #: 18901

LICENSE #: SNF130470990

State of Florida

AGENCY FOR HEALTH CARE ADMINISTRATION
DIVISION OF HEALTH QUALITY ASSURANCE

NURSING HOME

STANDARD

This is to confirm that WINTER HAVEN FACILITY OPERATIONS, LLC has complied with the rules and regulations adopted by the State of Florida, Agency For Health Care Administration, authorized in Chapter 400, Part II, Florida Statutes, and as the licensee is authorized to operate the following:

CONSULATE HEALTH CARE OF WINTER
HAVEN

2701 Lake Alfred Rd
Winter Haven, FL 33881

TOTAL: 120 BEDS

Status Change

EFFECTIVE DATE 05/01/2014

EXPIRATION DATE: 09/30/2014



Deputy Secretary, Division of Health Quality Assurance

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

DOAH CASE NO. 14-4350

AHCA NO. 2014004524

WINTER HAVEN FACILITY OPERATIONS, LLC d/b/a
CONSULATE HEALTH CARE OF WINTER HAVEN,

Respondent.

SETTLEMENT AGREEMENT

Petitioner, State of Florida, Agency for Health Care Administration (hereinafter the "Agency"), through its undersigned representatives, and Respondent, Winter Haven Facility Operations, LLC d/b/a Consulate Health Care of Winter Haven (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 nursing home licensed pursuant to Chapters 400, Part II, and 408, Part II, Florida Statutes, Section 20.42, Florida Statutes and Chapter 59A-4, Florida Administrative Code; and

WHEREAS, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over Respondent, pursuant to Chapters 400, Part II, and 408, Part II, Florida Statutes; and

WHEREAS, the Agency served Respondent with an administrative complaint on or about August 23, 2014, notifying the Respondent of its intent to impose administrative fines in

EXHIBIT

FEB 19 2015

the amount of two thousand five hundred dollars (\$2,500.00) and to impose conditional licensure status commencing March 31, 2014; 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, Respondent agrees to waive any and all appeals and proceedings to which it may be entitled related to this state proceeding 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 two thousand dollars (\$2,000.00) to the Agency within thirty (30) days of the entry of the Final Order. Respondent also accepts the imposition conditional licensure status commencing March 31, 2014, and ending May 1, 2014.
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 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, pursuant to the provisions of Chapters 400, Part II, 408, Part II, Florida Statutes, and Chapter 59A-4, Florida Administrative Code, including a "repeat" or "uncorrected" deficiency identified in the Survey. In said event, Respondent retains the right to challenge the factual allegations related to the deficient practices/ violations alleged in the instant cause.

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, 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 Survey. This agreement does not prohibit the Agency from taking action regarding Respondent's Medicaid provider status, conditions, requirements or contract.

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.

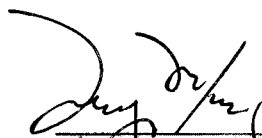
13. In the event that Respondent was a Medicaid provider at the subject time of the occurrences alleged in the complaint herein, this settlement does not prevent the Agency from seeking Medicaid overpayments related to the subject issues or from imposing any sanctions pursuant to Rule 59G-9.070, Florida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

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.

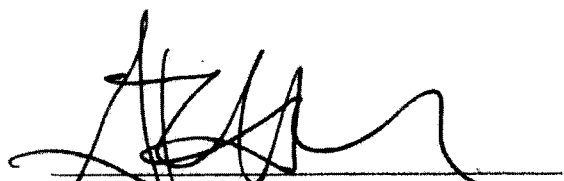
The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.


 Molly McKinstry, Deputy Secretary
 Health Quality Assurance
 Agency for Health Care Administration
 2727 Mahan Drive, Building #1
 Tallahassee, Florida 32308

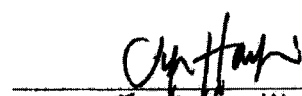
DATED: 4/6/15


 Stuart F. Williams, General Counsel
 Office of the General Counsel
 Agency for Health Care Administration
 2727 Mahan Drive, MS #3
 Tallahassee, Florida 32308
 Florida Bar No. 670731

DATED: 3/22/15


 George R. Huffman, Esq.
 Counsel for Respondent
 5102 West Laurel Street
 Suite 700
 Tampa, Florida 33607
 Florida Bar No. 110955

DATED: 3/2/15


 Name: Tyrus Hawkins
 Title: Executive Director
 Winter Haven Facility Operations, LLC

DATED: 2/25/15

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Thomas J. Walsh II, Senior Attorney
Office of the General Counsel
Agency for Health Care Administration
525 Mirror Lake Drive North, Suite 330G
St. Petersburg, Florida 33701
Florida Bar No. 566365

DATED: 3/4/15