STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DAHLIA BARNHART, BY AND THROUGH
HER PARENT AND NATURAL GUARDIAN,
MORIAH BARNHART,

Petitioner,

vs. Case No. 15-1271RP

DEPARTMENT OF HEALTH,

Respondent.
_____/

FINAL ORDER OF DISMISSAL

Respondent Department of Health (Respondent or Department) seeks dismissal of this proposed rule challenge, contending that Petitioner lacks the requisite standing. After Respondent filed a motion to dismiss with supporting authorities and Petitioner was given several opportunities to respond and offer countervailing authorities, an Order was issued granting the motion to dismiss, without prejudice to Petitioner filing an amended petition. Petitioner declined to act on the opportunity provided. Accordingly, for the reasons set forth below, the Petition is dismissed, as the factual allegations are insufficient to show that Petitioner has standing to maintain this proposed rule challenge.

APPEARANCES

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PRELIMINARY STATEMENT

On March 11, 2015, Petitioner Dahlia Barnhart, by and through her parent and natural guardian, Moriah Barnhart (Petitioner), filed a Petition to Challenge Proposed Rule 64-4.002 as [an] Invalid Exercise of Delegated Legislative Authority (Petition).

The proposed rule challenge was assigned to the undersigned on March 16, 2015. On March 18, 2015, the final hearing was set for April 14, 2015, and an Order of Pre-Hearing Instructions was issued establishing accelerated procedures and deadlines, including shortened discovery deadlines, to comport with the expedited nature of a proposed rule challenge proceeding. See generally § 120.56(1) and (2), Fla. Stat. (2014).[1/] The parties were directed to initiate any needed discovery immediately.

On March 19, 2015, Respondent served interrogatories on Petitioner. The shortened deadline for Petitioner to serve its

written responses, with answers and any objections, was March 24, 2015.

On March 23, 2015, Respondent served its first request for production on Petitioner. The shortened deadline for Petitioner to serve its written responses, including any objections, was March 30, 2015.

On March 26, 2015, Respondent filed two motions: a motion to dismiss, which set forth authorities and argument to support the contention that Petitioner lacks standing; and a motion to compel answers to interrogatories based on Petitioner's failure to timely serve any written responses to Respondent's interrogatories by the shortened deadline.

In an Order to Petitioner to Show Cause issued on March 26, 2015, Petitioner was directed to show cause by no later than noon on March 30, 2015, as to why Respondent's motion to dismiss should not be granted. In addition, a telephonic hearing on pending motions was coordinated with counsel and scheduled for 3:00 p.m. on March 30, 2015.

Petitioner did not submit any written argument or countervailing authorities to respond to those presented in the motion to dismiss, as directed by the Order to Show Cause.

A telephonic motion hearing was held as noticed, and counsel for both parties participated in the fairly lengthy discussion of the standing issues raised by Respondent's motion to dismiss and

the discovery compliance problem raised by Respondent's motion to compel. At the conclusion of the hearing, the undersigned ruled that the motion to dismiss would be granted without prejudice and that the motion to compel would be conditionally granted, conditioned on Petitioner taking the opportunity to file an amended petition. Counsel for Petitioner was asked how much time was needed to amend the Petition to address the deficiencies in the standing allegations that had been discussed at length, and counsel ultimately responded that three days would be sufficient. Counsel for Petitioner also indicated that he had written responses to the interrogatories prepared, but had not served them yet; counsel claimed that he was waiting because of the pending motion to dismiss.

It was agreed that the deadline for Petitioner to file an amended petition would be April 3, 2015--allowing four days instead of three--so that if Petitioner chose to file an amended petition, then Petitioner also would be required to serve complete answers to Respondent's interrogatories by the April 3, 2015, deadline. In addition, it was noted that if Petitioner wanted to proceed with the proposed rule challenge, as evidenced by filing an amended petition and answers to interrogatories by April 3, 2015, then Petitioner would also have to address Respondent's document production, which would then be past due.

The rulings announced on March 30, 2015, were reduced to a written Order Granting Motion to Dismiss, Without Prejudice, and Conditionally Granting Motion to Compel Interrogatory Answers, issued on April 1, 2015.

Petitioner chose not to file or serve an amended petition or answers to interrogatories by the deadline of April 3, 2015, nor did Petitioner seek an extension of that deadline before it expired.

On April 6, 2015, Respondent filed its Motion for Final Order of Dismissal With Prejudice, asserting that Petitioner must be deemed to have abandoned the proposed rule challenge by failing to comply with the deadline established by the foregoing Order. It is unnecessary to await a response to this motion; Petitioner has been afforded multiple opportunities to respond to the arguments and authority presented in Respondent's March 26, 2015, motion to dismiss. The relief sought by the April 6, 2015, motion is appropriate without regard to that motion, as it was made clear to Petitioner that the proceeding would stand dismissed if Petitioner did not timely file an amended petition curing the deficiencies discussed at length in the telephonic motion hearing. Petitioner chose, by inaction, to allow for final dismissal of this action, rather than comply with the Order requiring an amended petition and answers to discovery.

FINDINGS OF FACT

1. On February 6, 2015, Respondent published a notice of proposed rulemaking in the Florida Administrative Register. The notice set forth the text of six proposed rules to implement the Compassionate Medical Cannabis Act of 2014 (the Act), chapter 2014-157, Laws of Florida, codified as section 381.986, Florida Statutes.[2/]

2. The Petition is directed to only one of the proposed rules: proposed Florida Administrative Code Rule 64-4.002, entitled "Initial Application Requirements for Dispensing Organizations." As part of the challenge to proposed rule 64-4.002, the Petition also "questions" the composition of a negotiated rulemaking committee used by Respondent to develop the proposed rules and the adequacy of Respondent's Revised Statement of Regulatory Costs (Revised SERC).

3. Facts related to Petitioner are contained in two paragraphs, which set forth both factual allegations and conclusions offered to support Petitioner's standing. In their entirety, the two paragraphs related to Petitioner provide:

> Petitioner is a 4[-]year[-]old child living in the State of Florida who has been diagnosed with an inoperable brain tumor who is currently using medical cannabis extracts to treat her condition. For purposes of this proceeding, Petitioner can be contacted through her undersigned counsel.

> Petitioner is eligible under the Act and plans to register with the Office of Compassionate Use Registry to become a "qualified patient" for the medical use of low THC cannabis and thus is "substantially affected" and has standing to challenge the proposed rule. Florida Statutes § 120.56(2)(a).

Petition, ¶¶ 4, 5.

4. The Petition does not contain factual allegations describing any injuries that Petitioner would suffer by application of the challenged proposed rule if it were adopted.

5. The Petition contains some general allegations of harm without an adopted rule because of a "desperate need for access to low THC cannabis." The Petition alleges that the Act requires expedited promulgation of rules, which is imperative because the "selected applicants will be responsible for ensuring access to ordered medication, with greater risk of public injury if there is no access to medicine." (Petition, ¶ 14). In seeming contradiction, though, the Petition also alleges that "numerous corporations can now lawfully ship laboratory tested low-THC cannabis based food product and cosmetics to all 50 States without a prescription[.]" (Petition, ¶ 21, footnote omitted). Most favorably construed to Petitioner, these allegations suggest some general harm caused by the delay in getting a rule in place, but do not suggest harm that would be suffered by Petitioner ("who is currently using medical cannabis extracts") nor harm caused by application of the proposed rule.

6. The Petition also includes allegations of harm to potential applicants eligible to become dispensing organizations caused by an "overly burdensome" application, scoring, and selection process in the proposed rule. Petitioner alleges that the burdensome process to select dispensing organizations has "no reasonable justification given the safety profile of low-THC cannabis as one of the safest substances known to man and the urgent need for this medicine for thousands of critically ill patients." (Petition, ¶ 16). The Petition complains about "an unauthorized arbitrary selection committee to choose among eligible applicants based on a complex and overly burdensome scoring system[,]" from which the Petition concludes: "Overall, the proposed rule fails to provide any objective methods to determine whether an eligible applicant is superior at growing low-THC cannabis or filling out a lengthy application." (Petition, ¶ 19). Finally, the Petition characterizes the proposed rule as an "attempt to eliminate applicants' rights to challenge the selection by comparative administrative review." (Petition, ¶ 21). But the Petition does not allege that Petitioner is an eligible applicant whose rights allegedly would be burdened or harmed in these ways.

7. Finally, the Petition raises a general concern about the proposed rule's failure to consider or address the economic impact to patients of having to pay for purchases of low-THC

cannabis from dispensing organizations. (Petition, ¶ 22). Here, too, the concern is expressed generally and is not attributed to Petitioner. Although not entirely clear, it appears that this allegation is intended as a criticism of the Revised SERC by suggesting a "cost" that should have been considered.

CONCLUSIONS OF LAW

8. The Division of Administrative Hearings has jurisdiction over the parties and subject matter. §§ 120.56(1) & (2), 120.569, and 120.57, Fla. Stat.

9. Standing to challenge proposed or existing administrative rules is governed by statute. Section 120.56(1)(a) provides that "[a]ny person substantially affected by a rule or a proposed rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority."

10. Section 120.56(1)(b) sets particular pleading standards for a petition challenging a proposed rule, as follows:

> The petition seeking an administrative determination must state with particularity the provisions alleged to be invalid with sufficient explanation of the facts or grounds for the alleged invalidity and facts sufficient to show . . . that the person challenging a proposed rule would be substantially affected by it.

11. The "substantially affected" test for standing requires that a proposed rule challenger first allege, and ultimately prove, facts sufficient to show the challenger will suffer a real and sufficiently immediate injury in fact by application of the proposed rule and that the asserted interest is arguably within the zone of interest to be protected or regulated. See, e.g., Off. of Ins. Reg. v. Secure Enters., LLC., 124 So. 3d 332, 336 (Fla. 1st DCA 2013); Fla. Bd. of Med. v. Fla. Acad. of Cosmetic Surgery, Inc., 808 So. 2d 243, 250 (Fla. 1st DCA 2002); Ward v. Bd. of Trs. of the Int. Imp. Trust Fund, 651 So. 2d 1236, 1237-1238 (Fla. 4th DCA 1995); and Fla. Med. Ass'n, Inc. v. Dep't of Prof'l Reg., 426 So. 2d 1112, 1114 (Fla. 1st DCA 1983).

12. The requirement that a petitioner plead a real and sufficiently immediate injury in fact is not met by allegations of potential injuries that are speculative, abstract, conjectural, or hypothetical. Fla. Med. Ass'n, 426 So. 2d at 1114 n.4, and 1118. The pleading requirement for the zone of interest element of the standing test looks to whether the challenger asserts that the challenged proposed rule encroaches upon an interest protected by a statute or constitutional right. Id. at 1117; Ward, 651 So. 2d at 1238.

13. Respondent argues in its motion to dismiss that the standing case presenting issues most like those here is Florida Medical Association. At issue in Florida Medical Association was

the standing of various challengers to a proposed rule by the Board of Optometry "purporting to set standards for the prescribing of certain drugs by optometrists, and providing guidelines for the determination of the competence of optometrists to use and prescribe drugs in their practice." Fla. Med. Ass'n, 426 So. 2d at 1112-1113. The hearing officer determined that the standing allegations were insufficient and dismissed the challenges by a licensed Florida physician specializing in opthalmology, two associations whose members were medical doctors and opthalmologists, a pharmacist, and a patient of an optometrist. On appeal, the court reversed as to the physician and the two associations representing physicians and opthalmologists, finding that standing was established by their allegations that they would suffer economic injury if the proposed rule were adopted and that the proposed rule encroached on their exclusive statutory and property right to use and prescribe drugs as part of the licensed practice of medicine. However, pertinent here, the court affirmed the dismissal of the pharmacist and the optometric patient for lack of standing. The pharmacist alleged concern about getting in trouble for filling optometrists' prescriptions for drugs, which was contrary to the directions of the Board of Pharmacy, or incurring economic loss if he did not fill those prescriptions. Id. at 1113 n.3. The court determined: "[W]hile [the pharmacist] may be 'interested'

in whether the rule is valid or invalid, he has not demonstrated an injury except in the abstract or speculative sense, which is not sufficient." Id. at 1118. The allegations offered to support the optometric patient's standing were that he currently receives, and would continue to need, eye care from an optometrist, but if the proposed rule was adopted, the patient would either have to stop using an optometrist or hope that he would not be injured by the optometrist's use of drugs, which the patient believed exceeded the scope of optometric practice authorized by the licensing laws. These allegations were determined insufficient to show an injury in fact, in that the potential injury was speculative, nonspecific and hypothetical, lacking in immediacy and reality. The hearing officer noted that the patient could avoid injury by simply refusing optometric treatment that involved use of drugs, thereby maintaining the status quo that existed without the rule. Id. at 1114 n.4. The court found this reasoning persuasive. Id. at 1118.

14. Respondent's motion to dismiss contends that similar reasoning requires a determination that Petitioner lacks standing. In ruling on the adequacy of the Petition to meet the threshold pleading requirements to establish Petitioner's standing, the factual allegations in the Petition are accepted as true and are construed in a light favorable to Petitioner. Consideration of factual matters has been limited to the four

corners of the Petition and the attachments incorporated as exhibits thereto. See Altee v. Duval Cnty. Sch. Bd., 990 So. 2d 1124, 1129 (Fla. 1st DCA 2008).

15. When judged by the standards set forth above, the Petition is insufficient. The factual allegations fail to show that Petitioner would be substantially affected by proposed rule 64-4.002, if it were adopted. The Petition does not get past the first part of the standing test, as it is devoid of factual allegations showing that Petitioner will suffer a real or sufficiently immediate injury in fact caused by application of the proposed rule. The Petition does not even allege that Petitioner will suffer potential injuries that are abstract, hypothetical, conjectural, or speculative, as the optometric patient and pharmacist did in Florida Medical Association.

16. Indeed, the Petition's claim for standing is based solely on allegations and conclusions that Petitioner's condition renders her "eligible" under the Act and that Petitioner "plans to register with the" compassionate use registry for medical use of low-THC cannabis. In other words, in the language of the Act, the Petition concludes that Petitioner is eligible for "qualified patient" status. Even if the factual allegations were sufficient to show that Petitioner is, or is reasonably expected to become, a "qualified patient" under the Act, that status alone would not suffice to meet the standing test; the Petition would still have

to plead facts sufficient to meet the injury in fact and zone of interest tests. But the Petition does not even allege sufficient facts to support the claimed status relied on as a predicate for standing--that Petitioner is eligible for "qualified patient" status.

17. Pursuant to the Act, a "qualified patient" is defined as a resident of Florida who has been added to the compassionate use registry by a physician licensed under chapters 458 or 459, Florida Statutes, to receive low-THC cannabis from a dispensing organization. § 381.986(1)(d), Fla. Stat. The Petition alleges that Petitioner plans to register; although it will not be possible for Petitioner to register herself (because only physicians are permitted to add patients to the registry), construed most favorably to Petitioner, this allegation is interpreted to mean that Petitioner plans to have a Florida-licensed physician add her to the registry.

18. The Petition fails to allege the factual predicate necessary to show that Petitioner's plans in this regard are likely or even possible. Section 381.986(2) identifies a very narrow class of patients for whom a physician can consider this option. In addition, the statute imposes several conditions precedent that must be met before a physician is permitted to add a patient to the registry to receive low-THC cannabis from a dispensing organization. The Petition does not allege facts to

show that these statutory requirements are or can be met. The statute provides:

> Effective January 1, 2015, a physician licensed under chapter 458 or chapter 459 who has examined and is treating a patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms may order for the patient's medical use low-THC cannabis to treat such disease, disorder, or condition or to alleviate symptoms of such disease, disorder, or condition, if no other satisfactory alternative treatment options exist for that patient and all of the following conditions apply:
>
> (a) The patient is a permanent resident of this state.
>
> (b) The physician determines that the risks of ordering low-THC cannabis are reasonable in light of the potential benefit for that patient. If a patient is younger than 18 years of age, a second physician must concur with this determination and such determination must be documented in the patient's medical record.
>
> (c) The physician registers as the orderer of low-THC cannabis for the named patient on the compassionate use registry maintained by the department and updates the registry to reflect the contents of the order. . . .
>
> (d) The physician maintains a patient treatment plan that includes the dose, route of administration, planned duration, and monitoring of the patient's symptoms and other indicators of tolerance or reaction to the low-THC cannabis.
>
> (e) The physician submits the patient treatment plan quarterly to the University of Florida College of Pharmacy for research on

> the safety and efficacy of low-THC cannabis on patients.
>
> (f) The physician obtains the voluntary informed consent of the patient or the patient's legal guardian to treatment with low-THC cannabis after sufficiently explaining the current state of knowledge in the medical community of the effectiveness of treatment of the patient's condition with low-THC cannabis, the medically acceptable alternatives, and the potential risks and side effects.

19. The allegations regarding Petitioner's medical condition are insufficient to describe a condition that would render Petitioner potentially eligible for a physician's order to receive low-THC cannabis. The Petition alleges that Petitioner has an inoperable brain tumor, but the Petition does not allege that Petitioner's condition falls within the narrow parameters of the Act, that is, that Petitioner has cancer or that Petitioner's medical condition chronically causes seizures or muscle spasms.[3/]

20. Similarly, although the Petition alleges that Petitioner is "currently using medical cannabis extracts to treat her condition[,]" the Petition fails to allege that Petitioner is being treated by a physician licensed under chapter 458 or chapter 459, much less that such Florida-licensed treating physician has made or will make the determinations required by section 381.986(2), and has complied or will comply with all of the conditions precedent imposed by that law. Indeed, the very allegation that Petitioner "is currently using medical cannabis

extracts to treat her condition" is notable by the absence of the "low-THC" qualifier, which would be the only type of medical cannabis treatment permitted under the Act.

21. Without factual allegations that answer these questions and fill in these gaps, the Petition's conclusion that "Petitioner is eligible under the Act" cannot be credited nor can the Petition's allegation that Petitioner "plans to register with the Office of Compassionate Use Registry to become a 'qualified patient[.]'"

22. "Qualified patient" status, when adequately alleged, might, hypothetically, be sufficient as part of the predicate for standing to challenge rules implementing the Act. For example, as discussed in the telephonic motion hearing, pursuant to the Act, the Department is to authorize "the establishment of five dispensing organizations to ensure reasonable statewide accessibility and availability as necessary for patients registered in the compassionate use registry and who are ordered low-THC cannabis under this section, one in each of" five geographic regions, identified generally as northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida. § 381.986(5)(b), Fla. Stat. One of the proposed rules not challenged by Petitioner allocates each Florida county to one of the five geographic regions. It is conceivable that a petitioner who could show "qualified patient"

status could sufficiently plead standing to challenge the rule allocation of counties to the geographic regions, if the claim was that the allocation was contrary to the statutory designation of geographic regions, which was intended to protect the qualified patient's interest in reasonable access.

23. Respondent argued that a "qualified patient" could never have standing to challenge proposed rule 64-4.002, because that rule only addresses the application requirements, scoring, and selection process for dispensing organizations. It is true that a "qualified patient" would not be directly regulated or subject to the requirements of proposed rule 64-4.002. However, the undersigned is unwilling to conclude, and it is unnecessary to conclude, that a "qualified patient" could not, as a matter of law, allege a sufficient injury or protected interest implicated by rule 64-4.002. Instead, it is concluded only that the Petition at issue here fails to allege sufficient facts to show that this Petitioner has standing to challenge proposed rule 64-4.002, for all of the reasons previously stated.

24. While Petitioner was given an opportunity to attempt to amend the petition to address the deficiencies in the standing allegations, in two respects, the Petition was not curable. First, to the extent the Petition sought to challenge the validity of proposed rule 64-4.002 because of Petitioner's "questions" about the composition of the group participating in

negotiated rulemaking to develop the proposed rule language, that contention must be rejected.

25. Negotiated rulemaking is an approved rule development procedure intended for the type of situation the Department was addressing. Section 120.54(2)(d) provides:

> 1. An agency may use negotiated rulemaking in developing and adopting rules. The agency should consider the use of negotiated rulemaking when complex rules are being drafted or strong opposition to the rules is anticipated. The agency should consider, but is not limited to considering, whether a balanced committee of interested persons who will negotiate in good faith can be assembled, whether the agency is willing to support the work of the negotiating committee, and whether the agency can use the group consensus as the basis for its proposed rule. Negotiated rulemaking uses a committee of designated representatives to draft a mutually acceptable proposed rule.
>
> 2. An agency that chooses to use the negotiated rulemaking process described in this paragraph shall publish in the Florida Administrative Register a notice of negotiated rulemaking that includes a listing of the representative groups that will be invited to participate in the negotiated rulemaking process. Any person who believes that his or her interest is not adequately represented may apply to participate within 30 days after publication of the notice. All meetings of the negotiating committee shall be noticed and open to the public pursuant to the provisions of this chapter. The negotiating committee shall be chaired by a neutral facilitator or mediator.
>
> 3. The agency's decision to use negotiated rulemaking, its selection of the representative groups, and approval or denial

> of an application to participate in the negotiated rulemaking process are not agency action. Nothing in this subparagraph is intended to affect the rights of an affected person to challenge a proposed rule developed under this paragraph in accordance with s. 120.56(2).

26. As section 120.54(2)(d)3. makes clear, the Department's decisions regarding use of the negotiated rulemaking process, selection of the representative groups, and approval or denial of individual applications to participate are deemed "not agency action," meaning that they are not subject to challenge. While the use of negotiated rulemaking to develop a proposed rule does not preclude an otherwise proper proposed rule challenge, Petitioner's complaints about that process are not grounds for challenging the proposed rule.

27. The second area of insufficiency that would not have been curable by amending the Petition is with respect to the apparent attempt to question the adequacy of the Department's Revised SERC. An inadequate SERC might be grounds for challenging a rule as an invalid exercise of delegated statutory authority, if the argument is that "[t]he rule imposes regulatory costs <u>on the regulated person, county, or city</u> which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives." § 120.52(8)(f), Fla. Stat. (emphasis added). Where, as here, the Department prepared a SERC and Revised SERC, then the adequacy of

the Revised SERC is subject to challenge if a lower cost regulatory alternative was timely submitted and rejected, and the challenge is lodged by someone who is substantially affected by the rejection of the offered lower-cost regulatory alternative. § 120.541(1)(g), Fla. Stat.

28. The Petition sets forth no predicate allegations regarding the grounds in section 120.52(8)(f) or the requirements in section 120.541 for challenging the adequacy of a revised SERC. The only factual allegation raised regarding any "costs" is the general allegation that the Department did not consider the economic impact to patients who will have to pay the cost of purchasing low-THC cannabis from dispensing organizations. That allegation does not raise an issue of regulatory costs.

29. Respondent's argument in the motion to dismiss that Petitioner lacks standing to challenge the Revised SERC is correct. Petitioner offered no response to this argument, either in writing or in argument in the telephonic motion hearing.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, it is ORDERED that the Petition to Challenge Proposed Rule 64-4.002 as Invalid Exercise of Delegated Legislative Authority is DISMISSED, with prejudice.

DONE AND ORDERED this 10th day of April, 2015, in Tallahassee, Leon County, Florida.

ELIZABETH W. MCARTHUR
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Filed with the Clerk of the
Division of Administrative Hearings
this 10th day of April, 2015.

ENDNOTES

[1/] References to Florida Statutes are to the 2014 codification.

[2/] The proposed rules published on February 6, 2015, represent Respondent's second attempt at rulemaking to implement the Act. The first effort was challenged by several parties (not including Petitioner) and invalidated by Final Order that was not appealed. Costa Farms, LLC, et al. v. Dep't of Health, Case Nos. 14-4296RP, 14-4299RP, 14-4517RP, & 14-4547RP (Fla. DOAH Nov. 14, 2014).

[3/] As discussed with counsel for Petitioner in the telephonic motion hearing, the omission of additional facts that would bring Petitioner within the narrow class of potentially eligible patients would seem easy enough to cure if the additional facts were true. Counsel for Petitioner was specifically invited to cure this pleading deficiency by amending the petition, but chose not to. The undersigned draws no inference from Petitioner's failure to file an amended petition along with interrogatory answers that it was because of an inability to cure this particular pleading deficiency. Instead, Petitioner may have chosen not to proceed with the proposed rule challenge because of an inability to cure the other pleading deficiencies discussed herein, because of an unwillingness to comply with the Order compelling interrogatory answers or bear the consequences for

failing to do so, because of an unwillingness to submit to the other requirements that come with party status in the administrative litigation Petitioner initiated, or because of some other reason.

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy of the notice, accompanied by any filing fees prescribed by law, with the clerk of the District Court of Appeal in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law.