

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2019 SEP 12 A 10:45

CGH HOSPITAL, LTD., d/b/a CORAL
GABLES HOSPITAL; TENET HIALEAH
HEALTHSYSTEM, INC., d/b/a HIALEAH
HOSPITAL; AND LIFEMARK HOSPITALS
OF FLORIDA, INC., d/b/a PALMETTO
GENERAL HOSPITAL,

Petitioners,

DOAH No. 19-0215CON
AHCA No. 2019000367
CON No. 10550

vs.

EAST FLORIDA – DMC, LLC, and
STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondents.

VARIETY CHILDREN'S HOSPITAL d/b/a
NICKLAUS CHILDREN'S HOSPITAL, and
VARIETY CHILDREN'S HOSPITAL, d/b/a
THE MIAMI MEDICAL CENTER,

Petitioners,

DOAH No. 19-0216 CON
AHCA No. 2019000346
CON No. 10550

vs.

EAST FLORIDA – DMC, INC., and
STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondents.

THE PUBLIC HEALTH TRUST OF
MIAMI-DADE COUNTY, FLORIDA,
d/b/a JACKSON HOSPITAL WEST,

Petitioner,

vs.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

DOAH No. 19-0221CON
AHCA No. 2019000387
CON Nos. 10550, 10551

CGH HOSPITAL, LTD. d/b/a CORAL
GABLES HOSPITAL; TENET HIALEAH
HEALTHSYSTEM, INC., d/b/a HIALEAH
HOSPITAL; AND LIFEMARK HOSPITALS
OF FLORIDA, INC. d/b/a PALMETTO
GENERAL HOSPITAL,

Petitioners,

vs.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION, and
THE PUBLIC HEALTH TRUST OF
MIAMI-DADE COUNTY, FLORIDA, d/b/a
JACKSON HOSPITAL WEST,

Respondent.

DOAH No. 19-0222CON
AHCA No. 2019000341
CON No. 10551

EAST FLORIDA – DMC, INC.,

Petitioner,

DOAH No. 19-0223CON
AHCA No. 2019000365
CON No. 10551

vs.

THE PUBLIC HEALTH TRUST OF
MIAMI-DADE COUNTY, FLORIDA and
STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondents.

KENDALL HEALTHCARE GROUP,
LTD d/b/a KENDALL REGIONAL
MEDICAL CENTER,

Petitioner,

DOAH No. 19-0224CON
AHCA No. 2018018741
CON No. 10551

vs.

THE PUBLIC HEALTH TRUST OF
MIAMI-DADE COUNTY, FLORIDA, and
STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondents.

VARIETY CHILDREN’S HOSPITAL,
d/b/a THE MIAMI MEDICAL CENTER,

Petitioner,

DOAH No. 19-0225CON
AHCA No. 2019000342
CON No. 10551

vs.

THE PUBLIC HEALTH TRUST OF
MIAMI-DADE COUNTY, FLORIDA,
d/b/a JACKSON HOSPITAL WEST, and
STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondents.

FINAL ORDER

THIS CAUSE is before the State of Florida, Agency for Health Care Administration (“the Agency”) concerning the preliminary approvals of the Certificate of Need (“CON”) applications of The Public Health Trust of Miami-Dade County, Florida d/b/a Jackson Hospital West (“Jackson Hospital West”), CON Application No. 10551, for a 100-bed general acute care hospital for health planning District 11, Subdistrict 1, Miami-Dade County, Florida and East Florida – DMC, LLC’s CON application No. 10550 for an 80-bed general acute care hospital also in health planning District 11, Subdistrict 1, Miami-Dade County, Florida. Notice of the Decisions was published in the *Florida Administrative Register* in Volume 44, Number 238 on December 10, 2018.

1. The Public Health Trust of Miami-Dade County and East Florida – DMC each timely filed petitions in support of their own application and against the approval of the other application. CGH Hospital, Ltd. d/b/a Coral Gables Hospital (“Coral Gables”), Tenet Hialeah HealthSystem, Inc. d/b/a Hialeah Hospital (“Hialeah Hospital”), Lifemark Hospitals of Florida, Inc. d/b/a Palmetto General Hospital (“Palmetto General”) and Variety Children’s Hospital d/b/a Nicklaus Children’s Hospital (“NCH”) and d/b/a The Miami Medical Center (“MMC”) timely filed petitions contesting both approvals.

2. On February 27, 2019, Coral Gables, Hialeah, and Palmetto General filed a motion to abate the proceedings or continue the hearing to preserve batching cycles because a later filed set of applications was being pursued by these applicants and had been set for hearing following the hearing on these applications on the authority of University Medical Center, Inc. v. Department of Health and Rehabilitative Services, 483 So. 2d 712, 716 (Fla. 1st DCA 1985). An Amended Motion arguing the same basis with statements as to each party’s position was filed the following day and the hearing was rescheduled to March 2020.

3. On May 2, 2019, motion to dismiss was filed against MMC arguing that it was not, in fact, an established or existing facility with standing to participate in the proceedings. MMC's response noted the passage of CS/CS/HB 21 on April 29, 2019, deregulating CON for general acute care hospitals effective July 1, 2019, that the bill was awaiting approval and signature of the governor and may render the entire proceeding moot if so approved. Now Chapter 2019-136, Laws of Florida, concerning the partial deregulation of Florida's CON laws, the bill was approved and signed by the Governor of Florida on June 25, 2019. Unless otherwise specified, its provisions become effective on July 1, 2019. 2019-136, Laws of Florida, § 22. Therefore, "the establishment of or new construction of" general acute care hospitals will no longer require CON review nor will the initial licensure of a general acute care hospital require a Certificate of Need effective July 1, 2019. 2019-136 Laws of Florida, §§ 9, 13 (2019)

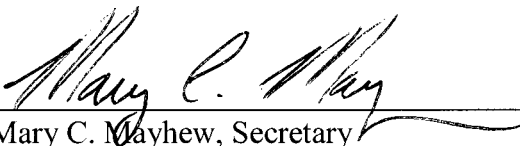
4. On July 10, 2019, the ALJ entered an order requiring a status report and ordering the parties to confer to determine if there was agreement that the proceeding is now moot because of CS/CS/HB 21 and, if not, for the parties not in agreement to file a separate report as to why they do not agree. On July 22, AHCA, Coral Gables, Hialeah Hospital, Palmetto General, MMC, and NCH filed a Partial Joint Status Report stating agreement that the proceeding is moot and should be dismissed. Jackson Hospital West and East Florida DMC, LLC filed separate statements, but agreed that the case should be dismissed. No party contested that the issues had been made moot by the passage of 2019-136, Laws of Florida, because a CON is no longer required for the initial licensure of a general acute care hospital under its provisions. 2019-136 Laws of Florida, § 9.

5. On August 13, 2019, the ALJ entered an order canceling the hearing, closing the file, and relinquishing jurisdiction to the Agency for Health Care Administration.

It is therefore, **ORDERED**

1. The petitions for formal hearing are dismissed.
2. The approvals of CON application Nos. 10550 and 10551 are now moot. As of July 1, 2019, general acute care hospital projects are not subject to CON review nor does the initial licensure of a general acute care hospital require a Certificate of Need. See Chapter 2019-136 Laws of Florida §§ 9, 13.

ORDERED in Tallahassee, Florida, on this 12 day of September, 2019.

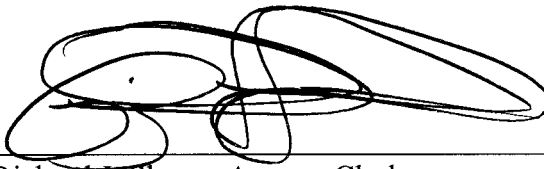

Mary C. Mayhew, Secretary
Agency for Health Care Administration

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 of 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 the method designated to the persons named below on this 12th day of September, 2019.


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