

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

FILED
AHCA
AGENCY CLERK

COMMUNITY HOSPICE OF NORTHEAST
FLORIDA, INC.,

2021 MAR 25 A 11: 16

Petitioner,

DOAH CASE NO.: 21-0890CON

AHCA CASE NO.: 2021003227

vs.

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

FINAL ORDER

THIS CAUSE is before the State of Florida, Agency for Health care Administration (“Agency”) concerning Community Hospice of Northeast Florida, Inc. (“Community Hospice”) seeking to challenge the Agency’s determination that an additional hospice program is needed in Service Area 4A.

1. On February 5, 2021, the Agency published the fixed need pool numbers for the Hospital Facilities and Hospice 1st Batching Cycle in the February 5, 2021 edition of the Florida Administrative Register, Vol. 47, No. 24, pp. 705-06.

2. On February 26, 2021, Community Hospice filed a Petition challenging the Agency’s determination that an additional hospice program is needed in Service Area 4A and the Petition was referred to the Division of Administrative Hearings for formal administrative hearing.

3. On March 9, 2021, Cornerstone Hospice & Palliative Care, Inc. (“Cornerstone”) filed its Motion to Intervene in the above-captioned proceeding pursuant to Rule 28-106.205, Florida Administrative Code, in support of the Agency for Health Care Administration’s (“AHCA” or the “Agency”) determination that there was no error in the fixed need pool (“FNP”) process or calculations for a new hospice program published by AHCA for Hospice Service Area 4A.

4. On March 12, 2021, Community Hospice filed a Notice of Voluntary Dismissal of its Petition for Formal Administrative Hearing.

5. Based on the dismissal, the Motion to Intervene filed by Cornerstone is moot. *See Environmental Confederation of Southwest Florida, Inc. v. IMC Phosphates, Inc.*, 857 So. 2d 207, 211 (Fla. 1st DCA 2003) (voluntary dismissal by a party asserting a claim will generally foreclose the rights of an intervenor who wished to address that claim) (citations omitted).

6. Following the voluntary dismissal on March 15, 2021, the Administrative Law Judge entered an Order Closing the File and Relinquishing Jurisdiction to the Agency.

It is therefore, **ORDERED**

1. The petition for formal hearing filed by Community Hospice Northeast Florida, is dismissed.

2. The Fixed Need Pool determination for one (1) additional hospice in Service Area 4A as published for the February 2021 hospice batching cycle is UPHELD.

Ordered in Tallahassee, Florida, on this 24 day of March, 2021.



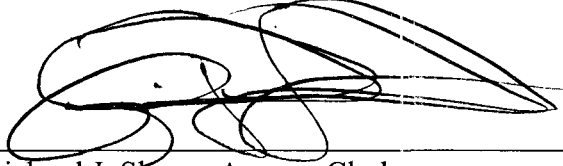
Molly McKinstry, Deputy Secretary
Agency for Health Care Administration

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 25th day of March, 2021.



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

Copies Furnished To:

Seann M. Frazier
Suite 750
215 South Monroe Street
Tallahassee, Florida 32301
sfrazier@phrd.com
sful@phrd.com

D. Ty Jackson
GrayRobinson, P.A.
301 South Bronough Street, S 600 (01)
Post Office box 11189
Tallahassee, Florida 32302-3189
850.577.9090
Ty.Jackson@gray-robinson.com
jennifer.bruce@gray-robinson.com

Minoos Hasani, Government Analyst II
Facilities Intake Unit
Agency for Health Care Administration
(Electronic Mail)

James McLemore, Unit Manager
Certificate of Need Unit
Agency for Health Care Administration
(Electronic Mail)

Bernard Hudson, Unit Manager
Long Term Care Unit
Agency for Health Care Administration
(Electronic Mail)

Julia E. Smith
Agency for Health Care Administration
2727 Mahan Drive, MS #7
Tallahassee, Florida 32308
Julia.Smith@ahca.myflorida.com
Counsel for the AGENCY FOR HEALTH CARE ADMINISTRATION