

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2021 SEP 20 A 11:40

MOMENTS HOSPICE OF MIAMI, LLC,

Petitioner,

v.

CONTINUUM CARE OF MIAMI DADE, LLC,
AND STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondents.

DOAH CASE NO. 21-2379CON

AHCA CASE NO. 2021010313

CON NOS. 10658

10659

RENDITION NO.: AHCA-21-1000-S-CON

MOMENTS HOSPICE OF MIAMI, LLC,

Petitioner,

vs.

STATE OF FLORIDA AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondent.

DOAH CASE NO. 21-2380CON

AHCA CASE NO. 2021009736

CON NOS: 10658

10659

FINAL ORDER

THIS CAUSE is before the State of Florida, Agency for Health Care Administration (the "Agency") concerning the preliminary denial of the Certificate of Need ("CON") Application 10659 of Moments Hospice of Miami, LLC ("Moments") and the preliminary approval of CON Application 10658 of Continuum Care of Miami Dade, LLC ("Continuum").

1. On February 5, 2021, the Agency published a fixed need pool for one hospice program in Hospice Service District 11. See 47 Fla. Admin. Reg. No. 24, pp. 705-706 (Feb. 5, 2021).
2. Three applicants filed competing CON applications in response to the fixed need

pool, each seeking approval to establish a new hospice program in Hospice Service District 11. The applicants included Citadel Healthcare LLC (“Citadel”), Continuum and Moments.

3. On June 18, 2021, the Agency approved Continuum’s CON Application No. 10658 and denied the remaining co-batched applicants, Citadel and Moments.

4. The Agency published a notice of its preliminary decision to approve Continuum’s CON Application No. 10658 and to deny the remaining co-batched applicants in the June 21, 2021, edition of the Florida Administrative Register.

5. Citadel did not file a petition challenging the Agency’s preliminary denial of its CON Application No. 10657.

6. Moments timely filed a Petition for Formal Administrative Hearing challenging the Agency’s preliminary denial of its CON Application No. 10659.

7. Thereafter, Continuum filed a cross petition in support of the Agency’s decision to approve its CON application and to deny Moment’s CON application.

8. The Agency referred matters were referred to the Division of Administrative Hearings (“DOAH”). No petitions to intervene were filed with the DOAH.

9. Subsequent to the referral to DOAH, as set forth in the Settlement Agreement, the parties considered the attendant facts and circumstances related to the Petitions and determined that they justified the approval of a CON for a hospice in addition to the approval of the CON for a hospice preliminarily awarded Continuum within Hospice Service District 11.

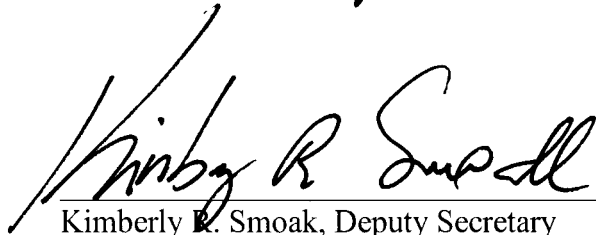
10. The parties entered into the attached Settlement Agreement.

11. The parties then jointly moved for and obtained an order relinquishing jurisdiction from DOAH.

IT IS THEREFORE ORDERED:

1. The Settlement Agreement is adopted and incorporated by reference into this Final Order.
2. CON Application No. 10658 submitted by Continuum is approved.
3. CON Application No. 10659 submitted by Moments is approved.

ORDERED in Tallahassee, Florida, on this 20th day of September, 2021



Kimberly R. Smoak, 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 20th day of September, 2021



Richard L. Shoop, Agency Clerk
Agency for Health Care Administration

Copies furnished:

Division of Administrative Hearings

(Electronic Filing)

Geoffrey D. Smith, Esquire

Susan Crystal Smith, Esquire

Sabrina B. Dieguez, Esquire

Stephen Burch, Esquire

Smith & Associates

geoff@smithlawtlh.com

susan@smithlawtlh.com

sdieiguez@smithlawtlh.com

stephen@smithlawtlh.com

dianne@smithlawtlh.com

D. Ty Jackson, Esquire

Gray Robinson, P.A.

ty.jackson@gray-robinson.com

Richard J. Saliba, Esquire

Office of the General Counsel

Agency for Health Care Administration

(Electronic Mail)

Erin Bailey, Unit Manager

Certificate of Need Unit

Agency for Health Care Administration

(Electronic Mail)

Bernard E. Hudson, Unit Manager

Long Term Care Services Unit

Agency for Health Care Administration

(Electronic Mail)

Facilities Intake Unit

Agency for Health Care Administration

(Electronic Mail)

Central Intake Unit

Agency for Health Care Administration

(Electronic Mail)