

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

FILED
AHCA
AGENCY CLERK

2022 APR 18 P 12: 31

AFFINITY CARE OF CENTRAL
FLORIDA, LLC,

Petitioner,

DOAH No. 22-0241CON

v.

AHCA No. 2022000449
CON 10685

EMPATH HOSPICE, LLC, and
STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Respondents,

and

CORNERSTONE HOSPICE &
PALLIATIVE CARE, INC.,

Intervenor.

FINAL ORDER

THIS CAUSE is before the State of Florida, Agency for Health Care Administration (the “Agency”) concerning the preliminary approval of the Certificate of Need (“CON”) Application 10687 to Empath Hospice, LLC (“Empath”) to establish a new hospice program in Polk County, District 6B, and to contest preliminary denial of CON 10685 of Affinity Care of Central Florida, LLC (“Affinity”).

1. On August 6, 2021, the Agency announced a fixed need pool for one additional hospice program in Hospice Service Area 6B, Polk, Hardee and Highlands Counties, Florida, on the applications for the Hospital Facilities and Hospice batching cycle with an application due date of September 29, 2021. See Fla. Admin. Reg., Vol. 47, No. 152, p. 3629 (Aug. 6, 2021).
2. Multiple 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 6B. The applicants included Affinity (CON 10685), Empath (CON 10687), Florida Hospice, LLC (“Florida Hospice”) (CON 10688), Seasons Hospice and Palliative Care of Central Florida (“Seasons”) (CON 10692), and others.

3. On December 17, 2021, the Agency preliminary approved the Empath’s CON 10687 and denied all the other co-batch applications, including Affinity’s CON 10685.

4. On December 20, 2021, the Agency published notice of its preliminary decisions approving CON 10687 and denying the remaining co-batch applications. See Fla. Admin. Reg., Vol. 47, No. 244, pp. 5763-5766 (Dec. 20, 2021).

5. Thereafter, Affinity, Florida Hospice and Seasons filed petitions for formal hearing contesting the Agency's preliminary approval of CON 10687 and the preliminary denials of their respective CON applications.

6. In response, Empath filed a Cross-Petition for Formal Administrative Proceedings in support the Agency's preliminary approval of its CON 10687 and the Agency's preliminary denials of the co-batched CON applications.

7. The Agency referred the matters to the Division of Administrative Hearings (“DOAH”), where they were consolidated by the Administrative Law Judge.

8. On April 8, 2022, Affinity filed a Notice of Voluntary Dismissal of its Petition.

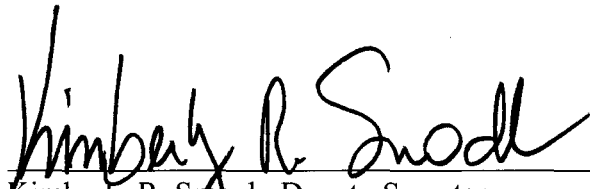
9. On April 8, 2022, the Administrative Law Judge entered an Order Severing Cases, Closing File and Relinquishing Jurisdiction to the Agency with respect to this one case.

It is therefore, **ORDERED**

1. The denial of CON 10685, filed by Affinity, AHCA No. 2022000449, is upheld.

2. The cases in DOAH regarding the other petitions remain pending.

ORDERED in Tallahassee, Florida, on this 18th day of April, 2022



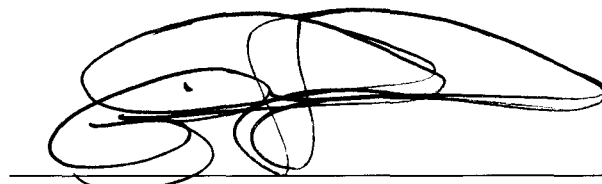
Kimberly R. Snodgrass, Deputy Secretary
Agency for Health Care Administration

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 18th day of April, 2022.



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

Copies furnished:

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(Electronic Filing)

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