

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

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AHCA
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2022 JUL 11 A 10:52

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

DOAH No. 22-1575

vs.

AHCA No. 2021017400

CORAL REEF SUBACUTE CARE
CENTER, LLC,

RENDITION NO.: AHCA-22-478 -S-OLC

Respondent.

FINAL ORDER

Having reviewed the Administrative Complaint, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

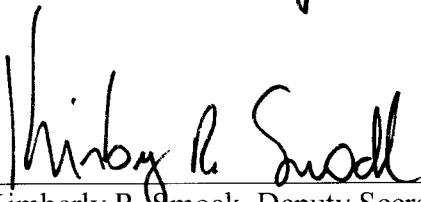
1. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1). The parties have since entered into the attached Settlement Agreement (Ex.2), which is adopted and incorporated by reference into this Final Order.

2. The Respondent shall pay the Agency \$14,000.00. If full payment has been made, the cancelled check acts as receipt of payment and no further payment is required. If full payment has not been made, payment is due within 30 days of the Final Order. Overdue amounts are subject to statutory interest and may be referred to collections. A check made payable to the "Agency for Health Care Administration" and containing the AHCA ten-digit case number should be sent to:

Central Intake Unit
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 61
Tallahassee, Florida 32308

3. Conditional licensure status is imposed on the Respondent commencing October 22, 2021, and ending November 11, 2021.

ORDERED at Tallahassee, Florida, on this 11th day of July, 2022.



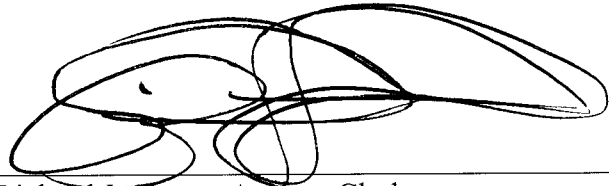
Kimberly R. Smoak, Deputy Secretary
Agency for Health Care Administration

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 one copy of a notice of appeal with the Agency Clerk of AHCA, and a second copy, along with filing fee as 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 rendition of the order to be reviewed.

CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of this Final Order was served on the below-named persons by the method designated on this 11th day of July, 2022.



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

| | |
|--|---|
| Facilities Intake Unit Agency for Health Care Administration (Electronic Mail) | Central Intake Unit Agency for Health Care Administration (Electronic Mail) |
| Thomas J. Walsh II, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail) | Joseph L. Bianculli, Esq. Health Care Lawyers, PLC 2101 North Monroe Street, Suite 103 Arlington, Virginia 22207 Bianculli@healthcarelawyers.com (Electronic Mail) |

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,
vs.

Case Nos. 2021017400
Facility Type: Nursing Home

CORAL REEF SUBACUTE CARE CENTER, LLC,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW the Agency for Health Care Administration (hereinafter "Agency"), by and through the undersigned counsel, and files this Administrative Complaint against Coral Reef Subacute Care Center, LLC (hereinafter "Respondent"), pursuant to §§120.569 and 120.57 Florida Statutes (2021), and alleges:

NATURE OF THE ACTION

This is an action to change Respondent's licensure status from Standard to Conditional commencing October 22, 2021, and to impose administrative fines in the amount of thirty ten dollars (\$10,000.00), and the imposition of a two (2) year survey cycle and its six thousand dollars (\$6,000.00) fee, for a total assessment of sixteen thousand dollars (\$16,000.00) based upon Respondent being cited for one (1) isolated State Class I deficient practice.

JURISDICTION AND VENUE

1. The Agency has jurisdiction pursuant to §§ 120.60 and 400.062, Florida Statutes (2021).
2. Venue lies pursuant to Florida Administrative Code R. 28-106.207.

PARTIES

3. The Agency is the regulatory authority responsible for licensure of nursing homes and

EXHIBIT 1

enforcement of applicable federal regulations, state statutes and rules governing skilled nursing facilities pursuant to the Omnibus Reconciliation Act of 1987, Title IV, Subtitle C (as amended), Chapters 400, Part II, and 408, Part II, Florida Statutes, and Chapter 59A-4, Florida Administrative Code.

4. Respondent operates a one hundred eighty (180) bed nursing home, located at 9869 Southwest 152nd Street, North Miami Beach, Florida 33157, and is licensed as a skilled nursing facility license number 1641096.

5. Respondent was at all times material hereto, a licensed nursing facility under the licensing authority of the Agency, and was required to comply with all applicable rules, and statutes.

COUNT I

6. The Agency re-alleges and incorporates paragraphs one (1) through five (5), as if fully set forth herein.

7. That Petitioner completed a survey of Respondent and its operations on September 23, 2021.

8. That pursuant to Florida law, all licensees of nursing homes facilities shall adopt and make public a statement of the rights and responsibilities of the residents of such facilities and shall treat such residents in accordance with the provisions of that statement. The statement shall assure each resident the right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency. § 400.022(1)(l), Fla. Stat. (2021).

9. That Florida law provides the following: “‘Practice of practical nursing’ means the performance of selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm and the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist. A practical nurse is responsible and accountable for making decisions that are based upon the individual’s educational preparation and experience in nursing.” § 464.003(19), Fla. Stat. (2021).

10. That Petitioner completed a survey of Respondent and its operations on October 22, 2021.

11. That based upon observation, the review of records, and interview, Respondent failed to provide adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, including but not limited to the failure to provide supervision of and obtain psychiatric assessment for known mental health care needs of a resident, the same being contrary to the mandates of law.

12. That Petitioner’s representative reviewed Respondent’s policy and procedure entitled, "Psychotropic Medication," during the survey and noted:

- a. The general statement noted: Psychotropic medications include any drug that affects brain activities associated with meant process and behavior, including anti-anxiety/hypnotic, anti-psychotic, and antidepressant classes of drugs.
- b. Physicians and physician - extenders (ex. physician assistant, nurse practitioner) will use psychotropic medications appropriately, working with

the interdisciplinary team nurse to ensure appropriate use, evaluation, and monitoring.

c. Standards included:

- i. (C) The facility supports the goal of determining the underlying cause of behavioral symptoms so the appropriate treatment of environmental, medical and/ or behavioral interventions, as well as psychopharmacological medications can be utilized to meet the needs of individual resident.
- ii. (G) Psychopharmacological medications will be used to enhance the quality of life for the resident and will never be used for the purpose of discipline or convenience.

d. Procedures followed by the Primary Care Physician, PA [physician's assistant], or NP [nurse practitioner] noted:

- i. (2) Documents rationale and diagnosis of the use and identifies target symptoms.
- ii. (4) Evaluates with the interdisciplinary team, effects, and side effects of psychoactive medications within 14 days of initiating, increasing, or decreasing dose and during routine visits thereafter.

e. Procedures followed by the psychiatrist/ mental health included:

- i. (1) May assist the facility in establishing appropriate guidelines for use, dosage and monitoring of psychotropic medications.
- ii. (5) Helps develop behavior management plans.

f. Procedures Followed by Nursing:

- i. (1) Monitors psychotropic drug use daily, noting any adverse effects such as increased somnolence or functional decline.
 - ii. (2) Will monitor for the presence of target behaviors on a daily basis. Behaviors will be documented as warranted.
 - iii. (3) Reviews the use of the medication with the physician and the interdisciplinary team on a quarterly basis to determine the continued presence of target behavior and or the presence of any adverse effects of the medication use.
 - iv. (4) AIMS [Abnormal Involuntary Movement Scale] will be performed on any resident and on anti-psychotic on a quarterly basis change will be reported to the physician.
 - v. (5) May develop behavioral care plans that include individualized non-pharmacological interventions.
- g. Social Services - Coordinates the interdisciplinary team resident reviews of psychoactive medications.

13. That Petitioner's representative reviewed Respondent's policy and procedure regarding abuse, reviewed January 23, 2021, during the survey and noted, "It is the policy of the facility to protect all residents from physical or mental abuse, involuntary seclusion, neglect or misappropriation of personal property... Neglect is defined as failure to provide goods and services necessary to avoid physical harm, mental anguish, or mental illness. Preventive measures included: The assessment, care planning, and monitoring of residents with needs and behavior which might lead to conflict or neglect ..."

14. That Petitioner's representative reviewed Respondent's policy and procedure entitled,

"Safety and Supervision of Residents," revised July 2017, during the survey and noted:

- a. Policy statement - Our facility strives to make the environment as free from accident hazards as possible. Residents' safety and supervision and assistance to prevent accidents are facility wide commitment to safety at all levels of the organization.
- b. Facility oriented approach to safety included: "Employees shall be trained on potential hazards and demonstrate competency on how to identify and report accident hazards and try to prevent avoidable accidents."
- c. Individualized, resident-centered approach to safety included:
 - i. (1) .Our individualized, resident centered approach to safety addresses safety and accident hazards for individual residents.
 - ii. (2). The interdisciplinary care team shall analyze information obtained from assessments and observations to identify any specific accidents hazards or risks for individual residents.
 - iii. (3). The care team shall target interventions to reduce individual risks related to hazards in the environment, including adequate supervision and assistive devices.
 - iv. Systems approach to safety noted (2). Resident supervision is a core of the systems approach to safety.

15. That Petitioner's representative reviewed Respondent's records related to resident number one (1) during the survey and noted:

- a. The resident was admitted to the facility on July 14, 2021.
- b. Clinical diagnoses included, but not limited to, obstructive and reflux

uropathy (blockage in the urinary tract), Anxiety Disorder, and Depression.

- c. The resident's medication administration and treatment records included the following prescribed medications:
 - i. Clonazepam 1 mg (milligram) tablet one (1) tablet to be given by mouth at bedtime for diagnosis of Anxiety.
 - ii. Trazodone 50 mg tablet one (1) tablet to be given by mouth every day at bedtime for a diagnosis of depression.
 - iii. Memantine 5 milligram tablet, two (2) tablets to be given by mouth twice a day for diagnoses of Dementia.
- d. A comprehensive minimum data set assessment reflected the resident was re-admitted to the facility on May 10, 2021.
- e. The most recent comprehensive minimum data set assessment, dated August 9, 2021 documented:
 - i. The resident had a score of fifteen (15) on the brief interview for mental status which indicated the resident was able to verbalize needs and was not cognitively impaired.
 - ii. The resident had a clear speech pattern and was able to understand others as well as make self understood.
 - iii. Active diagnoses included Urinary Tract Infection (UTI), Anxiety Disorder and Depression, but did not include a diagnosis of Dementia.
- f. Care plans reflected:
 - i. Care plan dated August 10, 2021 for resident exhibited behaviors of anxiety/agitation:

- (a) Goals: Resident will be able to display appropriate response to situations by next review date.
- (b) Approaches included: Determine cause of anxiety; Observe for changes in mental status, mood and behavior; Notify MD [medical doctor] of changes as needed.
- ii. A care plan for the diagnoses of depression and at risk for alterations in mood pattern had approaches including observe for changes in mood, encourage verbalization of feelings, administer antidepressants as ordered.
- iii. There were no care plans for the diagnoses of pain, Dementia, or for use of Memantine 5 mg tablet.
- g. Behavior monitoring sheets for July, August, September and October 2021, indicated the resident was monitored for the behaviors afraid/panic related to the use of Clonazepam 1 milligram (mg) tablet.
- h. There was no record to indicate the resident was monitored for any other behavior such as mood changes or danger to self.
- i. There was no behavior record to indicate the resident was monitored for the diagnosis of depression and for the use of the antidepressant Trazodone 50 mg tablet.
- j. The behavior monitoring sheets documented the resident had multiple episodes documented as "Afraid/Panic."
- k. The behavior monitoring sheet for July 2021 initiated on July 15, 2021 documented:
 - i. The resident had a total of nine (9) episodes of afraid/panic.

- ii. Five (5) out of the nine (9) different episodes occurred during the hours of 7:00 a.m. to 7:00 p.m. on July 15, 16, 17, 20, and 25, 2021.
 - iii. Four (4) different episodes of afraid/ panic occurred between the hours of 7:00 p.m. to 7:00 a.m. on July 25, 26, 27 and 28, 2021.
 - iv. The documented interventions for each episode noted "Routine," indicating that the facility's only intervention was the administration of the routine medication; Clonazepam 1 mg tablet by mouth at bedtime, for diagnosis of Anxiety.
- l. The nursing progress notes for July 2021 showed no recorded documentation that addressed any of the anxiety episodes exhibited by the resident in the behavioral monitoring sheet.
 - m. The behavior monitoring sheet for August 2021 initiated on August 6, 2021 documented:
 - i. The record was left blank for August 6 and 7, 2021.
 - ii. On the day shift, 7:00 a.m. to 7:00 p.m., on August 8, 2021, indicating that the resident's behavior "Afraid/Panic." was no documented monitoring during that time.
 - iii. The resident had fifteen (15) different episodes of "Afraid/ Panic" during the 7:00 p.m. to 7:00 a.m. shift as documented to have occurred on August 8, 9, 10, 11, 13, 15, 16, 17, 18, 19, 22, 23, 24, 25 and 29, 2021.
 - n. The nursing progress notes for August 2021 showed no recorded documentation that addressed any of the afraid/ panic episodes exhibited by the resident in the behavioral monitoring sheet.

- o. The behavior monitoring sheet for September 2021 initiated on September 1, 2021 documented:
 - i. The resident had a total of seventeen (17) different episodes of afraid/panic during the month.
 - ii. Four (4) of the seventeen (17) episodes of afraid/panic occurred between 7:00 a.m. to 7:00 p.m. occurred on September 2, 3, 4, and 5, 2021.
 - iii. The intervention documented noted "Routine QHS [nightly at bedtime]," indicating that the facility's only intervention was the administration of the routine medication; Clonazepam 1 mg tablet by mouth at bedtime.
 - iv. The resident had thirteen (13) out of seventeen (17) different episodes of afraid/panic during the evening shift, 7:00 p.m. to 7:00 a.m., on September 6, 7, 12, 13, 14, 17, 19, 20, 21, 24, 26, 27 and 28, 2021.
 - v. The documented intervention noted "Refer to Nurses Notes."
- p. The nursing progress notes for September 2021 showed no recorded documentation that addressed any of the afraid/panic episodes exhibited by the resident in the behavioral monitoring sheet.
- q. The behavior monitoring sheet for October 2021 documented:
 - i. The resident had a total of three (3) afraid/panic episodes.
 - ii. The resident had one episode of afraid/panic between 7:00 p.m. to 7:00 a.m. on October 1, 2021.
 - iii. The resident had two (2) episodes of afraid/panic that occurred during the day shift, 7:00 a.m. to 7:00 p.m., on October 1, 2021, and on the day of the resident's death, October 2, 2021.

- iv. Interventions for each episode noted "Routine QHS," indicating that the facility's only intervention was the administration of the routine medication; Clonazepam 1 mg tablet by mouth at bedtime for the diagnosis of Anxiety.
- r. The nursing progress notes for October 2021 showed no recorded documentation that addressed any of the afraid/ panic episodes exhibited by the resident in the behavioral monitoring sheet.
- s. A nursing progress note dated October 2, 2021, with time noted as 11:00 p.m., documented by staff member "C," a licensed practical nurse, noted, "Resident assigned CNA (certified nursing assistant) was observed running over to me while I was doing my med pass as he verbalized code blue, I immediately assigned a staff member to call 911 as I grabbed the defibrillator machine. I assigned another staff member to get the crash cart. I ran to [the] room. The residents skin color was noted as pale whitish color, no pulse was noted resident was transferred from wheelchair to the bed, board was placed under the patient and CPR (cardiopulmonary resuscitation) was initiated. 911 arrived and EMT (emergency medical technician) pronounced [] death. No obvious injuries were noted at the time of death. CNA assigned to this resident verbalized that he was unable to enter [the] room. The CNA stated he had to push very hard to open the door. CNA stated resident wheelchair was pushed against the door with patient sitting in the wheelchair. Trash bag was noted over [resident's] head. CNA stated he removed the trash bag to see if patient was not breathing. Patient was not breathing per CNA statement. CNA then

verbalized to me and to the police how he found the patient. Family was notified by police. Police officer spoke to (emergency contact). The medical examiner arrived and transferred residents' body out of the facility."

16. That Petitioner's representative interviewed and reviewed Respondent's investigative report with Respondent's clinical regional nurse regarding resident number one (1) on October 19, 2021, at 2:30 p.m., and noted:

- a. She had reviewed the facility's video recording as she investigated the event.
- b. She documented her observation of the video and reported that she reviewed the video recording on "Tuesday or Thursday last week."
- c. The report noted that on Saturday October 2, 2021, at 2:54 p.m., the resident's certified nursing assistant, staff member "A," went into the resident's room at 4:18 p.m.
- d. Staff member "B," a nurse was passing meds.
- e. "You can see her going in and out of rooms."
- f. At 4:30 p.m., the friend, resident number four (4), leaves the room of resident number one (1).
- g. At 4:52 p.m., a meal was delivered to the resident's room.
- h. The resident's door remained open the whole time.
- i. At 5:21 p.m., nurse "B" went into the resident's room.
- j. At 5:43 p.m. the staff member "A," a certified nursing assistant, picked up the tray, and noted that the resident ate one hundred percent (100%).
- k. At 6:25 p.m. it appeared the door is shut from inside the room.
- l. No one checked on the resident or attempted to enter the room from

approximately 6:25 p.m. to 8:15 p.m.

- m. Staff member "C," a licensed practical nurse, was scheduled to start her shift at 7:00 p.m., and there is no indication that she checked on the resident from the time her shift started until the certified nursing assistant called her at around 8:15 p.m.
- n. At 8:15 p.m., the certified nursing assistant tried to get into the room and noted that the door was closed.
- o. The certified nursing assistant tried to open the door, but it was blocked.
- p. Staff member "A," certified nursing assistant, was in the room for a few seconds, and leaves the area, and gets the nurse and the crash cart.
- q. The regional nurse explained that the certified nursing assistant had to push the door open and when he entered the room, he noted the resident seated in a wheelchair, unresponsive, with a bag over the head.
- r. The certified nursing assistant stated that he pulled the bag off the resident's head and ran to get help.
- s. A code was called as well as 911, and staff responded to this resident's room where they transferred the resident to the bed, a backboard was placed, and cardiopulmonary resuscitation initiated.
- t. Law enforcement and emergency medical technicians responded shortly thereafter and pronounced the resident dead.
- u. The resident's body was transferred to the Medical Examiner's office.

17. That Petitioner's representative interviewed Respondent's staff member "A," a certified nursing assistant, regarding resident number one (1) on October 18, 2021 at 3:53 p.m., who

indicted:

- a. He worked in the facility for about one (1) year and floated on different units every week.
- b. He took care of the resident on Friday, October 1, 2021, and Saturday October 2, 2021, when the resident died.
- c. The resident was assigned to the Bed B at the window and Bed A by the door was empty.
- d. The resident was alert and liked to stay in the room alone with the door closed.
- e. The resident required assistance to go to the bathroom and remained in the room on isolation precautions.
- f. Staff A, CNA revealed his schedule for that weekend was on Friday, 10/01/2021 he worked a double shift from 7:00 AM -3:00 PM and from 3:00 PM to 11:30 PM. He continued Saturday October 2, 2021, to again work from 7:30 a.m. to 11:30 p.m.
- g. "Oon the day of the incident, (October 2, 2021), I came back from my break which is from 8:00 p.m. to 8:30 p.m., when I came back and was doing my rounds and noticed that the door would not open. I spoke to one of the CNAs. He recommended I pushed the door. I thought [the resident] might have blocked the door with something.
- h. "When I finally opened the door, I noticed the resident was sitting in [the] chair with a plastic bag over [the] head. The wheelchair was locked. [The resident] normally had two trash containers, one on each side of [the] bed,

with a plastic bag inside of it.

- i. "Once I opened the door, I notice the plastic bag on [the] head. I took the plastic bag, I threw it on the floor, and cried for help. The floor nurse was on the hallway.
- j. "We went to get the crash cart. She called code blue. The nurse and I transferred the resident from the wheelchair, they initiated the CPR. They all continued until the ambulance arrived.
- k. "The police arrived they interviewed me. I could not leave the facility until after the detective interviewed me."
- l. Sometimes the resident was aggressive and had behaviors like refusing care such as refused a haircut and refused to shave and he convinced the resident and the resident allowed him to shave the resident, "not that long ago, maybe two weeks."
- m. The resident would sometimes get angry and yell at staff, "... like one time, [] took off [the] gown and threw it at me. I told the nurse on the floor about the behavior and asked her to come to the room and help me translate. I explained to [the resident] that I was here to take care of [the resident], and that there was no need to be aggressive toward me. [The resident] understood and even apologized."

18. That Petitioner's representative interviewed Respondent's staff member "B," a registered nurse, regarding resident number one (1) on October 21, 2021, at 10:01 a.m., who indicated:

- a. She normally worked with the resident three (3) days a week from 7:00 a.m. to 7:00 p.m.

- b. The resident was alert and oriented times three (3) and communicated needs well and normally slept until about 9:00 to 10:00 a.m., participated in therapy and activities, and liked to come out of the room.
- c. On the day of the incident, the resident was on isolation precautions due to a urinary tract infection (UTI).
- d. "I worked from Thursday, September 30th to Saturday October 2nd ... I monitored for behaviors related to [] use of Clonazepam. We monitored for panic attack, fear, or anxiety. I don't remember [the resident] having any behavior. [The resident] sometimes would get a little upset with the CNAs, asked that we closed the door, close the window, or yell, don't touch me!
- e. "Generally, I document if the patient's behavior is constant. Normally, [the resident] was easily re-directed ...
- f. "I did complete the behavior monitoring sheet for the resident on the days that I worked. I filled it out on October 1st and October 2nd, the day that [the resident] passed away. What I documented was that [the resident] had one (1) behavior of anxiety."
- g. The resident kept asking about the IV (intravenous) treatment.
- h. The intervention, during the anxiety episode, was teaching about the reason for the treatment, what was the reason, and why the resident remained in isolation.
- i. Her documentation on the behavior monitoring sheets about the afraid/panic episode was related to the antibiotic treatment, that the resident received the treatment, and that it was effective.

- j. "I did not document in the nurse's notes that the resident was having episode of anxiety, because I did my action, I did not see [the resident] to be desperate. [The resident] allowed me to administer [the] IV treatment."
- k. The purpose of the behavior monitoring sheet is to follow for a prescribed anti-anxiety medication, and document the episodes related to the behavior, for which the resident is taking the medication.
- l. The intervention was to refer to nurses' notes.
- m. She agreed there was no record to explain anything about the resident's mood or behavior.
- n. "It's established that a patient can have at least three (3) small episodes of anxiety. We take action if they have a big one. Big ones we would document on the nurses' notes.
- o. "The purpose of the behavior monitoring sheet is to see if the medication seems effective throughout the month ...what the behavior monitoring sheet shows is that the medication is effective.
- p. "I documented that [the resident] had anxiety on September 2nd, 3rd, and 4th. The one episode could have been something like, 'I don't want to shower.' I don't know the behavior."
- q. She then agreed that the documentation does not reflect the exact nature, or details of the behavior, and she did not know and could not recall the behavior.
- r. "I also documented no behavior on September 9th 10th, 11th, 16th, 17th, 24th, 25th, 26th. When I noticed the behavior, I did not report to anyone. I did not

think that I needed to communicate it to the psychiatrist. We did not monitor [the resident] for depression. I did not know [the resident] had any antidepressant or diagnoses of depression.”

- s. With a diagnosis of depression, she would have reacted differently, and antidepressants are very dangerous. Levels of Serotonin in a person's brain can change and cause them to have a crisis.
- t. "On that day [the resident] seemed well, [] did not seem depressed. [The resident] did not reject care, or complaint of pain."
- u. Upon discussion of the resident's diagnoses, she responded "I am surprised that [the resident] had diagnosis of depression... When I left on that day [the resident] remained in [] bed. I went in to see [the resident] at approximately 7:10 p.m. [The resident] was in [the] room. [The resident] asked we close the door."

19. The Respondent’s investigative report and interview with Respondent’s clinical regional nurse on October 19, 2021, at approximately 2:30 p.m., showed that per surveillance video, Respondent’s staff member “B,” a registered nurse, last saw resident number one (1) in the room at approximately 5:21 p.m.

20. That Petitioner’s representative interviewed the psychiatrist regarding resident number one (1) on October 21, 2021, at 10:56 a.m., and noted:

- a. He did not review the above mentioned behavior monitoring sheets in the resident's clinical record.
- b. He met with the facility's staff and discussed residents' behaviors and if any adjustments are needed.

- c. When asked about the resident, he reported he was not aware the resident had any behaviors.
- d. Upon discussion of the multiple documented episodes of afraid/ panic noted in the resident's clinical record, he reported he was not aware and that the nurses had not communicated the behaviors to him.
- e. He explained that the facility staff should have communicated anxiety, afraid/ panic episodes and any other behavior exhibited by the resident to him.
- f. "If they tell me, I would definitely do something. The nurses usually call me. They did not tell me about those episodes. Had I known, I would have definitely done something, I would have gone to see [the resident], maybe change the medication."

21. That Petitioner's representative interviewed and reviewed Respondent's social services assessment regarding resident number one (1) with Respondent's social services staff, the social services director, and staff member "F," the social services assistant, on October 20, 2021, at 2:51 p.m., and noted:

- a. Social services are responsible for assessing residents upon admission, quarterly, and annually.
- b. The director revealed social services saw the residents often around the facility, assess for brief interview of mental status score, moods, and behaviors.
- c. The director went to the resident's room to complete the initial assessment on August 6, 2021 and the social services note of that date indicated social services will be available to the resident and family for support if needed ...

- d. The psychosocial and mood assessment indicated:
 - i. The resident had little interest or pleasure in doing things, frequency, two (2) to six (6) days.
 - ii. Feeling down depressed or hopeless, frequency, two (2) to six (6) days.
 - iii. Feeling tired or having little energy, frequency seven (7) to eleven (11) days.
 - iv. Poor appetite or overeating, frequency seven (7) to eleven (11) days.
- e. The director explained they followed the questionnaire on the form Patient Health Questionnaire (PHQ-9) which asks about interest / pleasure in doing things, feeling down, depressed, or hopeless, trouble falling /staying asleep or sleeping too much, if tired, feeling little energy, feeling bad about yourself.
- f. The resident's assessment showed the score result for mood was six (6) which indicated that the resident had a symptom of feeling tired having low energy, he had poor appetite, little interests in doing stuff and was feeling down. The resident was upset about the news.
- g. The director reported he did not address the resident's report that the resident was feeling down, "Once I learned the resident had diagnoses of depression, I looked at [] medications. [The resident] was already on antidepressant. I saw that [the resident] was already care planned. [The resident] was a patient that we saw in the hallway often, very social, attended therapy. I did not do anything, I asked the resident why [the resident] was depressed, [the resident] said it was about politics, there was not much I could do about that. I was not aware of panic attacks."

- h. The director reported they usually learned about residents concerning behaviors during morning meetings and never knew that the resident had any behaviors.
- i. When asked why there was only one social services assessment and progress note in the resident's clinical record, the director responded, "There must have been other progress notes, I don't know what happened to them."

22. That Petitioner's representative attempted to telephonically interview Respondent's staff member "C," a licensed practical nurse, regarding resident number one (1) as follows:

- a. October 21, 2021 at 12:13 PM - Attempted to interview by phone and a voicemail message was left.
- b. October 21, 2021 at 5:04 - She was called again and answered the phone and requested for the surveyor to call back in fifteen (15) minutes.
- c. October 21, 2021 at 5:24 p.m.:
 - i. She was asked if the resident had any complaints of pain while under her care. She responded, "No! Never. [The resident] never had any complaints."
 - ii. When asked to clarify her notes that the resident had pain, the call was disconnected.
- d. October 22, 2021 at 7:20 a.m.:
 - i. When asked whether or not the resident ever expressed pain or showed any signs or symptoms of anxiety or depression while under her care, she reported, "No!"
 - ii. When asked about her handwritten nurses' notes dated August 20, 2021 at

12:00 p.m., she revealed she remembered and stated: " Oh yeah, one (1) time, I had to call the police because [the resident] was complaining of so much pain"

- iii. When asked to clarify the documentation because the note indicated that the resident had called the police, she responded, "[The resident] did call the police!" and then explained that the police were called to help the resident calm down while she helped the resident transfer to the hospital.

23. That the above reflects Respondent's failure to provide adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, including but not limited to the failure to provide supervision of and obtain psychiatric assessment for known mental health care needs of a resident.

24. That the above described noncompliance caused or is likely to cause serious injury, harm, impairment, or death to residents.

25. That the Agency determined that this deficient practice presents a situation in which immediate corrective action is necessary because the facility's noncompliance has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident receiving care in a facility, and cited Respondent with an isolated Class I deficient practice.

WHEREFORE, the Agency seeks to impose an administrative fine in the amount of ten thousand dollars (\$10,000.00) against Respondent, a skilled nursing facility in the State of Florida, pursuant to § 400.23(8)(a), Florida Statutes (2021).

COUNT II

26. The Agency re-alleges and incorporates paragraphs one (1) through five (5) and Counts I, II, and III of this Complaint as if fully set forth herein.

27. That Respondent has been cited with for three (3) State Class I deficiencies and therefore is subject to a six (6) month survey cycle for a period of two years and a survey fee of six thousand dollars (\$6,000) pursuant to Section 400.19(3), Florida Statutes (2021).

WHEREFORE, the Agency intends to impose a six (6) month survey cycle for a period of two years and impose a survey fee in the amount of six thousand dollars (\$6,000.00) against Respondent, a skilled nursing facility in the State of Florida, pursuant to Section 400.19(3), Florida Statutes (2021).

COUNT III

28. The Agency re-alleges and incorporates paragraphs one (1) through five (5) and Counts I, II, and III of this Complaint as if fully set forth herein.

29. Based upon Respondent's three (3) cited State Class I deficiencies, it was not in substantial compliance at the time of the survey with criteria established under Part II of Florida Statute 400, or the rules adopted by the Agency, a violation subjecting it to assignment of a conditional licensure status under § 400.23(7)(a), Florida Statutes (2021).

WHEREFORE, the Agency intends to assign a conditional licensure status to Respondent, a skilled nursing facility in the State of Florida, pursuant to § 400.23(7), Florida Statutes (2021) commencing October 22, 2021.

Respectfully submitted this  day of February, 2022.

Thomas J. Walsh II, Esquire
Fla. Bar. No. 566365
Agency for Health Care Admin.
525 Mirror Lake Drive, 330G
St. Petersburg, FL 33701

727.552.1947 (office)
Facsimile 727.552.1440
walsht@ahca.myflorida.com

DISPLAY OF LICENSE

Pursuant to § 400.23(7)(e), Fla. Stat. (2021), Respondent shall post the most current license in a prominent place that is in clear and unobstructed public view, at or near, the place where residents are being admitted to the facility.

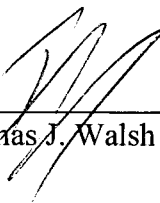
Respondent is notified that it has a right to request an administrative hearing pursuant to Section 120.569, Florida Statutes. Respondent has the right to retain, and be represented by an attorney in this matter. Specific options for administrative action are set out in the attached Election of Rights.

All requests for hearing shall be made to the attention of: ***The Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Bldg #3, MS #3, Tallahassee, Florida, 32308, (850) 412-3630.***

RESPONDENT IS FURTHER NOTIFIED THAT A REQUEST FOR HEARING MUST BE RECEIVED WITHIN 21 DAYS OF RECEIPT OF THIS COMPLAINT OR WILL RESULT IN AN ADMISSION OF THE FACTS ALLEGED IN THE COMPLAINT AND THE ENTRY OF A FINAL ORDER BY THE AGENCY.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Certified Mail, Return Receipt No. 7021 0950 0002 1554 0849 on February 11, 2022, to Joyce Michelle Horna, Administrator, Coral Reef Subacute Care Center, LLC, 9869 Southwest 152nd Street, North Miami Beach, Florida 33157, and by Regular U.S. Mail to Interstate Agent Services, LLC, Registered Agent for Coral Reef Subacute Care Center, LLC, 100 Southeast 2nd Street, Suite 2000, #209, Miami, Florida 33131.



Thomas J. Walsh II

Copy furnished to:
Arlene Mayo-Davis
Field Office Manager
Agency for Health Care Admin.

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

RE: AHCA v. Coral Reef Subacute Care Center, LLC

AHCA No. 2021017400

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed agency action by the Agency for Health Care Administration (AHCA). The title may be Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine or Administrative Complaint. Your Election of Rights may be returned by mail or by facsimile transmission, **but must be filed within 21 days** of the day that you receive the attached proposed agency action. **If your Election of Rights with your selected option is not received by AHCA within 21 days of the day that you received this proposed agency action, you will have waived your right to contest the proposed agency action and a Final Order will be issued.**

(Please use this form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes, and Chapter 28, Florida Administrative Code.)

Please return your **Election of Rights** to this address:

Agency for Health Care Administration

Attention: Agency Clerk

2727 Mahan Drive, Mail Stop #7

Tallahassee, Florida 32308.

Telephone: 850-412-3630 Facsimile: 850-921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS

OPTION ONE (1) _____ I admit to the allegations of facts and law contained in the Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine, or Administrative Complaint and I waive my right to object and to have a hearing. I understand that by giving up my right to a hearing, a final order will be issued that adopts the proposed agency action and imposes the penalty, fine or action.

OPTION TWO (2) _____ I admit to the allegations of facts contained in the Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine, or Administrative Complaint, but I wish to be heard at an informal proceeding (pursuant to Section 120.57(2), Florida Statutes) where I may submit testimony and written evidence to the Agency to show that the proposed administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) _____ I dispute the allegations of fact contained in the Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine, or Administrative Complaint, and I request a formal hearing (pursuant to Section 120.57(1), Florida Statutes) before an Administrative Law Judge appointed by the Division of Administrative Hearings.

PLEASE NOTE: Choosing **OPTION THREE (3), by itself, is **NOT sufficient to obtain a formal hearing.** You also must file a written petition in order to obtain a formal hearing before the Division of Administrative Hearings under Section 120.57(1), Florida Statutes. It must be received by the Agency Clerk at the address above **within 21 days** of your receipt of this proposed agency action. The request for formal hearing must conform to the requirements of Rule 28-106.2015, Florida Administrative Code, which requires that it contain:**

1. The name, address, telephone number, and facsimile number (if any) of the Respondent.
2. The name, address, telephone number and facsimile number of the attorney or qualified representative of the Respondent (if any) upon whom service of pleadings and other papers shall be made.
3. A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.
4. A statement of when the respondent received notice of the administrative complaint.
5. A statement including the file number to the administrative complaint.

Mediation under Section 120.573, Florida Statutes, may be available in this matter if the Agency agrees.

License Type: _____ (ALF? Nursing Home? Medical Equipment? Other Type?)

Licensee Name: _____ License Number: _____

Contact Person: _____ Title: _____

Address: _____
Number and Street City Zip Code

Telephone No. _____ Fax No. _____

E-Mail (optional) _____

I hereby certify that I am duly authorized to submit this Election of Rights to the Agency for Health Care Administration on behalf of the licensee referred to above.

Signed: _____ Date: _____

Print Name: _____ Title: _____

View current license information at: Floridahealthfinder.gov

LICENSE #: 1641096
CERTIFICATE #: 26401

State of Florida
AGENCY FOR HEALTH CARE ADMINISTRATION
DIVISION OF HEALTH QUALITY ASSURANCE

NURSING HOME
CONDITIONAL

This is to confirm that CORAL REEF SUBACUTE CARE CENTER LLC has complied with the rules and regulations adopted by the State of Florida. Agency for Health Care Administration, authorized in Chapter 400, Part II, Florida Statutes, and is authorized to operate the following:

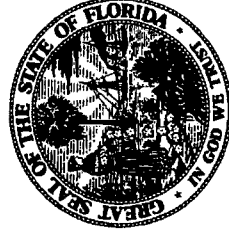
CORAL REEF SUBACUTE CARE CENTER LLC
9869 SW 152nd Street
Miami, FL 33157

Total: 180 Beds

STATUS CHANGE

EFFECTIVE DATE: 10/22/2021

EXPIRATION DATE: 06/29/2023



Simone Marstiller

Simone Marstiller, Secretary
Agency for Health Care Administration



RON DESANTIS
GOVERNOR

SIMONE MARSTILLER
SECRETARY

December 21, 2021

Email: Jhorna@Coralreefnursing.Com

Joyce Michelle Horna, Administrator
Coral Reef Subacute Care Center LLC
9869 SW 152nd Street
Miami, FL 33157

File Number: 111356
License Number: 1641096
Provider Type: Nursing Home

RE: Facility located at 9869 SW 152nd Street, Miami

Dear Ms. Horna:

The enclosed Nursing Home license with license number 1641096 and certificate number 26401 is issued for the above provider effective October 22, 2021 through June 29, 2023. The license is being issued for approval of the status change to Conditional.

Review your certificate thoroughly to ensure that all information is correct and consistent with your records. If errors are noted, please contact the Long Term Care Services Unit.

Please take a short customer satisfaction survey on our website at ahca.myflorida.com/survey/ to let us know how we can serve you better. Additional licensure information can be found at <http://ahca.myflorida.com/longtermcare>.

If we may be of further assistance, please contact me by phone at (850) 412-4422 or by email at Tracey.Weatherspoon@ahca.myflorida.com.

Sincerely,

Tracey Weatherspoon

Health Services and Facilities Consultant
Long Term Care Services Unit
Division of Health Quality Assurance



STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,
vs.

Agency No. 2021017400
DOAH No. 22-1575

CORAL REEF SUBACUTE CARE CENTER, LLC,

Respondent.
_____ /

SETTLEMENT AGREEMENT

Petitioner, State of Florida, Agency for Health Care Administration (hereinafter the “Agency”), through its undersigned representatives, and Respondent, Coral Reef Subacute Care Center, LLC (hereinafter “Respondent”), pursuant to Section 120.57(4), Florida Statutes, each individually, a “party,” collectively as “parties,” hereby enter into this Settlement Agreement (“Agreement”) and agree as follows:

WHEREAS, Respondent is a nursing home licensed pursuant to Chapters 400, Part II, and 408, Part II, Florida Statutes, Section 20.42, Florida Statutes and Chapter 59A-4, Florida Administrative Code; and

WHEREAS, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over Respondent, pursuant to Chapters 400, Part II, and 408, Part II, Florida Statutes; and

WHEREAS, the Agency served Respondent with a mended administrative complaint dated February 11, 2022, notifying the Respondent of its intent to impose administrative fines in the sum of ten dollars (\$10,000.00), and the imposition of a two (2) year survey cycle and its six

EXHIBIT 2

thousand dollars (\$6,000.00) fee, for a total assessment of sixteen thousand dollars (\$16,000.00), and imposition of conditional licensure; and

WHEREAS, the parties have negotiated and agreed that the best interest of all the parties will be served by a settlement of this proceeding; and

NOW THEREFORE, in consideration of the mutual promises and recitals herein, the parties intending to be legally bound, agree as follows:

1. All recitals herein are true and correct and are expressly incorporated herein.
2. Both parties agree that the “whereas” clauses incorporated herein are binding findings of the parties.
3. Upon full execution of this Agreement, Respondent agrees to waive any and all appeals and proceedings to which it may be entitled including, but not limited to, an informal proceeding under Subsection 120.57(2), Florida Statutes, a formal proceeding under Subsection 120.57(1), Florida Statutes, appeals under Section 120.68, Florida Statutes; and declaratory and all writs of relief in any court or quasi-court of competent jurisdiction; and agrees to waive compliance with the form of the Final Order (findings of fact and conclusions of law) to which it may be entitled, provided, however, that no agreement herein shall be deemed a waiver by either party of its right to judicial enforcement of this Agreement.
4. Upon full execution of this Agreement:
 - a. Respondent agrees to pay administrative fines in the amount of eight thousand dollars (\$8,000.00), and the imposition of a two (2) year survey cycle and its six thousand dollar (\$6,000.00) fee, for a total assessment of fourteen thousand dollars (\$14,000.00) to the Agency within thirty (30) days of the entry of the Final Order.

b. Respondent accepts imposition of conditional licensure commencing October 22, 2021, and ending November 11, 2021.

5. Venue for any action brought to enforce the terms of this Agreement or the Final Order entered pursuant hereto shall lie in Circuit Court in Leon County, Florida.

6. By executing this Agreement, Respondent denies, and the Agency asserts the validity of the allegations raised in the survey referenced herein. No agreement made herein shall preclude the Agency from imposing a penalty against Respondent for any deficiency/violation of statute or rule identified in a future survey of Respondent, pursuant to the provisions of Chapters 400, Part II, 408, Part II, Florida Statutes, and Chapter 59A-4, Florida Administrative Code, including a "repeat" or "uncorrected" deficiency identified in the Survey. In said event, Respondent retains the right to challenge the factual allegations related to the deficient practices/ violations alleged in the instant cause.

7. No agreement made herein shall preclude the Agency from using the deficiencies from the survey in any decision regarding licensure of Respondent, including, but not limited to, a demonstrated pattern of deficient performance. The Agency is not precluded from using the subject events for any purpose within the jurisdiction of the Agency. Further, Respondent acknowledges and agrees that this Agreement shall not preclude or estop any other federal, state, or local agency or office from pursuing any cause of action or taking any action, even if based on or arising from, in whole or in part, the facts raised in the Survey. This agreement does not prohibit the Agency from taking action regarding Respondent's Medicaid provider status, conditions, requirements or contract. In said event, Respondent retains the right to challenge the factual allegations related to the deficient practices/ violations alleged in the instant cause

8. Upon full execution of this Agreement, the Agency shall enter a Final Order adopting and incorporating the terms of this Agreement and closing the above-styled case.

9. Each party shall bear its own costs and attorney's fees.

10. This Agreement shall become effective on the date upon which it is fully executed by all the parties.

11. Respondent for itself and for its related or resulting organizations, its successors or transferees, attorneys, heirs, and executors or administrators, does hereby discharge the State of Florida, Agency for Health Care Administration, and its agents, representatives, and attorneys of and from all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, arising out of or in any way related to this matter and the Agency's actions, including, but not limited to, any claims that were or may be asserted in any federal or state court or administrative forum, including any claims arising out of this agreement, by or on behalf of Respondent or related facilities.

12. This Agreement is binding upon all parties herein and those identified in paragraph eleven (11) of this Agreement.

13. In the event that Respondent was a Medicaid provider at the subject time of the occurrences alleged in the complaint herein, this settlement does not prevent the Agency from seeking Medicaid overpayments related to the subject issues or from imposing any sanctions pursuant to Rule 59G-9.070, Florida Administrative Code.

14. Respondent agrees that if any funds to be paid under this agreement to the Agency are not paid within thirty-one (31) days of entry of the Final Order in this matter, the Agency may deduct the amounts assessed against Respondent in the Final Order, or any portion thereof, owed by Respondent to the Agency from any present or future funds owed to Respondent by the

Agency, and that the Agency shall hold a lien against present and future funds owed to Respondent by the Agency for said amounts until paid.

15. The undersigned have read and understand this Agreement and have the authority to bind their respective principals to it.

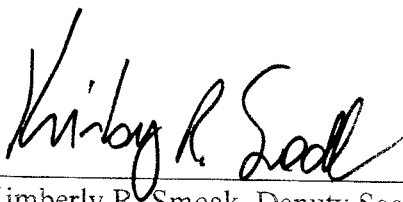
16. This Agreement contains and incorporates the entire understandings and agreements of the parties.

17. This Agreement supersedes any prior oral or written agreements between the parties.

18. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

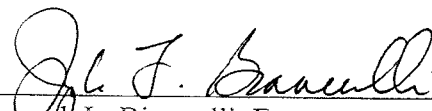
19. All parties agree that a facsimile signature suffices for an original signature.

The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.



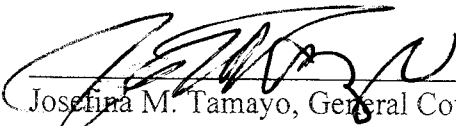
Kimberly R. Smoak, Deputy Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Building #1
Tallahassee, Florida 32308

DATED: 7/11/2022



Joseph L. Bianculli, Esq.
Health Care Lawyers, PLC
2101 North Monroe Street
Suite 103
Arlington, Virginia 22207

DATED: 6/1/22



Josefina M. Tamayo, General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, MS #3
Tallahassee, Florida 32308
Florida Bar No. 688428

DATED: 6/30/22



Thomas J. Walsh II, Senior Attorney
Office of the General Counsel
Agency for Health Care Administration
525 Mirror Lake Drive North, Suite 330G
St. Petersburg, Florida 33701
Florida Bar No. 566365

DATED: 6/7/22

Name: Joseph L. Braucalli
Title: Counsel
Coral Reef Subacute Care Center, LLC

DATED: 6/1/22