

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2009 DEC -3 A 8:37

STATE OF FLORIDA,
AGENCY FOR HEALTH CARE
ADMINISTRATION,

AHCA NO: 2009007499

RENDITION NO.: AHCA-09-1342 -S-OLC

PETITIONER,

vs.

FLORIDA WOMEN'S CENTER, INC.,

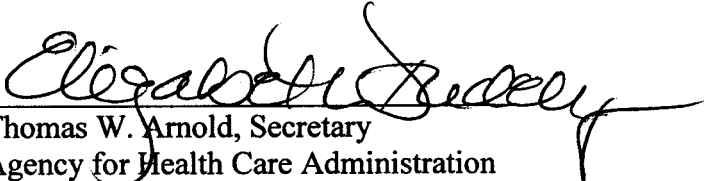
RESPONDENT.

AMENDED FINAL ORDER

Having reviewed the Notice of Intent to Impose Fine dated July 2, 2009, attached and incorporated by reference (Exhibit 1), the parties' Settlement Agreement (Exhibit 2), all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

1. The Settlement Agreement is approved and adopted as part of this Final Order and the parties are directed to comply with the terms of the Settlement Agreement.
2. The administrative fine of \$200 has been PAID without any admission on the part of the Respondent.
3. Each party shall bear its own costs and attorney's fees.
4. The above case is hereby closed.

DONE and ORDERED this 1 day of December, 2009, in Tallahassee,
Leon County, Florida.


Thomas W. Arnold, Secretary
Agency for Health Care Administration

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.

Copies furnished to:

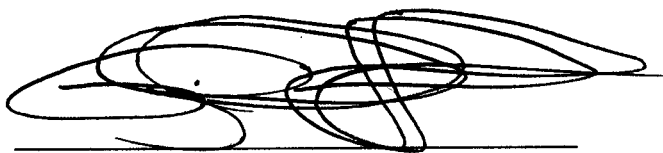
Administrator
Florida Women's Center, Inc.
Post Office Box 55095
Jacksonville, FL 32216
(U.S. Mail)

Finance and Accounting
Revenue Management Unit
Agency for Health Care Administration
(Interoffice Mail)

Jan Mills
Facilities Intake Unit
(Interoffice Mail)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Final Order was served on the above-named persons and entities by U.S. Mail, or the method designated, on this 30th day of December, 2009.



Richard J. Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Building #3, MSC #3
Tallahassee, Florida 32308-5403
(850) 922-5873

2009007499



Certified Article Number
7160 3901 9845 1190 3139
SENDERS RECORD

CHARLIE CRIST
GOVERNOR

HOLLY BENSON
SECRETARY

July 2, 2009

PATRICK KELLY
FLORIDA WOMEN'S CENTER, INC.
P O BOX 55095
JACKSONVILLE, FL 32216

RECEIVED
GENERAL INVESTIGATIVE
JUL 07 2009
Agency for Health
Care Administration

LICENSE NUMBER: 860

CASE #: 2009007499

NOTICE OF INTENT TO IMPOSE FINE

Pursuant to Section 408.813 and Section 390.0112(4), Florida Statutes (F.S.), a fine of \$200 is hereby imposed for not submitting your monthly report of induced terminations of pregnancy for the month of May, 2009. The monthly report is due no later than 30 days following the preceding month. Pursuant to Section 390.0112(4) F.S., any person required to report who fails to report may be subject to a \$200 fine.

TO PAY NOW, PAYMENT SHOULD BE MADE WITHIN 21 DAYS AND MAILED WITH A COPY OF THIS NOTICE OF INTENT TO:

Agency for Health Care Administration
Finance and Accounting, Revenue Section
OMC Manager
2727 Mahan Drive, MS #14
Tallahassee, FL 32308

Include License Number: 860 and Case Number: 2009007499 in check memo field

EXPLANATION OF RIGHTS

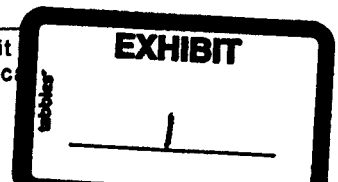
Pursuant to Section 120.569, F.S., you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under Section 120.57(1), F.S., your request for an administrative hearing must conform to the requirements in Section 28-106.201, Florida Administrative Code (F.A.C), and must state the material facts you dispute.

SEE ATTACHED ELECTION AND EXPLANATION OF RIGHTS FORMS.

Agency for Health Care Administration

Laura MacLafferty
By: Laura MacLafferty, Manager
Hospital And Outpatient Services Unit

cc: Agency Clerk, Mail Stop 3
Legal Intake Unit, Mail Stop 3



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

STATE OF FLORIDA,
AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

vs.

Fraes No. 2009007499

FLORIDA WOMEN'S CENTER, INC.,

Respondent.

SETTLEMENT AGREEMENT

The Petitioner, State of Florida, Agency for Health Care Administration (hereinafter "the Agency"), by and through its undersigned representatives, and the Respondent, Florida Women's Center, Inc. (hereinafter "the Respondent"), pursuant to Section 120.57(4), Florida Statutes, each individually, a "party," and collectively as "parties," enter into this Settlement Agreement ("Agreement") and agree as follows:

WHEREAS, the Respondent is an abortion clinic licensed pursuant to Chapter 408, Part II, and Chapter 390, Florida Statutes, and Chapter 59A-9, Florida Administrative Code, and

WHEREAS, the Agency has jurisdiction by virtue of being the licensing and regulatory authority over the Respondent, pursuant to Section 20.42, and Chapter 408, Part II, and Chapter 390, Florida Statutes; and

WHEREAS, the Agency served the Respondent with a Notice of Intent to Impose Fine dated July 2, 2009, notifying it of the Agency's intent to impose an administrative fine of two hundred dollars (\$200.00); and

WHEREAS, the Respondent has paid the fine, but does not wish to have the final order



constitute any type of admission against the clinic; and

WHEREAS, the parties have agreed that a fair, efficient, and cost effective resolution of this dispute would avoid the expenditure of substantial sums to litigate the dispute; and

WHEREAS, the parties stipulate to the adequacy of considerations exchanged; and

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

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. All parties agree that the above "whereas" clauses incorporated herein are binding findings of the parties.
3. Upon full execution of this Agreement, and subject to the entry of a Final Order adopting the terms of this Agreement, the 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 (DOAH) 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. By executing this Agreement, the Respondent agrees that it will not seek any type of refund for the two hundred dollar (\$200.00) administrative fine.
5. Venue for any action brought to interpret, enforce or challenge the terms of this

Agreement and its corresponding Final Order shall lie solely in the Circuit Court of Florida, in and for Leon County, Florida.

6. By executing this Agreement, the Respondent does not admit the allegations set forth in the Notice of Intent.

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

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

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

10. The Respondent, for itself as well as its related or resulting entities, its successors, transferees, attorneys, heirs, and executors or administrators, discharges 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 the Respondent or its related or resulting entities.

11. This Agreement is binding upon all parties and those persons and entities that are identified in the above paragraph.

12. The undersigned have read and understand this Agreement and have the authority to bind their respective principals. The Respondent's representative has the legal capacity to execute this Agreement. The Respondent understands that counsel for the Agency represents solely the Agency and that counsel for the Agency has not provided any legal advice to, or

influenced, the Respondent in the decision to enter into this Agreement.

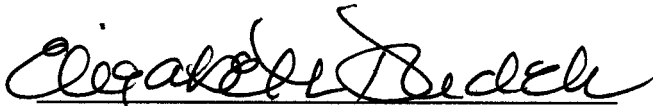
13. This Agreement contains and incorporates the entire understandings and agreements of the parties.

14. This Agreement supersedes any prior oral or written agreements that may have existed between the parties.

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

16. The parties agree that a facsimile signature suffices for an original signature.

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

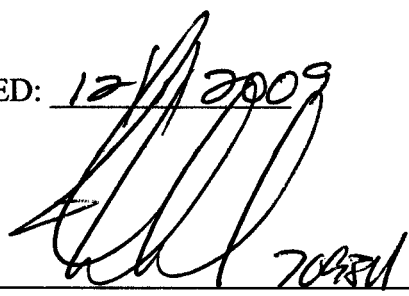


Elizabeth Dudek, Deputy Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, MS #12
Tallahassee, Florida 32308-5407



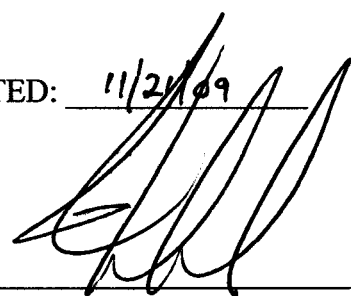
Patrick Kelly, Administrator
Florida Women's Center, Inc.
3599 University Blvd. South, Suite 1200
Jacksonville, Florida 32216

DATED: 12/21/09



Justin M. Senior, General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308-5407

DATED: 11/21/09



Thomas M. Hoeler, Esquire
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308-5407

DATED: 12/1/09

DATED: 12/01/09

FILED
AHCA
AGENCY CLERK

2009 SEP 15 A 10:30

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA,
AGENCY FOR HEALTH CARE
ADMINISTRATION,
PETITIONER,

AHCA NO: 2009007499

vs.

FLORIDA WOMEN'S CENTER, INC.,
RESPONDENT.

FINAL ORDER

Having reviewed the Notice of Intent to Impose Fine dated July 2, 2009, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

FINDINGS OF FACT

1. On July 2, 2009, the Agency issued a Notice of Intent against the Respondent, Florida Women's Center, Inc., an abortion clinic. The Notice of Intent is attached hereto and incorporated herein (Exhibit 1). The findings of fact and law set forth in Exhibit 1 are adopted.
2. The Respondent was served the Notice of Intent on July 6, 2009, by U.S. Certified Mail, return receipt requested. (Exhibit 2)
3. Enclosed with the Notice of Intent was an Election of Rights form (Exhibit 3), which advised Respondent of its right to a hearing pursuant to Section 120.57(1) or 120.57(2), Florida Statutes. Respondent failed to timely return the Election of Rights form.

CONCLUSIONS OF LAW

4. The Respondent is subject to the Agency's jurisdiction pursuant to the provisions of Florida Statutes.

5. Agency may assess an administrative fine against the Respondent as stated in the Notice of Intent.

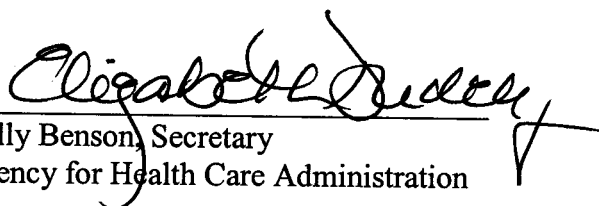
6. Respondent received a Notice of Intent setting forth the Agency's intended action. By failing to timely respond to the Notice of Intent, Respondent waived the right to challenge the allegations and the penalty set forth therein. See Lamar Advertising Co. v. Dept. of Transportation, 523 So. 2d 712 (Fla. 1st DCA 1988) (where party failed to exercise its right to seek administrative review within the time specified in the notice, the opportunity to seek relief was waived).

Based on the foregoing findings of fact and conclusions of law, it is

ORDERED:

1. An administrative fine of \$200 is hereby imposed upon the Respondent and has been paid.
2. The above case is hereby closed.

DONE and ORDERED this 14 day of September, 2009 in Tallahassee, Leon County, Florida.


Holly Benson, Secretary
Agency for Health Care Administration

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.

Copies furnished to:

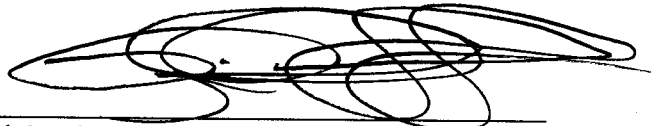
ADMINISTRATOR
FLORIDA WOMEN'S CENTER, INC.
P O BOX 55095
JACKSONVILLE, FL 32216
(U.S. Mail)

Finance & Accounting
Agency for Health Care Administration
2727 Mahan Drive, Bldg #2
Mail Stop Code #14
Tallahassee, Florida 32308
(Interoffice Mail)

Jan Mills
Facilities Intake Unit
(Interoffice Mail)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this Final Order was served on the above-named persons and entities by U.S. Mail, or the method designated, on this 15th day of September, 2009.



Richard J. Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Building #3, MSC #3
Tallahassee, Florida 32308-5403
(850) 922-5873

2009007499



FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION
Better Health Care for all Floridians

Certified Article Number

7160 3901 9845 1190 3139

SENDERS RECORD

CHARLIE CRIST
GOVERNOR

HOLLY BENSON
SECRETARY

July 2, 2009

PATRICK KELLY
FLORIDA WOMEN'S CENTER, INC.
P O BOX 55095
JACKSONVILLE, FL 32216

RECEIVED
GENERAL COUNSEL

JUL 07 2009

Agency for Health
Care Administration

LICENSE NUMBER: 860

CASE #: 2009007499

NOTICE OF INTENT TO IMPOSE FINE

Pursuant to Section 408.813 and Section 390.0112(4), Florida Statutes (F.S.), a fine of \$200 is hereby imposed for not submitting your monthly report of induced terminations of pregnancy for the month of May, 2009. The monthly report is due no later than 30 days following the preceding month. Pursuant to Section 390.0112(4) F.S., any person required to report who fails to report may be subject to a \$200 fine.

TO PAY NOW, PAYMENT SHOULD BE MADE WITHIN 21 DAYS AND MAILED WITH A COPY OF THIS NOTICE OF INTENT TO:

Agency for Health Care Administration
Finance and Accounting, Revenue Section
OMC Manager
2727 Mahan Drive, MS #14
Tallahassee, FL 32308

Include License Number: 860 and Case Number: 2009007499 in check memo field

EXPLANATION OF RIGHTS

Pursuant to Section 120.569, F.S., you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under Section 120.57(1), F.S., your request for an administrative hearing must conform to the requirements in Section 28-106.201, Florida Administrative Code (F.A.C), and must state the material facts you dispute.

SEE ATTACHED ELECTION AND EXPLANATION OF RIGHTS FORMS.

Agency for Health Care Administration

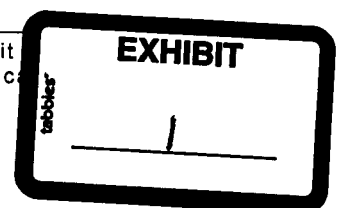
Laura MacLafferty
By: Laura MacLafferty, Manager
Hospital And Outpatient Services Unit

cc: Agency Clerk, Mail Stop 3
Legal Intake Unit, Mail Stop 3

2727 Mahan Drive, MS#31
Tallahassee, Florida 32308



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Track & Confirm

Search Results

Label/Receipt Number: **7160 3901 9845 1190 3139**

Service(s): **Certified Mail™**

Status: **Delivered**

Your item was delivered at 1:25 PM on July 6, 2009 in JACKSONVILLE, FL 32216.

Track & Confirm

Enter Label/Receipt Number.

[Go >](#)

Notification Options

Track & Confirm by email

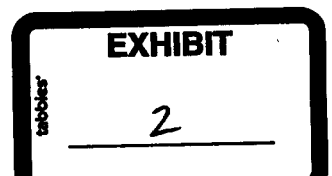
Get current event information or updates for your item sent to you or others by email. [Go >](#)

Return Receipt (Electronic)

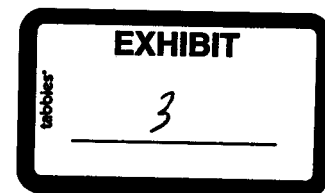
Verify who signed for your item by email. [Go >](#)

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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION



RE: FLORIDA WOMEN'S CENTER, INC.

CASE NO: 2009007499

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed Notice of Intent to Deny of the Agency for Health Care Administration (AHCA). The title may be **Notice of Intent to Impose a Fine, Administrative Complaint, or some other notice of intended action by AHCA.**

An Election of Rights must be returned by mail or by fax within twenty-one (21) days of the day you receive the attached Notice of Intent to Impose a Fine, Administrative Complaint or any other proposed action by AHCA.

If an Election of Rights with your selected option is not received by AHCA within twenty-one (21) days from the date you received this notice of proposed action, you will have given up your right to contest the Agency's proposed action and a final order will be issued.

(Please reply using this Election of Rights form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes (2006) and Rule 28, Florida Administrative Code.)

Please return your ELECTION OF RIGHTS to:

Agency for Health Care Administration
Attention: Agency Clerk
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308
Phone: (850) 922-5873 Fax: (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 Fine, Administrative Complaint, or other notice of intended action by AHCA and I waive my right to object and 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 proposed penalty, fine or action.

OPTION TWO (2) ____ **I admit to the allegations of facts and law contained in the Notice of Intent to Impose a Fine, Administrative Complaint, or other proposed action by AHCA, 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 facts and law contained in the Notice of Intent to Impose a Fine, Administrative Complaint, or other proposed action by AHCA, 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.

