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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

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

AHCA NO: 2008014477

vs.

A CHOICE FOR WOMEN, INC.,
RESPONDENT.

FINAL ORDER

Having reviewed the Notice of Intent to Impose Fine dated January 5, 2009, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

FINDINGS OF FACT

1. On January 5, 2009, the Agency issued a Notice of Intent against the Respondent, A Choice For Women, 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 January 7, 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 the Florida Statutes.

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

6. Respondent received a Notice of Intent to Impose Late Fine setting forth the Agency's intended action. By failing to timely respond to the Notice of Intent to Impose Late Fine, 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. The fine is now due and payable, unless payment has already been made.


2. A check should be made payable to the "Agency for Health Care Administration."

The check, along with a reference to this case number, should be sent directly to:

**Agency for Health Care Administration
Office of Finance and Accounting
Revenue Management Unit
2727 Mahan Drive, MS #14
Tallahassee, Florida 32308**

3. Unpaid fines will be subject to statutory interest and may be collected by all methods legally available.

DONE and ORDERED this 16 day of March, 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:

Elizabeth Dudek
Deputy Secretary
Agency for Health Care Administration
2727 Mahan Drive, Bldg #1
Mail Stop Code #9
Tallahassee, Florida 32308
(Interoffice Mail)

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

ADMINISTRATOR
A CHOICE FOR WOMEN, INC.
6660 SW 117 AVENUE
MIAMI, FL 33183
(U.S. 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 18th day of March, 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

2008014477



FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION

Better Health Care for all Floridians

Certified Article Number

7160 3901 9849 9867 1378

SENDERS RECORD

CHARLIE CRIST
GOVERNOR

HOLLY BENSON
SECRETARY

January 5, 2009

EILEEN DIAMOND
A CHOICE FOR WOMEN, INC.
6660 SW 117 AVENUE
MIAMI, FL 33183

RECEIVED
GENERAL COUNSEL

JAN 05 2009

Agency for Health
Care Administration

LICENSE NUMBER: 864

CASE #: 2008014477

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 November, 2008. 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: 864 and Case Number: 2008014477 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

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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EXHIBIT

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Track & Confirm

Search Results

Label/Receipt Number: **7160 3901 9849 9867 1378**
Status: **Delivered**

Your item was delivered at 8:51 AM on January 7, 2009 in MIAMI, FL 33183.

Track & Confirm

Enter Label/Receipt Number.

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Return Receipt (Electronic)

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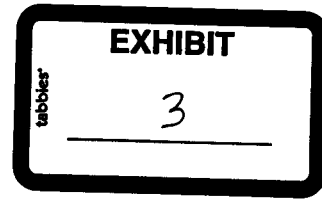
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EXHIBIT

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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION



RE: A CHOICE FOR WOMEN, INC.

CASE NO: 2008014477

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.**

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 twenty-one (21) days** of your receipt of this proposed administrative 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. Your name, address, and telephone number, and the name, address, and telephone number of your representative or lawyer, if any.
2. The file number of the proposed action.
3. A statement of when you received notice of the Agency's proposed action.
4. A statement of all disputed issues of material fact. If there are none, you must state that there are none.

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

License type: Abortion Clinic License number: 864

Licensee Name: A CHOICE FOR WOMEN, INC.

Contact person: _____
Name Title

Address: _____
Street and number City Zip Code

Telephone No. _____ Fax No. _____

Email (optional) _____

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

Signed: _____ **Date:** _____

Print Name: _____ Title: _____