

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
MAR
AGENCY CLERK

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

2015 MAR 25 A 11: 18

Petitioner,

v.

AHCA NO.: 2015000139

BLUE CORAL WOMEN'S CARE, INC.,

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:

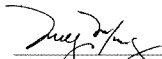
1. The Agency has jurisdiction over the above-named Respondent pursuant to Chapter 408, Part II, Florida Statutes, and the applicable authorizing statutes and administrative code provisions.
2. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1) The Election of Rights form advised of the right to an administrative hearing. The Respondent returned the Election of Rights form selecting "Option 1." (Ex. 2) The Respondent thus waived the right to a hearing to contest the allegations and sanction sought in the Administrative Complaint.

Based upon the foregoing, it is **ORDERED**:

1. The findings of fact and conclusions of law set forth in the Administrative Complaint are adopted and incorporated by reference into this Final Order.
2. The Respondent shall pay the Agency \$1,000. 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:

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

ORDERED at Tallahassee, Florida, on this 25 day of March, 2015.



Elizabeth Dudek, 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 25th day of March, 2015.



Richard Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308-5403
Telephone: (850) 412-3630

Jan Mills Facilities Intake Unit (Electronic Mail)	Finance & Accounting Revenue Management Unit (Electronic Mail)
Andrea M. Lang Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	Maria Fernandez, Administrator Blue Coral Women's Care, Inc. 7360 Coral Way, Suite 16 Miami, Florida 33155 (U.S. Mail)

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

STATE OF FLORIDA,
AGENCY FOR HEALTH CARE
ADMINISTRATION,

Petitioner,

vs.

Case No. 2015000139

BLUE CORAL WOMEN'S CARE INC.,

Respondents.

ADMINISTRATIVE COMPLAINT

COMES NOW the Petitioner, State of Florida, Agency for Health Care Administration (hereinafter "the Agency"), by and through its undersigned counsel, and files this Administrative Complaint against the Respondents, BLUE CORAL WOMEN'S CARE INC., (hereinafter "the Respondent"), pursuant to Sections 120.569, and 120.57, Florida Statutes (2013), and alleges:

NATURE OF THE ACTION

This is an action to impose an administrative fine against an abortion clinic in the amount of ONE THOUSAND DOLLARS (\$1,000.00) pursuant to Section 390.018, Florida Statutes (2013).

JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter pursuant to sections 120.569 and 120.57, Florida Statutes (2013).
2. The Agency has jurisdiction over the Respondent pursuant to Sections 20.42 and 120.60, and Chapters 408, Part II, and 390, Florida Statutes (2013).
3. Venue lies pursuant to Rule 28-106.207, Florida Administrative Code.

PARTIES

4. The Agency is the licensing and regulatory authority that oversees abortion clinics in Florida and enforces the applicable statutes and rules governing such facilities. Chapters 408, Part II, and 390, Florida Statutes (2013); Chapter 59A-9, Florida Administrative Code. The Agency may deny, revoke, and suspend any license issued to an abortion clinic and impose an administrative fine for a violation of the Health Care Licensing Procedures Act, the authorizing statutes or the applicable rules. Sections 408.813, 408.815, 390.018, Florida Statutes (2013).

5. The Respondent was issued a license (License Number 852) by the Agency to operate an abortion clinic located at 7360 Coral Way, Suite 16, Miami, Florida 33155, and was at all material times required to comply with the applicable statutes and rules.

COUNT I

The Respondent Failed To Ensure The Hand Washing Station In The Procedure Room Was Equipped With Wrist-Blade Faucet Handles In Violation Of Rule 59A-9.022, Florida Administrative Code

6. The Agency re-alleges and incorporates by reference paragraphs one (1) through five (5).

7. Pursuant to Florida law, the following are minimum standards of construction and specified minimum essential physical plant requirements which must be met when providing second trimester abortions. These requirements shall apply to all new abortion clinic construction and shall apply to any abortion clinics receiving an initial license after the effective date of these rules when the abortion clinic provides second trimester abortions. Any abortion clinic which provides second trimester abortions and is in operation at the time of adoption of this rule shall be given one year within which to comply with the physical plant requirements.

(1) Consultation room(s) with adequate private space specifically designated for interviewing, counseling, and medical evaluations;

(2) Dressing rooms designated for staff and patients;

- (3) Handwashing station(s) equipped with a mixing valve and wrist blades and located in each patient exam/procedure room or area;
- (4) Private procedure room(s) with adequate light and ventilation for abortion procedures;
- (5) Post procedure recovery room(s) equipped to meet the patient's needs;
- (6) Emergency exits wide enough to accommodate a standard stretcher or gurney;
- (7) Cleaning and sterilizing area(s) adequate for the cleaning and sterilizing of instruments;
- (8) Adequate and secure storage area(s) for the storage of medical records and necessary equipment and supplies; and
- (9) If not otherwise required by the Florida Building Code, at least one general use toilet room equipped with a hand washing station.

Rule 59A-9.022, Florida Administrative Code.

- 7. On or about May 1, 2014, the Agency conducted a Relicensure Survey of the Respondent's facility.
- 8. Based on observation and interview, the Respondent failed to ensure the hand-washing station in the procedure room is equipped with wrist-blade faucet handles.
- 9. A tour of the facility was conducted on 5/1/2014 beginning at 10:30 a.m. with the facility's Administrator. An observation of the hand-washing station in the procedure room revealed the faucet had two round, plastic knob handles (one for hot and one for cold) rather than wrist-blade handles. An interview conducted with the Administrator confirmed this is the hand-washing sink the physician uses during procedures.
- 10. A follow-up interview conducted with the Administrator on 5/1/2014 at 10:55 a.m. also confirmed the faucet in the procedure room does not have wrist-blade handles.

11. The Respondent was cited for a violation pursuant to Section 390.018, Florida Statutes (2013).

12. Pursuant to Florida law, in addition to the requirements of Part II of Chapter 408, Florida Statutes, the Agency may impose a fine upon the clinic in an amount not to exceed \$1,000 for each violation of any provision of Chapter 390, Florida Statutes, Part II of Chapter 408, or the applicable rules. Section 390.018, Florida Statutes (2013).

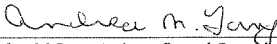
WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, intends to impose an administrative fine against the Respondent in the amount of ONE THOUSAND DOLLARS (\$1,000.00).

CLAIM FOR RELIEF

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully requests the Court to grant the following relief:

1. Enter findings of fact and conclusions of law in favor of the Agency.
2. Impose an administrative fine against the Respondent in the amount of ONE THOUSAND DOLLARS (\$1,000.00) against the Respondent.
3. Order any other relief that the Court deems just and appropriate.

Respectfully submitted on this 11th day of February, 2015.



Andrea M. Lang, Assistant General Counsel
Florida Bar No. 0364568
Agency for Health Care Administration
Office of the General Counsel
2295 Victoria Avenue, Room 346C
Fort Myers, Florida 33901
Telephone: (239) 335-1253

NOTICE

RESPONDENT IS NOTIFIED THAT IT/HE/SHE HAS A RIGHT TO REQUEST AN ADMINISTRATIVE HEARING PURSUANT TO SECTIONS 120.569 AND 120.57, FLORIDA STATUTES. THE RESPONDENT IS FURTHER NOTIFIED THAT IT/HE/SHE 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.

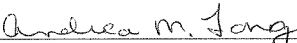
ALL REQUESTS FOR HEARING SHALL BE MADE AND DELIVERED TO THE ATTENTION OF: *THE AGENCY CLERK, AGENCY FOR HEALTH CARE ADMINISTRATION, 2727 MAHAN DRIVE, BLDG #3, MS #3, TALLAHASSEE, FLORIDA 32308; TELEPHONE (850) 412-3630.*

THE RESPONDENT IS FURTHER NOTIFIED THAT IF A REQUEST FOR HEARING IS NOT RECEIVED BY THE AGENCY FOR HEALTH CARE ADMINISTRATION WITHIN TWENTY-ONE (21) DAYS OF THE RECEIPT OF THIS ADMINISTRATIVE COMPLAINT, A FINAL ORDER WILL BE ENTERED BY THE AGENCY.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Administrative Complaint and Election of Rights form has been served to: Maria A. Fernandez, Administrator and Registered Agent for Southwest Florida Women's Clinic, Inc., 7360 Coral Way, Suite 16, Miami, Florida 33155, by United States Certified Mail, Return Receipt No. 7009 1680 0001 8776 0176 on this

11th day of February, 2015.



Andrea M. Lang, Assistant General Counsel

Florida Bar No. 0364568
Agency for Health Care Administration
Office of the General Counsel
2295 Victoria Avenue, Room 346C
Fort Myers, Florida 33901
Telephone: (239) 335-1253

Copies furnished to:

<p>Maria A. Fernandez Administrator and Registered Agent Blue Coral Women's Care, Inc. 7360 Coral Way, Suite 16 Miami, Florida 33155 (U.S. Certified Mail)</p>	<p>Andrea M. Lang, Assistant General Counsel Office of the General Counsel Agency for Health Care Administration 2295 Victoria Avenue, Room 346C Fort Myers, Florida 33901</p>
	<p>Arlene Mayo-Davis, Field Office Manager Agency for Health Care Administration 8355 N.W. 53rd Street, First Floor Miami, Florida 33166 (Electronic Mail)</p>

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

Re: Blue Coral Women's Care, Inc.

Case No. 2015000139

ELECTION OF RIGHTS

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

Your Election of Rights must be returned by mail or by fax within twenty-one (21) days of the date you receive the attached Administrative Complaint, Notice of Intent to Impose a Late Fee, or Notice of Intent to Impose a Late Fine.

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

Please use this form unless you, your attorney or your representative prefer to reply in accordance with Chapter 120, Florida Statutes (2014) and Rule 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 #3
Tallahassee, Florida 32308
Phone: 850-412-3630 Fax: 850-921-0158

PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS

OPTION ONE (1) ____ **I admit the allegations of fact and law contained in the Notice of Intent to Impose a Late Fine or Fee, 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 the allegations of fact and law contained in the Notice of Intent to Impose a Late Fine or Fee, 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 and law contained in the Notice of Intent to Impose a Late Fee, the Notice of Intent to Impose a Late Fine, or Administrative Complaint, and I request a formal hearing** (pursuant to Subsection 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 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, 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: _____ (Assisted Living Facility, Nursing Home, Medical Equipment, Other)

Licensee Name: _____ License Number: _____

Contact Person: _____
Name Title

Address: _____
Street and Number City State Zip Code

Telephone No. _____ Fax No. _____ E-Mail (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 above licensee.

Signature: _____

Date: _____

Print Name: _____

Title: _____

FILED
AHCA
AGENCY CLERKSTATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

2015 MAR 10 P 4:08

Re: Blue Coral Women's Care, Inc.

Case No. 2015000139

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EXHIBIT 2