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AHCA
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2010 FEB 17 P 1:43

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

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

AHCA NO: 2009012624

vs.

HIALEAH WOMEN'S CENTER,
RESPONDENT.

FINAL ORDER

Having reviewed the Notice of Intent to Impose Fine dated November 3, 2009, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

FINDINGS OF FACT

1. On November 3, 2009, the Agency issued a Notice of Intent against the Respondent, Hialeah Women's Center, 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 mailed the Notice of Intent on November 3, 2009, by U.S. Certified Mail, return receipt requested.
3. Enclosed with the Notice of Intent was an Election of Rights form (Exhibit 2), 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

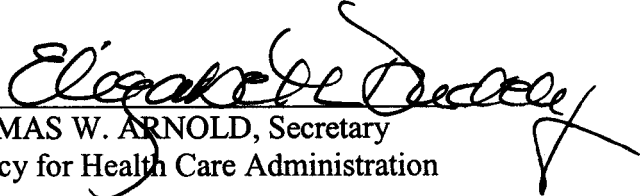
4. The Respondent is subject to the Agency's jurisdiction pursuant to the provisions of Florida Statutes.
5. Agency may assess an administrative fine against the Respondent as stated in the Notice of Intent.
6. Respondent received a Notice of Intent setting forth the Agency's intended action. By failing 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 16 day of February, 2010 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
HIALEAH WOMEN'S CENTER
952 EAST 25TH ST
HIALEAH, FL 33013
(U.S. Mail)

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

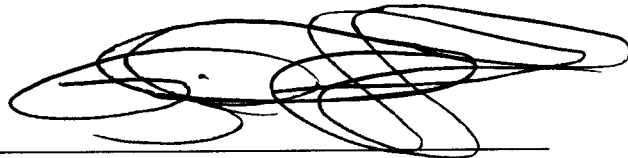
Laura MacLafferty
Hospital Unit
(Interoffice Mail)

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

17th day of February, 2010.



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

2009012624

Certified Article Number

7160 3901 9848 5412 7117

SENDERS RECORD

THOMAS W. ARNOLD
SECRETARY



FLORIDA AGENCY FOR HEALTH CARE ADMINISTRATION

Better Health Care for all Floridians

RECEIVED
GENERAL COUNSEL

NOV 04 2009

Agency for Health
Care Administration

CHARLIE CRIST
GOVERNOR

November 3, 2009

DAYANA GOWDY
HIALEAH WOMEN'S CENTER
952 EAST 25TH ST
HIALEAH, FL 33013

LICENSE NUMBER: 824

CASE #: 2009012624

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 September, 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: 824 and Case Number: 2009012624 in check memo field

EXPLANATION OF RIGHTS

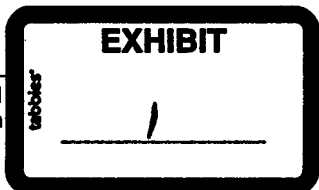
Pursuant to Section 120.569, F.S., you have the right to request an administrative hearing. In order to obtain a formal proceeding before the Division of Administrative Hearings under Section 120.57(1), F.S., your request for an administrative hearing must conform to the requirements in Section 28-106.201,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

EXHIBIT

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RE: HIALEAH WOMEN'S CENTER

CASE NO: 2009012624

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.

