

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED  
AHCA  
AGENCY CLERK

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

2012 JUN -5 A 10: 49

Petitioner,

AHCA NO. 2012001233

v.

HIALEAH WOMEN'S CENTER,

Respondent.

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**FINAL ORDER OF DISMISSAL WITH PREJUDICE**

THIS CAUSE concerns a request for hearing that the Agency for Health Care Administration received pertaining to agency action of March 30, 2012 (Exhibit A).

**FINDINGS OF FACT**

On the above-noted date, the Agency for Health Care Administration sent the Respondent notice of agency action. At the same time, the Agency for Health Care Administration advised the Respondent of the right to ask for a hearing under Chapter 120, Florida Statutes.

On April 20, 2012, the Agency received a request for a formal hearing (Exhibit B). The Request appeared to be legally insufficient.

On April 25, 2012, the Agency issued an Order of Dismissal without Prejudice (Exhibit C). The Order of Dismissal without Prejudice gave the Respondent an opportunity to show why the request for hearing should not be dismissed.

There has been no response to the Order of Dismissal without Prejudice. Therefore, the relevant factual allegations of the Notice of Intent to Impose Fine and the Order of Dismissal without Prejudice are hereby adopted.

**CONCLUSIONS OF LAW**

Section 120.569(2)(c), Florida Statutes, requires the Agency to dismiss the request for formal hearing if the request does not meet the requirements of Rule 28-106.201, Fla. Admin. Code. See Section 120.569(2)(c), Florida Statutes, and Brookwood Extended Care Center of Homestead, LLP v. Agency for Health Care Administration, 870 So.2d 834 (Fla. 3d DCA 2003).

**IT IS THEREFORE ORDERED AND ADJUDGED THAT:**

The request for hearing is dismissed with prejudice, and the pertinent agency action, namely the imposition of a \$200 fine, became final twenty-one (21) days after the date on which notice was received. Respondent shall be governed accordingly.

Unless payment has already been made, payment in the amount of \$200 is now due from the Respondent as a result of the agency action. Such payment shall be made in full within 30 days of the filing of this Final Order of Dismissal with Prejudice. The payment shall be made by check payable to Agency for Health Care Administration, and shall be mailed to the Agency for

Health Care Administration, Attn. Revenue Management Unit, Office of Finance and Accounting, 2727 Mahan Drive, Fort Knox Building 2, Mail Stop 14, Tallahassee, FL 32308.

**DONE and ORDERED** this 5 day of June, 2012, in Tallahassee, Florida.

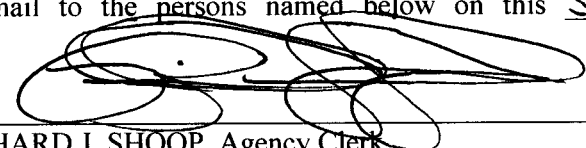
  
ELIZABETH DUDEK, SECRETARY  
AGENCY FOR HEALTH CARE ADMINISTRATION

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER OF DISMISSAL WITH PREJUDICE IS ENTITLED TO JUDICIAL REVIEW, WHICH SHALL BE INSTITUTED BY FILING THE ORIGINAL NOTICE OF APPEAL WITH THE AGENCY CLERK OF AHCA, AND A COPY, ALONG WITH THE FILING FEE 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 PROCEEDINGS SHALL BE CONDUCTED IN ACCORDANCE WITH THE FLORIDA APPELLATE RULES. THE NOTICE OF APPEAL MUST BE FILED WITHIN 30 DAYS OF THE RENDITION OF THE ORDER TO BE REVIEWED.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been furnished by U.S. or interoffice mail to the persons named below on this 5<sup>th</sup> day of June, 2012.

  
RICHARD J. SHOOP, Agency Clerk  
Agency for Health Care Administration  
2727 Mahan Drive, MS #3  
Tallahassee, FL 32308  
(850) 412-3630

COPIES FURNISHED TO:

Dayana Gowdy, CEO  
Hialeah Women's Center  
952 East 25<sup>th</sup> Street  
Hialeah, Florida 33013

Jan Mills  
Facilities Intake Unit

Revenue Management Unit  
Finance & Accounting



RICK SCOTT  
GOVERNOR

Certified Article Number  
7196 9008 9111 3692 4132  
SENDER'S RECORD

ELIZABETH DUDEK  
SECRETARY

March 30, 2012

MARIA PEGUERO, ADMINISTRATOR  
Hialeah Women's Center  
952 East 25th St  
Hialeah, FL 33013

License Number: 824  
Case Number: 2012001233

**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 December, 2011. 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

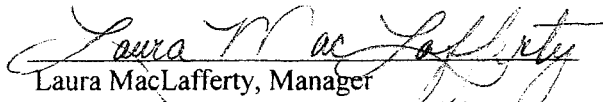
Include License Number: 824 and Case Number: 2012001233 in check memo field.

**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, Manager  
Hospital And Outpatient Services Unit

cc: Agency Clerk, Mail Stop 3

**EXHIBIT**  
#   A  



English

Customer Service

USPS Mobile

Register / Sign In



Search USPS.com or Track Packages

Quick Tools

Ship a Package

Send Mail

Manage Your Mail

Shop

Business Solutions

# Track & Confirm

GET EMAIL UPDATES



YOUR LABEL NUMBER

71969008911136924132

SERVICE

STATUS OF YOUR ITEM

DATE & TIME

LOCATION

FEATURES

Delivered

April 05, 2012, 12:55 pm

HIALEAH, FL 33013

Certified Mail™

Arrival at Unit

April 04, 2012, 8:10 am

HIALEAH, FL 33013

Processed through  
USPS Sort Facility

April 03, 2012, 10:51 pm

PEMBROKE  
PINES, FL 33082

## Check on Another Item

What's your label (or receipt) number?



### LEGAL

- Privacy Policy ›
- Terms of Use ›
- FOIA ›
- No FEAR Act EEO Data ›

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STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

RE: HIALEAH WOMEN'S CENTER

CASE NUMBER: 2012001233

FILED  
AHCA  
AGENCY CLERK

2012 APR 20 P 3:45

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) 412-3630 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.

EXHIBIT

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B

**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: 824

Licensee Name: HIALEAH WOMEN'S CENTER

Contact person: Dayana Gaudy CEO  
Name Title  
Address: 952 EAST 25th Hialeah 33013  
Street and number City Zip Code

Telephone Nbr.: 305.836.9701 Fax Nbr.: \_\_\_\_\_

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: [Signature] Date: 04/10/2022

Print Name: Dayana Gaudy Title: CEO

1/12/12

ITOP/SelectMonth



3:00 PM EST

S

I printed the Resubmission Report because the system allowed me to complete the monthly report but I

couldn't print normal confirmation

Logged in as

**MONTHLY REPORT OF INDUCED TERMINATIONS OF PREGNANCY**

**Select the Month and the Year**

Month December  Year 2011

Initial  Resubmission

CONTINUE

CANCEL

Section 390.0112(4), Florida Statutes, requires that the director of any medical facility in which any pregnancy is terminated, or any physician performing the procedure shall submit monthly report within 30 days following the preceding month. Any person required to file this report who willfully fails to file such report may be subject to a \$200 fine for each viola

**REPORT MEDICAID FRAUD ONLINE BY 866-966-7236 REPORT AB FRAUDE**

Facility  
Feed  
Builder

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED  
AHCA  
AGENCY CLERK

In Re: The Request for Hearing concerning:

2012 MAY -2 A 10: 55

HIALEAH WOMEN'S CENTER,

This Order of Dismissal Without  
Prejudice is directed to:

AHCA No. 2012001233

DAYANA GOWDY, CEO  
On Behalf of Respondent.

**ORDER OF DISMISSAL WITHOUT PREJUDICE PURSUANT TO  
SECTION 120.569(2)(c), FLORIDA STATUTES, TO ALLOW FOR  
AMENDMENT AND RESUBMISSION OF PETITION**

BY THIS ORDER, the Agency Clerk advises that the Agency is dismissing the request for hearing without prejudice and providing the person who requested the hearing with an opportunity to amend the hearing request to correct or address the problem(s) noted below. Please be advised that the Agency Clerk must receive the written response to this Order of Dismissal Without Prejudice within fifteen (15) days of the date on which it was signed. Please consider using U.S. Certified Mail, return receipt requested, to ensure that you receive proof of the date on which the Office of the Agency Clerk received your response. If the Agency Clerk does not receive a response to this Order of Dismissal Without Prejudice within 15 days of the date on which it was signed, a final order will be entered dismissing the hearing request with prejudice.

The Agency is dismissing the request for hearing without prejudice because:

- (1) \_\_\_\_\_ It was untimely filed.<sup>1</sup>

Please note: According to Section 120.569(2)(c), Florida Statutes, the Agency is required to dismiss a request for hearing if it is not timely filed. If this item is checked, it means that, contrary to Rule 28-106.111(2), Florida Administrative Code, a written request for a hearing was not received by the Agency on or before twenty-one (21) days from the date on which the charging document was delivered.

<sup>1</sup>The Respondent received the Notice of Intent or other notice of agency action on, but did not file the request for hearing with the Agency until, more than 21 days after the receipt of the Notice of Intent or other notice of agency action.

EXHIBIT

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C



Accordingly, a Final Order will be entered consistent with the charging document unless the person requesting a hearing can show that the Agency received the written request for hearing on or before twenty-one (21) days from the date on which the charging document was delivered (See Cann v. Department of Children and Family Services, 813 So.2d 237 (Fla. 2d DCA 2002)).

(2)   X   The request for hearing was legally insufficient.

Please note: If this item is checked, the Agency recognizes that you requested a formal hearing pursuant to the provisions of Section 120.569 and 120.57(1), Florida Statutes. Your request, however, did not meet the requirements of Rule 28-106.2015(5), Florida Administrative Code,<sup>2</sup> as required by law and as noted on the Election of Rights form. Since your request for hearing did not conform to the Rule, the Agency is required by law to dismiss it. See Section 120.569(2)(c), Florida Statutes, and Brookwood Extended Care Center of Homestead, LLP v. Agency for Health Care Administration, 870 So.2d 834 (Fla. 3d DCA 2003).

You have time, however, to amend your request for hearing if it was received on time. Please ensure that the amended request includes the information required by Rule 28-106.2015(5), Florida Administrative Code and indicated on the attached copy thereof, and that the Agency Clerk **receives** the amended request on or before fifteen (15) days from the date on which the Agency Clerk signed this Order of Dismissal Without Prejudice.

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<sup>2</sup>A copy of Rule 28-106.2015, Florida Administrative Code, is attached to this order. This rule sets out the information required to be in a request for a formal hearing. You must review your request for hearing and amend it to conform to and contain all the information required by the rule.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a copy of the foregoing has been sent to the persons listed below either by U.S. or interoffice mail.

DONE and ENTERED on this 2<sup>nd</sup> day of May, 2012.



RICHARD J. SHOOP, Agency Clerk  
State of Florida, Agency for  
Health Care Administration  
2727 Mahan Drive, MS #3  
Tallahassee, Florida 32308  
(850) 412-3630

**COPIES FURNISHED TO:**

Dayana Gowdy, CEO  
Hialeah Women's Center  
952 East 25<sup>th</sup> Street  
Hialeah, Florida 33013

Maria Peguero, Administrator  
Hialeah Women's Center  
952 East 25<sup>th</sup> Street  
Hialeah, Florida 33013

**28-106.2015 Agency Enforcement and Disciplinary Actions.**

(1) Prior to entry of a final order to suspend, revoke, or withdraw a license, to impose administrative fines, or to take other enforcement or disciplinary action against a licensee or person or entity subject to the agency's jurisdiction, the agency shall serve upon the licensee an administrative complaint. For purposes of this rule, an agency pleading or communication that seeks to exercise an agency's enforcement authority and to take any kind of disciplinary action against a licensee or other person shall be deemed an administrative complaint.

(2) An agency issuing an administrative complaint shall be the petitioner, and the licensee against whom the agency seeks to take disciplinary action shall be the respondent.

(3) The agency's administrative complaint shall be considered the petition, and service of the administrative complaint on the respondent shall be deemed the initiation of proceedings.

(4) The agency's administrative complaint shall contain:

(a) The name of the agency, the respondent or respondents against whom disciplinary action is sought and a file number.

(b) The statutory section(s), rule(s) of the Florida Administrative Code, or the agency order alleged to have been violated.

(c) The facts or conduct relied on to establish the violation.

(d) A statement that the respondent has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, F.S., and to be represented by counsel or other qualified representative.

(5) Requests for hearing filed by the respondent in accordance with this rule shall include:

(a) The name, address, and telephone number, and facsimile number (if any) of the respondent.

(b) The name, address, telephone number, facsimile number of the attorney or qualified representative of the respondent (if any) upon whom service of pleadings and other papers shall be made.

(c) A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.

(d) A statement of when the respondent received notice of the administrative complaint.

(e) A statement including the file number to the administrative complaint.

*Rulemaking Authority 14.202, 120.54(5) FS. Law Implemented 120.54(5) FS. History—New 1-15-07.*