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STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

NEPTUNE MANOR CARE HOME, LLC
d/b/a NEPTUNE MANOR CARE HOME ALF,

Respondent.

CASE NO. 20-021PH
AHCA NO. 2019004311

RENDITION NO.: AHCA-20-598 -FOI-OLC

FINAL ORDER

At Respondent's request, this case was forwarded to a hearing officer (hereafter referred to as the Presiding Officer) for a proceeding to be conducted pursuant to Section 120.57(2), Florida Statutes. The Presiding Officer's Recommended Order, which was signed on June 23, 2020, and filed with the Agency Clerk's office on the same date, is attached to this Final Order, and incorporated herein by reference.

FINDINGS OF FACT

The Agency adopts the findings of fact set forth in the Recommended Order.

CONCLUSIONS OF LAW

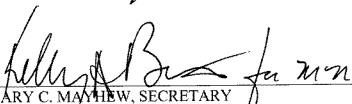
The Agency adopts the conclusions of law set forth in the Recommended Order.

IT IS THEREFORE ADJUDGED THAT:

A \$2,500.00 fine is hereby imposed on Respondent for the violations alleged in the Agency's October 31, 2019 Administrative Complaint. The parties shall govern themselves accordingly.

Unless payment has already been made, payment in the amount of \$2,500.00 is now due from Respondent as a result of the agency action. Such payment shall be made within thirty (30) days of the date of rendition of this Final Order unless other payment arrangements have been made. 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. Central Intake Unit, 2727 Mahan Drive, Mail Stop 61, Tallahassee, Florida 32308.

DONE and **ORDERED** this 25th day of August, 2020, in Tallahassee, Florida.


MARY C. MATHEW, 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 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 electronic mail to the persons named below on this 25th day of August, 2020.



RICHARD J. SHOOP, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, MS #3
Tallahassee, Florida 32308
(850) 412-3689

COPIES FURNISHED TO:

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Informal Hearing Officer
(electronic mail)

Michael S. Roscoe, Esquire
Assistant General Counsel
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Anson Delpo, Administrator
Neptune Manor Care Home ALF
314 Plumwood Circle
Kissimmee, Florida 34743
(via electronic mail to neptunemanor@yahoo.com)

Jan Mills
Facilities Intake Unit
(electronic mail)

Central Intake Unit
Division of Health Quality Assurance
(electronic mail)

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Case No. 20-021PH
AHCA 2019004311

Petitioner,

vs.

NEPTUNE MANOR CARE HOME LLC, DBA
NEPTUNE MANOR CARE HOME ALF,

Respondent.

RECOMMENDED ORDER

THE PETITIONER, AGENCY FOR HEALTH CARE ADMINISTRATION

(Agency), issued on October 31, 2019, and served, a five count administrative complaint (AC), to Respondent, Neptune Manor Care Home ALF, (Respondent) alleging in Count I that a survey conducted on or about November 15, 2018, resulted in a finding that the facility failed to provide required training and/or failed to provide certification of having performed training of employees in emergency and elopement response, and that a re-visit survey conducted on January 24, 2019, found that the deficiencies had not been corrected. Count II alleges that the same surveys resulted in a finding that the facility failed to provide required continuing education training and/or failed to provide certification of employees' training in assistance with medication administration and safe medication practices, and failed to correct the deficiencies at the time of the re-visit. Count III alleges that the same surveys resulted in a finding that the facility failed to provide required continuing education training in the facility's policies and procedures regarding Do Not Resuscitate Orders and/or failed to produce upon request certification of employees'

training, and failed to correct the deficiencies at the time of the re-visit. Count IV alleges that the same surveys resulted in a finding that the facility failed to prepare, obtain approval of, and implement an Emergency Power Plan as prescribed by Florida law, and failed to correct the deficiency at the time of the re-visit. Count V alleges that the same surveys resulted in a finding that the facility failed to maintain required records in a manner that makes such records readily available at the Respondent's physical address for review by the Agency, and failed to correct the deficiency at the time of the re-visit. Each count seeks to impose an administrative fine of five hundred dollars (\$500).

On January 7, 2020, the Respondent filed an Election of Rights form requesting an informal hearing, and the matter was assigned to the undersigned for the conduct of that hearing. The parties filed a Joint Response to the Initial Order on or about April 16, 2020, and an informal hearing was commenced on May 13, 2020 pursuant to Section 120.57(2), Florida Statutes (2019). Mr. Anson Delpe, Registered Agent and Administrator, represented the Respondent at hearing, and was the only witness for the Respondent. Mr. Michael Roscoe, Esquire, Assistant General Counsel, represented the Agency, and Ms. Dilma Pellot appeared as a witness for the Agency.

FINDINGS OF FACT

By requesting an informal hearing pursuant to Section 120.57(2), Florida Statutes (2019), the Respondent admits the allegations of fact in the AC, as set forth in the Election of Rights form filed by the Respondent with the Agency.

CONCLUSIONS OF LAW

1. By admitting the material issues of fact contained in the administrative complaint, it is established that Respondent committed or allowed the deficiencies that form the basis for the Agency's stated intent to impose the fines set forth in the five counts of the AC.

2. The informal hearing is conducted pursuant to Section 120.57(2), Florida Statutes (2019), and is provided to allow Respondent an opportunity to proffer any mitigating evidence that militates in favor of reducing the severity of the alleged deficiencies, or the amount of the fines sought to be imposed by the Agency for those deficiencies.

3. Mr. Delpo testified on behalf of the Respondent that he was traveling out of town on the day of the re-visit survey. Mr. Delpo also testified that neither the Administrator Designee, nor the Acting Administrator of Respondent's facility had access to, or were otherwise able to produce the multiple types of records requested by the Agency at the surveys.

4. Respondent offered no mitigating evidence or testimony at the hearing.

5. "Evidence is mitigating if, in fairness or in the totality of the defendant's life or character, it may be considered as extenuating or reducing the degree of moral culpability . . . [.]" Wickham v. State, 593 So.2d 191, 194 (Fla. 1991).

6. In light of the foregoing, Petitioner has not demonstrated mitigation.

7. The Agency's intent to impose fines of \$500 for each count of the AC, a total of \$2,500 for the five (5) uncorrected Class III deficiencies, is therefore reasonable and appropriate.

RECOMMENDATION

IT IS THEREFORE RECOMMENDED that the Agency enter a Final Order

upholding the imposition of \$2,500 in administrative fines.

DONE AND ORDERED at Tallahassee, Leon County, Florida this 23 day of June,
2020.

Warren J. Bird /S/

Warren J. Bird, Esquire
Informal Hearing Officer
Agency for Health Care Administration
Office of the General Counsel
2727 Mahan Drive MS-7
Tallahassee, Florida 32308

Copies furnished to:

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(Interoffice)

Anson Delpe, Administrator
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Kissimmee, Florida 34743
(Via electronic mail to neptunemanor@vahoo.com)