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STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

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

AHCA NO: 2006002161

vs.

GRACEWOOD NURSING CENTER,  
RESPONDENT.

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**FINAL ORDER**

Having reviewed the Notice of Intent to Impose Late Fine dated March 9, 2006, and all other matters of record, the Agency for Health Care Administration finds and concludes as follows:

**FINDINGS OF FACT**

1. On March 9, 2006, the Agency issued a Notice of Intent against the Respondent, Gracewood Nursing Center, Nursing Home. 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 March 13, 2006, 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 Nursing Home 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. 1<sup>st</sup> 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 \$5,000 is hereby imposed upon the Respondent. The fine is now due and payable, unless payment has already been made.

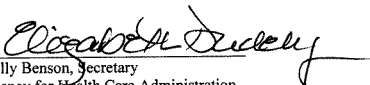
2. A check should be made payable to the "Agency for Health Care Administration."

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 27 day of January, 2009 in Tallahassee, Leon County, Florida.

  
Elizabeth A. Dudley  
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)

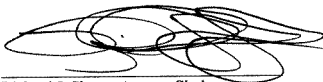
ADMINISTRATOR  
GRACEWOOD NURSING CENTER  
8600 US HWY 19 NORTH  
PINELLAS PARK, FL 33782  
(U.S. Mail)

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 28<sup>th</sup> day of

January, 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



378

JEB BUSH, GOVERNOR

ALAN LEVINE, SECRETARY

March 9, 2006

Administrator  
Gracewood Nursing Center  
8600 U.S. Highway 19 North  
Pinellas Park, FL 33782

RECEIVED  
GENERAL COUNSEL

JAN 16 2009

Agency for Health  
Care Administration

Certified Article Number  
7360 3903 9849 4842 9653  
SENDERS RECORD

**NOTICE OF INTENT TO IMPOSE LATE FINE #2006002161**

Dear Administrator:

A fine of \$5,000 is hereby imposed due to the late filing of the application for annual licensure renewal for Gracewood Nursing Center. The application for license renewal was due to the Agency for Health Care Administration by November 2, 2005. However, the application was received January 26, 2006, eighty-five (85) days late as the facility license expired January 31, 2006. Pursuant to Section 400.111, Florida Statutes, (F.S.) the Agency must assess a fine for license renewal applications that are not received at least ninety (90) days prior to the license expiration date. A fee shall be in an amount equal to 50% of the licensure fee in effect on the last preceding regular renewal date and is assessed for each day beyond the license due date, up to a maximum of \$5,000.

**PAYMENT SHOULD BE SENT TO: (if paid within 21 days of receipt of notice)**

Agency for Health Care Administration  
Long Term Care Unit, MS-33  
2727 Mahan Drive  
Tallahassee, FL 32308

(Please include a copy of this Notice of Intent)



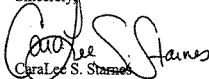
Gracewood Nursing Center  
Page 2  
March 9, 2006

**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**

Sincerely,

A handwritten signature in black ink, appearing to read "CaraLee S. Starnes". The signature is written in a cursive style with a large initial "C" and "S".

CaraLee S. Starnes  
Program Manager  
Long Term Care Unit

cc: Mr. Bernard E. Hudson



JEB BUSH, GOVERNOR

ALAN LEVINE, SECRETARY

November 8, 2005

Administrator  
Gracewood Nursing Center  
8600 US Highway 19 North  
Pinellas Park, FL 33782

## RE: FAILURE TO FILE NURSING HOME RENEWAL APPLICATION

Dear Administrator:

The facility license expires on January 31, 2006 and your renewal application has not been received. Section 400.111(1), F.S., requires submission of the application to renew **ninety** days prior to license expiration and further requires the imposition of a late fee for an application submitted after the due date.

Section 400.062(1), F. S., makes it unlawful to operate a skilled nursing facility without a valid license therefore, your renewal application must be submitted immediately to retain licensure status. If not, within 30 days we must have your plan for the orderly transfer of the facility's residents.

You may obtain the application for renewal on our web-site at:

[http://www.fdhc.state.fl.us/MCHQ/Long\\_Term\\_Care/LTC/index.shtml](http://www.fdhc.state.fl.us/MCHQ/Long_Term_Care/LTC/index.shtml)

If you have any questions, the number for the Long Term Care Unit is (850) 488-5861.

Sincerely,

Bernard E. Hudson  
Health Services & Facilities Consultant  
Long Term Care Unit

cc: File



U

2. Article Number

7160 3901 9849 4842 7653

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? (Extra Fee)  Yes

1. Article Addressed to:

GRACEWOOD NURSING CENTER  
8600 US HWY 19 NORTH  
PINELLAS PARK, FL 33782

RE: 55249

*Bhus 878*

PS Form 3811, January 2005

Domestic Return Receipt

**RECEIVED**  
MAR 15 2006  
LONG TERM CARE UNIT  
SENDER 35, 05, MS #33

COMPLETE THIS SECTION ON DELIVERY

|   |   |
|---|---|
| A. Received By? (Please Print Clearly)<br><i>L. Cotton</i>  | B. Date of Delivery<br><i>3-13-06</i>                       |
| C. Signature<br><i>[Signature]</i>  | <input type="checkbox"/> Agent Addressed                    |
| <input checked="" type="checkbox"/> Is delivery address different from item 1?<br>If YES, enter delivery address below: | <input type="checkbox"/> Yes<br><input type="checkbox"/> No |

**EXHIBIT**

2



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

**EXPLANATION OF RIGHTS UNDER SEC. 120.569, FLORIDA STATUTES**

In response to the allegations set forth in the Notice of Intent issued by the Agency for Health Care Administration ("AHCA") you must make one of the following elections within twenty-one (21) days from the date of receipt of the Notice of Intent. Please make your election of the attached Election of Rights form and return it fully executed to the address listed on the form.

**OPTION ONE (1) :** If you do not dispute the allegations in the Notice of Intent and waive your right to be heard you should select **Option 1** on the elections of rights form. A final order will be entered finding you guilty of the violations charged and imposing the penalty sought in the Notice of Intent. You will be provided a copy of the final order.

**OPTION TWO (2) :** If you do not dispute any material fact alleged in the Notice of Intent (you admit each of them), you may request an informal hearing pursuant to Section 120.57(2), Florida Statutes, before the Agency. At the informal hearing, you will be given an opportunity to present both written and oral evidence to reduce the penalty being imposed for the violations set out in the Notice of Intent. For an informal hearing, you should select **Option 2** on the Election of Rights form.

**OPTION THREE (3) :** If you dispute the allegations set forth in the Notice of Intent (you do not admit them) you may request a formal hearing pursuant to Section 120.57(1), Florida Statutes. To obtain a formal hearing, select Option 3 on the Election of Rights form.

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.

In order to preserve your right to a hearing, your Election of Rights in this matter must be directed to the Agency by filing within twenty-one (21) days from the date you receive the Notice of Intent. If you do not respond at all within twenty-one (21) days from receipt of the Notice of Intent, a final order will be issued finding you guilty of the violations charged and imposing the penalty sought in the Notice of Intent.

**EXHIBIT**

3

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

RE: Gracewood Nursing Center Enforcement #2006002161

**ELECTION OF RIGHTS FOR NOTICE OF INTENT**  
**PLEASE SELECT ONLY 1 OF THE 3 OPTIONS**

An Explanation of Rights is attached.

OPTION ONE (1)  I do not dispute the allegations of fact contained in the Notice of Intent and waive my right to object or to be heard. I understand that by waiving my rights, a final order will be issued that adopts the Notice of Intent and imposes the sanctions sought.

OPTION TWO (2)  I do not dispute and I admit the allegations of fact in the Notice of Intent, but do wish to be afforded an informal proceeding, pursuant to Section 120.57(2), Florida Statutes, at which time I will be permitted to submit oral and/or written evidence to the Agency in mitigation of the penalty imposed.

OPTION THREE (3)  I do dispute the allegations of fact contained in the Notice of Intent and request a formal hearing, pursuant to Section 120.57(1), Florida Statutes, before an Administrative Law Judge appointed by the Division of Administrative Hearings.

If you choose OPTION THREE (3), 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.

In order to preserve your right to any hearing, your Election of Rights in this matter must be directed to the Agency by filing within twenty-one (21) days from the date you receive the Notice of Intent. If you do not respond at all within twenty-one (21) days from receipt of the Notice of Intent, a final order will be issued finding you guilty of the violations charged and imposing the penalty sought in the Notice of Intent.

If you have elected either OPTION TWO (2) or THREE (3) above and you are interested in discussing a settlement of this matter with the Agency, please also mark this block.  Mediation under Section 120.573, Florida Statutes, is not available in this matter.

(Please sign and fill in your current address.)

Respondent / Licensee

Address: \_\_\_\_\_

License No. and facility type: \_\_\_\_\_

Phone No. \_\_\_\_\_

**PLEASE RETURN YOUR COMPLETED FORM TO:**

**CaraLee S. Starnes, Unit Manager**

**Long Term Care**

**Agency for Health Care Administration**

**2727 Mahan Drive (MS 3), Tallahassee, Florida 32308**

**(phone #850-488-5861, fax #850-414-5416, TDD 1-800-955-8771)**