

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED  
AHCA  
AGENCY CLERK

2014 OCT 29 A 11:44

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

MANOR CARE OF PLANTATION FL, LLC d/b/a  
MANORCARE HEALTH SERVICES,

AHCA NO.: 2013012517  
RENDITION NO.: AHCA- 14 - 0883 -S-0LC

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.
3. The parties have since entered into the attached Settlement Agreement. (Ex. 2)

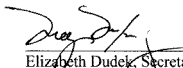
Based upon the foregoing, it is **ORDERED**:

1. The Settlement Agreement is adopted and incorporated by reference into this Final Order. The parties shall comply with the terms of the Settlement Agreement.
2. Upon full execution of this Agreement, Respondent agrees to pay \$20,000.00 in administrative fines to the Agency within thirty (30) days of the entry of the Final Order, and a survey fee in the amount of \$6,000.00, pursuant to Section 400.19(3), Florida Statutes.
3. Conditional licensure status is imposed on the Respondent beginning on October 10, 2013 and ending on November 19, 2013.

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, MS 14  
Tallahassee, Florida 32308

**ORDERED** at Tallahassee, Florida, on this 28 day of October, 2014.



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 28th day of October, 2014.



Richard Shoop, Agency Clerk  
Agency for Health Care Administration  
2727 Mahan Drive, Bldg. #3, 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)
Alba M. Rodriguez, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	R. Michael Underwood, Esq. Buchanan, Ingersoll, Rooney Fowler, White, Boggs Attorney for the Respondent 101 North Monroe Street - Suite 1090 Tallahassee, Florida 32301 (U.S. Mail)

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR HEALTH  
CARE ADMINISTRATION,

Petitioner,

v.

MANOR CARE OF PLANTATION FL, LLC  
d/b/a MANORCARE HEALTH SERVICES,

Respondent.

---

AHCA No. 2013012517  
Return Receipt Requested:  
7009 0080 0000 0586 0797

ADMINISTRATIVE COMPLAINT

COMES NOW the Agency for Health Care Administration (hereinafter referred to as "AHCA"), by and through the undersigned counsel, and files this Administrative Complaint against Manor Care of Plantation FL, LLC d/b/a Manorcare Health Services (hereinafter "Manorcare Health Services"), pursuant to Chapter 400, Part II, and Section 120.60, Florida Statutes (2013), and alleges:

NATURE OF THE ACTIONS

1. This is an action to impose an administrative fine of \$20,000.00 pursuant to Section 400.23(8)(a), Florida Statutes (2013), for the protection of the public health, safety and welfare, and \$6,000.00 survey fee pursuant to Section 400.19(3), Florida Statutes (2013).

2. This is an action to impose a Conditional Licensure status to Manorcare Health Services, pursuant to Section 400.23(7)(b), Florida Statutes (2013).

**JURISDICTION AND VENUE**

3. This Court has jurisdiction pursuant to Sections 120.569 and 120.57, Florida Statutes (2013), and Chapter 28-106, Florida Administrative Code.

4. Venue lies pursuant to Rule 28-106.207, Florida Administrative Code.

**PARTIES**

5. AHCA is the regulatory authority responsible for licensure and enforcement of all applicable statutes and rules governing nursing homes, pursuant to Chapter 400, Part II, Florida Statutes, (2013), and Chapter 59A-4 Florida Administrative Code.

6. Manorcare Health Services is a 120-bed skilled nursing facility located at 6931 W Sunrise Boulevard, Plantation, Florida 33313. Manorcare Health Services is licensed as a skilled nursing facility; Conditional license number SNF1317096. Manorcare Health Services was at all times material hereto a licensed facility under the

licensing authority of AHCA and was required to comply with all applicable rules and statutes.

COUNT I

**MANORCARE HEALTH SERVICES FAILED TO DEVELOP A CARE PLAN REGARDING SUPERVISION TO ADDRESS THE ASSOCIATED RISK FACTORS RELATED TO HEAT AND SUN EXPOSURE DURING OUTSIDE ACTIVITIES AND A CARE PLAN TO ADDRESS THE USE AND MONITORING OF AN AUTOMATIC IMPLANTABLE CARDIOVASCULAR DEFIBRILLATOR.**

**SECTION 400.021(16), FLORIDA STATUTES  
RULE 59A-4.109(2) FLORIDA ADMINISTRATIVE CODE**

**(COMPREHENSIVE CARE PLAN STANDARDS)**

**CLASS I DEFICIENCY**

7. AHCA re-alleges and incorporates paragraphs (1) through (7) as if fully set forth herein.

8. During a complaint investigation conducted on 10/10/2013 and based on clinical record review, staff interview and facility policy review, it was determined that the facility failed to: (1) develop a care plan regarding supervision to address the associated risk factors related to heat and sun exposure during the resident's participation in outside activities; and (2) develop a care plan to address the use and monitoring of an Automatic Implantable Cardioverter Defibrillator.

9. Clinical record review revealed Resident #1 was admitted to the Nursing Home on 03/14/2012 and re-admitted on 08/12/2012. The resident's diagnoses and medical history

included Cerebrovascular Accident (CVA), Dementia, Atrial Fibrillation, an Automatic Implantable Cardioverter Defibrillator, Hypertension and Anemia.

10. The most recent quarterly Minimum Data Set (MDS) assessment dated 09/20/2013 documented the resident as alert with impaired cognition (indicating memory impairment), was unable to recall the year, month and day of the week, a cognitive score of 6 out of 15. Impaired mobility - uses wheelchair. The resident exhibited no mood and behavior patterns during the evaluation period. The resident requires extensive assistance for transfer, dressing, toileting, personal hygiene and total assistance for bathing. No skin condition, were identified.

11. The facility investigation report revealed at 1:20 PM on 10/05/2013, Resident #1 was found unresponsive outside sitting in the sun. The resident suffered from a cardiac arrest at the facility and cardio-pulmonary resuscitate (CPR) was unsuccessful. The resident was pronounced dead at the hospital emergency department on 10/05/2013 at 2:01 PM.

12. Review of Resident #1's care plan with a Registered Nurse/Care Plan/MDS Coordinator on 10/08/13 at 1:30 PM, revealed that the care plans in the medical record did not describe interventions for supervision of the

resident during outside activities or interventions for risk factors related to heat and sun exposure.

13. The following related care plans were reviewed on 10/08/13.

14. Page 1. (Initiated 04/03/12 and revised 07/30/13) "Resident continues to require cues and simple explanation of activities and encouragement for group. Activity Intervention: Resident was encouraged to attend Catholic services and entertainment/music program and be provided with direction. Resident receives in room weekly catholic services and pet therapy throughout the week. Family is very supportive".

15. Page 3. (Initiated 12/31/12) "Need to monitor for complication related to potassium supplement needed secondary to diuretic therapy."

16. Page 4. (Initiated 08/13/12 and revised 11/06/12) "ADL self-care deficit as evidenced by decreased UE (Upper Extremity) strength, decreased activity tolerance, decreased function mobility due to AMA (altered mental status) with increased agitation. Resident eats with his hands at times."

17. Page 5. (Initiated 05/02/13) "Requires assistance/potential to restore function for dressing, as evidenced by related to impaired mobility and physical



limitation".

18. Page 6. (Initiated 05/02/13) "Requires assistance to restore function for mobility, as evidenced by decreased balance and impaired cognition".

19. Page 7. (Initiated 07/10/12 and revised 08/16/12) "Cognitive Impairment diagnosis of Psychosis and on anti-psychotic meds".

20. Page 8. (Initiated 07/10/12) "Resistive/noncompliant with treatment care does not want to wear depend. Cognitive impairment and believes treatment is not needed".

21. Page 9. (Initiated 02/27/13) "History of smoking in community/Inappropriate smoking related to cognitive impairment, noncompliance with policy".

22. Page 10. (Initiated 03/21/12 and revised 08/16/12) "Cognitive loss as evidenced by exhibiting short term memory problem related to effect of CVA and Dementia and on medication".

23. Page 11. (Initiated 04/03/12 and revised 01/02/13) "Difficulty communication related to decline in cognitive status secondary to dementia, psychosis and CVA".

24. Page 12. (Initiated 04/03/12 and revised 08/29/12) "Urine incontinence related to CVA, BPH, and physical limitation".

25. Page 13. (Initiated 01/02/13) "Bowel incontinence related to loss of sphincter control".

26. Page 15. (Initiated 03/14/12 and revised 04/03/12) "At risk for alteration in hydration due to diuretic use".

27. Page 18. (Initiated 03/14/12 and revised 05/10/12) "History of falls due to impaired balance and poor coordination, unsteady gait, potential medication side effect".

28. Page 21. (Initiated 03/15/12 and revised 07/05/12) "Cardiovascular disease related to Hypertension, history of hypotension, CVA with right hemiparesis and Atrial Fibrillation".

29. Page 26. (Initiated 12/27/12) "At risk for adverse effects related to diuretic therapy".

30. During an interview the Registered Nurse Manager (Staff #2) on 10/10/13 at 11:25 AM, she stated Resident #1 was able to make his needs known and attempted to do simple tasks. His main activity was staying outside in the courtyard and doing word search puzzles. She stated that the resident goes out after breakfast and usually comes back in for lunch between 12:15 PM and 1:30 PM. The nurse stated that the activity staff in the main dining room on the first floor is supposed to keep an eye on the resident

activities in the courtyard and call nursing for any concerns.

31. Further review of the clinical record for Resident #1 revealed an operative report dated 01/02/2012. The patient was taken to the operating room for exchange of an AICD (Automatic Implantable Cardioverter Defibrillator) generator. The procedure performed was the Exchange of Medtronic AICD and revision of subcutaneous pocket. Postoperative diagnosis was Sick Sinus Syndrome and end of life of the AICD generator.

32. An (AICD) Automatic Implantable Cardio Converter Defibrillator is a small battery powered electrical impulse generator that is implanted in patients who are at risk for sudden cardiac death. The device is programmed to detect cardiac arrhythmia and corrects itself by delivering jolts of electricity.

33. A physician documented in a History and Physical report on 01/09/2012 "Post AICD interrogation, showing normal functioning. The patient had recent AICD generator exchanged on 01/02".

34. No subsequent testing of the AICD or cardiology evaluation was found in the medical record or provided upon request. There was no evidence Resident #1 had testing or evaluation of his device for approximately 1 year and 9

months after placement.

35. Further review of the care plan revealed that the facility did not develop a written care plan to identify the use of the AICD and establish interventions for monitoring the AICD function.

36. The facility "Pacemaker Check Telephonic" policy, dated 01/2011 requires upon admission the nurse will check the resident's pacemaker for model and Manufacturer Number. Pacemaker check will be scheduled according to the manufacturer's recommendation and/or physician orders.

37. Based on the foregoing, Manorcare Health Services violated Rule 59A-4.109(2) Florida Administrative Code and Section 400.021(16), Florida Statutes herein classified as a Class I deficiency pursuant to Section 400.23(8)(a), Florida Statutes, which carries, in this case, an assessed fine of \$10,000.00. This violation also gives rise to a conditional licensure status pursuant to Section 400.23(7)(b) Florida Statutes.

**COUNT II**

**MANORCARE HEALTH SERVICES FAILED TO PROVIDE CARE AND SERVICES TO PREVENT NEGLECT OF ONE RESIDENT RESULTING IN A DEATH.**

**SECTION 400.102(1) and  
SECTION 415.102(16), FLORIDA STATUTES**

**NEGLECT**

**CLASS I**

38. AHCA re-alleges and incorporates paragraphs (1) through (5) as if fully set forth herein.

39. During the complaint investigation conducted on 10/10/2013 AHCA determined that the facility failed to provide care and services to prevent neglect of 1 resident. The resident had prolonged continuous direct sun exposure without staff monitoring for 3 hours and 45 minutes, from late morning to early afternoon, when the outside temperature range was from 85 to 88 degrees Fahrenheit with partly cloudy skies. During that time, the resident was not taken inside the facility for his lunch meal with the other residents. The resident suffered prolonged sun exposure, as evidenced by abnormal head and upper body movements, loss of consciousness, swelling and burns to the body, upper and lower extremities, cardiac arrest and death. The facility staff failed to identify the changes in the resident's

condition for approximately (01) one hour and (50) fifty minutes.

40. Clinical record review revealed that Resident #1 was admitted to the Nursing Home on 03/14/2012 and re-admitted on 08/12/2012. The resident's active diagnoses and medical history included Cerebrovascular Accident (CVA), Atrial Fibrillation, Automatic Implantable Cardioverter Defibrillator, Hypertension, Pancytopenia (Decreased Red Blood Cells), Prostate Cancer and Anemia.

41. The most recent quarterly Minimum Data Set (MDS) Assessment on 09/20/2013 documented the resident as alert with impaired cognition (indicating memory impairment), was unable to recall the year, month and day of the week, cognitive score of 6 out of 15. Impaired mobility and uses a wheelchair. The resident exhibited no mood and behavior issues during the evaluation period. The resident required extensive assistance for transfer, dressing, toileting, personal hygiene and total assistance for bathing. No skin condition was identified.

42. The facility investigation report documented that Resident #1 was found unresponsive outside at approximately 1:20 PM on 10/05/13. A nurse (Staff #1) assessed the resident, and called 911 for emergency assistance. The resident was transported to the hospital.

43. Observation of the facility's 10/05/13 courtyard video recording (without audio) revealed Resident #1 was sitting in a wheelchair in the direct sun continuously for 3 hours and 45 minutes without supervision by the facility staff. The video recording shows an activity assistant, a licensed nurse and therapy staff in the courtyard interacting with other residents for brief periods but no staff interaction with Resident #1 was observed. The video recording shows at 11:35 AM the resident started having abnormal upper body jerking movement involving the head and trunk. The resident remained in a sitting position in the wheelchair beside a wooden table. The resident's back is facing the camera. The head and upper body movements continued intermittently for approximately 1 hour from 11:35 am to 12:35 PM. No movement of the resident was noted after 12:35 PM. At 1:16 PM a dietary aide goes to the courtyard and appears to be talking to the resident. The resident did not appear to respond. The dietary aide started to leave the courtyard but returned to the resident a second time, the resident did not move. The dietary aide left the courtyard. The resident remained sitting in the sun. At 1:17 PM, a certified nursing assistant arrived in the courtyard, and appears to talk to the resident. The resident did not respond. The certified nursing assistant

left the courtyard and the resident still remained sitting in the sun. At 1:19 PM a registered nurse and a certified nursing assistant arrived in the courtyard and pushed the resident inside the building at 1:20 PM.

44. An interview was conducted with both the Administrator and Director of Nursing on 10/08/13 at 10:30 AM. The Administrator stated the courtyard is monitored by camera, and the monitoring station is at the front entrance desk and the first floor nurse's station. On 10/05/13 (Saturday) the front desk was staffed at 9 AM to 9 PM. The receptionist, and the nursing staff at the first floor nurse's station are supposed to check the residents in the courtyard but they were not required to document that they checked the residents.

45. Resident #1's hospital record review revealed the resident arrived in the emergency department via fire rescue on 10/05/13 at 13:53. The triage nurse documented "EMS (emergency medical services) stated upon arrival, patient was found sitting in wheelchair, unresponsive, pulseless and Apneic (breathless)". Assessment revealed "2nd degree burns noted to bilateral upper and lower extremities, head and abdomen, with sloughing of the skin noted". Patient arrived in cardiac arrest. Patient was hot to touch. EMS applied multiple ice packs to patient.



Patient axillary temperature was 104.4 Fahrenheit, despite ice packs. CPR was terminated at 14:01 on 10/05/13 and patient pronounced dead. The hospital called the police and medical examiner and reported a suspicious cause of death. The emergency department physician documented Cardiac Arrest as the primary clinical impression and Hyperthermia and burns of multiple sites as secondary".

46. An interview on 10/08/13 at 12:05 PM, with the Activity Assistant (Staff #7), verified that she was in the courtyard under the gazebo on 10/05/13 with a group of residents that did not include Resident #1. She stated she does not recall seeing Resident #1 on 10/05/13 because he did not participate in any group activities; he liked to be by himself and did whatever he wanted independently. The Activity Assistant also stated she could not tell the surveyor anything about the resident's condition on 10/05/13.

47. In an interview with the Dietary Aide (Staff #6) on 10/08/13 at 3:00 PM, she stated that she was cleaning up in the first floor dining room after lunch on 10/05/13. A resident in a motorized wheelchair said "I should come with him outside. There is a man outside, and something serious had happened to him. The resident stayed in the dining room and showed me the resident through the glass". During a

further interview, the Dietary Aide stated that she went outside to the resident. "I called the resident's name twice, he did not respond". She stated she was about to come back inside when she went back and called his name again and he did not answer. She came back in and ran to the first floor nurse's station, saw the nurse and she told the nurse a resident outside is not answering when she called his name. The nurse and a C.N.A (Certified Nursing Assistant) brought him inside and she went back to work.

48. Upon interview, conducted on 10/08/13 at 3:15 PM, with the Certified Nursing Assistant (Staff #4) who was assigned to Resident #1 on 10/05/13, stated that she checked the resident's blood pressure before breakfast and the blood pressure was high, so she informed the nurse. She assisted the resident with morning care and transferred him to the wheelchair. The resident went to the dining room and had breakfast. She observed the resident going toward the elevator after breakfast. She stated it was her second time working with the resident and she did not know the resident well. At lunch time, she fed two residents lunch and then went to the dining room. The resident (Resident #1) was not at the table so she went to find him. She told the nurse she could not find the resident and the nurse told her the resident is always sitting in the courtyard.

When she went to the courtyard, the resident was unresponsive. She left the resident in the courtyard and went back inside the building to get the Registered Nurse (RN) on the first floor. She went back outside with the RN and they brought the resident inside the building to the first floor nurse's station. The resident's skin was very warm. His hands were swollen and darker than before. His hands were not swollen in the morning when she washed him. The resident was not smoking.

49. During an interview the Registered Nurse Manager (Staff #2) on 10/10/13 at 11:25 AM, she stated Resident #1 was able to make his needs known and attempted to do simple tasks. His main activity was staying outside in the courtyard and doing word search puzzles. The resident goes out after breakfast and usually comes back in for lunch between 12:15 PM and 1:30 PM. The nurse stated the activity staff in the main dining room on the first floor is supposed to keep an eye on the resident activities in the courtyard and call nursing for any concerns.

50. An interview was conducted at 2:45 PM on 10/10/13, with Licensed Practical Nurse (Staff #3), assigned to Resident #1 on 10/05/13. The nurse stated she saw the resident the morning of 10/05/13 during breakfast and administered his morning medication around 9:00 AM. She

stated it was a usual morning as she was doing her assigned tasks when the nursing supervisor called for her to come down stairs. When she arrived to the first floor, the resident was sitting in a wheel chair at the nurse's station, with his head hanging down. His skin was very warm and his hands were swollen and skin broken. He looked different. The change in his skin was significant, swollen and very dark. "I immediately called 911 and started to cool him down with a wet cloth. The fire rescue arrived in less than 5 minutes. Fire rescue transferred the resident to a stretcher and started CPR."

51. An interview was conducted at 6:00 PM on 10/10/13, with the Certified Respiratory Therapist (CRT, Staff #5). The CRT stated on 10/05/13, when he came off the elevator on the first floor at approximately 1:28 PM, he observed 3 to 4 nurses around a resident in front of the nurse's station. The resident was in a wheelchair and he asked what happened. The nurses said they were not sure but the resident is unresponsive. He asked if they checked the blood pressure and they reported the blood pressure was 138/82 and the pulse was 78. Then he asked about oxygen saturation and they said it was 95%. The resident was on 2 L oxygen via nasal cannula. The CRT checked the resident's

pupils and observed his pupils were fixed and dilated. He told the nurses to get the resident to an empty bed. When they got to the room he applied a non-rebreather mask and fire rescue arrived. The resident was taken from the wheelchair to the fire rescue stretcher. The resident was pulseless and the fire rescue team initiated the ACLS (Advanced Cardiovascular Life Support) protocol. He observed as fire rescue took the resident to the truck continuing CPR and drove away.

52. Based on the foregoing, Manorcare Health Services violated Section 400.102(1) and Section 415.102(16), Florida Statutes herein classified as a Class I deficiency pursuant to Section 400.23(8)(a), Florida Statutes, which carries, in this case, an assessed fine of \$10,000.00. This violation also gives rise to a conditional licensure status pursuant to Section 400.23(7)(b) Florida Statutes.

**ADDITIONAL FINE UNDER SECTION 400.19(3), FLORIDA STATUTES**

53. The Agency, in addition to any administrative fines imposed, may assess a survey fee of \$6,000.00 pursuant to Section 400.19(3), Florida Statutes. The fine for the 2-year period shall be \$6,000.00, one half to be paid at the completion of each survey.

**DISPLAY OF LICENSE**

Pursuant to Section 400.23(7)(e), Florida Statutes, Manorcare Health Services shall post the license in a prominent place that is in clear and unobstructed public view at or near the place where residents are being admitted to the facility.

The Conditional License is attached hereto as Exhibit "A".

**EXHIBIT "A"**

**Conditional License**

License # SNF1317096; Certificate No.: 18739

Effective date: 10/10/2013  
Expiration date: 12/19/2013

Standard License

License #SNF1317096; Certificate No.: 18740

Effective date: 11/20/2013  
Expiration date: 12/19/2013

**CLAIM FOR RELIEF**

**WHEREFORE**, the Petitioner, State of Florida Agency for Health Care Administration requests the following relief:

1. Make factual and legal findings in favor of the Agency on Counts I and II.

2. Assess against Manorcare Health Services an administrative fine of \$20,000.00 for the violation cited above.

3. Assess against Manorcare Health Services a conditional license in accordance with Section 400.23(7), Florida Statutes.

4. Assess against Respondent a six (6) month survey fee in the amount of \$6,000.00 in accordance with Section 400.19(3), Florida Statutes.

5. Assess costs related to the investigation and prosecution of this matter, if applicable.

6. Grant such other relief as the court deems is just and proper.

Respondent is notified that it has a right to request an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes (2013). Specific options for administrative action are set out in the attached Election of Rights and explained in the attached Explanation of



Rights. All requests for hearing shall be made to the Agency for Health Care Administration, and delivered to the **Agency for Health Care Administration, Agency Clerk, 2727 Mahan Drive, Mail Stop #3, Tallahassee, Florida 32308, telephone (850) 412-3630.**

*Alba M. Rodriguez*  
Alba M. Rodriguez  
Fla. Bar No.: 0880175  
Assistant General Counsel  
Agency for Health Care  
Administration  
8333 N. W. 53rd Street  
Suite 300  
Miami, Florida 33166  
305-718-5911

Copies furnished to:

Arlene Mayo-Davis  
Field Office Manager  
Agency for Health Care Administration  
5150 Linton Boulevard, Suite 500  
Delray Beach, Florida 33484  
(Interoffice Mail)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished U.S. Certified Mail, Return Receipt Requested to Elsie F. Justilien, RN, Administrator, Manorcare Health Services, 6931 W. Sunrise Boulevard, Plantation, Florida 33313 on March 26, 2014.

Alba M. Rodriguez  
Alba M. Rodriguez

CERTIFICATE #: 18739

LICENSE #: SNFI317096

# State of Florida

AGENCY FOR HEALTH CARE ADMINISTRATION  
DIVISION OF HEALTH QUALITY ASSURANCE

## NURSING HOME CONDITIONAL

This is to confirm that MANOR CARE OF PLANTATION FL, LLC has complied with the rules and regulations adopted by the State of Florida, Agency For Health Care Administration, authorized in Chapter 400, Part II, Florida Statutes, and as the licensee is authorized to operate the following:

MANORCARE HEALTH SERVICES  
6931 W Sunrise Blvd  
Plantation, FL 33313

TOTAL: 120 BEDS

STATUS CHANGE

EFFECTIVE DATE 10/10/2013

EXPIRATION DATE: 12/19/2013



Deputy Secretary, Division of Health Quality Assurance

CERTIFICATE # 18740

LICENSE # SNF1317096

# State of Florida

AGENCY FOR HEALTH CARE ADMINISTRATION  
DIVISION OF HEALTH QUALITY ASSURANCE

## NURSING HOME STANDARD

This is to confirm that MANOR CARE OF PLANTATION FL, LLC has complied with the rules and regulations adopted by the State of Florida, Agency For Health Care Administration, authorized in Chapter 400, Part II, Florida Statutes, and as the licensee is authorized to operate the following:


MANORCARE HEALTH SERVICES  
6931 W Sunrise Blvd  
Plantation, FL 33313

TOTAL: 120 BEDS

STATUS CHANGE

EFFECTIVE DATE 11/20/2013

EXPIRATION DATE: 12/19/2013

  
Deputy Secretary, Division of Health Quality Assurance

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

RE: Manor Care of Plantation FL, LLC d/b/a  
Manorcare Health Services

AHCA No.: 2013012517

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 **Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine or Administrative Complaint**.

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

**If your 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 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 according to Chapter 120, Florida Statutes (2006) 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 to the allegations of facts and law contained in the Notice of Intent to Impose a Late Fee 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 to the allegations of facts contained in the Notice of Intent to Impose a Late Fee, the Notice of Intent to Impose a Late Fine, 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 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, 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: \_\_\_\_\_ (ALF? nursing home? medical equipment? Other type?)

Licensee Name: \_\_\_\_\_ License number: \_\_\_\_\_

Contact person: \_\_\_\_\_  
Name Title  
Address: \_\_\_\_\_  
Street and number City Zip Code  
Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_ 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:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

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

**Petitioner,**

**AHCA No.: 2013012517**

v.

**MANOR CARE OF PLANTATION FL,  
LLC d/b/a MANORCARE HEALTH  
SERVICES,**

**Respondent.**

\_\_\_\_\_ /

**SETTLEMENT AGREEMENT**

Petitioner, State of Florida, Agency for Health Care Administration (hereinafter the "Agency"), through its undersigned representatives, and Respondent, Manor Care of Plantation FL, LLC d/b/a Manorcare Health Services (hereinafter "Respondent"), pursuant to Section 120.57(4), Florida Statutes, each individually, a "party," collectively as "parties," hereby enter into this Settlement Agreement ("Agreement") and agree as follows:

**WHEREAS**, Respondent is a skilled nursing facility licensed pursuant to Chapters 400, Part II, and 408, Part II, Florida Statutes, Section 20.42, Florida Statutes, and Chapter 59A-4, Florida administrative Code; and

**WHEREAS**, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over Respondent, pursuant to Chapter Section 400, Part II, Florida Statutes; and

**WHEREAS**, the Agency served Respondent with an administrative complaint on or about March 27, 2014, notifying the Respondent of its intent to impose administrative fines in the amount of \$20,000.00, a survey fee in the amount of \$6,000.00 pursuant to Section

400.19(3), Florida Statutes, and assign a conditional licensure status commencing October 10, 2013 and ending November 19, 2013 (the "Complaint"); and

**WHEREAS**, Respondent requested a an extension of time to file a petition for formal administrative proceeding to discuss the possibility of settlement; and

**WHEREAS**, the parties have negotiated and agreed that the best interest of all the parties will be served by a settlement of this proceeding; and

**NOW THEREFORE**, in consideration of the mutual promises and recitals herein, the parties intending to be legally bound, agree as follows:

1. All recitals herein are true and correct and are expressly incorporated herein.
2. Both parties agree that the "whereas" clauses incorporated herein are binding findings of the parties.
3. Upon full execution of this Agreement, Respondent agrees to waive any and all appeals and proceedings to which it may be entitled including, but not limited to, an informal proceeding under Subsection 120.57(2), Florida Statutes, a formal proceeding under Subsection 120.57(1), Florida Statutes, appeals under Section 120.68, Florida Statutes; and declaratory and all writs of relief in any court or quasi-court of competent jurisdiction; and agrees to waive compliance with the form of the Final Order (findings of fact and conclusions of law) to which it may be entitled, provided, however, that no agreement herein shall be deemed a waiver by either party of its right to judicial enforcement of this Agreement.
4. Upon full execution of this Agreement, Respondent agrees to pay \$20,000.00 in administrative fines to the Agency within thirty (30) days of the entry of the Final Order, a survey fee in the amount of \$6,000.00, pursuant to Section 400.19(3), Florida Statutes. Respondent accepts the assignment of conditional licensure status commencing October 10, 2013 and ending November 19, 2013.



5. Venue for any action brought to enforce the terms of this Agreement or the Final Order entered pursuant hereto shall lie in Circuit Court in Leon County, Florida.

6. By executing this Agreement, Respondent denies and the Agency asserts the validity of the allegations raised in the Complaint referenced herein.

7. No agreement made herein shall preclude the Agency from using the deficiencies from the surveys identified in the Complaint (the "Underlying Deficiencies") in any decision regarding licensure of Respondent, including for a demonstrated pattern of deficient performance. In such event, Respondent will be provided with rights pursuant to Chapter 120, Florida Statutes, including but not limited to the right to challenge the allegations of the Complaint and the Underlying Deficiencies. Further, Respondent acknowledges and agrees that this Agreement shall not preclude or estop any other federal, state, or local agency or office from pursuing any cause of action or taking any action, even if based on or arising from, in whole or in part, the facts raised in the Complaint.

8. Upon full execution of this Agreement, the Agency shall enter a Final Order adopting and incorporating the terms of this Agreement and closing the above-styled case.

9. Each party shall bear its own costs and attorney's fees.

10. This Agreement shall become effective on the date upon which it is fully executed by all the parties.

11. Respondent for itself and for its related or resulting organizations, its successors or transferees, attorneys, heirs, and executors or administrators, does hereby discharge the State of Florida, Agency for Health Care Administration, and its agents, representatives, and attorneys of and from all claims, demands, actions, causes of action, suits, damages, losses, and expenses, of any and every nature whatsoever, arising out of or in any way related to this matter and the Agency's actions, including, but not limited to, any claims that were or may be asserted in any

federal or state court or administrative forum, including any claims arising out of this agreement, by or on behalf of Respondent or related facilities.

12. This Agreement is binding upon all parties herein and those identified in paragraph eleven (11) of this Agreement.

13. In the event that Respondent was a Medicaid provider at the subject time of the occurrences alleged in the Complaint herein, this settlement does not prevent the Agency from seeking Medicaid overpayments related to the subject issues or from imposing any sanctions pursuant to Rule 59G-9.070, Florida Administrative Code.

14. Respondent agrees that if any funds to be paid under this agreement to the Agency are not paid within thirty-one (31) days of entry of the Final Order in this matter, the Agency may deduct the amounts assessed against Respondent in the Final Order, or any portion thereof, owed by Respondent to the Agency from any present or future funds owed to Respondent by the Agency, and that the Agency shall hold a lien against present and future funds owed to Respondent by the Agency for said amounts until paid.

15. The undersigned have read and understand this Agreement and have the authority to bind their respective principals to it.

16. This Agreement contains and incorporates the entire understandings and agreements of the parties.

17. This Agreement supersedes any prior oral or written agreements between the parties.

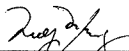
18. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

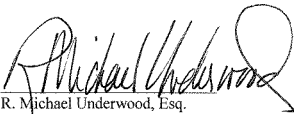
19. All parties agree that a facsimile signature suffices for an original signature.

THIS PORTION OF THE PAGE HAS BEEN LEFT BLANK DELIBERATELY.

The following representatives hereby acknowledge that they are duly authorized to enter


into this Agreement.


  
\_\_\_\_\_  
Molly McKinstrey  
Deputy Secretary  
Division of Health Quality Assurance.  
Agency for Health Care  
Administration  
2727 Mahan Drive  
Tallahassee, Florida 32308

  
\_\_\_\_\_  
R. Michael Underwood, Esq.  
Buckanan, Ingersoll, Rooney  
Fowler, White, Boggs  
Attorney for the Respondent  
101 North Monroe Street  
Suite 1090  
Tallahassee, Florida 32301

Dated: 10/28/14

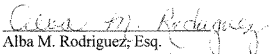
Dated: 10/10/14

  
\_\_\_\_\_  
Stuart F. Williams  
General Counsel  
Agency for Health Care Administration  
2727 Mahan Drive  
Tallahassee, Florida 32308

  
\_\_\_\_\_  
Elsie F. Justilien, RN  
Administrator  
Manorcare Health Services  
6931 W. Sunrise Boulevard  
Plantation, Florida 33313

Dated: 10/21/14

Dated: 10/9/14

  
\_\_\_\_\_  
Alba M. Rodriguez, Esq.  
Assistant General Counsel  
Agency for Health Care Administration  
8333 N. W. 53<sup>rd</sup> Street  
Suite 300  
Miami, Florida 33166

Dated: 10-14-14