

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION
AGENCY CLERK

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

2016 JUN 22 A 10: 56

Petitioner,

v.

AHCA No. 2015012904

License No. 4452

BETHESDA HOSPITAL INC., d/b/a
BETHESDA HOSPITAL EAST

RENDITION NO.: AHCA-16-0463 -S-OLC

Respondent.

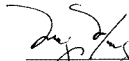
FINAL ORDER

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 issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1) The parties have since entered into the attached Settlement Agreement, which is adopted and incorporated by reference into this Final Order. (Ex. 2)
2. The Respondent shall pay the Agency \$4,000.00. 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:

Central Intake Unit
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 61
Tallahassee, Florida 32308

ORDERED at Tallahassee, Florida, on this 21 day of June, 2016.



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 22nd day of June, 2016.



Richard J. Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
Telephone: (850) 412-3630

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Central Intake Unit Agency for Health Care Administration (Electronic Mail)
Bradford C. Herter, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	Roger L Kirk, President & CEO Bethesda Hospital Inc., d/b/a Bethesda Hospital East 2815 South Seacrest Blvd Boynton Beach, FL 33435 (U.S. Mail)
	Vanessa A. Reynolds, Esquire Broad and Cassel One Financial Plaza, Suite 2700 Fort Lauderdale, Florida 33394 (U.S. Mail)

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

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

Petitioner,

v.

**BETHESDA HOSPITAL INC., d/b/a
BETHESDA HOSPITAL EAST**

**AHCA No. 2015012904
License No. 4452
File No. 100002
Provider Type: Hospital**

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW, the Petitioner, State of Florida, Agency for Health Care Administration (hereinafter “the Agency”), by and through its undersigned counsel, and files this Administrative Complaint against the Respondent, Bethesda Hospital Inc., d/b/a Bethesda Hospital East (hereinafter “the Respondent”), pursuant to Sections 120.569 and 120.57, Florida Statutes (2015), and alleges as follows:

NATURE OF THE ACTION

This is an action against a hospital to impose administrative fines in the total amount of four thousand dollars (\$4,000.00).

JURISDICTION AND VENUE

1. The Court has jurisdiction over the subject matter pursuant to Sections 120.569 and 120.57, Florida Statutes (2015).
2. The Agency has jurisdiction over the Respondent pursuant to Sections 20.42 and 120.60, and Chapters 395, Part I, and 408, Part II, Florida Statutes (2015).
3. Venue lies pursuant to Rule 28-106.207, Florida Administrative Code.

PARTIES

4. The Agency is the licensing and regulatory authority that oversees hospitals in Florida and enforces the applicable federal and state regulations, statutes and rules that govern such facilities. Chs. 395, Part I, 408, Part II, Fla. Stat. (2015), Chs. 59A-3 and 59A-10, Fla. Admin. Code. The Agency may deny, revoke, and suspend any license issued to a hospital, or impose an administrative fine, for a violation of the Health Care Licensing Procedures Act, the authorizing statutes or applicable rules. §§ 408.813, 408.815, 408.831, 395.003, 395.1041, 395.1065, Fla. Stat. (2015).

5. The Respondent was issued a license by the Agency (License Number 4452) to operate a 401-bed hospital located at 2815 South Seacrest Boulevard, Boynton Beach, Florida 33435, and was at all times material required to comply with the applicable federal and state regulations, statutes and rules.

6. During October 5-7, 2015, the Agency conducted an unannounced Emergency Access complaint survey (CCR#2015010180) of the Respondent's facility.

COUNT I (Tag H0030)

Respondent Failed To Post Signage In Violation Of Rule 59A-3.255(1)(a)-(c), F.A.C.

7. The Agency re-alleges and incorporates by reference paragraphs 1 through 6.
8. Rule 59A-3.255, F.A.C., provides in pertinent part:

59A-3.255 Emergency Care.

(1) SIGNAGE REQUIREMENTS.

(a) Each hospital offering emergency services and care shall post, in a conspicuous place in the emergency service area, a sign clearly stating a patient's right to emergency services and care as set forth in Section 395.1041, F.S. The sign shall be posted in both English and in Spanish.

(b) Each hospital offering emergency services and care shall post a sign identifying the service capability of the hospital. The categories

of services listed on the sign may be general in nature if the sign refers patients to another location within that facility where a list of the subspecialties is available. The sign identifying the service capability of the hospital and the additional listing of subspecialties, if a separate subspecialty list is maintained, shall be in both English and in Spanish.

(c) The signs required by this rule section shall be posted in a location where individuals not yet admitted to the hospital would reasonably be expected to present themselves for emergency services and care.

. . .

9. Based on observation, administrative record review and staff interview, Respondent's facility failed to post, in a conspicuous place in the emergency service area, a sign clearly stating a patient's right to emergency services and care as set forth in Section 395.1041, F.S. and to ensure the posted signs identifying all the service capability of the hospital were consistent with the Agency listing of the hospital emergency services capability on the face of the hospital license.

10. During the observational tour of the Respondent facility's Emergency Department (ED) on 10/05/2015, beginning at 10:25 a.m. with Respondent facility's Director of the ED (the Director), it was observed that Respondent's facility failed to provide evidence of posted signs delineating patient rights to emergency services and care.

11. Additionally, Respondent facility's signs displaying the list of service capabilities of the Respondent's facility posted behind the security desk did not correspond to the services listed on the Agency issued license; services not listed on the board, but listed on the facility license were Cardiovascular Surgery and Podiatry; services posted on the sign but not listed on the license include: Dermatology, Family Medicine, Geriatrics, Immunology, Infectious Disease, Oncology and Pediatric.

12. Respondent facility's Director confirmed that the signs concerning patient rights were not posted in the ED, but did not offer any explanation for the discrepancy between the listed services and those identified on the Agency license.

13. During an interview with Respondent facility's Supervisor of Registration (SR), conducted on 10/05/2015 at 10:45 a.m., it was also confirmed that signs concerning patient rights were not posted in the ED.

14. The Respondent's actions or inactions constituted a violation of this part, authorizing statutes, or applicable rules.

15. Under Florida law, the Agency may impose an administrative fine, not to exceed \$1,000 per violation, per day, for the violation of any provision of Chapter 395, Part I, or Chapter 408, Part II, or the applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine. § 395.1065(2)(a), Fla. Stat. (2015).

16. Under Florida law, as a penalty for any violation of Chapter 408, Part II, the authorizing statutes, or the applicable rules, the Agency may impose an administrative fine. Unless the amount or aggregate limitation of the fine is prescribed by authorizing statutes or applicable rules, the Agency may establish criteria by rule for the amount or aggregate limitation of administrative fines applicable to this part, authorizing statutes, and applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine. For fines imposed by final order of the Agency and not subject to further appeal, the violator shall pay the fine plus interest at the rate specified in Section 55.03, Florida Statutes, for each day beyond the date set by the Agency for payment of the fine. § 408.813, Fla. Stat. (2015).

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully requests the Court to impose an administrative fine against the Respondent in the

amount of one thousand dollars (\$1,000.00).

COUNT II (Tag H0040)

**Respondent Failed To Provide Services In Violation of Of
Rule 59A-3.255(4)(a)1-3, F.A.C., and Section 395.1041 (3)(d)1, F.S.**

17. The Agency re-alleges and incorporates by reference paragraphs 1 through 6.
18. Rule 59A-3.255, F.A.C., provides in pertinent part:

59A-3.255 Emergency Care.

(4) Exemptions.

Every hospital providing emergency services shall ensure the provision of services within the service capability of the hospital, 24 hours per day, 7 days per week either directly or indirectly through:

1. An agreement with another hospital made prior to receipt of a patient in need of the service; or
2. An agreement with one or more physicians made prior to receipt of a patient in need of the service; or
3. Any other arrangement made prior to receipt of a patient in need of the service.

19. Section 395.1041, F.S. (2015) provides in pertinent part:

**(3) EMERGENCY SERVICES; DISCRIMINATION;
LIABILITY OF FACILITY OR HEALTH CARE
PERSONNEL.—**

(d)1. Every hospital shall ensure the provision of services within the service capability of the hospital, at all times, either directly or indirectly through an arrangement with another hospital, through an arrangement with one or more physicians, or as otherwise made through prior arrangements. A hospital may enter into an agreement with another hospital for purposes of meeting its service capability requirement, and appropriate compensation or other reasonable conditions may be negotiated for these backup services.

. . .

20. Based on staff interview and review of clinical records, policy and procedures, on-call schedules, facility license and physician privileges, Respondent's facility failed to ensure that the provision of services within the service capability of the Respondent's facility was provided for 1 (Patient#2) of 20 sampled patients.

21. The Respondent facility's license documents that the facility has a dedicated Emergency Department and is licensed to offer services including Emergency Services, General Surgery, Ophthalmology, Oral/Maxillo-facial Surgery and Plastic Surgery.

22. Respondent facility's policy entitled "Medical Staff Policy," documents:

At the request of the E. R. (emergency room) Physician, the on-call physician from the appropriate specialty must come in to evaluate and stabilize the patient's condition.

23. Review of Respondent facility's clinical record for Patient#2 documents that the patient presented to Respondent's facility on 08/13/2015 at 8:48 p.m., as a walk-in patient with a gunshot wound to the face.

24. Respondent facility's physician notes revealed a Medical Screening Examination (MSE) was initiated at 8:50 p.m., to include the Patient#2's vascular and airway were stable; clinical impression was documented as Acute Penetrating Trauma (gunshot wound) and severe facial trauma/laceration.

25. A computerized axial tomography (CT) of the head and neck was completed for Patient#2; the report documented, "negative CTA of neck"; CT of maxillofacial revealed, "Gunshot wound in left face with comminuted displaced fracture of left lateral maxillary wall and non-displaced fracture of left zygomatic arch"; and the CT of head revealed, "No intracranial hemorrhage."

26. Respondent facility's ER physician contacted the plastic surgeon and the oral maxillo-facial surgeon on-call and noted that it was "beyond the scope of their practice" and contacted Hospital B to transfer the Patient.

27. Patient#2 was evaluated at Hospital B's Emergency Department by the on-call plastic surgeon and oral maxillo-facial Surgeon, and it was determined that the Patient#2's injuries were soft tissue injury with two isolated fractures and did not meet trauma services criteria.

28. Patient#2 was provided the necessary care and services at Hospital B to stabilize the Patient#2's condition and was discharged.

29. The Respondent facility's August 2015 "Emergency Room (ER) Call Schedule," was reviewed. The schedule verified that the Facility indeed had the service capability of Plastic Surgeon and Oral-Maxillo-facial Surgeon On-Call when Patient#2 presented to the facility's ER on 08/13/2015.

30. The Respondent facility's plastic surgeon's delineation of privileges documents privilege status of Plastic Surgery from 10/28/2009 to 06/30/2017. The physician has been granted Plastic Surgery Consultation Privileges; General Privileges in Plastic Surgery which encompasses operations in aesthetic surgery of the face; general reconstructive surgery employing various flaps and grafts; maxillofacial surgery and soft tissue.

31. The Respondent facility's oral-maxillofacial surgeon's delineation of privileges document appointment to Respondent's facility from 05/25/2011 to 12/31/2016, with privilege status of Oral and Maxillofacial Surgery. The physician has been granted General Privileges which encompasses privileges for incision and removal of foreign bodies of jaw and face; repair of facial lacerations around oral cavity and all related oral structures, including lacerations associated with maxillofacial injuries; open reduction of the maxilla, zygoma and mandible; closed reduction of the maxilla, zygoma and mandible; repair of alveolar fractures of the maxilla and mandible; special procedures; surgical excision of the mandible or maxilla with bone graft; osteotomy of the maxilla, mandible, or zygoma; open reduction of the zygoma, orbit and nasal bones (cranial-facial complex

fractures); closed reduction of the zygoma, orbit, and nasal bones (cranial-facial complex fractures).

32. During an interview conducted on 10/06/2015 at 10:15 a.m., Respondent facility's oral maxillofacial surgeon stated that he has been performing oral maxillofacial surgery for 10 years; admitted that he never saw Patient#2 and could not speak to the extent of the tissue damage which Patient#2 had; stated that he was called by respondent facility's ER physician and was informed that Patient#2 was an acute gunshot wound (GSW) with multiple fractures and tissue involvement; that based on what he was told, Patient#2 needed Level 1 –Trauma; that all GSWs require multidisciplinary care.

33. After reading the results of the CT scan for Patient#2 and questioned if the results were within his scope of practice to manage, Respondent facility's oral maxillofacial surgeon stated that it was a GSW and that he could no longer speak because he had to catch a flight.

34. During an interview the on 10/06/2015 at 10:20 a.m., Respondent facility's plastic surgeon stated that he has been a plastic surgeon for 10 years; that he was contacted by Respondent facility's ER physician regarding Patient#2's injury; that he did not come into the ER to evaluate Patient#2, but was sent pictures from the ER physician; that he immediately requested an ophthalmology consult to follow up with Patient#2 after surgery, if ophthalmology follow-up is needed; that he confirmed that he was capable of performing the surgery for the Patient#2's emergency medical condition "without a problem" but he wanted an ophthalmologist name for the record, in the event that Patient#2 had eye involvement.

35. The Respondent's actions or inactions constituted a violation of this part, authorizing statutes, or applicable rules.

36. Under Florida law, the Agency may impose an administrative fine, not to exceed \$1,000 per violation, per day, for the violation of any provision of Chapter 395, Part I, or Chapter 408, Part II, or the applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine. § 395.1065(2)(a), Fla. Stat. (2015).

37. Under Florida law, as a penalty for any violation of Chapter 408, Part II, the authorizing statutes, or the applicable rules, the Agency may impose an administrative fine. Unless the amount or aggregate limitation of the fine is prescribed by authorizing statutes or applicable rules, the Agency may establish criteria by rule for the amount or aggregate limitation of administrative fines applicable to this part, authorizing statutes, and applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine. For fines imposed by final order of the Agency and not subject to further appeal, the violator shall pay the fine plus interest at the rate specified in Section 55.03, Florida Statutes, for each day beyond the date set by the Agency for payment of the fine. § 408.813, Fla. Stat. (2015).

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully requests the Court to impose an administrative fine against the Respondent in the amount of one thousand dollars (\$1,000.00).

COUNT III (Tag H0047)
Respondent Failed To Follow Transfer
Protocol In Violation of Rule 59A-3.255(6)(c)1-2, F.A.C.

38. The Agency re-alleges and incorporates by reference paragraphs 1 through 6.
39. Rule 59A-3.255, F.A.C., provides in pertinent part:

59A-3.255 Emergency Care.

(6) Service Delivery Requirements.

(c) Every hospital offering emergency services and care shall maintain a transfer manual, which shall include in addition to the requirements in subsection (2) of this rule:

1. Decision protocols for when to transfer a patient;

2. A list of receiving hospitals with special care capabilities, including the telephone number of a contact person;

40. Based on staff interview, administrative and clinical record review, the Respondent facility's staff failed to follow the decision protocols regarding transfers and communication with the Administrator on Call (AOC) to accept or deny the transfer request based on EMTALA guidelines and service capacity for 2 of 20 sampled patients (Patient#19 and #20).

41. The Respondent facility's policy titled Transfer of Patients to and from Bethesda, last revision October 8, 2013, states:

All transfers out during normal business hours will require prior approval by the Vice President of Medical Affairs or the Vice President of Risk Management. For transfers after normal business hours, call the Administrator On-Call (AOC) except for Baker Act transfers. Administrative approval is not required for ED cases that meet criteria for trauma transfer. This exclusion shall apply during and after normal business hours.

Transfer Out: At the request of the ER physician, the on-call physician from the appropriate specialty must come in to evaluate and stabilize the patient's condition. The medical exam will be documented in the medical record and will include the reasons why treatment cannot be done at Bethesda Hospital and the reason for the transfer.

Transfer In: When a call is received from an outside Emergency Department, the Assistant Nurse Manager (ANM)/Charge Nurse will check the physician on Call list to determine if the Physician specialist required is on call that day. ED ANM/Charge Nurse will contact Patient Placement or Administrative Supervisor to determine service capacity, including physician availability, bed availability and staffing availability for patient transfer authorization. The Administrative Supervisor or Patient Placement shall notify the AOC of the availability for the service requested. The AOC shall accept or deny the transfer request based on EMTALA guidelines and service capacity.

Patient#19

42. Review of Respondent facility's transfer log of incoming patients for October 2015 shows that Hospital C contacted the Respondent's facility on 10/05/2015 regarding Patient#19, a six-month infant with a fever for three days; Hospital C was seeking a transfer because the facility did not have a Pediatric unit.

43. Respondent facility's Pediatric Emergency Room physician denied admission to the Respondent's facility secondary to not having neurology on call; Hospital C was informed of the decision.

44. Upon further review, neither the Respondent facility's Physician Advisor nor the Administrator on Call (AOC) were notified of the denial.

Patient#20

45. Review of Respondent facility's the transfer log of incoming patients for October 2015 revealed that Hospital C contacted the Respondent's facility on 10/02/2015 regarding Patient#20, a 79-year-old with a diagnosis of nose bleed and was denied transfer secondary to Respondent's facility not having an Ear, Nose and Throat (ENT) on call.

46. Respondent's facility failed to provide at the time of the survey pertinent information documented on the External Transfer In/Out Form; the facility noted the inquiry for transfer on the Transfer In Log; no information was provided regarding the physicians involved in the denial and the Administrator on Call (AOC) notification; the notation on the log indicated that the AOC was not notified.

47. During an interview on 10/07/2015 at 9:25 a.m. AM, Respondent facility's Nursing Supervisor (nights) stated that Respondent facility's procedure regarding transfers on nights is that the Nursing Supervisor will glean the information regarding the chief complaint for the patient;

Medical information is faxed to the facility; the information is presented to the facility's ER physician and the ER physician will contact the requesting physician and after the decision, the ER physician will decide to admit or not; if the patient is to be admitted then an inpatient bed is obtained and the nurse will call the contact number to obtain report; if the patient is denied transfer, then the ER physician will discuss the patient with the requesting physician and inform the physician the reason for the denial; on nights there is a rotation for the Administrator on Call; on days, then it would be the Administrator who is contacted.

48. On 10/07/2015 at approximately 3:25 p.m., during an interview, Respondent facility's Administrator reported that he has not been approving or denying transfers.

49. The Respondent's actions or inactions constituted a violation of this part, authorizing statutes, or applicable rules.

50. Under Florida law, the Agency may impose an administrative fine, not to exceed \$1,000 per violation, per day, for the violation of any provision of Chapter 395, Part I, or Chapter 408, Part II, or the applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine. § 395.1065(2)(a), Fla. Stat. (2015).

51. Under Florida law, as a penalty for any violation of Chapter 408, Part II, the authorizing statutes, or the applicable rules, the Agency may impose an administrative fine. Unless the amount or aggregate limitation of the fine is prescribed by authorizing statutes or applicable rules, the Agency may establish criteria by rule for the amount or aggregate limitation of administrative fines applicable to this part, authorizing statutes, and applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine. For fines imposed by final order of the Agency and not subject to further appeal, the violator shall pay the fine plus interest at the rate specified in Section 55.03, Florida Statutes, for each day beyond the date set by

the Agency for payment of the fine. § 408.813, Fla. Stat. (2015).

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully requests the Court to impose an administrative fine against the Respondent in the amount of one thousand dollars (\$1,000.00).

COUNT IV (Tag H0049)

Respondent Failed To Ensure Written Policies And Procedures Reviewed Annually In Violation of Rule 59A-3.255(5)(e), F.A.C.

- 52. The Agency re-alleges and incorporates by reference paragraphs 1 through 6.
- 53. Rule 59A-3.255, F.A.C., provides in pertinent part:

59A-3.255 Emergency Care.

(6) SERVICE DELIVERY REQUIREMENTS.

(e) Each hospital offering emergency services and care shall maintain written policies and procedures specifying the scope and conduct of emergency services to be rendered to patients. Such policies and procedures must be approved by the organized medical staff, reviewed at least annually, revised as necessary, dated to indicate the time of last review, and enforced.

. . .

54. Based on administrative record review and staff interview, Respondent's facility failed to ensure that the written policies and procedures specifying the scope and conduct of emergency services were reviewed at least annually.

55. During an interview on 10/07/2015 at approximately 2:45 p.m., Respondent facility's Assistant Nurse Manager, stated that the policy and procedures governing emergency services are reviewed every three years; they alternate reviewing the policies at different intervals to ensure that all policies are not due at the same time.

56. Review of Respondent facility's policy titled "Transfer of Patients To And From Bethesda," showed that the last revision date was October 8, 2013.

57. The Respondent's actions or inactions constituted a violation of this part, authorizing statutes, or applicable rules.

58. Under Florida law, the Agency may impose an administrative fine, not to exceed \$1,000 per violation, per day, for the violation of any provision of Chapter 395, Part I, or Chapter 408, Part II, or the applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine. § 395.1065(2)(a), Fla. Stat. (2015).

59. Under Florida law, as a penalty for any violation of Chapter 408, Part II, the authorizing statutes, or the applicable rules, the Agency may impose an administrative fine. Unless the amount or aggregate limitation of the fine is prescribed by authorizing statutes or applicable rules, the Agency may establish criteria by rule for the amount or aggregate limitation of administrative fines applicable to this part, authorizing statutes, and applicable rules. Each day of violation constitutes a separate violation and is subject to a separate fine. For fines imposed by final order of the Agency and not subject to further appeal, the violator shall pay the fine plus interest at the rate specified in Section 55.03, Florida Statutes, for each day beyond the date set by the Agency for payment of the fine. § 408.813, Fla. Stat. (2015).

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully requests the Court to impose an administrative fine against the Respondent in the amount of one thousand dollars (\$1,000.00).

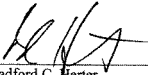
CLAIM FOR RELIEF

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully requests the Court to grant the following relief:

A. Enter findings of fact and conclusions of law in favor of the Agency as set forth in the complaint, specifically sustaining the sanctions sought to be imposed hereby.

B. Order any other relief deemed appropriate.

RESPECTFULLY SUBMITTED this  day of April, 2016.



Bradford C. Herter
Assistant General Counsel
Florida Bar No. 69060
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, MS 3
Tallahassee, Florida
Telephone: (850) 412-3639
Facsimile: (850) 922-9634
Bradford.Herter@ahca.myflorida.com

NOTICE

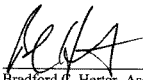
The Respondent is notified that it/he/she has the right to request an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes. If the Respondent wants to hire an attorney, it/he/she has the right to be represented by an attorney in this matter. Specific options for administrative action are set out in the attached Election of Rights form.

The Respondent is further notified if the Election of Rights form is not received by the Agency for Health Care Administration within twenty-one (21) days of the receipt of this Administrative Complaint, a final order will be entered.

The Election of Rights form shall be made to the Agency for Health Care Administration and delivered to: Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 3, Tallahassee, FL 32308; Telephone (850) 412-3630.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Administrative Complaint and Election of Rights Form were served to the named below by the method designated on this 1976 day of April, 2016.



Bradford C. Herter, Assistant General Counsel
Florida Bar No. 69060
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, MS 3
Tallahassee, Florida 32308
Telephone (850) 412-3639
Facsimile (850) 922-9634
Bradford.Herter@ahca.myflorida.com

Copies furnished to:

Administrator
Bethesda Hospital Inc., d/b/a
Bethesda Hospital East
2815 South Seacrest Blvd
Boynton Beach, FL 33435
(U.S. Certified Mail 91 7199 9991 7033 6477 5361)

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

Re: **Bethesda Hospital Inc., d/b/a
Bethesda Hospital East**

AHCA No. 2015012904

ELECTION OF RIGHTS

This Election of Rights form is attached to a proposed agency 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 may be returned by mail or by facsimile transmission, **but must be filed 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 21 days of the day you received this proposed agency action by AHCA, **you will have given up your right to contest the 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 (2014), and Chapter 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
Telephone: 850-412-3630 Facsimile: 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, Notice of Intent to Impose a Late Fine, 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, 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, Notice of Intent to Impose a Late Fine, or Administrative Complaint, 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.

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 agency 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: _____
Number and Street City Zip Code

Telephone No. _____ Fax No. _____ E-Mail(optional) _____

I hereby certify that I am duly authorized to submit this 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,

v.

**BETHESDA HOSPITAL INC., d/b/a
BETHESDA HOSPITAL EAST**

**AHCA No. 2015012904
License No. 4452
File No. 100002
Provider Type: Hospital**

Respondent.

SETTLEMENT AGREEMENT

The Petitioner, State of Florida, Agency for Health Care Administration (hereinafter "the Agency"), through its undersigned representatives, and the Respondent, Bethesda Hospital Inc., d/b/a Bethesda Hospital East (hereinafter "the Respondent"), pursuant to Section 120.57(4), Florida Statutes, each individually a "Party," and collectively as "Parties," hereby enter into this Settlement Agreement (hereinafter "Agreement") and agree as follows:

WHEREAS, the Respondent is a hospital licensed pursuant to Chapters 408, Part II, and 395, Part I, Florida Statutes, and Chapter 59A-3, Florida Administrative Code; and

WHEREAS, the Agency has jurisdiction by virtue of being the licensing and regulatory authority over the Respondent pursuant to Section 20.42, and Chapters 408, Part II, and 395, Part I, Florida Statutes; and

WHEREAS, the Agency served the Respondent with Administrative Complaint on or about April 21, 2016, notifying the Respondent of its intent to impose an administrative fine in the amount of four thousand dollars (\$4,000.00); and

WHEREAS, the Parties have negotiated and agreed that the best interests of the Parties will be served by a settlement of this proceeding;

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. The Parties agree that the "whereas" clauses incorporated herein are binding findings of the Parties.
3. Upon full execution of this Agreement, the Respondent agrees to waive any and all proceedings and appeals 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 (DOAH) 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, the Respondent agrees to pay four thousand dollars (\$4,000.00) to the Agency within thirty (30) days of the entry of the Final Order.
5. Venue for any action brought to challenge, interpret or enforce the terms of this Agreement or its Final Order shall lie solely in the Circuit Court of Leon County, Florida.
6. By executing this Agreement, the Respondent neither admits nor denies the allegations set forth in the Administrative Complaint, but recognizes that the Agency continues in good faith to assert the validity of the allegations raised in the Administrative Complaint. The Agency agrees that it will not impose any further penalty against the Respondent as a result of the

survey identified in the Administrative Complaint, however, this agreement shall not preclude the Agency from imposing a penalty against the Respondent for any deficiency/violation of statute or rule identified in any future survey of the Respondent. Furthermore, this agreement shall not preclude the Agency from using the deficiencies from the survey identified in the Administrative Complaint in any decision regarding licensure of the Respondent.

7. 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.

8. Each Party shall bear its own costs and attorney's fees.

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

10. The Respondent for itself and 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 the Respondent or related facilities.

11. This Agreement is binding upon all of the Parties herein and those identified in paragraph 10 of this Agreement.

12. In the event that the Respondent was a Medicaid provider at the subject time, this Agreement does not prevent the Agency from seeking any Medicaid overpayments that may be related to the issues raised in the Administrative Complaint and/or sanctions pursuant to Rule 59G-

9.070, Florida Administrative Code.

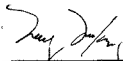
13. The Respondent agrees that if any funds to be paid under this agreement to the Agency are not paid within thirty-one (31) days of entry of the Final Order in this matter, the Agency may deduct the amounts assessed against the Respondent in the Final Order, or any portion thereof, owed by the Respondent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

14. The undersigned have read and understand this Agreement and have the authority to bind their respective principals to it. The Respondent's representative has the legal capacity to execute this Agreement. The Respondent understands that it has the right to consult with counsel and has knowingly and freely entered into this Agreement without exercising its right to consult with counsel. The Respondent understands counsel for the Agency represents solely the Agency and that Agency counsel has not provided any legal advice to or influenced the Respondent in its decision to enter into this Agreement.

15. This Agreement contains and incorporates the entire understandings and agreements of the Parties. This Agreement supersedes any prior oral or written agreements between the Parties. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

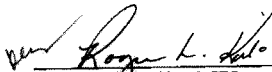
16. The Parties agree that a facsimile signature suffices for an original signature.

The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.



Molly McKinstry, Deputy Secretary
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #2
Tallahassee, Florida 32308

DATED: 6/20/16



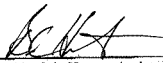
Roger L. King, President & CEO
Bethesda Hospital, Inc. d/b/a
Bethesda Hospital East
2815 S Seacrest Boulevard
Boynton Beach, Florida 33434

DATED: 6-7-16



Stuart F. Williams, General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, MS#3
Tallahassee, Florida 32308

DATED: 6/20/16



Bradford C. Herter, Assistant General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, MS#3
Tallahassee, Florida 32308

DATED: 6/8/2016

The remainder of this document is blank