

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

2022 JUL 11 A 10: 52

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

AHCA NO.: 2022006876

RENDITION NO.: AHCA-22-482 -S-OL

MEDICAL DEVELOPMENT CORPORATION
OF PASCO COUNTY,

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:

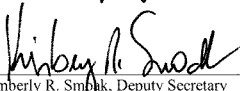
1. The Agency has jurisdiction over the above-named Respondent pursuant to Chapter 408, Part II, Florida Statutes, and the applicable authorizing statutes and administrative code provisions.
2. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1) The parties have since entered into the attached Settlement Agreement, which is adopted and incorporated by reference into this Final Order. (Ex. 2)

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

1. The findings of fact and conclusions of law set forth in the Administrative Complaint are adopted and incorporated by reference into this Final Order.
2. The Respondent shall pay the Agency \$1,000.00. 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 11th day of July, 2022.

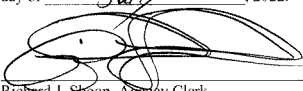

Kimberly R. Smolk, Deputy Secretary
Agency for Health Care Administration

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 11th day of July, 2022.


Richard J. Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308-5403
Telephone: (850) 412-3630

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Central Intake Unit Agency for Health Care Administration (Electronic Mail)
Patrick R. Cleary, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	Alfred O. Bonati M.D., President Medical Development Corporation Of Paso County 7315 Hudson Avenue Hudson, Florida 34667 (U.S. Mail)
Samuel J. Heller, Esquire Heller Law, PLLC 111 2 nd Avenue NE., Suite 704 St. Petersburg, Florida 33701 (U.S. Mail)	

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

Case No. 2022006876

MEDICAL DEVELOPMENT CORPORATION
OF PASCO COUNTY,

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, Medical Development Corporation of Pasco County (hereinafter "the Respondent"), pursuant to sections 120.569 and 120.57, Florida Statutes, and alleges as follows:

NATURE OF THE ACTION

This is an action to impose an administrative fine against an ambulatory surgery center in the amount of one thousand dollars (\$1,000.00).

PARTIES

1. The Agency is the licensing and regulatory authority that oversees ambulatory surgery centers in the state of 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. (2021), Fla. Admin. Code 59A-5. The Agency may deny, revoke, and suspend any license issued to an ambulatory surgical center, and impose an administrative fine, for a violation of the Health Care

Exhibit 1

Licensing Procedures Act, the authorizing statutes or the applicable rules. §§ 408.813, 408.815, 408.831, 395.003, 395.1041, 395.1065, Fla. Stat. (2021).

2. The Respondent was issued a license by the Agency (License Number 894) to operate an ambulatory surgical center located at 7315 Hudson Ave. Hudson, FL. 34667 and was at all times materially required to comply with the applicable federal and state regulations, statutes and rules governing such facilities. “Ambulatory surgical center” or “mobile surgical facility” means a facility the primary purpose of which is to provide elective surgical care, in which the patient is admitted to and discharged from such facility within the same working day and is not permitted to stay overnight, and which is not part of a hospital. § 395.002(3), Fla. Stat. (2021).

COUNT I
Surveil, Prevent & Control of Infection

3. Under Florida Law,

(1) Each center shall establish an Infection Control Program involving members of the medical staff, nursing staff, other professional and administrative staff as appropriate. The program shall provide for:

- (a) The surveillance, prevention, and control of infection among patients and personnel;
- (b) The establishment of a system for identification, reporting, evaluating and maintaining records of infections;
- (c) Ongoing review and evaluation of aseptic, isolation and sanitation techniques employed by the center; and,
- (d) Development and coordination of training programs in infection control for all center personnel.

Fla. Admin. Code R. 59A-5.011(1)

4. On or about May 20, 2021, the Agency conducted a survey of the facility.

5. Based on document review, staff interview and review of facility policy the facility failed to properly contain COVID-19 for reporting, evaluating and maintaining records of infections of personnel for seven (A, B, C, D, E, F, G) of twenty-eight staff members.

Review of Facility Infection Control Document for Tracking Staff Member Illness

6. Review of the facility infection control document for tracking staff member illness revealed in November 2020, over a period of several days, there were seven (A, B, C, D, E, F, G) of twenty-eight staff members that tested positive for SARS-CoV-2 (COVID-19).

7. Review of the document revealed no evidence of specific test dates of each staff member nor evidence of repeat testing prior to returning to work.

8. Review of facility documents revealed no evidence the facility leadership contacted the Department of Health to inform them of the outbreak.

Review of Facility Policy: "Infections, Complications, Outbreaks & Epidemics"

9. Review of the facility policy, "Infections, Complications, Outbreaks & Epidemics," stated Procedure (D) Epidemics/Pandemics: (13) the ICP (Infection Control Practitioner) will be the communicator with the local and State Public Health authorities; (14) staff should remain at home until all symptoms have passed and they test negative.

Interview with Administrator, Staff I

10. An interview was conducted with staff member I (Administrator) on 05/20/2021 at 12:30 p.m.

11. Staff member I confirmed the Department of Health was not contacted.

12. Staff member I provided one follow-up test for staff member (D) which confirmed a negative test result for SARS-CoV-2 before returning to work.

13. Staff member I confirmed she did not have any other follow-up test results for staff A, B, C, E, F, or G.

Relief

14. 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. (2021).

15. 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. (2021).

WHEREFORE, the Petitioner, State of Florida, Agency for Health Care Administration, intends 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, seeks a final order that:

1. Makes findings of fact and conclusions of law in favor of the Agency.
2. Imposes relief against the Respondent as set forth above.

Respectfully submitted on this 15 day of June, 2022.



Patrick R. Cleary, Senior Attorney

Florida Bar No. 1010937
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
Telephone (850) 412-3681
Facsimile (850) 922-6484
Email: Patrick.Cleary@ahca.myflorida.com

NOTICE

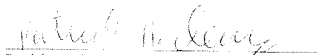
Pursuant to Section 120.569, F.S., any party has the right to request an administrative hearing by filing a request with the Agency Clerk. In order to obtain a formal hearing before the Division of Administrative Hearings under Section 120.57(1), F.S., however, a party must file a request for an administrative hearing that complies with the requirements of Rule 28-106.2015, Florida Administrative Code. Specific options for administrative action are set out in the attached Election of Rights form.

The Election of Rights form or request for hearing must be filed with the Agency Clerk for the Agency for Health Care Administration within 21 days of the day the Administrative Complaint was received. If the Election of Rights form or request for hearing is not timely received by the Agency Clerk by 5:00 p.m. Eastern Time on the 21st day, the right to a hearing will be waived. A copy of the Election of Rights form or request for hearing must also be sent to the attorney who issued the Administrative Complaint at his or her address. The Election of Rights form shall be addressed to: Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 3, Tallahassee, FL 32308; Telephone (850) 412-3630, Facsimile (850) 921-0158.

Any party who appears in any agency proceeding has the right, at his or her own expense, to be accompanied, represented, and advised by counsel or other qualified representative. Mediation under Section 120.573, F.S., is available if the Agency agrees, and if available, the pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement.

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 below named persons/entities by the method designated on this 15 day of June, 2022.



Patrick R. Cleary, Senior Attorney
Florida Bar No. 1010937
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308
Telephone (850) 412-3681
Facsimile (850) 922-6484
Email: Patrick.Cleary@ahca.myflorida.com

Administrator
Medical Development Corporation of Pasco
County
7315 Hudson Ave.
Hudson, FL 34667
(U.S. Certified Mail)

9489 0090 0027 6046 2036 16

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

Re: Medical Development Corporation of Pasco County ACHA No. 2022006876

ELECTION OF RIGHTS

This Election of Rights form is attached to an Administrative Complaint. It may be returned by mail or facsimile transmission, **but must be received by the Agency Clerk within 21 days, by 5:00 p.m. Eastern Time, of the day you received the Administrative Complaint.** If your Election of Rights form or request for hearing is not received by the Agency Clerk within 21 days of the day you received the Administrative Complaint, you will have waived your right to contest the proposed agency action and a Final Order will be issued imposing the sanction alleged in the Administrative Complaint.

(Please use this form unless you, your attorney or your representative prefer to reply according to Chapter 120, Florida Statutes, and Chapter 28, Florida Administrative Code.)

Please return your Election of Rights form 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 fact and conclusions of law alleged in the Administrative Complaint and waive my right to object and to have a hearing. I understand that by giving up the right to object and have a hearing, a Final Order will be issued that adopts the allegations of fact and conclusions of law alleged in the Administrative Complaint and imposes the sanction alleged in the Administrative Complaint.

OPTION TWO (2) _____ I admit to the allegations of fact alleged in the Administrative Complaint, but 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 agency action is too severe or that the sanction should be reduced.

OPTION THREE (3) _____ I dispute the allegations of fact alleged in the Administrative Complaint 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.

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. The name, address, telephone number, and facsimile number (if any) of the Respondent.
2. The name, address, telephone number and facsimile number of the attorney or qualified representative of the Respondent (if any) upon whom service of pleadings and other papers shall be made.
3. A statement requesting an administrative hearing identifying those material facts that are in dispute. If there are none, the petition must so indicate.
4. A statement of when the respondent received notice of the administrative complaint.
5. A statement including the file number to the administrative complaint.

Mediation under Section 120.573, Florida Statutes, may be available in this matter if the Agency agrees.

Licensee Name: _____

Contact Person: _____ 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 form to the Agency for Health Care Administration on behalf of the licensee referred to above.

Signed: _____ Date: _____

Printed Name: _____ Title: _____

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

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

AHCA No. 2022006876

MEDICAL DEVELOPMENT CORPORATION
OF PASCO COUNTY,

Respondent.

SETTLEMENT AGREEMENT

The Petitioner, State of Florida, Agency for Health Care Administration ("the Agency"), and the Respondent, Medical Development Corporation of Pasco County pursuant to Section 120.57(4), Florida Statutes, enter into this Settlement Agreement ("Agreement") and agree as follows:

WHEREAS, the Agency is the licensing and regulatory authority over the Respondent pursuant to Chapter 408, Part II, and Chapter 395, Part I Florida Statutes; and

WHEREAS, the Respondent is an ambulatory surgery center licensed pursuant to Chapter 408, Part II, Chapter 395, Part I, Florida Statutes, and Chapter 59A-5, Florida Administrative Code, and

WHEREAS, the Agency issued the Respondent an Administrative Complaint; and

WHEREAS, the parties have agreed that a fair, efficient, and cost-effective resolution of this dispute would avoid the expenditure of substantial sums to litigate the dispute; and

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

EXHIBIT 2

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

1. All of the above recitals are true and correct and are expressly incorporated into this Agreement.

2. The above "whereas" clauses are binding findings on the parties.

3. Upon full execution of this Agreement, the Respondent waives 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 further waives compliance with the form of the Final Order (findings of fact and conclusions of law) to which it may be entitled. Provided, however, this Agreement shall not be deemed a waiver by any party of its right to the judicial enforcement of this Agreement.

4. Upon full execution of this Agreement, the Respondent agrees to pay the Agency \$1,000.00 within 30 days of the entry of the Final Order.

5. Venue for any action brought to interpret, enforce or challenge the terms of this Agreement and adopting Final Order shall lie solely in the Circuit Court of Leon County, Florida.

6. By entering into this Agreement, the Respondent denies the allegations set forth in the Administrative Complaint, but Respondent recognizes that the Agency continues in good faith to assert the validity of the allegations. This Agreement shall not preclude the Agency from imposing any remedy against the Respondent for any other deficiency identified in any other survey of the Respondent. In the event of any such agency action, however, the Respondent shall have all legal rights to contest any such agency action. This Agreement shall not preclude the Agency from using the survey findings in any decision regarding the licensure of the Respondent.

But, in that event, Respondent shall have all legal rights to contest the survey findings. In addition, this Agreement shall not preclude or estop any federal, other state agency or local agency from taking any action against the Respondent based upon, in whole or in part, the allegations set forth in the Administrative Complaint.

7. Upon full execution of this Agreement, the Agency shall enter a Final Order adopting and incorporating this Agreement and close this 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 parties.

10. The Respondent, for itself as well as its related or resulting entities, successors, and transferees, discharges the Agency and its agents, representatives, and attorneys, 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 its related or resulting entities.

11. This Agreement is binding upon all parties and those persons and entities that are identified in the above paragraph.

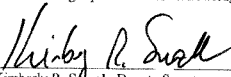
12. In the event that the Respondent was a Medicaid provider at the time of the occurrences alleged in the Administrative Complaint, this Agreement does not prevent the Agency from seeking Medicaid overpayments related to the subject issues or from imposing any further sanctions pursuant to Rule 59G-9.070, Florida Administrative Code. This Agreement does not settle any pending or potential federal issues against the Respondent. This Agreement does not

prohibit the Agency from taking any action regarding the Respondent's Medicaid provider status, conditions, requirements or contract, if applicable.


13. The undersigned have read and understand this Agreement and have the authority and legal capacity to bind their respective principals. The Respondent understands that counsel for the Agency represents solely the Agency and that counsel for the Agency has not provided any legal advice to, or influenced, the Respondent in the decision to enter into this Agreement.

14. This Agreement contains the entire understandings and agreements of the parties. This Agreement supersedes any prior oral or written agreement that may have existed between the parties. This Agreement may not be amended except in writing.

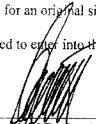
15. All parties agree that a facsimile signature suffices for an original signature. The following representatives acknowledge that they are authorized to enter into this Agreement.


Kimberly R. Spook, Deputy Secretary
Division of Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Bldg. 1
Tallahassee, Florida 32308


DATED: 7/11/22


Josefina M. Tamaso, General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308


DATED: 7/13/22


Alfred O. Bonati, M.D., President
Medical Development Corporation
of Pasco County
7315 Hudson Ave.
Hudson, Florida 34667

DATED: 6/23/22


Samuel J. Heller, Esq.
Heller Law, PLLC.
111 2nd Ave. NE., Suite 704
St. Petersburg, Florida 33701
(Counsel for Respondent)

DATED: 6/23/22


Patrick R. Cleary, Senior Attorney
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop 3
Tallahassee, Florida 32308

DATED: 6/23/12