

Public

IN THE MATTER  
OF  
MARK SACHS, M.D.  
CO-11-10-5663-A

COMMISSIONER'S  
SUMMARY  
ORDER

TO: Mark Sachs, M.D.  
REDACTED

The undersigned, Nirav R. Shah, M.D., M.P.H., Commissioner of Health, pursuant to New York Public Health Law §230, upon the recommendation of a Committee on Professional Medical Conduct of the State Board for Professional Medical Conduct, has determined that the duly authorized professional disciplinary agency of another jurisdiction, the State of Florida, Department of Health, has made a finding substantially equivalent to a finding that the practice of medicine by **MARK SACHS, M.D.**, Respondent, New York license number 163709, in that jurisdiction, constitutes an imminent danger to the health of its people, as is more fully set forth in the Emergency Suspension Order, dated October 7, 2011, and allied papers, attached, hereto, as Appendix "A," and made a part, hereof.

It is, therefore:

ORDERED, pursuant to New York Public Health Law §230(12)(b), that effective immediately, **MARK SACHS, M.D.** shall not practice medicine in the State of New York or in any other jurisdiction where that practice is predicated on a valid New York State license to practice medicine.

**ANY PRACTICE OF MEDICINE IN THE STATE OF NEW YORK IN VIOLATION OF THIS ORDER SHALL CONSTITUTE PROFESSIONAL MISCONDUCT WITHIN THE MEANING OF NEW YORK EDUCATION LAW §6530(29) AND MAY CONSTITUTE UNAUTHORIZED MEDICAL PRACTICE, A FELONY DEFINED BY NEW YORK EDUCATION LAW §6512.**

This Order shall remain in effect until the final conclusion of a hearing which shall commence within thirty (30) days after the final conclusion of the disciplinary proceeding in Florida.

The hearing will be held pursuant to the provisions of New York Public Health Law §230, and New York State Administrative Procedure Act §§301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on a date and at a location to be set forth in a written Notice of Referral Proceeding to be provided to Respondent after the final conclusion of the State of Florida, Department of Health proceeding. Said written Notice may be provided in person, by mail or by other means. If Respondent wishes to be provided said written notice at an address other than that set forth above, Respondent shall so notify, in writing, both the attorney whose name is set forth in this Order, and the Director of the Office of Professional Medical Conduct, at the addresses set forth below.

**RESPONDENT SHALL NOTIFY THE DIRECTOR OF THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT, NEW YORK STATE DEPARTMENT OF HEALTH, 433 RIVER STREET, SUITE 1000, TROY, NY 12180-2299, VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OF THE FINAL CONCLUSION OF THE PROCEEDING IMMEDIATELY UPON SUCH CONCLUSION.**

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR  
LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR  
SUSPENDED AND/OR THAT YOU BE FINED OR SUBJECT TO OTHER  
SANCTIONS SET FORTH IN NEW YORK PUBLIC HEALTH LAW §230-A.  
YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN  
THIS MATTER.

DATE: Albany, New York  
Apr 27, 2012

REDACTED

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Nirav R. Shah, M.D., M.P.H.  
Commissioner of Health  
New York State Department of Health

Inquires should be directed to:

Jude B. Mulvey  
Associate Counsel  
Bureau of Professional Medical Conduct  
Corning Tower – Room 2512  
Empire State Plaza  
Albany, New York 12237  
(518) 473-4282

# Appendix A

STATE OF FLORIDA  
DEPARTMENT OF HEALTH

Final Order No. 10011-11-2443-ESD-MQA  
FILED DATE: 10-1-2011  
Department of Health

By: *Melissa Nobile*  
Deputy Agency Clerk

IN RE: The Emergency Suspension of the License of  
Mark K. Sachs, M.D.  
License Number: ME 49598  
Case Number: 2011-16026

**ORDER OF EMERGENCY SUSPENSION OF LICENSE**

H. Frank Farmer, Jr., M.D., Ph.D., F.A.C.P., State Surgeon General, ORDERS the Emergency Suspension of the license of Mark K. Sachs, M.D. (Dr. Sachs) to practice as a physician in the State of Florida. Dr. Sachs holds license number ME 49598. His address of record is 7400 North Kendall Drive (Southwest 88<sup>th</sup> Street), Suite #507, Miami, Florida 33156. The following Findings of Fact and Conclusions of Law support the Emergency Suspension of Dr. Sachs's license to practice as a physician in the State of Florida.

**INTRODUCTION**

Beginning in June 2011, the Florida Department of Health (Department) and the Florida Department of Law Enforcement (FDLE) began conducting an investigation into the allegation that Dr. Sachs was operating a pill mill<sup>1</sup> at his medical clinic (clinic) at 7400 North Kendall Drive (Southwest 88<sup>th</sup> Street), Suite #507, Miami, Florida 33156. Subsequently, FDLE, with the assistance of the Department, conducted controlled purchases of Schedule II narcotics and other medications from Dr. Sachs using a confidential source. During these purchases, Dr. Sachs wrote prescriptions for excessive quantities of controlled substances without medical justification, for both the confidential source and for a fictitious patient, who was not present at the clinic. Dr. Sachs failed to

<sup>1</sup> The term "pill mill" is commonly used by law enforcement to identify a pain management clinic that issues prescriptions for controlled substances illegally and without medical necessity.

conduct any type of meaningful evaluation or medical examination prior to writing these prescriptions. In one instance, Dr. Sachs repeatedly stated that the results of the confidential source's magnetic resonance imaging (MRI) scan were completely normal, but prescribed controlled substances to the confidential source nonetheless.

#### FINDINGS OF FACT

1. The Department is the state agency charged with regulating the practice of medicine, pursuant to Chapters 20, 456, and 458, Florida Statutes (2010-2011). Section 456.073(8), Florida Statutes (2010-2011), empowers the State Surgeon General to summarily suspend Dr. Sachs's license to practice as a physician in the State of Florida in accordance with Section 120.60(6), Florida Statutes (2010-2011).

2. At all times material to this Order, Dr. Sachs was licensed to practice as a physician in the State of Florida, pursuant to Chapter 458, Florida Statutes (2010-2011), was a dispensing practitioner pursuant to Section 465.0276, Florida Statutes (2010-2011) and was board certified in internal medicine and infectious disease by the American Board of Internal Medicine. However, at no time material to this Order was Dr. Sachs a Medicaid or Medicare provider.

3. An FDLE agent made contact with a confidential informant (CS-1), who advised that she observed large amounts of people going into Dr. Sachs office on a regular basis and waiting in the hallway across from Dr. Sachs's office.

4. On or about June 28, 2011, an investigator for the Department (I-1) went to the clinic to initiate an investigation by the Department. I-1 met with CS-1 who stated

that Dr. Sachs moved into the building on June 1, 2011 and that shortly thereafter she looked out into the fifth floor hallway and saw "30 disturbing looking...males, very scary looking people." CS-1 further stated that "tons of people came to the clinic within the first two weeks, an uncontrollable amount of people, some hanging out in front of the building smoking or eating, some hanging out at the back of the building and many people in the fifth floor hallway."

5. On or about June 28, 2011, I-1 also met with Dr. Sachs, who advised him that he primarily treats patients with infectious diseases and accepts Medicare and private insurances. I-1 returned to the clinic on or about July 12, 2011 and observed about 20 patients in the waiting room.

6. On or about July 12, 2011, I-1 again visited the clinic and observed about 11 patients waiting in the clinic lobby and about 10 patients in a waiting area in the back of the clinic. Dr. Sachs provided I-1 with approximately 30 pages of documents consisting of contracts with several private insurance companies and alleged approval letters from Medicaid and Medicare.

7. On or about July 25, 2011, I-1 obtained a prescription profile report (Walgreens report) from the Walgreens Pharmacy Affairs Office that listed all Schedule II through V prescriptions written or authorized by Dr. Sachs from June 1, through July 19, 2011. The Walgreens report indicated that 62 patients filled 130 prescriptions at Walgreens, for a total of 12,886 pills, including 11,596 pills of oxycodone, Oxycontin,

Percocet and Dilaudid. Of the 130 prescriptions, 70.7% were for the Schedule II pain medications oxycodone, Oxycontin and Percocet.

8. Oxycodone is commonly prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2010-2011), oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

9. Oxycodone is an opioid. Opiate, or opioid, drugs have similar actions as the drug opium and are typically prescribed to treat pain. Opioid drugs are synthetically manufactured, while opiate drugs are naturally occurring, but the terms opioid and opiate are often used interchangeably. Opioid drugs are addictive and subject to abuse.

10. Oxycontin is a brand name for oxycodone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2010-2011), oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.

11. Percocet is the brand name for a drug that contains oxycodone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2010-2011), oxycodone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of oxycodone may lead to severe psychological or physical dependence.



12. Dilaudid is the brand name for hydromorphone and is prescribed to treat pain. According to Section 893.03(2), Florida Statutes (2010-2011), hydromorphone is a Schedule II controlled substance that has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States. Abuse of hydromorphone may lead to severe psychological or physical dependence.

13. On or about July 26, 2011, I-1 contacted R.H., Law Enforcement Lieutenant with the Office of the Attorney General, Medicaid Fraud Control Unit, South Florida Region, who confirmed that Dr. Sachs is not a Medicaid Provider and Medicaid has not paid for any prescriptions that Dr. Sachs has written. On the same date, I-1 contacted J.L., Special Agent with the United States Department of Health and Human Services, Office of Inspector General/Office of Investigations, who confirmed that Medicare does not have any data for Dr. Sachs and has not paid for any prescriptions that Dr. Sachs has written. This statement confirmed that Dr. Sachs was lying about being a Medicare provider.

14. On or about August 11, 2011, I-1 obtained a prescriber profile report (CVS report) from the CVS Pharmacy Affairs Office that listed all Schedule II-V prescriptions written or authorized by Dr. Sachs from June 1 to July 31, 2011. The CVS report indicated that during this time frame 38 patients filled a total of 83 prescriptions at 29 CVS locations for a total of 8,319 pills, 7,179 of which were Schedule II pills.

15. FDLE received information from another confidential source (CS-2), who said that he had been to Dr. Sachs' office twice and obtained prescriptions for oxycodone with little to no interaction with Dr. Sachs. CS-2 said that he paid \$280 to a medical

assistant/receptionist identified as S.A. for the oxycodone prescriptions. CS-2 advised that he could purchase oxycodone prescriptions for himself without being seen by Dr. Sachs and could purchase oxycodone prescriptions for people who did not even visit the clinic. CS-2 stated that during his first visit with Dr. Sachs, he noticed that Dr. Sachs was signing several prescriptions for other patients while he was in the exam room with CS-2. CS-2, who has proven reliable in the past by providing information that led to multiple arrests and narcotic seizures in North Florida, stated that multiple subjects are driving down from North Florida to obtain oxycodone as he recognized subjects in the clinic's waiting room.

16. On or about August 16, 2011, CS-2 participated in an undercover operation led by FDLE. FDLE provided CS-2 with \$660 for the controlled purchase of prescriptions from the clinic. CS-2 met S.A. at the side entrance to the clinic and paid the \$660 to her. S.A. kept \$100 as a fee to avoid seeing Dr. Sachs. The remaining \$560.00 represented \$280 each for CS-2 and for a fictitious person known as "Shawn Payton," which is the undercover identity of a Jacksonville FDLE taskforce officer. CS-2 was able to obtain six prescriptions from Dr. Sachs during this visit. These prescriptions included three for the fictitious person known as "Shawn Payton," who was not present with CS-2, and three for CS-2. They were written as follows: (1) #180 oxycodone 30 mg; (2) #90 oxycodone 15 mg; (3) a combined prescription listing MNT 30, #20 Colace 100 mg (medicine for constipation) and #30 Benadryl 50 mg (antihistamine); (4) #180 oxycodone 30 mg with the words "lumbar disk" on the prescription; (5) a combined prescription for #60 Motrin

80 mg, #20 Colace 100 mg and #30 Benadryl 50 mg; and (6) MNT 30. Dr. Sachs signed these prescriptions but never saw CS-2.

17. Motrin is a brand name for ibuprofen and is a non-steroidal anti-inflammatory used to treat pain. Motrin is a legend drug, but not a controlled substance.

18. On or about August 28, 2011, FDLE and the Department attempted to conduct an undercover operation at Dr. Sachs' clinic. A Special Agent of the FDLE (SA-1) was provided with an altered report of MRI scan, an undercover Florida Drivers License, audio/video equipment and \$300 to be used in the undercover investigation. SA-1 was directed to make contact with the receptionist at Dr. Sachs' office in an attempt to be seen by Dr. Sachs to obtain a prescription for oxycodone for non-medical reasons. SA-1 provided the receptionist with the undercover Florida Drivers License and the altered MRI report and requested to be seen by Dr. Sachs. However, he did not ultimately complete a purchase.

19. On or about September 20, 2011, FDLE agents made contact with S.A. at her residence in reference to the investigation. S.A. worked at the clinic from March through August 23, 2011 as a receptionist/medical assistant. She provided a sworn statement to FDLE, in which she stated that Dr. Sachs has about three-hundred patients, eighty percent of whom are pain patients. S.A. stated that Dr. Sachs regularly prescribed oxycodone, Dilaudid and Motrin to his patients and sees about thirty patients per day. S.A. also stated that she has observed the same driver bring carloads of subjects to the office multiple times per week. S.A. stated that she voiced to Dr. Sachs her concerns about out-of-town

patients doctor shopping and pharmacies calling to advise of the same, but Dr. Sachs disregarded her concerns. S.A. told FDLE agents that most of Dr. Sachs' patients pay in cash and Dr. Sachs required them to pay \$250 prior to being seen. According to S.A., Dr. Sachs does not provide his patients with any type of health questionnaire to complete before seeing them.

20. On or about September 28, 2011, another FDLE Agent (SA-2), conducted surveillance on the clinic. He observed two female subjects exit the clinic and maintained surveillance on the subjects in the elevator. He heard the female subjects advise that Dr. Sachs is a pain doctor and the clinic is a pill mill. The female subjects also stated that there are multiple waiting rooms in the clinic and there were approximately thirty subjects in the waiting rooms waiting to see Dr. Sachs. On September 28, 2010, I-1 provided FDLE with a certified document indicating that the clinic does not possess a pain management registration from the Department.

21. On or about October 6, 2011, CS-2 again assisted FDLE and the Department in their investigation of Dr. Sachs. CS-2 advised that he had made an appointment to see Dr. Sachs at FDLE's direction. CS-2 met SA-3, who was another FDLE Agent, and I-1 and SA-3 gave CS-2 recording equipment and money with which to make a controlled purchase of oxycodone prescriptions from Dr. Sachs' office. Prior to the controlled purchase, SA-3 and I-1 searched CS-2 for narcotics and contraband and did not locate any such items. SA-3 and I-1 surveilled CS-2 from a pre-arranged location near the clinic. Upon arrival at the clinic, CS-2 made contact with a receptionist likely identified as A.C.

A.C. told CS-2 that he needed to have an MRI prior to being seen at the clinic. A.C. wrote an order for a thoracic spine MRI on one of Dr. Sachs' prescriptions, signed the prescription and directed CS-2 to go to Virtual Imaging at 7101 Southwest 99<sup>th</sup> Avenue, Suite 106, Miami, Florida and have an MRI done for \$240. A.C. advised CS-2 to return to the clinic following the MRI so that he could see Dr. Sachs. CS-2 exited the clinic with the MRI order and returned to SA-3's vehicle.

22. SA-3 then transported CS-2 to Virtual Imaging to obtain the MRI. CS-2 paid \$240 to the receptionist at Virtual Imaging and provided her with the prescription order written by A.C. CS-2 completed the MRI exam and obtained a receipt for the transaction. SA-3 searched CS-2 for contraband and narcotics, once again, and found none. SA-3 next provided CS-2 with \$260 to be used to attempt to purchase oxycodone from Dr. Sachs and CS-2 returned to the clinic. CS-2 provided A.C. with the MRI receipt. At that point, A.C. told CS-2 that there were approximately 25 people who were waiting on appointments with Dr. Sachs. CS-2 waited "all afternoon" to see Dr. Sachs and observed people coming and going during his wait.

23. Eventually A.C. called CS-2 into an exam room. CS-2 provided the money to T.C., who he referred to as Dr. Sachs' "old lady." Dr. Sachs came into the room a short time later and reviewed CS-2's file and the results from the MRI. Dr. Sachs advised CS-2 that the MRI was normal and that there was nothing wrong with him, but told him that he would prescribe him #150 oxycodone anyway. Dr. Sachs then stated that most pain

clinics would not see CS-2 because his/her MRI was normal, but that he would do CS-2 a favor by treating him even though there was nothing wrong with him.

24. Dr. Sachs spent a total of five-to-seven minutes with CS-2. He did not ask CS-2 if he was in any pain or was on any other medication or using any illicit drugs. CS-2 did not provide any complaint or pain level to Dr. Sachs, nor did Dr. Sachs assess CS-2 pain level. Dr. Sachs did not examine CS-2, except for touching his waist and lower back for a short period of time. Dr. Sachs did not take any medical history from CS-2, did not order any blood work on CS-2 and did not mention the possibility of referring CS-2 to another doctor. Dr. Sachs then wrote the following five prescriptions for CS-2: (1) #150 oxycodone 30 mg; (2) #60 oxycodone 15 mg; (3) #30 Ativan 2 mg; (4) #60 Motrin 800 mg; and (5) #30 multivitamins.

25. Ativan is the brand name for lorazepam and is prescribed to treat anxiety. According to Section 893.03(4), Florida Statutes (2010-2011), lorazepam is a Schedule IV controlled substance that has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States. Abuse of lorazepam may lead to limited physical or psychological dependence relative to the substances in Schedule III.

26. Dr. Sachs advised CS-2 that the prescriptions would be ready in 30 minutes. CS-2 then exited the clinic and told SA-3 that Dr. Sachs repeatedly told CS-2 that his MRI was normal, but that Dr. Sachs would treat him by prescribing #150 oxycodone instead of

the #180 oxycodone he prescribes to most patients. CS-2 then returned to the clinic, obtained the prescriptions from A.C, left the clinic and gave the prescriptions to SA-3.

27. Subsequently, CS-2 provided a sworn recorded statement to FDLE, in which he stated that he was in perfect health during the controlled buy on October 6, 2011 and had no health issues that would require him to be treated with any type of medication. CS-2 further stated that everyone in the waiting room at the clinic was getting oxycodone prescriptions from Dr. Sachs and that most of them were from Deland, Florida.<sup>2</sup> CS-2 also stated that he observed multiple vehicles with out-of-state license plates in the clinic's parking lot.

28. A physician licensed in the State of Florida is one of a small number of licensed professionals allowed to prescribe, administer and dispense controlled substances in this state. The Legislature has vested a trust and confidence in these licensed professionals by permitting them to prescribe drugs with a high potential for abuse and harm. Inappropriate prescribing of highly addictive controlled substances to patients presents a danger to public health, safety or welfare and does not correspond to that level of professional conduct expected of one licensed to practice medicine in this state.

29. Dr. Sachs has demonstrated a flagrant disregard for the duties and responsibilities imposed upon a physician practicing in the State of Florida and for the health and welfare of his patients. Dr Sachs' egregious and inappropriate prescribing of addictive and dangerous drugs constitutes a breach of the trust and confidence that the Legislature placed in him by issuing him a license to practice medicine.

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<sup>2</sup> Deland, Florida is approximately 260 miles from the clinic.

30. Dr. Sachs' acts manifest such a pattern and propensity to prescribe danger and addictive controlled substances excessively and inappropriately that a continuation of this practice is likely to recur. An emergency order restricting Dr. Sachs' license is not sufficient to protect the public because the level of excessive and inappropriate prescribing Dr. Sachs had engaged in demonstrates an inability to make decisions that are in the best interest of his patients. Nothing short of the suspension of Dr. Sachs' license will protect the public from this danger.

#### CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact, the State Surgeon General concludes as follows:

1. The State Surgeon General has jurisdiction over this matter pursuant to Sections 20.43 and 456.073(8), Florida Statutes (2010-2011), and Chapter 458, Florida Statutes (2010-2011).
2. Section 458.331(1)(q), Florida Statutes (2010-2011), subjects a licensee to discipline, including suspension, for prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including any controlled substance, other than in the course of the physician's professional practice. There is a legal presumption that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the physician's professional practice, without regard to his or her intent.



3. Dr. Sachs violated Section 458.331(1)(q), Florida Statutes (2010-2011), in one or more of the following manners:

- a. By prescribing several potentially addictive controlled pain medications to CS-2 on multiple occasions; and/or
- b. By prescribing potentially addictive controlled pain medications to fictitious patient "Shawn Payton."

4. Section 458.331(1)(nn), Florida Statutes (2010-2011), Florida Statutes, provides that violating any provision of Chapter 456 or 458, Florida Statutes (2010-2011), or any rules adopted pursuant thereto, is grounds for discipline, including suspension, by the Board.

5. Rule 64B8-9.013(3), Florida Administrative Code, states, in pertinent part, as follows:

The Board has adopted the following standards for the use of controlled substances for pain control:

- (a) Evaluation of the Patient. A complete medical history and physical examination must be conducted.

6. Dr. Sachs violated Rule 64B8-9.013(3), Florida Administrative Code, by prescribing controlled substances CS-2 and to fictitious patient "Shawn Payton" without conducting complete medical histories and physical examinations of the patients. By violating Rule 64B8-9.013(3), Florida Administrative Code, Dr. Sachs also violated Section 458.331(1)(nn), Florida Statutes (2010-2011).

7. Section 120.60(6), Florida Statutes (2010-2011), authorizes the State Surgeon General to summarily suspend Dr. Sachs' license to practice medicine upon a

In Re: The Emergency Suspension of the License of  
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License Number: ME 49598  
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finding that the physician presents an immediate serious danger to the public health, safety or welfare.

8. Based on the foregoing, Dr. Sachs's continued practice as a physician constitutes an immediate serious danger to the health, safety, or welfare of the public, and this summary procedure is fair under the circumstances to adequately protect the public.

In accordance with Section 120.60(6), Florida Statutes (2010-2011), it is

**ORDERED THAT:**

1. The license of Mark K. Sachs, M.D., license number ME 49598 is hereby immediately suspended.

2. A proceeding seeking formal suspension or discipline of the license of Mark K. Sachs, M.D., to practice as a physician will be promptly instituted and acted upon in compliance with Sections 120.569 and 120.60(6), Florida Statutes (2010-2011).

**DONE and ORDERED** this 07 day of October, 2011.

REDACTED

~~H. Frank Farmer, Jr., MD, PhD, FACP~~  
State Surgeon General  
Department of Health

PREPARED BY:  
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In Re: The Emergency Suspension of the License of  
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**NOTICE OF RIGHT TO JUDICIAL REVIEW**

Pursuant to Sections 120.60(6), and 120.68, Florida Statutes, the Department's findings of immediate danger, necessity, and procedural fairness shall be judicially reviewable. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Petition for Review, in accordance with Florida Rule of Appellate Procedure 9.100, with the Department of Health and a second copy of the petition accompanied by a filing fee prescribed by law with the District Court of Appeal within thirty (30) days of the date this Order is filed.