

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**NEW ORLEANS HOME FOR
INCURABLES, INC.**

CIVIL ACTION

VERSUS

NO. 12-2306

**BRUCE D. GREENSTEIN, *Secretary of Louisiana
Department of Health and Hospitals***

SECTION: "G"(5)

AMENDED ORDER AND REASONS

Before the Court is Plaintiff New Orleans Home for Incurables, Inc.'s ("NOHI") Motion for a Temporary Restraining Order ("TRO").¹ In sum, Plaintiff requests this Court enjoin the Louisiana Department of Health and Hospitals ("DHH") from revoking its nursing home license pending exhaustion of its administrative review and judicial appeals process. Plaintiff also requests this Court enjoin DHH from terminating its Medicaid Provider Agreement, considering the termination is based on DHH's license revocation, until Plaintiff has exhausted its appeals. Specifically, although the termination of the Medicaid Provider Agreement is not effective until September 28, 2012, plaintiff was concerned that if it was required to hold a meeting with residents and their families on September 24, 2012 to advise them of the license revocation and Medicaid Provider Agreement termination and provide them with relocation options, as required by DHH, they would effectively be put out of business, considering ninety percent of their residents are Medicaid dependent.

The September 24, 2012 resident/family meeting has been continued by DHH until after this Court rules on the pending preliminary injunction. Therefore, when DHH agreed that NOHI's nursing home license would not be terminated until administrative reviews and judicial appeals have

¹ Rec. Doc. 2.


been exhausted and that the resident/family meeting would be moved until after a hearing on the preliminary injunction, any irreparable harm Plaintiff perceived, was mooted. Accordingly, plaintiffs could not demonstrate “a substantial threat that it will suffer irreparable injury if the TRO” was not granted.

IT IS HEREBY ORDERED that NOHI’s Motion for a Temporary Restraining Order is **DENIED**.

IT IS FURTHER ORDERED that a hearing on NOHI’s motion for a preliminary injunction is set for October 12, 2012, at 10:00 AM.

IT IS FURTHER ORDERED that NOHI will submit a pre-hearing briefing to outline its arguments in favor of a preliminary injunction and will identify any exhibits, live testimony, or other evidence it plans to present in support by September 28, 2012. DHH’s briefing in opposition to the preliminary injunction identifying any exhibits, live testimony, or other evidence it plans to present will be submitted by October 9, 2012, at 10:00 AM.

NEW ORLEANS, LOUISIANA, this 9th day of October, 2012.


NANNETTE JOLIVETTE BROWN
UNITED STATES DISTRICT JUDGE

***COUNSEL FOR PLAINTIFF IS ORDERED
TO PROVIDE A COPY TO COUNSEL FOR
DEFENDANT UPON RECEIPT.***