

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF HEALTH

In the Matter of the Denial of the  
Application to Renew Class A  
Professional Home Care Agency  
License Issued to Loving Care Nursing  
and Home Care Services, Inc. to  
Operate Loving Care Home Services

**ORDER COMPELLING  
DISCOVERY**

On March 23, 2007, the Minnesota Department of Health submitted by facsimile its Motion to Compel responses to the Department's December 7, 2006, requests. Under the terms of an earlier scheduling order, dated January 30, 2007, the period for discovery in this matter closed on April 2, 2007.

Having only heard from the Department during the 10 working-day period for filing a responsive pleading – accounting for additional days for service by mail and notwithstanding efforts by the undersigned to contact counsel for the Licensee as to a reply – and for reasons set forth in the accompanying memorandum;

IT IS HEREBY ORDERED THAT:

1. The Licensee, Loving Care Nursing and Home Care Services, Inc., has until **4:30 p.m. on Wednesday, April 18, 2007**, to complete the past-due responses for discovery. Thereafter, counsel for the Department shall report to the undersigned the nature and extent of the Licensee's responses.
2. If, after 4:30 p.m. on Wednesday, April 18, 2007, the Licensee's responses to the Department's December 7, 2006 discovery requests are incomplete in a material respect, the Licensee will be sanctioned by an appropriate order limiting the matters as to which the Licensee will be able to offer evidence at the hearing scheduled in this matter.

Dated this 10<sup>th</sup> day of April, 2007.

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s/Eric L. Lipman  
ERIC L. LIPMAN  
Administrative Law Judge

## MEMORANDUM

In cases referred to the Office of Administrative Hearings under Chapter 14, the Administrative Law Judge has the authority to enter orders in aid of the discovery of relevant evidence and to ensure that contested case proceedings are “conducted in a fair and impartial manner.”<sup>1</sup>

Further, pursuant to Minn. R. 1400.6700, subpart 2, the party seeking an order compelling discovery “shall have the burden of showing that the discovery is needed for the proper presentation of the party’s case, is not for purposes of delay, and that the issues or amounts in controversy are significant enough to warrant the discovery.” Because the disclosures identified in the December 7, 2006 discovery request were sought early in the litigation, reasonable in scope, and likely to lead to the discovery of admissible evidence, the Department has met that burden.

**E.L.L.**

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<sup>1</sup> See, Minn. Stat. §§ 14.50, 14.51 (2006); Minn. R. 1400.5500 (B) (D), (J) and (Q) (2005).