

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA  
WEST PALM BEACH DIVISION

NIGHT BOX  
FILED

FEB - 5 2001



CLARENCE MADDOX  
CLERK, USDC / SDFL / FTL

EQUAL EMPLOYMENT OPPORTUNITY )  
COMMISSION, )

Plaintiff, )

v. )

INTRACOASTAL HEALTH SYSTEMS, INC. )  
and ST. MARY'S HOSPITAL, INC. )

Defendants, )

and )

DOROTHY HENDERSON SWAIN. )

CIVIL ACTION NO.  
99-CIV-8707-DIMITROULEAS

**CONSENT DECREE**

1. This Consent Decree (the "Decree") is made and entered into by and between Plaintiff, the Equal Employment Opportunity Commission (hereinafter referred to as the "Commission" or "EEOC") and Defendants, Intracoastal Health Systems, Inc. and St. Mary's Hospital, Inc. (hereinafter referred to as Defendants) and the Intervenor, Dorothy Henderson Swain (hereinafter referred to as the "Intervenor"). The Commission, Defendants and the Intervenor are collectively referred to herein as "the Parties."

2. On September 13, 1999, EEOC initiated this action by filing its Complaint against Intracoastal Health Systems, Inc., and St. Mary's Hospital, Inc. EEOC's Complaint alleged that Intracoastal Health Systems, Inc. and St. Mary's Hospital, Inc. violated Title VII of the Civil Rights Act of 1964, as amended, and Title I of the Civil Rights Act of 1991. The Commission's Complaint



stated that Defendants engaged in unlawful employment practices in West Palm Beach, Florida, when it reduced the work hours of females in favor of males and when it forced females to change shifts in favor of males. This Consent Decree is not to be considered an admission of liability on the part of the Defendants, but is in full settlement of disputed claims on which liability has been and is expressly denied.

3. In the interests of resolving this matter and as a result of having engaged in comprehensive settlement negotiations, the Parties have agreed that this action should be finally resolved by entry of this Consent Decree. This Decree is final and binding upon the Parties, their successors and assigns.

4. The Parties agree that this Decree resolves all claims arising out of EEOC Charge Numbers 15M-97-0190 and 15M-98-0201 and the Complaints filed in this action, and constitutes a complete resolution of all claims under Title VII that were made by the Commission and/or Intervenor in this action.

5. NOW, THEREFORE, the Court having carefully examined the terms and provisions of this Consent Decree, and based on the pleadings filed by the parties, it is **ORDERED, ADJUDGED AND DECREED THAT:**

#### **JURISDICTION**

6. This Court has jurisdiction of the subject matter of this action and over the parties for the purposes of entering and enforcing this Decree.

7. Venue is proper.

#### **GENERAL INJUNCTIVE PROVISIONS**

8. Defendants Intracoastal Health Systems, Inc. and St. Mary's Hospital, Inc., their

officers, managers, agents, partners, supervisors, employees, and/or successors, are enjoined from engaging in conduct at the Institute of Mental Health ("IMH") at 901 45<sup>th</sup> Street in West Palm Beach, Florida, which violates Title VII of the Civil Rights Act of 1964, as amended, by adversely affecting the terms and conditions of any individual's employment because of their gender. This includes, but is not limited to, reducing the work hours of females in favor of males and/or forcing females to change shifts in favor of males.

9. Defendants Intracoastal Health Systems, Inc. and St. Mary's Hospital, Inc., their officers, managers, agents, partners, supervisors, employees, and/or successors, are enjoined from discriminating and/or retaliating against any employee at the Institute of Mental Health ("IMH") at 901 45<sup>th</sup> Street in West Palm Beach, Florida, who opposes any of Defendants' practices which the employee believes to be a gender violation of Title VII; who files a charge of discrimination with the EEOC alleging violation(s) of such statute; who cooperates with the EEOC in the investigation and/or prosecution of any charge of discrimination; or who cooperated in the investigation or prosecution of this case.

### **TRAINING**

10. Defendants have established a written policy of compliance with Title VII, which is attached as Exhibit A. Defendants agree that all of their Institute of Mental Health employees and managers will have been provided with a complete copy of its Title VII policy no later than February 28, 2001.

11. In order to further ensure the effective implementation of Defendants' anti-discrimination policy, Defendants will conduct training for all of their Charge Nurses, Nurse Manager(s), Mental Health Technicians, and/or any other individual who is responsible for the

scheduling of the Mental Health Technicians, who work at their West Palm Beach psychiatric facility (IMH). Such training will be at least two hours in length and shall be conducted no later than April 30, 2001. For every year after that, for new employees hired not previously trained, training will occur on an annual basis throughout the duration of this Decree. Training will pertain to ensuring compliance with this Consent Decree through educating individuals regarding Title VII and the requirements of this Decree. Defendants agree to provide the EEOC, at least two weeks notice before it conducts its training session(s), with the date(s) and location(s) of the training, copies of all training materials to be used at the training session, the name of the individual(s) who will be providing the training and a list of the names and titles of each employee who will be in attendance at the training. Additionally, Defendants will invite EEOC to be in attendance at each training session(s).

#### **POSTING**

12. Defendants will post the Notice at its Institute of Mental Health West Palm Beach facility on the employee bulletin board, attached as Exhibit B, no later than February 29, 2001, for three (3) years.

#### **MONITORING**

13. Defendants will retain all employment records relating in any way to any complaint or allegation of retaliation or gender discrimination, made during the term of this Consent Decree, at Defendants' Institute of Mental Health located at 901 45<sup>th</sup> Street in West Palm Beach, Florida, for the duration of this Decree and as required under federal law. Defendants will use and maintain Institute of Mental Health records reflecting any and all cancellations of shifts, work schedules and physical altercations.

14. Defendants will certify, through a "Certification Package," to the EEOC every six (6) months throughout the duration of this Decree that it is in compliance with all aspects of this Decree. The first such certification will be due no later than June 1, 2001. With each certification the Defendant will further provide the EEOC with the name, address, and phone number of any person who alleges, orally or in writing, that they have been discriminated against or treated unfairly in scheduling and/or shift cancellations because of their gender or may have been retaliated against while working at Defendants' Institute of Mental Health facility in West Palm Beach, Florida during the preceding six (6) months. Copies of all complaints and Defendants' internal investigation will be included in the Certification Package. Anything else the Defendants feel is relevant to ensuring this Consent Decree is complied with will also be included.

#### **MONETARY RELIEF**

15. Defendants agree to pay the total amount of \$90,000.00 in damages, fees and costs. The monetary amount will be divided amongst Dorothy Henderson Swain, Alfreda Lewis, Portia Smith, and Naomi Schneidmiller, and to Ms. Swain's private legal counsel, Gordon Leech, as set forth by the EEOC. No later than fifteen (15) business days after the entry of the Consent Decree, Defendant will mail checks to Dorothy Henderson Swain, Alfreda Lewis, Portia Smith, Naomi Schneidmiller, and to Ms. Swain's private legal counsel, Gordon Leech, at the addresses provided by the Commission, certified mail return receipt, and at the same time copy the Commission on the mailings and the certified return receipts. Said copies should be forwarded to Eve G. Lowe, Esq., United States Equal Opportunity Commission, 2 South Biscayne Boulevard, Suite 2700, Miami, Florida 33131. With respect the monies paid to the above mentioned individuals for gross backpay, Defendants shall be responsible for the payment of the employer's share of any federal, state, and

local income taxes. Defendants will also make the appropriate withholding deductions for federal income tax and employee contributions for Social Security tax. A paycheck stub setting forth the amount paid and the amounts withheld shall accompany each check. Defendants will issue IRS form W-2 and 1099 forms as required by law.

16. If Defendants fail to tender the above-mentioned payments within the fifteen (15) day period agreed upon, the Defendants shall pay interest on the defaulted payment at the rate calculated pursuant to 26 U.S.C. Section 6621(b) until the same is paid, and bear any additional costs in EEOC ensuring the above mentioned payments.

#### **ENFORCEMENT OF DECREE**

17. The Commission and/or Gordon Leech shall have independent authority to seek the judicial enforcement of any aspect, term or provision of this Decree.

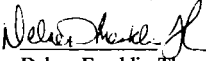
#### **COSTS**

18. The Parties shall bear their own costs and fees associated with this litigation, except for costs and attorneys fees for Gordon Leech, Esq., in the amount of \$10,000.00, which is included and referenced in paragraph 15 of this Consent Decree.

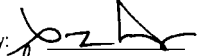
#### **DURATION OF DECREE**

19. This Decree shall remain in effect for three (3) years from the date of the Court's execution of the Decree. During that time, this Court shall retain jurisdiction over this matter and the Parties for purposes of enforcing compliance with the Decree, including such orders as may be required to effectuate its purposes.

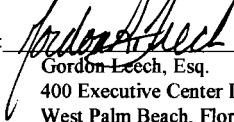
AGREED TO:  
FOR THE PLAINTIFF,  
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

by:  Date: 1/30/02  
Delner Franklin-Thomas  
Regional Attorney  
Miami District Office  
United States Equal Employment Opportunity Commission  
One Biscayne Tower, Suite 2700  
2 South Biscayne Boulevard  
Miami, Florida 33131

AGREED TO:  
FOR THE DEFENDANT,  
INTRACOASTAL HEALTH SYSTEMS, INC.  
and  
SAINT MARY'S HOSPITAL, INC.


by:  Date: 2/1/01  
Lynn Hawkins, Esq.  
FITZGERALD, HAWKINS, MAYANS & COOK, P.A.  
Northbridge Centre, Suite 900  
515 North Flagner Drive  
P.O. Box 3795  
West Palm Beach, Florida 33402

AGREED TO:  
FOR THE INTERVENOR,  
DOROTHY HENDERSON SWAIN

by:  Date: 2/2/01  
Gordon Leech, Esq.  
400 Executive Center Drive, Suite 201  
West Palm Beach, Florida 33401

SO ORDERED, ADJUDGED AND DECREED, this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
WILLIAM P. DIMITROULEAS  
United States District Judge

 <b>Intracoastal Health Systems, Inc. and Affiliates</b>  <b>HUMAN RESOURCES POLICY MANUAL</b>	<b>POLICY:</b> Equal Employment Opportunity
	<b>NUMBER:</b> 2.2
	<b>ORIGINATION DATE:</b> July 1, 1998
	<b>REVISION DATE:</b> January 4, 2001
<b>PAGE: 1 OF 3</b>	

**Scope:** All Intracoastal Health Systems' Management Team and Employees

**Statement:** Intracoastal Health Systems provides equal employment opportunities (EEO) to all of the Management Team, employees and applicants for employment without regard to race, color, religion, marital status, gender, sexual orientation, national origin, age, disability, or status as a Vietnam-era or special disabled veteran in accordance with applicable federal, state and local laws. This policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, termination, layoff, recall, leaves of absence, compensation, and training.

IHS expressly prohibits any form of unlawful employee harassment or retaliation based on religion, marital status, gender, race, color, national origin, age, disability, or status as a Vietnam-era or special disabled veteran. Improper interference with the ability of IHS Management Team and employees to perform their expected job duties is not tolerated.

**Procedure:** The purpose of this policy is to provide a consistent process to be followed by IHS entities in meeting the equal employment opportunity requirements set forth by laws and regulations at the national, state, and local level.

1. **Responsibility:**

- A. Each IHS entity will designate an individual to function as that entity's Equal Opportunity Coordinator. The Vice President, Human Resources, IHS or designee will function as the IHS designee Equal Opportunity Coordinator and as such will provide guidance on the application of this policy.
- B. The operating entity's HR Manager will be responsible for disseminating the contents and intent of this policy to all of the IHS Management Team and employees and to all external referral sources.
- C. EEO -1 Reports will be completed on an annual basis.





2. Recruiting

- A. Advertisements will be placed in publications known to have readership among minority groups and other protected class groups listed above in the policy statement. The phrase "Equal Opportunity Employer" will be used on all job openings.
- B. Job postings will be circulated to community agencies, schools, and other recognized sources of minority and/or protected class applicants.
- C. The Vice President of Human Resources or designee will develop and implement approaches to attract and/or retain minority and/or other protected class Management Team and employees.
- D. Current minority and/or protected class Management Team and employees will be made aware of vacancies and encouraged to apply and/or recruit others to apply.

3. Selection and Employment

- A. Individuals will be selected based on ability, experience, training, and other factors necessary to meet the essential job functions as specified in the approved job description.
- B. Job descriptions and selection procedures will be regularly reviewed by the Vice President of Human Resources or designee to ensure that nothing discriminates against any individual other than on a bone-fide occupational qualification basis.
- C. The Vice President of Human Resources or designee will establish and monitor procedures for the placement of minority and other protected class individuals throughout Intracostal Health Systems.
- D. Current minority and/or protected class Management Team and employees will be made aware of vacancies and encouraged to apply and/or recruit others to apply for vacancies.

4. Training and Advancement

- A. Qualified managers and employees will be given equal consideration for all internal and external training opportunities which may enhance job skills or knowledge.
- B. Qualified staff members will be given equal consideration for advancement without regard to protected class status.
- C. Career and personal development coaching will be made available to all of the Management Team and employees.

5. General:

- A. At each entity there will be consistent and equitable administration of salary and benefit programs based on defined job descriptions and standardized practices and

procedures.

- B. All IHS human resource policies, procedures and practices will be implemented and administered on a non-discriminatory basis.
- C. Reasonable accommodations will be made to facilitate employment opportunities for those individuals who are physically and mentally handicapped or disabled. Such accommodations may include job restructuring, part-time, or modified work schedules, work site alterations, acquisition or modification of equipment or devices, and qualified readers or interpreters.

equal employment opportunity 2.2

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1/3/01

**EXHIBIT "B" NOTICE****NOTICE TO ALL EMPLOYEES  
POSTED PURSUANT TO A CONSENT DECREE BETWEEN THE  
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
& INTRACOASTAL HEALTH SYSTEMS, INC. AND ST. MARY'S HOSPITAL, INC.**

This notice is being posted as part of a Consent Decree entered by the Court in Equal Employment Opportunity Commission et. al. v. Intracoastal Health Systems, Inc. and St. Mary's Hospital, Inc., Civil Action No. 99-CIV-8707-DIMITROULEAS. Title VII protects individuals from employment discrimination because of their race, religion, color, sex (including wage disparity, shift disparity, sexual harassment and pregnancy) and/or national origin. Title VII also protects individuals from retaliation for having complained of an unlawful employment practice.

Intracoastal Health Systems and St. Mary's Hospital have agreed that they support Title VII and will not condone discrimination of any kind as set forth in federal laws, including, but not limited to, gender discrimination. Moreover, Intracoastal and St. Mary's assures its employees that it supports Title VII and will not take any action against an individual because that individual has exercised his or her rights under the law to oppose discriminatory acts or to file charges with the EEOC.

Appropriate corrective action, up to and including termination, shall be taken against any employee (including management personnel) found to violate the policies regarding discrimination.

Employees or applicants for employment who have questions about their rights under Title VII or any other federal anti-discrimination law may telephone the Miami District Office of the Equal Employment Opportunity Commission at 1-800-669-4000 or (305) 530-6006.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
[insert name and title here  
of Human Resources Director]