

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED  
AHCA  
AGENCY CLERK

2016 JUL 12 A 8:57

STATE OF FLORIDA, AGENCY FOR  
HEALTH CARE ADMINISTRATION,

Petitioner,

v.

AHCA No. 2015007904  
15-6766

RENDITION NO.: AHCA-116-0529 -S-OLC

NEW BEGINNING II,

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:

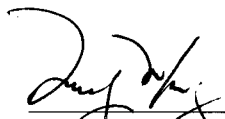
1. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1) The parties have since entered into the attached Settlement Agreement, which is adopted and incorporated by reference into this Final Order. (Ex. 2)

2. The Respondent shall pay the Agency \$17,000. 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 one year 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

3. Respondent's administrator, Junia Osme agrees to retake CORE training and pass the CORE USF test. Also, Respondent agrees that it will relinquish its license for New Beginning Assisted Living, Inc. if there are any further findings of unlicensed activity or over capacity.

**ORDERED** at Tallahassee, Florida, on this 11 day of July, 2016.

  
Elizabeth Dudek, 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 12<sup>th</sup> day of July, 2016.



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

Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)	Central Intake Unit Agency for Health Care Administration (Electronic Mail)
Andrea Lang, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	Junia Osme, Administrator New Beginning Assisted Living, Inc. 418 N.W. 21 <sup>st</sup> Terrace Cape Coral, Florida 33993 (U.S. Mail)
William F. Quattlebaum Administrative Law Judge Division of Administrative Hearings (Electronic Mail)	Abraham Shakfeh, Esq., Shakfeh Law, LLC Attorney for Respondent 1207 N. Franklin Street Tampa, Florida 33602 (U.S. Mail)

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

STATE OF FLORIDA,  
AGENCY FOR HEALTH CARE  
ADMINISTRATION,

Petitioner,

vs.

Case No. 2015007904

NEW BEGINNING II,

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, NEW BEGINNING II (hereinafter "the Respondent"), pursuant to Sections 120.569 and 120.57, Florida Statutes (2014), and states:

**NATURE OF THE ACTION**

This is an action to impose an administrative fine against an unlicensed facility in the sum of SEVENTEEN THOUSAND DOLLARS (\$17,000.00) based upon one (1) violation pursuant to Section 408.812(4), Florida Statutes (2014).

**JURISDICTION AND VENUE**

1. The Court has jurisdiction over the matter pursuant to Sections 120.569 and 120.57, Florida Statutes (2014).
2. The Agency has jurisdiction over the Respondent pursuant to Sections 20.42 and 120.60, and Chapters 408 and 429, Florida Statutes (2014).
3. Venue lies pursuant to Rule 28-106.207, Florida Administrative Code.

## PARTIES

4. The Agency is the licensing and regulatory authority that oversees assisted living facilities in Florida and enforces the applicable federal and state regulations, statutes and rules governing such facilities. Chapters 408, and 429, Florida Statutes (2014); Chapter 58A-5, Florida Administrative Code.

5. The Respondent was operating an unlicensed facility located at 1637 N.W. 5th Place, Cape Coral, Florida 33993, and was at all times material required to comply with the applicable state regulations, statutes and rules governing assisted living facilities.

## COUNT I

### **The Respondent Failed To Obtain A License For Operation In Violation Of Sections 429.08(1)(a) And 408.812, Florida Statutes (2014)**

6. The Agency re-alleges and incorporates by reference paragraphs one (1) through five (5).

7. Pursuant to Florida law, Section 429.08, Florida Statutes (2014), applies to the unlicensed operation of an assisted living facility in addition to the requirements of Part II of Chapter 408. Section 429.08(1)(a), Florida Statutes (2014).

Pursuant to Florida law, a person or entity may not offer or advertise services that require licensure as defined by this part, authorizing statutes, or applicable rules to the public without obtaining a valid license from the agency. A licenseholder may not advertise or hold out to the public that he or she holds a license for other than that for which he or she actually holds the license. (2) The operation or maintenance of an unlicensed provider or the performance of any services that require licensure without proper licensure is a violation of this part and authorizing statutes. Unlicensed activity constitutes harm that materially affects the health, safety, and welfare of clients. The agency or any state attorney may, in addition to other remedies provided in this part, bring an action for an injunction to restrain such violation, or to

enjoin the future operation or maintenance of the unlicensed provider or the performance of any services in violation of this part and authorizing statutes, until compliance with this part, authorizing statutes, and agency rules has been demonstrated to the satisfaction of the agency. (3) It is unlawful for any person or entity to own, operate, or maintain an unlicensed provider. If after receiving notification from the agency, such person or entity fails to cease operation and apply for a license under this part and authorizing statutes, the person or entity shall be subject to penalties as prescribed by authorizing statutes and applicable rules. Each day of continued operation is a separate offense. (4) Any person or entity that fails to cease operation after agency notification may be fined \$1,000 for each day of noncompliance. (5) When a controlling interest or licensee has an interest in more than one provider and fails to license a provider rendering services that require licensure, the agency may revoke all licenses and impose actions under Section 408.814, Florida Statutes (2014) and a fine of \$1,000 per day, unless otherwise specified by authorizing statutes, against each licensee until such time as the appropriate license is obtained for the unlicensed operation. (6) In addition to granting injunctive relief pursuant to subsection (2), Florida Statutes (2014), if the agency determines that a person or entity is operating or maintaining a provider without obtaining a license and determines that a condition exists that poses a threat to the health, safety, or welfare of a client of the provider, the person or entity is subject to the same actions and fines imposed against a licensee as specified in this part, authorizing statutes, and agency rules. (7) Any person aware of the operation of an unlicensed provider must report that provider to the agency. Section 408.812, Florida Statutes (2014).

8. On or about July 1, 2015, the Agency conducted an unlicensed activity Complaint Survey (CCR# 2015005278) of the Respondent's facility.

9. Based on observation and interview, New Beginning II, the undefined facility, was operating without a license as an Assisted Living Facility, providing 2 unrelated residents

with housing, meals and personal services, as defined in Florida Statutes 429.65(2). The unlicensed facility also provided medication assistance to 2 out of 2 residents, specifically Resident #1 and Resident #2, by assisting the residents with self-administration of their medications, as defined in Florida Statutes 429.256.

10. On 7/1/15 at 11:00 a.m. a tour of the unlicensed facility was conducted. Two residents, Residents #1 and Resident #2, were observed in their rooms and in a common area of the home. A locked medication cart was observed in the common area of the home with the names of Resident #1 and Resident #2 handwritten on adhesive paper labeling the drawers of the medications. The labeling identified Resident #1's medication drawer, Resident #2's morning and evening medication, as needed medications (PRN) and a drawer labeled "meds ready." Staff A was asked to unlock the cabinet, and inside were medications for both Resident #1 and Resident #2. An activities board by the kitchen identified the facility as an Assisted Living Facility with the name of "New Beginning ALF" with the address and phone number of the unlicensed facility. (Photographic evidence obtained)

11. On 7/1/15 at 11:00 a.m. an interview was conducted with Staff A. Staff A said she has worked at the unlicensed location for approximately one month. Staff A said the name of the facility was New Beginning and said the facility was an Assisted Living Facility. The facility only had 2 residents and the residents were not related to the Operator. Staff A said she kept the facility clean and cooks breakfast, lunch, and dinner and provides snacks to the residents. Staff A said Resident #1 needed help in the shower and both residents needed 24 hour care and assistance with their medication. Staff A said the Operator did not live in the facility and the operator lived down the road. Staff A said Staff B did the medications at the unlicensed location. Staff B "Gets the medications ready for me for the day and I just give them out in the cups." Staff A said Staff B puts the medications in the cups and puts the cups inside the medication cart

where it says "ready meds." Staff A said the medications are kept in the medication cart locked and she keeps the keys on her wrist. Staff A said medications are given in the morning around 8:00 a.m. and at night around 6:00 p.m. Staff A said Staff B will sometimes come and do the medications and sign the Medication Observation Records for each resident. (Photographic evidence obtained)

12. On 7/1/15 at 11:13 a.m. an interview was conducted with the Operator of the unlicensed facility. The Operator said she does not live in the home. She said the home is not licensed. She currently has 2 residents, but admitted to having a third resident in the past, which she realized was "over the limit" for the unlicensed facility. The Operator said she is trying to obtain a license as an Assisted Living Facility for 4 residents. She said she has another Assisted Living Facility in the area, New Beginning, licensed for 5 residents. She said Resident #1 needed assistance with bathing, dressing, medications, cooking, cleaning, and meals. Resident #2 needs assistance with medications and meals.

13. On 7/1/15 at 11:27 a.m. an interview was conducted with Resident #1. Resident #1 said he/she had a stroke 2 years ago and is provided assistance with bathing, dressing, meals, cleaning, medications and transportation.

14. On 7/1/15 at 11:40 a.m. an interview was conducted with Resident #2. Resident #2 said he/she has lived at the unlicensed location since March 2015. Resident #2 said the name of the facility was New Beginning and said the facility was an Assisted Living Facility. Resident #2 receives assistance with medication as "they make sure I get it in the night and morning." Resident #2 said the medications are given in a cup. The medications are prepared the night before by the Certified Nursing Assistant and whoever is on duty gives the medications. Resident #2 said they do laundry and change the sheets once a week. Resident #2 and Resident #1 lived in the facility currently but Resident #2 named two past residents who resided at the

undefined facility.

15. A follow up interview was conducted on 7/1/15 at 12:05 p.m. with the unlicensed facility Operator. The Operator said she made a verbal agreement for services and payment between the residents or their families. The Operator said she and another employee (Staff B) who had taken the medication class gave out the medications to the residents at the unlicensed location. The Operator reported that she went over to the unlicensed location and did the medications by prefilling medication cups for the residents.

16. On 7/1/15 at 1:13 p.m. an interview was conducted with Staff B. Staff B said he had worked at the unlicensed location for 3 months and he is a Certified Nursing Assistant with medication technician training. Staff B said he assists the residents at the unlicensed location with Activities of Daily Living and occasionally a shower. Staff B said he takes vital signs and assists with blood sugar testing and watches the residents take their medication. Staff B said only Resident #1 and Resident #2 lives at the unlicensed location. Staff B said Resident #1 needed Activities of Daily Living care and bathing and he stands by while Resident #1 is in the shower in case the resident falls and also helps Resident #1 wash his/her back. Staff B said Resident #2 needs help with food and medications. Staff B said he prefills the cups for the medications and places the prefilled cups of medication in the drawer on the medication cart that says 'ready meds' and "they are ready to go."

17. On 7/6/15 at 1:25 p.m. a telephone interview was conducted with the daughter of Resident #2. Resident #2's daughter said she was told the facility was a licensed Assisted Living Facility. Resident #2's daughter said she was told the owner just bought the home and was getting things together. She has seen her parent and 2 additional residents in the home. There are currently only 2 residents, as one passed away. The daughter states she writes out a check to the Operator monthly to pay for her parent's care.



18. On 7/6/15 at 2:33 p.m. a telephone interview was conducted with the son of Resident #1. Resident #1's son said he was told the facility was an Assisted Living Facility and said he writes a check monthly for \$3,000 payable to New Beginning ALF, Inc.

19. On 7/6/15 at 2:51 p.m. a telephone interview was conducted with a Licensed Clinical Social Worker. She said she comes to the home to see two residents (Resident #1 and #2). She said she was aware the home is not a licensed facility. She was told by the Owner that she is currently in the process of getting a license.

20. A review of Medication Observation Records dated May 2015 and June 2015 revealed the unlicensed facility staff were documenting when Resident #1 and Resident #2 received their medications from the facility staff. (Photographic evidence obtained)

21. A review of a 4 cycle menu dated 10/6/14 revealed the menu was signed by a Registered Dietician. New Beginning Assisted Living was printed on the bottom of the menu with a facility address as 418 N.W. 21<sup>st</sup> Terrace, Cape Coral, Florida. (Photographic evidence obtained)

22. A review of records for Resident #1 revealed a blood sugar sheet dated daily beginning on 4/21/15 and the last entry ending on 6/26/15. The staff documented the resident's blood glucose level along with the time of day the reading was taken. (Photographic evidence obtained)

23. The Respondent's actions or inactions constituted a violation of Section 408.812, Florida Statutes (2014). The Agency may impose an administrative fine for a violation that is not designated as a class I, class II, class III, or class IV violation.

24. Any person or entity that fails to cease operation after agency notification may be fined \$1,000 for each day of noncompliance as set forth in Section 408.812(4), Florida Statutes (2014). A fine shall be levied notwithstanding the correction of the violation.

**WHEREFORE**, the Petitioner, State of Florida, Agency for Health Care Administration, intends to impose an administrative fine against the Respondent in the amount of SEVENTEEN THOUSAND DOLLARS (\$17,000.00) pursuant to Section 408.812(4) and (5) Florida Statutes (2014).

**CLAIM FOR RELIEF**

**WHEREFORE**, the Petitioner, State of Florida, Agency for Health Care Administration, respectfully requests the Court to grant the following relief:

1. Make findings of fact and conclusions of law in favor of the Agency.
2. Impose an administrative fine against the Respondent in the amount of SEVENTEEN THOUSAND DOLLARS (\$17,000.00).
3. Order any other relief that the Court deems just and appropriate.

Respectfully submitted on this 9<sup>th</sup> day of September, 2015.



Andrea M. Lang, Assistant General Counsel  
Florida Bar No. 0364568  
Agency for Health Care Administration  
Office of the General Counsel  
2295 Victoria Avenue, Room 346C  
Fort Myers, Florida 33901  
Telephone: (239) 335-1253

**NOTICE**

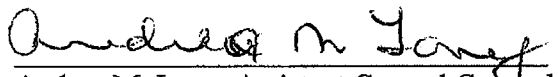
**RESPONDENT IS NOTIFIED THAT IT/HE/SHE HAS A RIGHT TO REQUEST AN ADMINISTRATIVE HEARING PURSUANT TO SECTIONS 120.569 AND 120.57, FLORIDA STATUTES. THE RESPONDENT IS FURTHER NOTIFIED THAT IT/HE/SHE HAS THE RIGHT TO RETAIN AND BE REPRESENTED BY AN ATTORNEY IN THIS MATTER. SPECIFIC OPTIONS FOR ADMINISTRATIVE ACTION ARE SET OUT IN THE ATTACHED ELECTION OF RIGHTS.**

**ALL REQUESTS FOR HEARING SHALL BE MADE AND DELIVERED TO THE ATTENTION OF: *THE AGENCY CLERK, AGENCY FOR HEALTH CARE ADMINISTRATION, 2727 MAHAN DRIVE, BLDG #3, MS #3, TALLAHASSEE, FLORIDA 32308; TELEPHONE (850) 412-3630.***

**THE RESPONDENT IS FURTHER NOTIFIED THAT IF A REQUEST FOR HEARING IS NOT RECEIVED BY THE AGENCY FOR HEALTH CARE ADMINISTRATION WITHIN TWENTY-ONE (21) DAYS OF THE RECEIPT OF THIS ADMINISTRATIVE COMPLAINT, A FINAL ORDER WILL BE ENTERED BY THE AGENCY.**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the Administrative Complaint and Election of Rights form has been served to: Junia Osme, Administrator and Registered Agent, New Beginning II, 418 N.W. 21<sup>st</sup> Terrace, Cape Coral, Florida 33993, by U.S. Certified Mail, Return Receipt No. 7007 1490 0003 3419 4329 on this 9<sup>th</sup> day of September, 2015.

  
Andrea M. Lang, Assistant General Counsel  
Florida Bar No. 0364568  
Agency for Health Care Administration  
Office of the General Counsel  
2295 Victoria Avenue, Room 346C  
Fort Myers, Florida 33901  
(239) 335-1253

Copies furnished to:

<p>Junia Osme Administrator and Registered Agent New Beginning II 418 N.W. 21<sup>st</sup> Terrace Cape Coral, Florida 33993 (U.S. Certified Mail)</p>	<p>Andrea M. Lang, Assistant General Counsel Agency for Health Care Administration Office of the General Counsel 2295 Victoria Avenue, Room 346C Fort Myers, Florida 33901 (Interoffice Mail)</p>
	<p>Jon Seehawer Field Office Manager Agency for Health Care Administration 2295 Victoria Avenue, Room 340A Fort Myers, Florida 33901 (Electronic Mail)</p>

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

**Re: New Beginning II**

**Case No. 2015007904**

**ELECTION OF RIGHTS**

This Election of Rights form is attached to a proposed action by the Agency for Health Care Administration (AHCA). The title may be an **Administrative Complaint, Notice of Intent to Impose a Late Fee, or Notice of Intent to Impose a Late Fine.**

**Your Election of Rights must be returned by mail or by fax within twenty-one (21) days of the date you receive the attached Administrative Complaint, Notice of Intent to Impose a Late Fee, or Notice of Intent to Impose a Late Fine.**

**If your Election of Rights with your elected Option is not received by AHCA within twenty-one (21) days from the date you received this notice of proposed action by AHCA, you will have given up your right to contest the Agency's proposed action and a **Final Order will be issued.****

Please use this form unless you, your attorney or your representative prefer to reply in accordance with Chapter 120, Florida Statutes (2015) and Rule 28, Florida Administrative Code.

PLEASE RETURN YOUR ELECTION OF RIGHTS TO THIS ADDRESS:

Agency for Health Care Administration  
Attention: Agency Clerk  
2727 Mahan Drive, Mail Stop #3  
Tallahassee, Florida 32308  
Phone: 850-412-3630      Fax: 850-921-0158

**PLEASE SELECT ONLY 1 OF THESE 3 OPTIONS**

OPTION ONE (1) \_\_\_\_ **I admit the allegations of fact and law contained in the Notice of Intent to Impose a Late Fine or Fee, or Administrative Complaint and I waive my right to object and to have a hearing.** I understand that by giving up my right to a hearing, a Final Order will be issued that adopts the proposed agency action and imposes the penalty, fine or action.

OPTION TWO (2) \_\_\_\_ **I admit the allegations of fact and law contained in the Notice of Intent to Impose a Late Fine or Fee, or Administrative Complaint, but I 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 administrative action is too severe or that the fine should be reduced.

OPTION THREE (3) \_\_\_\_ **I dispute the allegations of fact and law contained in the Notice of Intent to Impose a Late Fee, the Notice of Intent to Impose a Late Fine, or Administrative Complaint, and I request a formal hearing** (pursuant to Subsection 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 administrative 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. Your name, address, telephone number, and the name, address, and telephone number of your representative or lawyer, if any.
2. The file number of the proposed action.
3. A statement of when you received notice of the Agency's proposed action.
4. A statement of all disputed issues of material fact. If there are none, you must state that there are none.

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

License Type: \_\_\_\_\_ (Assisted Living Facility, Nursing Home, Medical Equipment, Other)

Licensee Name: \_\_\_\_\_ License Number: \_\_\_\_\_

Contact Person: \_\_\_\_\_  
Name Title

Address: \_\_\_\_\_  
Street and Number City State Zip Code

Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_ E-Mail (optional) \_\_\_\_\_

I hereby certify that I am duly authorized to submit this Notice of Election of Rights to the Agency for Health Care Administration on behalf of the above licensee.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

STATE OF FLORIDA  
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA,  
AGENCY FOR HEALTH  
CARE ADMINISTRATION,

Petitioner,

vs.

Case No(s): 15-6766  
2015007904

NEW BEGINNING II,

Respondent.  
\_\_\_\_\_ /

**SETTLEMENT AGREEMENT**

Petitioner, State of Florida, Agency for Health Care Administration (hereinafter the “Agency”), through its undersigned representatives, and Respondent, New Beginning II (hereinafter “Respondent”), pursuant to Section 120.57(4), Florida Statutes, each individually, a “party,” collectively as “parties,” hereby enter into this Settlement Agreement (“Agreement”) and agree as follows:

**WHEREAS**, Respondent is an Assisted Living Facility licensed pursuant to Chapters 408, Part II, and 429, Part I, Florida Statutes, Section 20.42, Florida Statutes and Chapter 58A-5, Florida Administrative Code; and

**WHEREAS**, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over Respondent, pursuant to Chapter 429, Florida Statutes; and

**WHEREAS**, the Agency served Respondent with an administrative complaint on or about September 10, 2015, notifying the Respondent of its intent to impose administrative fines in the amount of \$17,000; and

**EXHIBIT 2**

**WHEREAS**, Respondent requested a formal administrative proceeding by filing a Petition for Formal Administrative Hearing; and

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

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

1. All recitals herein are true and correct and are expressly incorporated herein.

2. Both parties agree that the “whereas” clauses incorporated herein are binding findings of the parties.

3. Upon full execution of this Agreement, Respondent agrees to waive 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 declaratory and all writs of relief in any court or quasi-court of competent jurisdiction; and agrees to waive compliance with the form of the Final Order (findings of fact and conclusions of law) to which it may be entitled, provided, however, that no agreement herein shall be deemed a waiver by either party of its right to judicial enforcement of this Agreement.

4. Upon full execution of this Agreement, Respondent agrees to pay \$17,000 in administrative fines to the Agency within one year of the entry of the Final Order. In addition, Respondent’s administrator, Junia Osme agrees to retake CORE training and pass the CORE USF test. Respondent also agrees that it will relinquish its license for New Beginning Assisted Living, Inc. if there are any further findings of unlicensed activity or over capacity.



5. Venue for any action brought to enforce the terms of this Agreement or the Final Order entered pursuant hereto shall lie in Circuit Court in Leon County, Florida.

6. By executing this Agreement, Respondent neither admits nor denies, and the Agency asserts the validity of the allegations raised in the administrative complaint referenced herein. No agreement made herein shall preclude the Agency from imposing a penalty against Respondent for any deficiency/violation of statute or rule identified in a future survey of Respondent, which constitutes a “repeat” or “uncorrected” deficiency from surveys identified in the administrative complaint. The parties agree that in such a “repeat” or “uncorrected” case, the deficiencies from the surveys identified in the administrative complaint shall be deemed found without further proof.

7. No agreement made herein shall preclude the Agency from using the deficiencies from the surveys identified in the administrative complaint in any decision regarding licensure of Respondent, including, but not limited to, licensure for limited mental health, limited nursing services, extended congregate care, or a demonstrated pattern of deficient performance. The Agency is not precluded from using the subject events for any purpose within the jurisdiction of the Agency. Further, Respondent acknowledges and agrees that this Agreement shall not preclude or estop any other federal, state, or local agency or office from pursuing any cause of action or taking any action, even if based on or arising from, in whole or in part, the facts raised in the administrative complaint.

8. Upon full execution of this Agreement, the Agency shall enter a Final Order adopting and incorporating the terms of this Agreement and closing the above-styled case.

9. Each party shall bear its own costs and attorney’s fees.

10. This Agreement shall become effective on the date upon which it is fully executed by all the parties.

11. Respondent for itself and for its related or resulting organizations, its successors or transferees, attorneys, heirs, and executors or administrators, does hereby discharge the State of Florida, Agency for Health Care Administration, and its agents, representatives, and attorneys of and 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 Respondent or related facilities.

12. This Agreement is binding upon all parties herein and those identified in paragraph eleven (11) of this Agreement.

13. In the event that Respondent was a Medicaid provider at the subject time of the occurrences alleged in the complaint herein, this settlement does not prevent the Agency from seeking Medicaid overpayments related to the subject issues or from imposing any sanctions pursuant to Rule 59G-9.070, Florida Administrative Code.

14. Respondent agrees that if any funds to be paid under this agreement to the Agency are not paid within one year of entry of the Final Order in this matter, the Agency may deduct the amounts assessed against Respondent in the Final Order, or any portion thereof, owed by Respondent to the Agency from any present or future funds owed to Respondent by the Agency, and that the Agency shall hold a lien against present and future funds owed to Respondent by the Agency for said amounts until paid.

15. The undersigned have read and understand this Agreement and have the authority to bind their respective principals to it.


16. This Agreement contains and incorporates the entire understandings and agreements of the parties.

17. This Agreement supersedes any prior oral or written agreements between the parties.


18. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

19. All parties agree that a facsimile signature suffices for an original signature.


The following representatives hereby acknowledge that they are duly authorized to enter into this Agreement.

  
Molly McKinstry  
Deputy Secretary  
Agency for Health Care Administration  
2727 Mahan Drive, Bldg #1  
Tallahassee, Florida 32308


DATED: 7/11/16

  
Stuart F. Williams, General Counsel  
Agency for Health Care Administration  
2727 Mahan Drive, Mail Stop #3  
Tallahassee, Florida 32308

DATED: 6/20/16

  
Junia Osme, Administrator  
New Beginning Assisted Living, Inc.  
418 N.W. 21<sup>st</sup> Terrace  
Cape Coral, Florida 33993

DATED: 4/21/16

  
Abraham Shakfeh, Esq.  
Shakfeh Law, LLC  
Attorney for Respondent  
1207 N. Franklin Street  
Tampa, Florida 33602

DATED: 5-4-16

Andrea M. Lang

Andrea M. Lang, Senior Attorney  
Agency for Health Care Administration  
2295 Victoria Avenue  
Fort Myers, Florida 33901

DATED: 5/26/16