

STATE OF FLORIDA  
AGENCY FOR PERSONS WITH DISABILITIES

AGENCY FOR PERSONS  
WITH DISABILITIES,

Petitioner,

v.

DOAH Case #: 18-2860FL

UNITED COMMUNITY  
OPTIONS OF SOUTH  
FLORIDA, INC.,

Respondent.

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**FINAL ORDER APPROVING SETTLEMENT AGREEMENT**

This case is before the Agency for Persons with Disabilities (“Agency”) for entry of a Final Order Approving Settlement Agreement entered into between the parties in this case (attached as Exhibit A).

On May 11, 2018, the Agency filed an Administrative Complaint against United Community Options of South Florida (“Respondent”). On May 31, 2018, the Respondent filed a Request for Formal Administrative Hearing. On September 19, 2018, the Agency filed an Uncontested Motion to Relinquish Jurisdiction based on the parties’ resolution of the case without the need for a hearing.

Upon consideration of the attached Settlement Agreement approved by the Agency on October 3, 2018, and being fully advised in the premises, it is hereby

ORDERED AND ADJUDGED:

1. The Settlement Agreement is adopted and incorporated herein by reference; and
2. The parties shall adhere to and abide by all terms and conditions of the Settlement Agreement.

DONE AND ORDERED in Tallahassee, Leon County, Florida, on  
April 5, 2019.

  
Tom Rankin, Deputy Director of Operations *for*  
Agency for Persons with Disabilities

**NOTICE OF RIGHT TO APPEAL**

A party who is adversely affected by this final order is entitled to judicial review. To initiate judicial review, the party seeking it must file one copy of a "Notice of Appeal" with the Agency Clerk. The party seeking judicial review must also file another copy of the "Notice of Appeal," accompanied by the filing fee required by law, with the First District Court of Appeal in Tallahassee, Florida, or with the District Court of Appeal in the district where the party resides. The Notices must be filed within thirty (30) days of the rendition of this final order.<sup>1</sup>

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<sup>1</sup> The date of "rendition" of this Final Order is the date that is stamped on its first page. The Notices of Appeal must be received on or before the 30<sup>th</sup> day after that date.

Copies furnished to:

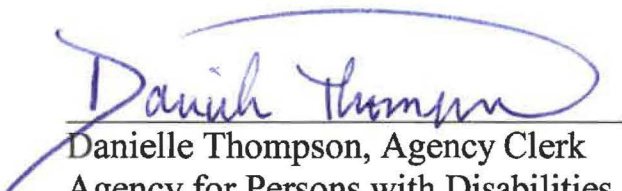
Trevor Suter, Esq.  
Agency for Persons with Disabilities  
4030 Esplanade Way, Suite 315C  
Tallahassee, FL 32399-0950  
Trevor.Suter@apdcares.org

Evelyn Alvarez  
Regional Operations Manager  
APD Southern Region

DOAH  
1230 Apalachee Parkway  
Tallahassee, FL 32399-3060  
*Filed via e-ALJ*

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Tallahassee, FL 32302  
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frainer@nelsonmullins.com  
jadams@nelsonmullins.com

I HEREBY CERTIFY that a copy of this Final Order was provided by regular US or electronic mail to the above individuals at the addresses listed on April 8, 2019.

  
Danielle Thompson, Agency Clerk  
Agency for Persons with Disabilities  
4030 Esplanade Way, Suite 309  
Tallahassee, FL 32399-0950  
Apd.agencyclerk@apdcares.org

IN THE MATTER OF: )  
 )  
UNITED CEREBRAL PALSY )  
ASSOCIATION OF MIAMI, INC., )  
d/b/a UNITED COMMUNITY )  
OPTIONS OF MIAMI )  
\_\_\_\_\_ )

DOAH CASE NO.18-2860FL

### SETTLEMENT AGREEMENT

This Settlement Agreement<sup>1</sup> is made by and between the State of Florida, Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 380, Tallahassee, Florida, 32399-0950 ("Agency" or "APD") and United Cerebral Palsy Association of Miami, Inc., d/b/a United Community Options of Miami, ("UCO"), 2700 West 81 Street Hialeah, Florida 33016 (collectively, "parties").

WHEREAS, this matter originated from allegations of abuse and neglect committed against vulnerable adult residents of the Kendale Lakes Group Home and Spur Drive Group Home, owned and operated by UCO as alleged in the administrative complaint for the above styled matter.

WHEREAS, the Agency and UCO have determined that it is in the best interest of the parties to enter into this Agreement to avoid the uncertainty of litigation and related costs.

THEREFORE, the parties agree as follows:

1. Unless otherwise indicated, UCO shall initiate and fully implement the following actions within **30 days** of execution of this Settlement Agreement and shall continue such actions for **one year** following execution of this Settlement Agreement:

a) UCO agrees:

- a To pay the Agency for Persons with Disabilities \$2,500. The check shall be payable to the Agency for Persons with Disabilities, and sent to the following address:  
Agency for Persons with Disabilities  
4030 Esplanade Way, Suite 380  
In care of: Trevor Suter, Senior Attorney  
4030 Esplanade Way, Suite 380,  
Tallahassee, FL. 32399

<sup>1</sup> The Agency's determination to enter into this Settlement Agreement is based on the specific facts and circumstances of this case and has no applicability to any other matter arising or that may arise from actions taken by the Agency.

b) UCO agrees:

- To provide staffing levels in all licensed group homes, which is consistent with service levels specified within each resident's behavior plan, support plan, court order, or other prescribing document.
- To provide increased staffing during resident meal times, so residents who are prone to choking, who need food cut up, or pureed, are able to receive the oversight and care they need for their safety, and the residents are able eat together if they wish.
- To notify the APD Supervisor of Quality Assurance for the Southern Region, Kirk Ryon (at email address: [kirk.ryon@apdcares.org](mailto:kirk.ryon@apdcares.org)) of any changes in the census of any licensed facility.
- In addition, any proposed changes to staffing levels, necessitated by the arrival/departure of residents or changes in resident needs, shall be submitted to the APD Supervisor of Residential Services for the Southern Region, Kirk Ryon (at email address: [kirk.ryon@apdcares.org](mailto:kirk.ryon@apdcares.org)) prior to implementation. This provision is in addition to the standard APD notification procedure.
- Staffing schedules shall be posted in the group homes and shall be made available to the Agency upon request.
- A summary of facility staffing levels (i.e. increases or decreases) shall be provided to the Agency during the quarterly meetings referenced within this Settlement Agreement.

c) UCO agrees:

- To provide ongoing quality assurance related to the physical plant and furnishings in the home so that repairs and replacement can be made timely following the need for either.

d) UCO agrees:

- To ensure all group homes have adequate supplies of fresh and staple foods
- Follow menus and document substitutions
- To have an LPN and/or RN or a member of the Quality Assurance Team (Associate Director of Adult Services, Assistant Director of Residential Services, Program Manager, Nursing Coordinator, Coordinator of Environmental Services, Senior Behavior Program Specialist, QA administrator) to go to each home at least once per week, complete the Group Home checklist which includes review of menus, and check for diets for diabetic and individual consumers.

e) UCO agrees:

- Provide coordination of health care services for individuals residing in UCO licensed settings.

f) UCO agrees:

- Provide re-training of staff on the proper use of adaptive equipment and what constitutes prohibited procedures (as defined in 65G-8.009(3),(11) and (12) and 65G-2.009(1) and (1)(d), *Florida Administrative Code*.) This training shall ensure that the use of a gait belt will be only as an assistive device to help safely transfer a person, not used to secure someone around the chest or used to restrain someone to a chair.
2. For one (1) year following execution of this Settlement Agreement by both parties, UCO's Associate Director of Adult Services and other supervisory or management staff identified by UCO, must meet, at a time to be coordinated by the Agency, with the Agency's

Southern Regional Operations Manager, and/or designees at the APD Miami Office on a quarterly basis to:

- a. Review any deficiencies noted in the previous quarter's monitoring visits and/or annual licensing visit for all licensed facilities with a summary of remediation of those deficiencies;
  - b. Provide documentation demonstrating appropriate action taken for each resident's essential care<sup>2</sup>, following a medical, dental, therapy or other health care-related appointment.
  - c. Provide training to staff on any changes in medication, dietary regimens, utilization of specialized equipment, or any other area, which has changed subsequent to any appointments.
  - d. Review all internal, reportable, and critical incident reports that have been generated during the previous quarter to ensure incidents were handled appropriately, reported timely, and to ascertain that necessary follow up was completed; and
  - e. Present quarterly updates on the ongoing quality assurance efforts, including staffing levels implemented by UCO to ensure that residents' medical and behavioral needs are being met. Provide written summary of all weeks within the quarter using service level authorization versus utilization of hours provided.
3. Any verified breach by UCO of the terms of this agreement may result in administrative action pursuant to section 393.0673, and Chapter 120, Florida Statutes. It is acknowledged that UCO is not waiving any rights to challenge the adequacy, legitimacy, materiality or other aspects of any breach alleged.
4. This Settlement Agreement supersedes and replaces any prior oral or written agreements between the parties. All terms and conditions of this settlement are fully set forth in this document and no other material terms of settlement exist outside this document.
5. Each signatory to this Settlement Agreement will sign and date the document and email it to the counsel for the Agency, Trevor Suter, who will distribute copies to all parties once all signature pages are received. The document can be emailed to [trevor.suter@apdcares.org](mailto:trevor.suter@apdcares.org).
6. This Settlement Agreement does not constitute an admission of wrongdoing or error by either party with respect to this case or any other matter. This is an Agreement of settlement and compromise, made in recognition that the parties may have different or incorrect understandings, information and contentions, as to facts and law, and with each party compromising and settling any potential correctness or incorrectness of its understandings, information and contentions as to facts and law, so that no misunderstanding or misinformation shall be a ground for rescission hereof.

<sup>2</sup> "essential care" refers to care and follow-up measures, medically necessary or directed by a treating physician or health care practitioner for continuing a course of treatment of, or therapy for, a resident's illness, injury, medical condition or diagnosis until such care and follow-up measures are no longer directed or recommended by the physician or health care practitioner.

7. The parties agree that each party shall bear its own costs and attorney's fees, unless legal action is required to enforce the terms of this Settlement Agreement, in which case the prevailing party will be entitled to recover reasonable attorneys' fees and costs incurred in the enforcement action from the non-prevailing party. Venue for enforcement by either party of any alleged breach of this Settlement Agreement shall lie exclusively in the Second Judicial Circuit in and for Leon County, Tallahassee, Florida.
8. UCO expressly waives in this matter its right to any hearing pursuant to sections 120.569 or 120.57, Florida Statutes, and consents to relinquishment of jurisdiction back to APD, so it shall enter a Final Order in this matter, which is consistent with the terms of this settlement agreement.
9. This Agreement is and shall be deemed jointly drafted and written by all parties to it and shall not be construed or interpreted against the party originating or preparing it.
10. To the extent that any provision of this Agreement is prohibited by law for any reason, such provision shall be effective to the extent not so prohibited, and such prohibition shall not affect any other provision of this Agreement.
11. This Settlement Agreement shall inure to the benefit of and be binding on each party's successors, assigns, heirs, administrators, representatives and trustees.

**UNITED CEREBRAL PALSY OF MIAMI,  
INC., D/B/A UNITED COMMUNITY  
OPTIONS OF MIAMI**



Linda Gluck  
Chief Executive Officer  
United Community Options  
of Miami

10-2-18  
Date

**AGENCY FOR PERSONS WITH DISABILITIES**



Tom Rankin  
Deputy Director  
Agency for Persons with Disabilities

10/3/18  
Date