

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

2021 MAR 23 P 12:11

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

DOAH No. 20-2636

v.

AHCA Nos. 2019015656
2020012817

CARE WELL, LLC,

Respondent.

CARE WELL, LLC,

Petitioner,

DOAH No. 20-1771

v.

AHCA No. 2020004230

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

RENDITION NO.: AHCA-21 - 264 -S-OLC

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 Provider an Administrative Complaint and Election of Rights form in AHCA Case Nos. 2019015656. The Agency issued the Provider a Notice of Intent to Deny Renewal Application in AHCA Case No. 202004230. (Composite 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)

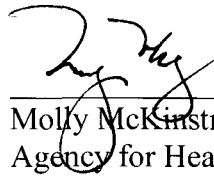
2. The Notice of Intent to Deny Renewal Application is withdrawn and the Agency shall resume the review of the Provider's license renewal application.

3. The Provider shall pay the Agency \$12,315.67 over a 12-month period. The payments shall be made monthly with the first payment being \$1,315.67 and thereafter each payment being \$1,000.00. The action seeking license revocation is withdrawn. 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

4. The Provider shall comply with all of the licensure conditions and restrictions set forth in the Settlement Agreement.

ORDERED at Tallahassee, Florida, on this 18 day of March, 2021.



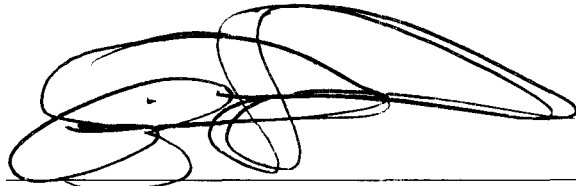
Molly McKinstry, Deputy Secretary
Agency for Health Care Administration

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 23rd day of March, 2021



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

<p>Facilities Intake Unit Agency for Health Care Administration (Electronic Mail)</p>	<p>Keisha Woods, Unit Manager Licensure Unit Agency for Health Care Administration (Electronic Mail)</p>
<p>Central Intake Unit Agency for Health Care Administration (Electronic Mail)</p>	<p>Matthew K. Foster, Esquire Brooks, LeBoeuf, Bennett, Foster & Gwartney, PA 909 East Park Avenue Tallahassee, Florida 32301 matt@tallahasseeattorneys.com (Electronic Mail)</p>
<p>Julia E. Smith, Senior Attorney D. Carlton Enfinger, Senior Attorney Office of the General Counsel Agency for Health Care Administration (Electronic Mail)</p>	<p>Rachel Peacock, Administrator Care Well, LLC Post Office Box 639 Madison, Florida 32341 (U. S. Mail)</p>

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

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

Respondent.

_____ /

SETTLEMENT AGREEMENT

The State of Florida, Agency for Health Care Administration (“the Agency”), and Care Well, LLC (“the Provider”), by and through their counsel, pursuant to Section 120.57(4), Florida Statutes, enter into this Settlement Agreement (“Agreement”) and agree as follows:

WHEREAS, the Agency is the licensing and regulatory authority over assisted living facilities pursuant to Chapters 408, Part II, and 429, Part I, Florida Statutes; and

WHEREAS, the Provider is a license renewal applicant for an assisted living facility (“the Facility”) licensed pursuant to Chapters 408, Part II, and 429, Part I, Florida Statutes, and Chapter 59A-36, Florida Administrative Code; and

WHEREAS, the Agency issued Administrative Complaints in Case Nos. 2019015656 and 2020012817 seeking the imposition of administrative fines and a survey fee, and

WHEREAS, the Agency issued the Provider a Notice of Intent to Deny Renewal Application in Case No. 2020004230 notifying it of the Agency's intent to deny the license renewal application; and

WHEREAS, the Provider filed Petitions for Formal Hearing with the Agency Clerk contesting the Administrative Complaints and the Notice of Intent to Deny; and

WHEREAS, the matters were referred to the Division of Administrative Hearings; 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. The above recitals are true and correct and are expressly incorporated into this Agreement.
2. Both parties agree that the "whereas" clauses are binding findings of the parties.
3. Upon full execution of this Agreement, the Provider waives 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 administrative tribunal or 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 this Agreement shall not be deemed a waiver by either party of its right to judicial enforcement of this Agreement.

4. Upon full execution of this Agreement, the parties agree to the following:

- (a) The Notice of Intent to Deny Renewal Application shall be withdrawn and the Agency shall resume the review of the Provider's license renewal application. Nothing prohibits the Agency from denying the license renewal application on grounds other than those stated in the Administrative Complaints and Notice of Intent to Deny. Should the Agency again deny the license renewal application, the Provider shall be afforded all rights provided under Florida law, including but not limited to, Chapter 120, Florida Statutes.
- (b) The Provider must retain a qualified consultant approved by the Agency that will conduct a bi-weekly review for twelve months. Copies of the reviews must be provided directly to the Agency.
- (c) The Provider must ensure that every limited mental health resident has a case manager with an active limited mental health program.
- (d) The Provider must ensure that it has clear policies on: (1) The self-administration of medication for residents who self-administer, including documentation, ensuring the availability of medications and monitoring resident's continued ability to self-administer, and (2) The re-evaluation of residents, post-hospitalization, including follow-up medical appointments and medication changes.
- (e) The Provider may not admit any resident that: (1) is diagnosed with diabetes, (2) is taking insulin or conducting blood glucose tests, i.e., Accu-Cheks, or (3) has a catheter.
- (f) The Provider shall pay the Agency \$12,315.67 over a 12-month period. The payments shall be made monthly with the first payment being \$1,315.67 and thereafter each payment being \$1,000.00.

(g) The Provider cannot accept any residents that require a specialized diet as documented on resident Form 1823.

(h) The Provider will hold no specialty licenses other than the current Limited Mental Health license.

5. Venue for any action brought to enforce the terms of this Agreement or the Final Order adopting this Agreement shall lie solely in the state circuit court of Leon County, Florida.

6. This Agreement shall not preclude the Agency from using the deficiencies from the surveys identified in this agreement in any decision regarding licensure of the change of ownership applicant, including, but not limited to, licensure for limited mental health, limited nursing services, extended congregate care, or a demonstrated pattern of deficient performance. 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. The Agency may seek revocation in the event of a future citation for one or more Class I or three or more Class II violations.

7. 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.

8. Each party shall bear its own costs and attorney's fees.

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

10. The Provider 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 the Provider or related facilities.

11. This Agreement is binding upon all parties and those identified in above paragraph of this Agreement.

12. In the event that the Provider 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. This Agreement does not prohibit the Agency from taking any action regarding the Provider's Medicaid provider status, conditions, requirements, contract or from imposing any sanctions pursuant to Rule 59G-9.070, Florida Administrative Code.

13. The Provider agrees that if any funds to be paid under this Agreement to the Agency are not paid within the time set forth in this this Agreement, the Agency may deduct the amounts assessed against the Provider in the Final Order, or any portion thereof, owed by the Provider to the Agency from any present or future funds owed to the Provider by the Agency, and that the Agency shall hold a lien against present and future funds owed to the Provider by the Agency for said amounts until paid.


14. The undersigned have read and understand this Agreement and have the authority to bind their respective principals. The Provider has the capacity to execute this Agreement. The Provider understands that it has the right to consult with counsel and has either consulted with counsel or freely entered into this Agreement without exercising its right to consult with

counsel. The Provider understands that counsel for the Agency represents solely the Agency and that Agency counsel has not provided any legal advice to or influenced the Provider in its decision to enter into this Agreement.

15. This Agreement contains and incorporates the entire understandings and agreements of the parties. This Agreement supersedes any prior oral or written agreements between the parties. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.


16. 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.



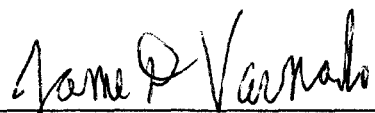
Molly McKinstry, Deputy Secretary
Division of Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive
Tallahassee, Florida 32308

DATED: 3/18/21




Name: Rachel Peacock
Title: Administrator
Care Well, LLC
Post Office Box 639
Madison, Florida 32341

DATE: 2-24-2021



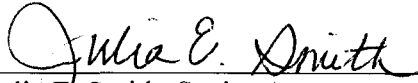
James D. Varnado, General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive
Tallahassee, Florida 32308

DATED: 3/10/21



Matthew K. Foster, Esquire
Brooks, LeBoeuf, Bennett, Foster
& Givartney, P.A.
909 East Park Avenue
Tallahassee, Florida 32301

DATE: 2-24-2021



Julia E. Smith, Senior Attorney
D. Carlton Enfinger II, Senior Attorney
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, Mail Stop #3
Tallahassee, Florida 32308

DATED: _____