

**STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS**

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**PROHEALTH CARE REGENCY SENIOR COMMUNITY NEW BERLIN  
RCAC**

**Petitioner,**

**v.**

**Case No. ML- 22-0051  
SOD # KY9P11**

**DEPARTMENT OF HEALTH SERVICES,**

**Respondent.**

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**STIPULATED SETTLEMENT AGREEMENT**

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As confirmed by their signatures below, the Department of Health Services (hereinafter "Department"), by its attorney, Randy Jones, and ProHealth Care Regency Senior Community New Berlin, a residential care apartment complex (RCAC) (hereinafter "Facility"), by Elizabeth Brzeski, Licensee for the Facility, (hereinafter "Petitioner"), and her attorney Stacy Gerber Ward, agree and stipulate to the following:

1. The Department and Petitioner agree that the Department has the authority, pursuant to Wis. Stat. ch. 50, and Wis. Admin. Code ch. DHS 89, to regulate RCACs operating in the state of Wisconsin, and to enforce regulations and standards to protect and promote the health, safety and welfare of RCAC tenants.
2. The Petitioner and Facility are subject to Wis. Stat. ch. 50 and Wis. Admin. Code ch. DHS 89.
3. The Petitioner's business is located at 13750 W National Avenue, New Berlin Wisconsin 53151.
4. The parties enter into this Stipulated Settlement Agreement (hereinafter "Agreement") for a number of reasons, including decreasing the costs of litigation and achieving a suitable closure. This Agreement is not an admission of liability and shall not be construed to be an admission of liability by the Facility or Petitioner as to the facts or legal conclusions, or both, as set forth in Statement of Deficiency (hereinafter "SOD") # KY9P11. The parties agree that the resolutions reached herein apply to and control all issues between the parties that are set forth in Petitioner's appeal of SOD # KY9P11, which was filed with the Department of Administration's Division of Hearings and Appeals (hereinafter "DHA") on or about February 8, 2022 (hereinafter "Appeal").
5. Both parties agree that the provisions of the Agreement are a lawful, fair, and appropriate resolution to these matters.
6. On November 8, 2021, the Department conducted a complaint investigation at the Facility. As a result of this activity, the Department issued two citations of Wis. Admin. Code ch. DHS 89 in SOD # KY9P11: Tag U 169: Participation In The Assessment; and Tag U 232: Admission & Retention Of Tenants.

7. The Department issued SOD # KY9P11 detailing these citations and issued a NOTICE and ORDER letter dated February 1, 2022, to Petitioner (hereinafter "NOTICE and ORDER letter"), which included a Notice of Violation, Order to Comply With Requirements, Notice of Imposed Forfeiture, and Notice of Right to Appeal. The NOTICE and ORDER letter referred to SOD # KY9P11.
8. Based on additional information provided with the appeal, before the case conference, during the case conference, and after the case conference, the Department agrees to rescind both tags.
9. By the filing of this agreement with DHA, Petitioner agrees to withdraw the Appeal, and agrees to waive any and all rights to file a petition for an administrative rehearing or petition for judicial review, pursuant to Wis. Stat. §§ 50.03(11), 227.49, and 227.53; and the Department moves to dismiss the Appeal, with prejudice.
10. To the extent applicable, this Agreement shall not interfere with or forestall the Department from conducting compliance, complaint, or verification surveys or from carrying out other regulatory or enforcement efforts or processes as authorized by Wis. Stat. ch. 50, and Wis. Admin. Code ch. DHS 89, or other applicable laws and rules governing the regulation of a RCAC operating in the state of Wisconsin.
11. The Petitioner agrees not to request Title 18 – Medicare or Title 19 – Medicaid reimbursement for any costs incurred pursuant to this Agreement.
12. Both parties agree to bear their own costs of litigation, including any attorney fees incurred or to be incurred regarding the matters at issue in this appeal.
13. This Agreement is legally binding and judicially enforceable by the parties and shall be applicable to and binding upon all of the parties, their officers, agents, employees, assigns, and successors.
14. The parties recognize and agree that the facts, conditions and circumstances of this case are unique, and as such, shall not singly or in any combination constitute a precedent for other cases.
15. All signatories to this Agreement affirm that they have the authority to and have entered into this Agreement knowingly, voluntarily, and of their own free will and without duress of any kind.
16. The parties agree to abide by this Agreement and the applicable statutes and administrative code provisions. The obligations agreed to by both parties are binding and contractual.
17. Any modifications to this Agreement must be in writing and signed by all parties.

**SIGNATURES OF THE PARTIES**

*Elizabeth Brzeski*

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Elizabeth Brzeski, Petitioner  
Licensee  
ProHealth Care Regency Senior Community New Berlin

*4/20/2022*

\_\_\_\_\_  
Date

*Stacy Gerber Ward*

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Stacy Gerber Ward  
Attorney for Petitioner

*4/20/2022*

\_\_\_\_\_  
Date

*Randy Jones*  
\_\_\_\_\_  
Randy Jones  
Attorney for Respondent

*4/20/2022*  
\_\_\_\_\_  
Date

