

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

FILED
AHCA
AGENCY CLERK

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

2014 NOV 26 A 11: 33

Petitioner,

v.

AHCA NO. 2014008716

RENDITION NO.: AHCA- 14 - 0951 -8-0LC

SGC GRACEWOOD, LLC d/b/a
GRACEWOOD REHABILITATION AND NURSING CENTER,

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 has jurisdiction over the above-named Respondent pursuant to Chapter 408, Part II, Florida Statutes, and the applicable authorizing statutes and administrative code provisions.
2. The Agency issued the attached Administrative Complaint and Election of Rights form to the Respondent. (Ex. 1) The Election of Rights form advised of the right to an administrative hearing.
3. The parties have since entered into the attached Settlement Agreement. (Ex. 2)

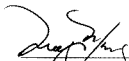
Based upon the foregoing, it is **ORDERED**:

1. The Settlement Agreement is adopted and incorporated by reference into this Final Order. The parties shall comply with the terms of the Settlement Agreement.
2. The Respondent shall pay the Agency \$2,500.00. 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 30 days 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:

Office of Finance and Accounting
Revenue Management Unit
Agency for Health Care Administration
2727 Mahan Drive, MS 14
Tallahassee, Florida 32308

3. Conditional licensure status is imposed on the Respondent beginning on July 21, 2014, and ending on August 21, 2014.

ORDERED at Tallahassee, Florida, on this 26 day of November, 2014.



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 26 day of November, 2014.



Richard J. Shoop, Agency Clerk
Agency for Health Care Administration
2727 Mahan Drive, Bldg. #3, Mail Stop #3
Tallahassee, Florida 32308-5403
Telephone: (850) 412-3630

Jan Mills Facilities Intake Unit (Electronic Mail)	Finance & Accounting Revenue Management Unit (Electronic Mail)
Thomas J. Walsh II Office of the General Counsel Agency for Health Care Administration (Electronic Mail)	Anna G. Small, Esq. Allen Dell, P.A. 202 South Rome Avenue Tampa, Florida 33606 (U.S. Mail)

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

Case No. 2014008716

SCG GRACEWOOD, LLC d/b/a
GRACEWOOD REHABILITATION
AND NURSING CARE,

Respondent.

ADMINISTRATIVE COMPLAINT

COMES NOW the Agency for Health Care Administration (hereinafter "Agency"), by and through the undersigned counsel, and files this Administrative Complaint against SCG Gracewood, LLC d/b/a Gracewood Rehabilitation and Nursing Care (hereinafter "Respondent"), pursuant to §§120.569 and 120.57 Florida Statutes (2014), and alleges:

NATURE OF THE ACTION

This is an action to change Respondent's licensure status from Standard to Conditional commencing July 21, 2014, and to impose administrative fines in the amount of two thousand five hundred dollars (\$2,500.00), based upon Respondent being cited for one (1) isolated State Class II deficiency.

JURISDICTION AND VENUE

1. The Agency has jurisdiction pursuant to §§ 120.60 and 400.062, Florida Statutes (2014).
2. Venue lies pursuant to Florida Administrative Code R. 28-106.207.

PARTIES

3. The Agency is the regulatory authority responsible for licensure of nursing homes and

"1"

EXHIBIT

enforcement of applicable federal regulations, state statutes and rules governing skilled nursing facilities pursuant to the Omnibus Reconciliation Act of 1987, Title IV, Subtitle C (as amended), Chapters 400, Part II, and 408, Part II, Florida Statutes, and Chapter 59A-4, Florida Administrative Code.

4. Respondent operates a one hundred twenty (120) bed nursing home, located at 8600 US Highway 19 North, Pinellas Park, Florida 33782, and is licensed as a skilled nursing facility license number 1538096.

5. Respondent was at all times material hereto, a licensed nursing facility under the licensing authority of the Agency, and was required to comply with all applicable rules, and statutes.

COUNT I

6. The Agency re-alleges and incorporates paragraphs one (1) through five (5), as if fully set forth herein.

7. That pursuant to Florida law, all licensees of nursing homes facilities shall adopt and make public a statement of the rights and responsibilities of the residents of such facilities and shall treat such residents in accordance with the provisions of that statement. The statement shall assure each resident the right to receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency. § 400.022(1)(l), Fla. Stat. (2014).

8. That Florida law provides the following: “‘Practice of practical nursing’ means the performance of selected acts, including the administration of treatments and medications, in the

care of the ill, injured, or infirm and the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist. A practical nurse is responsible and accountable for making decisions that are based upon the individual's educational preparation and experience in nursing." § 464.003(19), Fla. Stat. (2014).

9. That Florida law provides the following: "A complete, comprehensive, accurate and reproducible assessment of each resident's functional capacity which is standardized in the facility, and is completed within 14 days of the resident's admission to the facility and every twelve months, thereafter. The assessment shall be: 1. Reviewed no less than once every 3 months, 2. Reviewed promptly after a significant change in the resident's physical or mental condition, 3. Revised as appropriate to assure the continued accuracy of the assessment." Rule 59A-4.109(1)(c), Florida Administrative Code.

10. That on July 21, 2014, the Agency completed a complaint survey visit of Respondent's facility.

11. That based upon the review of records and interview, Respondent failed to ensure residents receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency, where, inter alia, Respondent failed to ensure mechanical lifts were utilized in a safe and secure manner, in accord with manufacturer directions and facility policy, and failed to implement care plan interventions to prevent falls, the same being contrary to the mandates of law.

12. That Petitioner's representative reviewed during the survey Respondent's records related to resident number one (1) and noted as follows:

- a. The face sheet, dated June 26, 2014, documented the resident was ninety-three (93) years old and admitted to the facility on May 3, 2014.
- b. The resident was readmitted to the facility on June 20, 2014.
- c. The Accumulative Diagnosis Sheet for the resident dated June 20, 2014, documented the following relevant diagnosis: Fall; Cerebral Contusion; and (History) Multiple Facial (Fractures).
- d. The residents admitting weight was noted as one hundred eight (108) pounds per the face sheet.
- e. The Kardex Pictorial Care, undated, reflected the resident required the assistance of two (2) or more persons with the mechanical Lift (Hoyer Lift) for transfers.
- f. The "Dependency Status," dated June 4, 2013, revealed that the resident was a full sling lift with two (2) person assist for bed to chair and chair to bed transfers, chair to chair and wheel chair to toilet transfer, bathing and weighing transfer; and lift from floor transfer.
- g. The resident's Care Plan, dated June 11, 2013, documented that the resident was dependent on staff for all care needs with approaches noted that the resident required "mechanical lift x2" for all transfers.
- h. A nursing note dated June 19, 2014 at 10:50 a.m., documented "6/19/2014 10:50 a.m. Resident had nose bleed as well as (Right) eye laceration noted this AM after shower: Resident slid out of lift and impacted head on shower

chair. Resident appeared to be in 4/10 pain per Wong-Baker Facial Scale. Call doctor (Medical Director) and received order to (discharge) to (emergency room) due to epitaxis. Paramedics present with 4 attendees and taking resident to (the first Acute Care Hospital). Responsible party notified.” Signed by Respondent’s unit manager.

13. That Petitioner’s representative reviewed during the survey the records regarding resident number one (1) from the first acute care hospital and noted as follows:

- a. Exam date June 19, 2014.
- b. CT brain w/o contrast; GLF, Head Hematoma.
- c. Findings - There is high density 4.8 cm x 2.7 cm intracerebral hemorrhages with surrounding edema in the right to frontal temporal parietal region. There is impression on the frontal horn of the right lateral ventricle. There is minimal Imm shift of the septum from right to left. There is marked cortical atrophy and ventricular dilation. There are chronic microvascular white matter changes also noted. There is opacification of the right maxillary sinus.
- d. Impression - Acute 4.8x2.7 cm right frontal temporal parietal intercerebral hemorrhage with minimal shift of midline structure.

14. That Petitioner’s representative examined during the survey the Hoyer sling that was used during the incident with resident number one (1) on June 19, 2014, including its operational manual, and noted as follows:

- a. The sling was a size large and the Model was a 70056 fabric with the maximum sling weigh capacity being 600 lbs.
- b. The manufactures operational manual provided as follows:

- i. Page three (3) - Using the proper lifter and the correct sling is also very important. Select the proper fit and sling is determined by patients: disability; size; weight; and by specific type transfer.
 - ii. Page eight (8) - Specifications for the specific model and type of sling noted the following: Size Small weight capacity 55-110 pounds; Size Medium weight capacity 99-210 pounds; Size Large weight capacity 198-350 pounds.
15. That Petitioner's representative interviewed on July 7, 2014, Respondent's director of nursing and administrator regarding resident number one (1), and they indicated as follows
 - a. Director of nursing:
 - i. On June 19, 2014, at 10:30 a.m., the resident fell during a transfer from the shower bed to wheelchair using the mechanical Hoyer Lift.
 - ii. During the transfer process, the resident tipped forward out of the Hoyer swing and hit the resident's face on the shower chair and fell to the knees.
 - iii. The resident had a small laceration over right eye and a nose bleed.
 - iv. There were two (2) certified nursing assistants, staff members "F" and "G," involved in the incident and that they were the only two people in the shower room during the incident.
 - v. The resident was transferred to the emergency room for evaluation and treatment and was admitted to the hospital for subdural bleed and facial fractures.
 - vi. It was determined after the internal investigation that the sling that was used during the transfer of the resident was not appropriate for the

mechanical Hoyer Lift that was used during the transfer.

- vii. At the time of the incident, there were two types of mechanical Hoyer Lifts being used in the building - Vanguard and Invacare.
 - viii. The Hoyer sling that was used for the resident was not compatible with either of the mechanical lifts that were currently being used in the facility.
 - ix. It could not be determined where the sling came from that was used in the incident.
 - x. The resident was readmitted to the facility on June 20, 2014, and was admitted to hospice care directly after readmission to the facility.
 - xi. On June 24, 2014, the resident expired.
- b. The Nursing Home Administrator (NHA) stated that she cannot be sure which mechanical Hoyer was used during this incident but that she can confirm that the sling did not match the Vanguard Hoyer or the Invacare Hoyer.

16. That Petitioner's representative interviewed on July 7, 2014, Respondent's staff member "G," a certified nursing assistant, regarding resident number one (1), and the staff member indicated as follows:

- a. The resident was up in a wheel chair when she arrived for her shift that morning.
- b. There was a green Hoyer sling under the resident while the resident was seated in the wheelchair.
- c. When it was time for the resident to shower, she and another staff used the mechanical Hoyer Lift to place the resident on the shower bed.
- d. After the shower was complete, she dried and dressed the resident while the

resident was on the shower bed and used the same Hoyer sling that was originally under the resident.

- e. Staff "F," a certified nursing assistant, came in to help get the resident back into the chair.
- f. "The first time, [the resident] slid and we caught [the resident]. The top of the Hoyer then tipped over and [the resident] slipped over with it. The resident hit [the resident's] face on the shower."
- g. She and staff "F" were trying to hold the Hoyer up and the resident slid out of the Hoyer sling, fell on the knees, and hit the resident's face on the shower chair.
- h. "[The resident] just fell and we picked [the resident] up and put [the resident] in the chair."
- i. She went out to get the unit manager while staff "F" stayed with the resident.
- j. "[The unit manager] took the Hoyer pad and told me to go throw it in the garbage."
- k. She took the Hoyer sling and threw it in the garbage, but the director of nursing asked her where the Hoyer sling was and told her to go get it out of the garbage.
- l. She went and retrieved the sling and gave it to the director of nursing.

17. That Petitioner's representative interviewed on July 7, 2014, Respondent's unit manager regarding resident number one (1), and the manager indicated as follows:

- a. Staff "G" came and told her that the resident had fallen in the shower room.
- b. She went into the shower room and the resident was in the wheel chair.

- c. The resident looked calm, but had blood coming from the nose.
- d. The director of nursing came into the resident's room to assess the resident.
- e. She went to call the doctor, received an order to discharge the resident to the emergency room within the hour, and then the paramedics took the resident to the hospital.

18. That Petitioner's representative interviewed on July 15, 2014, Respondent's medical director, regarding resident number one (1), and the physician indicated as follows:

- a. They discussed that the resident fell and was escorted to the emergency room at [the first acute care hospital].
- b. She received a call from [the acute care hospital] that they had found facial fractures and intracranial bleed and that the resident needed to be sent to the trauma center at [a second acute care hospital].

19. That Petitioner's representative interviewed on July 15, 2014, Respondent's staff member "F," a certified nursing assistant, regarding resident number one (1), and the staff member indicated as follows:

- a. She was not assigned to the resident on the day of the incident.
- b. She was coming down to the shower room to shower another resident and walked in to see staff "G" showering resident number one (1).
- c. Since the resident that she was getting ready to shower was a male, she stated that she waited outside the shower room for staff "G" to finish.
- d. "We stayed outside and waited. She (staff "G") came and asked me to assist."
- e. When she came into the shower room, the resident was "already up in the air."

- f. The wheelchair was caddy-cornered to the mechanical Hoyer Lift and the resident was up in the Hoyer sling and she confirmed that it was the green sling that was being used.
- g. "Before I could get to [the resident], [the resident] slipped out onto the floor. It happened so fast that [the resident] just slipped out."
- h. She does not really know how the resident slipped out because it happened so fast, but stated that the resident was on the floor.
- i. "[The resident] was on [the resident's] side. [The resident] hit the bar seat part of the shower chair. [The resident's] nose was bleeding really really bad."
- j. She stayed with the resident while staff "G" went for help.
- k. "[The resident] was crying. Crying so badly. You can tell [the resident] was in pain."
- l. Staff "G" came back with the unit manager and the unit manager examined the resident and told them to get the resident up.
- m. She and staff "G" picked the resident up and put the resident into a wheelchair.
- n. She and staff "G" escorted the resident to the resident's room.
- o. The director of nursing and the unit manager went into the bathroom and the director of nursing stated that the sling was the "wrong sling."

20. That Petitioner's representative reviewed during the survey Respondent's records related to resident number four (4) and noted as follows:

- a. The resident was identified on the facility face sheet as eighty (80) years old originally admitted to the facility on January 2, 2014.

- b. The resident was readmitted to the facility on March 17, 2014.
- c. A physician order sheet dated June 2014 documented the following relevant diagnosis: Osteoarthritis; hypoglycemia; and Anemia.
- d. Nursing notes reflect the following:
 - i. April 21, 2014 at 3 p.m. – “Resident continues to work with PT and OT on transfers. Strengthen for LE Weakness continues. Requires increased cueing for poor motivation. Training on self-care and standing balance continues.”
 - ii. May 8, 2014 - "Resident continues to need increased cueing for poor motivation ...remains on PT and OT for self-care, standing balance, transfers and lower extremity strength."
 - iii. June 18, 2014 at 11:30 a.m. – “While aide was assisting resident with sit to stand lift, resident let go of stand while bearing weight on belt Velcro straps gave away causing resident to fall butt first. Blood noted on curtain during observation myself and staff log rolled resident supporting resident neck and head. Large amount of bright red blood noted to back of head. Ice pack applied EMT called Dr. Zumaran call and made aware. Don Culpepper called left message to return call. 12:00 p.m. resident transferred via stretcher and neck brace to Northside hospital for evaluation and treatment.”
 - iv. June 18, 2014 at 10:00 p.m. – “[Resident] returned to facility from hospital via stretcher ... two staples to back of head.”
- e. The resident's admission Minimum Data Set (MDS), dated January 9, 2014,

documented as follows:

- i. The cognitive Brief Interview for Mental Status (BIMS) score of fifteen (15).
- ii. Section G - Functional Status - noted that the resident was "Extensive assistance - resident involved in activities, staff provide weight-bearing support" for transfer.
- iii. Self Performance - "Two+ person physical assist" for Transfer: Support Provided."

21. That Petitioner's representative interviewed Respondent's director of nursing regarding resident number four (4) on July 7, 2014, and the director indicated as follows:

- a. On June 18, 2014, the resident was transferred from the wheelchair to bed by one certified nursing assistant, staff "H," and one licensed practical nurse, staff "E," using the Mechanical Sara Lift.
- b. During the transfer, the resident let go of the lift grab bar.
- c. The resident leaned forward and then leaned back and the resident's arms went over the head and the resident slid down to the floor on the resident's bottom.
- d. The resident hit the back of the head on the wheelchair and was sent out to the emergency room for a laceration to the back of the head.
- e. The resident received two staples and came back the same day.
- f. Upon return to the facility, the resident was reassessed for transfer needs by therapy and it was determined the resident to no longer be a candidate for the

mechanical Sara Lift and was transitioned to a mechanical Hoyer Lift for transfer needs.

22. That Petitioner's representative interviewed Respondent's staff member "E," a licensed practical nurse, regarding resident number four (4) on July 7, 2014, and the staff member indicated as follows:

- a. She came into the room with the staff "H" to watch the staff member transfer the resident using the mechanical Sara Lift.
- b. The resident said, "My hands are slipping."
- c. The resident "... slipped out of the machine and when I looked back [the resident] was on the floor. We went to sit [the resident] up. I noticed blood on the ground and the curtain."
- d. The resident was still on the floor.
- e. "I went to get an ice pack."
- f. The director of nursing came in to assess the resident; 911 was called; and emergency medical transport came and escorted the resident to the hospital.

23. That Petitioner's representative interviewed Respondent's staff member "H," a certified nursing assistant, regarding resident number four (4) on July 15, 2014, and the staff member indicated as follows:

- a. She was not assigned to care for the resident on the day of the incident, but that the nurse asked her to change the resident because the aide was off the floor.
- b. "I went to put the sling on [the resident] and [the resident] said that [the resident's] arms were getting weak and fell back."

- c. She confirmed that only she and staff "E" was in the room at that time.
- d. The nurse told her that the resident was bleeding.
- e. She went to get the blood pressure cuff, the nurse called 911, and the resident was sent out to the hospital.

24. That Petitioner's representative observed and interacted with resident number four (4) on July 15, 2014, at 1:15 a.m., and noted as follows:

- a. The resident was observed in the resident's room with the resident in a wheel chair.
- b. When asked about the recent fall, the resident stated "I did have a fall. I was on the machine and I told them my hands were slipping. I fell and had to go to the hospital."
- c. The resident stated that at the hospital the resident received two stitches in the back of the head.
- d. When returned to the facility, they started using a "different machine" and the resident confirmed that the resident does not have to hold on and that this "machine" was better.

25. That Petitioner's representative interviewed Respondent's rehabilitation director regarding resident number four (4) on July 17, 2014, and the director indicated as follows:

- a. The rehab department does not evaluate the residents for the use of the mechanical lifts.
- b. That is not a skilled service and therefore they do not conduct any evaluations related to the mechanical lifts.
- c. They only inform nursing of the resident capabilities.

- d. On the initial physical therapy evaluation of January 3, 2014, the resident's capabilities were total dependence with attempts to initiate.
- e. On March 3, 2014, a recertification was completed and the resident was showing progress; thirty percent (30%) of the time the resident was moderate assist and seventy percent (70%) the resident was maximum assistance with transferring.
- f. According to the discharge summary of March 10, 2014, it was noted that the resident was at maximum assist with fifty percent (50%) verbal cues.
- g. That was an improvement from total assist because that meant the resident was able to help some with transferring.
- h. On March 18, 2014, physical therapy did an evaluation due to the resident returning from a hospital stay, and the resident was determined to be total dependence without attempts to initiate. That meant there was a decline from when the resident went out to the hospital and returned.
- i. There was a recertification completed on May 15, 2013, and the long term goal of standing was continued.
- j. The resident was able to stand for 1.5 to 2 minutes with assistive devices such as a walker.
- k. The resident had improved to moderate assist with sit to stand transfer meaning that the resident could help some.
- l. On the Discharge Summary conducted on May 30, 2014, the resident was noted as needing moderate assistance with transferring and standing was from 1 to 3 minutes with support (an adaptive equipment and staff assistance).

- m. At that time, the resident was at the resident's highest practical level.
- n. The resident could be fearful at times and that sometimes the resident was nervous about trying to stand.
- o. The resident discharge summary from occupational therapy on June 4, 2014, noted that the resident was able to grasp and hold on to things and was able to push up to assist staff with standing, but confirmed that the resident could not push to stand independently. It further noted that the resident was inconsistent at times due to fear.
- p. The resident was discharged from occupational therapy because the resident had reached the highest practical level and that after a review of the weekly progress notes, it was noted that the resident was inconsistent with functional status.

26. That Petitioner's representative reviewed Respondent's policy and procedure entitled "Lift Program and Gait Belt Policy," with an effective date of March 1, 2012, and provided by Respondent's administrator as the policy controlling on June 26, 2014, and noted as follows:

- a. Page 19 - "Based on the resident's classification and the MDS reports, specific methods of transferring and lifting will be designated for each resident. These designated methods will be clearly recorded and accessible to all staff that perform lifting and transferring task and contained in the care plan, assignment sheet or pocket care plan. All residents classifies as total dependence should be lifted and transferred between beds, chairs, toilets, and bathing and weighing facilities by means of a full sling mechanical lift device by two trained staff."

- b. Page 21 - "At time of admission, an initial assessment will be completed using the initial assessment upon admission template."

27. That Petitioner's representative reviewed Respondent's policy and procedure entitled "Lift, Transfer, and Repositioning Policy," with an effective date of March 1, 2012, revised January 21, 2014, provided by Respondent's administrator as the policy controlling on June 26, 2014, and noted the following provision: "Nursing staff, in conjunction with the rehabilitation staff (when applicable), shall evaluate individual residents' needs for transfer assistance on admission, quarterly, with significant changes, and on an ongoing basis with the use of this policy and the Lift Evaluation form."

28. That Petitioner's representative reviewed the operational manual for the Invacare Lift, undated, as provided by the facility, and noted a provision reading: Individuals that use the Standing Sling MUST be able to support the majority of their own weight, otherwise injury can occur.

29. That Petitioner's representative observed resident number thirteen (13) on July 16, 2014 and noted the resident seated in a wheelchair with a waist belt in place.

30. That Petitioner's representative reviewed during the survey Respondent's records related to resident number thirteen (13) and noted as follows:

- a. The resident resides on the secured unit and has diagnoses which include Dementia, Joint contracture - left leg, Idiopathic Scoliosis, Abnormal Posture, Muscle weakness and Difficulty walking.
- b. The quarterly Minimum Data Set (MDS) assessment, dated April 30, 2013, documented as follows under Functional Status:
 - i. Transfer - Self Performance - Total dependence - full staff performance

- every time during an entire 7 day period.
- ii. Transfer - support provided - Two person physical assist.
 - iii. Balance - Moving from seated to standing position - Not steady, only able to stabilize with staff assistance.
 - iv. Balance- surface to surface transfer - Not steady, only able to stabilize with staff assistance.
- c. Care plans, noted as last reviewed and updated May 8, 2014, contained the following:
- i. Care plan dated December 9, 2011, with a last review date of May 8, 2014:
 - (a) Problem/need of "Mostly dependent on staff for [] daily care needs."
 - (b) On November 12, 2013, the problem/need section was updated to read "Extensive to total assist with ADL'S."
 - (c) Goals are listed as "Reduce the risk for complications from current ADL status through next review date "and" staff to anticipate and meet needs daily through next review date.
 - (d) Approaches include: "Sara lift for all transfers."
 - ii. Care plan dated December 9, 2011, with a last review date of May 8, 2014:
 - (a) Problem/need of "At risk for falls and injury reference to decreased cognition.
 - (b) Diagnoses: Dementia with poor safety awareness, decreased

functioning, receives psycho-active medications and history of multiple falls recently.

(c) The goal is listed as "Reduce the risk for serious injury from falls with interventions daily thru next review date.

(d) Approaches include "Transfer with assist of 2 with Sara Lift."

d. The certified nursing assistant's Activities of Daily Living (ADL) book reflected the following:

i. A Pictorial Care Card for the resident indicated the resident required the assist of two (2) or more persons with a Sara lift.

ii. Also was a form entitled "Initial Evaluation Upon Admission" form, dated June 22, 2014, indicating that the resident required a "Stand Assist Lift" for Bed to Chair to Bed transfer, Chair to Chair wheelchair to Toilet transfer, and Bathing and Weighing transfer.

31. That Petitioner's representative interviewed Respondent's unit manager for the South hall regarding resident number thirteen (13) on July 19, 2014, and the manager indicated as follows:

a. When asked regarding the resident's transfer status with a Stand Assist Lift/ Sara Lift, the unit manager indicated that the resident had a change within the last couple of days and is unable to stand and bear weight and is unable to follow instructions to use the Sara Lift for transfer and needs to be evaluated for a change in transfer status.

b. He stated the resident will be evaluated by him and therapy either "today or Monday."

32. That Petitioner's representative interviewed Respondent's employee "B," a certified

nursing assistant on the 3 p.m. to 11 p.m. shift, regarding resident number thirteen (13) on July 19, 2014, and the employee indicated as follows:

- a. She has provided care to the resident.
- b. The resident is a two person assist for transfer and no mechanical lift is required to transfer the resident.
- c. She has transferred the resident within the last month without the use of a mechanical lift.

33. That Petitioner's representative interviewed Respondent's employee "A," a certified nursing assistant on the 3 p.m. to 11 p.m. shift, regarding resident number thirteen (13) on July 19, 2014, and the employee indicated as follows:

- a. She has provided care and service to the resident.
- b. She is not sure of the resident's transfer status, but she has transferred the resident with two (2) people and no mechanical lift.
- c. "I do it with two people, not sure if [the resident] is a Hoyer lift, but transfer with two of us, but not with a lift."

34. That Petitioner's representative interviewed Respondent's employee "C," a licensed practical nurse for 3 p.m. to 11 p.m. regarding resident number thirteen (13), and the employee indicated as follows:

- a. He regularly provides care and services to the resident.
- b. The resident requires the use of a Hoyer lift for transfer and staff have used the Hoyer lift for the resident for "a long time."

35. That Petitioner's representative reviewed during the survey Respondent's records related to resident number nine (9) and noted as follows:

- a. The resident was readmitted to the facility on July 9, 2014, with diagnoses which included Parkinson's disease, Dementia, Pneumonia and Sepsis.
- b. A Resident Data Admission/Readmission form was completed by a nurse on July 9, 2014, which indicated the resident required total assistance for transfer and was a two (2) person assist with device - Hoyer - for ambulation.
- c. A fall risk assessment was completed indicating that the resident was at risk for falls and an interim care plan for fall risk was developed.
- d. A "Lift Evaluation" form, completed on July 9, 2014, indicated as follows:
 - i. The resident was "Total Dependence."
 - ii. The form indicated "The resident is not involved with the transfer and staff provides the full transfer. They are considered Total Dependence with the use of the Full Sling Lift and proceed to Part II."
 - iii. Part II of the form indicated that the resident's care plan was updated and there was certified nursing assistant notification of the resident's transfer type.
- e. The Activities of Daily Living (ADL) book for the resident contained a Pictorial Care Card indication that the resident required a Hoyer Lift for transfer.

36. That Petitioner's representative interviewed Respondent's 7-3 aide and the licensed practical nurse who serve resident number nine (9) regarding the resident on July 15, 2014, and they indicated as follows:

- a. Both stated that the resident was able to stand and transfer without the use of a mechanical lift.

- b. The certified nursing assistant said she transfers the resident using another staff without the lift.

37. That the above reflects Respondent's failure to ensure residents receive adequate and appropriate health care and protective and support services, including social services; mental health services, if available; planned recreational activities; and therapeutic and rehabilitative services consistent with the resident care plan, with established and recognized practice standards within the community, and with rules as adopted by the agency, where Respondent failed to, inter alia, ensure mechanical lifts were utilized in a safe and secure manner, in accord with manufacturer directions and facility policy, and failed to implement care plan interventions to prevent falls.

38. That the Agency determined that this deficient practice has compromised the resident's ability to maintain or reach his or her highest practicable physical, mental, and psychosocial well-being, as defined by an accurate and comprehensive resident assessment, plan of care, and provision of services. A class II deficiency is subject to a civil penalty of \$2,500 for an isolated deficiency, \$5,000 for a patterned deficiency, and \$7,500 for a widespread deficiency,

39. That Respondent was cited for an isolated Class II deficient practice.

WHEREFORE, the Agency seeks to impose an administrative fine in the amount of two thousand five hundred dollars (\$2,500.00) against Respondent, a skilled nursing facility in the State of Florida, pursuant to § 400.23(8)(b), Florida Statutes (2014).

COUNT II


40. The Agency re-alleges and incorporates paragraphs one (1) through five (5) and Count I of this Complaint as if fully set forth herein.

41. Based upon Respondent's cited State Isolated Class II deficiency, it was not in substantial

compliance at the time of the survey with criteria established under Part II of Florida Statute 400, or the rules adopted by the Agency, a violation subjecting it to assignment of a conditional licensure status under § 400.23(7)(a), Florida Statutes (2014).

WHEREFORE, the Agency intends to assign a conditional licensure status to Respondent, a skilled nursing facility in the State of Florida, pursuant to § 400.23(7), Florida Statutes (2014) commencing July 21, 2014.

Respectfully submitted this 21 day of October, 2014.



Thomas J. Walsh II, Esquire
Fla. Bar. No. 566365
Agency for Health Care Admin.
525 Mirror Lake Drive, 330G
St. Petersburg, FL 33701
727.552.1947 (office)
walsht@ahca.myflorida.com

DISPLAY OF LICENSE

Pursuant to § 400.23(7)(e), Fla. Stat. (2013), Respondent shall post the most current license in a prominent place that is in clear and unobstructed public view, at or near, the place where residents are being admitted to the facility.

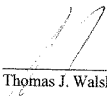
Respondent is notified that it has a right to request an administrative hearing pursuant to Section 120.569, Florida Statutes. Respondent has the right to retain, and be represented by an attorney in this matter. Specific options for administrative action are set out in the attached Election of Rights.

All requests for hearing shall be made to the attention of: ***The Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Bldg #3, MS #3, Tallahassee, Florida, 32308, (850) 412-3630.***

RESPONDENT IS FURTHER NOTIFIED THAT A REQUEST FOR HEARING MUST BE RECEIVED WITHIN 21 DAYS OF RECEIPT OF THIS COMPLAINT OR WILL RESULT IN AN ADMISSION OF THE FACTS ALLEGED IN THE COMPLAINT AND THE ENTRY OF A FINAL ORDER BY THE AGENCY.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. Certified Mail, Return Receipt No: 7008 0500 0001 9503 9317 on October 27, 2014 to Kimberly D. Cloud, Administrator, SCG Gracewood, LLC d/b/a Gracewood Rehabilitation and Nursing Care, 8600 US Highway 19 North, Pinellas Park, Florida 33782, and by Regular U.S. Mail to David R. Vaughan, Registered Agent for SCG Gracewood, LLC, 1240 Marbella Plaza Drive, Tampa, FL 33619.



Thomas J. Walsh, II, Esquire

Copies furnished to: Patricia R. Cauffman, FOM

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

RE: SCG Gracewood, LLC
d/b/a Gracewood Rehabilitation and Nursing Care

CASE No. 2014008716

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 **Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine or Administrative Complaint**.

Your Election of Rights must be returned by mail or by fax within 21 days of the day you receive the attached Notice of Intent to Impose a Late Fee, Notice of Intent to Impose a Late Fine or Administrative Complaint.

If your **Election of Rights with your selected 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 according to Chapter 120, Florida Statutes (2006) 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 to the allegations of facts and law contained in the Notice of Intent to Impose a Late Fee 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 to the allegations of facts contained in the Notice of Intent to Impose a Late Fee, the Notice of Intent to Impose a Late Fine, 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 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, and 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: _____ (ALF? nursing home? medical equipment? Other type?)

Licensee Name: _____ License number: _____

Contact person: _____

Name

Title

Address: _____

Street and number

City

Zip Code

Telephone No. _____ Fax No. _____ Email(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 licensee referred to above.

Signed: _____ Date: _____

Print Name: _____ Title: _____



RICK SCOTT
GOVERNOR

ELIZABETH DUDEK
SECRETARY

September 16, 2014

Kimberly D Cloud, Administrator
Gracewood Rehabilitation And Nursing Care
8600 Us Hwy 19 N
Pinellas Park, FL 33782

File Number: 55249
License Number: 1538096
Provider Type: Nursing Home

RECEIVED
GENERAL COUNSEL

SEP 22 2014

Agency for Health
Care Administration

RE: 8600 Us Hwy 19 N, Pinellas Park

Dear Administrator:

The enclosed Nursing Home license with license number 1538096 and certificate number 19080 is issued for the above provider effective July 21, 2014 through November 30, 2015. The license is being issued for a status change to Conditional.

Review your certificate thoroughly to ensure that all information is correct and consistent with your records. If errors are noted, please contact the Long Term Care Unit.

Please take a short customer satisfaction survey on our website at ahca.myflorida.com/survey/ to let us know how we can serve you better. Additional licensure information can be found at <http://ahca.myflorida.com/longtermcare>.

If we may be of further assistance, please contact me by phone at 850-412-4427 or by email at Kathleen.Munn@ahca.myflorida.com.

Sincerely,

Kathleen Munn
Health Services and Facilities Consultant
Long Term Care Unit
Division of Health Quality Assurance



CERTIFICATE #. 19080

LICENSE #. SNF1538096

State of Florida
AGENCY FOR HEALTH CARE ADMINISTRATION
DIVISION OF HEALTH QUALITY ASSURANCE
NURSING HOME
CONDITIONAL

This is to confirm that SCG GRACEWOOD, LLC has complied with the rules and regulations adopted by the State of Florida, Agency For Health Care Administration, authorized in Chapter 400, Part II, Florida Statutes, and as the licensee is authorized to operate the following:

GRACEWOOD REHABILITATION AND
NURSING CARE
8600 Us Hwy 19 N
Pinellas Park, FL 33782
TOTAL: 120 BEDS

Status Change

EFFECTIVE DATE 07/21/2014

EXPIRATION DATE: 11/30/2015

Molly Jucic
Deputy Secretary

Division of Health Quality Assurance



RICK SCOTT
GOVERNOR
ELIZABETH DUDEK
SECRETARY

September 16, 2014

Kimberly D Cloud, Administrator
Gracewood Rehabilitation And Nursing Care
8600 Us Hwy 19 N
Pinellas Park, FL 33782

File Number: 55249
License Number: 1538096
Provider Type: Nursing Home

RECEIVED
GENERAL COUNSEL

SEP 22 2014

Agency for Health
Care Administration

RE: 8600 Us Hwy 19 N, Pinellas Park

Dear Administrator:

The enclosed Nursing Home license with license number 1538096 and certificate number 19081 is issued for the above provider effective August 21, 2014 through November 30, 2015. The license is being issued for a return to Standard status.

Review your certificate thoroughly to ensure that all information is correct and consistent with your records. If errors are noted, please contact the Long Term Care Unit.

Please take a short customer satisfaction survey on our website at ahca.myflorida.com/survey/ to let us know how we can serve you better. Additional licensure information can be found at <http://ahca.myflorida.com/longtermcare>.

If we may be of further assistance, please contact me by phone at 850-412-4427 or by email at Kathleen.Munn@ahca.myflorida.com.

Sincerely,

Kathleen Munn
Health Services and Facilities Consultant
Long Term Care Unit
Division of Health Quality Assurance



CERTIFICATE #. 19081

LICENSE #. SNF1538096

State of Florida
AGENCY FOR HEALTH CARE ADMINISTRATION
DIVISION OF HEALTH QUALITY ASSURANCE
NURSING HOME
STANDARD

This is to confirm that SCG GRACEWOOD, LLC has complied with the rules and regulations adopted by the State of Florida, Agency For Health Care Administration, authorized in Chapter 400, Part II, Florida Statutes, and as the licensee is authorized to operate the following:

GRACEWOOD REHABILITATION AND
NURSING CARE
8600 Us Hwy 19 N
Pinellas Park, FL 33782
TOTAL: 120 BEDS

Status Change

EFFECTIVE DATE 08/21/2014

EXPIRATION DATE: 11/30/2015

Molly J. McFady

Deputy Secretary, Division of Health Quality Assurance

STATE OF FLORIDA
AGENCY FOR HEALTH CARE ADMINISTRATION

STATE OF FLORIDA, AGENCY FOR
HEALTH CARE ADMINISTRATION,

Petitioner,

vs.

AHCA NO. 2014008716

SCG GRACEWOOD, LLC d/b/a
GRACEWOOD REHABILITATION AND NURSING CENTER,
_____ /

SETTLEMENT AGREEMENT

Petitioner, State of Florida, Agency for Health Care Administration (hereinafter the "Agency"), through its undersigned representatives, and Respondent, SCG Gracewood, LLC d/b/a Gracewood Rehabilitation and Nursing Center (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 a nursing home licensed pursuant to Chapters 400, Part II, and 408, Part II, Florida Statutes, Section 20.42, Florida Statutes and Chapter 59A-4, Florida Administrative Code; and

WHEREAS, the Agency has jurisdiction by virtue of being the regulatory and licensing authority over Respondent, pursuant to Chapters 400, Part II, and 408, Part II, Florida Statutes; and

WHEREAS, the Agency served Respondent with an administrative complaint dated October 21, 2014, notifying the Respondent of its intent to impose administrative fines in the

EXHIBIT

"2"

amount of two thousand five hundred dollars (\$2,500.00) and imposition of conditional licensure commencing July 21, 2014; 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 two thousand five hundred dollars (\$2,500.00) in administrative fines to the Agency within thirty (30) days of the entry of the Final Order. Respondent also accepts two-year survey cycle and the assignment of conditional licensure status commencing July 21, 2014, and ending August 21, 2014.
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 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, pursuant to the provisions of Chapters 400, Part II, 408, Part II, Florida Statutes, and Chapter 59A-4, Florida Administrative Code, which constitutes a "repeat" or "uncorrected" deficiency of the survey identified in the administrative complaint. In said event, Respondent retains the right to challenge the factual allegations related to the deficient practices/ violations alleged in the instant cause.

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, 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. This agreement does not prohibit the Agency from taking action regarding Respondent's Medicaid provider status, conditions, requirements or contract.

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 thirty-one (31) days 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.

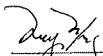
16. This Agreement contains and incorporates the entire understandings and agreements of the parties.

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

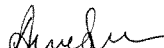
18. This Agreement may not be amended except in writing. Any attempted assignment of this Agreement shall be void.

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
Health Quality Assurance
Agency for Health Care Administration
2727 Mahan Drive, Building #1
Tallahassee, Florida 32308


DATED: 11/26/14


Anna Small, Esquire
Allen Dell
Counsel for Respondent
202 South Rome Avenue, Suite 100
Tampa, FL 33606
Florida Bar No. 17064


DATED: 11/13/14


Stuart F. Williams, General Counsel
Office of the General Counsel
Agency for Health Care Administration
2727 Mahan Drive, MS #3
Tallahassee, Florida 32308
Florida Bar No. 670731

DATED: 11/24/14


Name: Katherine Chudow
Title: CEO
SCG Gracewood, LLC

DATED: 11/12/14



Thomas J. Walsh II, Senior Attorney
Office of the General Counsel
Agency for Health Care Administration
525 Mirror Lake Drive North, Suite 330G
St. Petersburg, Florida 33701
Florida Bar No. 566365

DATED: 11/18/14