

STATE OF NEW JERSEY

ALMIROSE DELIARD
(NA200002359),

v.

NEW JERSEY DEPARTMENT
OF HEALTH.

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ADMINISTRATIVE ACTION
STIPULATION OF SETTLEMENT AND
WITHDRAWAL OF HEARING
REQUEST

OAL Docket No.: HLT 05497-2020N
OPC Case No.: OPC Case No.: 19-12651

THIS MATTER having arisen on the petition of the New Jersey Department of Health ("the Department") in response to a hearing requested by Almirose Deliard to contest revoking her Nurse Aide Certification and placement of a finding of neglect next to her name on the New Jersey Nurse Aide Registry, and the parties having agreed that this matter should be settled in lieu of a hearing, and the parties wishing to set forth their agreement herein below, and for good cause:

IT IS HEREBY AGREED AND STIPULATED by and between the parties to this action that this matter is settled in accordance with the following terms:

Almirose Deliard and the Department have reached an amicable and full settlement related to the allegation that on or about August 14, 2020, at Atrium Post-Acute Care of Park Ridge, New Jersey, as a certified nurse aide ("CNA") she committed an act of neglect against a resident who was receiving services in the long-term care facility; and

1. Almirose Deliard was originally certified on June 6, 2011; and Almirose Deliard's certification expired on June 6, 2021; and

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2. The petitioner hereby withdraws with prejudice the request for an administrative hearing before the OAL in the matter of Almirose Deliard and agrees not to reinstate it. The parties agree that the contested case, OAL Docket No. HLT 05497-2020N, regarding an allegation of neglect, be and is hereby dismissed with prejudice. The withdrawal of the matter from OAL is predicated on all parties having signed the agreement.
3. The Department will enter an internal enforcement note delineating that the petitioner has voluntarily accepted a revocation of her Nurse Aide Certification commencing February 1, 2022 for six months, and she shall attend and complete an abuse and neglect training course approved by the NJDOH Nurse Aide Training and Competency Evaluation Program (NATCEP). Almirose Deliard agrees that to be certified as a nurse aide, she must satisfy the requirements of nurse aide certification delineated in the New Jersey Nurse Aide Candidate Handbook, and comply with the requirements set forth in N.J.S.A. 26:2H-83 et seq.
4. Almirose Deliard releases and gives up all claims and rights which she may have against the Department, the State or any State employee, agent or representative. This releases all claims, including those of which she is not aware and those not mentioned in this release. This releases all claims resulting from anything which has happened up to now, including, but not limited to, all claims, demands, damages, costs or fees, or interest, including attorney fees, causes of action, or suits which have been or could have been brought. This releases all claims under State and Federal law including, but not limited to, all claims under Title VII of the Civil Rights Act, the New Jersey Civil Rights Act, the New Jersey Law Against Discrimination, the Americans with Disabilities Act, the Family and Medical Leave Act, the New Jersey Family Leave Act, the Equal Pay Act, the Conscientious Employee Protection Act, the Age Discrimination in Employment Act, the Civil Service Act, the Handicapped, Blind, or Deaf Persons Civil Rights Laws, the Developmentally Disabled Rights Act, the Alcoholism Treatment and Rehabilitation Act, the Older Workers Benefits Protection Act, the Education Code, public works statutes, the Public Transportation Act, the Right to Know Act, the Occupational Safety and Health Act, the New Jersey Smoking Act, New Jersey wages and hour laws, unemployment compensation laws, disability benefits laws, workers compensation laws, the U.S. Constitution, the New Jersey Constitution, or any other State or Federal law, statute, rule or regulation, policy or directive, tort law, contract law or common law. This releases all claims involving any continuing effects of actions or practices which arose prior to the date of this Settlement Agreement and bars the use in any way of any past action or practice in any subsequent claim.

STATE OF NEW JERSEY

ALMIROSE DELIARD
(NA200002359),

v.

NEW JERSEY DEPARTMENT
OF HEALTH.

ADMINISTRATIVE ACTION

STIPULATION OF SETTLEMENT AND
WITHDRAWAL OF HEARING
REQUEST

OAL Docket No.: HLT 05497-2020N
OPC Case No.: OPC Case No.: 19-12651

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5. This Stipulation of Settlement shall be construed fairly, according to the plain language of its terms and not for or against any party hereto. This Stipulation of Settlement is a product of both parties and neither party shall be deemed to have drafted it.
6. The parties hereby waive any claim for costs or fees incurred in connection with this contested matter. The parties shall each be responsible for their own fees and costs.
7. This Stipulation of Settlement constitutes the entire agreement and understanding of the parties hereto with respect to its subject matter, and supercedes any prior or contemporaneous representations, whether oral or written.
8. This Stipulation of Settlement will be effective only after it has been signed by all parties, and the effective date of this Stipulation of Settlement shall be the date on which it has been signed by all parties. This Stipulation of Settlement may not be modified or amended except by a written instrument signed by all the parties hereto.
9. This Stipulation of Settlement shall be binding on Almirose Deliard, and on her heirs, executors, personal representatives, successors, assigns, trustee in bankruptcy or any other trustee, and any receiver appointed pursuant to a proceeding in law or equity.
10. Almirose Deliard agrees that she may not be reinstated earlier than six months from February 1, 2022 and the entry of the neglect finding on the New Jersey Nurse Aide Registry, however, she has the option to petition the NJDOH in writing to have the neglect finding removed from her name on the New Jersey Nurse Aide Registry prior to the expiration of the six month revocation term; and
11. Almirose Deliard agrees that failure to petition the NJDOH to have the neglect finding removed from her name on the New Jersey Nurse Aide Registry shall result in the finding of neglect remaining on the New Jersey Nurse Aide Registry beyond six months until Almirose Deliard acts to petition the NJDOH for removal of the neglect finding from the New Jersey Nurse Aide Registry and the NJDOH grants such petition; and
12. Almirose Deliard agrees that upon petitioning the NJDOH for removal of the neglect finding from the New Jersey Nurse Aide Registry, she must satisfy the requirements of the Criminal Background Investigation Program in accordance with N.J.A.C. 8:43I; and

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13. Almirose Deliard agrees that petitioning the NJDOH to have the neglect finding removed from the New Jersey Nurse Aide Registry shall require her to appear before a panel of Division of Certificate of Need and Licensing professionals for an informal conference, at which time she shall produce documentation, including at least three letters of reference, to attest to her character and her employment history (or unemployment status) during the period the neglect finding was placed next to her name on the New Jersey Nurse Aide Registry; and
14. Almirose Deliard agrees that if she attempts to obtain and/or accepts employment as a certified nurse aide at any time before the finding of neglect is removed from the New Jersey Nurse Aide Registry, she shall be precluded from having the neglect finding removed from the New Jersey Nurse Aide Registry; and
15. Almirose Deliard agrees that should she become subject to investigation for any act of abuse, neglect, and/or misappropriation in any capacity prior to expiration of six months from the date of this agreement and that act is substantiated by the investigatory body, she shall be precluded from petitioning the NJDOH for removal of the neglect finding next to her name on the New Jersey Nurse Aide Registry; and
16. Almirose Deliard agrees that should she become subject to investigation for or charged with any crime, misdemeanor, or other disorderly persons offense prior to the expiration of six months of this agreement, she shall be precluded from petitioning the NJDOH for removal of the neglect finding next to her name on the New Jersey Nurse Aide Registry until the investigation is complete and/or the charges against her are resolved. Should the investigation and/or charges result in the conviction of Almirose Deliard of a disqualifying crime, misdemeanor, or other disorderly person offense, she agrees that she shall be forever precluded from petitioning the NJDOH for removal of the neglect finding next to her name on the New Jersey Nurse Aide Registry. Nothing in this provision shall be construed to contradict or supersede the mandates of the Criminal Background Investigation Program and any applicable laws and/or regulations pertinent thereto; and
17. Almirose Deliard agrees that if she complies with the conditions of the Stipulation of Settlement and the neglect finding is removed from the New Jersey Nurse Aide Registry, she must then satisfy the requirements of nurse aide certification delineated in the New Jersey Nurse Aide & Personal Care Assistant Candidate Handbook, including, but not limited to, the requirements set forth in N.J.S.A. 26:2H-83 et seq.; and

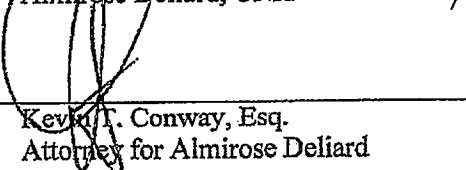
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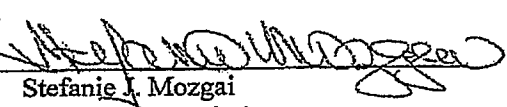
18. Almirose Deliard agrees that upon receipt of the fully executed Stipulation of Settlement, if she is employed as a certified nurse aide, or employed by any facility that employs certified nurse aides, she must notify the NJDOH at (609) 984-8128; and
19. Almirose Deliard agrees that upon receipt of the fully executed Stipulation of Settlement, if she is employed as a certified nurse aide, or employed by any facility that employs certified nurse aides, she must notify her employer that her nurse aide certification is revoked for six months and a neglect finding has been placed next to her name on the New Jersey Nurse Aide Registry; and
20. Almirose Deliard states that she is signing this Stipulation of Settlement voluntarily, on her own free will and not under duress or coercion of any kind.
21. Almirose Deliard acknowledges that:
 - a. She has read the Stipulation of Settlement and fully understands its meanings and terms; and
 - b. She further acknowledges that she has been advised that by entering this Stipulation of Settlement she waives her right to having the allegations against her heard before an Administrative Law Judge;
 - c. She understands the terms and consequences of this Stipulation of Settlement and of the release that it contains, and accepts that she is knowingly and voluntarily giving up important legal rights by agreeing to such release;
 - d. She is fully aware of the legal and binding effects of this Stipulation of Settlement;
 - e. She is completely satisfied that the Stipulation of Settlement is fair and reasonable and acceptable under the circumstances;
 - f. Almirose Deliard acknowledges that before entering this agreement she had the right to retain counsel and seek counsel's advice regarding the terms and conditions of this Stipulation of Settlement and her legal rights pertaining to this matter and agreement. Almirose Deliard acknowledges that she retained the services of Kevin T. Conway, Esq., who has fully explained her rights in this matter to her including the right to have a full hearing in this matter and to not enter this stipulation of settlement. Almirose Deliard acknowledges she is satisfied with the advice she received from her attorney, that her

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attorney answered all her questions, and that she is satisfied with the services rendered to her by her attorney.

By:  Dated: 2/4/22
Almirose Deliard, CNA

By:  Dated: 2/2/22
Kevin F. Conway, Esq.
Attorney for Almirose Deliard

By:  Dated: 1/24/22
Stefanie J. Mozgai
Assistant Commissioner
Division of Certificate of Need & Licensing
New Jersey State Department of Health