

**U.S. Department of Labor**

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Reply to the Attention of:  
SOL: TSF:tms  
SOL# 15-00402

April 14, 2016

Honorable William S. Coleman  
Occupational Safety & Health Review Commission  
One Lafayette Centre  
1120 20th Street, N.W., Room 990  
Washington, D.C. 20036-3419

Subject: Secretary of Labor v. UHS of Westwood Pembroke Inc., dba Lowell Treatment Center  
OSHRD Docket No. 15-0964

Dear Judge Coleman:

Enclosed herewith is the Secretary's Settlement Agreement in the above-entitled matter which includes Respondent's Certificate of Service on employees in accord with the Commission's rules.

We have served the Respondent a copy of the signed Settlement Agreement on this date.

Sincerely,

Michael D. Felsen  
Regional Solicitor

A handwritten signature in blue ink that reads "Theresa Schneider Fromm".

Theresa Schneider Fromm  
Senior Trial Attorney

Enclosure

cc: Anthony Covello, Area Director

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,  
United States Department of Labor,

Complainant,

v.

UHS of WESTWOOD PEMBROKE, INC.,  
dba LOWELL TREATMENT CENTER,

Respondent.

DOCKET NO. 15-0964

REGION I

INSPECTION NO. 1009746

SETTLEMENT AGREEMENT

Complainant and Respondent hereby stipulate and agree that:

(1) On May 19, 2015, Respondent was cited for alleged violations of the Occupational Safety and Health Act of 1970, 29 USC 651, et seq., hereinafter referred to as the Act and was issued a Notification of Proposed Penalty in the total amount of \$9,000.00.

(2) Respondent, an employer within the meaning of section 3(5) of the Act, duly filed with a representative of the Secretary of Labor a timely Notice of Contest contesting the Citation, its classification, the abatements, and the related penalty. This Notice was duly transmitted to the Occupational Safety and Health Review Commission and it is agreed that jurisdiction of this proceeding is conferred upon said Commission by section 10(c) of the Act.

(3) The Secretary of Labor has filed a Complaint herein stating with particularity the violations alleged, the penalty proposed and the issues in contest before the Review Commission and Respondent has filed an Answer and Affirmative Defenses denying the alleged violation.

(4) Complainant and Respondent have agreed to resolve this matter, without the necessity of further pleadings, as follows with respect to Citation 1, Item 1:

(A) Citation 1, Item 1 is affirmed as issued. Total penalties for Citation 1, Item 1 shall be modified from \$7,000 to \$4,000.

(B) Respondent shall, at a minimum, take the following measures at Lowell Treatment Center and Westwood Lodge, to the extent it has not already done so, to afford protection of all its staff from the hazard of workplace violence including but not limited to physical/verbal assault by patients.

1. Implement and maintain a stand-alone written Workplace Violence Prevention Program that include the following elements:

(a) A Workplace Violence Policy Statement regarding potential violence in the workplace and assignment of oversight and prevention responsibilities. Included in this policy statement is a list of responsibilities of all staff and a statement regarding Workplace Violence and consequences of acts of violence and for each facility, a designation of a Workplace Violence Coordinator;

(b) A Workplace Violence Hazard/Threat/Security assessment requiring a review of Respondent's worksites, its workplace violence training, workplace violence incident report records review, and its workplace violence policies and practices;

(c) Review and implementation of workplace controls and prevention strategies that maximize safety and minimize the likelihood of assaultive behavior toward staff. This would include environmental surveys to identify environmental risks for staff injury such as available means of egress, items that could be used as weapons, presence of secured and/or locked rooms/units, and spaces that could pose the risk of entrapment (i.e. staff working in spaces with their backs to unlocked doors and/or staff locked and barricaded in patient rooms due to not being equipped with double hinged styled doors). Risks discovered during the survey shall be promptly remedied, e.g. unlockable doors shall be made lockable, potential weapons removed from patient access and unsafe staffing areas reconfigured, etc.;

(d) Training and education of staff on the specifics of Respondent's Workplace Violence Prevention Program;

(e) A procedure for prompt reporting of all incidents of workplace violence and recordkeeping thereof, and an investigation and debriefing after each act of workplace violence, including root cause or similar analysis, lessons learned, and corrective actions to prevent reoccurrence; establish a system for employee reporting of safety concerns internally. The debriefing will include offering medical care and psychological counseling for workers involved in incidents of workplace violence. Respondent shall review and evaluate all workplace violence incident reports after each workplace violence related incident and not on a case-by-case basis. Additionally, Respondent shall address each specific hazard identified in the workplace evaluation. The reports must be in writing and maintained for review after each incident and analyzed at least annually for incident trends and patterns to assess effectiveness of measures. Respondent shall also establish a written and disseminated anti-retaliation policy that makes clear that such reporting is encouraged and that employees who report such workplace violence incidents or safety concerns will not be retaliated against in any manner;

(f) Respondent shall conduct an annual review of the workplace violence prevention program, which should be updated as necessary. Such review and updates shall set forth any mitigating steps taken in response to any workplace violence incidents; and

(g) Respondent shall ensure staff involvement and solicit input from its staff in all aspects of its Workplace Violence Prevention Program. In addition, Respondent shall offer to include staff as full members of the Safety Committee.

2. Implement and maintain a system of determining the behavioral history of new/transferred patients. Utilize a system – such as log books – to identify patients with assaultive behavior (including threats of violence) or a history of violence, and to communicate such pertinent information to potentially exposed staff; train staff to understand the system; and have a system for appropriately responding to patients exhibiting disruptive behavior.

3. Implement and maintain procedures that would communicate in a timely manner to potentially exposed staff any material incident of workplace violence or threatening behavior that signifies a risk of an assault.

4. Implement and maintain training to ensure all staff are aware of the Workplace Violence Prevention Program, and how that Program can be readily accessed. Training shall be conducted for all staff, including but not limited to doctors that perform work on the units, at initial orientation and annually as refresher training. Training shall include:

(a) instructing staff that they may state clearly to patients, other staff and visitors, outside the presence of patients, that violence or threats of violence from patients, other staff and visitors are not permitted or tolerated and what the consequences are;

(b) training staff, using a training program, on effective methods for responding during a workplace violence incident, involving a patient or other person;

(c) training affected staff to recognize patients or others who are exhibiting aggressive behavior, and on techniques for timely de-escalating the behavior and what protective measures to take in cases where de-escalation is not sufficiently effective, to be provided with sufficient frequency and with hand-on exercises, practice drills, and worst-case scenarios drills, to improve staff skills and confidence in these areas;

(d) instructing staff about risk factors that cause or contribute to assaultive behaviors;

(e) training staff to report all incidents of workplace violence, and instructing them that such reporting is mandatory;

(f) ensuring staff are familiar with Respondent's procedures to be applied when confronted with an incident of workplace violence; and

(g) ensuring staff be re-trained annually or in the time period the training program recommends.

5. Maintain in good and working order sufficient numbers of communication devices such as two-way radios, walkie-talkies, duress/panic alarms, or other similar devices, in order to provide all staff with a reliable way to rapidly summon assistance when needed at any time or place. Respondent shall ensure that such devices are available for each direct care worker on each shift so that there is one such device for each direct care staff member, with sufficient spare equipment available for immediate replacement in case equipment becomes inoperable during a shift.

6. Ensure that adequate numbers of properly trained designated responders -- who are readily and immediately available for each shift including all weekend shifts in the event of a workplace violence incident. Such responders are not to be assigned duties which would render them unable to immediately respond, such as a one-on-one assignment to a program participant where such one-on-one assignment would limit such

responders' availability to respond. Such responders are to have training sufficient to adequately respond to incidents of workplace violence.

(C) Citation 2, Items 1a and 1b shall be affirmed as issued. The total penalties for Citation 2, Items 1a and 1b shall be modified from \$1000 to \$500.

(D) Citation 2, Item 2 shall be deleted. Within 30 days of the final order date, Respondent shall inspect all fire extinguishers at all Arbour Health facilities to make sure they are compliant with OSHA regulations.

(5) The abatement date for all items of the Citation, including all abatement measures set forth in this Agreement, is 180 days from the date this Agreement is approved as a Final Order of the Commission.

(6) The Citation and Notification of Penalty is deemed amended to include any and all abatement measures, including agreements as to actions to be taken by the employer, which are described in this Agreement. The measures described in this Agreement (including, without limitation, Paragraph 4) are hereby incorporated as terms and abatement conditions of this Agreement.

(7) In view of the aforesaid, Respondent hereby withdraws its Notice of Contest and the parties agree that the Citation and proposed penalty and the abatement measures and dates as amended by this Agreement shall be affirmed by the Review Commission and become the final Order of the Occupational Safety and Health Review Commission.

(8) Respondent certifies that the violations alleged have been abated or will be abated by the abatement date set forth herein. For each item in the Citation which is affirmed in this Agreement, Respondent will submit to the issuing Area Director an Abatement Certification as required by 29 CFR 1903.19(c) within 10 days of the abatement date described herein. Respondent also agrees to submit such abatement documentation as is required by 29

CFR 1903.19(d). Respondent shall also provide to the issuing Area Director an interim report on or before 60 days from the date this Agreement is signed and dated by Complainant, as part of the Abatement Certification provided in this paragraph. Said interim report shall detail the steps taken to date by Respondent pursuant to the abatement measures set forth in Paragraph 4(B) above, and any other abatement measures taken by Respondent.

Respondent agrees to comply with the Act in all respects in the future.

(9) Each party hereby agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

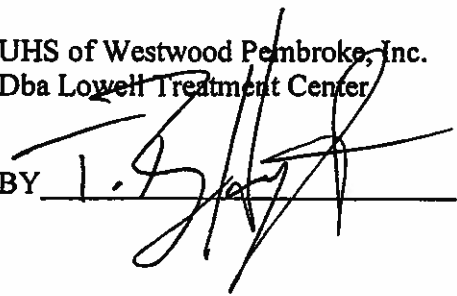
(10) Respondent certifies that this Settlement Agreement has been served on employees, by posting this agreement in a place where the Citation is required to be posted, on the date this Agreement is signed by Respondent, in accordance with Rules 7 and 100 of the Review Commission's Rules of Procedure. Respondent further agrees that it shall post this Agreement at Westwood Lodge within seven (7) of days after the Agreement is executed by both parties. This Agreement shall remain posted until the date for completion of abatement or any extension thereof.

(11) None of the foregoing agreements, statements, stipulations, and actions taken by Respondent shall be deemed an admission by Respondent of the allegations contained within the Citations, Notification of Penalties and the Complaint herein. The agreements, statements, stipulations, findings and actions taken herein are made for the purpose of settling this matter

economically and amicably and they shall not be used for any purpose, except for proceedings and matters arising under the Occupational Safety and Health Act (29 USC 651, et seq.).

UHS of Westwood Pembroke, Inc.  
Dba Lowell Treatment Center

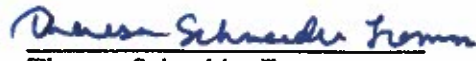
BY



M. Patricia Smith  
Solicitor of Labor

Michael D. Felsen  
Regional Solicitor

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Theresa Schneider Fromm  
Senior Trial Attorney

U.S. Department of Labor  
Attorneys for Complainant

DATE April 12, 2016



UNITED STATES OF AMERICA  
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,  
United States Department of Labor,

Complainant,

v.

UHS OF WESTWOOD PEMBROKE, INC.,  
dba LOWELL TREATMENT CENTER,

Respondent.

DOCKET NO. 15-0964

REGION I

INSPECTION NO. 1009746

ORDER

The parties have filed a settlement agreement which addresses all matters at issue between the parties in this proceeding.

The Settlement Agreement is approved in its entirety in accordance with its terms and is incorporated as part of this ORDER.

SO ORDERED.

\_\_\_\_\_  
William S. Coleman  
Judge, OSHRC

Dated \_\_\_\_\_, 2016.

NOTICE

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TO THE EMPLOYEES  
OF  
UHS OF WESTWOOD PEMBROKE, INC.  
dba LOWELL TREATMENT CENTER

The Secretary of Labor and your employer have entered into an agreement to settle a certain proceeding now pending before the Occupational Safety and Health Review Commission. A copy of the agreement is attached hereto.

A motion by the parties for approval of the settlement is now pending. Any employee who has any objection to the agreement may, on or before the expiration of ten (10) days from the date of this posting, send the same by mail to:

Honorable William S. Coleman  
Chief Judge's Office  
Occupational Safety and Health Review Commission  
One Lafayette Centre  
1120 20th Street, N.W., Room 990  
Washington, D.C. 20036-3419

Dated April 12, 2016

Attachment