

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JULIE A. SU, Acting Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

NEXT STEP HEALTHCARE LLC d/b/a NEXT
STEP HEALTHCARE; 27 GEORGE STREET
OPERATOR LLC d/b/a ATTLEBORO
HEALTHCARE; 1650 WASHINGTON
STREET OPERATOR LLC d/b/a
CHETWYNDE HEALTHCARE; 1007 EAST
STREET OPERATOR LLC d/b/a DEDHAM
HEALTHCARE; 120 MAIN STREET
OPERATOR LLC d/b/a DEXTER HOUSE
HEALTHCARE; 1199 JOHN FITCH
HIGHWAY OPERATOR LLC d/b/a
FITCHBURG HEALTHCARE; 193 PLEASANT
STREET OPERATOR LLC d/b/a GARDEN
PLACE HEALTHCARE; 272 WASHINGTON
STREET OPERATOR LLC d/b/a
GLOUCESTER HEALTHCARE; 188
FLORENCE STREET OPERATOR LLC d/b/a
HEATHWOOD HEALTHCARE; 40 MARTIN
STREET OPERATOR LLC d/b/a MELROSE
HEALTHCARE; 460 WASHINGTON STREET
OPERATOR LLC d/b/a NORWOOD
HEALTHCARE; 76 NORTH STREET
OPERATOR LLC d/b/a OAKHILL
HEALTHCARE; 19 OBERY STREET
OPERATOR LLC d/b/a PLYMOUTH
HARBORSIDE HEALTHCARE; 743 MAIN
STREET OPERATOR LLC d/b/a THE
ELMHURST HEALTHCARE; 383 MILL
STREET OPERATOR LLC d/b/a THE
HERMITAGE HEALTHCARE; 146 DEAN
STREET OPERATOR LLC d/b/a
WEDGEMERE HEALTHCARE; 25 ARMORY
STREET OPERATOR LLC d/b/a WEST
NEWTON HEALTHCARE; 620 LAUREL
STREET OPERATOR LLC d/b/a LEE

Civil Action No.

Injunctive Relief Sought

HEALTHCARE; 620A LAUREL STREET
OPERATOR LLC d/b/a THE LANDING AT
LAUREL LAKE; 1748 HIGHLAND AVENUE
OPERATOR LLC d/b/a FALL RIVER
HEALTHCARE; 50 INDIAN NECK ROAD
OPERATOR LLC d/b/a WAREHAM
HEALTHCARE; 1102 WASHINGTON
STREET OPERATOR LLC d/b/a BRAINTREE
MANOR HEALTHCARE; ONE LOVE LANE
OPERATOR LLC d/b/a SOUTH DENNIS
HEALTHCARE; 160 MAIN STREET
OPERATOR LLC d/b/a WALPOLE
HEALTHCARE; 8 COLONIAL DRIVE
OPERATOR LLC d/b/a WESTBOROUGH
HEALTHCARE; 1200 SUFFIELD STREET
OPERATOR LLC d/b/a AGAWAM
HEALTHCARE; DAMIAN N. DELL'ANNO;
and WILLIAM H. STEPHAN,

Defendants.

COMPLAINT

1. Plaintiff Julie A. Su, Acting Secretary of Labor, United States Department of Labor (the “Acting Secretary”), brings this action because Defendants have failed to properly compensate their nursing facility employees for all hours worked in overtime workweeks and failed to maintain accurate employment-related records, in violation of the Fair Labor Standards Act of 1938 (the “FLSA” or “Act”).

2. Defendants are Next Step Healthcare LLC d/b/a Next Step Healthcare (“Next Step”), twenty-five affiliate LLCs that Next Step established to operate and/or manage skilled nursing facilities in Massachusetts (“Affiliate LLC Defendants”) and Next Step’s co-principals Damian N. Dell’Anno and William H. Stephan (collectively, the “Defendants”).

3. The Secretary seeks to enjoin Defendants from violating the provisions of Sections 7, 11, 15(a)(2), and 15(a)(5) of the FLSA, 29 U.S.C. §§ 207, 211, 215(a)(2), and

215(a)(5), and to recover wages that Defendants failed to pay their employees as well as liquidated damages pursuant to the provisions of Sections 15(a)(2), 16(c), and 17 of the Act, 29 U.S.C. §§ 215(a)(2), 216(c), and 217.

4. The time period covered by this Complaint is September 27, 2018 through at least September 14, 2021 (the “Time Period”).

Jurisdiction and Venue

5. Jurisdiction over this action is conferred upon this Court by Section 17 of the FLSA, 29 U.S.C. § 217, and by 28 U.S.C. §§ 1331 and 1345.

6. Venue is proper in the United States District Court for the District of Massachusetts because a substantial part of the events or omissions giving rise to the claims herein occurred in this judicial district.

The Parties

Plaintiff Acting Secretary of Labor

7. Plaintiff Julie A. Su, Acting Secretary of Labor, United States Department of Labor, is vested with the authority to file suit to restrain violations of the FLSA and recover back wages and liquidated damages, and is the proper plaintiff for this action.

Defendant Next Step Healthcare LLC d/b/a Next Step Healthcare

8. Defendant Next Step is a Delaware corporation with a principal business address of 400 Trade Center, Suite 7950, Woburn, MA 01801, within the jurisdiction of this Court.

9. Next Step was founded by Defendant Dell’Anno and Defendant Stephan.

10. Next Step’s business activities include the management and/or operation of skilled nursing facilities in Massachusetts.

11. Next Step has employed and employs employees listed in the attached Exhibit A, which is made a part of this Complaint.

12. Next Step jointly operated and/or managed with the Affiliate LLC Defendants at least twenty-five skilled nursing facilities in Massachusetts during the Time Period.

13. Next Step operated and/or managed each such facility through one of the Affiliate LLC Defendants during the Time Period.

Affiliate LLC Defendants

14. The Affiliate LLC Defendants consist of:

- a. 27 George Street Operator LLC d/b/a Attleboro Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 27 George Street, Attleboro, MA 02703.
- b. 1650 Washington Street Operator LLC d/b/a Chetwynde Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 1650 Washington Street, West Newton, MA 02465.
- c. 1007 East Street Operator LLC d/b/a Dedham Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 1007 East Street, Dedham, MA 02026.
- d. 120 Main Street Operator LLC d/b/a Dexter House Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 120 Main Street, Malden, MA 02148.
- e. 1199 John Fitch Operator LLC d/b/a Fitchburg Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 1199 John Fitch Highway, Fitchburg, MA 01420.

- f. 193 Pleasant Street Operator LLC d/b/a Garden Place Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 193 Pleasant Street, Attleboro, MA 02703.
- g. 272 Washington Street Operator LLC d/b/a Gloucester Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 272 Washington Street, Gloucester, MA 01930.
- h. 188 Florence Street Operator LLC d/b/a Heathwood Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 188 Florence Street, Chestnut Hill, MA 02467.
- i. 40 Martin Street Operator LLC d/b/a Melrose Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 40 Martin Street, Melrose, MA 02176.
- j. 460 Washington Street Operator LLC d/b/a Norwood Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 460 Washington Street, Norwood, MA 02062.
- k. 76 North Street Operator LLC d/b/a Oakhill Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 76 North Street, Middleboro, MA 02346.
- l. 19 Obery Street Operator LLC d/b/a Plymouth Harborside Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 19 Obery Street, Plymouth, MA 02360.

- m. 743 Main Street Operator LLC d/b/a The Elmhurst Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 743 Main Street, Melrose, MA 02176.
- n. 383 Mill Street Operator LLC d/b/a The Hermitage Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 383 Mill Street, Worcester, MA 01602.
- o. 146 Dean Street Operator LLC d/b/a Wedgemere Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 146 Dean Street, Taunton, MA 02780.
- p. 25 Armory Street Operator LLC d/b/a West Newton Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 25 Armory Street, West Newton, MA 02465.
- q. 620 Laurel Street Operator LLC d/b/a Lee Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 620 Laurel Street, Lee, MA 01238.
- r. 620A Laurel Street Operator LLC d/b/a The Landing at Laurel Lake, which jointly operated and/or managed with Next Step the skilled nursing facility located at 600 Laurel Street, Lee, MA 01238.
- s. 1748 Highland Avenue Operator LLC d/b/a Fall River Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 1748 Highland Avenue, Fall River, MA 02720.

- t. 50 Indian Neck Road Operator LLC d/b/a Wareham Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 50 Indian Neck Road, Wareham, MA 02571.
- u. 1102 Washington Street Operator LLC d/b/a Braintree Manor Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 1102 Washington Street, Braintree MA 02184.
- v. One Love Lane Operator LLC d/b/a South Dennis Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 1 Love Lane, South Dennis, MA 02660.
- w. 160 Main Street Operator LLC d/b/a Walpole Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 160 Main Street, Walpole, MA 02081.
- x. 8 Colonial Drive Operator LLC d/b/a Westborough Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 8 Colonial Drive, Westborough, MA 01581.
- y. 1200 Suffield Street Operator LLC d/b/a Agawam Healthcare, which jointly operated and/or managed with Next Step the skilled nursing facility located at 1200 Suffield Street, Agawam, MA 01001.

15. Each of the Affiliate LLC Defendants is a Massachusetts Limited Liability Company (“LLC”) organized in 2017.

16. Defendant Stephan signed the articles of organization for each of the Affiliate LLC Defendants.

17. Each of the Affiliate LLC Defendants has employed and employs employees listed in the attached Exhibit A, which is made a part of this Complaint.

Defendant Damian N. Dell'Anno

18. Defendant Dell'Anno transacts substantial business on a continuous and systematic basis in this judicial district, within the jurisdiction of this Court.

19. During the Time Period, Defendant Dell'Anno was an owner of Next Step.

20. During the Time Period, Defendant Dell'Anno was an agent of Next Step.

21. During the Time Period, Defendant Dell'Anno was one of only two individuals Next Step ever designated as an agent on the annual reports it filed with the Secretary of the Commonwealth of Massachusetts.

22. During the Time Period, Defendant Dell'Anno was an agent of each of the Affiliate LLC Defendants.

23. During the Time Period, Defendant Dell'Anno was one of only two individuals any of the Affiliate LLC Defendants designated as their agents on the annual reports they filed with the Secretary of the Commonwealth of Massachusetts.

24. During the Time Period, the address provided for Defendant Dell'Anno on the Affiliate LLC Defendants' annual reports they filed with the Secretary of the Commonwealth of Massachusetts was Next Step's principal business address.

25. During the Time Period, Defendant Dell'Anno personally managed and directed Next Step's day-to-day operations.

26. Specifically, during the Time Period Defendant Dell'Anno had authority to:

- a. Operate and oversee Next Step's business;
- b. Oversee Next Step's relationships with the Affiliate LLC Defendants;

- c. Hire, fire, and supervise managerial employees of the Affiliate LLC Defendants; and
- d. Determine the policies and practices regarding how Defendants paid employees.

27. Defendant Dell'Anno's actions concerning pay practices have affected the amounts of compensation received by Defendants' employees.

28. Defendant Dell'Anno has acted directly and indirectly in the interest of Defendants in relation to their employees and, therefore, is and has been an employer of those employees within the meaning of the FLSA, *see* 29 U.S.C. § 203(d).

Defendant William H. Stephan

29. Defendant Stephan transacts substantial business on a continuous and systematic basis in this judicial district, within the jurisdiction of this Court.

30. During the Time Period, Defendant Stephan was an owner of Next Step.

31. During the Time Period, Defendant Stephan was an agent of Next Step.

32. During the Time Period, Defendant Stephan was one of only two individuals Next Step ever designated as an agent on the annual reports it filed with the Secretary of the Commonwealth of Massachusetts.

33. During the Time Period, Defendant Stephan was an agent of each of the Affiliate LLC Defendants.

34. During the Time Period, Defendant Stephan was one of only two individuals any of the Affiliate LLC Defendants designated as their agents on the annual reports they filed with the Secretary of the Commonwealth of Massachusetts.

35. During the Time Period, each of the Affiliate LLC Defendants designated Defendant Stephan as its resident agent.

36. During the Time Period, the address provided for Defendant Stephan on the Affiliate LLC Defendants' annual reports they filed with the Secretary of the Commonwealth of Massachusetts was Next Step's principal business address.

37. During the Time Period, Defendant Stephan personally managed and directed Next Step's day-to-day operations.

38. Specifically, during the Time Period Defendant Stephan had authority to:

- a. Operate and oversee Next Step's business;
- b. Oversee Next Step's relationships with the Affiliate LLC Defendants;
- c. Hire, fire, and supervise managerial employees of the Affiliate LLC Defendants; and
- d. Determine the policies and practices regarding how Defendants paid employees.

39. Defendant Stephan's actions concerning pay practices have affected the amounts of compensation received by Defendants' employees.

40. Defendant Stephan has acted directly and indirectly in the interest of Defendants in relation to their employees and, therefore, is and has been an employer of those employees within the meaning of the FLSA, *see* 29 U.S.C. § 203(d).

Defendants Are a Single Enterprise Engaged in Commerce
and a Single Employer or Joint Employers

41. At all times covered by this Complaint, Defendants have been an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r), as they engaged in related

activities performed through unified operation or common control for a common business purpose.

42. At all times covered by this Complaint, Defendants employed employees in the activities of said enterprise, which is engaged in the operation of an institution or institutions that primarily care(s) for the sick, the aged, or the mentally ill who reside on the premises of such institution(s).

43. For the period covered by this Complaint, Defendants' employees have been employed in this enterprise engaged in commerce or in the production of goods for commerce within the meaning of Section 3(s) of the FLSA, 29 U.S.C. § 203(s).

44. At all times covered by this Complaint, Defendants were a single employer under the integrated-enterprise test because they had common management, interrelated operations, and centralized control over labor and employee relations.

45. If Defendants were not a single employer, then Defendants jointly employed employees.

46. Defendants were jointly engaged in operating and/or managing at least twenty-five skilled nursing facilities in Massachusetts during the Time Period.

47. Defendants Dell'Anno and Stephan co-founded all of the corporate Defendants.

48. During the Time Period, Defendants Dell'Anno and Stephan were the sole co-agents of all of the corporate Defendants.

49. During the Time Period, Next Step controlled the Affiliate LLC Defendants' operation and/or management of the individual skilled nursing facilities.

50. Next Step hired an administrator for each skilled nursing facility that it jointly operated and/or managed with the Affiliate LLC Defendants.

51. Each facility administrator was an employee of the specific Affiliate LLC Defendant that jointly operated and/or managed that facility with Next Step.

52. Each facility administrator had the power to hire, fire, and supervise employees of the specific Affiliate LLC Defendant that jointly operated and/or managed with Next Step the facility where the administrator worked, including employees listed in the attached Exhibit A.

53. Each facility administrator reported directly to Next Step and was supervised by Next Step personnel, including Defendants Dell'Anno and Stephan.

54. Next Step employed personnel to oversee the operations of the Affiliate LLC Defendants, including clinical practices at those facilities.

55. Next Step managed payroll and benefits for the employees at all Affiliate LLC Defendants.

56. Next Step prepared and maintained employment records for employees at all Affiliate LLC Defendants, including:

- a. Records of wages paid;
- b. Records of employee working time; and
- c. Employee disciplinary records.

57. Next Step managed regulatory compliance for all Affiliate LLC Defendants.

58. Next Step established work rules and practices applicable to all Affiliate LLC Defendants and their employees, including procedures concerning the payment of wages and tracking of employee working time.

59. Each Affiliate LLC Defendant enforced the work rules and procedures Next Step established, including procedures concerning the payment of wages and tracking of employee working time at the skilled nursing facility they jointly operated and/or managed with Next Step.

60. Employees who worked at Defendants' skilled nursing facilities during the Time Period, including employees listed in the attached Exhibit A, were issued paystubs and other payroll documents stating that their compensation was paid by the Affiliate LLC Defendant that jointly operated and/or managed with Next Step the facility where the employees worked.

Defendants' Wage and Hour Practices

61. During the Time Period, Defendants violated Sections 7 and 11 of the FLSA, 29 U.S.C. §§ 207 and 211, by: (1) failing to pay employees all compensation due during overtime workweeks, including straight-time wages and the required FLSA overtime premium for each hour worked over 40 in a workweek; and (2) not maintaining required employment-related records.

62. Therefore, Defendants are liable for wages owed to these employees and an equal amount of liquidated damages, as set forth herein.

Defendants Willfully Failed to Properly Compensate Employees for All Hours Worked During Overtime Workweeks

63. During the Time Period, Defendants willfully failed to pay proper compensation under the FLSA to least 624 employees for all hours worked in overtime workweeks.

64. Defendants suffered or permitted each of these employees, listed in the attached Exhibit A, to work overtime hours during at least one workweek within the Time Period.

65. During at least one overtime workweek that each of the employees listed in the attached Exhibit A worked within the Time Period, Defendants failed to pay: (1) all wages due at each employee's regular rate of pay for all hours the employee worked; and (2) the required FLSA overtime premium for all hours worked over 40 in a workweek.

66. Defendants tracked employees' working time at all their facilities by using a time clock system through which employees manually punched in and out the start and end of each shift they worked.

67. Defendants maintained a work rule requiring employees to take an unpaid 30-minute meal break for every six hours of shift time they worked.

68. Defendants required employees to manually punch in and out when they took their meal breaks.

69. However, Defendants also maintained a policy of automatically deducting 30 minutes of working time for every six hours of uninterrupted shift time that an employee logged in Defendants' time clock system.

70. The effect of this policy was to ensure that 30 minutes would be deducted from employees' compensable working time even where an employee had not manually punched in and out at their break time.

71. Defendants applied this automatic 30-minute deduction policy to all employees who worked at their Massachusetts skilled nursing facilities during the Time Period, including the employees listed in the attached Exhibit A.

72. Defendants applied this automatic 30-minute deduction policy in all workweeks their employees worked during the Time Period, including overtime workweeks.

73. Notwithstanding the automatic 30-minute deduction policy, Defendants regularly suffered or permitted employees at their facilities to work through their meal breaks, including during overtime workweeks.

74. Defendants were actually or constructively aware that their employees regularly worked through their meal breaks because:

- a. Employees informed supervisors, including the facility administrator or director of nursing at the facility where they worked, that employees were too busy to take breaks;
- b. Defendants were made aware by the Massachusetts Attorney General's Office (the "AGO") in November 2018 that an employee who worked at the skilled nursing facility jointly operated and/or managed by Defendant 1748 Highland Avenue Operator LLC d/b/a Fall River Healthcare had filed a complaint with the AGO alleging that employees were not permitted to take meal breaks;
- c. Staffing shortages, particularly those that occurred in 2020 and 2021 as a result of the COVID-19 pandemic frequently required employees to work as the only nurse on the floor during their shifts and effectively prohibited these employees from taking a meal break; and
- d. Defendants established procedures that effectively required employees to work through their breaks, including by mandating that nurses wait for their relief person and count the narcotics on the floor with that person prior to leaving the floor on which they were working to take their break.

75. Defendants established an inadequate procedure regarding pay for employees who worked through their breaks.

76. Specifically, when an employee worked through their break, Defendants' policy requested that the employee fill out and hand in a manual time sheet correction form regarding the missed break time.

77. Defendants also established a work rule stating that a failure to manually punch in or out five or more times during a pay period could subject an employee to a written warning and possible future disciplinary action.

78. In practice, however, employees who worked through their breaks were routinely unable to utilize Defendants' procedure to get paid for their missed breaks, including during overtime workweeks.

79. Some of the reasons Defendants' policy and procedure regarding missed breaks were inadequate include:

- a. That some employees were not paid for missed breaks even after following Defendants' procedure of submitting the form regarding missed break time;
- b. That some employees were dissuaded by their supervisors from filling out missed break forms;
- c. That Defendants sometimes failed to make missed break forms available to employees;
- d. That Defendants failed to inform some employees about the missed break form procedure; and
- e. That supervisors who were aware employees were working through their breaks did not enforce Defendants' policy and procedure concerning the missed break form.

80. Defendants were actually or constructively aware that their missed break procedure was inadequate, including because:

- a. Employees complained to supervisors about not being paid for time spent working through their breaks; and

- b. Supervisory staff at Defendants' facilities, including administrators and directors of nursing, were aware that employees routinely worked through their breaks and the supervisory staff did not take steps to enforce Defendants' missed break policy and procedure.

81. Defendants failed to properly account for and compensate employees for all of the hours employees worked in overtime workweeks because Defendants:

- a. Applied the automatic 30-minute break deduction policy in overtime workweeks;
- b. Suffered or permitted employees to work through their breaks in overtime workweeks; and
- c. Did not enforce the policy and procedure for employees to get paid for missed breaks, including during overtime workweeks.

82. For purposes of determining employees' hours worked and compensation due, Defendants did not include the time employees worked through their breaks.

83. As a result of not including the time that employees worked through their breaks for purposes of determining employees' hours worked and compensation due in overtime workweeks, Defendants failed to pay these employees: (1) all wages due at their regular rates of pay for all hours the employees worked; and (2) the required FLSA overtime premium for all hours worked over 40 in a workweek.

84. Even when employees worked through their breaks in an overtime workweek Defendants automatically deducted from employees' hours worked 30 minutes of break time per six hours of work time employees logged into Defendants' time clock system.

85. Each of the employees listed in the attached Exhibit A worked in excess of 40 hours during at least one workweek during the Time Period.

86. Each of the employees listed in the attached Exhibit A worked through a break during at least one overtime workweek during the Time Period and Defendants had actual or constructive knowledge of the fact that each such employee worked through a break period.

87. With respect to each of the employees listed in the attached Exhibit A, Defendants did not count as hours worked certain time those employees worked through a break during at least one overtime workweek in the Time Period and, therefore, Defendants did not properly compensate each of those employees for all hours worked.

88. Examples of workweeks when Defendants failed to properly compensate employees for all hours worked in an overtime workweek include the following:

- a. One employee who worked at the skilled nursing facility jointly operated and/or managed by Defendants Next Step and 27 George Street Operator LLC d/b/a Attleboro Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: September 19, 2019; September 26, 2019; October 24, 2019; November 21, 2019; November 28, 2019; December 5, 2019; December 12, 2019; December 26, 2019; January 16, 2020; March 5, 2020; March 19, 2020; April 2, 2020; April 9, 2020; April 16, 2020; May 28, 2020; June 4, 2020; June 11, 2020; June 18, 2020; June 25, 2020; July 2, 2020; July 16, 2020; July 23, 2020; July 30, 2020; August 6, 2020; August 20, 2020; August 27, 2020. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all

wages due at their regular rate of pay for all hours the employee worked; and
(2) the required overtime premium for all hours worked over 40 in a
workweek.

- b. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 1650 Washington Street Operator LLC d/b/a Chetwynde Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: December 26, 2019; February 13, 2020; July 9, 2020; August 13, 2020; September 10, 2020; November 26, 2020; December 17, 2020; December 24, 2020; February 18, 2021; February 25, 2021; May 13, 2021; June 3, 2021; June 17, 2021; August 26, 2021; September 2, 2021; September 9, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- c. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and East Street Operator LLC d/b/a Dedham Healthcare worked in excess of 40 hours during the workweek ending on July 25, 2019. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at

their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- d. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 120 Main Street Operator LLC d/b/a Dexter House Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: October 17, 2019; October 31, 2019; December 12, 2019; December 19, 2019; December 26, 2019; January 9, 2020; January 16, 2020; January 30, 2020; February 6, 2020; February 20, 2020; February 27, 2020; March 12, 2020; March 19, 2020; March 26, 2020; April 2, 2020; April 9, 2020; April 16, 2020; April 23, 2020; May 21, 2020; May 28, 2020; June 4, 2020; June 18, 2020; July 2, 2020; July 23, 2020; August 6, 2020; August 27, 2020; September 3, 2020; October 15, 2020; October 22, 2020; November 19, 2020; December 3, 2020; December 17, 2020; December 24, 2020; December 31, 2020; January 7, 2021; January 21, 2021; January 28, 2021; February 4, 2021; February 18, 2021; February 25, 2021; April 1, 2021; April 8, 2021; April 15, 2021; April 22, 2021; May 6, 2021; May 13, 2021; July 15, 2021; July 22, 2021; July 29, 2021; August 5, 2021; August 19, 2021; August 26, 2021; September 2, 2021; September 9, 2021; September 16, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- e. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 1199 John Fitch Operator LLC d/b/a Fitchburg Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: July 1, 2021; July 8, 2021; July 15, 2021; July 22, 2021; July 29, 2021; August 5, 2021; August 12, 2021; August 26, 2021; September 9, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- f. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 193 Pleasant Street Operator LLC d/b/a Garden Place Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: February 6, 2020; February 27, 2020; June 25, 2020. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- g. Seventeen employees who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 272 Washington Street Operator LLC d/b/a Gloucester Healthcare worked in excess of 40 hours during at least one workweek falling within the Time

Period. As to each of these employees, during at least one overtime workweek Defendants did not count as hours worked the time the employees worked through breaks and, therefore, did not pay those employees: (1) all wages due at their regular rates of pay for all hours the employees worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- h. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 188 Florence Street Operator LLC d/b/a Heathwood Healthcare worked in excess of 40 hours during the workweek ending on April 8, 2021. During this workweek, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- i. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 40 Martin Street Operator LLC d/b/a Melrose Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: April 15, 2021; April 22, 2021; May 6, 2021; May 20, 2021; June 3, 2021; June 24, 2021; July 29, 2021; August 12, 2021; September 9, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- j. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 460 Washington Street Operator LLC d/b/a Norwood Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: December 12, 2019; April 30, 2020; June 25, 2020; July 9, 2020; July 23, 2020; July 30, 2020; August 6, 2020; August 13, 2020; August 20, 2020; August 27, 2020; September 3, 2020; September 10, 2020; September 17, 2020; September 24, 2020; October 1, 2020; October 15, 2020; October 22, 2020; October 29, 2020; November 5, 2020; November 12, 2020; November 19, 2020; November 26, 2020; December 3, 2020; December 10, 2020; December 17, 2020; December 24, 2020; December 31, 2020; January 7, 2021; January 14, 2021; January 21, 2021; January 28, 2021; February 4, 2021; March 4, 2021; March 11, 2021; March 18, 2021; March 25, 2021; April 1, 2021; April 8, 2021; April 15, 2021; May 13, 2021; June 10, 2021; June 17, 2021; July 1, 2021; July 29, 2021; August 19, 2021; August 26, 2021; September 2, 2021; September 9, 2021; September 16, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- k. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 76 North Street Operator LLC d/b/a Oakhill Healthcare worked in excess of 40 hours during

the workweeks ending on the following dates: November 14, 2019; December 19, 2019; December 26, 2019; January 2, 2020. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

1. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 19 Obery Street Operator LLC d/b/a Plymouth Harborside Healthcare, worked in excess of 40 hours during the workweeks ending on the following dates: September 26, 2019; October 3, 2019; October 10, 2019; October 17, 2019; October 31, 2019; December 12, 2019; December 19, 2019; January 2, 2020; January 9, 2020; January 16, 2020; January 23, 2020; February 6, 2020; March 19, 2020; April 23, 2020; May 14, 2020; May 21, 2020; June 11, 2020; June 18, 2020; July 2, 2020; July 23, 2020; July 30, 2020; August 6, 2020; September 3, 2020; September 10, 2020; September 17, 2020; September 24, 2020; October 1, 2020; October 8, 2020; October 15, 2020; November 12, 2020; November 19, 2020; December 10, 2020; December 17, 2020; December 24, 2020; December 31, 2020; January 7, 2021; January 14, 2021; January 21, 2021; February 4, 2021; April 15, 2021; April 22, 2021; April 29, 2021; May 6, 2021; May 13, 2021; May 27, 2021; June 3, 2021; June 10, 2021; June 17, 2021; July 8, 2021; July 15, 2021; July 22, 2021; August 12, 2021; August 19,

2021; August 26, 2021; September 16, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- m. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 743 Main Street Operator LLC d/b/a The Elmhurst Healthcare, worked in excess of 40 hours during the workweeks ending on the following dates: November 26, 2020; December 10, 2020; December 17, 2020; January 7, 2021; January 14, 2021; January 21, 2021; January 28, 2021; February 4, 2021; February 11, 2021; March 11, 2021; March 25, 2021; May 13, 2021; May 20, 2021; May 27, 2021; June 3, 2021; June 17, 2021; June 24, 2021; July 29, 2021; August 5, 2021; August 12, 2021; August 19, 2021; August 26, 2021; September 2, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- n. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 383 Mill Street Operator LLC d/b/a The Hermitage Healthcare worked in excess of 40 hours

during the workweek ending on May 28, 2020. During this workweek, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- o. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 146 Dean Street Operator LLC d/b/a Wedgemere Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: September 2, 2021; September 16, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- p. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 25 Armory Street Operator LLC d/b/a West Newton Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: November 28, 2019; January 9, 2020; January 16, 2020; February 27, 2020; March 19, 2020; April 23, 2020; May 7, 2020; May 28, 2020; August 6, 2020; August 13, 2020; August 20, 2020; August 27, 2020; September 3, 2020; September 10, 2020; September 24, 2020; October 8, 2020; October 22, 2020; November 5, 2020; January 14, 2021; July 29, 2021; August 26, 2021; September 16, 2021.

During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- q. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 620 Laurel Street Operator LLC d/b/a Lee Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: September 26, 2019; October 3, 2019; October 10, 2019; October 17, 2019; October 24, 2019; October 31, 2019; November 7, 2019; November 14, 2019; November 21, 2019; December 5, 2019; December 12, 2019; December 19, 2019; December 26, 2019; January 2, 2020; January 9, 2020; January 16, 2020; January 30, 2020; February 6, 2020; February 13, 2020; February 20, 2020; February 27, 2020; March 5, 2020; March 12, 2020; March 19, 2020; March 26, 2020; April 2, 2020; April 9, 2020; April 16, 2020; April 23, 2020; April 30, 2020; May 7, 2020; May 14, 2020; May 21, 2020; May 28, 2020; June 4, 2020; June 11, 2020; June 18, 2020; June 25, 2020; July 2, 2020; July 9, 2020; July 16, 2020; July 23, 2020; July 30, 2020; August 6, 2020; August 13, 2020; August 20, 2020; August 27, 2020; September 3, 2020; September 10, 2020; September 24, 2020; October 1, 2020; October 8, 2020; October 15, 2020; October 22, 2020; October 29, 2020; November 5, 2020; November 19, 2020; November 26, 2020; December 3, 2020; December 10, 2020; December 17, 2020;

December 24, 2020; December 31, 2020; January 7, 2021; January 14, 2021; January 21, 2021; January 28, 2021; February 25, 2021; March 4, 2021; March 18, 2021; April 1, 2021; April 8, 2021; May 6, 2021; May 27, 2021; June 3, 2021; June 10, 2021; June 17, 2021; July 8, 2021; July 15, 2021; July 22, 2021; July 29, 2021; August 5, 2021; August 12, 2021 August 19, 2021; August 26, 2021; September 2, 2021; September 9, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- r. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 620A Laurel Street Operator LLC d/b/a The Landing at Laurel Lake worked in excess of 40 hours during the workweeks ending on the following dates: October 10, 2019; October 17, 2019; November 21, 2019; November 28, 2019; January 2, 2020; January 16, 2020; January 30, 2020; February 13, 2020; February 27, 2020; March 5, 2020; March 12, 2020; April 2, 2020; April 9, 2020; April 30, 2020; May 7, 2020; May 14, 2020; June 4, 2020; June 11, 2020; June 25, 2020; July 2, 2020; July 9, 2020; July 30, 2020; August 13, 2020; August 27, 2020; September 10, 2020; November 5, 2020; November 12, 2020; November 19, 2020; November 26, 2020; December 3, 2020; December 10, 2020; December 17, 2020; December 24, 2020; December 31, 2020; January 7, 2021; January

14, 2021; January 21, 2021; January 28, 2021; February 11, 2021; February 25, 2021; March 4, 2021; March 11, 2021; March 18, 2021; March 25, 2021; April 1, 2021; April 15, 2021; April 22, 2021; April 29, 2021; May 6, 2021; May 13, 2021; May 27, 2021; June 3, 2021; June 10, 2021; June 17, 2021; June 24, 2021; July 1, 2021; July 8, 2021; July 15, 2021; July 22, 2021; August 26, 2021; September 9, 2021; September 16, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- s. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 1748 Highland Avenue Operator LLC d/b/a Fall River Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: October 3, 2019; January 2, 2020; January 9, 2020; January 23, 2020; January 30, 2020; February 20, 2020; March 5, 2020; March 19, 2020; July 23, 2020; August 20, 2020; September 3, 2020; September 17, 2020; October 1, 2020; October 15, 2020; October 29, 2020; November 12, 2020; November 26, 2020; December 10, 2020; December 24, 2020; February 4, 2021; February 18, 2021; March 18, 2021; April 1, 2021; April 15, 2021; April 29, 2021; May 27, 2021; June 10, 2021; June 24, 2021; July 8, 2021; July 22, 2021; August 5, 2021; August 19, 2021; September 16, 2021. During at least one of those workweeks,

Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- t. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 50 Indian Neck Road Operator LLC d/b/a Wareham Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: October 3, 2019; October 31, 2019; November 14, 2019; February 27, 2020; March 5, 2020; March 26, 2020; April 2, 2020. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- u. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 1102 Washington Street Operator LLC d/b/a Braintree Manor Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: May 14, 2020; May 28, 2020. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- v. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and One Love Lane Operator LLC d/b/a South Dennis Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: January 2, 2020; March 5, 2020; March 26, 2020. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- w. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 160 Main Street Operator LLC d/b/a Walpole Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: April 29, 2021; May 6, 2021; May 13, 2021; May 20, 2021; May 27, 2021; June 3, 2021; June 10, 2021; June 17, 2021; June 24, 2021; July 15, 2021; July 22, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.
- x. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 8 Colonial Drive Operator LLC d/b/a Westborough Healthcare worked in excess of 40 hours

during the workweeks ending on the following dates: December 5, 2019; January 23, 2020; February 13, 2020; March 19, 2020; April 9, 2020; April 16, 2020; May 21, 2020; May 28, 2020; June 18, 2020; July 16, 2020; July 23, 2020. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

- y. One employee who worked at Next Step's skilled nursing facility jointly operated and/or managed by Defendants Next Step and 1200 Suffield Street Operator LLC d/b/a Agawam Healthcare worked in excess of 40 hours during the workweeks ending on the following dates: December 24, 2020; March 4, 2021; April 8, 2021. During at least one of those workweeks, Defendants did not count as hours worked the time the employee worked through breaks and, therefore, did not pay this employee: (1) all wages due at their regular rate of pay for all hours the employee worked; and (2) the required overtime premium for all hours worked over 40 in a workweek.

Defendants Failed to Maintain Records Required by the FLSA

89. Defendants violated the FLSA by failing to make, keep, and preserve adequate and accurate records.

90. Defendants failed to keep adequate and accurate records of employees' hours worked, in violation of 29 C.F.R. §§ 516.2(a).

91. Defendants' time records did not show all hours worked by all employees that Defendants employed during the Time Period.

92. Defendants maintained a policy of automatically deducting 30 minutes of working time per six hours of shift time employees logged into Defendants' time clock system while regularly suffering or permitting those same employees to work through their 30-minute breaks.

93. As a result, Defendants' time records did not document the time that employees, including employees listed in the attached Exhibit A, spent working through their breaks.

94. This unlawful policy or practice applied to all employees who worked for Defendants at all the skilled nursing facilities Defendants operated and/or managed during the Time Period.

COUNT ONE

Violations of Sections 7 & 15(a)(2) of the FLSA—Failure to Pay Proper Overtime

95. The Acting Secretary incorporates by reference and re-alleges all of the foregoing allegations in this Complaint.

96. Defendants violated the provisions of Sections 7 and 15(a)(2) of the FLSA, 29 U.S.C. §§ 207 and 215(a)(2), by employing employees for workweeks longer than 40 hours without properly compensating them for all hours worked, and specifically by failing to pay employees:

- a. All wages due at each employee's regular rate of pay for all hours the employee worked during overtime workweeks; and
- b. The required overtime premium for all hours worked over 40 in a workweek.

97. Therefore, Defendants are liable for overtime compensation owed to the employees listed in the attached Exhibit A and an equal amount of liquidated damages under Section 16(c) of the FLSA, 29 U.S.C. § 216(c).

COUNT TWO

Violations of Sections 11(c) & 15(a)(5) of the Act—Failure to Make & Keep Records

98. The Secretary incorporates by reference and re-alleges all of the foregoing allegations in this Complaint.

99. Defendants failed to keep true and accurate records of the hours worked by each of their non-exempt employees in violation of Section 11 of the FLSA, 29 U.S.C. § 211, and the regulations thereunder, specifically 29 C.F.R. Part 516.

PRAYER FOR RELIEF

Throughout the period covered by this Complaint, Defendants violated the aforesaid provisions of the FLSA as alleged, including doing so willfully. WHEREFORE, cause having been shown, the Acting Secretary prays for judgment against Defendants as follows:

1. For an order pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with them, from prospectively violating the Act, including Sections 7, 11, 15(a)(2), and 15(a)(5), 29 U.S.C. §§ 207, 211, 215(a)(2), and 215(a)(5);

2. For an order pursuant to Section 16(c) of the Act, 29 U.S.C. § 216(c), holding Defendants liable for unpaid back wages found due to Defendants' current and former employees listed in the attached Exhibit A for the time period from September 27, 2018 through at least September 14, 2021, plus liquidated damages equal in amount to the wages found due. Additional amounts of back wages and liquidated damages may also be owed to certain current and former employees of Defendants listed in the attached Exhibit A for violations continuing after September 14, 2021, and may be owed to certain current and former employees presently unknown to the Acting Secretary who may be identified during this litigation and added to Exhibit A;

3. For an Order pursuant to Section 17 of the Act, 29 U.S.C. § 217, permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with them, from withholding the amount of unpaid overtime compensation found due to Defendants' employees;

4. In the event liquidated damages are not awarded, an order awarding prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621;

5. Awarding the Acting Secretary the costs of this action; and

6. Granting such other and further relief as may be necessary and appropriate.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Acting Secretary requests a jury trial in this matter on all issues triable by jury.

Seema Nanda
Solicitor of Labor

Maia S. Fisher
Regional Solicitor

Mark A. Pedulla
Counsel for Wage & Hour

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DATED: December 12, 2023