

Conciliation Agreement  
Between the  
U.S. Department of Labor/Office of Federal Contract Compliance Programs  
and  
COLLINGSWOOD NURSING FACILITIES, INC.

**I. PRELIMINARY STATEMENT**

The Office of Federal Contract Compliance Programs (“OFCCP”) evaluated the COLLINGSWOOD NURSING FACILITIES, INC. (“Contractor”) establishment located at 299 HURLEY AVENUE, ROCKVILLE, MARYLAND 20850-3118, beginning on November 16, 2018. OFCCP found that Contractor failed to comply with Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (“Section 503”), the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (“VEVRAA”), and their respective implementing regulations at 41 CFR Part 60-300 and Part 60-741.

OFCCP notified Contractor of the specific violations and the corrective actions required in a Notice of Violation issued on September 27, 2019 (“NOV”).

In the interest of resolving the violations without engaging in further legal proceedings and in exchange for sufficient and valuable consideration described in this document, OFCCP and Contractor enter into this Conciliation Agreement (“Agreement”) and its attachment, and the parties agree to all the terms therein.

The attachment to this Agreement is deemed incorporated into this Conciliation Agreement.

**II. GENERAL TERMS AND CONDITIONS**

- A. In exchange for Contractor’s fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under Executive Order 11246, as amended (“E.O. 11246”), Section 503, and/or VEVRAA based on the violations alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Contractor violates any provision of this Agreement, as set forth in paragraph J., below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
- B. OFCCP may review Contractor’s compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Contractor will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents it requests, including those specified in this Agreement.
- C. Nothing in this Agreement relieves Contractor of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, or other applicable laws requiring non-discrimination or equal employment opportunity through affirmative action.

- D. Contractor agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.
- E. The parties understand the terms of this Agreement and enter into it voluntarily.
- F. This Agreement, including its attachment, constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties.
- G. This Agreement becomes effective on the day it is signed by the District Director (the "In Effect Date").
- H. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
- I. This Agreement will expire sixty (60) days after Contractor submits its final progress report required in Part VIII, below, unless OFCCP notifies Contractor in writing before the expiration date that Contractor has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that Contractor has met all of its obligations under the Agreement.
- J. If Contractor violates this Agreement:
1. 41 C.F.R. § 60-1.34, 41 C.F.R. 60-300.63 (2014) and/or 41 C.F.R. 60-741.63 (2014) will govern:
    - i. OFCCP will send Contractor a written notice stating the alleged violations and summarizing any supporting evidence.
    - i. The Contractor shall have 15 days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
    - i. If Contractor is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.
  2. Contractor may be subject to the sanctions set forth in 41 C.F.R. § 60-741.66 (2014), or 41 C.F.R. § 60-300.66 (2014) and/or other appropriate relief for violating this Agreement.
- K. Contractor neither admits nor denies any violation of the Executive Order, Section 503 or VEVRAA, nor has there been an adjudication on the merits regarding any such violation.

- L. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
- M. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the United States Department of Labor.
- N. Each party shall bear its own fees and expenses with respect to this matter.
- O. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
- P. All references to “days” in this Agreement, and in the Timeline included as Attachment A, are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

### III. SPECIFIC PROVISIONS

1. **VIOLATION:** During the period October 1, 2017 through September 30, 2018, Contractor allegedly did not invite applicants to inform it whether the applicant believes that he or she is a veteran protected by VEVRAA, in violation of 41 CFR 60-300.42.

**REMEDY:** Contractor shall invite applicants to inform it whether the applicant believes that he or she is a veteran protected by VEVRAA, as required by 41 CFR 60-300.42. More specifically, Contractor shall invite applicants for employment, prior to an offer of employment, to voluntarily identify as a protected veteran. Additionally, Contractor shall invite applicants for employment, after an offer of employment but before applicants begin their job duties, to voluntarily inform it whether the applicant believes that he or she is a protected veteran. Contractor may invite the applicant to also indicate if he or she belongs to one or more of the specific categories of protected veterans, as defined by 41 CFR 60-300.2(q). All invitations to self-identify as a protected veteran must comply with the requirements of 41 CFR 60-300.42(c). Contractor must keep all self-identification information confidential and maintain it in a separate data analysis file, rather than in its personnel or medical files, in accordance with 41 CFR 60-300.42(e).

2. **VIOLATION:** During the period October 1, 2017 through September 30, 2018, Contractor allegedly did not invite its employees to voluntarily self-identify as an individual with a disability, using the OMB-approved form for this purpose, in violation of 41 CFR 60-741.42(c). Specifically, OFCCP found the contractor failed to conduct the initial survey of its employees; failed to invite self-identification pre-offer; failed to invite self-identification post-offer; and failed to use the approved form.

**REMEDY:** Contractor shall immediately invite its employees to voluntarily inform it whether the employee believes that he or she is an individual with a disability, as that term is defined in 41 CFR 60-741.2(g)(1)(i) or (ii). All invitations to self-identify must be made using the OMB-approved form for this purpose (available on the OFCCP website). In addition, Contractor shall extend this invitation again at five year intervals, thereafter. At least once during each interval, Contractor shall remind its employees that they may voluntarily update their disability-related self-identification information at any time. Contractor must keep all self-identification information confidential and maintain it in a separate data analysis file, rather than in its personnel or medical files, in accordance with 41 CFR 60-741.42(e).

3. **VIOLATION:** During the period October 1, 2017 through September 30, 2018, Contractor allegedly did not undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit protected veterans, in violation of 41 CFR 60-300.44(f)(1)(i). Specifically, OFCCP found Contractor did not undertake any outreach and recruitment activities to recruit qualified protected veterans.

**REMEDY:** Contractor will undertake appropriate external outreach and positive recruitment activities that are reasonably designed to effectively recruit protected veterans, such as those described at 41 CFR 60-300.44(f)(2).

4. **VIOLATION:** During the period October 1, 2017 through September 30, 2018, Contractor allegedly did not undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit qualified individuals with disabilities, in violation of 41 CFR 60-741.44(f)(1)(i). Specifically, OFCCP found Contractor did not undertake any outreach and recruitment activities to recruit qualified individuals with disabilities.

**REMEDY:** Contractor will undertake appropriate external outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified individuals with disabilities, such as those described at 41 CFR 60-741.44(f)(2).

5. **VIOLATION:** During the period October 1, 2017 through September 30, 2018, Contractor allegedly did not immediately list all employment openings with either the state workforce agency job bank or a local employment service delivery system serving the location where the openings occurred, in violation of 41 C.F.R. § 60-300.5(a)2-6.

**REMEDY:** Contractor will list all employment openings as they occur with an appropriate employment service delivery system (ESDS) (either the state workforce agency job bank or a local ESDS) where the openings occur, in a manner and format that will allow the ESDS to provide priority referrals of protected veterans to Contractor, as required by 41 C.F.R. § 60-300.5(a) 2-6. With its initial listing, and as subsequently needed to update the information, Contractor will also advise the employment service delivery system that it is a federal contractor that desires priority referrals of protected veterans for job openings at all locations within the state, and provide the employment service delivery system with the name and address of each of its hiring locations within the state and the contact information for the

Contractor official responsible for hiring at each location, in accordance with 41 C.F.R. § 60–300.5(a)4. Should any of the information in the disclosures change since it was last reported to the ESDS, Contractor will provide updated information simultaneously with its next job listing.

#### IV. OFCCP MONITORING PERIOD

**A. Recordkeeping.** As applicable, Contractor agrees to retain all records relevant to the alleged violations cited in Part III above and the reports submitted in compliance with Paragraph B, below. These records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, job applications and personnel records, and any other records or data used to generate the required reports. As applicable, Contractor will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

#### B. Contractor Reports.

**Schedule and Instructions.** Contractor agrees to furnish OFCCP with the following report during the Monitoring Period according to the following schedule:

- **Progress Report 1:** The first report will cover the period from October 1, 2019 through September 30, 2020 and will be due on October 15, 2020.

If, on the progress report due date, Collingswood Nursing Facilities, Inc. has no employees at the 299 Hurley Avenue, Rockville, MD 20850 establishment, it will simply submit a statement to that effect. However, if Collingswood does have employees as of those dates, it will submit reports to Compliance Officer (b) (7)(C), (b) (7)(E) and Assistant District Director Tanya Bennett at 2 Hopkins Plaza, Suite 600, Baltimore Maryland 21201; or email reports to (b) (6), (b) (7)(C)@dol.gov and (b) (6), (b) (7)(C)@dol.gov.

#### Pursuant to Violations #1 & #2:

Provide copies of the following:

- a) The invitation given to applicants pre- and post-offer to voluntarily inform the contractor of their protected veteran and/or individual with disabilities status;
- b) If applicable, a link to the website offering on-line applicants the same opportunities. Pursuant to Violations #3 & #4:

- a) Documentation to verify that Contractor undertook appropriate outreach and positive recruitment activities reasonably designed to effectively recruit qualified protected veterans and conducted an assessment of its efforts. This documentation should include a copy of the sections of Contractor's AAP that list: a) its outreach activities with supporting documentation; b) an assessment of the effectiveness of each activity; and c) a copy of Contractor's annual assessment of the effectiveness of the totality of its outreach activities, as required by 41 C.F.R. § 60-300.44(f)(3). Contractor should note that 41

C.F.R. § 60-300.44(f) lists examples of several types of organizations that may be enlisted for assistance and support in recruiting and developing on-the-job training opportunities for protected veterans;

- b) Documentation to verify that Contractor undertook appropriate outreach and positive recruitment activities reasonably designed to effectively recruit individuals with disabilities and conducted an assessment of its efforts. This documentation should include a copy of the sections of Contractor's AAP that list: a) its outreach activities with supporting documentation; b) an assessment of the effectiveness of each activity; and c) a copy of Contractor's annual assessment of the effectiveness of the totality of its outreach activities, as required by 41 C.F.R. § 60-741.44(f)(3). Contractor should note that 41 C.F.R. § 60-741.44(f) lists examples of several types of organizations that may be enlisted for assistance and support in recruiting and developing on-the-job training opportunities for individuals with disabilities.

**Pursuant to Violation #5:**

Provide evidence of the following:

- a) A list of all employment openings that occurred, including: a) documentation to confirm these openings were listed with the appropriate ESDS (either the state workforce agency job bank or a local ESDS) where the openings occurred, in a manner and format that allows the ESDS to provide priority referrals of protected veterans to Contractor; b) documentation that Contractor advised the appropriate ESDS, with its initial listing, that it is a federal contractor that desires priority referrals of protected veterans for job openings at all locations within the state; and c) documentation to confirm that, in its initial listing, Contractor provided the ESDS with the name and address of each of its hiring locations within the state, and the contact information for the Contractor official responsible for hiring at each location. Documentation of the above should include copies of the written notification(s) to the ESDS. Should any of the information in the disclosures change since it was last reported to the ESDS, Contractor shall provide updated information simultaneously with its next job listing;
  - b) Copies of all responses received from each employment service delivery system used during the report period.
- C. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts Contractor's final progress report as set forth in Part II, Paragraph I, above. If OFCCP fails to notify Contractor in writing within sixty (60) days of the date of the final progress report that Contractor has not fulfilled all of its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies Contractor within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Contractor has met all of its obligations under the Agreement.

**V. SIGNATURES**

The person signing this Agreement on behalf of Contractor personally warrants that he or she is fully authorized to do so, that Contractor has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Contractor.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and COLLINGSWOOD NURSING FACILITIES, INC., Rockville, Maryland 20850-3118.

(b) (6), (b) (7)(C)

JACK UPCHURCH  
President  
Collingswood Nursing Facilities, Inc.  
Rockville, MD 20850-3118

DATE: 12/13/2019

(b) (6), (b) (7)(C)

(b) (7)(C), (b) (7)(E)  
Compliance Officer  
Baltimore District Office  
Mid-Atlantic Region

DATE: 1-10-20

(b) (6), (b) (7)(C)

TANYA R. BENNETT  
Assistant District Director  
Baltimore District Office  
Mid-Atlantic Region

DATE: 1/10/2020

(b) (6), (b) (7)(C)

TOM G. WELLS  
District Director  
Baltimore District Office  
Mid-Atlantic Region

DATE: January 10, 2020

Attachment A  
Timeline for Collingswood Conciliation Agreement

<b>Action</b>	<b>Due Date</b>
Submit first and only Progress Report	October 15, 2020