

**STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
BUREAU OF REGULATORY SERVICES**

In re: Richard O'Hara, N.H.A .

Petition No. 971021-036-004

CONSENT ORDER

WHEREAS, Richard O'Hara of New Milford, Connecticut (hereinafter "respondent") has been issued license number 000307 to practice nursing home administration by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 368v of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. While respondent was employed at the Candlewood Valley Care Center he failed to ensure the implementation and/or enforcement of an effective patient protection plan and was negligent and/or incompetent in the overall management of physical therapy and social services programs for several patients during the period of April 1997 through May 1997.
2. The above described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §19a-517(b)(3) and/or (4), taken in conjunction with §19-13-D&t(f)(3) of the Regulations, Connecticut State Agencies (hereinafter "the Regulations").

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations of wrongdoing but, while admitting no guilt or wrongdoing, agrees that for purposes of this or any future proceedings before the Department, this Consent Order shall have

the same effect as if proven and ordered after a full hearing held pursuant to §§19a-10, 19a-14, and 19a-517 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19-17, and 19a-517 of the General Statutes of Connecticut, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license, number 000307, shall be placed on probation for a period of two (2) years under the following terms and conditions:
 - a. Respondent shall provide his employer, at each place where respondent practices as a nursing home administrator throughout the probationary period, with a copy of this Consent Order within fifteen (15) days of its effective date, or within fifteen (15) days of commencement of employment at a new facility.
 - b. Respondent's practice shall be immediately supervised for the entire probationary period by a nursing home administrator licensed in the State of Connecticut pre-approved by the Department (hereinafter "supervisor"). At least once every two months, the supervisor shall conduct random reviews of records that chronicle quality assurance, patient management and responsibilities, and duties of the nursing home administrator. Particular attention shall be focused on resident's rights issues and adherence to reporting requirements.
 - (1) Respondent's supervisor shall meet with him not less than once every two months for the entire probationary period.

- (2) The supervisor shall have the right to monitor respondent's practice by any other reasonable means which he or she deems appropriate. Respondent shall fully cooperate with the supervisor in providing such monitoring.
 - (3) Respondent shall be responsible for providing written supervisor reports directly to the Department every other month. Such supervisor's reports shall include documentation of dates and duration of meetings with respondent, number and a general description of the records reviewed, additional monitoring techniques utilized, and statement that respondent is practicing with reasonable skill and safety.
- c. Within the first year of the effective date of this Consent Order, respondent shall attend and successfully complete thirty (30) hours of continuing education from the American College of Health Care Administrators, Connecticut Association of Health Care Facilities, Inc., or other such comparable organization or trade group. Such continuing education shall include, but not be limited to the following topics: resident's rights, resident abuse and/or neglect, reportable events, quality assurance, patient management, operation of long-term facility, and the responsibilities and duties of nursing home administrators. Such coursework shall be pre-approved by the Department and, within sixty (60) days of completion of such coursework, respondent shall provide proof to the satisfaction of the Department that he has successfully completed such coursework. Such approval shall not be unreasonably withheld. Respondent shall be responsible for any tuition and other costs associated with such continuing education.
- d. Respondent shall notify the Department prior to any changes in employment.
- e. Respondent shall notify the Department of any address change in his home or

business address within fifteen (15) days of such change.

3. All correspondence and reports are to be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health
Division of Health Systems Regulation
410 Capitol Avenue, MS #12HSR
P.O. Box 340308
Hartford, CT 06134-0308

4. All reports required by the terms of this Consent Order shall be due on the tenth business day of every other month.
5. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
6. Respondent shall pay all costs necessary to comply with this Consent Order.
7. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
- a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
 - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
 - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.
 - d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the

satisfaction of the Department, he shall be entitled to a hearing before the Department which shall make a final determination of the disciplinary action to be taken.

- e. Evidence presented to the Department by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
8. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as a Nursing Home Administrator upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that his failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut §§ 4-182(c) and 19a-17(c).
9. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Department.
10. In the event respondent is not employed as a Nursing Home Administrator for periods of thirty (30) consecutive days or longer, or is employed as a Nursing Home Administrator less than twenty (20) hours per week, or is employed outside of the State of Connecticut, respondent shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Consent Order.

11. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
12. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Department.
13. Respondent agrees that this Consent Order shall be deemed a public document, and the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Department in which his compliance with this Consent Order or with §19a-517 of the General Statutes of Connecticut, as amended, taken in conjunction with §19-13-D8t(f)(3) of the Regulations, is at issue.
14. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
15. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
16. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
17. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the

Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.

18. Respondent understands and agrees that he is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which he is away from his residence.
19. Respondent has the right to consult with an attorney prior to signing this document.

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I, Richard O'Hara, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Richard L. O'Hara
Richard O'Hara, N.H.A.

Subscribed and sworn to before me this 28th day of September 1999.

[Signature]
Notary Public or person authorized
by law to administer an oath or affirmation
Michael J. Manton
Commissioner of Superior Court

The above Consent Order having been presented to the duly appointed agent of the
Commissioner of the Department of Public Health on the 13th day of
October 1999, it is hereby accepted.

Kathleen Zarrella
Kathleen Zarrella, Director
Division of Health Systems Regulation