

STATE OF SOUTH CAROLINA)
COUNTY OF LEXINGTON)

IN THE MAGISTRATES COURT

Roxanne Wilson, Suzanne Carver)
Individually and as Power of)
Attorney for Martha Dusenberry,)
Roxanne Wilson,)
Suzanne Carver,)
Martha Dusenberry)


Vs.)
Presbyterian Communities of)
South Carolina, LLC)

ORDER
OF DISPOSITION

Civil Case # 2023CV321061478

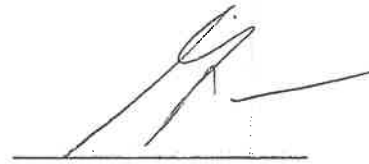
The action before the court is filed as an Injunctive Relief pursuant to §SC 27-40 (Residential Landlord -Tenant Act). The plaintiffs argue and pray that the court intervene and bar the defendant from moving resident, Martha Dusenberry, from one area of the facility to another due to medical hardship. The defendant moves that the Court dismiss the case on the grounds that the Summary Court lacks subject matter jurisdiction pursuant to §SC 27-40-120.

This court finds that it indeed does lack subject matter jurisdiction to hear the case pursuant to SC 27-40-120. The code section specifically excludes geriatric facilities from being covered under the Residential Landlord -Tenant Act. Nursing homes and assisted living facilities are governed under §SC 44-81 which outlines a grievance procedure to be conducted by the SC Department of Health and Environmental Control (DHEC) and further adjudication by SC Administrative Law Court. Therefore the Court hereby dismisses the action due to lack of jurisdiction.


1478

AND IT IS SO ORDERED!

Date: August 30, 2023

A handwritten signature in black ink, appearing to be 'G. Morgan', written over a horizontal line.

Gary S. Morgan, Magistrate
650 Knox Abbott Dr.
Cayce, SC 29033

#1478

CHAPTER 81
Bill of Rights for Residents of Long-Term Care Facilities

SECTION 44-81-10. Short title.

This act may be cited as the "Bill of Rights for Residents of Long-Term Care Facilities".

HISTORY: 1985 Act No. 118, Section 1.

SECTION 44-81-20. Legislative findings.

The General Assembly finds that persons residing within long-term care facilities are isolated from the community and often lack the means to assert their rights fully as individual citizens. The General Assembly recognizes the need for these persons to live within the least restrictive environment possible in order to retain their individuality and personal freedom. The General Assembly further finds that it is necessary to preserve the dignity and personal integrity of residents of long-term care facilities through the recognition and declaration of rights safeguarding against encroachments upon each resident's need for self-determination.

HISTORY: 1985 Act No. 118, Section 2.

SECTION 44-81-30. Definitions.

As used in this chapter:

(1) "Long-term care facility" means an intermediate care facility, nursing care facility, or residential care facility subject to regulation and licensure by the State Department of Health and Environmental Control (department).

(2) "Resident" means a person who is receiving treatment or care in a long-term care facility.

(3) "Representative" means a resident's legal guardian, committee, or next of kin or other person acting as agent of a resident who does not have a legally appointed guardian.

HISTORY: 1985 Act No. 118, Section 3.

SECTION 44-81-40. Rights of residents; written and oral explanation required.

(A) Each resident or the resident's representative must be given by the facility a written and oral explanation of the rights, grievance procedures, and enforcement provisions of this chapter before or at the time of admission to a long-term care facility. Written acknowledgment of the receipt of the explanation by the resident or the resident's representative must be made a part of the resident's file. Each facility must have posted written notices of the residents' rights in conspicuous locations in the facility. The written notices must be approved by the department. The notices must be in a type and a format which is easily readable by residents and must describe residents' rights, grievance procedures, and the enforcement provisions provided by this chapter.

(B) Each resident and the resident's representative must be informed in writing, before or at the time of admission, of:

(1) available services and of related charges, including all charges not covered under federal or state programs, by other third party payers, or by the facility's basic per diem rate;

(2) the facility's refund policy which must be adopted by each facility and which must be based upon the actual number of days a resident was in the facility and any reasonable number of bed-hold days, except when the provisions of subsection (E) apply.

Each resident and the resident's representative must be informed in writing of any subsequent change in services, charges, or refund policy.

(C) Each resident or the resident's legal guardian has the right to:

(1) choose a personal attending physician;

(2) participate in planning care and treatment or changes in care and treatment;

(3) be fully informed in advance about changes in care and treatment that may affect the resident's well-being;

(4) receive from the resident's physician a complete and current description of the resident's diagnosis and prognosis in terms that the resident is able to understand;

(5) refuse to participate in experimental research.

(D) A resident may be transferred or discharged only for medical reasons, for the welfare of the resident or for the welfare of other residents of the facility, or for nonpayment and must be given written notice of not less than thirty days, except that when the health, safety, or welfare of other residents of the facility would be endangered by the thirty-day notice requirement, the time for giving notice must be that which is practicable under the circumstances. Each resident must be given written notice before the resident's room or roommate in the facility is changed.

(E)(1) If a community residential care facility resident or a resident's representative chooses to voluntarily relocate from the resident's current facility, the resident or the resident's representative must give the facility administrator written notice of this intent to relocate not less than fourteen days before the resident's relocation becomes effective. Voluntary relocation does not occur when a resident of a community residential care facility seeks to be discharged because a higher level of care is required or because the resident's health, safety, or welfare is endangered.

(2) If a community residential care facility resident or a resident's representative fails to give timely notice as required by this subsection, the facility administrator may charge the resident the equivalent of fourteen days occupancy from the earlier of the date of the relocation or the date the facility administrator received proper notice of the resident's intent to relocate. However, if the facility is able to fill the bed vacated by the resident, the facility shall cease charging the resident regardless of the notice given. The facility shall notify the previous resident in writing as soon as it fills the bed with a new resident.

(3) Residents participating in the Optional State Supplementation Program are excluded from the requirements of items (1) and (2).

(F) Each resident or the resident's representative may manage the resident's personal finances unless the facility has been delegated in writing to carry out this responsibility, in which case the resident must be given a quarterly report of the resident's account.

(G) Each resident must be free from mental and physical abuse and free from chemical and physical restraints except those restraints ordered by a physician.

(H) Each resident must be assured security in storing personal possessions and confidential treatment of the resident's personal and medical records and may approve or refuse their release to any individual outside the facility, except in the case of a transfer to another health care institution or as required by law or a third party payment contract.

(I) Each resident must be treated with respect and dignity and assured privacy during treatment and when receiving personal care.

(J) Each resident must be assured that no resident will be required to perform services for the facility that are not for therapeutic purposes as identified in the plan of care for the resident.

(K) The legal guardian, family members, and other relatives of each resident must be allowed immediate access to that resident, subject to the resident's right to deny access or withdraw consent to access at any time. Each resident without unreasonable delay or restrictions must be allowed to associate and communicate privately with persons of the resident's choice and must be assured freedom and privacy in sending and receiving mail. The legal guardian, family members, and other relatives of each resident must be allowed to meet in the facility with the legal guardian, family members, and other relatives of other residents to discuss matters related to the facility, so long as the meeting does not disrupt resident care or safety.

(L) Each resident may meet with and participate in activities of social, religious, and community groups at the resident's discretion unless medically contraindicated by written medical order.

(M) Each resident must be able to keep and use personal clothing and possessions as space permits unless it infringes on another resident's rights.

(N) Each resident must be assured privacy for visits of a conjugal nature.

(O) Married residents must be permitted to share a room unless medically contraindicated by the attending physician in the medical record.

(P) A resident or a resident's legal representative may contract with a person not associated with or employed by the facility to perform sitter services unless the services are prohibited from being performed by a private contractor by state or federal law or by the written contract between the facility and the resident. The person, being a private contractor, is required to abide by and follow the policies and procedures of the facility as they pertain to sitters and volunteers. The person must be selected from an approved list or agency and approved by the facility. All residents or residents' legal representatives employing a private contractor must agree in writing to hold the facility harmless from any liability.

HISTORY: 1985 Act No. 118, Section 4; 1992 Act No. 474, Section 1; 1994 Act No. 438, Section 1; 2014 Act No. 170 (H.3098), Section 1, eff May 16, 2014.

SECTION 44-81-50. Discrimination.

Each resident must be offered treatment without discrimination as to sex, race, color, religion, national origin, or source of payment.

HISTORY: 1985 Act No. 118, Section 5.

SECTION 44-81-60. Grievance procedures; review by department.

Each facility shall establish grievance procedures to be exercised by or on behalf of the resident to enforce the rights provided by this act. The department shall review and approve these grievance procedures annually. This act is enforced by the department. The department may promulgate regulations to carry out the provisions of this act.

HISTORY: 1985 Act No. 118, Section 6.

SECTION 44-81-70. Retaliation.

No facility by or through its owner, administrator, or operator, or any person subject to the supervision, direction, or control of the owner, administrator, or operator shall retaliate against a resident after the resident or the resident's legal representative has engaged in exercising rights under this act by increasing charges, decreasing services, rights, or privileges, or by taking any action to coerce or compel the resident to leave the facility or by abusing or embarrassing or threatening any resident in any manner.

HISTORY: 1985 Act No. 118, Section 7.

IN THE MAGISTRATE'S COURT

C/A# _____

SUMMONS

SUMMONS

Plaintiffs,

Defendant.

Defendant.

YOU ARE SUMMONED and required to Answer the allegations of the attached Complaint within thirty (30) days after receipt to this Summons. Your Answer must be received by the Cayce Magistrate's office located at 650 Knox Abbott Drive, Cayce South Carolina, 29033. If you fail to Answer within the prescribed time, a judgment may be entered against you for the amount or other remedy requested in the attached Complaint, plus interest and costs.

Given under my hand, this _____ day of _____, 20____.

Honorable Gary S. Morgan
Magistrate Lexington County

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON) IN THE MAGISTRATE'S COURT

Roxanne Wilson, Suzanne Carver)
Individually and as Power of Attorney)
for Martha Dusenbury,)
)

Roxanne Wilson)
2825 Wilton Road)
West Columbia, SC 29170)
)

Suzanne Carver)
201 Whispering Winds Drive)
Lexington, SC 29072)
)

Martha Dusenbury)
700 Davega Drive)
Lexington, SC 29073)
)

Plaintiffs,)
)

vs.)
)

Presbyterian Communities of)
of South Carolina,)
700 Davega Drive)
Lexington, SC 29073)
803-386-0174)
)

Defendant.)
)

C/A# _____

COMPLAINT
(Breach of Contract)

The Plaintiffs above-named complaining of the Defendant herein alleges that:

1. Plaintiff is a resident of Lexington County, South Carolina and resides at the Presbyterian Home which is operated by the Defendant.
2. The Defendant is a legal entity and holds itself out as having special expertise in the care and treatment of elderly persons.

3. Plaintiffs hold Powers of Attorney for Martha Dusenbury who is ninety-eight (98) years old and is their mother.

4. Martha Dusenbury has been in the Presbyterian Home for four (4) years and has had the same living quarters for four (4) years.

5. Some time ago agents of the Defendant threatened to evict Mrs. Dusenbury. After a lengthy meeting, plans for eviction were withdrawn.

6. Thereafter, on July 14, 2023 the letter of eviction was presented. A copy of the letter of eviction dated June 26, 2023 is attached as well as the July 14, 2023 letter withdrawing the eviction.

7. The Defendant has insisted that Martha Dusenbury either leave the facility or go to a nursing type facility which would be harmful to her health according to her physicians.

8. On August 9, 2023 the Defendant sent another letter again indicating eviction. A copy of the letter of August 9, 2023 is attached.

9. Martha Dusenbury is in the Presbyterian Home pursuant to a contract with the Presbyterian Communities of South Carolina and the facility is regulated by DHEC.

10. For some time, the representatives of the Presbyterian Home have tried to force Mrs. Dusenbury out of her room, but the medical personnel in charge of her have not found her subject to the need to move.

11. Recently, the Presbyterian Communities of South Carolina had Mrs. Dusenbury examined and the doctor again found no need to move Mrs. Dusenbury. Thereafter, representatives of the Presbyterian Communities placed pressure on the physician in question to change his opinion that she needs to be moved. The physician has apologized to the Plaintiffs

for the change of position and has told them, the facility “forced his hand” in regard to changing his medical opinion.

12. Following the change of opinion by the medical doctor, the letter of August 9, 2023 declaring an eviction was presented.

13. Mrs. Dusenbury, through her Powers of Attorney, have fully complied with the terms and provisions of the contract and Mrs. Dusenbury has the lawful right to remain in her room and to receive services from the Presbyterian Communities of South Carolina.

14. Following the eviction letter the Powers of Attorney have had Mrs. Dusenbury examined by an additional physician, H. W. Bledsoe, M.D., who is of the opinion that to move her would damage her and hasten her demise. A copy of a letter dated July 18, 2023 is attached.

15. Plaintiffs seek a preliminary and permanent injunction, which would provide that Mrs. Dusenbury can remain in her room under her Contract so long as it is her desire to stay there and so long as the Plaintiffs determine it to be in her best interest.

16. The conduct complained of herein amounts to a breach of contract. The staff of the Presbyterian Home has determined for their own reasons they want Mrs. Dusenbury moved and have coerced the physician they employ to express their desire by way of a “medical opinion”.

17. Plaintiffs are without an adequate remedy at law. Plaintiffs have a substantial chance of prevailing in the litigation. To move Mrs. Dusenbury would result in irreparable harm and possibly in her death. This Court should inquire into the matters and issue its Rule to Show Cause as to why a temporary and permanent injunction should not be granted maintaining the status quo until this matter can be heard.

WHEREFORE, Plaintiffs pray for a declaration of the Court declaring the rights of the parties one to another; for declaration declaring the eviction to be contrary to the contract and improper; for a temporary and preliminary injunction maintaining the status quo until the case be heard on its merits; for a permanent injunction maintaining the status quo; and for such other and further relief as this Court might deem just and proper.

MOORE BRADLEY MYERS LAW FIRM, P.A.

BY: 

S. Jahue Moore (SC Bar #4063)
1700 Sunset Boulevard
P.O. Box 5709
West Columbia, South Carolina 29171
Phone: (803) 796-9160
ATTORNEY FOR THE PLAINTIFFS

West Columbia, South Carolina
August 16, 2023



PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA

July 14, 2023

Martha Dusenbury
c/o Roxanne Wilson
2825 Wilton Road
West Columbia, SC 29170

c/o Suzanne Carver
201 Whispering Winds Drive
Lexington, SC 29072

Dear Ms. Martha Dusenbury,

Presbyterian Communities of South Carolina hereby withdraws the 14-day Letter of Discharge dated June 26, 2023, a copy of which is enclosed for your convenient reference.


Executive Director



PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA

June 26, 2023

Martha Dusenbury
c/o Roxanne Wilson
2825 Wilton Road
West Columbia, SC 29170

c/o Suzanne Carver
201 Whispering Winds Drive
Lexington, SC 29072

Dear Ms. Martha Dusenbury,

Unfortunately, Presbyterian Communities of South Carolina – Columbia has elected to issue a 14-day discharge notice effective as of June 26, 2023. Please make arrangements to vacate your room on or before July 10, 2023.

Under South Carolina Regulation 61-84, you may be transferred or discharged from this assisted living facility for one of the following reasons:

___ Any person who has a serious aggressive, violent or socially inappropriate behavioral symptoms which cannot be controlled or improved in the facility;

___ Any person who has a dependency in all activities of daily living for more than fourteen (14) consecutive days;

___ Residents whose condition changes to a degree that nursing home care, the daily attention of a nurse, or hospitalization may be required;

In addition to notifying you (the resident) of this transfer/discharge, Suzanne Carver and Roxanne Wilson, resident representatives, have also been notified.

This facility plans to transfer/discharge you to Presbyterian Communities of SC – Columbia at 700 DaVega Drive Lexington SC 29073 in the Healthcare Unit. Please contact the Admissions Coordinator at 803-542-2339 to complete the admission process within 10 days of this notice. This facility recognizes your choice in selecting a Healthcare Facility that meets your needs. If you locate and secure a different healthcare facility that you prefer within this 30 days, we will provide all necessary support to make this a successful transfer.

Executive Director



August 9, 2023

Via FedEx

Martha Dusenbury
c/o Roxanne Wilson
2825 Wilton Road
West Columbia, SC 29170

c/o Suzanne Carver
201 Whispering Winds Drive
Lexington, SC 29072

Re: Notice of Discharge

Dear Ms. Dusenbury,

In accordance with the South Carolina Department of Health and Environmental Control's ("SCDHEC") Community Residential Care Facility ("CRCF") licensing regulations (S.C. Code Ann. Regs. 61-84) ("Regulation 61-84") and the Bill of Rights of Long-Term Care Residents (S.C. Code Ann. §§ 44-81-10 *et seq.*), this letter serves as notice of your discharge from Presbyterian Communities of South Carolina - Columbia ("PCSC - Columbia"), effective thirty (30) days from your receipt of this notice.

Per Regulation 64-81, a CRCF is prohibited from retaining a resident in need of nursing home care or who is dependent in all activities of daily living for more than fourteen (14) consecutive days. *See* S.C. Code Ann. Regs. 61-84, §§ 801.C.3. and 801.D.2. Dependency in one's activities of daily living is defined to include: (i) being bedridden; (ii) incapable of locomotion; (iii) unable to transfer; (iv) totally incontinent of urinary and/or bowel function; (v) requiring total assistance with bathing, dressing, and toileting; and/or (vi) requiring extensive assistance to eat. *Id.* Regulation 61-84 provides that

[w]hen the provision of care/services in the facility, combined with other appropriately licensed services, in accordance with facility policy, e.g., hospice, home health, as may be ordered by a physician or other authorized healthcare provider, does not meet the needs of the resident, or if any resident becomes in need of continuous medical or nursing supervision, or if the facility does not have the capability to provide necessary care/services, the resident **shall be transferred within 30 days** to a location which shall meet those needs. The administrator shall coordinate this transfer with the resident, next-of-kin/responsible party, and sponsor.

Unfortunately, PCSC - Columbia's CRCF is unable to provide the level of care and services you now require and, therefore, must transfer your care to a facility capable of meeting your current needs.



PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA

we will work with your chosen provider to assist in a seamless transfer of your care. Whatever your choice, we will do our best to make this transition as smooth as possible for you, and we are here to assist you in any way that we can.

In addition to notifying you (the resident) of this transfer/discharge, we are notifying your representatives, Suzanne Carver and Roxanne Wilson, by copy of this letter, as well.

PCSC recognizes your choice in selecting a healthcare facility that meets your needs and values your decisions in the aging process. We look forward to assisting you in transferring to a level of care appropriate for your current needs, where you can thrive and realize your fullest potential.

With best regards,

Executive Director

**Bledsoe Family Medicine
669 Barr Road
Lexington, SC 29072
803-957-8000**

July 18, 2023

The Presbyterian Community of SC
Lexington Campus
700 Devaga Road
Lexington, SC 29073

Attn: Mrs. Cindy Robbins

Re: Martha Dusenbury
DOB: 8/24/1925

Dear Mrs. Robbins,

I have been Martha Dusenbury's physician for the past 18 years. I know her well and I know her physical condition and at ninety-eight years old, she is a remarkable lady.

I know she suffers from Dementia but she communicates with her caregivers and family extremely well. I know she has been in the same PCSC room for four years and in my professional opinion, transitioning her to another location would be detrimental to Ms. Dusenbury's physical, mental, and emotional health due to her age. I feel very strongly that Miss Martha is unable to assimilate easily and needs familiar surroundings and care givers.

I am convinced that any move at this time would be harmful.

Very truly yours,

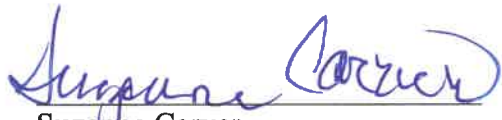
A handwritten signature in black ink that reads "H. W. Bledsoe, M.D." The signature is written in a cursive, flowing style.

H. W. "Butch" Bledsoe, M.D.

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

VERIFICATION

PERSONALLY APPEARED before me, Suzanne Carver, who, duly sworn, deposes and says that she is the Plaintiff in the foregoing action; that she has read the within Summons and Complaint and knows the allegations contained therein to be true except as to those allegations which may be alleged to be upon information and belief, and as to those, she believes to be true.


Suzanne Carver

SWORN BEFORE ME THIS THE

16th day of August, 2023.


NOTARY PUBLIC FOR THE STATE OF
SOUTH CAROLINA

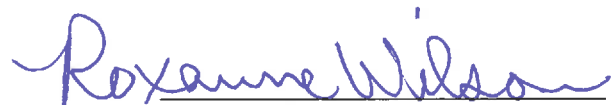
Print Name: S Jahn Moore

My Commission expires: 2/21/25

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

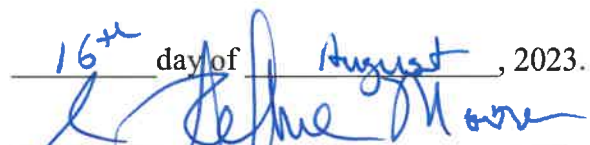
VERIFICATION

PERSONALLY APPEARED before me, Roxanne Wilson, who, duly sworn, deposes and says that she is the Plaintiff in the foregoing action; that she has read the within Summons and Complaint and knows the allegations contained therein to be true except as to those allegations which may be alleged to be upon information and belief, and as to those, she believes to be true.


Roxanne Wilson

SWORN BEFORE ME THIS THE

16th day of August, 2023.


NOTARY PUBLIC FOR THE STATE OF
SOUTH CAROLINA

Print Name: S. T. McRae

My Commission expires: 2/24/25

IN THE MAGISTRATE'S COURT

C/A# _____

NOTICE OF MOTION

Plaintiffs,

Defendant.

YOU WILL PLEASE TAKE NOTICE that the undersigned, as counsel for the Plaintiffs, hereby moves before the Court for a Rule to Show Cause Order as to why the status quo should not be maintained in this case during the pendency of this action.

1

MOORE BRADLEY MYERS LAW FIRM, P.A.

BY: 

S. Jahue Moore
1700 Sunset Boulevard (29169)
P. O. Box 5709
West Columbia, SC 29171
(803) 796-9160
ATTORNEY FOR PLAINTIFFS

West Columbia, South Carolina
August 16, 2023

STATE OF SOUTH CAROLINA)
)
COUNTY OF LEXINGTON)

IN THE MAGISTRATE'S COURT

Roxanne Wilson, Suzanne Carver)
Individually and as Power of Attorney)
for Martha Dusenbury,)
)

C/A# _____

Roxanne Wilson)
2825 Wilton Road)
West Columbia, SC 29170)
)

Suzanne Carver)
201 Whispering Winds Drive)
Lexington, SC 29072)
)

RULE TO SHOW CAUSE AND ORDER

Martha Dusenbury)
700 Davega Drive)
Lexington, SC 29073)
)

Plaintiffs,)
)

vs.)
)

Presbyterian Communities of)
of South Carolina,)
700 Davega Drive)
Lexington, SC 29073)
803-386-0174)
)

Defendant.)
)

TO: THE DEFENDANT HEREIN NAMED:

Upon reading the attached verified Complaint, you are hereby ordered to appear before this Court on the ____ day of _____, 2023 to show cause if any you can as to why the status quo in this matter should not be maintained pending further Order of the Court.

_____, 2023

Honorable Gary S. Morgan
Magistrate Lexington County

South Carolina Secretary of State

Business Entities Online

File, Search, and Retrieve Documents Electronically

PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA**Corporate Information**

Entity Id: 00019905

Entity Type: Nonprofit

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 05/18/1954

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: L. Franklin Fant, Jr.

Address: 2817 ASHLAND RD
COLUMBIA, South Carolina 29210**Official Documents On File**

Filing Type	Filing Date
Articles of Merger	12/28/2022
Notice of Change of Registered Office or Registered Agent or Both of a Nonprofit Corporation	07/10/2020
Amendment	08/31/2016
Amendment	08/27/2010
Change of Agent or Office	08/31/2007
Amendment	11/27/1995
Amendment	12/17/1987
Amendment	12/08/1972
Incorporation	05/18/1954

Former Names

Name	Filing Date
PRESBYTERIAN HOME OF SOUTH CAROLINA	N/A

For filing questions please contact us at 803-734-2158

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STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Roxanne Wilson, Suzanne Carver,
Individually and as Power of Attorney for
Martha Dusenbury,

Roxanne Wilson
2825 Wilton Road
West Columbia, SC 29170

Suzanne Carver
201 Whispering Winds Drive
Lexington, SC 29072

Martha Dusenbury
700 Davega Drive
Lexington, SC 29073,

Plaintiffs,

vs.

Presbyterian Communities of South
Carolina
700 Davega Drive
Lexington, SC 29073,

Defendant.

IN THE MAGISTRATE'S COURT

Civil Case No.: 2023CV321061478

**DEFENDANT'S
MOTION TO DISMISS**

RECEIVED

AUG 30 2023

**GAYCE-WEST COLUMBIA
MAGISTRATE**

Pursuant to SCRCF, Rules 12(b)(1), 12(b)(3), and 12(b)(6), Defendant Presbyterian Communities of South Carolina ("PCSC") hereby submits its Motion to Dismiss. In support of this Motion, PCSC submits the following:

1. On August 16, 2023, Plaintiffs filed the above-captioned Complaint, alleging Defendant PCSC breached the Residential/Assisted Living Services Agreement,¹ dated July 16, 2019, by and between Martha Dusenbury and PCSC ("Agreement"), by attempting to discharge

¹ Plaintiffs' Complaint alleges PCSC breached its "contract" with Ms. Dusenbury without attaching the "contract" or providing any specific provision within the "contract" that PCSC allegedly breached. PCSC presumes Plaintiffs' reference to the "contract" is a reference to the attached Agreement. The Complaint contains no specific factual allegations as to how PCSC allegedly breached the Agreement because PCSC has committed no breach.
PPAB 9833051v1

Plaintiff Martha Dusenbury from PCSC's Community Residential Care Facility ("CRCF") to a higher level of care. A copy of the Agreement is attached as **Exhibit A** and incorporated herein by reference.

2. PCSC is licensed to operate its CRCF by the South Carolina Department of Health and Environmental Control ("DHEC"). CRCFs are regulated by DHEC, and PCSC must comply with all DHEC CRCF licensing regulations in order to maintain its license in good standing and to continue operations. *See generally* S.C. Code Ann. Regs. 61-84.

3. PCSC's CRCF is part of PCSC's Continuing Care Retirement Community ("CCRC"). CCRC's are regulated by the South Carolina Department of Consumer Affairs ("DCA"). *See generally* S.C. Code Ann. §§ 37-11-10 *et seq.* Therefore, PCSC must comply with all DCA CCRC licensing regulations as well. *See generally* S.C. Code Ann. Regs. 28-600.

4. PCSC must comply with strict DHEC CRCF regulations regarding whom it can and cannot admit and retain, based upon the level of care the individual requires. PCSC is prohibited from retaining any resident "who has a dependency in all activities of daily living for more than fourteen (14) consecutive days. . . ." S.C. Code Ann. Regs. 61-84, § 801.D. DHEC CRCF regulations also require PCSC to comply with certain conditions prior to the discharge of a resident. *See id.* at § 906.

5. In fact, DHEC CRCF regulations control the operations of PCSC's CRCF, and PCSC must comply with DHEC regulatory requirements governing everything from staffing, staff training, medication management, medical record keeping, meal services, and more. *See generally* S.C. Code Ann. Regs. 61-84. PCSC is also subject to certain federal Medicare/Medicaid regulations. All of these regulations are designed to protect the patient population residing in long-term care facilities.

6. Plaintiffs allege that PCSC attempts to “evict” Ms. Dusenbury from its CRCF in breach of the Agreement. However, CRCF residents are not tenants. Ms. Dusenbury is not a tenant, and PCSC is not a landlord.

7. The Agreement is not subject to the South Carolina Residential Landlord Tenant Act (S.C. Code Ann. §§ 27-40-10 *et seq.*) (“Act”), which specifically provides that **a residency in an institution “public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar service” is not governed by the Act.** S.C. Code Ann. § 27-40-120(1) (emphasis added).

8. A Magistrate Court’s jurisdiction is set by statute. This Court has concurrent jurisdiction with the Circuit Court in specific, delineated cases, which include, *inter alia*, “all matters between landlord and tenant and the possession of land. . . .” S.C. Code Ann. § 22-3-10.

9. As established herein, this matter does not involve landlord/tenant relations. There is no attempted “eviction” at issue. Rather, PCSC is discharging Ms. Dusenbury, as it is legally required to do, because Ms. Dusenbury requires a level of care that PCSC cannot legally provide in a CRCF setting, as established by PCSC’s attending physician, Floyd A. Cribbs, M.D.’s, assessment of Ms. Dusenbury’s clinical condition, a copy of which is attached as **Exhibit B** and incorporated herein by reference.

10. The reasons for Ms. Dusenbury’s discharge were set forth in PCSC’s August 9, 2023 correspondence to Plaintiffs. Notably, Plaintiffs misleadingly provided only the first and third pages of PCSC’s August 9 correspondence, omitting page two, which set forth the specific ways in which Ms. Dusenbury’s condition prohibits PCSC from continuing to retain Ms. Dusenbury as a CRCF resident. A complete copy of the letter is attached as **Exhibit C** and incorporated herein by reference.

11. Plaintiffs' recourse in challenging a CRCF discharge is administrative. Plaintiffs have the ability to file a grievance with PCSC and/or to file a complaint with DHEC. *See* S.C. Code Ann. § 1001.H (requiring a CRCF to develop grievance procedures to include the provision of DHEC contact information). Plaintiffs then can appeal any adverse DHEC decision to the DHEC Board and subsequently to the South Carolina Administrative Law Court pursuant to the South Carolina Administrative Procedures Act (S.C. Code Ann. §§ 1-23-310 *et seq.*). *See* S.C. Code Ann. §§ 44-1-60 and 1-23-320. *See also* S.C. Const. art. I, § 22 (providing that no person shall be bound by the decision of an administrative agency affecting private rights without due process).

12. Plaintiffs previously filed a complaint with DHEC; however, when DHEC failed to provide the relief sought, Plaintiffs chose to switch forums rather than appeal that decision. Consequently, Plaintiffs have failed to exhaust their administrative remedies as required. *See Hyde v. S.C. Dep't of Mental Health*, 314 S.C. 207, 208, 442 S.E.2d 582, 583 (1994) ("Where an adequate administrative remedy is available to determine a question of fact, one must pursue the administrative remedy or be precluded from seeking relief in the courts.").

13. In sum, there is no statutory authority giving this Court subject matter jurisdiction in this case, and Plaintiffs attempts to cast this matter as an "eviction" cannot cure this fatal flaw in their case. Plaintiffs have failed to exhaust their administrative remedies, and venue in this Court is improper. Furthermore, Plaintiffs' Complaint fails to state a cause of action upon which relief may be granted. Therefore, Plaintiffs' Complaint must be dismissed pursuant to SCRCP, Rules 12(b)(1), 12(b)(3), and 12(b)(6).

WHEREFORE, based upon the foregoing, Defendant PCSC respectfully requests this Court dismiss Plaintiffs' Complaint, with prejudice, pursuant to SCRCP, Rules 12(b)(1), 12(b)(3), and 12(b)(6) and grant Defendant such other and further relief as this Court deems just and proper.

Respectfully Submitted,



David B. Summer, Jr., Esquire (SC Bar # 7974)

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Columbia, SC 29202

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davidsummer@parkerpoe.com

Attorney for Defendant

Presbyterian Communities of South Carolina

Columbia, South Carolina

August 30, 2023

STATE OF SOUTH CAROLINA

COUNTY OF LEXINGTON

Roxanne Wilson, Suzanne Carver,
Individually and as Power of Attorney for
Martha Dusenbury,

Roxanne Wilson
2825 Wilton Road
West Columbia, SC 29170

Suzanne Carver
201 Whispering Winds Drive
Lexington, SC 29072

Martha Dusenbury
700 Davega Drive
Lexington, SC 29073,

Plaintiffs,

vs.

Presbyterian Communities of South
Carolina
700 Davega Drive
Lexington, SC 29073,

Defendant.

IN THE MAGISTRATE'S COURT

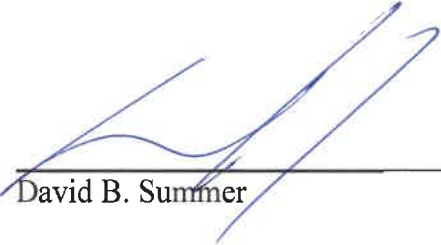
Civil Case No.: 2023CV321061478

CERTIFICATE OF SERVICE

The undersigned certifies that on the 30th day of August 2023 a true and correct copy of the foregoing **Defendant's Motion to Dismiss** was served on counsel of record via hand-delivery addressed as follows:

S. Jahue Moore, Esquire
Cayce-West Columbia Magistrate Court
650 Knox Abbott Drive
Cayce, SC 29033

Attorney for the Plaintiffs



David B. Summer

EXHIBIT A



PRESBYTERIAN COMMUNITIES
OF SOUTH CAROLINA

PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA
RESIDENTIAL/ASSISTED LIVING SERVICES AGREEMENT

OUR MISSION

*We Are A Compassionate Christian Ministry
Dedicated to Enriching the Quality of Life
For Seniors of All Faiths*

NOTICE REQUIRED BY SECTION 15-48-10 OF THE SOUTH CAROLINA CODE OF LAWS, 1976, IS HEREBY GIVEN THAT THE FOLLOWING AGREEMENT IS SUBJECT TO ARBITRATION.

DEFINITIONS:

"Agreement" means the Residential/Assisted Living Services Agreement.

"Board of Trustees": Volunteer Board serving as the governing body of Presbyterian Communities (hereinafter called "the Board").

"Community" means the location where the resident resides within the Presbyterian Communities of South Carolina (PCSC).

"Conservator" is a court appointed person to manage the affairs of an adult who is unable to manage their own affairs.

Department of Health and Human Services Centers for Medicare & Medicaid Services (hereinafter called "CMS").

"Durable Power of Attorney" is a legal document that allows another person to act on behalf of a resident, within the scope of the powers described in the document (usually limited to financial powers, but can include health care powers if specified), when the resident is incompetent or unable to consent.

"Guardianship" is a legal relationship created by a court order between a guardian and his ward. The guardian has a legal right and duty to care for the ward. This usually involves the guardian making decisions about the comfort and care of the ward.

"Health Services" means nursing facility or skilled nursing facility services as such is defined by the Centers for Medicare and Medicaid Services.

Health Insurance Portability and Accountability Act of 1996, as amended, and its implementing regulations (hereinafter called "HIPAA").

"Healthcare Power of Attorney" is a type of advance medical directive in which legal documents provide documentation of a resident's wishes for certain types of health care (such as extraordinary medical care, nutrition and hydration) and provides for another

A-101

person to make healthcare decisions when the resident is incompetent or unable to consent consistent with the resident's wishes.

Managed Care Organizations (hereinafter called "MCO").

"Memory Support" means the services provided for residents with Alzheimer's Disease and related disorders at certain of the PCSC Residential Assisted Living.

"Parties" means PCSC and the Resident identified in PARTIES TO THE CONTRACT section of this Agreement.

"PCSC" means the Presbyterian Home of South Carolina, d/b/a Presbyterian Communities of South Carolina, a non-profit corporation.

"Residential Assisted Living" means the services provided by a community residential care facility as such is defined under South Carolina law.

"Responsible Party" means interested family member or friend designated to be notified of significant changes in the resident's health status.

WHEREAS, Martha Dusenbury (the "Resident") of W. Columbia, desires to enter Presbyterian Communities of South Carolina (PCSC), a non-profit corporation (the "Community") at Columbia, South Carolina; and

WHEREAS, PCSC has agreed to accept this applicant as a resident upon the terms and conditions hereinafter set forth;

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, the parties, intending to be legally bound, hereby agree as follows:

1. **ACCEPTANCE.** In consideration of Resident's agreement to comply with the terms and conditions set forth in the Community's "Terms of Admission" which are incorporated into this Agreement, the Community agrees to accept Resident for occupancy.

2. **RESPONSIBLE PARTY/LEGAL REPRESENTATIVE.**

2.1. **Obligations.** Resident has the right to identify a Responsible Party, usually and preferably the Resident's durable power of attorney, who shall be entitled to receive notice of a transfer or discharge or significant changes in the Resident's condition, and changes to the Agreement. Resident hereby names

Suzanne Carver
of Columbia, SC
[address], as the Responsible Party. The Resident's selected Responsible Party shall cosign this Agreement in recognition of his role as Responsible Party and with the understanding that, to the extent allowed by applicable law, he is bound by all provisions in this Agreement. The Responsible Party shall be obligated to

perform the duties on behalf of the Resident imposed by this Agreement in accordance with the law governing fiduciary duties. The Community may petition a court to appoint a guardian and take other legal action if the Community reasonably believes that the Resident's needs are not being properly met or the duties imposed by the Agreement are not being fulfilled by the Responsible Party. Resident, Resident's estate, or Responsible Party shall pay the cost of such guardianship proceedings, including attorneys' fees.

- 2.2. Potential Liability.** The Responsible Party's duties, obligations and responsibilities are set forth in this Agreement and by signing this Agreement, Responsible Party acknowledges he has read the Agreement and understands its terms and that he shall be bound by its terms.

3. ACCOMMODATIONS.

- 3.1. Accommodation Assignment.** In consideration of the mutual promises contained in the Agreement and herein, the Community agrees that the Resident shall occupy Accommodation A-101 in the Community's Residential Care Facility (the "Residence") during Resident's stay in the Community.
- 3.2. Inspection; Alterations.** You acknowledge that You have had an opportunity to inspect the Accommodation and that its condition and state of repair meets with Your approval. You may not alter or change any part of Accommodation without obtaining Our prior consent. You are responsible for the cost of any changes or alterations that You may make and those changes or alterations become property of the Community.
- 3.3. Your Use of the Accommodation.** You will use the Accommodation as Your private residence and will maintain it in a clean, sanitary and orderly condition. While You remain a resident in Our Community, You will not act in any manner that will interfere with Our other residents' quiet enjoyment of Our Community. If You or any of Your visitors damage any of Our furnishings or fixtures beyond normal wear and tear, You will reimburse Us for the cost of repair or replacement.
- 3.4. Changes in Accommodations Due to Medical or Service Need.** The initial Monthly Service Fee referenced in Section 7.1.1 of this Agreement is based on Our initial evaluation of Your needs prior to Your move into the Community and also based on the particular accommodation chosen. If a later evaluation of Your needs indicates You require a different level of Service, and/or You change accommodations, We will change the level You are provided to what is required, and We will change Your fee in accordance with the current Accommodations and Services Rates as presented in this Agreement. At the time Your fee changes, We will notify You in writing of the change as well as make available the updated evaluation upon request. Damages to accommodation above normal wear and tear will be assessed at the time of the move and will be charged to the resident.

3.5. Changes in Accommodations Due to Personal Preferences: Should a resident desire to change accommodations within the same level of care due to personal preferences and non-medical reasons, resident will pay a transfer charge and moving fees at current rates, should they be requested.

4. **SERVICES PROVIDED TO RESIDENTS.** For the care, convenience, and enrichment of its residents, the Community provides a range of services, which are available to all residents at no cost above the Monthly Service Fee, Set forth in Section 7 of this Agreement, paid each month in advance. The services provided include basic room and board and the following:

- three meals per day plus snacks;
- housekeeping service weekly;
- linen service;
- scheduled transportation to local primary physician;
- social and activities programs;
- utilities including cable television;
- maintenance and grounds keeping;
- emergency response system

The Community shall provide the Resident with updates about services provided. If Resident requires services not routinely provided by the Community, the Community may undertake to provide those services for an additional cost to Resident. See Section 5 of this Agreement. If and when the Community undertakes to provide services not routinely made available by the Community, Resident shall reimburse the Community for all costs incurred by the Community in providing the service.

5. **ADDITIONAL CHARGES FOR ANCILLARY SERVICES AND SUPPLIES.** Resident shall pay for other services and supplies provided by or through the Community which are not covered as set forth in this Agreement in effect at the time such ancillary services or supplies are rendered. Any items ordered by a physician, which are not identified as covered in this Agreement, will be provided at charges identified by the Community and payment is required within thirty (30) days of the date of the invoice. The charges for ancillary services and supplies are subject to change from time-to-time.

6. **ROLE OF ATTENDING PHYSICIAN.** The Resident shall obtain the services of a qualified physician who will provide medical care during the Resident's stay at the Community and who shall comply with the Community's rules, regulations, policies and procedures. The Community is not obligated to provide Resident with any medicines, treatments, special diets or equipment without specific orders or directions from Resident's attending physician. Resident is responsible to pay for all services or equipment ordered by Resident's attending physician for Resident's care.

7. MONTHLY CHARGES/THIRD PARTY PAYORS.

7.1. Monthly Service Fee:

7.1.1. Resident agrees to pay to the Community a Monthly Service Fee of \$ 3167.00 per month for basic room and board as well as any Level of Service Charges which shall be due in advance by the tenth of each month. Resident understands and agrees that the Monthly Level of Service Charges are subject to increase as the resident's needs change. Any new level of service charges are implemented upon resident/responsible party notification. Level of service charge on admission will be \$ 950.00.

7.1.2. The Monthly Service Fee for room and board shall be subject to change from time to time during the term of this Agreement as the Board of Trustees may determine in its discretion. If the Monthly Room and Board Fees change, the Community shall provide Resident thirty (30) days advance written notice of the change.

7.2. Payment and Due Date. Charges for a Resident or other third party insurance as referenced in Section 7 of this Agreement will begin on the designated admission date or actual admission, whichever is earlier.

The Monthly Service Fee and Level of Service Charge described above is payable in advance and shall be due on the ~~first~~ tenth day of each month. Unless otherwise agreed by the Community in writing, Monthly Service Fees shall be considered delinquent if not received by the tenth of the month for which they are due.

7.2.1. LATE CHARGES. Any amounts not paid within thirty (30) days of the Due Date are subject to a late charge of one and a half percent (1½%) per month [annual rate of eighteen percent (18%)] and Resident or Responsible Person, to the extent that the Responsible Person has access to Resident's assets, is obligated to pay any late charges. If the Community initiates any legal collection actions or proceedings for payments due from Resident under this Agreement, then Resident or Responsible Person shall be responsible to pay all attorney's fees and costs incurred by the Community in pursuing the enforcement of Resident's financial obligations under this Agreement.

7.3. Monthly Statements. At the beginning of each month, the Community will furnish You a monthly statement showing the Monthly Service Fee payable in advance which includes any additional charges (the "Additional Charges") from the previous month.

7.4. Refund of Monthly Charges, Prepayments and Overpayments. In the event of Resident's permanent departure from the Community by either discharge or death, Resident or Resident's estate shall be entitled to a refund of any prepayments of monthly charges and any overpayments within sixty (60) days

providing payments owed the Community are up to date. No interest shall accrue on any funds required to be refunded under this Agreement. A refund will not be granted until all personal property is removed from the vacated residence and/or moved to Community storage as referenced in 18.3. The monthly service fee will be prorated while property remains in the residence or storage.

- 7.5. Obligations of Resident's Estate and Assignment of Property. Resident and Responsible Person acknowledge the charges for services provided under this Agreement remain due and payable until fully satisfied. In the event of Resident's discharge for any reason, including death, this Agreement shall operate as an assignment, transfer and conveyance to the Community of so much of Resident's property as is equal in value to the amount of any unpaid obligations under this Agreement. This assignment shall be an obligation of Resident's estate and may be enforced against Resident's estate. Resident's estate shall be liable to and shall pay to the Community an amount equivalent to any unpaid obligations of Resident under this Agreement.

8. **OTHER CHARGES NOT COVERED BY ANY FEE CHARGED IN THIS SERVICES AGREEMENT.** Resident expressly understands and agrees that amounts to be paid to the Community pursuant to this Agreement are not intended to cover or include insurance on Resident's personal belongings; medical, dental, hospital, non-covered pharmaceutical, barber, funeral or other individualized expenses. Resident hereby understands and agrees that all such expenses shall be the obligation of Resident.

9. **THIRD PARTY PAYMENTS**

- 9.1. Eligibility for Third-Party Payments. Resident may be or may become eligible to receive financial assistance, reimbursement, or other benefits from third parties, such as private insurance, employee benefit plans, Medicare benefits, managed care coverage, supplementary medical or other health insurance, supplemental security income insurance, or old-age survivors' or disability insurance. It is the responsibility of the Resident and/or Responsible Person to apply for these benefits. If Resident is or becomes eligible to receive payments from any third parties for Resident's stay and care, the Community reserves the right to collect such payments directly from the third-party source. The Resident and Responsible Person shall at all times cooperate fully with the Community and each third-party payor to secure payment. Cooperation includes providing information; signing and delivering documents; and assigning to the Community (to the extent permitted by law) any payments for the Resident from federal or state governmental assistance programs or any other reimbursement or benefits to the extent of all amounts due the Community.
- 9.2. Assignment of Payments. Resident irrevocably authorizes the Community to make claims and to take other actions to secure for the Community receipt of third-party payments to reimburse the Community for its charges for the stay and care of Resident. To the fullest extent permitted by law, as security for payment of the Community's charges, Resident hereby assigns to the Community all of

Resident's rights to any third-party payments now or subsequently payable to the extent of all charges due under this Agreement. Resident or Responsible Person promptly shall endorse and turn over to the Community any payments received from third parties to the extent necessary to satisfy the charges under this Agreement. Resident or Responsible Person shall sign any necessary documents to forward third-party payments directly from the payor to the Community.

- 9.3. Insurance. In the event of an initial or subsequent denial of coverage by the Resident's insurance carrier, Resident shall pay the Community timely for all non-covered services retroactive to the date of the initial delivery of services, so long as such payment obligation is consistent with the regulations governing the Community's participation in the Medicare [and Medicaid] Program[s], if applicable.

10. MEDICARE AND OTHER INSURANCE PROGRAMS

- 10.1. Participation in Programs. The Community currently participates in the Medicare programs. The Community reserves the right to withdraw from the Medicare programs at any time in accordance with applicable law.

- 10.2. Actions of Medicare. Resident acknowledges that the Community is not responsible for, and has made no representations regarding, the actions or decisions of Medicare and Medicaid.

- 10.3. Obligations of Resident. Resident is obligated to notify the Community 90 days prior to depletion of Resident's resources. Resident is obligated to apply for any and all benefits available at such time as Resident's resources will no longer be sufficient to pay all the Community charges for Resident's care and stay or when directed to do so by the Community. Resident shall provide any documentation requested and cooperate fully with the Community to obtain third party resources. If Resident applies for benefits pursuant to this Agreement, then Resident shall continue to pay and apply all of Resident's available resources toward the fulfillment of Resident's financial obligations under this Resident Agreement. Resident is obligated to make full, truthful and complete disclosure regarding all financial resources and income during the application process. Failure to identify all resources and income, or the submission of false information, may result in the termination of this Agreement.

- 10.3.1. Consent for the Community to Apply for and/or Appeal Benefits on Behalf of the Resident. If Resident is incompetent or unable to consent and Resident's resources are depleted or appear to be depleted to the extent that Resident can no longer pay, and it appears that Resident has become or will become eligible for benefits to cover the cost of Resident's continued stay in the Community; and if there is no legal representative of Resident willing and able or known to the Community, then Resident

hereby authorizes the Community to request, file and/or apply for benefits on behalf of Resident for the limited purpose of assisting Resident to secure payment for Resident's continued stay in the Community. If the application for benefits filed on behalf of the Resident is denied, or if benefits are granted and subsequently discontinued, Resident hereby authorizes the Community to file on Resident's behalf an appeal of any such denial of eligibility or discontinuance of benefits, and to take such actions to secure Resident's benefits as the Community deems reasonably necessary or appropriate and consistent with law. Resident and Responsible Person warrant and represent that the financial information disclosed in the Application and Financial Statement is true, accurate and complete and may be relied on by the community in pursuing benefits on behalf of Resident.

- 10.4. Medicare Benefits.** If Resident is a beneficiary under Medicare Part B insurance and the nursing services or ancillary services or supplies ordered by a physician are covered by such insurance, the Community or other provider will bill the charges for the covered services or supplies to the Medicare program. The Resident is responsible for and shall pay any co-insurance or deductible amounts under Medicare Part B insurance. The Community shall accept payment from the Medicare intermediary as payment in full only for those services deemed to be covered in full under the Medicare Part B program.
- 10.5. Notice of Change in Insurance Coverage.** Resident and/or Responsible Person shall notify the Community immediately of any change in Resident's insurance status or coverage made by the insurance carrier including, but not limited to, being dropped by the insurance carrier for any reason, or a decrease or increase in insurance benefits. Resident and/or Responsible Person shall give the Community notice before Resident is unable to meet Resident's insurance premium or before Resident implements an increase, decrease or termination from insurance coverage.
- 11. DURABLE FINANCIAL POWER OF ATTORNEY.** Resident is strongly encouraged to furnish to Community, no later than the date of admission, a Durable Power-of-Attorney executed by Resident as Principal designating someone other than the Community or a representative or affiliate of Community as Agent, for the limited purpose of making financial decisions, payment of services and health care decision-making. In the event Resident fails to designate an Agent under a Durable Power-of-Attorney, Resident shall be responsible to pay for any guardianship/conservatorship proceedings related to the appointment of someone or a legal entity to make decisions on behalf of Resident, if and when Resident lacks capacity to make such decisions as determined by Community.
- 12. HEALTH CARE POWER OF ATTORNEY.** Resident is strongly encouraged to furnish to Community, no later than the date of admission, a Health Care Power of Attorney document if DURABLE POWER OF ATTORNEY does not include statements of Health Care Power.

13. **LIVING WILL:** Resident is strongly encouraged to complete a Living Will prior to or at admission. PCSC will provide a living will form, should you choose to complete one.
14. **PERSONAL FUNDS MANAGEMENT.** Resident has the right to manage his personal funds. Resident may authorize the Community, in writing on a document provided by the Community, to hold Resident's personal funds, and may revoke at any time the Community's authorization by providing the Community with a written notice signed and dated by Resident or Responsible Person. If Resident authorizes the Community to hold Resident's personal funds, then Community shall hold, safeguard and account for Resident's personal funds in accordance with applicable provisions in the Community's policies on Resident personal funds.
15. **TERM OF AGREEMENT.** This Agreement shall remain in effect until otherwise agreed by the parties hereto, unless notice of termination or discharge is given by either party to the other in accordance with the provisions of this Agreement.
16. **TERMINATION.**
- 16.1. Events of Termination. The Community hereby reserves the right to terminate this Agreement and transfer or discharge Resident for any one of the following causes:
- 16.1.1. Failure to Pay. Resident has failed, after notice, to pay for charges for Resident's care and stay at the Community.
- 16.1.2. Resident Poses Danger to Self or Others. Determination by the Community's Administrator and/or Medical Director that Resident is a danger to himself or others while remaining in the Community.
- 16.1.3. Resident's Needs Cannot Be Met. Resident's needs cannot be met by the Community at the Residential/Assisted Living level of care and/or Resident refuses to transfer to an appropriate level of care.
- 16.1.4. Resident No Longer Meets Criteria for Residential Care Services. Residents' health status has changed so that Resident no longer meets criteria as defined in SC 61-84 and/or Resident refuses to transfer to an appropriate level of care.
- 16.1.5. Community Ceases to Provide Residential Care Services.
- 16.1.6. Other. Subject to the foregoing events of termination, any conduct which, in the sole and absolute discretion of the Board, is determined to adversely affect either the operation of the Community or other residents of the Community, or which otherwise causes the Board to determine that discharge or transfer is warranted.

16.2. Standards To Be Met Prior to Termination of This Agreement and Involuntary Transfer or Discharge of Resident. Before Resident may be transferred or discharged from the Community for any of the above-specified causes, the following requirements must be satisfied:

16.2.1. Written Determination that Discharge is Warranted. A written determination, signed by the Administrator, shall state:

16.2.1.1. That the determination is made in a manner consistent with applicable law and this Agreement;

16.2.1.2. The reasons supporting the determination that discharge is warranted; and

16.2.1.3. The basis for the conclusion that there is no less restrictive alternative to discharge.

16.2.2. Notice and Waiver of Notice. The Community will notify Resident and Responsible Person (or if none, a family member or legal representative of the Resident, if known to the Community) at least thirty (30) days in advance of transfer or discharge, except in situations when appropriate plans that are acceptable to the Resident can be implemented earlier, and except in cases of emergencies, including those situations described in Sections 14.1.2, 14.1.3, and 14.1.4 above, then only such notice as is reasonable under the circumstances shall be provided, but not later than twenty-four (24) hours following the transfer.

16.3. Withdrawal Against Advice. If Resident withdraws from the Community against the advice of his/her attending physician and/or without approval of the Community, all of Community's responsibilities for the care of Resident are terminated.

16.4. Voluntary Termination by Resident

16.4.1. Notice. Resident may voluntarily terminate this Agreement and be discharged from the Community at any time. A fourteen day written notice of withdrawal is required and Resident is responsible for payment for those fourteen days.

16.4.2. Residency After Notice. Resident shall be permitted to remain in the Community through the last day for which Monthly Service Fees are paid. If Resident terminates residency immediately after giving notice, Resident shall be entitled to a refund of Monthly Service Fees in accordance with this Agreement.

16.4.3. Effect of Termination/Discharge.

16.4.3.1. Discharge Effective Immediately. If Resident is discharged, the Resident shall not be permitted to remain in the Community except for such time as is reasonably necessary to remove Resident's personal property and effects.

16.4.3.2. Community Not Liable to Resident. Resident understands and agrees that the Community shall not be liable to Resident (nor to any other person) because of Resident's transfer or discharge from the Community for any of the causes set forth in Section 14.1 above.

16.4.3.3. Resident Releases the Community. Resident hereby releases the Community from all liability and agrees not to seek to hold the Community (or any officer or employee thereof) liable or responsible to Resident for any loss occasioned by a transfer or discharge described herein.

17. ACCOMMODATION ASSIGNMENT CHANGE. The Community reserves the right and discretion to, upon notice to the Resident or Responsible Person, transfer Resident to another accommodation at any time consistent with the needs of the Community, and in accordance with Resident Rights and regulatory requirements.

18. AMENDMENT OF POLICIES AND TERMS.

18.1. Board's Authority to Amend. Resident acknowledges that the Board of Trustees has the right to amend the Community's policies, Monthly Service Fees, Terms of Admission, and financial terms as the Board sees fit, acting in its sole discretion. The Community will provide notice to the Resident of changes in policies, terms of admission and fees.

18.2. Applicability of Amendments. Resident acknowledges that such changes will apply to all residents of the Community, including the undersigned, regardless of whether the new policies conflict with those in effect at the time of the Resident's application or entry to the Community.

19. COMMUNITY RULES, REGULATIONS, POLICIES AND PROCEDURES. Resident shall comply fully with all governmental laws and regulations, the provisions of this Agreement, and the Community's rules, regulations, policies and procedures as published in the Community's Resident Handbook or other documents or publications made available by the Community. The Community reserves the right to amend or change its rules, regulations, policies and procedures. The Community's rules, regulations, policies and procedures shall not be construed as imposing contractual

obligations on the Community or granting any contractual rights to Resident, and are subject to change from time-to-time.

20. PERSONAL AND OTHER PROPERTY.

- 20.1. Responsibility for Maintenance and Loss.** Resident is responsible for furnishing and maintaining his own clothing, dentures, glasses, hearing aids, other medical appliances, and other items of property as needed or desired. Resident is encouraged to and may obtain at his own expense, casualty insurance to cover potential damage to or loss of any of Resident's personal property. If damage or loss occurs to Resident's property, the Community will investigate each incident of loss or damage to determine liability and assess responsibility depending on the facts and circumstances of each incident. **The Community shall be responsible for only such losses or damages as are attributed by the Community to the negligence or fault of the Community.**
- 20.2. Resident's Transfer, Discharge or Death.** Upon Resident's transfer, discharge or death, Community shall contact Resident's authorized representative within twenty-four (24) hours to arrange for an inventory of Resident's personal property. Community is authorized to transfer Resident's personal property to a duly authorized representative of Resident's estate or other persons entitled to property under current law. The Resident or duly authorized representative of Resident's estate or other persons entitled to property under current law must acknowledge, in writing, the receipt of the personal property transferred to his or her custody by Community.
- 20.3. Disposition and Storage Upon Resident's Transfer or Discharge.** If Resident's personal property is not claimed or removed within fourteen days of Resident's permanent transfer or discharge, the Community shall move and place Resident's personal property in storage. Community will immediately dispose of food and other perishable items. If Resident's personal property remains unclaimed after a ninety (90) day period in storage, the Community may dispose of Resident's property in any manner it deems appropriate and shall not be liable to Resident, family members, heirs or Resident's Estate. The Community is not responsible for any damages incurred to Resident's property if storage becomes necessary. Resident or Resident's estate shall be obligated to pay all costs of storage or disposition and shall bear the risk of loss or damage to the property.
- 20.4. Damage to Accommodation or Community Property.** Resident or Resident's estate is responsible for any damages caused to the Community property beyond normal wear and tear, and shall pay for the repair and replacement of damaged property, based on the actual charge or cost to the Community for such repair or replacement.

21. CONSENTS.

21.1. Treatment. Resident consents that the Community provide care and treatment consistent with the terms of this Agreement. Resident also consents to the Community obtaining all necessary clinical and/or financial information.

21.2. Release of Personal and Medical Records. Resident consents to the release of Resident's personal and medical records maintained by the Community for treatment, payment and operations as determined reasonably necessary by the Community. Any such release may be to the Community's employees, agents and to other health care providers from whom the Resident receives services, to third-party payors or to others deemed reasonably necessary, including, but not limited to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH"), and their implementing regulations, with a HIPAA compliant authorization from the Resident when required.

21.3 Entry by Community Staff. Resident consents to the right of Community staff to enter resident's accommodation for purposes of inspection, alterations, repairs, or delivery of services. Except in an Emergency situation, Community staff will use reasonable efforts to provide you with advance notice of entry.

22. INDEMNIFICATION. Resident shall indemnify and hold the Community harmless from and against, and is responsible to pay for, any damages, including attorneys' fees and reasonable costs, including those incident to establishing the right to indemnification for injury to or death of any person or other resident, or for damage to or loss of the property of any person or resident caused by the acts or omissions of Resident, to the fullest extent permitted by law.

23. COMMUNITY'S GRIEVANCE PROCEDURE. The Community's grievance procedure is set forth in Attachment G to this Agreement.

24. DISPUTE RESOLUTION. It is the policy of the Community that each resident sign the arbitration agreement that is attached to this Agreement as Attachment A (the Arbitration Agreement).

24.1. Federal Arbitration Act. The parties agree and acknowledge that this Agreement involves interstate commerce. Therefore, this arbitration provision is subject to enforcement under the Federal Arbitration Act. If a court of competent jurisdiction determines that the Federal Arbitration Act does not apply, this provision is enforceable under the South Carolina Uniform Arbitration Act.

24.2. Exclusion From Arbitration. Those disputes which have been excluded from arbitration (i.e., guardianship proceedings and disputes involving amounts in controversy of less than \$8,000) may be resolved through the use of the judicial system. In situations involving any of the matters excluded from arbitration,

neither Resident nor the Community is required to use the arbitration process. Any legal actions related to those matters may be filed and litigated in any court which may have jurisdiction over the dispute. This arbitration provision shall not impair the rights of Resident to appeal any transfer and/or discharge action initiated by the Community to the appropriate administrative agency, and after the exhaustion of such administrative appeals, to appeal to the court exercising appellate jurisdiction over the administrative agency.

24.3. Location of Arbitration. The Arbitration will be conducted in Columbia, South Carolina.

- 25. BOARD OF TRUSTEES.** Under a Covenant Agreement with the Presbyteries of the Presbyterian Church in South Carolina, dated February 20, 2010, Presbyterian Communities of South Carolina and the South Carolina Presbyteries operate independently and separately and neither, in whole or in part, has any responsibility for the financial or contractual obligations of the other.
- 26. CONTINUING CARE RETIREMENT COMMUNITY.** This Community is part of a South Carolina Continuing Care Retirement Community and is required to provide this information in this Agreement:

A LICENSE ISSUED BY THE SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS IS NOT AN ENDORSEMENT OR GUARANTEE OF THIS FACILITY BY THE STATE OF SOUTH CAROLINA. THE SOUTH CAROLINA DEPARTMENT OF CONSUMER AFFAIRS URGES THE RESIDENT TO CONSULT WITH AN ATTORNEY AND A SUITABLE FINANCIAL ADVISOR BEFORE SIGNING ANY DOCUMENTS.

- 27. ENTIRE AGREEMENT AND AMENDMENTS.** This Agreement constitutes the sole, full and complete agreement by and between the Parties; and no amendments, changes, additions, deletions or modification to or of this Agreement shall be valid unless reduced to writing, and executed in the same manner as this Agreement.
- 28. HEALTH AND FINANCIAL INFORMATION.** You understand that the medical, personal and financial information submitted by You in connection with the application to the Community is a material part of this Agreement. You agree, periodically during the term of this Agreement, to provide such additional health and financial information as the Community may reasonably require. Applicants are expected to have assets and income sufficient to pay financial obligations and to meet ordinary living expenses required for residency at the Community as determined by the Board of Trustees in its sole discretion.
- 29. RULES AND REGULATIONS.** You agree to abide by all rules and regulations applicable to You and Your Residence.

30. **NON-ASSIGNMENT.** The rights and privileges accorded to You under this Agreement are personal to You and cannot be transferred or assigned to any other person voluntarily or by execution of law. No person other than You may occupy the Residence unless otherwise provided for in this Agreement.
31. **ADDITIONAL OBLIGATIONS.** In addition to other obligations of this Agreement, You agree to:
- 31.1. Complete an Application for Admission. A non-refundable application fee must accompany the Application for Admission. Applicant must be at least 62 years of age to become a resident at PCSC. PCSC reserves the right to verify all information provided during the application process.
 - 31.2. Within thirty (30) days prior to the Date of Occupancy, You agree to have a physical examination, which includes a tuberculin skin test (TST), and submit a Physician's Examination Report complete by your personal physician on forms provided by the Community.
 - 31.3. Provide or be responsible for personal items of clothing, toiletries and other personal property.
 - 31.4. Release and hold harmless the Community, its agents and employees of any responsibility for any event, accident or deterioration of medical condition and from liability for any damage or injury while You are a Resident of the Community.
 - 31.5. Pay all costs of collection, including reasonable attorney's fees, in the event that You fail to pay any amount due to the Community under the terms of this Agreement.
 - 31.6. Authorize the Community to take all steps necessary to enforce the payment of costs and expenses by a responsible third party in the event of an injury to You by that third party. In the event of an injury to You by a third party, the Community shall be subrogated to Your rights to recover from such third party the costs and expenses incurred by reason of such injuries.
 - 31.7. Pay or reimburse the Community for damages that result from the negligence or misconduct of You or Your guests, employees, contractors and invitees. The Community assumes no responsibility for any injury or illness to You resulting from the negligence or intentional misconduct of any third party.
 - 31.8. Possession of any type of firearm within the Community is prohibited.
32. **NO OWNERSHIP INTEREST.** Your rights under this Agreement are the rights and privileges herein expressly granted and do not include any proprietary interest in the properties and assets of Presbyterian Communities of South Carolina or its individual Communities.

33. **ASSUMPTION OF RISK.** You understand and agree that You hereby assume all risks of personal damage or injury which may be sustained by reason of any accident or injury occurring while You are a resident of the Community, except those due to the willful or grossly negligent act or omission of the Community's agents or employees.
34. **JUDICIAL INTERPRETATION.** The unenforceability or invalidity of any provision of this Agreement shall not affect the enforceability or validity of any other provision herein.
35. **MANAGEMENT OF THE COMMUNITY.** PCSC, its Board of Trustees and its Administrators, as delegated by the Board of Trustees are solely responsible for management of the Community.
36. **JOINT OCCUPANCY.** The Community reserves the right to accept or reject any person for residency. Residents do not have the right to determine admission or terms of admission for any other Resident. Should a Resident chose to jointly reside, a separate Residential/Assisted Living Agreement needs to be completed by each individual.
37. **SUCCESSORS AND ASSIGNS.** Except as set forth herein, this Agreement shall bind and benefit the successors and assigns of the Community and Your heirs, executors and administrators.
38. **TRANSFER OF PROPERTY.** You agree not to make any gift or other transfer of property for the purpose of evading Your obligations under this Agreement or if such gift or transfer would render You unable to meet such obligations.
39. **AFFILIATION WITH RELIGIOUS ORGANIZATION.** The Community is in covenant with the Presbyterian Church (USA) in South Carolina; however, such denomination has no responsibility for any of the obligations of the Community under this Agreement.
40. **NOTICE PROVISIONS.** Any notices, consents, or other communications to the Board of Trustees or PCSC shall be in writing and addressed as follows:

Management Services
Presbyterian Communities of South Carolina
2817 Ashland Road
Columbia, South Carolina 29210

Your address for the purpose of giving notice is the address appearing after Your signature below:

41. **NO WAIVER.** No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision of this Agreement. No delay in acting with regard to any breach of any provision of this Agreement by either Party shall be construed to be a waiver of such breach.
42. **HEADINGS AND TERMINOLOGY.** The headings of the various paragraphs of this Agreement are for purposes of reference only, and shall not expand, limit or otherwise affect any of the terms or provisions hereof. All personal pronouns used in this

Agreement shall include all genders; the singular shall include the plural; and the plural shall include the singular.

43. **SEVERABILITY.** The provisions of this Agreement are severable, and if any clause or provision shall be held invalid or unenforceable in whole or in part, then such invalidity or unenforceability shall attach only to such clause or provision, or part thereof, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision in this Resident Agreement in any jurisdiction.
44. **SURVIVAL.** No termination or expiration of this Agreement shall affect any obligations that by their terms or nature must extend beyond the date of termination to be effective.
45. **COUNTERPARTS.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
46. **GOVERNING LAW.** This Agreement, and all matters and disputes arising or to arise under it and the performance thereof, shall be construed in accordance with the laws of the State of South Carolina.
47. **ACKNOWLEDGMENT OF RECEIPT.** Resident acknowledges receipt of documents set forth in Attachment B.

WHEREAS, Martha Dusenbury ("Resident") and Presbyterian Communities of South Carolina (the "Community") have entered into an Agreement (the "Residential/Assisted Living Services Agreement") whereby Resident shall become a resident of the Community; and.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by them or their duly authorized representatives on _____.

Martha R. Dusenbury
Resident

July 16, 2019
Date

2825 Wilton Rd

Current Address (Number and Street)

West Columbia, SC

City, State, Zip Code

803 360-0922

Telephone

Suzanne O. Corver

Resident's Legal Representative

OR

July 16, 2019
Date

Roxanne Wilson

Resident's Responsible Person

AND

July 16, 2019
Date

WITNESSES:

Community Administrator

ATTACHMENT A

RESIDENT AND COMMUNITY ARBITRATION AGREEMENT – READ CAREFULLY

It is understood and agreed by Presbyterian Communities of South Carolina, Inc., a South Carolina non-profit corporation (hereinafter "Community") and Martha Wessendy ("Resident," or "Resident's Authorized Representative," hereinafter collectively "Resident") that any legal disputes, controversies, demands or claims (hereinafter collectively "claims") that arise out of or relate to any financial issues or to any health care or other services provided by the Community to the Resident, shall be resolved exclusively by binding arbitration to be conducted in Columbia, South Carolina in accordance with the American Health Lawyers Association's Alternative Dispute Resolution Service Rules of Procedure for Arbitration and not by a lawsuit or resort to court process except to the extent that applicable state or federal law provides for judicial review of arbitration decisions or the judicial enforcement of arbitration awards. The arbitration shall be conducted by a single neutral arbitrator selected by the Parties.

This agreement to arbitrate (hereinafter "Arbitration Agreement") includes, but is not limited to, any claims for payment, nonpayment or refund for services rendered to the Resident by the Community, violations of any rights granted to the Resident by law or by the Resident Services Agreement, breach of contract, fraud or misrepresentation, negligence, gross negligence, malpractice, or any other claims based on any departure from accepted standards of medical or health care or safety whether sounding in tort or in contract. However, this Arbitration Agreement shall not limit the Resident's right to file a grievance or complaint, formal or informal, with the Community or any appropriate state or federal agency.

Judgment upon any award rendered by arbitration may be entered by any court having jurisdiction thereof. The arbitrator's award to either Party may include (in whole or in part) such Party's reasonable attorneys' fees and other out-of-pocket expenses in connection with the arbitration, based upon the extent to which such Party prevails on the merits of the controversies or disputes at issue and such other facts and circumstances as the arbitrator deems relevant to an equitable result. Otherwise, each Party shall bear its own out-of-pocket expenses in connection with the arbitration, except that all expenses and attorney's fees incurred in any appeal shall be borne by the non-prevailing party.

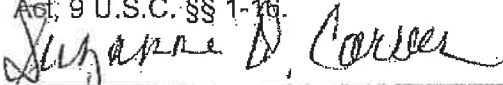
It is the intention of the parties to this Arbitration Agreement that it shall inure to the benefit of and bind the parties, their successors and assigns, including the agents and employees of the Community, and all persons whose claims are derived through or on behalf of the Resident, including the claims of any parent, spouse, child, guardian, executor, administrator, legal representative, or heir of the Resident.

All claims based in whole or in part on the same incident, transaction, or related course of care or services, provided by the Community to the Resident, shall be arbitrated in one proceeding. A claim shall be waived and forever barred if it arose prior to the date upon which notice of arbitration is given to the Community or received by the Resident, and is not presented in the arbitration proceeding.

THE PARTIES UNDERSTAND AND AGREE THAT BY ENTERING THIS ARBITRATION AGREEMENT THEY ARE GIVING UP AND WAIVING THEIR CONSTITUTIONAL RIGHT TO HAVE ANY CLAIM DECIDED IN A COURT OF LAW BEFORE A JUDGE AND A JURY.

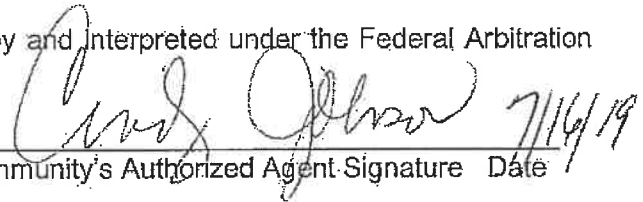
The Resident understands that (1) s/he has the right to seek legal counsel concerning this Arbitration Agreement, (2) the execution of this Arbitration Agreement is not a precondition to the furnishing of services to the Resident by the Community, and (3) this Arbitration Agreement may be rescinded by written notice to the Community from the Resident within 30 days of signature. If not rescinded within 30 days, this Arbitration Agreement shall remain in effect for all care and services subsequently rendered at the Community, even if such care and services are rendered following the Resident's discharge and readmission to the Community.

This Arbitration Agreement shall be governed by and interpreted under the Federal Arbitration Act, 9 U.S.C. §§ 1-16.



Resident/Representative Signature

Date



Community's Authorized Agent Signature

Date

Resident/Representative Printed Name

Community's Authorized Agent Printed Name

ATTACHMENT B

Acknowledgment
Resident Name: Martha R. Desenberg Date: July 12, 2017

Schedule of Monthly Service Fees. Resident and Responsible Person acknowledge the receipt of a copy of the Community's Schedule of Monthly Service Fees and the opportunity to ask questions about the Community's charges.

Initials of Resident MR

Initials of Responsible Person SR

Resident Rights (Attachment C). Resident and Responsible Person acknowledge being informed orally and in writing of Resident's Rights as reflected in the publication attached to this Residential Services Agreement, and further acknowledge having an opportunity to ask questions about those rights. This publication is subject to change from time-to-time and shall not be construed as imposing any contractual obligations on the Community or granting any contractual rights to Resident.

Initials of Resident _____

Initials of Responsible Person SR

Notice of Privacy Practices (Attachment D). Resident and Responsible Person acknowledge being informed, orally and in writing, of the Community's policy on privacy practices governed by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and amended by the Health Information Technology for Economic and Clinical Health Act ("HITECH").

Initials of Resident _____

Initials of Responsible Person SR

Residents Occupying Multiple Accommodations Charge Policy (Attachment E). Resident and Responsible Person acknowledge being informed of the Community's Multiple Accommodations Charge Policy.

Initials of Resident _____

Initials of Responsible Person SR

Nondiscrimination Statement (Attachment F). Resident and Responsible Person acknowledge being informed of the Community's nondiscrimination statement.

Initials of Resident _____

Initials of Responsible Person SR

Resident Name: _____ Date: _____

Disclosure Statement Resident and Responsible Party acknowledge the receipt and have signed a copy of the Disclosure Statement for Presbyterian Communities of South Carolina.

(Attachment G)

Resident Grievance Procedure. Resident and Responsible Person acknowledge the receipt of a copy of the Resident Grievance procedure included in the Disclosure Statement for Presbyterian Communities of South Carolina and the opportunity to ask questions about the Community's procedure. The Resident Grievance procedure is subject to change from time-to-time and shall not be construed as imposing any contractual obligations on the Community or granting any contractual rights to Resident.

Initials of Resident _____.

Initials of Responsible Person SDE.

Memory Support Center (Attachment H). Resident and Responsible Person acknowledge the receipt of a copy of the Community's Special Care Disclosure Statement (Attachment H). Resident and Responsible Person acknowledge being informed of the Community's Memory Support Center.

Initials of Resident _____.

Initials of Responsible Person SDE.

Resident Handbook. Resident and Responsible Person acknowledge the receipt of a copy of the Resident Handbook and the opportunity to ask questions about the Community's policies contained in the Resident Handbook. The Resident Handbook is subject to change from time-to-time and shall not be construed as imposing any contractual obligations on the Community or granting any contractual rights to Resident.

Initials of Resident _____.

Initials of Responsible Person SDE.

ATTACHMENT C

RESIDENT'S BILL OF RIGHTS

South Carolina Code of Laws,
Section 44-81-20 et. seq.

As a resident of this facility, YOU have or your legal guardian has, the right to:

MEDICAL TREATMENT

Choose your own personal physician;
Receive from your physician a complete and current description of your medical condition in terms you understand;
Participate in planning the care and treatment you receive;
Participate in any changes to your care and treatment;
Be fully informed in advance of any changes in your care and treatment that may affect your well-being;
Refuse to participate in any type of experimental tests or research;
Have privacy during treatment;
Have your medical records treated with confidentiality;
Approve or refuse release of your medical records to anyone outside this facility, unless you are transferred to another health care facility, or it is required by law or by other third party contracts;

PERSONAL POSSESSIONS

Have security in storing your personal possessions;
Approve or refuse release of your personal records to anyone outside the facility, except as provided by law;
Keep and use personal clothing and possessions as long as they do not affect other residents' rights;
Manage your personal finances. If the facility has been delegated in writing to manage your finances for you, it must provide you with a quarterly report of your finances;

Be treated with respect and dignity;
Be free from mental or physical abuse;

PERSONAL TREATMENT

Be free from being restrained either physically or with drugs, unless your doctor has ordered them;
Be free from working or performing services for the facility unless they are part of your plan of care;
Be discharged or transferred to another facility against your wishes only for: your welfare; the welfare of the other residents; medical reasons; or for nonpayment. You must be given written notice at least 30 days prior to discharge or transfer, unless your discharge or transfer is for your welfare or the welfare of other residents; in that case the facility must provide you with written notice within a reasonable time under the circumstances.

COMMUNICATION

Have your legal guardian, family members, and other relatives see you when they visit;
Refuse to see your legal guardian, family members, and other relatives;
Send and receive mail with freedom and privacy;
Associate and communicate privately with persons of your choice;
Meet with your legal guardian, family members, or other resident's family members to discuss this facility;
Meet with and participate in social, religious, and community group activities, unless a written medical order prohibits such activity;

Have privacy when receiving personal care;
Have privacy when visiting with your husband or wife;

PERSONAL PRIVACY

Share an accommodation with your husband or wife, unless your doctor forbids this in your medical record;

Have your personal records treated confidentially;

Employ a sitter from outside this facility to come and provide you with sitter services, unless you have already agreed in writing with this facility not to hire a private sitter. You must choose a sitter from an approved agency or list and that sitter must be approved by the facility. The sitter must also abide by the policies and procedures of this facility. You must agree not to hold the facility liable for any matters involving your private sitter.

By the time you were admitted to this facility, a representative of this facility must have explained to you:

Your Rights: You must have been told and given a written explanation of your rights as explained in this poster, what to do if you believe your rights have been violated, and how to enforce your rights under state law. You must have acknowledged that you received these explanations in writing, and they must be part of your file.

Services: You must have been given a written list of the services that are available to you and their cost. If the services or their costs change, you must be notified of those changes in writing.

Refund Policy: This facility must have a policy on giving refunds to residents. The policy must be based on the actual number of days you were in the facility or a bed was held there for you. You must have been given a copy of this policy in writing and you must be notified in writing again of any changes that are made to this policy.

If you contact a member of the facility staff, but no action is taken on your behalf, contact: **South Carolina Department of Health & Environmental Control, Health Licensing, 2600 Bull Street, Columbia, SC 29201. Or call: (803) 545-4370.**

ATTACHMENT D

PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA NOTICE OF PRIVACY PRACTICES

Effective September 1, 2009

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION.

PLEASE REVIEW CAREFULLY:

Uses and Disclosures

Treatment. Your protected health information may be used by workforce members or disclosed to other health care professionals for the purpose of evaluating your health, diagnosing medical conditions, coordinating and providing treatment. For example, results of laboratory tests and procedures will be available in your medical record to all health professionals who may provide treatment or who may be consulted by staff members. Also, a doctor treating you for a broken leg may need to know if you have diabetes because diabetes may slow the healing process. In addition, the doctor may need to tell the dietitian if you have diabetes so that we can arrange for appropriate meals. We may also disclose your protected health information to another healthcare facility or professional not affiliated with our facility but who is or will be providing treatment to you. For instance, if after you leave the facility you are going to receive home health care we may disclose your protected health information to that home health care agency so that a plan of care can be prepared for you.

Payment. Your protected health information may be used to seek payment from your health plan, from other sources of coverage such as from credit card companies that you may have used to pay for services. For example, your health plan may request and receive information on dates of service, the services provided, and the medical condition being treated in order to determine coverage and to provide payment.

Health Care Operations. Your protected health information may be used as necessary to support the day-to-day activities and management of Presbyterian Communities of South Carolina ("PCSC"). Health care operations are those activities that are necessary to run our facility and make sure that all of our residents receive quality care. For example, we may use protected health information to review our treatment and services and to evaluate the performance of our staff in caring for you. We may also combine protected health information about many residents to decide what additional services the facility should offer, what services are not needed, and whether certain new treatments are effective. We may also disclose protected health information to doctors, nurses, and workforce members for review and learning purposes. We may also use and disclose information for licensing and case management. We may also use or disclose your protected health information to conduct or arrange for medical review, legal services, and auditing functions or to provide for business planning and development or business management and general administration.

Appointment Reminders. Your protected health information will be used by our staff to send you appointment reminders.

Information About Treatments. Your protected health information may be used to send you information that you may find interesting on the treatment and management of your medical condition. We may also send you information describing other health-related products and services that we believe may interest you.

Law Enforcement. Your protected health information may be disclosed to law enforcement agencies to support government audits and inspections, to facilitate law-enforcement investigations, and to comply with government mandated reporting.

Public Health Reporting. Your protected health information may be disclosed to public health agencies as required by law. For example, we are required to report certain communicable diseases to the state's public health department and report adverse events with respect to food, drugs and product defects to the federal Food and Drug Administration.

As Required By Law. We may use or disclose your protected health information as required by law so long as the requirements for disclosures related to abuse, neglect or domestic violence reporting, law enforcement or for legal proceedings are followed.

For Abuse, Neglect or Domestic Violence Reporting. If we believe that you have been a victim of abuse, neglect or domestic violence, we may disclose your protected health information to a government authority or agency authorized by law to receive such reports.

For Health Oversight Activities. We may disclose your protected health information to a health oversight agency for activities authorized by law, such as audits, civil, administrative or criminal investigations, inspections, licensure or disciplinary actions.

For Legal Proceedings. We may disclose your protected health information in the course of any judicial or administrative proceedings in response to an order of the court, administrative tribunal, subpoena, discovery request or other lawful request.

For Law Enforcement. We may disclose your protected health information for law enforcement purposes in response to a court order, court ordered warrant, subpoena, summons, a grand jury subpoena, administrative request or similar process.

Coroners, Medical Examiners and Funeral Directors. We may disclose your protected health information to coroners, medical directors or funeral directors as required by law to carry out their duties.

For Organ and Tissue Donation. If you are an organ donor, we may use or disclose your protected health information to organ procurement organizations or other organizations that handle procurement, banking or transplantation of organs for the purpose of tissue donation and transplantation.

For Research. We may use or disclose your protected health information to researchers provided that the use or disclosure has been approved and procedures have been established to ensure the privacy of your protected health information.

To Prevent Serious Threat to Health or Safety. We may use or disclose your protected health information if, in good faith, we believe the use or disclosure is necessary to prevent or lessen a serious threat to your health and safety or to the health and safety of the public or another person.

Military Activity, Veterans, and National Security. If you are a member of the Armed Forces, we may use or disclose your protected health information for activities deemed necessary by appropriate military command authorities to assure the proper execution of the military mission. We may disclose protected health information to authorized federal officials for intelligence, counterintelligence, and other national security activities authorized by law.

Worker's Compensation. We may use or disclose your protected health information to comply with worker's compensation or other similar programs established by law for work-related injuries or illness.

Fundraising. Unless you request us not to, we will use your name and address to support our fund-raising efforts.

Business Associates. We may disclose your protected health information to our business associates that perform certain functions on our behalf or provide certain services to us. For example, we may use a company to perform certain billing services on our behalf to which we would disclose information about you necessary for the company to send you a bill.

Notification to Individuals Involved in your Care. Subject to your prior opportunity to object, we may use or disclose protected health information to a family member, close friend, or any other person you identify to the extent it is relevant to that person's involvement in your treatment. We may also disclose your protected health information to your family or friends if it is apparent from the circumstances and based on our professional judgment that you would not object. For example, we may assume that you do not object to disclosure of your protected health information to your spouse if you permit your spouse to accompany you during treatment or to be present while treatment is discussed.

Pick up of Prescriptions, X-rays, Etc. Subject to your prior opportunity to object, we may use our professional judgment and experience with common practice to make reasonable inferences of your best interest in allowing a person (family member, other relative or a close personal friend) to act on your behalf if you are not present to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of protected health information. If, in our professional judgment the requested disclosure is not in your best interest, then your authorization for the disclosure will be obtained.

Facility Directory. Unless you notify us that you object, we will use and disclose your name, location in the facility, condition (in general terms) and religious affiliation for directory purposes. This information, except for religious affiliation, will be disclosed to people who ask for you by name. Only members of the clergy will be told of your religious affiliation. We may also disclose protected health information about you to an entity assisting in a disaster relief effort so your family can be notified about your condition, status and location.

Other Uses and Disclosures Require Your Authorization. Disclosure of your protected health information or its use for any purpose other than those listed above requires your specific written authorization. If you change your mind after authorizing a use or disclosure of your information you may submit a written revocation of the authorization. However, your decision to revoke the authorization will not affect or undo any use or disclosure of information that occurred before you notified us of your decision to revoke your authorization.

If we receive protected health information from a facility covered by the Alcohol and Drug Rehabilitation Act, or if we receive or create certain psychiatric protected health information, we will not further disclose or disclose that protected health information without your express permission or as allowed or required by law.

Individual Rights

You have certain rights under the Privacy Rule. These include:

Right to Inspect and Copy. You have the right to inspect and copy protected health information. This usually includes medical and billing records.

To inspect and copy your protected health information, we ask that you submit your request in writing to the address below. If you request a copy of your protected health information, we may charge a fee for the costs of copying, mailing or other supplies associated with your request. This fee is set by South Carolina law.

We may deny your request to inspect and copy your protected health information in certain very limited circumstances. If you are denied access to protected health information, in certain circumstances, you may request that the denial be reviewed. A licensed health care professional chosen by the facility will

review your request and the denial. The person conducting the review will not be the person who denied your request. We will comply with the outcome of the review.

Right to Amend: If you feel that your protected health information we maintain is incorrect or incomplete, you may ask us to amend the information. You have the right to request an amendment for as long as the information is kept by our facility.

To request an amendment, your request must be made in writing and submitted to PCSC at the address below on our designated forms. In addition, you must provide a reason that supports your request.

We may deny your request for an amendment if it is not in writing or does not include a reason to support the request. In addition, we may deny your request if you ask us to amend information that:

- Was not created by us, unless the person or entity that created the information is no longer available to make the amendment;

- Is not part of the protected health information kept by or for the facility;

- Is not part of the protected health information which you would be permitted to inspect and copy; or

- Is accurate and complete.

Right to an Accounting of Disclosures: You have the right to request an "accounting of disclosures," which is a list of the disclosures of your protected health information. This right applies to disclosures for purposes other than treatment, payment or healthcare operations as described in this Notice and certain other disclosures.

To request this list or accounting of disclosures, you must submit your request in writing to the address below. Your request must state a time period, which may not be longer than six (6) years and may not include dates before [insert date]. Your request should indicate in what form you want the list (for example, on paper, electronically). The first list you request within a 12 month period will be free. For additional lists, we may charge you for the costs of providing the list. We will notify you of the cost involved and you may choose to withdraw or modify your request at that time before any costs are incurred.

Right to Request Restrictions: You have the right to request a restriction or limitation on the protected health information we use or disclose about you. You also have the right to request a limit on the protected health information we disclose about you to someone who is involved in your care or the payment for your care, like a family member or friend. For example, you could ask that we not use or disclose protected health information about a blood test you had.

We are not required to agree to your request. If we do agree, we will comply with your request unless the protected health information is needed to provide you emergency treatment.

To request restrictions, you must make your request in writing to the address below on our designated forms. In your request, you must tell us: (1) what protected health information you want to limit; (2) whether you want to limit use, disclosure, or both; and (3) to whom you want the limits to apply. These restrictions will not apply if disclosure is required by law.

Rights to Confidential Communications: You have the right to request that we communicate with you about health care matters in a certain way or to a certain location. For example, you can ask that we only contact you at work or by mail.

To request confidential communications, you must make your request in writing to the address below.

We will not ask you the reason for your request. We will accommodate all reasonable requests. Your request must specify how or where you wish to be contacted.

Right to a Paper Copy of This Notice: You have the right to a paper copy of this Notice. You may ask us to give you a copy of this Notice at any time. Even if you have agreed to receive this Notice electronically, you are still entitled to a paper copy of this Notice.

To obtain a paper copy of this Notice, contact the HIPAA Compliance Officer at the address or phone number below. This Notice may also be obtained on our website at www.preshomesc.org.

Any of these rights may be exercised by a written request to the following:

HIPAA Privacy Officer
Presbyterian Communities of South Carolina
2817 Ashland Road
Columbia, SC 29210
(803) 772-5872

PCSC's Duties

We are required by law to maintain the privacy of your protected health information and to provide you with this notice of privacy practices.

We are also required to abide by the privacy policies and practices that are outlined in this notice.

Right to Revise Privacy Practices

As permitted by law, we reserve the right to amend or modify our privacy policies and practices. These changes in our policies and practices may be required by changes in federal and state laws and regulations. Upon request, we will provide you with the most recently revised notice on any office visit. The revised policies and practices will be applied to all protected health information we maintain.

Requests to Inspect Protected Health Information

You may generally inspect or copy the protected health information that we maintain. As permitted by federal regulation, we require that requests to inspect or copy protected health information be submitted in writing. You may obtain a form to request access to your records by contacting the HIPAA Compliance Officer. Your request will be

reviewed and will generally be approved unless there are legal or medical reasons to deny the request.

Complaint

If you would like to submit a comment or complaint, or obtain further information about our privacy practices, you can do so by sending a letter outlining your concerns to:

HIPAA Privacy Officer
Presbyterian Communities of South Carolina
2817 Ashland Road
Columbia, SC 29210
(803) 772-5872

If you believe that your privacy rights have been violated, you should call the matter to our attention by sending a letter describing the cause of your concern to the same address. Or you may file a complaint to the Office of Civil Rights, U.S. Department of Health and Human Services. A complaint must be filed within 180 days of when you knew or should have known that the act or omission complained of occurred, unless the Secretary of the U.S. Department of Health and Human Services waives this time limit for good cause shown.

ATTACHMENT E

Residents Occupying Multiple Accommodations Charge Policy

When a resident occupies more than one accommodation due to a temporary change in medical need, they will pay the full price for the higher level of care and receive a discount for the lower level of care.

The lower level of care shall be discounted \$20.00 per day for the incremental cost of food, utilities, staff, overhead and administrative expenses. If the resident is in residential assisted living and moves to the health care center, the level of care reduced to Level One.

If the resident occupies more than two accommodations, the discount shall apply to each additional accommodation.


Healthcare residents who are on hospital or any other leave shall pay the full rate for the accommodation during their absence or until the resident's belongings are removed.

Residents whose contracts include 14 days of care may use those days as bed-hold days.

By signing below I acknowledge that I have been informed of the charges for occupying multiple accommodations.


Resident or Resident's Representative


Date


PCSC Representative

ATTACHMENT F

Presbyterian Communities of South Carolina

Non-Discrimination Policy

It is the policy of Presbyterian Communities of South Carolina to admit or provide services to all residents without regard to race, color, sex, national origin, handicap or age in compliance with the 45 CFR Parts 80, 84 and 91 respectively. Each resident must be admitted to the facility on the recommendation of a licensed physician. It is the policy of the facility not to retain a resident who required services beyond those for which the facility is licensed or has the functional ability to provide. This determination is made by the facility director of health services in conjunction with the Medical Director and other healthcare professionals as appropriate.

ATTACHMENT G

PCSC Disclosure Statement

DISCLOSURE STATEMENT
FOR
PRESBYTERIAN COMMUNITIES
OF
HOME OF SOUTH CAROLINA
COLUMBIA, SOUTH CAROLINA

July 3, 2018

Person Responsible for Preparation of Application

Katherine R. Ligon, President & CEO
Presbyterian Communities of South Carolina
2817 Ashland Road
Columbia, SC 29210-5009
Telephone (803) 772-5885

**DISCLOSURE STATEMENT
FOR
PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA
(DBA Presbyterian Communities of South Carolina)**

July 3, 2018

1. The operator is Presbyterian Communities of South Carolina
Management Services Office
2817 Ashland Road
Columbia, SC 29210
Telephone Number: (803) 772-5885 Toll Free: 888-842-4855
Fax Number: (803) 772-5872
Website: www.preshomesc.org

The operator is a corporation.
2. Name of person to contact: Katherine R. Ligon
Position within the facility: President & Chief Executive Officer
Mailing Address: 2817 Ashland Road
Columbia, SC 29210
Telephone Number: (803) 772-5885
Fax Number: (803) 772-5872
E-mail: kligon@preshomesc.org
3. Presbyterian Communities of South Carolina will make available, upon request, the names and business addresses of the officers, directors, trustees, managing or general partners, any person having a 5% or greater equity or beneficial interest in the continuing care community, and any person who will be managing the facility on a day-to-day basis, together with a description of the business experience of these persons in the operation or management of similar facilities and if applicable, a description of any matter in which these persons: (i) have been convicted of a felony or pleaded nolo contendere to a felony charge, or held liable or enjoined in a civil action by final judgment, if the felony or civil action involved fraud, embezzlement, fraudulent conversion, or misappropriation of property; or (ii) are subject to a currently effective injunctive or restrictive court order or within the past five (5) years, had a state or federal license suspended or revoked as a result of an action brought by a governmental agency or department.
4. Under a Covenant Agreement with the Presbyteries of the Presbyterian Church (USA) in South Carolina, dated February 20, 2013, Presbyterian Communities of South Carolina and the South Carolina Presbyteries operate independently and separately and neither, in whole or in part, has any responsibility for the financial or contractual obligations of the other.
5. Presbyterian Communities of South Carolina, Inc. is exempt from income tax under Section 501(c)(3) of the Internal Revenue Code.

6. Accommodations at Presbyterian Communities of South Carolina are located at the following addresses and the current census listed is for October 30, 2016.

A. 201 W. 9th North Street, Summerville, SC 29483 on a 84 acre campus:

1. 53 apartments with 55 residents
2. 59 cottages with 77 residents
3. 95 residential rooms/suites with 70 residents
4. 88 community infirmiry beds with 79 residents

Items 3 and 4 are licensed by DHEC

B. 801 Musgrove Street, Clinton, SC 29325 on a 40 acre campus:

1. 33 apartments with 24 residents
2. 23 cottages with 26 residents
3. 44 residential rooms/suites with 28 residents
4. 27 institutional and 18 community infirmiry beds with 32 residents

Items 3 and 4 are licensed by DHEC

C. 2350 West Lucas Street, Florence, SC 29501 on a 31 acre campus:

1. 14 apartments with 11 residents
2. 20 cottages with 23 residents
3. 38 residential rooms/suites with 39 residents
4. 44 institutional infirmiry beds with 34 residents

Items 3 and 4 are licensed by DHEC

D. 700 DaVega Drive, Lexington, SC 29073 on a 34 acre campus:

1. 41 apartments with 43 residents
2. 13 cottages with 16 residents
3. 83 residential rooms/suites with 78 residents
4. 44 community infirmiry beds with 40 residents

Items 3 and 4 are licensed by DHEC

E. 205 Bud Nalley Drive, Easley, SC 29642 on a 68 acre campus:

1. 52 apartments with 67 residents
2. 21 cottages with 19 residents
3. 50 residential rooms/suites with 50 residents
4. 22 institutional infirmiry beds and 22 community beds with 38 residents

Items 3 and 4 are licensed by DHEC

F. 100 Joseph Walker Drive, West Columbia, SC 29169 on a 26 acre campus:

1. 76 apartments with 83 residents
2. 8 cottages with 6 residents
3. 22 residential rooms with 21 residents
4. 12 institutional infirmary beds with 9 residents

Items 3 and 4 are licensed by DHEC

- 2) Current Number of Residents who are provided services pursuant to a Contract for Continuing Care:

On 10/30/16 PSCS was serving a total of 814 people -- 63 on Medicare (10 of which are PCSC residents and 53 that are there for short-term post acute care.

Therefore, 761 are provided services pursuant to a Contract for Continuing Care.

- 3) Current occupancy status of a Nursing Home, Community Residential Care Facility or a similar facility or accommodation:

Presbyterian Communities of South Carolina operates a portion of its facilities as assisted living quarters and skilled nursing care units licensed by the South Carolina Department of Health and Environmental Control.

The current occupancy of these facilities on 10/30/2016 is 79%. The average year to date occupancy of these facilities as of 10/30/2016 is 82%

- 4) Number of Reservation Deposits and/or number of people on the Waiting List:

Presbyterian Communities of South Carolina currently has 33 Refundable Reservation Deposits for Independent Living Units.

	Wait List	Reservation Deposits
Internal Independent Living	5	0
External Independent Living	36	33
Internal Assisted Living	13	0
External Assisted Living	45	0
Internal Memory Support	2	0
External Memory Support	5	0
Internal Skilled Nursing	20	0
External Skilled Nursing	16	0

7. Presbyterian Communities provides a wide range of services which are available to all residents at no charge above the monthly service fee. The services provided

include, but are not limited to: declining balance meal credits sufficient to meet nutrition needs of one meal per day for an average person; all utilities except telephone; cable TV service; weekly housekeeping; linen service; scheduled local transportation to primary physician; maintenance of accommodations, community areas and grounds; emergency response system in most accommodations; postal services; planned on and off site activities and programs; scheduled transportation for shopping, recreational and cultural events; exercise classes; library; wellness director emphasizing the seven dimensions of wellness; chaplain and Sunday vespers.

Services and amenities available at an additional charge include: Barber and beauty shop services; guest meals and accommodations; special events, trips and activities, concierge services; in-home care, Home Health and outpatient therapy.

If a resident requires services not routinely provided by Presbyterian Communities, the communities may undertake to provide those services at an additional cost to the resident. If and when the Community undertakes to provide services not routinely made available, the resident will reimburse the Community for all costs incurred in providing the service.

If the Resident is not qualified due to health requirements, the Resident may apply for admittance to the level of service required, and if available, pay the applicable health services fees.

Skilled Nursing care and four levels of assisted living services are available at all of Presbyterian Communities' licensed health centers at an additional per diem charge.

8. Persons seeking admission to independent living residences (apartments and patio homes) pay a Refundable Reservation Deposit and sign a Reservation Agreement to be placed on an active waiting list and be approved financially for admission. Upon accepting an independent living residence and choosing the type of Entrance Fee desired, the resident signs a Residence and Services Agreement and pays a refundable Entrance Fee Deposit, less the amount of the Reservation Deposit. The balance of the Entrance Fee is due prior to occupancy.

Two types of rental options may be offered. 1) The rental fee is based on a percentage of the entrance fee established for the residence being offered. 2) A nominal rental fee based on the size of the residence may be available on a temporary basis. There is also a basic monthly service fee assigned to each type of residence with a lesser fee for second person occupancy.

Additional levels of care (Residential/Assisted Living and Skilled Nursing) are available at all five Presbyterian Community locations. Secure Memory Care is available in at the Columbia, Foothills and Florence Communities. Cost is assigned according to Community, the type of health services residence and type of care required.

- a. Fees charged if a resident marries:

Should a resident marry or choose to jointly reside with another resident within the Community, each resident maintains his/her original agreement but may combine living accommodations. The applicable monthly service fee for the dually occupied residence will include a second person fee.

Should a resident marry or choose to jointly reside with a non-resident of the Community, all admission criteria required by the Community must be met by that individual and the new spouse must pay the Entrance Fee for the most common single occupancy unit. The applicable Monthly Service Fee for the unit will include the second person fee.

If the new resident does not meet the requirements of the Community for admission to independent living, the following options are available:

- 1) The Resident may terminate the Agreement and any refund due will be paid in accordance with the Entrance Fee Option initially selected for the residence.
 - 2) If the new resident is not qualified due to health requirements, the new spouse may apply for admittance to the level of care required, and if available, pay the applicable health services fees.
- b. Residents, who meet qualifications, are eligible to apply for financial subsidy through the administrator of their Community. They must have supplied complete financial data at the time of entry into the Community. Their application is referred to a committee comprised of the Chief Operating Officer, the Chief Financial Officer and the President & Chief Executive Officer.
- c. Presbyterian Communities of South Carolina is currently certified to accept Medicare patients at the Clinton Presbyterian Community, the Columbia Presbyterian Community, the Florence Presbyterian Community, the Foothills Community and the Village at Summerville. **(Attachment A)**
- d. At any time after occupancy, an Agreement may be terminated by giving the Community a thirty-day written notice of such termination. The amount of refund due is determined according to the Entrance Fee Option and amortization schedule selected by the resident.

A Residence and Services Agreement may be terminated prior to occupancy for any reason by giving a written notice to the Community. In the event of such termination, a refund, less an administrative charge and any non-standard costs will be paid within sixty (60) days following receipt of written notification of such termination. No administrative charge will be made if such termination is because of death, or because physical, mental or financial condition makes a person ineligible for admission to the Community.

The Residence and Services Agreement is terminated upon permanent departure from the Community.

The Community may terminate the Residence and Services Agreement at any time if there has been a material misrepresentation or omission made by the resident in the Application for Admission, personal Health History, Confidential Financial Disclosure, or Physician's Examination Report; if a resident fails to make payment to the Community of any fees or charges due within sixty (60) days of the date when due; or if a resident does not abide by the Community's policies, procedures and such amendments, modifications, and changes as may be adopted by the Community or breaches any of the terms and conditions of the Agreement; or, if a level of care is required which the Community does not or cannot provide; or if, in the sole judgment of the Community, a resident is not compatible with other Residents or is disruptive.

- e. When a resident vacates a unit due to death, permanent departure or transfer to another unit, it may be assigned to a new or existing resident.
 - f. Presbyterian Communities has operated with an annual budget on a calendar year basis since it opened. Although basic monthly service fees have not increased every year, fees are usually adjusted at the fall meeting of the Board of Trustees. Shortly after adoption, a letter is sent to each resident outlining the increases to take effect January 1st of the next calendar year. Basic monthly fees at all five communities increased on average by 3.8% in 2016, 3.30% in 2017 and 2.35% in 2018.
9. Under the home care and home health services, Presbyterian Communities may provide assistance with personal care such as medications, bathing, dressing and grooming to residents in independent living residences at an additional charge. As long as a resident resides in an Independent Living residence, the resident must be able to safely maintain an independent style of living without extensive assistance from the Community's staff, except in an emergency.
- Within thirty (30) days prior to the Date of Occupancy, a resident must agree to have a physical examination and submit an Examination Report completed by his/her personal physician that confirms the resident's ability to meet the criteria set by the Community for independent living.
10. A resident must have assets and income sufficient to pay financial obligations of the Community under the Residence and Services Agreement in regard to Entrance Fees, Monthly Service Fees and fees for additional levels of care while a resident at the Community.
11. All residents pay an established room and board fee for the accommodation in which they live. Persons accepting admission to independent living residences (apartments and cottages) pay a refundable reservation deposit based on the entrance fee option selected. Monthly service fees are paid by all residents.
12. As of June 30, 2018, Presbyterian Communities had 441 residents living in 411 apartments and cottages.

13. The attached Grievance Policy (**Attachment B**) outlines the process for receiving and resolving written complaints from residents.
14. Upon request, the operator is required to furnish an itemized statement for all charges to the resident or person paying the bills, unless the items or charges are included in the continuing care contract. Items which remain unpaid are not required to be itemized again. A request for an itemized statement remains in effect until further notification by the resident or person paying the bill.

In addition to the information contained in this disclosure statement, a prospective resident or prospective resident's legal representative with a general power of attorney has a right to ask for and receive information regarding;

- a. reserve funding of the facility;
- b. experience of persons who will make investment decisions;
- c. certified financial statements of the operator including balance sheets and income statements;
- d. a feasibility study for a facility that has not begun operations; and
- e. information regarding persons having a five percent or greater interest in the facility within the scope of Section 37-11-30(B) (2).

I hereby acknowledge receipt of this disclosure statement;

04-16-2019
(Date)

Suzanne D. Carter
(Name)

ATTACHMENT A

PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA HAS FIVE COMMUNITIES THAT ARE CERTIFIED FOR MEDICARE REIMBURSEMENT - CLINTON, COLUMBIA, FLORENCE, FOOTHILLS AND SUMMERVILLE. THE COLUMBIA COMMUNITY RECEIVED 1357 MEDICAID PERMIT DAYS in 2018.

IN CASE A RESIDENT EXHAUSTS AVAILABLE FINANCIAL RESOURCES PRIOR TO OR FOLLOWING ADMISSION TO OUR SKILLED NURSING OR ASSISTED LIVING ACCOMMODATIONS, THE RESIDENT MAY HAVE NO CHOICE BUT TO APPLY FOR ADMISSION TO A FACILITY THAT IS ELIGIBLE FOR MEDICAID.

THE DISCRETIONARY FUNDS AVAILABLE TO THE MANAGEMENT MAY BE USED TO SUPPLEMENT THE ENTIRE COST OF CARE OR A PART OF IT. HOWEVER, THE APPLICATION OF THESE FUNDS IS ENTIRELY WITHIN THE DISCRETION OF THE MANAGEMENT AND THE PRESENCE OF THESE FUNDS IS NO GUARANTEE FOR A CONTINUING STAY IN THIS FACILITY FOLLOWING THE DEPLETION OF YOUR OWN FINANCIAL RESOURCES. TO BE CONSIDERED FOR FINANCIAL SUBSIDY, A FINANCIAL STATEMENT MUST BE PRESENTED UPON APPLICATION.

I hereby acknowledge receipt of this statement regarding the Medicare/Medicaid eligibility at Presbyterian Communities of SC, as required by the South Carolina Department of Consumer Affairs and this Disclosure Statement.


Signature of Applicant


Signature of Applicant

ATTACHMENT B

GRIEVANCE POLICY AND PROCEDURE

POLICY:

Any person may file a grievance or make a complaint without retaliation, discrimination, or reprisal for voicing the grievance. Grievances will be handled and maintained in a confidential manner.

POLICY IMPLEMENTATION:

1. An individual may file a grievance in writing if they feel a policy or regulation has been violated.
2. Grievances will be recorded and handled confidentially and will include the following
 - a. The alleged violation
 - b. The names of the aggrieved party
 - c. The date and location the grievance allegedly occurred.
3. PCSC will make efforts to promptly resolve the grievance. The preferred time frame for resolution is seven (7) days. Within thirty days a written grievance response will be provided to the aggrieved party. There will be verbal follow up with the aggrieved party when the grievance is resolved and within one month after the grievance is resolved to make sure there have been no further concerns.
4. The grievance response will include:
 - a. The date of the written response.
 - b. The facility's position in regard to the complaint.
 - c. A description of the review and appeal rights including the name and telephone number of PCSC Management Services and the ombudsman.
 - d. The grievance response will be filed in the resident's central file and/or employee's file.
5. If the aggrieved party is unsatisfied with the resolution, they may appeal to Management Services.
6. If the resident/representative is unsatisfied with the response from PCSC Management Services, they may contact the ombudsman.

EXHIBIT B



THE COLUMBIA
PRESBYTERIAN COMMUNITY
Presbyterian Communities of South Carolina

**ANNUAL MEDICAL HISTORY AND PHYSICAL
RESIDENTIAL CARE**

To be completed by physician and faxed directly to:

Resident Name: <u>M Dusenberry</u>			
1. Contagious disease or infection?	Yes <input type="checkbox"/>	Explain	No <input checked="" type="checkbox"/>
2. Does this person have any dental or podiatry problems?	Yes <input type="checkbox"/>	Explain	No <input checked="" type="checkbox"/>
3. Is this person having behaviors that may endanger him/herself or others?	Yes <input type="checkbox"/>	Explain	No <input checked="" type="checkbox"/>
4. Does this person have dementia or Alzheimer's disease?	Yes <input checked="" type="checkbox"/>	Explain	No <input type="checkbox"/>
Stage: Requires a Secured Memory Care Living Environment? Yes <input type="checkbox"/> No <input type="checkbox"/>			
5. May keep prescribed medication in room and self administer?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
6. May keep OTC medications in room and self administer?	No <input checked="" type="checkbox"/>		
7. Is this person able to store and independently use:	Yes <input type="checkbox"/> No <input type="checkbox"/>		
• personal care items	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
• toiletries	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
• hazardous agents/cleaning supplies	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
• alcohol	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
8. Does this person have the physical ability to engage in geriatric exercise?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
9. Is this person ambulatory; able to enter and exit the facility with minimal assistance?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
10. Does this person require the care of a licensed nurse?	Yes <input type="checkbox"/>	Explain	No <input checked="" type="checkbox"/>
11. Does this person require nursing home care?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	
12. Is this person able to perform self care for tubes and/or treatments?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	
Explain:			
13. A Community Residential Care Facility provides room, board, and a degree of personal assistance in the activities of daily living.	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		
Can this person be care for in such a facility?			
Reason: <u>personality cannot perform ADLs at ALP level, needs skilled care</u>			
Physician's Signature <u>[Signature]</u>		Date <u>7/17/23</u>	
Address:		City:	State: Zip Code

Please send any summaries, lab studies, X-ray reports, etc., which were completed as a part of this applicant's examination.

Senior Health Associates PA
2858 Sunset BLVD
West Columbia SC 291693420
Phone: 803-699-9073 Fax: 866-527-0937

Visit Note - ALF

Provider: Floyd Ashton Cribbs, MD
Encounter Date: Jul 18, 2023
Patient: Dusenbury, Martha R (PT00015657)
Sex: Female
DOB: Aug 24, 1925 Age: 97 Year
Race: White
Address: 700 DaVega Drive, Lexington SC 290739698 Pref. Phone(C): 803-360-0922

Insurance:
MEDICARE (PP) Insurance ID: 8M34PP1FN01

Description: General - FAC
FACILITY NAME:
ALF: Presbyterian Home Lexington-ALF.

Allergy:
Banana, egg, morphine, NSAIDS (Non-Steroidal Anti-Inflammatory Drug), quinine, Salicylates, tolmetin sodium

Complaints/HPI:
97 year old Female This patient's multiple diagnoses and chronic conditions require frequent treatment and monitoring in order to prevent avoidable decline in condition. asked to evaluate patient by facility and family to assess Ms. Dusenbury's functional status. pt appears nad. is conversant and in bed when I arrived with 2 staff members. they proceeded to dress patient and get her out of bed and into a wheelchair. then to get patient some food and coffee. pt was pleasant and awake most of the time. was wanting to get out of bed. staff had to put socks on patient with what appeared to be no assistance by patient. was full assist on dressing with 2 staff members. was full assist with 2 staff members on sliding legs off bed and sitting up in bed. was full assist with 2 staff members to transfer up out of bed and into wheelchair. patient had to be lowered into bed 2 times during transfer as she could not hold herself up in a standing position. patient did feed self one bite of food with cueing with staff putting fork in honey bun bite. she actually could not get bite to her mouth without finger use after it fell off fork. did take 2 sips of coffee. but did not feed self without cueing from staff. after staff left sat with patient for 15 minutes while she just stared at food and coffee. patient did not notice me leaving room. time spent in evaluation of patient from 755 to 845.

Current Medication:
1 Bisacodyl 10 Mg Suppository SIG: 1 rectally daily prn

- 2 Colace 100 Mg Capsule SIG: Take 1 by mouth daily
- 3 Omeprazole Dr 20 Mg Capsule SIG: Take 1 by mouth at bedtime
- 4 Potassium Cl Er 20 Meq Tablet SIG: Take 1 by mouth daily
- 5 Probiotic 250 Mg Capsule SIG: Take 1 by mouth daily
- 6 Lipitor 10 Mg Tablet SIG: Take 1 by mouth at bedtime
- 7 Remeron 15 Mg Tablet SIG: Take 1 by mouth at bedtime
- 8 Aspirin Ec 81 Mg Tablet SIG: Take 1 by mouth daily
- 9 Seroquel 25 Mg Tablet SIG: Take 1 by mouth at bedtime
- 10 Polyethylene Glycol 3350 Powd 17 Gram SIG: Take 17g by mouth bid
- 11 Loperamide 2 Mg Capsule SIG: 1 po as needed
- 12 Maalox Advanced Suspension 200-200-20 Mg/5 MI SIG: give 1 tbsp po qd
- 13 Memantine Hcl 5 Mg Tablet SIG: 1 po BID
- 14 Multivitamin Tablet SIG: Take 1 by mouth daily
- 15 Furosemide 40 Mg Tablet SIG: Take 1 by mouth daily
- 16 Mucinex Er 1,200 Mg Tablet SIG: one po bid x 7 days
- 17 Zofran 4 Mg Tablet SIG: Take 1 by mouth every 6 hours as needed for nausea
- 18 Aricept 10 Mg Tablet SIG: Take 1 by mouth daily order given to walgreens over the phone today
- 19 Ciprofloxacin Hcl 250 Mg Tab SIG: Take 1 by mouth twice daily
- 20 Diazepam 2 Mg Tablet SIG: Take 1/2 by mouth qhs prn sleep

MIPS:

Date Completed: 04/10/23.

Influenza Immunization - not received yet.

Pneumonia Vaccination Status - Pneumococcal received.

BMI Screening and F/U Plan - BMI is documented within normal parameters and no follow-up plan is required.

Advance Care Plan - Advance Care Planning discussed and documented; advance care plan or surrogate decision maker documented in the medical record.

Screening for Depression and F/U - Screening for depression is documented as being positive AND a follow-up plan is documented:

Elder Maltreatment - Elder maltreatment screen documented as negative, follow-up is not required.

Falls Risk Assessment & Plan of Care -.

Falls risk assessment documented Falls plan of care documented.

ROS:

GENERAL: (-) fever.

RESPIRATORY: (-) cough, (-) hemoptysis, (-) shortness of breath, (-) cyanosis, (-) wheezing, (-) nocturnal choking or gasping, (-) TB exposure.

CARDIAC: (-) chest pain, (-) edema, (-) high blood pressure, (-) irregular heartbeat, (-) orthopnea, (-) palpitations, (-) paroxysmal nocturnal dyspnea, (-) shortness of breath.

GASTROINTESTINAL: (-) abdominal pain, (-) heartburn, (-) constipation, (-) diarrhea, (-) nausea, (-) vomiting, (-) hematochezia, (-) melena, (-) change in bowel habits.

MUSCULOSKELETAL: (-) back pain.

NEUROLOGIC: (-) dizziness, (-) headache, (-) tremors.

PMH:

Advance Care Planning: Plan discussed and/or surrogate decision maker named:

DNR Status: I have discussed code status with POA, and they have decided to be a DNR.

DNR Status:

DNR on file..

allergic rhinitis, GERD, depression, OA, dementia.

Family History:

Patient's father is deceased. and had history of heart disease.

Social History:

Patient never used tobacco. She doesn't drink alcohol. She denies recreational drug use.

Examination:

General Appearance: Martha appears to be well nourished and well developed. She is well groomed. She is not in any acute distress.

Eyes: Eyelids appear normal with no sign of ptosis, lid lag or lid edema. Extraocular movement is normal with no squint or diplopia noted.

Respiratory: Lungs are clear to auscultation and percussion. No wheezes, rales, rurs or rhonchi are noted.

Cardiovascular: Normal sinus rhythm with normal S1 and S2 without audible click, murmur or rub.

Gastrointestinal: The abdomen is soft, non-tender without rebound or guarding. Normoactive bowel sounds are heard without rush. No palpable masses or hepatosplenomegaly is appreciated. No visible hernias or sinuses are seen.

Diagnosis:

M17.0 Bilateral primary osteoarthritis of knee see plan

F02.818 Dementia in other diseases classified elsewhere, unspecified severity, with other behavioral disturbance

M62.81 Muscle weakness (generalized)

Plan:

based on this evaluation I do not feel patient is appropriate for assisted living level of care. she requires more assistance with dressing, transferring, and eating than an assisted living is allowed to provide based on current guidelines from the state. I did not witness bathing or toileting but staff says she is full assist for those as well with 2 staff members. for her safety as well as staff members she I feel she should move to a higher level of care. Per DHEC Standards of Licensing Community Residential Care Facilities section 800 Admission/Retention section D number 2 a facility cannot retain a person who is dependent of all ADLs for greater than 14 days-no locomotion on own, unable to transfer, total bathing and dressing and toileting or requiring extensive assistance to eat. based on my evaluation Ms. Dusenbury would not pass any of these.

This visit has been electronically signed off by Floyd Ashton Cribbs, MD on 07/18/2023 at 01:48 PM

EXHIBIT C



August 9, 2023

Via FedEx

Martha Dusenbury
c/o Roxanne Wilson
2825 Wilton Road
West Columbia, SC 29170

c/o Suzanne Carver
201 Whispering Winds Drive
Lexington, SC 29072

Re: Notice of Discharge

Dear Ms. Dusenbury,

In accordance with the South Carolina Department of Health and Environmental Control's ("SCDHEC") Community Residential Care Facility ("CRCF") licensing regulations (S.C. Code Ann. Regs. 61-84) ("Regulation 61-84") and the Bill of Rights of Long-Term Care Residents (S.C. Code Ann. §§ 44-81-10 *et seq.*), this letter serves as notice of your discharge from Presbyterian Communities of South Carolina - Columbia ("PCSC - Columbia"), effective thirty (30) days from your receipt of this notice.

Per Regulation 64-81, a CRCF is prohibited from retaining a resident in need of nursing home care or who is dependent in all activities of daily living for more than fourteen (14) consecutive days. *See* S.C. Code Ann. Regs. 61-84, §§ 801.C.3. and 801.D.2. Dependency in one's activities of daily living is defined to include: (i) being bedridden; (ii) incapable of locomotion; (iii) unable to transfer; (iv) totally incontinent of urinary and/or bowel function; (v) requiring total assistance with bathing, dressing, and toileting; and/or (vi) requiring extensive assistance to eat. *Id.* Regulation 61-84 provides that

[w]hen the provision of care/services in the facility, combined with other appropriately licensed services, in accordance with facility policy, e.g., hospice, home health, as may be ordered by a physician or other authorized healthcare provider, does not meet the needs of the resident, or if any resident becomes in need of continuous medical or nursing supervision, or if the facility does not have the capability to provide necessary care/services, the resident **shall be transferred within 30 days** to a location which shall meet those needs. The administrator shall coordinate this transfer with the resident, next-of-kin/responsible party, and sponsor.

Unfortunately, PCSC - Columbia's CRCF is unable to provide the level of care and services you now require and, therefore, must transfer your care to a facility capable of meeting your current needs.



You are currently dependent on others for all your activities of daily living as demonstrated by the following:

- You are unable to transfer without assistance. You currently require two persons to assist with your transfer.¹
- You cannot self-propel your wheelchair and are completely dependent on others for locomotion. In an emergency situation, you would not be able to get yourself to a safe place to wait for help from others.
- You require the assistance of two staff members for bathing, as well as assistance with brushing your hair and teeth and changing your clothes.
- You require extensive assistance with feeding yourself. Although you are at times capable of eating on your own, you have consistently demonstrated that you are unable to feed yourself sufficiently to sustain your nutritional needs without repeated cueing and other assistance from staff.

You have been unable to attend to the above-referenced activities of daily living without assistance for more than fourteen (14) consecutive days, and you have shown no signs of improvement. For these reasons, you are currently in need of skilled nursing facility ("SNF") care; therefore, by law, PCSC - Columbia can no longer retain you as a resident of its CRCF as you require a higher level of care than a licensed CRCF is legally allowed to provide.

PCSC-Columbia is a Life Plan Community offering a full continuum of care. Within this continuum, we strive to understand every resident's care needs so that each individual is placed in the appropriate level of care for their safety and their needs. Because PCSC - Columbia serves residents in a continuum, our standard practice is to provide continuous monitoring and assessment of residents' needs in coordination with the Executive Director and Interdisciplinary Team. Our goal is to have open communication with families so that they understand available services within the level of care.

We are committed to providing you with continued services. In that spirit, we are able to offer you accommodations in our SNF at PCSC - Columbia, based upon availability, at the time of your discharge and transfer. Currently, there is one semi-private room available. Please let us know of your acceptance of this bed as soon as possible. Healthcare beds are filled based on need and may be filled quickly, so we urge you to accept this one now if you want it. I have included a copy of our Healthcare Services Contract for review and execution should you choose to remain at PCSC - Columbia. We are also available to assist you with the discharge plan previously presented by Ms. Carver for you to return to your home on the property of your daughter, Ms. Wilson. Finally, should you choose to transition to another long-term care provider,

• ¹ Notably, the safest method of transfer is a mechanical lift. Presbyterian Communities of South Carolina ("PCSC") utilizes mechanical lifts in its skilled nursing facilities ("SNF"), as the patients in those facilities require a higher level of care. PCSC does not use mechanical lifts in any of its six CRCFs across the state as residents in need of that service exceed the standard of care legally allowed to be provided in those facilities. Your continued transfer by two-person assistance is not in your best interest and puts you at risk.



PRESBYTERIAN COMMUNITIES OF SOUTH CAROLINA

we will work with your chosen provider to assist in a seamless transfer of your care. Whatever your choice, we will do our best to make this transition as smooth as possible for you, and we are here to assist you in any way that we can.

In addition to notifying you (the resident) of this transfer/discharge, we are notifying your representatives, Suzanne Carver and Roxanne Wilson, by copy of this letter, as well.

PCSC recognizes your choice in selecting a healthcare facility that meets your needs and values your decisions in the aging process. We look forward to assisting you in transferring to a level of care appropriate for your current needs, where you can thrive and realize your fullest potential.

With best regards,


Executive Director