

PEOPLE OF THE STATE OF NEW
YORK OFFICE OF THE ATTORNEY
GENERAL
LABOR BUREAU

IN THE MATTER OF THE INVESTIGATION
OF LETITIA JAMES, ATTORNEY GENERAL
OF THE STATE OF NEW YORK,

OF

ALBANY MED HEALTH SYSTEM, f/k/a
ALBANY MEDICAL CENTER

ASSURANCE OF
DISCONTINUANCE
PURSUANT TO
EXECUTIVE LAW § 63(15)

AOD No. 22-058

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) commenced an investigation of ALBANY MED HEALTH SYSTEM, f/k/a ALBANY MEDICAL CENTER (“Albany Med”), pursuant to New York Executive Law § 63(12) (the “Investigation”). The OAG examined whether Albany Med’s contract and enforcement of a provision mandating foreign-recruited nurses to pay a substantial fee upon failure to fulfill a three-year employment commitment is a violation of the Trafficking Victims Protection Act (“TVPA”) § 1589.

On or about June 11, 2021, the OAG and Albany Med executed Assurance of Discontinuance Number 21-040, which contains the findings of OAG’s investigation and the relief agreed to by OAG and Albany Med.

This Assurance of Discontinuance (“AOD” or “Assurance”) contains additional findings and further relief agreed to by OAG and Albany Med.

RELEVANT STATUTORY FRAMEWORK

1. The TVPA § 1589 prohibits providing or obtaining the labor or services of a person by using: force, threats of force, physical restraint, or threats of physical restraint; serious harm or threats of serious harm; the abuse or threatened abuse of law or legal process; or, any scheme, plan,

or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person would suffer serious harm or physical restraint. 18 U.S.C. § 1589(a).

FINDINGS

2. Albany Med is a not-for-profit corporation that is affiliated with the 766-bed Albany Medical Center Hospital located at 43 New Scotland Avenue, Albany, New York 12208.

3. The OAG issued a subpoena pursuant to the Investigation on February 14, 2020. The Investigation concluded that since at least 2007, Albany Med recruited nurses from outside nations under a visa arrangement.

4. The employment contract provided to these nurse recruits included a mandatory repayment provision which obligated a nurse to pay between \$10,000 to \$20,000 if they resigned or were fired for cause within the first three (3) years of employment. Such provision also threatened legal action and reporting to immigration authorities upon non-compliance, if Albany Med concluded the nurse's failure to repay amounts owed to them constituted fraud.

5. Between January 1, 2007, to December 31, 2010, Albany Med has received "repayment" fees from eight formerly employed nurses because they failed to fulfill their 3-year employment commitment.

6. Based on the foregoing, the OAG has concluded that Albany Med engaged in persistent and repeated activity in violation of Executive Law §63(12) and the TVPA § 1589.

7. For purposes of resolving the OAG's Investigation, Albany Med has agreed to enter into this AOD.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the parties:

RELIEF

Entities Bound By Assurance

8. This Assurance binds Albany Med as an alleged perpetrator as defined by the TVPA §1595.

Monetary Payment

9. Albany Med agrees to pay **\$24,255.00**, which will be paid directly to the OAG and will be used for distribution as restitution to formerly-employed nurses for the alleged violations of laws specified in Paragraphs 5 and 6 of this Assurance.

10. The settlement amount shall be paid in full, one payment of \$24,255.00, within 30 days of execution of this agreement.

11. Payment from Albany Med to the OAG must be in the form of certified check, bank check, money order, wire transfer, or attorney's check made payable to "The New York State Department of Law," and forwarded to the New York State Attorney General's Office to the attention of:

Roya Aghanori
Assistant Attorney General
Labor Bureau
28 Liberty Street, 15th fl.
New York, NY 10005

The payment and all correspondence related to this Assurance must reference "Assurance #22-058."

12. The OAG has the sole discretion to determine which employees shall be eligible for restitution and damages and to determine the amount of such restitution and damages.

General Principles

18. Unless a term limit for compliance is otherwise specified within this Assurance, Albany Med's obligations under this Assurance are enduring. Nothing in this Agreement shall relieve Albany Med of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

19. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that Albany Med violates the Assurance after its effective date.

20. An alleged violation of the terms of this Assurance shall be considered a violation only after Albany Med has not cured the alleged violation within fifteen (15) days of its receipt of written notice of the alleged violation.

21. This Assurance may not be amended except by an instrument in writing signed on behalf of the parties to this Assurance.

22. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

23. Albany Med acknowledges that it has entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

24. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

25. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

26. All notices, reports, requests, and other communications to any party pursuant to this

Assurance shall be in writing and shall be directed as follows:

From Albany Med to the OAG:

New York State Office of the Attorney General
Roya Aghanori, Assistant Attorney General
28 Liberty Street, New York, NY 10005 or
roya.aghanori@ag.ny.gov

From the OAG to Albany Med:

Albany Med Health System
Bond, Schoeneck & King, PLLC
Robert Manfredo, Esq.
22 Corporate Woods Boulevard, Ste 501
Albany, NY 12211
rmanfredo@bsk.com

with a copy to:

Albany Med Health System
43 New Scotland Avenue
MC-104
Albany, NY 12208
Attn: General Counsel

Any changes in the person to whom communications should be specifically directed shall be made in writing in advance of the change.

27. This Assurance and Affidavit may be electronically signed, and any electronic signatures are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

28. This Assurance may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

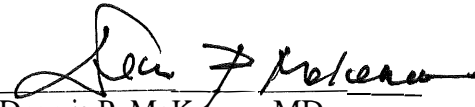
IN WITNESS WHEREOF, this Assurance is executed by the parties hereto on this 13 day of September, 2022.

**LETITIA JAMES
ATTORNEY GENERAL OF THE
STATE OF NEW YORK**

By: 

Roya Aghanori
Assistant Attorney General
28 Liberty Street, 15th Fl.
New York, NY 10005
Phone: (212) 416-6132
Roya.aghanori@ag.ny.gov

**ALBANY MED HEALTH SYSTEM
f/k/a ALBANY MEDICAL CENTER**

By: 

Dennis P. McKenna, MD
President and Chief Executive Officer
43 New Scotland Avenue
Albany, NY 12208
(518) 262-3830
McKennDP@amc.edu