

**SETTLEMENT AGREEMENT  
BETWEEN  
THE UNITED STATES OF AMERICA  
AND  
PROHEALTH PHYSICIANS, INC.**

**DJ # 202-14-199**

The parties to this agreement (“Agreement”) are the United States of America and ProHealth Physicians, Inc. (“ProHealth”). The parties hereby agree as follows:

**I. BACKGROUND AND JURISDICTION**

1. ProHealth is the owner/operator of ProHealth Physicians of West Hartford (the “Quaker Lane Office”) located at 631 Quaker Lane South, West Hartford, Connecticut.
2. The United States Attorney’s Office for the District of Connecticut, a component of the United States Department of Justice (“United States”), opened an investigation of ProHealth pursuant to the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12181-12189, as amended. The United States initiated its investigation upon the receipt of a complaint from an individual regarding lack of accessibility at the Quaker Lane Office of ProHealth.
3. The United States is authorized to investigate alleged violations of Title III of the ADA. Moreover, the United States is authorized, where appropriate, to use alternative means of dispute resolution, including settlement negotiations to resolve disputes. If resolution is not achieved, the United States may bring a civil action in federal court in any case where the Attorney General has reasonable cause to believe that a pattern or practice of discrimination exists or where the case raises an issue of general public importance. 42 U.S.C. §§ 12188(b), 12212; 28 C.F.R. §§ 36.502, 36.503, 36.506.
4. Title III of the ADA mandates that “[n]o individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.” 42 U.S.C. § 12182(a).
5. The Quaker Lane Office is a place of public accommodation within the meaning of Title III because it is a “professional office of a health care provider.” 42 U.S.C. § 12181(7)(F). ProHealth, as the owner and operator of the Quaker Lane Office, is a public accommodation subject to the requirements of Title III of the ADA. 28 C.F.R. § 36.104.

6. The Quaker Lane Office was constructed for first occupancy after January 26, 1993, and is new construction within the meaning of 28 C.F.R. § 36.401. Newly constructed facilities must comply with the new construction standards of the ADA, unless structurally impracticable. 42 U.S.C. § 12183; 28 C.F.R. § 36.401(c). The building originally was constructed as two separate office suites with no interior connection. Alterations to the exterior of the facility include parking lot restriping in 2016 and sidewalk paving and regrading in 2013 and 2015. A platform lift was installed in 2009 to connect Suite A located on the upper level to Suite B located on the lower level.
7. The United States reviewed information and construction documents regarding the Quaker Lane Office provided by ProHealth, and conducted a site visit of the Quaker Lane Office on March 30, 2017. The United States used the ADA Standards for Accessible Design, including the 1991 Standards and the 2010 ADA Standards as defined in 28 C.F.R. § 36.104, to identify ADA violations, which were shared with ProHealth.

## **II. REMEDIAL ACTIONS TO BE TAKEN BY PROHEALTH**

### **A. ProHealth will make the following modifications to improve accessibility for individuals with disabilities in Suite A of the Quaker Lane Office Physician Offices:**

#### **1. Waiting Room**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall remove the coat rod outside the reach ranges described in § 308.
- b. Within two months of the execution of this Agreement, ProHealth shall ensure placement of a tactile sign identifying the exit doors in raised characters and braille in accordance with §§ 216.4.1, 703.1, 703.2, and 703.5.
- c. Within five months of the execution of this Agreement, ProHealth shall ensure that:
  - i. the primary care office check-in counter has toe clearance extending 17 inches minimum in accordance with §§ 227.3, 904.4, 305, and 306; and
  - ii. the sleep center check-in counter is removed.

**2. Waiting Room Toilet**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall remove the coat rack blocking maneuvering clearance on the latch side of the waiting room toilet door to ensure clearance in compliance with §§ 206.5.2 and 404.2.4.1.
- b. Within two months of the execution of this Agreement, ProHealth shall:
  - i. either remove entirely the coat hook that is outside of the required reach ranges within the waiting room toilet room or provide an additional coat hook with a high side reach of 48 inches maximum and a low side reach of 15 inches minimum above the finish floor or ground in accordance with §§ 213.2, 213.3.7, 603.4, and 308.3.1; and
  - ii. ensure placement of a tactile sign in raised characters and braille outside the waiting room toilet in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4, and 703.5.

**3. Corridor**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall remove:
  - i. the hand sanitizer unit from the corridor wall so that it no longer protrudes more than 4 inches into the circulation path in accordance with §§ 204.1 and 307.2; and
  - ii. the table obstructing the maneuvering clearance on the latch side of the door in accordance with §§ 206.5.2 and 404.2.4.1.
- b. Within two months of the execution of this Agreement, ProHealth shall ensure placement of a tactile sign identifying the exit doors in raised characters and braille in accordance with §§ 216.4.1, 703.1, 703.2, and 703.5.
- c. Within five months of the execution of this Agreement, ProHealth shall ensure that the sleep center check-out counter is removed.

**4. Patient Toilet Room**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall remove the trash can obstructing the maneuvering clearance on the latch side of the door in accordance with §§ 206.5.2 and 404.2.4.1.

- b. Within two months of the execution of this Agreement, ProHealth shall:
  - i. either remove entirely the coat hook that is outside of the required reach ranges within the patient toilet room or provide an additional coat hook with a high side reach of 48 inches maximum and a low side reach of 15 inches minimum above the finish floor or ground in accordance with §§ 213.2, 213.3.7, 603.4, and 308.3.1; and
  - ii. ensure placement of a tactile sign identifying the patient toilet room in raised characters and braille in accordance with §§ 216.4.1, 703.1, 703.2, 703.4 and 703.5.

**5. Exam Rooms**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall remove any trash cans or other items obstructing the maneuvering clearance on the latch side of the door in exam rooms in accordance with §§ 206.5.2 and 404.2.4.1.
- b. Within two months of the execution of this Agreement, ProHealth shall:
  - i. either remove entirely the coat hooks that are outside of the required reach ranges within the exam rooms or provide additional coat hooks with a high side reach of 48 inches maximum and a low side reach of 15 inches minimum above the finish floor or ground in accordance with §§ 225.2 and 308.3.1; and
  - ii. ensure placement of tactile signs in raised characters and braille identifying all exam rooms in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4 and 703.5.
- c. Within two years of the execution of this Agreement, ProHealth will ensure that at least one exam room provides:
  - i. an accessible adjustable height exam table or a means for an individual to transfer onto an exam table and clear floor space adjacent to the exam table to permit space for an individual to transfer onto the exam table in accordance with 28 C.F.R. § 36.302; and
  - ii. an accessible scale or means to weigh an individual who uses a wheelchair in accordance with 28 C.F.R. § 36.302.

**6. Blood Drawing Station**

- a. Within two months of the execution of this Agreement, ProHealth shall ensure placement of a tactile sign in raised characters and braille identifying

the blood drawing station in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4 and 703.5.

**B. Interior Route from Suite A to Suite B**

**1. Platform Lift**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall remove the chairs obstructing the maneuvering clearance on the latch side of the platform lift door in accordance with §§ 206.5.2 and 404.2.4.1.
- b. Within six months of the execution of this Agreement, ProHealth shall install automated door openers at the top and bottom platform lift landings to remedy the lack of maneuvering clearance on the latch side of the platform door at the landing areas at the top and bottom of the platform lift in order to resolve violations of §§ 206.5.2, 404.2.4.1. and 404.2.4.4. Notwithstanding, if ProHealth determines that it is infeasible to install automated door openers at the top and bottom platform lift landings, ProHealth may provide notice to the United States of such infeasibility within the aforementioned six month period that it will instead, within two years of the execution of this Agreement, remove the existing lift and install a new fully compliant and accessible lift in its place.

**2. Stairway**

- a. Within three months of the execution of this Agreement, ProHealth will install new tread nosing that either does not project beyond the risers or has an underside of the leading edge that is curved or beveled in accordance with §§ 210.1 and 504.5.

**C. ProHealth will make the following modifications to improve accessibility for individuals with disabilities in Suite B, ProHealth Diagnostic Center and Physical Therapy:**

**1. Diagnostic Center and PT Entrance Door**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall ensure that the force for pushing or pulling open the door to the Diagnostic Center and PT Entrance of the Quaker Lane Office is no more than 5 pounds maximum in accordance with §§ 206.5.2 and 404.2.9.
- b. Within two months of the execution of this Agreement, ProHealth shall ensure placement of a tactile sign in raised characters and braille identifying

the Diagnostic Center and PT Entrance door of the Quaker Lane Office in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4 and 703.5.

## 2. **Waiting Room**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall ensure that the stored materials obstructing the low check-in counter are cleared so that a portion of the counter surface that is 36 inches long minimum and 36 inches high maximum above the finish floor is provided in accordance with §§ 227.3 and 904.4.4.1.
- b. Within two months of the execution of this Agreement, ProHealth shall:
  - i. either remove entirely the coat hooks that are outside of the required reach ranges in the waiting room or provide additional coat hooks with a high side reach of 48 inches maximum and a low side reach of 15 inches minimum above the finish floor or ground in accordance with §§ 225.2 and 308.3.1; and
  - ii. ensure placement of tactile signs in raised characters and braille identifying the exit doors in accordance with §§ 216.4.1, 703.1, 703.2, and 703.5.
- c. Within five months of the execution of this Agreement, ProHealth shall ensure that the leading edge of the low check-in counter protrudes no more than 4 inches maximum horizontally into the circulation path in accordance with §§ 204.1 and 307.2.

## 3. **Patient Toilet Room**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall ensure that the force for pushing or pulling open the door to the patient toilet room is no more than 5 pounds maximum in accordance with §§ 206.5.2 and 404.2.9.
- b. Within three months of the execution of this Agreement, ProHealth shall ensure that:
  - i. the flush controls are located on the open side of the water closet in accordance with §§ 213.2, 213.3.2, and 604.6;
  - ii. the rear grab bar is 36 inches long minimum extending from the centerline of the water closet 12 inches minimum on one side and 24 inches minimum on the other side in accordance with §§ 213.2, 213.3.2 and 604.5.2;

- iii. the side wall grab bar is 42 inches long minimum, located 12 inches maximum from the rear wall and extending 54 inches minimum from the rear wall in accordance with §§ 213.2, 213.3.2, and 604.5.1; and
- iv. placement of tactile signs in raised characters and braille identifying the patient toilet room in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4 and 703.5.

4. **Ultrasound Room**

- a. Within two months of the execution of this Agreement, ProHealth shall:
  - i. either remove entirely the coat hook that is outside of the required reach ranges within the ultrasound room or provide an additional coat hook with a high side reach of 48 inches maximum and a low side reach of 15 inches minimum above the finish floor or ground in accordance with §§ 213.2, 213.3.7, 603.4, and 308.3.1; and
  - ii. ensure placement of tactile signs in raised characters and braille identifying the ultrasound room in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4 and 703.5.

5. **Ultrasound Room Toilet Room**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall ensure that the force for pushing or pulling open the door to the patient toilet room is no more than 5 pounds maximum in accordance with §§ 206.5.2 and 404.2.9.
- b. Within three months of the execution of this Agreement, ProHealth shall ensure:
  - i. placement of tactile signs in raised characters and braille identifying the ultrasound toilet room in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4 and 703.5;
  - ii. the water supply and drain pipes under the lavatory/sink are insulated or otherwise configured to protect against contact in accordance with §§ 213.2, 213.3.4, and 606.5;
  - iii. the centerline of the water closet is 16 inches minimum to 18 inches maximum from the side wall or partition in accordance with §§ 213.2, 213.3.2, and 604.2;

- iv. the rear wall grab bar is 36 inches long minimum and extends from the centerline of the water closet 12 inches minimum on one side and 24 inches minimum on the other side in accordance with §§ 213.2, 213.3.2, and 604.5.2; and
  - v. the side grab bar extends 42 inches long minimum, located 12 inches maximum from the rear wall and extending 54 inches minimum from the rear wall in accordance with §§ 213.2, 213.3.2, and 604.5.1.
- c. Within six months of the execution of this Agreement, ProHealth shall ensure that:
- i. the maneuvering clearance on the latch side of the door is 18 inches minimum for a forward pull approach in accordance with §§ 206.5.2, and 404.2.4.1; and
  - ii. the maneuvering clearance perpendicular to the door is 60 inches minimum for a forward pull approach.

6. **X-Ray Room**

- a. Within two months of the execution of this Agreement, ProHealth shall:
- i. either remove entirely the coat hook that is outside of the required reach ranges within the x-ray room or provide an additional coat hook with a high side reach of 48 inches maximum and a low side reach of 15 inches minimum above the finish floor or ground in accordance with §§ 213.2, 213.3.7, 603.4, and 308.3.1; and
  - ii. ensure placement of tactile signs in raised characters and braille identifying the x-ray room in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4 and 703.5.
- b. Within two years of the execution of this Agreement, ProHealth shall ensure that the x-ray room provides a means for an individual to transfer onto the x-ray table in accordance with 28 C.F.R. § 36.302.

7. **Bone Density Scan Room**

- a. Promptly, but not later than one month following the execution of this Agreement, ProHealth shall remove the filing cabinet obstructing the maneuvering clearance on the latch side of the bone density scan room door and shall otherwise ensure that the clearance on the latch side of the door is a minimum of 18 inches for a forward pull approach in accordance with §§ 206.5.2 and 404.2.4.1.



- b. Within two months of the execution of this Agreement, ProHealth shall:
  - i. either remove entirely the coat hook that is outside of the required reach ranges within the bone density scan room or provide an additional coat hook with a high side reach of 48 inches maximum and a low side reach of 15 inches minimum above the finish floor or ground in accordance with §§ 213.2, 213.3.7, 603.4, and 308.3.1; and
  - ii. ensure placement of a tactile sign in raised characters and braille identifying the bone density scan room in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4 and 703.5.
- c. Within two years of the execution of this Agreement, ProHealth shall ensure that the bone density scan room provides a means for an individual to transfer onto the bone density scan equipment in accordance with 28 C.F.R. § 36.302.

## **8. Physical Therapy Suite**

- a. Promptly, but no later than one month following the execution of this Agreement, ProHealth shall ensure that the force for pushing or pulling open the door to the physical therapy suite is no more than 5 pounds maximum in accordance with §§ 206.5.2 and 404.2.9.
- b. Within two months of the execution of this Agreement, ProHealth shall ensure placement of tactile signs in raised characters and braille identifying the physical therapy suite door in accordance with §§ 216.2, 703.1, 703.2, 703.3, 703.4 and 703.5 and the exit doors in accordance with §§ 216.4.1, 703.1, 703.2, and 703.5.
- c. Within three months of the execution of this Agreement, ProHealth shall ensure that the weight storage obstructing the maneuvering clearance on the latch side of the door is relocated and that the maneuvering clearance on the latch side of the door is a minimum of 12 inches for a forward push approach in accordance with §§ 206.5.2 and 404.2.4.1.

## **D. Alterations**

- 1. Any future alterations, as defined in 42 U.S.C. §12183 and 28 C.F.R. § 36.402(b), made to the Quaker Lane Office shall comply in all respects with the ADA, its implementing regulations, and the 2010 Standards, as such statute, regulations, and Standards are in effect as of the date that alterations begin.
- 2. If an alteration affects or could affect the usability of or access to an area of the facility that contains a primary function, that alteration shall be made so as to ensure that, to the maximum extent feasible, the path of travel to the altered areas

are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless the cost and scope of such alterations is disproportionate to the cost of the overall alteration. 42 U.S.C. §12183(a); 28 C.F.R. § 36.403.

### **III. IMPLEMENTATION AND ENFORCEMENT OF AGREEMENT**

1. In consideration of the terms of this Agreement, the United States agrees to refrain from filing a civil suit for failure to comply with Title III of the ADA at the Quaker Lane Office; provided, however, that the United States reserves the right to file a civil lawsuit to enforce this Agreement.
2. The United States does not assert that this Agreement or the modifications contemplated herein will bring the Quaker Lane Office into compliance with all aspects of the ADA, and nothing in this Agreement is intended to constitute an interpretation of the legal requirements of the ADA by the United States. Rather, the parties enter into this Agreement for the purpose of compromising disputed claims and avoiding the risk and expenses of litigation. This Agreement is a compromise and it shall not be used or introduced into evidence in any other case or proceeding other than between the parties to this Agreement.
3. The United States may review compliance with this Agreement at any time. Upon reasonable advance notice to ProHealth, ProHealth shall permit the United States and any person acting on its behalf unlimited access to the Quaker Lane Office to review compliance with the ADA and this Agreement, provided that such access does not interfere with the comfort, privacy or safety of the patients of the Quaker Lane Office, or unreasonably interfere with the management and operation of the Quaker Lane Office.
4. If the United States believes that ProHealth has violated this Agreement or any requirement thereof, it agrees to notify in writing ProHealth's General Counsel, Attorney Richard Lugli, ProHealth Physicians, Inc., Administrative Offices, 3 Farm Glen Boulevard, Farmington, Connecticut 06032, of the specific violation(s) alleged. ProHealth shall have 30 days from receipt of the notice by its counsel to cure and/or respond in writing to the United States the alleged violation(s).
5. ProHealth shall provide certifications to the United States, every six months until full compliance with this Agreement is achieved, in the form of a narrative report and photos showing that the items within this Agreement that ProHealth has agreed to correct have been so corrected. ProHealth shall include as an exhibit copies of any complaint, whether formal or informal, received during the reporting period alleging that ProHealth or the Quaker Lane Office did not comply with the ADA or that individuals with disabilities at the Quaker Lane Office were subject to discrimination on the basis of disability. The parties expressly agree that providing such certifications is essential to the enforcement

of this Agreement, and that a failure to provide the certifications required by this paragraph constitutes a breach of this Agreement.

6. All notices, demands, reports or other communication to be provided to the United States pursuant to this Agreement shall be in writing and delivered by U.S. mail or electronic mail to the following:

Jessica H. Soufer, Assistant U.S. Attorney  
U.S. Attorney's Office  
157 Church Street, 25<sup>th</sup> Floor  
New Haven, CT 06510  
email: [jessica.soufer@usdoj.gov](mailto:jessica.soufer@usdoj.gov)

7. This Agreement is a public document. A copy of this document or any information contained in it may be made available to any person.
8. Failure by the United States to enforce this entire Agreement or any provision thereof with regard to any deadline or any other provision herein shall not be construed as a waiver of its right to do so with regard to other deadlines and provisions of this Agreement.
9. This Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement, shall be enforceable. This Agreement is limited to the facts set forth herein and it does not purport to remedy any other potential violations of the ADA, including violations of the alterations or new construction provisions of the ADA, or any other Federal law. This Agreement does not affect the continuing responsibility of ProHealth to comply with all aspects of the ADA.
10. If any provision of this Agreement is determined by any court to be unenforceable, the other terms of this Agreement shall nonetheless remain in full force and effect, provided, however, that if the severance of any such provision materially alters the rights or obligations of the parties, the United States and ProHealth shall engage in good faith negotiations in order to adopt such mutually agreeable amendments to this Agreement as may be necessary to restore the parties as closely as possible to the initially agreed-upon relative rights and obligations.
11. A signor of this document in a representative capacity for an entity represents that he or she is authorized to bind such entity to this Agreement.
12. In the event ProHealth seeks to transfer or assign all or part of its interest or assign its lease of the Quaker Lane Office, as a condition of lease or assignment, ProHealth shall obtain the written accession of the successor or assign to any

obligations remaining under this Agreement for the remaining term of the Agreement.

13. This Agreement is binding upon the parties hereto and the benefits and obligations shall inure to any successors and assigns of the ProHealth lease.
14. The Effective Date of this Agreement is the date of the last signature below. This Agreement shall remain in effect for three years from the Effective Date.

[SIGNATURE PAGE FOLLOWS]

**Agreed and Consented to:**

New Haven, Connecticut  
5/7/2018

FOR THE UNITED STATES:

JOHN H. DURHAM  
United States Attorney for the  
District of Connecticut

By: /s/  
JESSICA H. SOUFER  
Assistant United States Attorney  
157 Church Street, 25<sup>th</sup> Floor  
New Haven, CT 06510

Farmington, Connecticut  
5/2/2018

FOR PROHEALTH PHYSICIANS, INC.

By: /s/  
RICHARD LUGLI  
General Counsel