

VT SUPERIOR COURT
WASHINGTON UNIT
2015 FEB 24

STATE OF VERMONT
SUPERIOR COURT
WASHINGTON UNIT

IN RE: LifeNet Health

FILED

) CIVIL DIVISION

) Docket No. 73-2-15 Wncv

ASSURANCE OF DISCONTINUANCE

Vermont Attorney General William H. Sorrell (“the Attorney General”) and LifeNet Health (“Respondent”) hereby agree to this Assurance of Discontinuance pursuant to 9 V.S.A. § 2459.

BACKGROUND

1. The Prescribed Products Disclosure Law, 18 V.S.A. § 4632, requires prescribed product manufacturers to file periodic reports with the Attorney General’s Office detailing certain information about the allowable expenditures and permitted gifts the manufacturer gives to Vermont health care providers and other recipients covered under the law.
2. Respondent is a prescribed product manufacturer with its principal place of business located at 1864 Concert Drive, Virginia Beach, VA.
3. On January 15, 2014, Respondent reported to the Attorney General that Respondent may have given allowable expenditures and/or permitted gifts to Vermont health care providers and/or other recipients covered under the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, during fiscal year 2010 (July 1, 2009 through June 30, 2010), fiscal year 2011 (July 1, 2010 through June 30, 2011), calendar year 2011 (July 1, 2011 through December 31, 2011), and calendar year 2012 (January 1, 2012 through December 31, 2012).
4. Respondent failed to file annual reports with the Attorney General’s Office for fiscal year 2010 (July 1, 2009 through June 30, 2010), fiscal year 2011 (July 1, 2010 through June

30, 2011), calendar year 2011 (July 1, 2011 through December 31, 2011) and calendar year 2012 (January 1, 2012 through December 31, 2012).

5. The above conduct constitutes violations of the Prescribed Products Disclosure Law, 18 V.S.A. § 4632.

INJUNCTIVE RELIEF

6. Respondent shall comply with the Prescribed Products Gift Ban and Disclosure Law, 18 V.S.A. §§ 4631a, 4632.

7. No later than thirty (30) days after the filing of this Assurance of Discontinuance, Respondent shall make payment to the "State of Vermont" in the amount of \$7,750.00, and send to: Kate Whelley McCabe, Assistant Attorney General, Office of the Attorney General, 109 State Street, Montpelier, VT 05609.

OTHER TERMS

8. Respondent agrees that this Assurance of Discontinuance shall be binding on Respondent and its successors and assigns.

9. The Attorney General hereby releases and discharges any and all claims arising under the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, that it may have against Respondent for the conduct described in the Background section for fiscal year 2010 (July 1, 2009 through June 30, 2010), fiscal year 2011 (July 1, 2010 through June 30, 2011), calendar year 2011 (July 1, 2011 through December 31, 2011) and calendar year 2012 (January 1, 2012 through December 31, 2012).

10. The Superior Court of the State of Vermont, Washington Unit, shall have jurisdiction over this Assurance of Discontinuance and the parties hereto for the purpose of enabling the Attorney General to apply to this Court at any time for orders and directions as may be

necessary or appropriate to enforce compliance with or to punish violations of this Assurance of Discontinuance.

STIPULATED PENALTIES

11. If the Superior Court of the State of Vermont, Washington Unit enters an order finding Respondent to be in violation of this Assurance of Discontinuance by having violated the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, then the parties agree that penalties to be assessed by the Court for each act in violation of this Assurance of Discontinuance shall be \$10,000. For purposes of this Section, the term "each act" shall mean each violation of the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, that occurs after the date this Assurance of Discontinuance is executed. This Section 11 on Stipulated Penalties shall expire no later than ten years from the effective date of this Assurance of Discontinuance with no further action necessary by the parties. If, after expiration of this Section 11, the Superior Court of the State of Vermont, Washington Unit enters an order finding Respondent to be in violation of this Assurance of Discontinuance by having violated the Prescribed Products Disclosure Law, 18 V.S.A. § 4632, any such violation shall be governed by the terms of the Prescribed Products Disclosure Law, 18 V.S.A. § 4632(c).

NOTICE

12. Respondent may be located at:


Gordon Berkstresser, CPA
Chief Financial Officer
LifeNet Health
1864 Concert Drive
Virginia Beach, VA 23453

13. Respondent shall notify the Attorney General of any change of business name or address within 20 business days.

SIGNATURE

In lieu of instituting an action or proceeding against Respondent, the Office of the Attorney General, pursuant to 9 V.S.A. § 2459, accepts this Assurance of Discontinuance. By signing below, Respondent voluntarily agrees with and submits to the terms of this Assurance of Discontinuance.

DATED at Virginia Beach, Virginia this 7th day of January, 2015.


Gordon Berkstresser, CPA
Chief Financial Officer
LifeNet Health


ACCEPTED on behalf of the Attorney General:

DATED at Montpelier, Vermont this 2nd day of January, 2015.

STATE OF VERMONT

WILLIAM H. SORRELL
ATTORNEY GENERAL

By:


Kate Whelley McCabe
Assistant Attorney General
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