

SUMMARY SHEET
 BOARD OF HEALTH AND ENVIRONMENTAL CONTROL
 May 8, 2014

_____ ACTION/DECISION

 X INFORMATION

- I. TITLE: Administrative Orders, Consent Orders, and Sanction Letters issued by HEALTH REGULATION (HR).
- II. SUBJECT: Sanctions completed during the period February 1, 2014, through March 31, 2014.
- III. FACT: For the period February 1, 2014, through March 31, 2014, Health Regulation is reporting six (6) Consent Orders, with total penalties of \$34,174.00.

Program	Consent Orders	Administrative Orders	Emergency Suspension Orders	Amount
Health Licensing	4			\$27,500
Radiological Health	2			\$6,674

- IV. ANALYSIS: Colleton Courtyard, 210 Academy Road, Walterboro, SC 29488-9208. By Consent Order, executed on February 7, 2014, the Department imposed a monetary penalty in the amount of \$4,000. The executed Consent Order required Colleton Courtyard to pay \$1,200 of the imposed \$4,000 monetary penalty. The remainder of the assessed penalty (\$2,800) was held in abeyance pending Colleton Courtyard remaining in substantial compliance with R. 61-84 and the Consent Order for twelve months following the execution of the Consent Order. The sanction was imposed against Colleton Courtyard due to new and repeat violations of Regulation 61-84, Standards for Licensing Community Residential Care Facilities. New and repeat violations included: failure to ensure fire protection and suppression system were properly maintained and tested (fire alarm, sprinkler fire extinguishers, and hood suppression); failure to maintain the facility's structure and its component parts/equipment in good working condition; failure to properly and securely store oxygen gas cylinders; failure to have documentation available for review showing that the facility's electrical system had been inspected at least annually by a licensed electrician, registered engineer, or certified building inspector; and, failure to have documentation showing that the facility's HVAC system had been inspected at least annually by a certified/licensed technician. Department representatives held a compliance

assistance meeting with Colleton Courtyard on March 28, 2014. Facility management met with DHEC staff and discussed in detail the violations and corrective actions required. The facility will be re-inspected within thirty to forty-five days following the compliance assistance meeting to determine level of compliance.

Previous Sanctions: None

Radiological Health Physics Consultants, Inc., 501 Stonegate Lane, Winston-Salem, NC 27104. By Consent Order executed on February 6, 2014, the Department imposed a monetary penalty in the amount of \$4,674. The executed Consent Order required Radiological Health Physics Consultants, Inc. to pay \$2,337 of the imposed penalty. The remainder of the penalty (\$2,337) was held in abeyance pending an eighteen month period of compliance. The sanction was imposed against Radiological Health Physics Consultants, Inc. due to failure to conduct equipment performance tests in accordance with regulatory requirements; failure to adhere to manufacturer's specifications in the evaluation of a quality control program; failure to identify deficiencies and recommend corrective action in a mammography medical physicist survey; failure to complete an adequate radiation survey; and failure to verify shielding plan acceptance prior to performing a radiation area survey (Regulation 61-64, X-Ray/Title B). Radiological Health Physics Consultants, Inc. submitted a satisfactory Plan of Correction dated February 6, 2014. The Department will evaluate compliance with Regulation 61-64, X-Ray/Title B with additional inspections.

Previous Sanctions: None

PF Florence LLC dba Planet Fitness, 2600-D, David McLeod Blvd., Florence, SC 29501. By Consent Order executed on February 17, 2014, the Department imposed a monetary penalty in the amount of \$2,000. The executed Consent Order required Planet Fitness to pay \$500 of the imposed penalty. The Sanction was imposed against Planet Fitness due to failure to meet the sanitation requirements for tanning related equipment, as required in Regulation 61-106, Tanning Facilities. The Department received written complaints stating that employees of Planet Fitness were requiring customers to clean the tanning equipment before use. The complaints also stated that the facility had signs posted that stated "Please wipe down ALL areas of the equipment. Thank you, Planet Fitness." Regulation 61-106 specifies that a tanning bed operator shall not require a consumer to sanitize the equipment nor post any signs requesting such sanitation.

Previous Sanctions: None

Jacqueline Kushner, LMW – 0056, 7932 Honey Fig Road, Charlotte, NC 28277. By Consent Order, executed on March 7, 2014, the Department

imposed a six (6) month suspension (until March 1, 2014) with time served pursuant to an Emergency Suspension Order, executed on September 2, 2013. The Consent Order also included a term which imposed an additional six (6) months suspension which will be stayed upon compliance with a one (1) year period of probation commencing on March 1, 2014, the conditions of which include mandatory supervision by a licensed midwife and completion of training modules that are available through the Association of Women's Health, Obstetric and Neonatal Nurses: Fetal Heart Rate Auscultation, 2nd Edition. The sanction was imposed against Jacqueline Kushner due to findings by the Department during an investigation on September 2, 2013. The Department determined that Ms. Kushner failed to recognize the warning signs of abnormal and potentially abnormal conditions necessitating referral to a physician and failed in her duty to consult with a physician when significant abnormal deviations occurred during labor, in violation of Regulation 61-24, *Licensing Midwives*.

Previous Sanctions: None

Pamela Wilson, LMW – 0051, 14717 Bridle Trace Lane, Pineville, NC 28134. By Consent Order, executed on March 14, 2014, the Department imposed a six (6) month suspension (until March 1, 2014) with time served pursuant to an Emergency Suspension Order, executed on September 2, 2013. The Consent Order also included a term which imposed an additional three (3) months suspension which will be stayed upon compliance with a six (6) month period of probation commencing on March 1, 2014, the conditions of which include mandatory supervision by a licensed midwife and completion of training modules that are available through the Association of Women's Health, Obstetric and Neonatal Nurses: Fetal Heart Rate Auscultation, 2nd Edition. The sanction was imposed against Pamela Wilson due to findings by the Department during an investigation on September 2, 2013. The Department determined that Ms. Wilson failed to recognize the warning signs of abnormal and potentially abnormal conditions necessitating referral to a physician and failed to consult with a physician when significant abnormal deviations occurred during labor, in violation of Regulation 61-24, *Licensing Midwives*.

Previous Sanctions: None

Phaire's Care at Katura Springs, 12488 Old Number Six Highway, Eutawville, SC 29048. By Consent Order executed on March 21, 2014, the Department imposed a \$23,500 monetary penalty. The terms of the Consent Order required Phaire's to pay \$4,800 of the imposed civil penalty in twelve monthly installments of \$400. The remaining \$18,700 of the penalty is being held in abeyance pending Phaire's remaining in substantial compliance with Regulation 61-84, *Standards for Licensing Community Residential Care Facilities*, and the Consent Order for twelve (12) months following execution

of the Order. Additional terms of the Consent Order require Phaire's to correct the violations that initiated the Department's enforcement action; and to schedule and attend a compliance assistance meeting with Department representatives within 45 days of execution of the Consent Order.

The sanction was imposed against Phaire's Care at Katura Springs ("Phaire's") due to new and repeat violations of *Standards for Licensing Community Residential Care Facilities*: 7 S.C. Code Ann. Regulation 61-84 (2012). Deficiencies included: failing to have written policies and procedures available for review that addressed all sections of Regulation 61-84. Those policies and procedures that were available for review failed to address resident care, residents' rights and the operation of the Facility. Additionally, the Facility failed to establish a time-period for review of its policies and procedures; failed to have documentation of basic first-aid training for staff before initial resident contact; failed to have current annual first-aid training for staff members available for review; failed to have documentation of contagious/communicable disease training before resident contact and lacked current annual contagious/communicable disease training for staff members available for review; failed to have documentation of medication management training before resident contact and lacked current annual medication management training for staff members available for review; failed to have documentation of specific personal care training (dependent on the type specific physical/mental condition of the residents) before resident contact and lacked current annual specific personal care training for staff members available for review; failed to have documentation of confidentiality training before resident contact and lacked current annual confidentiality training for staff members available for review; failed to have documentation of fire response training within 24 hours of staff members' first day on the job and lacked current annual fire response training for staff members available for review; failed to have documentation of emergency procedures/disaster preparedness training within 24 hours of staff members' first day on the job and lacked current annual emergency procedures/disaster preparedness training for staff members available for review; failed to ensure residents' Individual Care Plans (ICPs) addressed the diet prescribed by their physician or other healthcare provider; failed to have documentation of residents' physical examinations conducted within thirty days prior to admission to the Facility and current annual physical examinations for residents available for review; failed to have documentation available for review of a PPD test (Tuberculosis) conducted within one month of admission for residents admitted to the Facility from other licensed CRCFs; failed to have residents' physician-ordered medications available for administration and for having expired medications and medical supplies stored in the medication room and first aid kit; failed to ensure that residents' physician-ordered medications were listed on Medication Administration Records (MARs) and lacked documentation of the administration of residents' medication on the MARs; failed to have documentation of orders from a physician or other healthcare provider that authorized residents to

store and self-administer medications; failed to ensure that a documented review of residents' medication administration records was conducted at each shift change by outgoing and incoming staff; failed to maintain records of the accurate disposition of residents' controlled medications to enable an accurate reconciliation; failed to have documentation for the destruction of residents' medications; failed to ensure that foods being served to residents were fit for consumption and protected from contamination; failed to ensure that equipment and utensils used in the preparation of foods were adequately cleaned, sanitized, and stored in such a manner as to protect them from contamination; failed to maintain the Facility's structure and its component parts/equipment in good working condition; failed to ensure the Facility and its grounds were maintained free of vermin and/or offensive odors; failed to maintain each specific area of the Facility in a clean and neat condition; and, failed to ensure that harmful toxic agents and cleaning materials were stored in a secured manner not accessible to residents.

Previous Sanctions: None

Approved By:



Jamie Shuster
Director of Public Health

HEALTH REGULATION

Bureau of Health Facilities Licensing

Sanctions Imposed for the Period from February 1, 2014 – March 31, 2014

Facility: **Colleton Courtyard**

Street address: 210 Academy Road, Walterboro, South Carolina
29488-9208

Mail address: 210 Academy Road, Walterboro, South Carolina
29488-9208

Type: Community Residential Care Facility

Sanction Imposed: By Consent Order, executed on February 7, 2014, the Department imposed a monetary penalty in the amount of \$4,000. A term of this Consent Order requires Colleton Courtyard to make payment of \$1,200 of the assessed monetary penalty to the Department within thirty (30) days of execution of the Consent Order. The remainder of the assessed penalty (\$2,800) was held in abeyance pending Colleton Courtyard maintaining substantial compliance with R.61-84 and the Consent Order for twelve (12) months following execution of the Order. In addition, Colleton Courtyard was required to: initiate action to correct the violations that led to the Department's imposition of the monetary penalty and to schedule and attend a compliance assistance meeting with representatives of the Department's Bureau of Health Facilities Licensing within forty-five (45) days of execution of the Consent Order. A compliance assistance meeting was held on March 28, 2014. The facility administrator, resident care coordinator and maintenance coordinator met with DHEC staff for a thorough review of the items of noncompliance, as well as for any other questions the facility might have regarding regulatory requirements. The facility was reminded that repeat violations could invoke additional fines. Department staff will re-inspect the facility within thirty to forty-five days following the compliance assistance meeting to determine the level of compliance.

Reason for Sanction: The sanction was imposed against Colleton Courtyard due to new and repeat violations of 7 S.C. Code Ann. Regs. 61-84, *Standards for Licensing Community Residential Care Facilities*. Violations consisted of: failure to ensure fire protection and suppression systems were properly maintained and tested (fire alarm, sprinkler fire extinguishers, and hood suppression); failure to maintain the Facility's structure and its component parts/equipment in good working condition; failure to properly and securely store oxygen gas cylinders; failure to have documentation available for review showing that the Facility's electrical system had been inspected at least annually by a licensed electrician, registered engineer, or certified building inspector; and, failure to have documentation showing that the Facility's HVAC system had been inspected at least annually by a certified/licensed technician.

Previous Sanctions: None

Facility: Radiological Health Physics Consultants, Inc.

Street address: 501 Stonegate Lane, Winston-Salem, North Carolina
27104

Mail address: 501 Stonegate Lane, Winston-Salem, North Carolina
27104

Type: X-Ray Vendor

Sanction Imposed: The order requires Radiological Health Physics Consultants, Inc. to pay a civil penalty in the amount of \$4,674.00. Payment in the amount of \$2,337 of the civil penalty will be stayed upon an eighteen month period of compliance. The remaining \$2,337.00 shall be paid to the Department. The Order also requires the Vendor, Radiological Health Physics Consultants, Inc. to correct any violations that are still outstanding. Radiological Health Physics Consultants, Inc. will develop and provide the Department with a comprehensive corrective action plan to ensure compliance with Regulation 61-64. The Vendor agrees to appoint a designated medical physicist on staff to review all equipment performance tests conducted at X-Ray facilities for accuracy. The vendor will also designate an individual on staff to verify that shielding plans have been accepted by the Department and provide the applicable log number to the medical physicist prior to the area survey being performed.

Reason for Sanction: Radiological Health Physics Consultants, Inc. has repeatedly failed to meet the service requirements for completing x-ray equipment

performance tests, area surveys, and evaluating mammography quality control programs. As a registered Vendor for X-ray equipment quality control, Radiological Health Physics Consultants failed to show the ability to comply with Regulation 61-64, Title B, X-ray. Specifically, the Vendor failed to conduct adequate x-ray equipment performance tests, identify deficiencies and recommend corrective action pertaining to mammography medical physicist surveys, follow manufacturer's specifications in evaluating quality control programs for licensees, perform acceptable radiation surveys for clients, and verify Department x-ray shielding plan acceptance prior to performing a radiation survey.

Previous Sanctions: None

Facility: D. Michael Hicks, Owner
PF Florence LLC dba Planet Fitness

Street address: 2600-D David McLeod Boulevard
Florence, South Carolina 29501

Mail address: 2600-D David McLeod Boulevard
Florence, South Carolina 29501

Type: Tanning Facility

Sanction Imposed: The order imposes a civil penalty in the amount of \$2,000 against the facility. Terms of the Order require payment of \$500 to be made to the Department within 30 days of the execution of this sanction. The remaining \$1,500 will be held in abeyance for an eighteen month period in which the facility must maintain substantial compliance.

Reason for Sanction: The Sanction was imposed against Planet Fitness due to failure to meet the sanitation requirements for tanning related equipment, contrary to R. 61-106, Tanning Facilities. Planet Fitness failed to properly sanitize tanning equipment prior to customer use. Specifically, the registrant (Planet Fitness) was in violation of 8 S.C. Code Ann. Regs. 61-106 §3.3.3 that states:
"A registrant shall not require a consumer to sanitize the tanning equipment or protective eyewear and shall not post any signs requesting such sanitation be performed by the consumer. However, this does not prevent a consumer from re-sanitizing the tanning equipment or protective eyewear if a consumer so chooses after the registrant has performed the sanitation."
The Department received several written complaints from consumers

stating that employees of Planet Fitness were requiring customers to clean the tanning equipment before use. The complaints continued by stating that signs were posted requesting consumers to "Please wipe down ALL areas of equipment, before and after use. Thank you, Planet Fitness." The Department conducted an investigation and found the complaints to be valid. Consumers were being required to clean the tanning equipment themselves and there were signs posted to support the complaint.

Previous Sanctions: None

Facility: Jacqueline Kushner, LMW-0056

Street address: 7932 Honey Fig Road, Charlotte, N.C. 28277

Mail address: 7932 Honey Fig Road, Charlotte, N.C. 28277

Type: Licensed Midwife

Sanction Imposed: By Consent Order, executed on March 7, 2014, the Department imposed a six (6) month suspension (until March 1, 2014) with time served pursuant to an Emergency Suspension Order, executed on September 2, 2013. The Consent Order also included a term which imposed an additional six (6) months suspension which will be stayed upon compliance with a one (1) year period of probation commencing on March 1, 2014, the conditions of which include mandatory supervision by a licensed midwife (or midwives) in good standing with the Department during all times Ms. Kushner practices midwifery. The Consent Order also required the supervising midwife (or midwives) to submit quarterly reports (on June 1, 2014 and September 1, 2014) to the Department which document all midwifery activities Ms. Kushner participates in, an assessment of Ms. Kushner's performance during such midwifery activities, any supplemental comments, and the signature of the supervising midwife. Furthermore, the Consent Order requires Ms. Kushner to complete training modules that are available through the Association of Women's Health, Obstetric and Neonatal Nurses: Fetal Heart Rate Auscultation, 2nd Edition.

Reason for Sanction: The sanction was imposed against Jacqueline Kushner due the determination by the Department during an investigation on September 2, 2013 that Ms. Kushner: failed in her duty to recognize the warning signs of abnormal and potentially abnormal conditions necessitating referral to a physician and failed in her duty to consult with a physician when significant deviations occurred during labor, in violation of § J.1 of Regulation 61-24, *Licensing Midwives*; failed in

her duty to obtain medical consultation or refer for medical care a patient who had meconium-stained amniotic fluid, in violation of § K.34 of Regulation 61-24; failed in her duty to obtain medical consultation or refer for medical care a patient who had recurrent fetal heart rates significantly below the baseline, in violation of § K.36 of Regulation 61-24; failed in her duty to check a patient who was in labor at least every two hours to determine progression in dilation, effacement, or station, and failed in her duty to refer for medical care a patient who did not progress in dilation, effacement, or station in a two-hour period, in violation of § K.40 of Regulation 61-24; and, failed in her duty to obtain medical consultation or refer medical care to a patient who developed a condition which raised concern, that is, the application of oxygen via a face mask to a mother in the presence of meconium-stained fluid and recurrent fetal heart rates significantly below the baseline during labor, in violation of § K.54 of Regulation 61-24.

Previous Sanctions: None

Facility: Pamela Wilson, LMW - 0051

Street Address: 14717 Bridle Trace Lane, Pineville, NC 28134

Mailing Address: 14717 Bridle Trace Lane, Pineville, NC 28134

Type: Licensed Midwife

Sanction Imposed: By Consent Order, executed on March 14, 2014, the Department imposed a six (6) month suspension (until March 1, 2014) with time served pursuant to an Emergency Suspension Order, executed on September 2, 2013. The Consent Order also included a term which imposed an additional three (3) months suspension which will be stayed upon compliance with a six (6) month period of probation commencing on March 1, 2014, the conditions of which include mandatory supervision by a licensed midwife (or midwives) in good standing with the Department during all times Ms. Wilson practices midwifery. The Consent Order also required the supervising midwife (or midwives) to submit quarterly reports (on June 1, 2014 and September 1, 2014) to the Department which document all midwifery activities Ms. Wilson participates in, an assessment of Ms. Wilson's performance during such midwifery activities, any supplemental comments, and the signature of the supervising midwife. Furthermore, the Consent Order requires Ms. Wilson to complete training modules that are available through the Association of Women's Health, Obstetric and Neonatal Nurses: Fetal Heart Rate

Auscultation, 2nd Edition.

Reason for Sanction: The sanction was imposed against Pamela Wilson due to the determination by the Department during an investigation on September 2, 2013 that Ms. Wilson: failed in her duty to recognize the warning signs of abnormal and potentially abnormal conditions necessitating referral to a physician and failed in her duty to consult with a physician when significant deviations from the normal occurred during labor, in violation of § J.1 of Regulation 61-24, *Licensing Midwives*; failed in her duty to obtain medical consultation or refer for medical care a patient who had meconium-stained amniotic fluid, in violation of § K.34 of Regulation 61-24; failed in her duty to obtain medical consultation or refer for medical care a patient who had recurrent fetal heart rates significantly below the baseline, in violation of § K.36 of Regulation 61-24; and, failed in her duty to obtain medical consultation or refer medical care to a patient who developed a condition which raised concern, that is, the application of oxygen via a face mask to a mother in the presence of meconium-stained fluid and recurrent fetal heart rates significantly below the baseline during labor, in violation of § K.54 of Regulation 61-24.

Previous Sanctions: None

Facility: Phaire's Care at Katura Springs

Street Address: 12488 Old Number Six Highway, Eutawville, SC 29048

Mailing Address: 12488 Old Number Six Highway, Eutawville, SC 29048

Type: Community Residential Care Facility

Sanction Imposed: By Consent Order (CO-HL-01-2014) executed on March 21, 2014, the Department imposed a \$23,500 monetary penalty. The terms of the Consent Order required Phaire's to: pay \$4,800 of the imposed civil penalty in twelve monthly installments of \$400 with the remaining \$18,700 of the penalty being held in abeyance pending Phaire's remaining in substantial compliance with Regulation 61-84 and the Consent Order for twelve (12) months following execution of the Consent Order; to initiate action to correct the violations that initiated the Department's enforcement action; to schedule and attend a compliance assistance meeting with Department representatives within 45 days of execution of the Consent Order; and, to provide its

policies and procedures which address the maintenance of the Facility and management of residents' medications and records to the Department for review at the time of the compliance assistance meeting.

Reason for Sanction: The sanction was imposed against Phaire's Care at Katura Springs ("Phaire's") due to new and repeat violations of *Standards for Licensing Community Residential Care Facilities: 7 S.C. Code Ann. Regulation 61-84 (2012)*. Deficiencies included: failing to have written policies and procedures available for review that addressed all sections of Regulation 61-84. Those policies and procedures that were available for review failed to address resident care, residents' rights and the operation of the Facility. Additionally, the Facility failed to establish a time-period for review of its policies and procedures; failed to have documentation of basic first-aid training for staff before initial resident contact; failed to have current annual first-aid training for staff members available for review; failed to have documentation of contagious/communicable disease training before resident contact and lacked current annual contagious/communicable disease training for staff members available for review; failed to have documentation of medication management training before resident contact and lacked current annual medication management training for staff members available for review; failed to have documentation of specific personal care training (dependent on the type specific physical/mental condition of the residents) before resident contact and lacked current annual specific personal care training for staff members available for review; failed to have documentation of confidentiality training before resident contact and lacked current annual confidentiality training for staff members available for review; failed to have documentation of fire response training within 24 hours of staff members' first day on the job and lacked current annual fire response training for staff members available for review; failed to have documentation of emergency procedures/disaster preparedness training within 24 hours of staff members' first day on the job and lacked current annual emergency procedures/disaster preparedness training for staff members available for review; failed to ensure residents' Individual Care Plans (ICPs) addressed the diet prescribed by their physician or other healthcare provider; failed to have documentation of residents' physical examinations conducted within thirty days prior to admission to the Facility and current annual physical examinations for residents available for review; failed to have documentation available for review of a PPD test (Tuberculosis) conducted within one month of admission for residents admitted to the Facility from other licensed CRCFs; failed to have residents' physician-ordered medications available for administration and for having expired medications and medical supplies stored in the

medication room and first aid kit; failed to ensure that residents' physician-ordered medications were listed on Medication Administration Records (MARs) and lacked documentation of the administration of residents' medication on the MARs; failed to have documentation of orders from a physician or other healthcare provider that authorized residents to store and self-administer medications; failed to ensure that a documented review of residents' medication administration records was conducted at each shift change by outgoing and incoming staff; failed to maintain records of the accurate disposition of residents' controlled medications to enable an accurate reconciliation; failed to have documentation for the destruction of residents' medications; failed to ensure that foods being served to residents were fit for consumption and protected from contamination; failed to ensure that equipment and utensils used in the preparation of foods were adequately cleaned, sanitized, and stored in such a manner as to protect them from contamination; failed to maintain the Facility's structure and its component parts/equipment in good working condition; failed to ensure the Facility and its grounds were maintained free of vermin and/or offensive odors; failed to maintain each specific area of the Facility in a clean and neat condition; and, failed to ensure that harmful toxic agents and cleaning materials were stored in a secured manner not accessible to residents.

Previous Sanctions: None

