

ATTORNEY GENERAL OF THE STATE OF NEW YORK
HEALTH CARE BUREAU

In the Matter of

Assurance No. 26-011

**Investigation by LETITIA JAMES,
Attorney General of the State of New York, of**

NAPHCARE LLC, f/k/a NAPHCARE, INC., and
PROACTIVE HEALTH CARE MEDICINE, PLLC,

Respondents.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) commenced an investigation (the “Investigation”) pursuant to Executive Law § 63(12) into the provision of health care at the Onondaga County Justice Center (“OCJC”) to certain incarcerated individuals at the time OCJC’s health care services were managed, provided, overseen, and administered by NaphCare, Inc., now converted to a Texas limited liability company, NaphCare, LLC, (collectively, “NaphCare”), and agents or entities affiliated with NaphCare, including but not limited to Proactive Health Care Medicine, PLLC (“Proactive”) (together with NaphCare, “Respondents”). This Assurance of Discontinuance (“Assurance”) contains the findings of OAG’s investigation and the relief agreed to by OAG, NaphCare, and Proactive, acting alone or in concert with others or each other through Respondents’ directors, officers, employees, representatives, agents, affiliates, or subsidiaries, etc. (OAG, NaphCare, and Proactive collectively referred to as the “Parties”).

OAG's PRELIMINARY STATEMENT

OCJC is a 605-bed correctional facility located in Syracuse, N.Y. The OAG Health Care Bureau was made aware that four individuals died while in custody at OCJC in a 20-month period from the end of 2020 through 2022. Two deaths (of Angela Peng and Paul Watkins) were by suicide; one was the death, hours after birth, of a preivable newborn born to an incarcerated individual experiencing preterm premature rupture of membrane ("PPROM"), who delivered alone in her cell (Cheree Byrd); and one was the death of an incarcerated man in his sixties with a history of untreated hypertension and other medical issues who died due to atherosclerotic and hypertensive cardiovascular disease (Kevin Gilooly). The OAG commenced an investigation into this health care equity issue, as incarcerated individuals are among the most marginalized members of our community, often of low income and often additionally members of racial and ethnic marginalized communities.

The OAG has concluded that Respondents, in contract with Onondaga County, represented to the County that medical care and treatment would be provided directly by Proactive, a New York professional corporation, with NaphCare only providing background management and administrative services. Nevertheless, direct patient care was provided, at least in part, by NaphCare, in violation of New York's prohibition on the corporate practice of medicine. The OAG has also concluded that NaphCare exercised significant control over Proactive's operations, and that Respondents were entwined in critical areas such that NaphCare was effectively the medical provider and oversaw medical provision at OCJC. Finally, OAG has concluded that Respondents violated New York regulations, and several of their own policies and procedures, and that Respondents were deficient and failed to provide adequate medical care to Angela Peng, Cheree Byrd, and Kevin Gilooly.

APPLICABLE LAW

1. The New York State Executive Law prohibits “repeated fraudulent or illegal acts” in the conduct of any business, trade, or commerce, and allows OAG to institute a special proceeding for restitution, damages, and/or injunctive relief against any party which has committed such acts. N.Y. Exec. Law § 63(12).
2. New York law prohibits the practice of a licensed profession, such as medicine or nursing, by individuals and corporations who are not authorized to practice that profession. Education Law § 6522 requires that an individual be licensed to practice medicine. Education Law § 6903 requires that an individual be licensed pursuant to Education Law § 6905 to practice nursing.
3. New York Business Corporation Law (“BCL”) Article 15 and New York Limited Liability Company Law (“LLC”) Article 12 set forth the only permissible corporate entities that may practice a profession: Professional Service Corporations (“PCs”) and Professional Service Limited Liability Corporations (“PLLCs”).
4. The BCL and LLC strictly regulate the creation and operation of PCs and PLLCs, providing that a PC/PLLC incorporated to practice medicine must be entirely owned and controlled by licensed physicians. Pursuant to BCL §§ 1503(a) and 1507 and LLC § 1203, only individuals authorized by law to practice medicine may form and own a PC/PLLC incorporated to practice medicine, and, pursuant to BCL §1508(a) and LLC § 1207, only individuals authorized by law to practice medicine may serve as a director or officer of the PC/PLLC.

5. New York General Business Law § 349 prohibits “deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service” in New York State.
6. New York Executive Law § 63(12) prohibits repeated fraud or illegality in the conduct of any business, trade or commerce.
7. New York Executive Law § 63(12) prohibits violations of the New York Codes, Rules, and Regulations (“NYCRR”).

OAG’s FINDINGS OF FACT

A. RESPONDENTS

8. During the relevant time period, NaphCare was an Alabama domestic corporation incorporated in Jefferson County, Alabama that marketed itself nationally as providing health care, technology, and administrative services to correctional institutions and used this model with many federal and state prisons and county jails around the country. Its Chief Executive Officer (“CEO”), Brad McLane, is an attorney. NaphCare’s chairman, founder, and former CEO is James S. McLane, a former practicing pharmacist.
9. In 2019, NaphCare created or caused to be created a New York professional corporation, Proactive, with the aim to provide medical services to individuals incarcerated in Onondaga County.
10. Proactive was reported as owned by Rita Armitage, an ophthalmologist who lives in Alabama and has connections to NaphCare. Armitage was Proactive’s CEO and Physician owner/sole member. Armitage was licensed in New York only during the period of Proactive’s contract with Onondaga County.
11. Proactive’s President and Corporate Secretary was Brad McLane, NaphCare’s past Chief

Administrative Officer and current CEO.

12. During the relevant time period, Proactive utilized the same business address as NaphCare at 2090 Columbiana Road, Suite 4000 in Birmingham, Alabama. Proactive's policy and procedures manual for OCJC tracked the NaphCare health care policy and procedures manuals.
13. Proactive has been dissolved as a New York PLLC and as such no longer does business in New York or elsewhere.
14. NaphCare has never been a company licensed for medical practice under New York law. NaphCare is not a PC or PLLC as is required for it or its employees to practice medicine or nursing in New York.
15. Onondaga County contracted with Proactive from January 1, 2020 through December 31, 2022 to provide services to OCJC, the Onondaga County Correctional Facility, and the Hillbrook Juvenile Detention Center (the "Facilities"). To effectuate the contract, Proactive contracted with NaphCare through a Management Services Agreement ("MSA"). After the deaths at OCJC described herein, Proactive did not bid to renew the contract and the contract was not renewed.
16. The Onondaga County contract provided for compensation to Proactive of over \$11 million in 2020, over \$12 million in 2021, and almost \$13 million in 2022. Of those amounts, Proactive paid NaphCare approximately \$5 million per year pursuant to the MSA between them.

B. RESPONDENTS' BUSINESS MODEL AND BUSINESS SERVICE AGREEMENTS

17. NaphCare created Proactive, or caused it to be created, as a New York professional corporation to provide medical services to individuals incarcerated at the Facilities.
18. OAG examined Respondents' corporate structures, together with their contracts, policies, and procedures.
19. Proactive's contract with Onondaga County represented that Proactive would provide all clinical services and that NaphCare would only provide administrative, management, and other non-clinical services.
20. Consistent with Proactive's contract with the County, Proactive's MSA with NaphCare stated that NaphCare was to deliver only the "management and administrative services" portion of the Proactive contract with Onondaga County, while Proactive was to deliver the medical services at the Facilities.
21. Respondents did not inform Onondaga County that NaphCare would also be providing medical care and treatment to persons in custody at the Facilities. The RFP contracts signed by Proactive referred to itself and NaphCare as "NaphCare" collectively. Respondents represented that New-York-licensed medical providers would practice medicine through telehealth. These remote providers, however, were not employed or supervised by Proactive—they were located in Alabama, employed by NaphCare. While Respondents intended that NaphCare providers would treat patients at the Facilities, this fact was omitted from the contracts and violated New York's prohibition of the unlicensed corporate practice of medicine, as NaphCare was not a PC or PLLC, as required by New York law.

22. NaphCare telehealth providers in Alabama issued orders remotely for prescriptions for and medical treatment to the incarcerated individuals in the Facilities.
23. This clinical care, known as the NaphCare STATCare model, took the form of electronic transmissions to and from NaphCare's corporate headquarters in Alabama, including ordering treatments and medications to patients in correctional institutions such as OCJC. These medical "STATCare teams" are based in Alabama, employed by NaphCare, and order treatment electronically by reviewing electronic records only, without seeing or speaking to the patient or a correctional facility-based provider.
24. The contract between Proactive and Onondaga County and the MSA between Proactive and NaphCare represented that Proactive was in charge of all medical decisions and treatments at OCJC. However, NaphCare was actually in charge of those decisions. The medical director of Proactive, technically in charge of medical care at OCJC, reported to and was supervised by the NaphCare chief medical officer.
25. The contract represented that "[p]roviders may choose to continue, change or discontinue any orders, as they deem necessary." However, although Proactive employed an on-site physician and some on-site midlevel providers who had the authority to continue, change, or discontinue orders, Proactive providers on-site also included Registered Nurses and Licensed Professional Nurses who lacked authority to ignore or change orders from NaphCare's STATCare providers who treated or prescribed.
26. The MSA repeatedly represented that only Proactive was authorized to provide medical services to patients in the Facilities; that Proactive was solely responsible for all aspects of delivery of medical services to incarcerated individuals; that NaphCare was not to

interfere with the professional judgment of any Proactive provider; and that NaphCare was not to practice medicine, own or control a medical practice, or operate a clinic.

27. Despite the numerous contractual representations that NaphCare would not practice medicine at the Facilities, it did so. NaphCare's nurse practitioners and other providers, employed by NaphCare and located in Alabama, regularly issued treatment orders, prescribed medications, and otherwise practiced medicine on individuals incarcerated at OCJC. NaphCare also controlled Proactive's providers.

C. DEATHS AT OCJC DURING RESPONDENTS' CONTRACTS

28. During the period that Proactive was in contract with Onondaga County and NaphCare was in contract with Proactive through the MSA, Peng, Byrd and Gilooly were incarcerated at OCJC and Peng, Gilooly, and the preterm infant of Byrd died in OCJC custody in a 20-month period.
29. During the period that Peng, Byrd, and Gilooly were incarcerated at OCJC, many of the medical treatments and prescriptions ordered on their behalf were ordered by NaphCare-employed providers working remotely from Alabama through the STATCare electronic system model.
30. Incarcerated individual Angela Peng died by suicide without having been provided necessary medical and mental health care.
31. A preterm newborn was born at 20 weeks' gestational age to incarcerated individual Cheree Byrd in Byrd's cell. The newborn died at the hospital hours after birth. Byrd had experienced a life-threatening medical condition known as preterm premature rupture of membranes, or PPRM, and had over several days told OCJC health care providers she was in labor. Byrd was not seen by a medical provider until 30 hours after she first

reported that her water broke, and was not transported to a hospital until after giving birth.

32. Incarcerated individual Kevin Gilooly, a man in his sixties with a history of hypertension and other medical issues, presented with elevated blood pressure throughout his incarceration at OCJC, and died due to atherosclerotic and hypertensive cardiovascular disease after only intermittent treatment by Respondents of Gilooly's high blood pressure while incarcerated, as well as more than one mix-up by Respondents in Gilooly's medication orders and the administration of those orders, and without any of Respondents' providers having ever ordered that he be seen by a specialist.
33. During the course of Peng's, Byrd's, and Gilooly's incarcerations and medical treatment at OCJC, Respondents violated the following New York regulations as to health care in correctional facilities: 9 NYCRR §§ 7002.5(a), 7002.6, 7010.1(a)-(b), 7010.2(b)(1)-(2), 7010(2)(e), 7010.2(g), 7010.2(i), 7010.2(j), 7011, 7011.5(a), 7011.7(b), 7013.3(a)(2), and 7013.7(b)-(c).
34. In 2022, after the deaths described above, Proactive did not bid to renew its contract and the contract was not renewed. The MSA with NaphCare was not renewed. Respondents no longer do any business with the State of New York or any New York State municipality.

OAG'S CONCLUSIONS OF LAW

35. During the relevant time period, NaphCare was an Alabama corporation that was not authorized to practice medicine or nursing in New York State and has never been a New York professional service organization as required for the practice of medicine and nursing in New York.

36. NaphCare's role in Proactive's operations was so extensive and significant that through NaphCare's control of Proactive's practices, as well as through NaphCare's own practices, Respondents engaged in or assisted in the repeated and persistent illegality under Exec. Law § 63(12) through the unlicensed corporate practice of medicine and nursing under BCL § 1503, LLC § 1203, and New York common law, through its use of NaphCare's STATCare nurse practitioners ordering treatments and prescriptions to patients in New York, and through its use of Proactive's providers who were under NaphCare's control.

37. Through NaphCare's extensive and significant role in Proactive's operations and practice, as well as through NaphCare's own practices, Respondents engaged in repeated and persistent illegality under Exec. Law § 63(12) through violations of 9 NYCRR §§ 7002.5(a), 7002.6, 7010.1(a)-(b), 7010.2(b)(1)-(2), 7010(2)(e), 7010.2(g), 7010.2(i), 7010.2(j), 7011, 7011.5(a), 7011.7(b), 7013.3(a)(2), 7013.7(b)-(c), several of its own policies and procedures, and a number of corrections health care standards established by the correctional health care industry in the medical care both provided and denied to Peng, Byrd, and Gilooly.

38. Respondents actions further violated Exec. Law § 63(12) for deceptive business practices for their misconduct, including but not limited to under GBL §§ 349 and 350, because the representation in Proactive's contract with Onondaga County and NaphCare's MSA with Proactive that NaphCare would not practice medicine in the Facilities was not followed in practice.

39. Respondents' actions also constituted repeated and persistent illegality under § 63(12) through NaphCare's control of Proactive's practices, as well as through violations of Respondents' policies, violating NYCRR § 7010.1(a).

40. Respondents neither admit nor deny the Attorney General's Findings of Fact or Conclusions of Law set forth in ¶¶ 8-39 above (the "Covered Conduct"), but in the interests of resolving the Investigation, agree to the remedies set forth in this Assurance. Respondents agree that evidence of the Covered Conduct is admissible by the Attorney General in any proceeding by the Attorney General to enforce this Assurance. The Parties do not intend this Assurance to be construed as an admission for purposes of any third-party or federal agency proceeding.

41. OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest.

THEREFORE, OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of Executive Law § 63(12) based on the Covered Conduct.

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

RELIEF

42. General Injunction: Respondents shall not engage, or attempt to engage, in conduct in violation of any applicable laws, including but not limited to Executive Law § 63(12); Educ. Law § 6509(9); LLC § 1203; BCL § 1503; GBL §§ 349, 350; and the NYCRR; and expressly agree and acknowledge that any such conduct is a violation of the Assurance, and that OAG thereafter may commence the civil action or proceeding contemplated in ¶ 46, *infra*, in addition to any other appropriate investigation, action, or proceeding.

43. Programmatic Relief:

- a. Respondents agree they will not bid on or enter into any contract with New York State or any New York State municipality for the provision of prison/jail health services for a period of five (5) years from the effective date of this Assurance. Thereafter, Respondents agree they will not bid on or enter into any contract with New York State or any New York State municipality for the provision of prison/jail health services without providing prior notice and receiving written approval from OAG for a period of five (5) additional years. At any time that Respondents seek to contract with New York State or any New York State municipality, they shall provide OAG with thirty (30) days written notice before they propose any contract, RFP, or other agreement to provide services under any contract with New York State or any New York State municipality and shall not enter any such agreement without OAG approval. Respondents agree that, for any period after which OAG might approve them to provide services under any contract with New York State or any New York State municipality pursuant to ¶ 43(a), for any providers it arranges to provide medical, dental, or mental health services and treatment to New York patients, including remotely through electronic means such as STATCare or other technology, those providers shall only provide such services and treatment as licensed employees or licensed independent contractors of a valid New York professional corporation or New York professional limited liability company.

- b. Acceptance of this Assurance by OAG is not an approval or endorsement by OAG of any of Respondents' policies, practices, or procedures, and Respondents shall make no representation to the contrary.
- c. The Parties agree that it would be difficult to value the damages caused by default in the performance of any obligation under this paragraph, and therefore agree that Respondents shall pay to the State of New York a stipulated penalty of \$50,000 for each and every such default in the performance of any obligation under this paragraph occurring after the effective date of the Assurance.

44. Default:

- a. Respondents expressly agree and acknowledge that a default in the performance of any obligation under this paragraph is a violation of the Assurance, and that OAG thereafter may commence the civil action or proceeding contemplated in ¶ 46, *infra*, in addition to any other appropriate investigation, action, or proceeding, and that evidence that the Assurance has been violated shall constitute *prima facie* proof of the statutory violations described in ¶¶ 35-39, pursuant to Exec. Law § 63(15).

45. Monetary Relief:

- a. *Monetary Relief Amount:* Respondents shall pay to the State of New York the amount of \$875,000 in monetary relief (the "Monetary Relief Amount"). Payment

of the Monetary Relief Amount shall be made in full within ten [10] business days of the effective date of this Assurance.¹

- b. Payments shall be made by attorney check, corporate or certified check, or bank draft, which shall be made payable to the "State of New York", and shall reference Assurance No. 26-011; payments shall be addressed to the attention of Assistant Attorney General Susan Lambiase, State of New York, Office of the Attorney General, Health Care Bureau, 28 Liberty Street, 19th Floor, New York, NY 10005.
- c. Payments in excess of \$50,000 shall be made by wire transfer.

MISCELLANEOUS

Subsequent Proceedings:

46. Respondents expressly agree and acknowledge that OAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to ¶ 54, and agrees and acknowledges that in such event:

- a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;
- b. OAG may use statements, documents, or other materials produced or provided by Respondents prior to or after the effective date of this Assurance;

¹ Respondents expressly acknowledge and agree that no portion of the Monetary Relief Amount qualifies as restitution for purposes of municipal, state, or federal law.

- c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Respondents irrevocably and unconditionally waive any objection based upon personal jurisdiction, inconvenient forum, or venue; and
- d. evidence of a violation of this Assurance shall constitute *prima facie* proof of a violation of the applicable law pursuant to Exec. Law § 63(15).

47. If a court of competent jurisdiction determines that Respondents have violated the Assurance, Respondents shall pay to OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

Effects of Assurance:

48. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Respondents. Respondents shall include any such successor, assignment, or transfer agreement a provision that binds the successor, assignee, or transferee to the terms of the Assurance. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of OAG.
49. The parties agree that all provisions in this Assurance apply to NaphCare operations conducted through NaphCare and its agents, entities, or affiliates, including but not limited to Proactive and any future or revived Proactive entity.
50. Nothing contained herein shall be construed as to deprive any person of any private right under the law.
51. Any failure by OAG to insist upon the strict performance by Respondents of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions

hereof, and OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by Respondents.

52. Nothing in this Assurance shall prevent Respondents from contracting with the United States Government to provide services at federal facilities, provided, however, that any such services rendered in New York State must comply with New York State laws, consistent with ¶¶ 35-39 above.

Communications:

53. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 26-011, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to NaphCare, to: Brad McLane, or in his/her absence, to the person holding the title of Chief Executive Officer.

If to OAG, to: Assistant Attorney General Susan Lambiase at susan.lambiase@ag.ny.gov, or Bureau Chief Darsana Srinivasan of the Health Care Bureau at darsana.srinivasan@ag.ny.gov, or in their absence, to the person holding the title of Bureau Chief, Health Care Bureau.

Representations and Warranties:

54. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to OAG by Respondents and their counsel and OAG's own factual

investigation as set forth in OAG's Findings of Fact, ¶¶ 8-34 above. Respondents represent and warrant that neither they nor their counsel have made any material representations to OAG that are inaccurate or misleading. If any material representations by Respondents or their counsel are later found to be inaccurate or misleading, this Assurance is voidable by OAG in its sole discretion.

55. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Respondents in agreeing to this Assurance.

56. Respondents represent and warrant, through the signatures below, that the terms and conditions of this Assurance are duly approved. Respondents further represent and warrant that NaphCare, by Brad McLane, CEO, as the signatory to this Assurance, is a duly authorized officer acting at the direction of the Board of Directors of NaphCare, and that Brad McLane is duly authorized to sign this Assurance on behalf of Proactive.

General Principles:

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

58. Respondents agree not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis. Nothing in this paragraph affects Respondents': (a) testimonial obligations, or (b) right to take legal or factual positions in defense of litigation or other legal proceedings to which OAG is not a party.

59. Nothing contained herein shall be construed to limit the remedies available to OAG in the event that Respondents violate the Assurance after its effective date.
60. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.
61. 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 OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.
62. Respondents acknowledge that they have entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.
63. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.
64. 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.
65. This Assurance may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Assurance, all of which shall constitute one agreement to be valid as of the effective date of this Assurance. For purposes of this Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Assurance and all matters related

thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

66. The effective date of this Assurance shall be March 27, 2026.

LETITIA JAMES
Attorney General of the State of New York
28 Liberty Street
New York, NY 10005

By: 
Susan Lambiase, Esq.
Assistant Attorney General, Health Care Bureau
Dated: March 27, 2026

NAPHCARE LLC, f/k/a NAPHCARE, INC., on behalf of
itself and PROACTIVE HEALTH CARE MEDICINE,
PLLC

By: 
Brad McLane
Chief Executive Officer
Dated: March 18, 2026

STATE OF Alabama)

) ss.:

COUNTY OF Jefferson

On the 18 day of March in the year 2026 before me personally came Brad McLane to me known, who, being by me duly sworn, did depose and say that he/she/they reside(s) in Vestavia Hills, AL; that he is Chief Executive Officer of NaphCare, LLC, the corporation described in and which executed the above instrument; that he has signed said instrument by authority of the board of directors of said corporation, and that he signed his names thereto by like authority.

Sworn to before me this

18 day of March, 2026



Christian Sharpe Cox
NOTARY PUBLIC

my commission expires 12/16/2026