

SETTLEMENT AGREEMENT AND PARTIAL RELEASE

RECITALS

On August 25, 2022, Lynda Bluestein and Diana Barnard filed a lawsuit captioned *Bluestein v. Scott*, No. 22–cv–160 (D.Vt.). The lawsuit challenges the residency requirement in Vermont’s Patient Choice and Control at the End of Life Act (the Act) on constitutional grounds. It names as Defendants Philip Scott, Governor of Vermont, Susanne Young, in her official capacity as Attorney General of Vermont, Mark Levine, MD, in his official capacity as Vermont Commissioner of Health and David Herlihy in his official capacity as Executive Director of the Vermont Board of Medical Practice.

TERMS OF AGREEMENT

1. If Plaintiff Bluestein meets all requirements of the Act other than the residency requirement, Defendants agree not to enforce the residency requirement as to Ms. Bluestein, and correspondingly, to recognize the immunity and other protections conferred by the Act, including, but not limited to, 18 V.S.A. §§ 5284 and 5285, to individuals within Defendants’ jurisdiction to the extent actions relate to Ms. Bluestein’s use of the Act.
2. This agreement relates solely to the residency requirement and all parties shall continue in their respective roles with respect to regulation under the Act according to all of its other terms.
3. If Ms. Bluestein seeks to invoke the Act, she will comply with all requirements of the Act, and fill and use any prescriptions she may receive, in Addison County Vermont.
4. During the legislative session following the execution of this agreement, the Vermont Department of Health will support repealing the residency requirement contained in the Act if a

bill to repeal the residency requirement is proposed. This does not obligate the Department to support a bill whose other provisions may be contrary to the Department's goals or objectives.

5. Within seven days of the execution of this agreement, Plaintiffs will file a stipulation of dismissal of the lawsuit. The dismissal shall be without prejudice and without an award of fees or costs to any party.

6. If any party believes that any other party is not in compliance with this agreement, the party alleging noncompliance may seek enforcement of the terms of the agreement in the Addison County Superior Court. Should legal action be necessary, the parties agree to jurisdiction and venue in that court.

7. This agreement represents a compromise to avoid litigation. By making this agreement, no party makes any admission concerning the strength or weakness of any claim. This agreement shall not be offered as evidence or constitute a precedent in any future matter, except for an alleged breach of this agreement or to enforce its terms.

8. This agreement is for the sole benefit of: (1) the parties and (2) any individuals falling within the scope of paragraph 1 above. It is not for the benefit of, and may not be enforced by, any other person.

9. This agreement constitutes the entire agreement among the parties and no other statement, promise, or agreement, written or oral, made by any party or any agent of any party that is not contained in this agreement shall be enforceable.

10. The parties have entered into this agreement voluntarily and with the advice of their legal counsel. The parties agree that they have jointly participated in the preparation of this agreement and that any rule of interpretation construing terms and conditions against the party preparing the agreement is inapplicable.

11. This agreement 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. The agreement shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

Dated March 10, 2023.

David Boyd
Counsel for Defendants



Ronald Shems
Counsel for Plaintiffs

ADDITIONAL APPROVALS


The terms of this agreement have also been accepted and approved by the Vermont Board of Medical Practice and the Addison County State's Attorney. The Board accepted and approved the terms of this agreement by motion on February 1, 2023. The vote is documented in the Vermont Board of Medical Practice meeting minutes dated February 1, 2023. As confirmed by her signature below, the Addison County State's Attorney has also agreed to be bound by the terms of this agreement.

Dated March 10, 2023

Eva Vekos
Addison County State's Attorney

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