

# **EMPLOYMENT AGREEMENT**

## **BETWEEN THE COUNTY OF ALBANY AND LARRY I. SLATKY FOR THE POSITION OF EXECUTIVE DIRECTOR OF THE ALBANY COUNTY NURSING HOME**

### **Pursuant to Resolution No. 262 of 2018**

This Employment Agreement (the "Agreement") is made by and between the County of Albany (referred to herein as the "County"), a New York municipal corporation with an address at 112 State Street, Albany, New York 12207 and licensed to operate a nursing home in New York State known as the Albany County Nursing Home, located at 780 Albany Shaker Road, Albany, New York 12211 (referred to herein as the "Facility"), and Larry I. Slatky, (herein referred to as the "Employee"), an individual residing at 428 Ridgehill Road, Schenectady, New York 12303.

WHEREAS, the County desires to employ Employee upon the terms and conditions hereinafter set forth; and

WHEREAS, the Employee is willing to accept such employment; and

NOW THEREFORE, in consideration of the mutual promises, benefits, and covenants herein contained, County and Employee hereby agree as follows:

1. Effective Date; Term.

1.1 Effective Date—This Agreement is effective October 1, 2018.

1.2 Effective Term—The County employs Employee, and Employee accepts such employment for a three (3) year term, commencing October 1, 2018 ("Commencement Date") and ending on September 30, 2021 (the "Term").

2. Scope of Employment.

2.1 Position and Duties—During the term of this Agreement, Employee agrees to serve as the Executive Director of the Facility (Administrator of Record) performing the duties customarily expected of a person in that position. Employee's duties as Executive Director shall include but not be limited to the following:

- (i) Be readily accessible to residents and staff for consultations;
- (ii) Consult with the Resident Council in addressing the need to seek compromises between conflicting resident and staff interests and needs;
- (iii) Require professional and respectful behavior on the part of the staff towards the residents;

- (iv) Seek to involve staff at all levels in developing and implementing an interdisciplinary approach to resident services, in order to better serve the individual and group interests of residents;
- (v) Report to the Albany County Legislature and County Executive at regular intervals;
- (vi) Implement the policies of the Facility and the County by making operational decisions, including but not limited to: general supervision, employing and discharging of staff, programming, and where appropriate, integrating the services of the Facility with the community's health resources;
- (vii) Assure the Facility Residents' Council: (a) Meets as often as the membership deems necessary; (b) is directed by the residents and is chaired by a resident or another person elected by the membership; (c) may meet with any member of the supervisory staff provided that reasonable notice of the council's request is given to such staff;
- (viii) Assign a staff person in consultation with the Resident Council, acceptable to such council, to act as advisor or coordinator, to facilitate the council in holding regular meetings and to assist members in carrying out council activities, including obtaining necessary information to become informed of Facility policies, exploring the solutions to problems, and conveying to the Executive Director issues and suggestions which require administrative action;
- (ix) Assure that any complaints, problems, or issues reported by the council to the designated staff person or administration are investigated; and that a written report addressing the problem, issues, or suggestions is sent to the council when appropriate or when requested by the County Executive or the County Legislature;
- (x) Oversee all negotiations with the union representing the employees of the Facility, including, but not limited to negotiations involving the collective bargaining agreement, and labor/management issues that may arise;
- (xi) Oversee the development and maintenance of the Facility's budget in consultation with Albany County staff and have sole discretion as to the environmental needs for the Facility and residents including equipment and supplies to serve the residents within the amount appropriated by the Legislature and in accordance with the purchasing policies of the County; and
- (xii) Provide all other services customarily provided by an Executive Director of a skilled nursing facility in the State of New York; and
- (xiii) Establish residency (i.e., domicile) in Albany County within ninety (90) days of the execution of this Agreement and maintain residency in Albany County throughout the Term of this Agreement as a condition of employment with the County.

2.2 Exclusive Efforts—Employee agrees to service County faithfully and to the best of his ability and to devote his time, attention, and efforts to the interests and business of the County and the Facility.

Employee represents and warrants to the County that he is not under any contractual commitment that prohibits or limits his employment by County that is inconsistent with his duties as set forth in this Agreement. Nothing herein shall prohibit Employee from engaging in activities that do not conflict or interfere with Employee's job duties or compliance with this Agreement. Notwithstanding any provision in this Agreement to the contrary, Employee will at all times remain in compliance with the County Code of Ethics.

**2.2a Working Hours**—Employee shall work the customary County workweek of thirty-five (35) hours weekly, Monday through Friday, with a one-hour lunch. The Albany County Executive, after consultation with Employee, shall have the authority to designate the regular schedule during which such hours shall customarily be worked. Employee shall be permitted to periodically adjust his working schedule to attend to necessary personal commitments, such as medical appointments or bereavement. In addition to the regular working hours set forth herein and in recognition of (a) the fact that the Facility operates on a twenty-four (24) hour, seven (7) day per week basis, and (b) the nature of the Executive Director position, Employee is expected to perform substantial work during times other than the regularly scheduled workweek, in order to satisfy his obligations under this Agreement and/or at the direction of the Albany County Executive. Employee and County both hereby represent and agree that Employee shall not be entitled to overtime, compensatory time, or any additional compensation whatsoever for hours worked beyond the regularly scheduled workweek, and that the salary set forth in Section 3 has been agreed to in full anticipation of such substantial additional working hours.

**2.3 Compliance with Laws and Policies**—Employee agrees at all times to strictly adhere to and perform all his duties in accordance with applicable laws, rules, codes, local laws, County resolutions, regulations and the policies, procedures, and practices of County and/or Facility in effect from time to time. However, no such policies, procedures, and practices of County and/or Facility shall be construed to provide Employee with benefits or entitlements that exceed the terms of this Agreement, unless such benefits or entitlements are required to be provided by law.

**2.4 Line of Authority, Governance and Organization**—The County agrees that the Employee will report directly to the County Executive. The Employee agrees to work with all Commissioners, Department Heads, and Divisions of Albany County. The Employee in carrying out his duties (2.1) will have the exclusive authority of the Facility to make day-to-day decisions provided that such decisions follow all applicable Federal, State, and County policies, procedures, rules, regulations, and mission. This provision shall not be construed to provide the Employee with authority to make employment offers; any offers of employment can only be made with the express consent of the County Executive.

### **3. Compensation, Benefits and Expenses.**

**3.1 Base Salary**—Except as otherwise provided in this Agreement, during the Term of the Agreement, County shall pay to Employee an annualized salary in an amount not to exceed THREE HUNDRED AND FIFTY THOUSAND AND 00/100 (\$350,000.00) DOLLARS annually. Such salary shall be paid in equal installments in accordance with County's standard payroll practices and shall be subject to such withholding or deductions as may be mutually agreed between County and Employee or as required by law.

3.2 Fringe Benefits—During the term of this Agreement, Employee will be eligible for the following benefits:

(a) Health, Life, Dental and Disability Insurance Coverage—Excluded from plan.

(b) Retirement/Pension Plan—Although employee is eligible for the plan; the employee chooses to be excluded from the plan.

(c) Holidays, Personal Days, Sick and Vacation Days—All legal holidays, fifteen (15) vacation days, twelve (12) days for sick, personal, and/or bereavement time. These days are provided annually, are cumulative, and are not subject to any type of pay out for their non-use.

(d) Educational, Association, and Professional Development Expenses—During the Term hereof, County shall pay or shall reimburse the Employee for all reasonable travel expenses for the purpose(s) of education, training, and professional development that in his professional judgment are necessary, provided such expenses are (a) related to operation of the Facility and/or care of its residents; (b) subject to and within the amounts of any appropriations in Facility's budget for such reimbursement; and (c) permitted and in accordance with the County's Travel Policy.

3.3. Liability Insurance—The County agrees to insure Employee under its general liability policy for all acts done by him in good faith as Executive Director of the Facility throughout the Term.

#### 4. Termination.

4.1 Termination—Employee's employment with County may be terminated by County or Employee as follows:

(a) Termination by County for "Just Cause"—County may terminate Employee for "just cause" as hereinafter defined. For the purposes herein, "Just Cause" shall mean:

- (i) Employee engaging in acts and/or being convicted of a crime involving acts of moral turpitude, theft involving misappropriation of funds, or unlawful business conduct;
- (ii) Employee committing intentional acts or omissions or fraudulent acts that cause material injury to the property, business, or reputation of County and/or Facility;
- (iii) Employee's loss or suspension of any professional license;
- (iv) The Employee's death or disability. Disability shall be defined as the Employee's, in the judgment of an independent third-party physician chosen by County, inability to (1) substantially perform the material requirements of his position pursuant to the provisions of this Agreement or (2) carry out his obligations under this Agreement for a period in excess of ninety (90) consecutive days or any one hundred and twenty(120) or more days during any three hundred sixty five (365) day period. The Employee agrees to fully

cooperate with any such physician chosen by County to make such a determination; or

- (v) Employee's violation of any material provision of this Agreement which violation is not cured within ten (10) business days after Employee receives notice of such violation from the County.
- (vi) Just Cause does not include any act or omission reasonably believed by the Employee, in good faith, to have been in the best interests of County or the Facility.

4.2 Effect of Termination—In the event Employee is terminated by County pursuant to paragraph 4.1, the County shall pay nothing more under this contract and have no further obligation to pay the Employee.

4.3 Termination of Employee for Just Cause—The Employee may terminate this Agreement for Just Cause by written notice to the County stating with specificity the details of the Just Cause. Any notice for Just Cause shall be given within ninety (90) days of the occurrence of the triggering event. "Just Cause" shall mean:

- i. A material change in Employee's duties, responsibility or authority such that Employee is no longer in a similar administrative management position, which change is not cured within thirty (30) business days of the giving of written notice thereof to County;
- ii. Any material breach by the County of this Agreement, which is not cured within thirty (30) days of the giving of written notice thereof to the County; or
- iii. The County has taken a course of action that would be in material violation of any State or Federal law wherein such violation could incur punishment of imprisonment, a fine or loss of or restriction of a professional license, which is not cured within thirty (30) days of the giving of written notice thereof to the County. Just Cause under this paragraph does not include any act or omission reasonably believed by County, in good faith, to have been in the best interests of the Facility and its residents. Employee agrees to provide the County with no less than sixty (60) days written notice prior to the intended date of such termination. If termination is exercised pursuant to this Clause, the obligation to pay the Employee his salary survives and the County shall to continue Employee's salary until the term of the contract expires.

## 5. Confidentiality.

5.1 Nondisclosure and Nonuse of Confidential Information—Employee shall not disclose or use at any time, either during his employment with County or thereafter, any Confidential Information (as defined below) of which Employee is or becomes aware, whether or not such information is developed by him, except to the extent that such disclosure or use is directly related to and required by Employee's performance of duties assigned to Employee by the governing board of Facility or is required by law. Employee shall take all appropriate steps to safeguard Confidential Information and to protect it against disclosure, misuse, loss, and theft. As used in this Agreement, the term

**“Confidential Information”** means information that is not generally known to the public and that is used, developed, or obtained by County in connection with its business, including but not limited to: (a) patient or customer lists; (b) medical records or information; (c) business plans; (d) operating plans; (e) fees, costs, and pricing structures; (f) marketing plans; (g) bid strategies and proposals; (h) computer software, including operating systems, applications and program listings; (i) Commercial models and reports; (j) operating data and budgets; (k) wage and salary rates; (l) pricing strategies and information; (m) terms of agreement with suppliers, with sources of support or reimbursement, with patients or customer, and with others; (n) donor and funding information; (o) flow charts, manuals, and documentation; (p) data bases; (q) accounting and business methods; (r) inventions, devices, new developments, methods, and processes, whether patentable or unpatentable and whether or not reduce to practice; (s) copyrightable works; (t) all technology and trade secrets; (u) information pertaining to future developments, such as, but not limited to, research and development and strategic plans; and (v) all similar and related information in whatever form. Notwithstanding the forgoing **“Confidential Information”** shall not include any information: (1) known to Employee prior to his affiliation with County; (2) of which Employee learn from sources other than County; or (3) which is published in a form generally available to the public prior to the date Employee proposes to or does disclose or use such information. Information shall not be deemed to have been published merely because individual portions of the information have been separately published, but only if all material portions thereof have been published.

5.2 Delivery of Materials upon Termination of Employment—As requested by County from time to time and upon the termination of Employee’s employment with County for any reason, Employee shall promptly deliver to County all copies and embodiments, in whatever form, of all County property, including all Confidential Information in Employee’s possession or within his control (including, but not limited to, written records, notes, photographs, manuals, notebooks, documentation, program listing, flow charts, magnetic media, disks, diskettes, tapes and all other materials containing any Confidential Information or Intellectual Property) irrespective of the location or form of such material and, in requested by County, shall provide County with written confirmation that all such materials have been delivered to County. As requested by County from time to time and upon the termination of Employee’s employment with County for any reason, Employee shall promptly delivery to County all County property of any kind which may be in the Employee’s possession or control, including but not limited to any: credit cards, telephone calling cards, cellular telephones, pagers, personal digital assistants, computers, printers and other computer equipment or accessories, keys, access cards, identification cards, files, documents, and data, regardless of whether such information is stored electronically or in paper form.

## 6. Miscellaneous

6.1 Entire Agreement; Amendments and Waivers—This Agreement represents the entire understanding and agreement between the parties hereto with respect to the subject matter hereof. No provision of this Agreement may be amended, supplemented, changed, or waived, except by a written instrument making specific reference to this Agreement and signed by both parties. The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a further or continuing waiver of such breach or as a waiver of any other or subsequent breach. No failure on the part of any party to exercise, and no delay in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of such right,

power, or remedy by such party preclude any other further exercise thereof of the exercise of any other right, power, or remedy.

6.2 Governing Law—This Agreement shall be governed by, and construed in accordance with the laws of the State of New York without reference to its principles of conflicts of law. Any proceeding or action brought concerning any subject matter of this Agreement or to enforce any provision of this Agreement shall be venued in Albany County Supreme Court.

6.3 Notices—All notices, demands, solicitations of consent or approval, and other communications hereunder shall be in writing and shall be delivered personally, by certified mail, return receipt requested deposited with U.S. Postal Service, postage pre-paid or sent by recognized overnight commercial courier (*e.g.*, Federal Express) addressed to the address set forth in the preamble to this Agreement to such other address which such party shall have given to the other party for such purpose by notice hereunder. If delivered personally, such notice shall be deemed to be given when delivered to the intended recipient. If delivered by certified mail, such notice shall be deemed to be given two (2) days after having been deposited with U.S. Postal Service. If delivered by recognized commercial carrier, such notice shall be deemed given one (1) day after having been delivered to a recognized commercial carrier for overnight delivery.

6.4 Captions—The headings used in this Agreement are intended for reference purposes only and shall not control or affect in any manner the meaning or interpretation of any of the provisions of this Agreement.

6.5 Severability—The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of the remaining provisions of this Agreement, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted, unless the omission of such invalid or unenforceable provision substantially impairs the benefit of the remaining portions of this Agreement to either party. All provisions of this Agreement shall be enforced to the full extent permitted by law.

6.6 Interpretation—The parties acknowledge and agree that: (a) each party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to its revision; (b) the rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be employed in the interpretation of this Agreement; and (c) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto, regardless of which party was generally responsible for the preparation of this Agreement.

6.7 Counterparts and PDF/Facsimile Signatures—This Agreement may be executed in any number of copies, each of which shall be deemed an original, and all of which together will be deemed one and the same instrument. A PDF or facsimile signature to this Agreement shall be deemed an original signature to this Agreement.

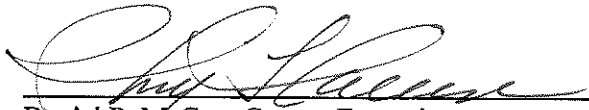
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first signed below.

**EMPLOYEE**

  
\_\_\_\_\_  
Larry I. Statko

July 16, 2018  
Date

**COUNTY OF ALBANY**

  
\_\_\_\_\_  
Daniel P. McCoy, County Executive or  
Philip F. Calderone, Deputy County Executive

8/3/18  
Date

STATE OF NEW YORK     )  
COUNTY OF ALBANY     ) SS.:

On the \_\_\_\_ day of \_\_\_\_\_, 2018, before me, the undersigned, personally appeared Daniel P. McCoy personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
**NOTARY PUBLIC**

STATE OF NEW YORK     )  
COUNTY OF ALBANY     ) SS.:

On the 3 day of August, 2018, before me, the undersigned, personally appeared Philip F. Calderone, Esq. personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

MICHAEL A. LALLI  
NOTARY PUBLIC - STATE OF NEW YORK  
No. 01LA6322012  
Qualified in Albany County  
My Commission Expires March 30, 2019

  
**NOTARY PUBLIC**



STATE OF NEW YORK     )  
COUNTY OF \_\_\_\_\_ ) SS.:

On the 16 day of July, 2018, before me, the undersigned, personally appeared Larry Slotky personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in her/his capacity, and that by her/his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

  
NOTARY PUBLIC

MICHAEL A. LALLI  
NOTARY PUBLIC - STATE OF NEW YORK  
No. 01LA6322012  
Qualified in Albany County  
My Commission Expires March 30, 2019