

## SETTLEMENT AGREEMENT

### I. PARTIES

This Settlement Agreement (Agreement) is entered into as of ~~February~~ <sup>March</sup> 5, 2007 between the United States of America, acting through the United States Department of Justice and the United States Attorney's Office for the Eastern District of Pennsylvania, (collectively the "United States"); and Crozer-Keystone Health System (Crozer-Keystone) (hereafter referred to as "the Parties"), through their authorized representatives.

### II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Crozer-Keystone is a not-for-profit health system with its corporate offices located at Healthplex Pavilion II, [REDACTED] Springfield, PA 19064. It is comprised of five hospitals, a network of physician practices, and a sports club. Crozer-Keystone employs physicians in Health Access Network (HAN), a subsidiary which does business as Crozer-Keystone Health Network. During the period from July 1, 1999 to June 30, 2004, HAN employed Dennis Ivill, M.D., Patrick Murphy, D.O., Jyothi Chinta, M.D. and Lynn W. Yang, M.D. as physicians specializing in Physical and Rehabilitation Medicine (PM&R). These physicians provided inpatient and outpatient services primarily at the Crozer Chester Medical Center at One Medical Center Boulevard in Upland, PA. These PM&R physicians practiced in a group called HAN Rehabilitation Associates (HAN RA).

B. The United States contends that the aforementioned HAN physicians submitted or caused to be submitted claims for payment to the Medicare Program (Medicare), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg.

C. Crozer-Keystone acknowledges its financial responsibility for the claims submitted by HAN RA.

D. The United States contends that it has certain civil claims, as specified in Paragraph 2, below, against HAN RA and therefore against Crozer-Keystone for engaging in the following conduct. During the period from July 1, 1999 to June 30, 2004: HAN Rehabilitation physicians Drs. Dennis Ivill, Patrick Murphy, Jyothi Chinta and Lynn W. Yang overbilled Medicare for outpatient visits, hospital admissions, hospital discharges and inpatient consultations. The procedure codes associated with the overbilling are 99213, 99214, and 99215 for outpatient visits; 99223 for hospital admissions; 99239 for hospital discharges; and 99253 and 99254 for inpatient consultations (hereinafter referred to as the "Covered Conduct").

E. This Agreement is neither an admission of liability by Crozer-Keystone nor a concession by the United States that its claims are not well founded.

F. This Agreement acknowledges and reflects the cooperation between Crozer-Keystone and the United States. Crozer-Keystone independently developed the information and claims history upon which this Settlement Agreement is based and voluntarily disclosed the same to the United States for further verification and assessment.

G. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions below.

### III. TERMS AND CONDITIONS

1. Crozer-Keystone agrees to pay to the United States \$549,663.86 (the "Settlement Amount"). Crozer-Keystone agrees to pay the Settlement Amount by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's

Office for the Eastern District of Pennsylvania. Crozer-Keystone agrees to make this electronic funds transfer no later than 30 days from the Effective Date of this Agreement.

2. Subject to the exceptions in Paragraph 3, below, in consideration of the obligations of Crozer-Keystone set forth in this Agreement, conditioned upon Crozer-Keystone's full payment of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release Crozer-Keystone, its subsidiaries, including HAN RA as well as all officers, directors, agents, employees and assigns, from any civil monetary claim the United States has or may have under the common law theories of payment by mistake and unjust enrichment for the Covered Conduct. Drs. Ivill, Murphy, Chinta and Yang are not released by this Agreement.

3. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Crozer-Keystone) are the following:

a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code) (Nothing in this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws);

b. Any criminal liability;

c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory exclusion from Federal health care programs;

d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;

e. Any liability based upon such obligations as are created by this Agreement;

f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;

g. Any liability for failure to deliver goods or services due.

4. Crozer-Keystone fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Crozer-Keystone has asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

5. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare carrier or intermediary or any state payer, related to the Covered Conduct; and Crozer-Keystone agrees not to resubmit to any Medicare carrier or intermediary or any state payer any previously denied claims related to the Covered Conduct, and agrees not to appeal any such denials of claims.

6. Crozer-Keystone agrees to the following:

a. Unallowable Costs Defined: that all costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395ggg and 1396-1396v; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Crozer-Keystone, its present or former officers, directors, employees, shareholders, and agents in connection with the following shall be "unallowable costs" on government contracts and under

the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP):

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) Crozer-Keystone's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment Crozer-Keystone makes to the United States pursuant to this Agreement, including any costs and attorneys fees.

(All costs described or set forth in this Paragraph 6.a. are hereafter "unallowable costs.")

b. Future Treatment of Unallowable Costs: These unallowable costs shall be separately determined and accounted for in nonreimbursable cost centers by Crozer-Keystone, and Crozer-Keystone shall not charge such unallowable costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such unallowable costs through any cost report, cost statement, information statement, or payment request submitted by Crozer-Keystone or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Crozer-Keystone further agrees that within 90 days of the Effective Date of this Agreement it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any unallowable costs (as defined in

this Paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Crozer-Keystone or any of its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the unallowable costs. Crozer-Keystone agrees that the United States, at a minimum, shall be entitled to recoup from Crozer-Keystone any overpayment plus applicable interest and penalties as a result of the inclusion of such unallowable costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by Crozer-Keystone or any of its subsidiaries or affiliates on the effect of inclusion of unallowable costs (as defined in this Paragraph) on Crozer-Keystone or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports. Nothing in this Agreement shall constitute a waiver of the rights of the United States to examine or reexamine the unallowable costs described in this Paragraph.

7. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 8 below.

8. Crozer-Keystone waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents,

sponsors, legally responsible individuals, or third party payors based upon the claims defined as Covered Conduct.

9. Crozer-Keystone warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following its payment to the United States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to Crozer-Keystone, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which Crozer-Keystone was or became indebted, on or after the date of this transfer, all within the meaning of 11 U.S.C. § 548(a)(1).

10. Each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

11. Crozer-Keystone represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

12. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the United States District Court for the Eastern District of Pennsylvania.

13. This Agreement constitutes the complete agreement between the Parties.

This Agreement may not be amended except by written consent of the Parties.

14. The individuals signing this Agreement on behalf of Crozer-Keystone represent and warrant that they are authorized by Crozer-Keystone to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

15. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

16. This Agreement is binding on Crozer-Keystone's successors, transferees, heirs, and assigns.

17. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

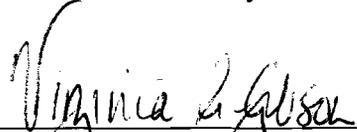
18. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

DATED: 3-5-07

BY:   
PATRICK L. MEEHAN  
United States Attorney

DATED: 3-5-07

BY:   
VIRGINIA A. GIBSON  
Assistant United States Attorney  
Chief, Civil Division

DATED: 3-5-07

BY:   
MARGARET L. HUTCHINSON  
Assistant United States Attorney

CROZER-KEYSTONE HEALTH SYSTEM

DATED: 2/14/07

BY: Sam K. Richard

DATED: 2/14/07

BY: Michael Mustokoff  
MICHAEL M. MUSTOKOFF  
Counsel for Crozer-Keystone