

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (“OIG-HHS”) of the Department of Health and Human Services (“HHS”) and the Defense Health Agency (“DHA”), acting on behalf of the TRICARE Program (collectively, the “United States”), the State of Texas (“Texas”), Robert Wills, M.D. (“Dr. Wills”), and Jennifer Nuessner, John Patrick Lowe in his capacity as Chapter 7 trustee for the bankruptcy estate of Jennifer Nuessner, and Robert Hoffman (“Relators”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### RECITALS

A. Dr. Wills, a citizen and resident of the State of Texas, is a pain management physician practicing in Austin, Texas. During the period referenced in this Agreement, Dr. Wills was President and part-owner of Robert P. Wills, M.D., P.A., d/b/a Austin Pain Associates (“Austin Pain Associates”), a professional association organized under the laws of the State of Texas, and he provided health care services that were reimbursed by federal and state health care programs. Austin Pain Associates is no longer in operation.

B. On November 8, 2016, Relators Jennifer Nuessner and Robert Hoffman filed a *qui tam* action in the United States District Court for the Western District of Texas captioned *United States and the State of Texas ex rel. Nuessner and Hoffman v. Austin Pain Associates, LLC, et al.*, 5:16-CV-1125-FB, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) and the Texas Medicaid Fraud Prevention Act, Tex. Hum. Res. Code § 36.101 (the “Civil Action”). Relators allege that Austin Pain Associates and Dr. Wills, *inter alia*, ordered and billed federal and state health care programs for medically unnecessary urine drug tests.

C. The United States contends that Dr. Wills submitted or caused to be submitted claims for payment to: the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (“Medicare”); the Medicaid Program, 42 U.S.C. §§ 1396-1396w-5 (“Medicaid”); and the TRICARE Program, 10 U.S.C. §§ 1071-1110b (“TRICARE”). Texas contends that Dr. Wills submitted or caused to be submitted claims for payment to the Texas Medicaid Program, Tex. Hum. Res. Code §§ 32.001 *et seq.*

D. The United States contends that it has certain civil claims against Dr. Wills arising from Dr. Wills knowingly causing false claims to be submitted to Medicare, Medicaid, and TRICARE during the period from January 1, 2011, to December 31, 2015, by ordering excessive and unnecessary urine drug testing (UDT), which was billed using the Current Procedural Terminology codes listed in Exhibit A, without any individualized assessment of patients’ needs. The United States alleges that such claims were not “reasonable and necessary for the diagnosis or treatment of an illness or injury,” as required by 42 U.S.C. § 1395y(a)(1)(A). Starting in 2011, all UDT ordered by Austin Pain Associates’ physicians, including Dr. Wills, were performed at Austin Pain Associates’ in-house laboratory. The United States alleges that Dr. Wills was involved in the opening of the in-house lab and the drafting of Austin Pain Associates’ UDT protocols, which dictated how frequently Austin Pain Associates’ patients would receive UDTs and the substances for which the in-house lab would test. The United States contends Dr. Wills was aware that, in accordance with Austin Pain Associates’ established protocols, the in-house laboratory was testing urine samples for an excessive number of metabolites, and that Austin Pain Associates could not remain profitable without the income generated from such testing. The United States alleges that as a part-owner of Austin Pain Associates, Dr. Wills benefited financially from the UDTs performed by the in-house laboratory, including those the United States believes were medically unnecessary. During this time period, and for the same conduct

described above, Texas contends that it has certain civil causes of action, including violations of the Texas Medicaid Fraud Prevention Act (“TMFPA”), Texas Human Resources Code § 36.001-132, against Dr. Wills. This conduct is collectively referred to below as the “Covered Conduct.”

E. This Settlement Agreement is neither an admission of liability by Dr. Wills nor a concession by the United States or Texas that their claims are not well founded.

F. Relators claim entitlement under 31 U.S.C. § 3730(d) and Tex. Hum. Res. Code § 36.110(a-1) to a share of the proceeds of this Settlement Agreement and to Relators’ reasonable expenses, attorneys’ fees and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

#### TERMS AND CONDITIONS

1. Dr. Wills shall pay to the United States and Texas the sum of \$2,100,000 (the “Settlement Amount”). Of the Settlement Amount, \$1,959,121 will be allocated to resolution of the United States’ claims discussed herein (the “Federal Allocation”), \$979,560.50 of which constitutes restitution to the United States; and \$140,879 will be allocated to resolution of Texas’s claims discussed herein (the “Texas Allocation”), \$70,439.50 of which is paid to come into compliance with law under Section 162 of the U.S. Internal Revenue Code. Dr. Wills shall pay the Settlement Amount in accordance with the following payment schedule:

A. No later than 5 business days after the Effective Date of this Agreement, Dr. Wills will make a payment to the United States in the amount of \$932,915 and a payment to Texas in the amount of \$67,085.

B. No later than 12 months after the Effective Date of this Agreement, Dr. Wills will make a payment to the United States in the amount of \$1,026,206, plus interest at

1.375% per annum and a payment to Texas in the amount of \$73,794, plus interest at 1.375% per annum.

C. The Settlement Amount may be prepaid, in whole or in part, without any penalty. All amounts paid after the initial payment described in Paragraph 1.A., above, shall be subject to interest at the rate of 1.375% per annum.

D. Payment to the United States shall be made by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney for the Western District of Texas.

E. Payment to Texas shall be made by electronic funds transfer pursuant to written instructions to be provided by the Office of the Attorney General of Texas.

2. Conditioned upon the United States receiving the Settlement Amount payments, the United States agrees that it shall pay to Relators by electronic funds transfer 17% of each such payment received under the Settlement Agreement as soon as feasible after receipt of the payment.

3. Conditioned upon Texas receiving the Settlement Amount payments, Texas agrees that it shall pay to Relators by electronic funds transfer 17% of each such payment received under the Settlement Agreement as soon as feasible after receipt of the payment.

4. Dr. Wills shall pay \$37,500 to Relators as a portion of Relators' expenses, attorney's fees, and costs no later than 30 days after the Effective Date of this Agreement pursuant to written instructions to be provided by Relators' counsel.

5. Subject to the exceptions in Paragraph 8 (concerning reserved claims), Paragraph 20 (concerning default), and Paragraph 21 (concerning bankruptcy) below, and upon the United States' receipt of the Federal Allocation, plus interest due under Paragraph 1, the United States releases Dr. Wills from any civil or administrative monetary claim the United States has for the

Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud.

6. Subject to the exceptions in Paragraph 8 (concerning reserved claims), Paragraph 20 (concerning default), and Paragraph 21 (concerning bankruptcy) below, in consideration of the obligations of Dr. Wills as set forth in this Settlement Agreement, and conditioned upon receipt of the Texas Allocation, plus interest due under Paragraph 1, Texas releases Dr. Wills from any civil or administrative monetary claim Texas has for the Covered Conduct under the Texas Medicaid Fraud Prevention Act, Tex. Hum. Res. Code §§ 36.001 *et seq.*; any other statutory or regulatory cause of action for the Covered Conduct that Texas has authority to assert or compromise; or the common law theories of payment by mistake, unjust enrichment, and fraud.

7. Subject to the exceptions in Paragraph 8 below, and conditioned upon Dr. Wills' full payment of the Settlement Amount and the payment of relators' fees described in Paragraph 4 above, Relators, for themselves and for their heirs, successors, attorneys, agents, and assigns, release Dr. Wills from any claims, losses, demands, causes of action, obligations, damages, fees, liens, judgments, and liabilities of any kind, whether in law or equity, fixed or contingent, presently known or unknown, suspected or unsuspected contingent or non-contingent (including but not limited to attorneys' fees, costs, and expenses of every kind and however denominated), that the Relators have or may have in the future in Relators' individual and/or collective capacities or on behalf of the United States under the False Claims Act, 31 U.S.C. §§ 3729-3733, violations of 42 U.S.C. § 1320a(1)(G), violations of the Texas Medicaid Fraud Prevention Act, Texas Human Resources Code § 36.001-132, arising from or related to the Covered Conduct, including any claims under 31 U.S.C. § 3730 (d) for expenses or attorneys' fees and costs

incurred in the Civil Action. This release includes any civil monetary claim the Relators have on behalf of the United States or Texas for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733 or Texas Medicaid Fraud Prevention Act, Tex. Hum. Res. Code § 36.

8. Notwithstanding the releases given in Paragraphs 5–7 of this Agreement, or any other term of this Agreement, the following claims of the United States and Texas are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code) or any Texas tax or revenue law;
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory or permissive exclusion from Federal health care programs;
- d. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, including mandatory or permissive exclusion from the Texas Medicaid Program;
- e. Any liability to the United States or Texas (or its agencies) for any conduct other than the Covered Conduct;
- f. Any liability based upon obligations created by this Agreement;
- g. Any liability of individuals other than Dr. Wills;
- h. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- i. Any liability for failure to deliver goods or services due;

- j. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct; and
- k. Any liability to Texas or to individual consumers or state payers for claims involving unfair and/or deceptive acts and practices and/or violations of Texas's consumer protection laws.

9. Relators and their heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B) and Tex. Hum. Res. Code § 36.107(c). Conditioned upon Relators' receipt of the payments described in Paragraphs 2-3, Relators and their heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge: (a) the United States, its agencies, officers, agents, employees, and servants, from any claims related to Dr. Wills arising from the filing of the Civil Action or under 31 U.S.C. § 3730; (b) Texas, its agencies, officers, agents, employees, and servants, from any claims relating to Dr. Wills arising from the filing of the Civil Action or under the TMFPA; and (c) the United States and Texas from any claims to a share of the proceeds of this Agreement and/or the Civil Action as it relates to Dr. Wills.

10. Relators, for themselves, and for their heirs, successors, attorneys, agents, and assigns, release Dr. Wills from any liability to Relators arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) and Tex. Hum. Res. Code § 36.110 for expenses or attorneys' fees and costs.

11. Dr. Wills waives and shall not assert any defenses Dr. Wills may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment

of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

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

13. Dr. Wills fully and finally releases Texas, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that he has asserted, could have asserted, or may assert in the future against Texas, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and Texas' investigation and prosecution thereof.

14. Dr. Wills fully and finally releases the Relators from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that Dr. Wills has asserted, could have asserted, or may assert in the future against the Relators, related to the Covered Conduct and the Relators' investigation and prosecution thereof.

15. 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 or Medicaid contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier), TRICARE, or any state payer, including Medicaid, related to the Covered Conduct; and Dr. Wills agrees not to resubmit to any Medicare or Medicaid contractor, TRICARE, or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.



16. Dr. Wills agrees to the following:

a. Unallowable Costs Defined: 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. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Dr. Wills in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' and Texas's audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) Dr. Wills' investigation, defense, and corrective actions undertaken in response to the United States' and Texas's audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payments Dr. Wills makes to the United States and Texas pursuant to this Agreement and any payments that Dr. Wills may make to Relators, including costs and attorneys' fees;

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP) (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by Dr. Wills, and Dr. Wills 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 Dr. Wills to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment:

Dr. Wills further agrees that within 90 days of the Effective Date of this Agreement he 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 Dr. Wills, 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. Dr. Wills agrees that the United States and Texas, at a minimum, shall be entitled to recoup from Dr. Wills 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 and Texas pursuant to the direction of the Department of Justice and/or the affected agencies. The United States and Texas reserve their rights to disagree with any calculations submitted by Dr. Wills on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Dr. Wills' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States or Texas to audit, examine, or re-examine Dr. Wills' books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

17. Dr. Wills agrees to cooperate fully and truthfully with the United States' and Texas's investigation of individuals and entities not released in this Agreement. Dr. Wills further agrees to furnish to the United States and Texas, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in his possession, custody, or control concerning any investigation of the Covered Conduct that he has undertaken, or that has been performed by another on his behalf.

18. 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 19 (waiver for beneficiaries paragraph), below.

19. Dr. Wills agrees that he 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.

20.

a. In the event that Dr. Wills fails to pay the Settlement Amount as provided in Paragraph 1 above, Dr. Wills shall be in Default of his payment obligations ("Default"). The United States will provide a written Notice of Default to Dr. Wills, and Dr. Wills shall have an opportunity to cure such Default within seven (7) calendar days from the date of receipt of the Notice of Default by making the payment due under the payment schedule and paying any additional interest accruing under the Settlement Agreement up to the date of payment. Notice of Default will be delivered to Dr. Wills, or to such other representative as Dr. Wills shall designate in advance in writing. If Dr. Wills fails to cure the Default within seven (7) calendar days of receiving the Notice of Default and in the absence of an agreement with the United States and Texas to a modified payment schedule ("Uncured Default"), the remaining unpaid

balance of the Settlement Amount shall become immediately due and payable, and interest on the remaining unpaid balance shall thereafter accrue at the rate of 12% per annum, compounded daily from the date of Default, on the remaining unpaid total (principal and interest balance).

b. In the event of Uncured Default, Dr. Wills agrees that the United States and Texas, at their sole discretion, may (i) retain any payments previously made, rescind this Agreement and pursue the Civil Action or bring any civil and/or administrative claim, action, or proceeding against Dr. Wills for the claims that would otherwise be covered by the releases provided in Paragraphs 5-6 above, with any recovery reduced by the amount of any payments previously made by Dr. Wills to the United States and Texas under this Agreement; (ii) take any action to enforce this Agreement in a new action or by reinstating the Civil Action; (iii) offset the remaining unpaid balance from any amounts due and owing to Dr. Wills and/or affiliated companies by any department, agency, or agent of the United States or Texas at the time of Default or subsequently; and/or (iv) exercise any other right granted by law, or under the terms of this Agreement, or recognizable at common law or in equity. The United States and Texas shall be entitled to any other rights granted by law or in equity by reason of Default, including referral of this matter for private collection. In the event the United States or Texas pursues a collection action, Dr. Wills agrees immediately to pay the United States and Texas the greater of (i) a ten-percent (10%) surcharge of the amount collected, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States' and Texas's reasonable attorneys' fees and expenses incurred in such an action. In the event that the United States and Texas opt to rescind this Agreement pursuant to this paragraph, Dr. Wills waives and agrees not to plead, argue, or otherwise raise any defenses of statute of limitations, laches, estoppel or similar theories, to any civil or administrative claims that are (i) filed by the United States or Texas against Dr. Wills within 120 days of written notification that this Agreement has been rescinded, and (ii) relate to the Covered Conduct,

except to the extent these defenses were available on the Effective Date. Dr. Wills agrees not to contest any offset, recoupment, and /or collection action undertaken by the United States or Texas pursuant to this paragraph, either administratively or in any state or federal court, except on the grounds of actual payment to the United States or Texas.

c. In the event of Uncured Default, OIG-HHS may exclude Dr. Wills from participating in all Federal health care programs until Dr. Wills pays the Settlement Amount, with interest, as set forth above (“Exclusion for Default”). OIG-HHS will provide written notice of any such exclusion to Dr. Wills. Dr. Wills waives any further notice of the exclusion under 42 U.S.C. § 1320a-7(b)(7), and agrees not to contest such exclusion either administratively or in any state or federal court. Reinstatement to program participation is not automatic. If at the end of the period of exclusion, Dr. Wills wishes to apply for reinstatement, he must submit a written request for reinstatement to OIG-HHS in accordance with the provisions of 42 C.F.R. §§ 1001.3001-.3005. Dr. Wills will not be reinstated unless and until OIG-HHS approves such request for reinstatement. The option for Exclusion for Default is in addition to, and not in lieu of, the options identified in this Agreement or otherwise available.

21. In exchange for valuable consideration provided in this Agreement, Dr. Wills acknowledges the following:

a. Dr. Wills has reviewed his financial situation and warrants that he 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 payment to the United States and Texas of the Settlement Amount.

b. In evaluating whether to execute this Agreement, the Parties intend that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to Dr. Wills, within the meaning of 11 U.S.C. § 547(c)(1), and the

Parties conclude that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange.

c. The mutual promises, covenants, and obligations set forth herein are intended by the Parties to, and do in fact, constitute a reasonably equivalent exchange of value.

d. The Parties do not intend to hinder, delay, or defraud any entity to which Dr. Wills was or became indebted to on or after the date of any transfer contemplated in this Agreement, within the meaning of 11 U.S.C. § 548(a)(1).

e. If Dr. Wills' obligations under this Agreement are avoided for any reason (including but not limited to, through the exercise of a trustee's avoidance powers under the Bankruptcy Code) or if, before the Settlement Amount is paid in full, Dr. Wills or a third party commences a case, proceeding, or other action under any law relating to bankruptcy, insolvency, reorganization, or relief of debtors seeking any order for relief of Dr. Wills' debts, or to adjudicate Dr. Wills as bankrupt or insolvent; or seeking appointment of a receiver, trustee, custodian, or other similar official for Dr. Wills or for all or any substantial part of Dr. Wills' assets:

(i) the United States and Texas may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Dr. Wills for the claims that would otherwise be covered by the releases provided in Paragraphs 5 and 6 above;

(ii) the United States and Texas have an undisputed, noncontingent, and liquidated allowed claim against Dr. Wills in the amount of \$3,150,000, less any payments received pursuant to this agreement, provided, however, that such payments are not otherwise avoided and recovered from the United States and Texas by Dr. Wills, a receiver, trustee, custodian, or other similar official for Dr. Wills.

(iii) if any payments are avoided and recovered by Dr. Wills, a receiver, trustee, custodian, or similar official for Dr. Wills, Relators shall, within thirty days of written notice from the United States and Texas to the undersigned Relators' counsel, return any portions of such payments already paid by the United States and Texas to Relators pursuant to Paragraphs 2 and 3.

f. Dr. Wills agrees that any civil and/or administrative claim, action, or proceeding brought by the United States under Paragraph 21.e is not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) because it would be an exercise of the United States' police and regulatory power. Dr. Wills shall not argue or otherwise contend that the United States' and Texas's claim, action, or proceeding is subject to an automatic stay and, to the extent necessary, consents to relief from the automatic stay for cause under 11 U.S.C. § 362(d)(1). Dr. Wills waives and shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative claim, action, or proceeding brought by the United States and Texas within 120 days of written notification to Dr. Wills that the releases have been rescinded pursuant to this paragraph, except to the extent such defenses were available on the Effective Date of this Agreement.

22. Upon receipt of the payment described in Paragraph 1.A., above, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action as it relates to Dr. Wills pursuant to Rule 41(a)(1). The dismissal shall be: (a) with prejudice to the United States and Texas for the Covered Conduct; (b) without prejudice to the United States and Texas for all other conduct; and (c) with prejudice to the Relators as to all claims or causes of action arising from or related to the conduct alleged in the Civil Action against Dr. Wills.

23. Subject to the exception in Paragraph 4, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

24. Each Party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

25. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Western District of Texas. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

26. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

27. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

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

29. This Agreement is binding on Dr. Wills' successors, transferees, heirs, and assigns.

30. This Agreement is binding on Relators' successors, transferees, heirs, and assigns.

31. All Parties consent to the United States' and Texas's disclosure of this Agreement, and information about this Agreement, to the public. All parties further consent to the disclosure of this Agreement to the extent necessary for trustee John Patrick Lowe to obtain approval by the bankruptcy court presiding over *In re Jennifer D. Nuessner*, Case No. 17-10566 (W.D. Tex.).

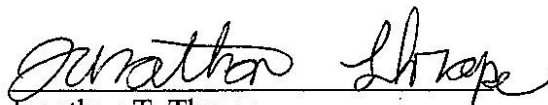


32. This Agreement is contingent on approval by the bankruptcy court presiding over *In re Jennifer D. Nuessner*, Case No. 17-10566 (W.D. Tex.) of trustee John Patrick Lowe's compromise and settlement of the bankruptcy estate's claim as reflected by his signature below. This Agreement is effective on the date the bankruptcy court provides such approval (Effective Date of this Agreement). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

**THE UNITED STATES OF AMERICA**

DATED: 8/26/2021

BY:



Jonathan T. Thrope

Trial Attorney

Commercial Litigation Branch

Civil Division

United States Department of Justice

DATED: \_\_\_\_\_

BY:

\_\_\_\_\_  
Thomas A. Parnham, Jr.

Assistant United States Attorney

Western District of Texas

DATED: \_\_\_\_\_

BY:

\_\_\_\_\_  
Lisa M. Re

Assistant Inspector General for Legal Affairs

Office of Counsel to the Inspector General

Office of Inspector General

United States Department of Health and Human Services

DATED: \_\_\_\_\_

BY:

\_\_\_\_\_  
Salvatore M. Maida

General Counsel

Defense Health Agency

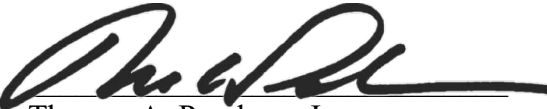
United States Department of Defense

**THE UNITED STATES OF AMERICA**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Jonathan T. Thrope  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

DATED: 08-06-2021

BY:   
Thomas A. Parnham, Jr.  
Assistant United States Attorney  
Western District of Texas

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Lisa M. Re  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Salvatore M. Maida  
General Counsel  
Defense Health Agency  
United States Department of Defense

**THE UNITED STATES OF AMERICA**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Jonathan T. Thrope  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

DATED: \_\_\_\_\_

BY: \_\_\_\_\_


Thomas A. Parnham, Jr.  
Assistant United States Attorney  
Western District of Texas

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

**GREGORY**

**DEMSKE**

 Digitally signed by GREGORY  
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Date: 2021.08.02 14:06:51 -04'00'

Lisa M. Re  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Salvatore M. Maida  
General Counsel  
Defense Health Agency  
United States Department of Defense

**THE UNITED STATES OF AMERICA**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Jonathan T. Thrope  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Thomas A. Parnham, Jr.  
Assistant United States Attorney  
Western District of Texas

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Lisa M. Re  
Assistant Inspector General for Legal Affairs  
Office of Counsel to the Inspector General  
Office of Inspector General  
United States Department of Health and Human Services

DATED: 08/04/2021

BY: \_\_\_\_\_

BLEY.PAUL.NICHOLAS.1099873821  
LAS.1099873821  
Digitally signed by  
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Date: 2021.08.04 15:12:47 -04'00'

for Salvatore M. Maida  
General Counsel  
Defense Health Agency  
United States Department of Defense

**STATE OF TEXAS**

**OFFICE OF THE ATTORNEY GENERAL**

DATED: 19 August 2021

BY: *Raymond C. Winter*  
Raymond C. Winter  
Chief, Civil Medicaid Fraud Division  
P.O. Box 12548  
Austin, TX 78711-2548

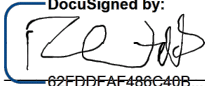
**TEXAS HEALTH & HUMAN SERVICES COMMISSION**

DATED: \_\_\_\_\_

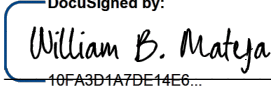
BY: Karen Ray  
Digitally signed by Karen Ray  
Date: 2021.08.17 14:56:26 -05'00'  
Karen Ray  
Chief Counsel  
Brown-Heatly Building  
4900 North Lamar Boulevard  
Austin, TX 78751-2361

**ROBERT WILLS, M.D.**

DATED: 8/4/2021 \_\_\_\_\_


BY:  \_\_\_\_\_  
Robert Wills

DATED: 8/4/2021 \_\_\_\_\_

BY:  \_\_\_\_\_  
Bill Mateja  
Counsel for Robert Wills

**RELATORS JENNIFER NUESSENER AND ROBERT HOFFMAN**

DATED: 7/28/21

BY:   
Jennifer Nuessner

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
John Patrick Lowe  
Chapter 7 Trustee

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Robert Hoffman

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Patrick O'Connell  
Counsel for Jennifer Nuessner and Robert Hoffman



**RELATORS JENNIFER NUESSNER AND ROBERT HOFFMAN**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Jennifer Nuessner

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

John Patrick Lowe  
Chapter 7 Trustee

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Robert Hoffman

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

Patrick O'Connell  
Counsel for Jennifer Nuessner and Robert Hoffman

**RELATORS JENNIFER NUESSNER AND ROBERT HOFFMAN**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Jennifer Nuessner

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
John Patrick Lowe  
Chapter 7 Trustee

DATED: 7/26/21

BY:  \_\_\_\_\_  
Robert Hoffman

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Patrick O'Connell  
Counsel for Jennifer Nuessner and Robert Hoffman

**RELATORS JENNIFER NUESNER AND ROBERT HOFFMAN**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Jennifer Nuessner

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
John Patrick Lowe  
Chapter 7 Trustee

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Robert Hoffman

DATED: 8-2-21


BY:   
Patrick O'Connell  
Counsel for Jennifer Nuessner and Robert Hoffman

Exhibit A

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