

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (“Agreement”) is entered into between the United States of America (“United States”), 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”); the Relator, Health Outcome Technologies, and Bradley Memorial Hospital (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. Bradley Memorial Hospital is a health care provider, and submitted or caused to be submitted, claims to Medicare for the inpatient treatment of Medicare beneficiaries.

B. The United States contends that Bradley Memorial Hospital 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. §§ 1395-1395 ddd (1997).

C. Medicare payments to a hospital for inpatient treatment rendered to a beneficiary generally are based upon the beneficiary's "principal diagnosis," as set forth by the hospital.

D. The Medicare program relies upon participating hospitals to properly indicate the principal diagnosis through the use of standard diagnosis codes.¹

E. The United States conducted an investigation into inpatient payment claims submitted to Medicare by hospitals with the principal diagnosis code of 482.89 (pneumonia due to “other specified bacteria”).

¹ International Classification of Diseases, 9th Revision, Clinical Modification (“ICD-9-CM”).

F. The United States contends that it has certain civil claims against Bradley Memorial Hospital under the False Claims Act, 31 U.S.C. §§ 3729-3733, and other federal statutes and/or common law doctrines as more specifically identified in Paragraph 5 below, for engaging in the following alleged conduct during the period from July 1, 1992, through June 30, 1997, in that Bradley Memorial Hospital submitted or caused to be submitted claims to Medicare with the principal diagnosis code of 482.89 that were not supported by the corresponding medical records (hereinafter referred to as the "Covered Conduct"). The United States alleges that, as a result of these claims, Bradley Memorial Hospital received payments to which it was not entitled.

G. The United States also contends that it has certain administrative claims against Bradley Memorial Hospital under the provisions for permissive exclusion from Medicare, Medicaid and other federal health care programs, 42 U.S.C. § 1320a-7(b), and the provisions for civil monetary penalties, 42 U.S.C. § 1320a-7a, for the Covered Conduct.

H. Bradley Memorial Hospital has provided documents and information to the United States in response to the government's investigation of the Covered Conduct, including patient files for which claims were submitted to the Medicare program with the principal diagnosis code of 482.89, and Bradley Memorial Hospital represents that such response has been truthful, accurate, and complete to the best of its knowledge and ability.

I. Bradley Memorial Hospital does not admit the contentions of the United States as set forth in Paragraphs F and G above.

J. To avoid the delay, uncertainty, inconvenience and expense of protracted litigation of these claims, the Parties reach a full and final settlement as set forth below.

III. TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. Bradley Memorial Hospital agrees to pay to the United States One Million Seven Hundred Ninety-Two Thousand Thirty-Three Dollars (\$1,792,033.00) (the "Settlement Amount") as follows: Bradley Memorial Hospital agrees to make payment of 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 Tennessee. Bradley Memorial Hospital agrees to make said payment in four (4) equal installments of Four Hundred Forty-Eight Thousand Eight Dollars and Twenty-Five Cents (\$448,008.25), plus seven percent (7%) simple interest. The first installment shall be paid no later than the effective date of this Agreement, and each subsequent installment shall be paid on or before each of the next three successive anniversary dates of this Agreement, as follows:

	<u>Installment Amount</u>	<u>Interest</u>	<u>Total Payment</u>
Agreement Effective Date	\$448,008.25	\$0.00	\$448,008.25
First Anniversary Date	\$448,008.25	\$94,081.73	\$542,089.98
Second Anniversary Date	\$448,008.25	\$62,721.16	\$510,729.41
Third Anniversary Date	\$448,008.25	\$31,360.58	\$479,368.83

2. Bradley Memorial Hospital agrees to cooperate fully and in good faith with the United States in the administrative, civil or criminal investigation or prosecution of any person concerning the Covered Conduct, and concerning similar matters involving other hospitals and others, by providing accurate, truthful, and complete information whenever, wherever, to whomever and in

whatever form the United States reasonably may request. Nothing in this paragraph, however, affects any privilege that might be available to Bradley Memorial Hospital or any statutory or regulatory obligation of Bradley Memorial Hospital, or Bradley Memorial Hospital's ability to object to the request on the grounds of such privilege or obligation; the United States reserves its right to contest the assertion of any such privilege or obligation by Bradley Memorial Hospital.

Bradley Memorial Hospital agrees to the following specific representations and undertakings:

a. Bradley Memorial Hospital will use its best efforts to provide such information, and related documents, within ten (10) working days of receipt of a request. If necessary, Bradley Memorial Hospital will notify the United States of any difficulty in timely complying with any such request, and will advise the United States of the additional amount of time estimated to be needed to respond to such request.

b. Bradley Memorial Hospital understands that it has undertaken an obligation to provide truthful and accurate information and testimony by itself and through its employees. Bradley Memorial Hospital agrees that it shall take no action which could cause any person to fail to provide such testimony (other than the assertion of a privilege or statutory or regulatory obligation), or could cause any person to believe that the provision of truthful and accurate testimony could adversely affect such person's employment or any contractual relationship.

c. Should it be judged by the United States that Bradley Memorial Hospital has failed to cooperate fully or has intentionally given false, misleading, or incomplete information or testimony, or has otherwise violated any provision of this Agreement, Bradley Memorial Hospital thereafter shall be subject to prosecution for any criminal violation of which the United States has knowledge, including, but not limited to, perjury, obstruction of justice, and making false statements.

3. Bradley Memorial Hospital has entered into a Corporate Integrity Agreement (“CIA”) with HHS, attached as Exhibit A, which is incorporated into this Agreement by reference. Bradley Memorial Hospital will implement its obligations under the CIA as set forth in the CIA.

4. Bradley Memorial Hospital releases the United States, HHS, and each of their agencies, officers, agents, employees, and contractors and their employees and Relator from any and all claims, causes of action, adjustments, and set-offs of any kind arising out of or pertaining to the Covered Conduct, including the investigation of the Covered Conduct and this Agreement.

5. Subject to the exceptions in Paragraph 7 below, in consideration of the obligations of Bradley Memorial Hospital set forth in this Agreement, conditioned upon Bradley Memorial Hospital’s payment in full of the Settlement Amount, and subject to Paragraph 16 below (concerning bankruptcy proceedings commenced within 91 days of the effective date of this Agreement), the United States (on behalf of itself, its officers, agents, and its agencies and departments referenced above in Paragraph 4), and Relator agree to release Bradley Memorial Hospital, its predecessors, successors, assigns, and affiliates from any civil or administrative monetary claim the United States has or may have 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, breach of contract and fraud, for the Covered Conduct. The United States expressly reserves any claims against any entities and individuals other than Bradley Memorial Hospital.

6. In consideration of the obligations of Bradley Memorial Hospital set forth in this Agreement, conditioned upon Bradley Memorial Hospital’s payment in full of the Settlement Amount, and subject to the CIA contained in Exhibit A and to Paragraph 16 below (concerning

bankruptcy proceedings commenced within 91 days of the effective date of this Agreement), the OIG-HHS agrees to release and refrain from instituting, directing or maintaining any administrative claim or any action seeking exclusion from Medicare, Medicaid or other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) against Bradley Memorial Hospital under 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law), or 42 U.S.C. § 1320a-7(b) (permissive exclusion), for the Covered Conduct, except as reserved in Exhibit A, and as reserved in this paragraph. The OIG-HHS expressly reserves all rights to comply with any statutory obligations to exclude hospitals or others from Medicare, Medicaid or other federal health care programs under 42 U.S.C. § 1320a-7(a) (mandatory exclusion). Nothing in this paragraph precludes the OIG-HHS from taking action against entities or persons, or for conduct and practices, for which civil claims have been reserved in Paragraph 7 below.

7. 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 Bradley Memorial Hospital) are any and all of the following:

- (1) Any civil, criminal or administrative claims arising under Title 26, U.S. Code (Internal Revenue Code);
- (2) Any criminal liability;
- (3) Except as explicitly otherwise stated in this Agreement, any administrative liability, including mandatory exclusion from Federal health care programs;
- (4) Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;

(5) Any claims based upon such obligations as are created by this Agreement;

(6) Any express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services provided by Bradley Memorial Hospital;

(7) Any claims based on a failure to deliver items or services billed; and

(8) Any claims against any individuals, including officers and employees.

8. Bradley Memorial Hospital has provided sworn financial disclosure statements (“Financial Statements”) to the United States and the United States has relied on the accuracy and completeness of those Financial Statements in reaching this Agreement. Bradley Memorial Hospital warrants that the Financial Statements are thorough, accurate, and complete. Bradley Memorial Hospital further warrants that it does not own or have an interest in any assets which have not been disclosed in the Financial Statements, and that Bradley Memorial Hospital has made no misrepresentations on, or in connection with, the Financial Statements. In the event the United States learns of asset(s) in which Bradley Memorial Hospital had an interest at the time of this Agreement which were not disclosed in the Financial Statements, or in the event the United States learns of a misrepresentation by Bradley Memorial Hospital on, or in connection with, the Financial Statements, the United States may at its option: (1) rescind this Agreement and file suit upon the underlying claims described in the Preamble to this Agreement; or (2) let the Agreement stand and collect the full Settlement Amount plus up to an additional one hundred percent (100%) of the Settlement Amount. Bradley Memorial Hospital agrees not to contest any collection action undertaken by the United States pursuant to this provision.

9. In the event that the United States, pursuant to Paragraph 8 above, opts to rescind this Agreement, Bradley Memorial Hospital expressly agrees not to plead, argue or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel or similar theories, to any civil or administrative claims which: (1) are filed by the United States within 90 calendar days of written notification to Bradley Memorial Hospital that this Agreement has been rescinded, and (2) relate to the Covered Conduct, except to the extent these defenses were available on February 27, 1996.

10. Bradley Memorial Hospital waives and will not assert any defenses it may have to any criminal prosecution or administrative action relating to the Covered Conduct, which defenses may be based in whole or in part on a contention that, under the Double Jeopardy or Excessive Fines Clause of the Constitution, this settlement bars a remedy sought in such criminal prosecution or administrative action. Bradley Memorial Hospital agrees that this settlement is not punitive in purpose or effect. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue Laws, Title 26 of the United States Code.

11. The amounts that Bradley Memorial Hospital must pay pursuant to this Agreement (as per Paragraph 1 above) will not be decreased as a result of the denial of claims for payment now being withheld by any Medicare carrier or intermediary, or any State payer, related to the Covered Conduct; and Bradley Memorial Hospital agrees not to resubmit to any Medicare carrier or intermediary, or any State payer, any previously denied claims related to the Covered Conduct, and not to appeal any such denials of claims.

12. Bradley Memorial Hospital agrees that all costs (as defined in the Federal Acquisition Regulations ("FAR") § 31.205-47 and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C.

§§ 1395-1395ddd (1997) and 1396-1396v(1997), and the regulations promulgated thereunder) incurred by or on behalf of Bradley Memorial Hospital in connection with: (1) the matters covered by this Agreement, (2) the Government's audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement, (3) Bradley Memorial Hospital's investigation, defense, and corrective actions undertaken in response to the Government's audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorney's fees), (4) the negotiation of this Agreement, (5) the payments made pursuant to this Agreement, and (6) the negotiation of the CIA, and the obligations undertaken pursuant to the CIA to: (i) retain an independent review organization to perform annual reviews as described in Section III of the CIA; and (ii) prepare and submit reports to the OIG-HHS, are unallowable costs on Government contracts and under the Medicare Program, Medicaid Program, TRICARE Program, Veterans Affairs Program, and Federal Employee Health Benefits Program (hereafter, "unallowable costs"). These unallowable costs will be separately estimated and accounted for by Bradley Memorial Hospital, and Bradley Memorial Hospital will 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 report or payment request submitted by Bradley Memorial Hospital or any of its subsidiaries to the Medicare, Medicaid, TRICARE, VA or FEHBP programs.

Bradley Memorial Hospital further agrees that within 90 days of the effective date of this Agreement, it will identify to applicable Medicare and TRICARE fiscal intermediaries, carriers and/or contractors, and Medicaid, VA 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 Bradley Memorial Hospital or any of its subsidiaries, and will 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. Bradley Memorial Hospital agrees that the United States will be entitled to recoup from Bradley Memorial Hospital any overpayment 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 or their contractors. The United States reserves its rights to disagree with any calculations submitted by Bradley Memorial Hospital or any of its subsidiaries on the effect of inclusion of unallowable costs (as defined in this paragraph) on Bradley Memorial Hospital's or any of its subsidiaries' 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.

13. This Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any claims against any other person or entity.

14. Bradley Memorial Hospital agrees that it will not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents or sponsors. Bradley Memorial Hospital waives any causes of action against these beneficiaries or their parents or sponsors based upon the claims for payment covered by this Agreement.

15. Bradley Memorial Hospital expressly 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 believes that it will remain financially solvent following its payment to the United States hereunder. Further, the Parties expressly warrant that, in evaluating whether to execute this Agreement, the Parties: (1) have intended that the mutual promises, covenants and obligations set forth herein constitute a contemporaneous exchange for new value given to Bradley Memorial Hospital, within the meaning of 11 U.S.C. § 547(c)(1), and (2) have concluded that these mutual promises, covenants and obligations do, in fact, constitute such a contemporaneous exchange.

16. In the event Bradley Memorial Hospital commences, or a third party commences, within 91 days of the effective date of this Agreement, any case, proceeding, or other action: (a) under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have any order for relief of Bradley Memorial Hospital's debts, or seeking to adjudicate Bradley Memorial Hospital as bankrupt or insolvent, or (b) seeking appointment of a receiver, trustee, custodian or other similar official for Bradley Memorial Hospital or for all or any substantial part of Bradley Memorial Hospital's assets, Bradley Memorial Hospital agrees as follows:

a. Bradley Memorial Hospital's obligations under this Agreement may not be avoided pursuant to 11 U.S.C. § 547, and Bradley Memorial Hospital will not argue or otherwise take the position in any such case, proceeding or action that: (i) Bradley Memorial Hospital's obligations under this Agreement may be avoided under 11 U.S.C. § 547; (ii) Bradley Memorial Hospital was insolvent at the time this Agreement was entered into, or became insolvent as a result of the payment made to the United States hereunder; or (iii) the mutual promises, covenants and

obligations set forth in this Agreement do not constitute a contemporaneous exchange for new value given to Bradley Memorial Hospital.

b. In the event that Bradley Memorial Hospital's obligations hereunder are avoided pursuant to 11 U.S.C. § 547, the United States, at its sole option, may rescind the releases in this Agreement, and bring any civil and/or administrative claim, action or proceeding against Bradley Memorial Hospital for the claims that would otherwise be covered by the releases provided in Paragraphs 5 and 6 above. If the United States chooses to do so, Bradley Memorial Hospital agrees: (i) that any such claims, actions or proceedings brought by the United States (including any proceedings to exclude Bradley Memorial Hospital from participation in Medicare, Medicaid, or other federal health care programs) are not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) as a result of the action, case or proceeding described in the first clause of this paragraph, and that Bradley Memorial Hospital will not argue or otherwise contend that the United States' claims, actions or proceedings are subject to an automatic stay; (ii) not to 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 claims, actions or proceeding which are brought by the United States within 180 calendar days of written notification to Bradley Memorial Hospital that the releases herein have been rescinded pursuant to this paragraph, except to the extent such defenses were available on the effective date of settlement; and (iii) that the United States has a valid claim against Bradley Memorial Hospital as authorized under the False Claims Act. The United States may pursue its claim, inter alia, in the case, action or proceeding referenced in the first clause of this paragraph, as well as in any other case, action, or proceeding.

c. Bradley Memorial Hospital acknowledges that its agreements in this paragraph are provided in exchange for valuable consideration provided in this Agreement.

17. Each party to this Agreement will bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

18. Bradley Memorial Hospital represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

19. 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 will be the United States District Court for the Eastern District of Tennessee, except that disputes arising under the CIA (attached as Exhibit A) shall be resolved exclusively under the dispute resolution provisions set forth in the CIA.

20. This Agreement, including Exhibit A which is incorporated by reference, constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties, except that only Bradley Memorial Hospital and the OIG-HHS must agree in writing to modification of the CIA contained in Exhibit A.

21. After this Agreement is executed and the first installment of the Settlement Amount is received by the United States, the United States and Relator will notify the Court that the parties stipulate and request that Bradley Memorial Hospital be dismissed with prejudice from the action captioned *United States ex rel. Health Outcomes Technologies v. Bradley Memorial Hospital*, Civil Action No. 96-1552 (UNDER SEAL), in the United States District Court for the Eastern District of Pennsylvania.

22. By this Agreement, the Relator and Relator's Counsel will release and will be deemed to release Bradley Memorial Hospital, from any claim that the Relator, and/or Relator's Counsel may have under 31 U.S.C. § 3730(d) to pay Relator's or Relator's Counsel attorneys' fees, expenses and costs.

23. Conditioned on Bradley Memorial Hospital's payment in full of the Settlement Amount, Relator shall receive from the United States a payment amounting to Two Hundred Seventy-Seven Thousand Two Hundred Twenty-Seven Dollars and Fifty-Two Cents (\$277,227.52). The United States shall pay relator this amount within a reasonable time after receipt by the United States from Bradley Memorial Hospital of the Settlement Amount. It is expressly understood and agreed that the United States in no way promises or guarantees, nor is liable to relator for the collection or payment of any funds pursuant to this Agreement or the payment or any Relator's share payments except as provided herein for funds actually collected and received by the United States.

Relator further agrees that its share of the proceeds from this settlement agreement shall be paid to relator over time consistent with paragraph 1 of this Settlement Agreement as follows: after Bradley Memorial Hospital pays the United States the First Installment, relator shall receive the amount of \$62,721.16; after Bradley Memorial Hospital pays the United States the Second Installment, relator shall receive the amount of \$75,892.60; after Bradley Memorial Hospital pays the United States the Third Installment, relator shall receive the amount of \$71,502.12; and, after Bradley Memorial Hospital pays the United States the Fourth Installment, relator shall receive the amount of \$67,111.64.

24. On receipt of the payment described in Paragraph 23 above, Relator will release and will be deemed to have released and forever discharged the United States, its officers, agents, and

employees from any liability arising from the filing of the Complaint as against Bradley Memorial Hospital, including any claim pursuant to 31 U.S.C. § 3730(d) to a share of any settlement proceeds received from Bradley Memorial Hospital, and in full satisfaction and settlement of claims under this Agreement.

25. The undersigned individuals signing this Agreement on behalf of Bradley Memorial Hospital and Relator, Health Outcomes Technologies, represent and warrant that they are authorized to execute this Agreement on behalf of those entities. The undersigned United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

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

27. This Agreement is effective on the date of signature of the last signatory to the Agreement.

THE UNITED STATES OF AMERICA

JAMES R. DEDRICK
United States Attorney

DATED: 8/9/01

BY: Cynthia F. Davidson
Cynthia Freemon Davidson
Assistant United States Attorney

DATED: _____

BY: _____
MICHAEL F. HERTZ
JOYCE R. BRANDA
DIANA YOUNTS
JAMIE ANN YAVELBERG
Civil Division
U.S. Department of Justice

DATED: _____

BY: _____
LEWIS MORRIS
Assistant Inspector General
Office of Counsel to the
Inspector General
Office of Inspector General
United States Department of
Health and Human Services

THE UNITED STATES OF AMERICA

JAMES R. DEDRICK
United States Attorney

DATED: _____

BY: _____
Cynthia Freemon Davidson
Assistant United States Attorney

DATED: 8/8/07

BY: 
LEWIS MORRIS
Assistant Inspector General
Office of Counsel to the
Inspector General
Office of Inspector General
United States Department of
Health and Human Services

BRADLEY MEMORIAL HOSPITAL

DATED: 8/9/01

BY: *John Barnes*
John Barnes, Administrator

DATED: 8/9/01

BY: 
Counsel for Bradley Memorial Hospital

RELATOR HEALTH OUTCOMES TECHNOLOGIES

DATED: _____

BY: _____
Drinker, Biddle & Reath
Attorneys for Relator
Health Outcomes Technologies

BRADLEY MEMORIAL HOSPITAL

DATED: _____

BY: _____
John Barnes, Administrator

DATED: _____

BY: _____
Counsel for Bradley Memorial Hospital

RELATOR HEALTH OUTCOMES TECHNOLOGIES

DATED: 8/8/01

BY: MJH (MKT)
Drinker, Biddle & Reath
Attorneys for Relator
Health Outcomes Technologies

SETTLEMENT AGREEMENT AND RELEASE

I. PARTIES

This Settlement Agreement ("Agreement") is entered into by and among the following parties:

A. The United States of America, acting by and through the Department of Justice and on behalf of the United States Department of Health and Human Services (collectively, the "United States");

B. The State of Texas, acting by and through its Attorney General, John Cornyn, and on behalf of the Texas Health and Human Services Commission

(collectively, the "State of Texas");

C. William N. Goodwin, individually (the "Relator");

D. Driscoll Children's Hospital, a Texas non-profit corporation with its principal office in Corpus Christi, Nueces County, Texas ("Driscoll");

E. The Robert Driscoll and Julia Driscoll and Robert Driscoll, Jr., Foundation, a Texas charitable trust with its principal office in Corpus Christi, Nueces County, Texas (the "Foundation");

F. Nettie Ruth Hoskins, an individual residing in Nueces County, Texas ("Hoskins");

G. The Estate of T.S. Scibienski, an individual, now deceased, formerly residing in Nueces County, Texas ("Scibienski");

H. The Estate of Ted Stibbards, an individual, now deceased, formerly residing in Nueces County, Texas ("Stibbards");

I. Roger Timperlake, M.D., an individual residing in Nueces County, Texas ("Timperlake");

J. Christopher Comstock, M.D., an individual residing in Nueces County, Texas ("Comstock").

Collectively, all of the above will be referred to as "the Parties" and Driscoll, the Foundation, Hoskins, Scibienski and Stibbards, will be referred to as the "Driscoll Defendants."

II. PREAMBLE

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

A. At all relevant times, Driscoll was a nonprofit regional, tertiary referral medical center located in Corpus Christi, Texas, specializing in the care of critically ill pediatric patients. In addition to its hospital in Corpus Christi, Texas, Driscoll also operated satellite outpatient clinics in other cities in South Texas. At all relevant times, Driscoll was a participant in the Disproportionate Share Hospital ("DSH") program, a Medicaid program funded by the United States of America and the State of Texas. The DSH fund is administered in Texas by the Texas Department of Health ("TDH"). 1 TAC Section 355.8065 et seq. The DSH program is designed to provide certain annual reimbursements from the DSH fund to qualifying hospitals that serve a disproportionate number of low-

income and charity patients. DSH program rules require that individual hospitals wishing to participate in the program must provide TDH with certain data annually, to enable TDH to determine (1) whether an individual hospital is entitled to receive a DSH payment, and (2) if so, the amount of the hospital's DSH payment. To qualify for a DSH payment, a hospital must certify that it meets the DSH program "Conditions of Participation." To enable TDH to calculate the correct amount of its DSH payment, a Medicaid hospital must report to TDH accurate information on both the annual "DSH Conditions Survey" and the "Annual Hospital Survey."

B. At all relevant times, the Foundation was a Texas charitable trust exempt from federal income tax. The sole purpose of the Foundation was to provide financial support to Driscoll.

C. At all relevant times, Hoskins served as one of the three Trustees of the Foundation and a member of the Governing Board of Driscoll;

D. At all relevant times, Scibienski served as one of the three Trustees of the Foundation and a member of the Governing Board of Driscoll;

E. Stibbards formerly served as Chief Executive Officer of Driscoll;

F. At all relevant times, Timperlake was a physician practicing in Corpus Christi, Texas.

G. At all relevant times, Comstock was a physician practicing in Corpus Christi, Texas.

H. Relator resides in the State of Texas. From February 1987 to March 1998 Relator was an employee of Driscoll.

I. On May 7, 1998 the Relator filed a qui tam action in the United States District Court for the Southern District of Texas, Corpus Christi Division, captioned United States of America ex re/ William N. Goodwin v. Driscoll Children's Hospital, et al., No. C-98-184 ("the Federal Civil Action").

J. On March 29, 2000 the Relator filed a Fourth Amended Complaint in the Federal Civil Action.

K. On August 9, 1999, the Relator filed an action pursuant to the Texas Medicaid Fraud Prevention Act, Tex. Human Res. Code § 36.00 et seq., captioned The State of Texas ex re/ William N. Goodwin v. Driscoll Children's Hospital, Nettie Ruth Hoskins, T.S. Scibienski, Robert Driscoll and Julia Driscoll and Robert Driscoll, Jr., Foundation a/k/a Driscoll Foundation, Ted Stibbards, Roger Timperlake, M.D. and Christopher Comstock, M.D., No. 99-09110, 261st Judicial District, Travis County, Texas ("the State Civil Action").

L. The United States and the State of Texas contend that the Driscoll Defendants submitted or caused to be submitted false claims for payment to the DSH program and to the federal Medicaid program, 42 U.S.C. § 1396-1396v.

operating in the State of Texas. The Defendants vigorously deny this and all of the following contentions.

M. The United States and the State of Texas contend that from 1994 through 1999 the Driscoll Defendants (1) falsely certified to TDH that Driscoll met all DSH Conditions of Participation; and (2) submitted false data for the purpose of receiving excess DSH reimbursement.

N. The United States and the State of Texas contend that the Driscoll Defendants claimed unallowable lobbying expenses on Driscoll's 1997 and 1998 cost reports submitted to the federal Medicaid program for the State of Texas.

O. The United States and the State of Texas contend that the Driscoll Defendants entered into leases, contracts or other financial arrangements with certain physicians and physician entities, as described below:

- (i) Between November 1, 1996 and February 28, 1998 the Driscoll Defendants made or caused to be made interest free loans totaling \$80,000 to Dr. M. Ramakrishna and Jorge Rodriguez, d/b/a R and R Professional Association;
- (ii) Between February 1, 1995 and November 1997, the Driscoll Defendants made or caused to be made interest free loans totaling \$105,000 to Dr. James M. Duff;

- (iii) From September 1, 1995 through April 30, 1998, the Driscoll Defendants paid or caused to be paid the initial capital expenses and the annual operating expenses of a mobile medical services unit for the benefit of Coastal Bend Emergency Services and its owner physicians;
- (iv) From January 1, 1990 through April 30, 1994, the Driscoll Defendants provided or caused to be provided office space and storage space free of charge to James Simpson, d/b/a South Texas Pediatric Cardiology Associates;
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- (v) From May 1, 1994 through April 30, 1998, the Driscoll Defendants provided or caused to be provided office space to James Simpson, d/b/a South Texas Pediatric Cardiology Associates, at below market rates;
- (vi) Between May 1, 1996 and April 30, 1998, the Driscoll Defendants reimbursed or caused to be reimbursed the legal and travel expenses of Children's Pediatric of South Texas and its member physicians Drs. Joseph Oshman, Edgar Cortes, M. Ramakrishna, William Dirksen and Driscoll employee Wayne New;
- (vii) Between May 1, 1996 and April 30, 1998, the Driscoll Defendants provided or caused to be provided office space and a full time

employee, free of charge, to Children's Pediatric of South Texas and its member physicians Drs. Joseph Oshman, Edgar Cortes, and M. Ramakrishna.

The United States and the State of Texas further contend that the contracts, leases and other financial arrangements set forth in this Paragraph were intended to induce patient referrals in violation of the Anti-Kickback statute, section 1128B of the Social Security Act, 42 U.S.C. § 1320a-7b, and that the Driscoll Defendants submitted or caused to be submitted claims for payment for patients referred pursuant to these allegedly unlawful contracts, leases and financial arrangements, to the federal Medicaid program, 42 U.S.C. § 1396-1396v, operating in the State of Texas.

P. The United States and the State of Texas contend that from 1995 through 1998 Defendants Timperlake and Comstock overbilled Medicaid by claiming reimbursement for services provided in a private physician office setting when in fact the services were provided in a hospital setting.

Q. The United States contends that the conduct described in Paragraphs L through P above, and in the Federal Civil Action, gives rise to civil claims against the Defendants under the False Claims Act, 31 U.S.C. §§ 3729-3733 or the common law theories of payment by mistake, unjust enrichment, breach of contract and fraud.

R. The State of Texas contends that it has certain monetary and non-monetary civil and administrative claims against the Defendants, for the conduct described in Paragraphs L through P above and in the State Civil Action.

S. The Defendants vigorously deny the allegations made against them in the Federal Civil Action and the State Civil Action.

T. To avoid the delay, expense, inconvenience and uncertainty of protracted litigation of the claims set forth in Paragraphs L through P above, the Parties mutually desire to fully and finally compromise and settle their claims and reach a full and final settlement pursuant to the Terms and Conditions set forth below.

III. TERMS AND CONDITIONS

NOW, THEREFORE, in reliance on the representations contained herein, and in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. Within three days of the effective date of this Agreement, the Driscoll Defendants, jointly, shall pay to the United States and the State of Texas a total of Twelve Million Three Hundred Twenty Five Thousand Dollars (\$12,325,000.00) (the "Driscoll Cash Settlement Amount") as follows:

(a) Driscoll, Hoskins, Scibienski and Stibbards, jointly, shall pay six million six hundred forty one thousand five hundred dollars (\$6,641,500) and the Foundation shall pay one million (\$1,000,000) to the United States by electronic funds transfer pursuant to written instructions provided by the United States; and

(b) Driscoll, Hoskins, Scibienski and Stibbards, jointly, shall pay three million six hundred eighty-three thousand five hundred dollars (\$3,683,500) and the Foundation shall pay one million dollars (\$1,000,000) to the State of Texas by cashier's check made payable to the State of Texas, c/o Lowell A. Keig, Chief, Elder Law and Public Health Division, Office of the Attorney General of Texas.

2. In addition to the Driscoll Cash Settlement Amount, within three days of the effective date of this Agreement, the Driscoll Defendants jointly, shall pay to Relator's counsel six hundred seventy five thousand dollars (\$675,000) in full satisfaction of the Relator's attorney's fees and costs, as provided in 31 U.S.C. § 3730(d)(1) and Tex. Human Res. Code § 36.110(c) by electronic funds transfer pursuant to written instructions provided by Relator's counsel.

3. In addition to the Driscoll Cash Settlement Amount and the payment to Relator's counsel set forth in Paragraph 2 above, the Driscoll Defendants jointly, shall pay one million five hundred thousand dollars (\$1,500,000) to the State of Texas, c/o Lowell A. Keig, Chief, Elder Law and Public Health Division.

Office of the Attorney General of Texas in full satisfaction of the State of Texas' attorney's fees and costs, as provided in Tex. Human Res. Code § 36.007.

4. Contingent upon the United States receiving the payment from the Driscoll Defendants as set forth in Paragraph 1(a), above, and as soon thereafter as feasible, the United States agrees to pay to the Relator two million sixty three thousand two hundred five dollars (\$2,063,205) (the "Relator Share of Federal Proceeds") by electronic funds transfer pursuant to written instructions provided by Relator's counsel.

5. Contingent upon the State of Texas receiving the payment from the Driscoll Defendants as set forth in Paragraph 1(b), above, and as soon thereafter as feasible, the State of Texas agrees to pay to Relator nine hundred thousand dollars (\$900,000) (the "Relator Share of the State Proceeds") by State Warrant (check) made payable to Tinsman & Houser, Inc., Settlement Trust Account as directed by Relator's counsel.

6. Within three days of the effective date of this Agreement, defendants Timperlake and Comstock, jointly, shall pay to the United States and the State of Texas a total of Eighty Two Thousand Two Hundred Eighty Two Dollars (\$82,282) (the "Physicians' Cash Settlement Amount") as follows:

(a) Timperlake and Comstock will pay forty nine thousand three hundred sixty nine dollars (\$49,369) to the United States pursuant to written instructions provided by the United States; and

(b) Timperlake and Comstock will pay thirty two thousand nine hundred thirteen dollars (\$32,913) to the State of Texas by cashier's check made payable to the State of Texas, c/o Lowell A. Keig, Chief, Elder Law and Public Health Division, Office of the Attorney General of Texas.

7. Subject to the exceptions in Paragraph 9 below, in consideration of the obligations of the Driscoll Defendants set forth in this Agreement and conditioned upon payment in full of the Driscoll Cash Settlement Amount and payments to the Relator as set forth above, the United States (on behalf of itself, its officers, agents, agencies and departments) and Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, hereby release the Driscoll Defendants from any civil monetary claim, liability, or cause of action, the United States has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733 or the common law theories of payment by mistake, unjust enrichment, breach of contract and fraud, for the conduct described in Paragraphs L through O above and in the Federal Civil Action.

8. Subject to the exceptions in Paragraph 9 below, in consideration of the obligations of Comstock and Timperlake set forth in this Agreement and

conditioned upon payment in full of the Physicians' Cash Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies and departments) and Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, hereby releases Comstock and Timperlake from any civil monetary claim the United States has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733 or the common law theories of payment by mistake, unjust enrichment, breach of contract and fraud, for the conduct described in Paragraph P above.

9. 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 the Defendants and Relator) are any and all of the following claims of the United States and/or the State of Texas:

a. Any civil, criminal or administrative liability to the United States arising under Title 26, U.S. Code (Internal Revenue Code);

b. Any criminal liability arising from the subject matter of this Agreement;

c. Any administrative liability;

d. Any liability to the United States (or its agencies) for any conduct other than the conduct described in Paragraphs L through P above and in the Federal Civil Action;

e. Any claims of the United States based upon such obligations as are created by this Agreement;

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

g. Any claims of the United States based on a failure to deliver items or services due;

h. Any civil or administrative claims of the United States against individuals (including current or former directors, officers, employees, agents, or shareholders of Driscoll and/or the Foundation), except those individuals specifically released in Paragraphs 7 and 8;

i. Any civil or administrative claims premised on the Stark Self-Referral Statute, 42 U.S.C. § 1395nn;

j. Any civil or administrative claims against any physicians or their professional corporations alleged to have entered into unlawful arrangements with Driscoll and the Foundation, as described in Paragraph 0 above;

k. Any civil or administrative claims or any liability to the United States (or its agencies) or the State of Texas (or its agencies) for conduct described in United States of America ex rel. William Goodwin v. Driscoll Children's Hospital, C.A. No. C-99-316 (S.D. Tex., Corpus Christi Division).

10. Subject only to the conditions specified herein and conditioned upon payment in full of the Driscoll Cash Settlement Amount, the State of Texas (on behalf of itself, its officers, agents, agencies and departments) and Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, hereby release the Driscoll Defendants and their successors and assigns from any civil monetary claim, liability or cause of action (including recoupment claims) that the State of Texas has or may have under the Texas Medicaid Fraud Prevention Act, Tex. Human Res. Code § 36.001 et seq.; Tex. Health and Safety Code, Ch. 161, Subch. I; or at common law for the conduct described in Paragraphs L through O above and in the State Civil Action.

11. Subject only to the conditions specified herein and conditioned upon payment in full of the Physicians' Cash Settlement Amount the State of Texas hereby releases Comstock and Timperlake and their successors and assigns from any civil monetary claims (including recoupment claims) that the State of Texas has or may have under the Texas Medicaid Fraud Prevention Act, Tex. Human Res. Code § 36.001 et seq.; Tex. Health and Safety Code, Ch. 161, Subch. I; or at common law for the conduct described in Paragraph P above.

12. The State of Texas specifically does not release the Defendants or any other entity or individual under this Agreement from (1) any criminal liability arising from the conduct described herein and in the State Civil

Action; (2) any liability to the State of Texas or any agency thereof for any conduct other than the conduct described herein and in the State Civil Action; or (3) any obligation created by this Agreement.

13. Conditioned upon receipt of the payment described in Paragraph 4 above, the Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, hereby releases the United States, its officers, agents and employees, from any claims pursuant to 31 U.S.C. § 3730 (including 31 U.S.C. § 3730(b),(c),(d) and (d)(1)), any claims arising from the filing of the Federal Civil Action, any claims to a share of the proceeds of the Federal Civil Action, any claims for a share of the Driscoll Cash Settlement amount or the Physicians' Cash Settlement Amount, and any claims for a share of the proceeds of any proceeding involving an "alternate remedy" as that term is used in 31 U.S.C. § 3730(c)(5). The Relator agrees and confirms that this Agreement, the Driscoll Cash Settlement Amount and the Physicians' Cash Settlement Amount is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon the receipt of the payment described in Paragraph 5 above, the Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, hereby releases the State of Texas, its officers, agents and employees, from any claims pursuant to the Texas Medicaid Fraud Prevention Act, Tex. Human Res. Code § 36.001 et seq., any claims arising from

the filing of the State Civil Action, any claims to a share of the proceeds of the State Civil Action, and any claims for a different share of the Driscoll Cash Settlement amount or the Physicians' Cash Settlement Amount.

14. Conditioned upon receipt of the payment described in Paragraph 2, the Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, hereby releases the Defendants from any liability to Relator arising from the filing of the Federal Civil Action and the State Civil Action, including all claims and causes of action asserted or which could have been asserted (including, but not limited to, claims under the False Claims Act, 31 U.S.C.

Sections 3729-3733; the Texas Medicaid Fraud Prevention Act, Tex. Human Res. Code § 36.001 et seq; Tex. Health and Safety Code, Ch. 161, Subch. I; and under 31 U.S.C. § 3730(d) of the False Claims Act and Section 36.110 of the Texas Human Resources Code of the Texas Medicaid Fraud Prevention Act) for expenses or attorney's fees and costs.

15. After payment of the Driscoll Cash Settlement Amount, the Physicians' Cash Settlement Amount, and attorney's fees and costs as set forth in Paragraphs 2 and 3 above, the Parties will file a motion(s) to dismiss with prejudice the Federal Civil Action and the State Civil Action against the Defendants consistent with and subject to the terms of the releases set forth herein.

16. Defendants waive and will not assert any defenses they may have to any criminal prosecution or administrative action relating to the conduct described above, which defenses 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 Settlement bars a remedy sought in such criminal prosecution or administrative action. Defendants agree that this agreement is not punitive in purpose or effect. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Driscoll Cash Settlement Amount and the Physicians' Cash Settlement Amount for purposes of the Internal Revenue Laws, Title 26 of the United States Code.

17. The Driscoll Cash Settlement Amount and the Physicians' Cash Settlement Amount will 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 State payer related to the conduct described above; and Defendants agree not to resubmit to any Medicare carrier or intermediary or State payer any previously denied claims related to the conduct described above, and agree not to appeal any such denials of claims.

18. Defendants agree that all costs (as defined in the Federal Acquisition Regulations ("FAR") 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 promulgated thereunder) incurred by or on behalf of Defendants in connection with: (1) the matters covered by this Agreement; (2) the Government's audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement; (3) the Defendants' investigation, defense, and corrective actions undertaken in response to the Government's audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorney's fees); (4) the negotiation and performance of this Agreement; and (5) the payments made pursuant to this Agreement, are unallowable costs on Government contracts and under the Medicare Program, Medicaid Program, TRICARE Program, Veterans Affairs Program (VA) and Federal Employee Health Benefits Program (FEHBP) (hereafter, "unallowable costs"). These unallowable costs will be separately estimated and accounted for by Defendants, and Defendants will 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, costs statement, information statement or payment request submitted by Defendants to the Medicare, Medicaid TRICARE, VA or FEHBP programs.

19. Driscoll further agrees that within 60 days of the effective date of this Agreement it will identify to applicable Medicare and TRICARE fiscal intermediaries, carriers and/or contractors, and Medicaid, VA and FEHBP fiscal agents, any unallowable costs (as defined in Paragraph 18) 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 Driscoll or any of its subsidiaries, and will 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. Driscoll agrees that the United States will be entitled to recoup from Driscoll any overpayment 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 calculation submitted by Driscoll or any of its subsidiaries, affiliates or divisions, on the effect of the inclusion of unallowable costs (as defined in paragraph 18) on Driscoll's or any of its subsidiaries, affiliates or divisions' 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 above.

20. Defendants agree that they will not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents or sponsors. Defendants waive any causes of action against these beneficiaries or their parents or sponsors based upon the claims for payment covered by this Agreement.

21. This Agreement is intended to be for the benefit of the Parties only and by this instrument the Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 20 above.

22. Driscoll and the Foundation expressly warrant that they have reviewed their financial situation and that they are currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and they will remain solvent following their payments to the United States and the State of Texas hereunder. Further, the Parties expressly warrant that, in evaluating whether to execute this Agreement, the Parties (i) have intended that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value given to Driscoll and the Foundation, within the meaning of 11 U.S.C. § 547(c)(1); and

(ii) have concluded that these mutual promises, covenants, and obligations do, in fact, constitute such a contemporaneous exchange.

23. Except as may be expressly provided to the contrary in this Agreement, each Party to this Agreement will bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

24. The Parties acknowledge that their agreements herein are made in exchange for valuable consideration provided in this Agreement, and further represent that they have entered into this Agreement freely and voluntarily, without any degree of duress or compulsion whatsoever, and with advice of counsel.

25. This Agreement is governed by the laws of the United States and the State of Texas.

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 individuals signing this Agreement on behalf of the Defendants represent and warrant that they are authorized to execute this Agreement. The signatories for the United States and the State of Texas represent that they are signing this Agreement in their official capacities and

that they are authorized to execute this Agreement. The undersigned individuals signing this Agreement on behalf of Relator represent and warrant that they are authorized by Relator to execute this Agreement.

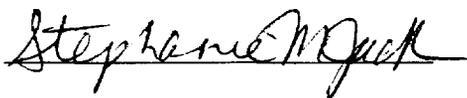
28. This Agreement is binding on all of the Parties and their successors, transferees, heirs, and assigns.

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

30. This Agreement is effective on the date of signature of the last signatory to the Agreement. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Settlement Agreement.

THE UNITED STATES OF AMERICA

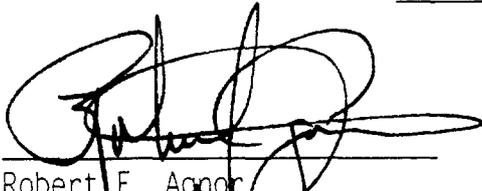
By:



Dated: May 23, 2001

STEPHANIE M. JACKSON
Trial Attorney
Commercial Litigation Branch
Civil Division
U.S. Department of Justice

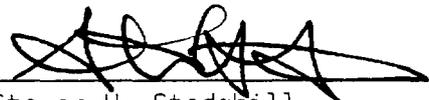
THE STATE OF TEXAS

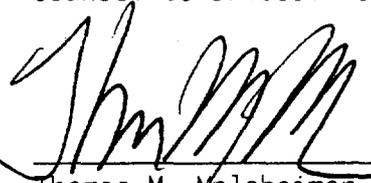
By:  Dated: 5-24-01
Robert E. Agnor
Assistant Attorney General - Civil Medicaid Fraud Section
Patrick J. O'Connell
Chief, Civil Medicaid Fraud Section
Office of the Attorney General of Texas

DRISCOLL CHILDREN'S HOSPITAL

By:  Dated: 5/24/01
C. Ivan Wilson
Its: Chairman of the Board

Acknowledged:

By:  Dated: MAY 25 2001
Steven H. Stodghill
Fish & Richardson
Counsel to Driscoll Children's Hospital

By:  Dated: MAY 25 2001
Thomas M. Melsheimer
Fish & Richardson
Counsel to Driscoll Children's Hospital

The ROBERT DRISCOLL, JULIA DRISCOLL and ROBERT DRISCOLL, JR. FOUNDATION

By: Joseph R. Fulton
Joseph R. Fulton
Its: Chairman of the Board

Dated: June 13, 2001

Acknowledged:

By: Jorge C. Rangel
Jorge C. Rangel
Law Offices of Jorge C. Rangel
Counsel to the Foundation

Dated: June 13, 2001

NETTIE RUTH HOSKINS

By:  Dated: 5/24/01
Nettie Ruth Hoskins

Acknowledged:

By:  Dated: MAY 25 2001
Steven H. Stodghill
Fish & Richardson
Counsel to Ms. Hoskins

By:  Dated: MAY 25 2001
Thomas M. Meisheimer
Fish & Richardson
Counsel to Ms. Hoskins

ESTATE OF T.S. SCIBIENSKI

By: Helen C. Scibienski Swetman Dated: 5-23-01
Helen C. Scibienski Swetman
Co-Executrix of Estate of T. S. Scibienski

Acknowledged:

By: Sozanne M. Scibienski Bass Dated: 5-23-01
Sozanne M. Scibienski Bass
Co-Executrix of Estate of T. S. Scibienski

Acknowledged:

By: Steven H. Stodghill Dated: MAY 25 2001
Steven H. Stodghill
Fish & Richardson
Counsel to Executrix of T. S. Scibienski

By: Thomas M. Melsheimer Dated: MAY 25 2001
Thomas M. Melsheimer
Fish & Richardson
Counsel to Executrix of T. S. Scibienski

ESTATE OF TED STIBBARDS

By: Gwen Francis Stibbards Dated: 5/24/01
Gwen Francis Stibbards
Executrix of Estate of Ted Stibbards

Acknowledged:

By: David G. Matthiesen Dated: 5/31/01
David G. Matthiesen
Matthiesen, Chase, & Erwin
Counsel to Executor of Ted Stibbards

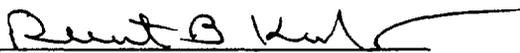
ROGER TIMPERLAKE, M.D.

By: 

Dated: 5/17/01

Roger Timperlake, M.D.

Acknowledged:

By: 

Dated: 5/17/01

Robert B. Krakow
Gibson, Dunn & Crutcher
Counsel to Roger Timperlake, M.D.

CHRISTOPHER COMSTOCK, M.D.

By: 

Dated: 5/18/01

Christopher Comstock, M.D.

Acknowledged:

By: 

Dated: 5/17/01

Robert B. Krakow
Gibson, Dunn & Crutcher
Counsel to Christopher Comstock, M.D.

WILLIAM N. GOODWIN

By: William N. Goodwin
William N. Goodwin, Relator

Dated: May 22, 2001

Acknowledged:

By: Cage Wavell
Cage Wavell
Cage Wavell & Associates
Counsel to William N. Goodwin, Relator

Dated: May 22, 2001

By: _____
Glenn Grossenbacher
Law Office of Glenn Grossenbacher
Counsel to William N. Goodwin, Relator

Dated: May 22, 2001

By: John E. Clark
John E. Clark
Goode Casseb Jones Riklin Choate & Watson
Counsel to William N. Goodwin, Relator

Dated: 22 May 2001

By: Richard Tinsman
Richard Tinsman
Tinsman & Houser
Counsel to William N. Goodwin, Relator

Dated: 5/22/01

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