

## SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is made and entered into by and between the United States of America, acting through the United States Department of Justice and its Drug Enforcement Administration (“DEA”) (collectively, the “United States”) and Edward Driscoll, M.D. (“Dr. Driscoll”), in connection with Dr. Driscoll’s assigned DEA registration number AD8364616. The United States and Dr. Driscoll are together referred to herein as the “Parties.”

### RECITALS

A. Dr. Driscoll practiced at UMass Memorial Medical Center (“UMass Memorial”), which is located at 1 West Boylston Street, Worcester, MA 01605.

B. Each DEA registrant is required to conduct its operations in accordance with the Controlled Substances Act, 21 U.S.C. § 801, *et seq.* (the “Act”), and the regulations promulgated thereunder.

C. The DEA is the Department of Justice component agency primarily responsible for enforcing the Act and is vested with the responsibility of investigating violations of the Act.

D. The United States Attorney General, through the United States Attorney’s Office, has primary authority to bring civil actions to enforce the Act. *See* 21 U.S.C. § 871 and 28 C.F.R. § 0.55(c).

E. Dr. Driscoll voluntarily surrendered his DEA registration number AD8364616 as of March 2021.

F. Dr. Driscoll admits, acknowledges, and accepts responsibility for the following facts. Between May 23, 2016 and December 27, 2018, for nine patients, identified by medical record numbers 99133, 490740, 414957, 15966, 5899, 89766, 632749, 146100, and 259485, Dr. Driscoll prescribed multiple schedule II controlled substances that were outside the usual course

of professional practice, in violation of 21 C.F.R. § 1306.04(a). For many of these patients, Dr. Driscoll prescribed opioids for chronic pain without conducting functional pain assessments or opioid risk assessments. He rarely ordered urine drug screens and did not have consistent monthly office visits, despite prescribing opioids to patients monthly. He often failed to check the Massachusetts Prescription Awareness Tool (formerly the Prescription Drug Monitoring Program) as required by Massachusetts law, *see* 130 Code Mass. Regs. § 700.012(G)(2). The foregoing conduct is referred to below as the “Covered Conduct.”

G. The United States contends that it has claims for civil monetary penalties and injunctive relief against Dr. Driscoll under the Act and its implementing regulations based upon the Covered Conduct.

In consideration of the mutual promises and obligations of this Agreement and with full authority to enter into this Agreement and to be bound thereby, the Parties agree as follows:

### **TERMS AND CONDITIONS**

1. As set forth below, Dr. Driscoll shall pay to the United States the sum of one hundred and fifteen thousand dollars (\$115,000.00) plus interest at a rate of 1.50% per annum from August 1, 2021, and continuing until and including the date of payment (the “Settlement Amount”), none of which is restitution. On the Effective Date of this Agreement, as defined below, this sum shall constitute a debt due and immediately owing to the United States, for which Dr. Driscoll is liable.

2. Dr. Driscoll shall make payment of the Settlement Amount pursuant to written instructions to be provided by the Office of the United States Attorney’s Office for the District of Massachusetts, no later than ten days after the Effective Date of this Agreement.

3. Dr. Driscoll shall not apply for a new DEA registration number or prescribe or

dispense controlled substances in the future.

4. Subject to the exceptions in Paragraph 5 (concerning reserved claims) below, and conditioned upon the United States' receipt of the Settlement Amount and Dr. Driscoll complying with Paragraph 3, the United States releases Dr. Driscoll and his assignees and successors from any civil or administrative claims the United States has, could have, or may assert in the future, related to the Covered Conduct under the Act.

5. Notwithstanding the release given in Paragraph 4 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Any administrative liability or enforcement right, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement; or
- f. Any liability of individuals not a party to this Agreement.

6. The United States reserves the right to seek injunctive relief pursuant to 21 U.S.C. § 843(f) if Dr. Driscoll fails to pay the Settlement Amount.

7. Dr. Driscoll waives and shall not assert any defenses he may have to any criminal prosecution 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.

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

9. The obligations imposed upon Dr. Driscoll pursuant to this Agreement are in addition to, and not in derogation of, all requirements imposed upon Dr. Driscoll pursuant to all applicable federal, state, and local laws and regulations, including but not limited to the requirements set forth in Title 21 of the United States Code and the regulations promulgated thereunder.

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

11. Each Party represents that he or it freely and voluntarily enters into this Agreement without any duress or compulsion.

12. 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.

13. 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 District of Massachusetts. This Agreement shall be deemed to have been drafted by all Parties to this Agreement and, therefore, shall not be construed against any Party for that reason in any subsequent dispute.

14. The Agreement contains the entire agreement between the Parties regarding the alleged claims at issue herein. The Agreement may be amended only by a writing signed by both Parties.

15. The undersigned represent and warrant that they are fully authorized to execute this Agreement on behalf of the Parties.

16. This Agreement may be executed in counterparts, each of which constitutes an original and both of which constitute one and the same agreement, but shall become final and binding only upon signing by all representatives listed below for both Parties.

17. The Parties may execute this Agreement via facsimile and/or by portable document format (.pdf), both of which shall be deemed the equivalent of an original signature.

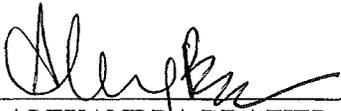
18. The Parties consent to the United States' disclosure to the public of this Agreement and information about this Agreement.

19. This Agreement shall become effective on the date of the signature of the last signatory to the Agreement ("Effective Date of this Agreement").

SIGNATURES TO FOLLOW ON NEXT PAGE

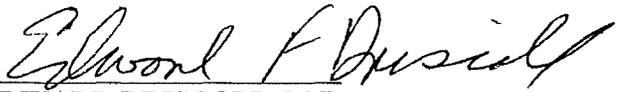
THE UNITED STATES OF AMERICA

DATED: 12/16/21

BY:   
ALEXANDRA BRAZIER  
Assistant U.S. Attorney  
United States Attorney's Office  
District of Massachusetts

EDWARD DRISCOLL, M.D.

DATED: 12-9-2021

BY:   
EDWARD DRISCOLL, M.D.

DATED: 12/15/21

BY:   
PETER ETTENBERG  
Counsel for Edward Driscoll, M.D.