

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the "Agreement") is entered into this 17<sup>th</sup> day of December, 1997, by and between the United States of America ("United States"), acting through its Department of Justice, the United States Department of Health and Human Services Office of Inspector General ("HHS-OIG"), the State of Tennessee, James C. Mays, III ("Relator"), Paracelsus Healthcare Corporation, ("Paracelsus") and Paracelsus Fentress County General Hospital, Inc. ("Fentress") (hereinafter jointly referred to as "the Parties").

PREAMBLE

A. Paracelsus is a California corporation headquartered in Houston, Texas.

B. This Agreement settles the claims set forth in the Amended Complaint styled: *United States of America ex rel. James C. Mays, III, and State of Tennessee ex rel. James C. Mays, III, v. Paracelsus-Fentress County General Hospital, Inc., Paracelsus Healthcare Corporation and Jack C. Smith, M.D., USDC, E.D. of Tenn., No. 3:94-cv-0134* ("Civil Action").

C. This Agreement addresses the United States', the State of Tennessee's and the Relator's civil and administrative monetary claims against Paracelsus and Fentress for the conduct

described in Paragraphs D through F and the Amended Complaint.

D. Paracelsus is the sole shareholder of Paracelsus Fentress County General Hospital, Inc. which operates the Fentress County General Hospital in Jamestown, Tennessee. Fentress also operated standalone drug and alcohol rehabilitation clinics under the name REBOS in middle and eastern Tennessee. Between 1989 and the enactment of the TennCare program in Tennessee in January 1994, Fentress submitted claims for payments under the Medicare and Medicaid programs for services rendered by non-physician staff at the REBOS clinics. In addition, between 1991 and 1993, Fentress submitted claims for payment under the Medicaid program for inpatient alcohol and drug detoxification and rehabilitation services rendered at Fentress County General Hospital.

E. The United States, the State of Tennessee, and the Relator contend that the claims which Fentress submitted for reimbursement of the REBOS clinic claims were false. It is their contention that there was inadequate physician involvement in the diagnosis, admission, and treatment of REBOS clinic patients for the services to qualify for reimbursement under either the Medicaid or the Medicare programs. The United States, the State of Tennessee, and the Relator also contend that the physician with whom Fentress contracted as Medical Director of the REBOS clinics signed documents purporting to be telephone orders for the

treatment of patients and backdated them to provide the appearance of physician supervision.

F. The United States, the State of Tennessee, and the Relator further contend that many of the claims for reimbursement of inpatient services which Fentress submitted were false. They contend that patients' progress was supervised and documented inadequately for the claims to qualify for reimbursement under the State of Tennessee's Medicaid regulations, and that an admissions director was instructed to, and did, deceive the State of Tennessee's Bureau of Medicaid regarding the frequency of physician visits when he called the State to obtain preadmission certification of the patients.

G. The United States, the State of Tennessee and the Relator contend that Fentress's conduct set forth in Paragraphs D through F violated the False Claims Act, 31 U.S.C. § 3729, et seq., the Tennessee Medicaid False Claims Act, T.C.A. § 71-5-181, et seq.; [PHC] the Program Fraud Civil Remedies Act, 31 U.S.C. § 3801, et seq.; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; and the common law.

H. Paracelsus and Fentress deny that their conduct or the conduct of any subsidiaries or employees violated the False Claims Act, the Tennessee Medicaid False Claims Act, or any state or federal statutes, regulations, or common law doctrine.

I. Wishing to avoid the delay, expense, inconvenience and uncertainty of protracted litigation, the Parties hereby reach a full and final settlement, as defined and as reserved below, of civil and administrative monetary claims the United States, the State of Tennessee and the Relator have against Paracelsus and Fentress for the conduct described in Paragraphs D through F of this Agreement and the Amended Complaint.

TERMS AND CONDITIONS

In reliance on the representations contained herein and in consideration of the mutual promises, covenants and obligations of this Agreement, and for good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

PAYMENT AND RELEASE TERMS

1. In settlement of the allegations of the facts and conduct described in the Amended Complaint and Paragraphs D through F of this Agreement, Paracelsus agrees to pay the United States, the State of Tennessee, and the Relator the total sum of Three Million Dollars (\$3,000,000.00), plus interest accruing after December 17, 1997 at 9.5% per annum, according to the following schedule:

December 17, 1997

<u>Payee</u>	<u>Amount</u>
United States	\$615,714.86 (plus interest if paid after 12/17/97)
State of Tennessee	\$184,346.07 (plus interest if

Relator paid after 12/17/97)  
\$199,939.07 (plus interest if  
paid after 12/17/97)

June 17, 1998

<u>Payee</u>	<u>Amount</u>
United States	\$615,714.86 (plus interest accrued since 12/17/97, for a total of \$644,961.32)
State of Tennessee	\$184,346.07 (plus interest accrued since 12/17/97, for a total of \$193,102.51)
Relator	\$199,939.07 (plus interest accrued since 12/17/97, for a total of \$209,436.18)

December 17, 1998

<u>Payee</u>	<u>Amount</u>
United States	\$615,714.86 (plus interest accrued since 12/17/97, for a total of \$674,207.77)
State of Tennessee	\$183,346.07 (plus interest accrued since 12/17/97, for a total of \$200,763.95)
Relator	\$199,939.07 (plus interest accrued since 12/17/97, for a total of \$218,933.28)

2. The payments specified in Paragraph 1 shall be made  
as follows:

**State of Tennessee's payments**

Make checks payable to the State of Tennessee, Bureau of  
TennCare, and deliver to Michael Bassham, Assistant  
Attorney General, or alternatively, by electronic  
transfer according to instructions given to Paracelsus by  
Michael Bassham or his designated representative.

**United States' payments**

Make payment by electronic transfer, according to the  
instructions provided at the time of signing this  
Agreement by Michael F. Hertz, Director, Commercial  
Litigation Branch, Civil Division, Department of Justice,  
or his designated representative.

**Relator's payments**

Make payment by electronic transfer, payable to Tennessee Bar Association IOLTA Account for Ronald J. Attanasio, First American National Bank, Knoxville, Tennessee; ABA Routing Code 064000017, Account No. 5000593253. Paracelsus agrees to complete and submit all necessary documents, including IRS Forms 1099, necessary to report to the United States Internal Revenue Service Paracelsus's payments to the Relator.

3. To secure payment to the United States, the State of Tennessee, and the Relator, as specified in Paragraph 1, Paracelsus will execute promissory notes in favor of the United States, the State of Tennessee, and the Relator (attached hereto as Exhibits 1 through 3). Paracelsus acknowledges that its obligations under the promissory notes are nondischargeable in bankruptcy. Paracelsus shall also execute an offer of judgment, pursuant to Fed. R. Civ. Proc. 68, in the Civil Action in favor of the United States, the State of Tennessee, and the Relator (attached hereto as Exhibit 4). Paracelsus and the Relator shall also cause their attorneys of record to sign an agreed order allowing the State of Tennessee to intervene as a party plaintiff (attached hereto as Exhibit 5). In consideration of receiving the offer of judgment, the United States, the State of Tennessee, and the Relator agree that they will not cause the offer of judgment and the agreed order to be entered unless and until Paracelsus defaults on any payment, as described in Paragraph 4, below.

4. Default is defined as: (a) lack of payment on the

date the payment is due; (b) voluntary or involuntary filing for bankruptcy protection under the Bankruptcy Code; (c) failure to properly implement and maintain the corporate integrity terms of this Agreement, as described below; and (d) failure to provide to the United States on or before January 15, 1998, a faxed copy of Paracelsus' Directors' written consent that James G. VanDevender, on behalf of Paracelsus and Fentress, enter into the Settlement Agreement in this case. If Paracelsus defaults by missing a payment (see definition a, above), by the filing of a petition for bankruptcy protection (see definition b, above), or by failing to provide copies of its Directors' written consent (see definition d, above), any other party may provide written notice to Paracelsus. Written notice may be made by registered mail or facsimile followed by overnight delivery addressed to Maker's attorney, Frank A. Uribe, Esq., at the following address:

Frank A. Uribe, Esq.  
Paracelsus Healthcare Corporation  
515 West Greens Road, Suite 800  
Houston, Texas 77067  
(281) 774-5471 (facsimile)

Paracelsus shall have ten (10) days following the written notice of default to cure the default by making payment, withdrawing its bankruptcy petition, or providing the Directors' signatures, as necessary. If Paracelsus or Fentress defaults as defined in (c), the parties' rights and responsibilities shall be governed by the

terms of Paragraph 11(B), below. If Paracelsus defaults as defined in definition (a), (b) or (d) above, then after the expiration of the ten-day cure period, the principal remaining outstanding on the date of default shall become accelerated and immediately due and payable with interest at the rate of 9.5% per annum from December 17, 1997. Notwithstanding anything in this paragraph, the parties agree that timely payment on December 17, 1997 of the first installment, per paragraph 1, is of the essence, and that any delay in that payment shall constitute a default for which neither notice nor a ten-day cure period need be given. The United States, the State of Tennessee, or the Relator may at any time and at their option, take any of the following steps:

- (1) Declare the Agreement null and void, and pursue the full amount of the claims, as described in Paragraphs D through G of this Agreement and the Amended Complaint. Any payments of principal paid to date shall be credited towards satisfaction of any judgment obtained, but shall not be refunded or credited should Paracelsus or Fentress obtain a judgment in their favor;
- (2) Bring suit to enforce the Promissory Notes executed at the time of the signing of this Agreement, including the filing of the offer of judgment and agreed order described in Paragraph 3, above;
- (3) Any other lawful action to enforce the terms of this Agreement or the Promissory Notes, including but not limited to, setting off the unpaid principal under this Agreement against any monies due from the United States or the State of Tennessee to Paracelsus.

5. Subject only to the conditions specified in



Paragraphs 6 through 8 below, on receipt of the full amount described in Paragraph 1 above, the United States, the State of Tennessee and the Relator will release and will be deemed to have released Paracelsus and Fentress, all of their businesses, divisions, affiliates, subsidiaries, successors and assigns, and their present and former directors, from any civil or administrative monetary claims that the United States, the State of Tennessee and the Relator have under the False Claims Act, 31 U.S.C. § 3729, et seq. (as amended); the Tennessee Medicaid False Claims Act, T.C.A. 71-5-181, et seq., the Program Fraud Civil Remedies Act, 31 U.S.C. § 3801, et seq.; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; administrative recoupment of overpayment under the Medicare or Medicaid programs, 42 U.S.C. § 1395gg et seq., 42 C.F.R. § 405.370 et seq.; 42 C.F.R. §§ 447.30, 447.31; or the common law, for the conduct described in Paragraphs D through F of the Preamble and in the Amended Complaint.

6. In consideration of the obligations of Paracelsus and Fentress set forth in this Agreement, conditioned upon Paracelsus' payment in full of the settlement amount, and upon Paracelsus' and Fentress' continued compliance with the Corporate Integrity Terms of this Agreement, the HHS-OIG agrees to release and refrain from instituting, directing or maintaining any administrative claim or any action against Paracelsus or Fentress

seeking exclusion from the Medicare program or State health care programs (as defined in 42 U.S.C. § 1320a-7(h)), under 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law), or 42 U.S.C. § 1320a-7(b) (permissive exclusion), for the conduct described in Paragraphs D through F of the Preamble and in the Amended Complaint. Nothing in this Paragraph shall preclude the HHS-OIG from taking action against other entities or persons, or against anyone— including Paracelsus or Fentress— for other conduct or practices.

7. The United States and the State of Tennessee specifically do not release Paracelsus or any other entity or individual under this Agreement from (a) any criminal liability which may arise from the conduct described in the Civil Action and Paragraphs D through F of the Preamble; (b) any criminal, civil, or administrative claims arising under Title 26, U.S. Code (Internal Revenue Code); (c) any liability to the United States or the State of Tennessee (or any agencies thereof) for conduct other than that described in Paragraphs D through F of the Preamble and the Civil Action; (d) with the exception described in Paragraph 6, above, any administrative action for exclusion, suspension or debarment by any federal agency; (e) any obligations created by this Agreement; (f) any claims for defective or deficient services or goods; (g) any claims against individuals, including current or former directors, officers and employees who are criminally indicted or convicted of

an offense, or who enter a criminal plea or administrative agreement, related to the conduct alleged in Preamble Paragraphs D through F, above; and (h) any potential criminal, civil or administrative claims arising under federal or state tax, licensing, certificate of need or similar state regulatory proceedings other than Medicaid/TennCare recoupment.

8. With respect to the conduct alleged in Paragraphs D through F of the Preamble above, Paracelsus hereby waives any defenses it may have to any criminal prosecution which defenses may be based in whole or in part on the Double Jeopardy Clause of the United States Constitution or the holding or principles set forth in United States v. Halper, 490 U.S. 435 (1989), and agrees not to argue that the amounts paid under this Agreement are punitive in nature or effect in any such criminal prosecution. Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the United States or the State of Tennessee concerning the characterization of the amounts paid hereunder for purposes of any proceeding under Title 26 of the U.S. Code (Internal Revenue Code).

9. The Relator, James C. Mays, III, and the Relator's attorneys, for themselves, their heirs, successors and assigns, release and are deemed to have released and forever discharged the United States and the State of Tennessee from any claims arising

from or relating to the filing of the Civil Action, or, pursuant to 31 U.S.C. § 3730(d)(1) or T.C.A. § 71-5-183(c), for a share of the proceeds of the settlement under this Agreement.

CORPORATE INTEGRITY TERMS

10. Fentress agrees to pursue the following course of action to ensure full and accurate compliance with Medicare and Medicaid regulations and program requirements for any outpatient chemical dependency services if provided in the future by Fentress and any third parties whose services are contracted for by Fentress, and shall provide an annual written report, pursuant to the requirements of paragraph 10(D), to HHS-OIG detailing the actions it has taken.

A. Written Policies and Procedures

1) Fentress shall develop a corporate integrity program and implement written compliance policies and procedures that shall include the submission of claims to the Medicare and Medicaid programs. These policies and procedures shall be distributed to all employees, including those involved in preparing or submitting Medicare and Medicaid bills or claims at Fentress, and shall advise employees of Fentress's commitment to comply with all laws and regulations and to accurate billing consistent with Medicare and Medicaid regulations and procedures. These written

policies shall also include clear and consistently applied disciplinary policies regarding breaches of Fentress's corporate integrity program.

2) Fentress shall also include in its written policies and procedures a provision that Fentress shall not knowingly employ or contract with, with or without compensation, any individual or entity listed by a federal agency as excluded, debarred, suspended or otherwise ineligible to participate in federal programs. In order to carry out this policy, Fentress shall make reasonable inquiry into the status of any prospective employee engaged in the delivery or billing of health care services, consultant or contractor. Such reasonable inquiry shall include, at a minimum, review of the HHS-OIG Cumulative Sanctions Report (currently found on the Internet at [www.dhhs.gov/progorg/oig](http://www.dhhs.gov/progorg/oig)) and the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs (found on the Internet at [www.arnet.gov/eplis](http://www.arnet.gov/eplis)).

3) Fentress will, as part of its corporate integrity obligations, take all reasonable steps to ensure that all professional medical services provided at the hospital or affiliated outpatient clinic by hospital personnel or any contractors are appropriately licensed and qualified to furnish

those services.

4) Fentress shall establish a confidential disclosure program, such as an anonymous telephone hotline, enabling employees and active staff physicians and other medical personnel to disclose any billings, activities, or arrangements related to the delivery of health care services or items, that may be deemed by the employee to be inappropriate, to an identified individual not in that employee's direct chain of command. Fentress shall post its hotline number or any other means of confidential disclosure in a prominent place accessible to each employee. Fentress shall, as part of the program, require the internal review of any such disclosure and ensure that proper follow-up is conducted. Fentress shall include in its annual report to HHS/OIG a summary of communications concerning any inappropriate conduct involving a material violation of the Medicare or TennCare programs under the confidential disclosure program, and the results of any internal review, the actions taken to correct any potential problems identified in such reviews, and the follow-up with the Government of such disclosures.

B. Training and Education. Within 120 days of the effective date of this Agreement, Fentress shall develop and implement an effective training and educational program and require annual attendance for all professional and clerical employees and

the employees of independent contractors who are involved in providing outpatient services and/or preparing or submitting claims for reimbursement to the Medicare and Medicaid programs. Such training is mandatory, must be conducted at regularly scheduled times but at least once a year, and must cover, at a minimum, Fentress's compliance policies and procedures and any new laws and regulations directly related to federally-funded reimbursement for outpatient laboratory services. This program shall address the submission of accurate bills for services rendered to Medicare or Medicaid patients, the personal and ethical obligation of each individual, especially those involved in the billing process to ensure that such billings are accurate, the legal sanctions for improper billings, and examples of improper billing practices. Such training shall also be included in the formal orientation of new employees. Such training should reinforce the need for strict compliance with the law and hospital policies, and should inform employees that any failure to comply may result in disciplinary action. Fentress shall certify that such annual training has been provided, and set forth generally the format, content and materials provided in its annual report to HHS-OIG.

C. Audits and Monitoring. Fentress shall review its corporate policies and procedures, including its billing policies, procedures and practices attendant to the submission of claims to

Medicare and Medicaid for outpatient services. The review shall be aimed at ensuring that the federally funded health care programs, including the Tennessee Medical Assistance Program (TennCare), are billed appropriately for these services. If such a review audit indicates billings which may violate Medicare or Medicaid rules and regulations, Fentress shall notify the HHS-OIG Office of Counsel to the Inspector General ("OIG-OCIG") in writing promptly and remedy any such potential violations within 30 days. Fentress agrees to implement any necessary corrective actions to address deficiencies identified during such audits, and, if appropriate, to remit any identified overpayments to the appropriate payor per HCFA guidelines for returning overpayments. The identification and results of this audit, including the implementation of corrective actions and return of overpayments, shall be included in the annual report to HHS-OIG. The OIG shall have access to all working papers and documentation to verify the accuracy of the audit and/or overpayments, if deemed necessary.

D. Certification and Reporting Requirements. The period of future compliance obligations assumed by Fentress under this agreement shall be three (3) years from the date of execution of the Agreement. All reports, requests for modification and other notification required under this Agreement shall be sent to:

ATTN: Civil Recoveries Branch-Compliance Unit



Office of Counsel to the Inspector General  
Office of Inspector General  
U.S. Department of Health and Human Services  
Cohen Building Room 5527  
330 Independence Avenue S.W.  
Washington, D.C. 20201  
(202) 619-2078

Within 120 days after the execution of this Agreement by all parties, Fentress shall report in writing to the OIG-OCIG the steps taken and proposed to be taken to implement the requirements of paragraphs 10(A-B) above, including a schedule with implementation dates, a description of the type of review performed, the results of the review, and the basis for all revisions, or for the continuation of present policies. Thereafter, Fentress shall report in writing to the OIG-OCIG on the first, second and third anniversaries of the signing of this Agreement the status and findings of Fentress's compliance efforts.

E. Corporate Compliance Officer. Within 30 days of the execution date and in all of the reports required hereunder, shall indicate the name, other corporate title, address and telephone number of the designated corporate compliance officer for any questions or concerns that may arise relating to the reports or corporate integrity requirements under this Agreement. The corporate compliance officer should report directly to the senior Paracelsus executive responsible for corporate compliance in Paracelsus subsidiaries, including Fentress, and should be afforded

the independence and resources to perform his or her corporate compliance function in good faith. For example, the compliance officer should be afforded the independence and resources to do the following: establish an effective hotline operation for the reporting of suspected fraud or abuse; prepare the reports required by the corporate integrity provisions of this Agreement; provide and oversee education and training; and oversee compliance audits.

F. Access to Records. In addition to any other right HHS may have by statute, regulation or contract, upon reasonable notice during the term of this Agreement, HHS or any duly authorized representatives may examine all Fentress's books, records and other company documents and supporting materials for the purpose of verifying and evaluating Fentress's compliance with the terms of this Agreement and applicable law or to verify that other Medicare laws have not been violated, including but not limited to all written communications between the Fentress Corporate Compliance Officer and Paracelsus.

11. Breach and Default Provisions. Fentress's compliance with the terms and conditions of this Agreement shall constitute an element of Fentress's present responsibility with regard to participation in federally-funded programs.

A. Failure to Make Payments. Notwithstanding the release provisions in this Agreement, the HHS-OIG may seek to

exclude or suspend Fentress from Medicare or state health care programs in the event Fentress fails to satisfy the payment obligations set forth in this Agreement.

B. Breach of Corporate Integrity Provisions.

Notwithstanding the release provisions in this Agreement, the HHS-OIG may seek to exclude or suspend Fentress from Medicare or Medicaid in the event that Fentress fails to satisfy the corporate integrity obligations set forth in paragraph 10 of this Agreement. In the event that HHS-OIG believes that Fentress is in violation of one or more of its corporate integrity obligations under this Agreement, or that a material breach has occurred, the HHS-OIG will notify Fentress of the alleged violation by first class mail or certified mail, specifying the alleged breach. Fentress will have thirty (30) days from receipt of the notice: (i) to cure said material breach; and, (ii) to satisfy HHS-OIG that it is in full compliance with the corporate integrity obligations contained in this Agreement; or, (iii) that the material breach cannot reasonably be cured within 30 days, but that Fentress has taken reasonable action to cure the violation and is pursuing such action with diligence. If, at the end of the thirty day cure period, the HHS-OIG continues to believe that Fentress is in violation of one or more of its corporate integrity obligations under this Agreement, the HHS-OIG may declare a material breach and declare

Fentress to be in default of this Agreement and may seek to exclude Fentress from participation in Medicare and Medicaid, until such time as the HHS-OIG is satisfied that Fentress has fully cured such failure to comply and that it is in compliance with this Agreement. In the event that Fentress fully cures the violation or otherwise satisfies the HHS-OIG, it shall promptly be reinstated, retroactive to the date of cure. Upon notification by HHS-OIG of its intent to exclude or suspend Fentress from participation, Fentress is entitled to the due process afforded a provider under 42 U.S.C. § 1320a-7(f). However, Fentress agrees to waive any right to appeal or contest any exclusion or suspension except on grounds that (i) Fentress did not fail to satisfy its obligations under this Agreement; or (ii) Fentress did not fail to cure the alleged deficiencies.

1. "Material breach" defined. A material breach of the Corporate Integrity Terms of this Agreement is one that has a significant adverse impact on Medicare, Medicaid, or other Federal health care programs.

#### GENERAL TERMS

12. For state and federal government contracting purposes, Paracelsus agrees to treat as unallowable all costs (as defined in the Federal Acquisition regulations ("FAR") § 31.205-

47(a)), incurred by or on behalf of Paracelsus, and/or its current or former officers, directors, shareholders, employees, parents, subsidiaries, divisions, predecessors or successors, in connection with (a) the matters covered by this Agreement, (b) the United States' and the State of Tennessee' investigation of the matters covered by the Agreement, (c) Paracelsus' investigation and defense of the matters covered by this Agreement, and corrective actions undertaken in response to the government's investigation, including, but not limited to the cost of implementing the corporate integrity measures set forth in Paragraph 10, and (d) the negotiation of this Agreement. These amounts shall be separately estimated and accounted for by Paracelsus, and Paracelsus will not charge such costs directly or indirectly to any contracts with the United States or the State of Tennessee, or to any cost report submitted for a program paid for in whole or in part by the United States or the State of Tennessee.

13. This Agreement is not intended to affect participation in Tennessee's Medicaid/TennCare program by Paracelsus or Fentress. The parties recognize, however, that participation in TennCare is dependent upon acceptance into a network of providers by the independent contracting Managed Care Organizations ("MCOs") and Behavioral Health Organizations ("BHOs") established under the federal Medicaid Demonstration project, and

that the MCOs and BHOs have independent discretion to set policies for participation in their networks. The Tennessee Attorney General and the TennCare Bureau will not attempt to influence MCOs or BHOs to exclude Paracelsus or Fentress from participation based upon the acts and conduct described in Paragraphs D through F of the Preamble. Neither the Tennessee Medicaid Fraud Control Unit nor the State Attorney General has criminal prosecutorial authority, and therefore cannot bind the State prosecutorial agencies by agreeing to decline criminal prosecution of Paracelsus or Fentress. The Medicaid Fraud Control Unit and the Tennessee Attorney General agree that they shall not refer the matters covered by this Agreement to the state prosecuting or any other prosecuting authority for criminal prosecution. Nothing in this paragraph precludes the State from taking action against entities or persons, or for conduct and practices, for which civil and criminal claims have been reserved in the instant paragraph or Paragraph 7, above.

14. The Parties believe that the amount and terms of the settlement reached by the United States, the State of Tennessee, Paracelsus, Fentress, and Relator, are fair, adequate and reasonable under all the circumstances. Accordingly, the United States shall intervene in the Civil Action and shall dismiss the Civil Action with prejudice. The agreed order shall attach a copy of this Agreement, and shall call for the vacatur of the order of

dismissal, pursuant to Fed. R. Civ. Proc. 60, in the event that Paracelsus or Fentress violate the terms of this Agreement.

15. The Parties acknowledge that this document effects a settlement of disputed matters, and that nothing in this Agreement constitutes an admission as to any fact or law by any person or entity and shall not be construed to be an admission by any person or entity.

16. This Agreement shall be binding upon the Parties, their successors, assigns and heirs.

17. The undersigned signatories represent and warrant that they are fully authorized and empowered to execute this Agreement.

18. This Agreement shall become final and binding only upon signing by each respective party hereto, and it may not be changed or modified except in writing signed by the Parties. The compliance and integrity provisions agreed to in Paragraphs 10 and 11 may be changed, altered or modified by agreement between HHS-OIG-OCIG and Fentress.

19. 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.

20. This Agreement is effective on the date of the last signatory to it.

THE UNITED STATES OF AMERICA

By: [Signature]  
Dated: 12/16/97  
Its: Trial Attorney

THE UNITED STATES DEPARTMENT OF HEALTH & HUMAN SERVICES,  
OFFICE OF INSPECTOR GENERAL

By: \_\_\_\_\_  
Dated: \_\_\_\_\_  
Its: \_\_\_\_\_

THE STATE OF TENNESSEE

By: [Signature: Duke Walker]  
Dated: 12/19/97  
Its: Attorney General

PARACELSUS HEALTHCARE CORPORATION

By: [Signature]  
Dated: 12/17/97  
Its: SENIOR EVP/CFO

PARACELSUS FENTRESS COUNTY  
GENERAL HOSPITAL, INC.

By: [Signature]  
Dated: 12/17/97  
Its: SENIOR EVP/CFO

RELATOR

By: [Signature: James C. Mays, III]  
Dated: 12/18/97  
JAMES C. MAYS, III