

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (“OIG-HHS”) of the Department of Health and Human Services (“HHS”), and Cori Lempiainen, ARNP (“Ms. Lempiainen”) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. At all relevant times, Ms. Lempiainen was an Advanced Registered Nurse Practitioner licensed in the State of Iowa who transacted business within the Southern District of Iowa and the Northern District of Iowa

B. The United States contends that Ms. Lempiainen submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (“Medicare”).

C. The United States contends that it has certain civil claims against Ms. Lempiainen arising from the following:

- i. Ms. Lempiainen worked for a telehealth company. The telehealth company provided Ms. Lempiainen with audio recordings of Medicare beneficiaries speaking to unidentified people about their health and medical conditions.
- ii. Ms. Lempiainen knowingly submitted or caused to be submitted to Medicare 677 fraudulent claims for services designated with the following HCPCS codes: (a) 99202, 99203, and 99204, which are used for new patient office visits of more than 15 minutes, more than 30 minutes, or more than 45 minutes, respectively; (b) 99212 and 99213, which are used for established patient office visits of 10 minutes or more or 20 minutes or more, respectively; and (c) 99441, which is used for a telephone medical discussion with

a physician that is 5-10 minutes long (hereinafter collectively, “Codes”). Each claim was submitted with a “95 modifier,” which is to be used when the office visit or telephone medical discussion is conducted through a synchronous telemedicine service rendered via a real-time interactive audio and video telecommunications system.

- iii. Ms. Lempiainen did not provide the office visits or telephone medical discussions designated in the Codes in person, through a real-time interactive audio and video telecommunications system, or in any other manner. She provided no other services or care to the Medicare beneficiaries in the audio recordings.
- iv. Ms. Lempiainen also signed orders for durable medical equipment (“DME”) products for Medicare beneficiaries, resulting in Medicare paying 2,736 claims for DME, during the period from October 4, 2021 through November 11, 2022. That conduct is referred to below as the “Covered Conduct.”
- v. This Settlement Agreement is neither an admission of liability by Ms. Lempiainen nor a concession by the United States that its claims are not well founded.

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

TERMS AND CONDITIONS

1. Ms. Lempiainen shall pay to the United States \$150,000.00 (“Settlement Amount”), of which \$150,000.00 is restitution, no later than thirty (30) days after the Effective Date of this Agreement by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney for the Southern District of Iowa.
2. Subject to the exceptions in Paragraph 3 (concerning reserved claims) below, and upon the United States’ receipt of the Settlement Amount, the United States releases Ms.

Lempiainen from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of payment by mistake, unjust enrichment, and fraud.

3. Notwithstanding the release given in Paragraph 2 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. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, including mandatory or permissive exclusion from Federal health care programs;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement; or
- f. Any liability of individuals not a party to this Agreement.

4. Ms. Lempiainen has provided a sworn financial disclosure and supporting documents (together “Financial Disclosure”) to the United States and the United States has relied on the accuracy and completeness of the Financial Disclosure in reaching this Agreement. Ms. Lempiainen warrants that the Financial Disclosure is complete, accurate, and current as of the Effective Date of this Agreement. If the United States learns of asset(s) in which Ms. Lempiainen had an interest of any kind as of the Effective Date of this Agreement (including, but not limited to, promises by insurers or other third parties to satisfy Ms. Lempiainen’s obligations

under this Agreement) that were not disclosed in the Financial Disclosure, or if the United States learns of any false statement or misrepresentation by Ms. Lempiainen on, or in connection with, the Financial Disclosure, and if such nondisclosure, false statement, or misrepresentation changes the estimated net worth set forth in the Financial Disclosure by \$15,000.00 or more, the United States may at its option: (a) rescind this Agreement and reinstate its suit or file suit based on the Covered Conduct or (b) collect the full Settlement Amount in accordance with the Agreement plus one hundred percent (100%) of the net value of Ms. Lempiainen's previously undisclosed assets. Ms. Lempiainen agrees not to contest any collection action undertaken by the United States pursuant to this provision, and agrees that she will immediately pay the United States the greater of (i) a ten-percent (10%) surcharge of the amount collected in the collection action, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States' reasonable attorneys' fees and expenses incurred in such an action. In the event that the United States, pursuant to this paragraph rescinds this Agreement, Ms. Lempiainen waives and 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 that (a) are filed by the United States within 120 calendar days of written notification to Ms. Lempiainen that this Agreement has been rescinded, and (b) relate to the Covered Conduct, except to the extent these defenses were available on the Effective Date of this Agreement.

5. Ms. Lempiainen waives and shall not assert any defenses she may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

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

7. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (e.g., Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered Conduct; and Ms. Lempiainen agrees not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct, agrees not to appeal any such denials of claims, and agrees to withdraw any such pending appeals.

8. Ms. Lempiainen agrees to the following:

a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the Social Security Act, 42 U.S.C. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of Ms. Lempiainen or her agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement;
- (3) Ms. Lempiainen's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any

criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);

- (4) the negotiation and performance of this Agreement; and
- (5) the payment Ms. Lempiainen makes to the United States pursuant to this Agreement; and

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

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by Ms. Lempiainen, and Ms. Lempiainen shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by Ms. Lempiainen or any of her subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Ms. Lempiainen further agrees that within 90 days of the Effective Date of this Agreement she shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any Unallowable Costs (as defined in this Paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by Ms. Lempiainen or any of her subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the

inclusion of the unallowable costs Ms. Lempiainen agrees that the United States, at a minimum, shall be entitled to recoup from her any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by Ms. Lempiainen or any of her subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Ms. Lempiainen or any of her subsidiaries or affiliates' cost reports, cost statements, or information reports.

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

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

10. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 11 (waiver for beneficiaries paragraph), below.

11. Ms. Lempiainen agrees that she waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors based upon the claims defined as Covered Conduct.

12. The Settlement Amount represents the amount the United States is willing to accept in compromise of its civil claims arising from the Covered Conduct due solely to Ms. Lempiainen's financial condition, as reflected in the Financial Disclosure referenced in Paragraph 4.

13. In exchange for valuable consideration provided in this Agreement, Ms. Lempiainen acknowledges the following:

a. Ms. Lempiainen has reviewed her financial situation and warrants that she is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I) and shall remain solvent following payment to the United States of the Settlement Amount.

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

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

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

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

(i) the United States may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Ms. Lempiainen for the claims that would otherwise be covered by the releases provided in Paragraph 2 above;

(ii) the United States has an undisputed, noncontingent, and liquidated allowed claim against Ms. Lempiainen in the amount of \$ 1,801,414.05, less any payments received pursuant to Paragraph 1 of this Agreement, provided, however, that such payments are not otherwise avoided and recovered from the United States by Ms. Lempiainen, a receiver, trustee, custodian, or other similar official for Ms. Lempiainen;

f. Ms. Lempiainen agrees that any civil and/or administrative claim, action, or proceeding brought by the United States under Paragraph 14.e is not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) because it would be an exercise of the United States' police and regulatory power. Ms. Lempiainen shall not argue or otherwise contend that the United States' claim, action, or proceeding is subject to an automatic stay and, to the extent necessary, consents to relief from the automatic stay for cause under 11 U.S.C. § 362(d)(1). Ms. Lempiainen waives and shall not plead, argue, or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel, or similar theories, to any such civil or administrative

claim, action, or proceeding brought by the United States within 120 days of written notification to Ms. Lempiainen that the releases have been rescinded pursuant to this paragraph, except to the extent such defenses were available on the Effective Date

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

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

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

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

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

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


20. This Agreement is binding on Ms. Lempiainen's successors, transferees, heirs, and assigns.

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

22. This Agreement is effective on the date of signature of the last signatory to the Agreement (“Effective Date of this Agreement”). Facsimiles and electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

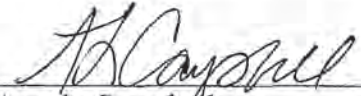
DATED: _____ BY: AMY LICHT Digitally signed by AMY LICHT
Date: 2024.12.31 09:04:19
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Amy Licht
Assistant United States Attorney
Southern District of Iowa

DATED: _____ BY:  Digitally signed by BRIAN KEOGH
Date: 2024.12.30 12:14:00 -06'00'
Brian Keogh
Assistant United States Attorney
Northern District of Iowa

DATED: 12/23/24 BY: SUSAN GILLIN Digitally signed by SUSAN
GILLIN
Date: 2024.12.23 14:42:12
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SUSAN GILLIN
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services

MS. CORI LEMPIAINEN, ARNP - DEFENDANT

DATED: 12/12/24 BY: 
Ms. Cori Lempiainen, ARNP

DATED: 12/12/24 BY: 
Angela Campbell
Counsel for Ms. Cori Lempiainen, ARNP