

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice (“United States”); the State of Indiana, acting through the Indiana Attorney General’s Office (“State” or “Indiana”); Community Health Network, Inc. (“CHN”), Community Physicians of Indiana, Inc. (“CPI”), Visionary Enterprises, Inc., North Campus Surgery Center, LLC d/b/a Community Surgery Center North (“North ASC”), South Campus Surgery Center, LLC d/b/a Community Surgery Center South, East Campus Surgery Center d/b/a Community Surgery Center East, Hamilton Surgery Center, LLC d/b/a Community Surgery Center Hamilton, Howard Community Surgery Center d/b/a Community Surgery Center Kokomo, Northwest Surgery Center, LLC d/b/a Community Surgery Center Northwest, Hancock Surgery Center, Indianapolis Endoscopy Center, LLP d/b/a Community Endoscopy Center, Community Endoscopy Center, LLC d/b/a Community Digestive Center Anderson, North Campus Office Associates LP (“NCOA”) (collectively, the “ASC Defendants” and with CHN and CPI, the “Defendants”); and Thomas P. Fischer (“Relator”) (hereafter, the United States, Indiana, Defendants, and Relator are collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. CHN is a non-profit corporation headquartered in Indianapolis, Indiana. CHN is incorporated in the State of Indiana, and its principal place of business is 7330 Shadeland Station, Suite 200, Indianapolis, Indiana, which is located in Marion County, Indiana. CHN and its non-profit and for-profit subsidiaries and affiliates, including CPI and the ASC Defendants, comprise a full-service integrated health delivery system in central Indiana and consist of acute care and/or specialty hospitals, immediate care centers, primary care and specialty employed

physicians, ambulatory care centers, freestanding surgery centers, outpatient imaging centers, and endoscopy centers. Defendants submit claims to Medicare and Medicaid for reimbursement.

B. On July 21, 2014, Thomas P. Fischer filed a *qui tam* action in the United States District Court for the Southern District of Indiana, captioned *United States and the State of Indiana ex rel. Thomas P. Fischer v. Community Health Network, Inc. et al.*, Cause No. 1:14-cv-01215 (S.D. Ind.), pursuant to the *qui tam* provisions of the False Claims Act (“FCA”), 31 U.S.C. § 3730(b) (the “Civil Action”). Relator filed his First Amended Complaint on October 30, 2015. The United States partially intervened in Relator’s First Amended Complaint on August 7, 2019, and filed its Complaint in Intervention on January 6, 2020 (“the United States’ Complaint”). Relator filed his Second Amended Complaint on December 2, 2020.

C. On December 18, 2023, the United States, Relator, and CHN entered into a settlement agreement that resolved the claims set forth in the United States’ Complaint. The settlement did not resolve the claims set forth in Relator’s Second Amended Complaint, nor did it resolve Relator’s demand for statutory fees, costs, and expenses. On January 22, 2024, the parties filed a Joint Stipulation of Dismissal of the United States’ Complaint in Intervention. The court dismissed the United States’ Complaint on April 1, 2024.

D. Relator and Defendants continued to litigate the non-intervened claims in Relator’s Second Amended Complaint following the December 18, 2023 settlement. This Agreement resolves the claims set forth in the Relator’s Second Amended Complaint.

E. The United States contends that CHN 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”) and Indiana Medicaid Program (“Medicaid”), Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 – 1396w-5.

F. The United States contends that it has certain civil claims against Defendants arising from Defendants submitting and causing the submission of false claims to Medicare and Medicaid as follows:

- (1) From 2012 through 2020, CHN compensated its employed orthopedic surgeons in excess of fair market value and submitted claims for designated health services (“DHS”), as defined at 42 C.F.R. § 411.351, referred by those physicians in violation of the Stark Law, 42 U.S.C. § 1395nn, and FCA;
- (2) From 2010 through 2020, CHN compensated its employed obstetrician-gynecologists in excess of fair market value and submitted claims for DHS referred by those physicians in violation of the Stark Law and FCA;
- (3) From 2014 through 2020, CHN made payments to Community Hospital Oncology Physicians that resulted in compensation to its four physician owners that was in excess of fair market value and submitted claims for DHS referred by those physicians in violation of the Stark Law and FCA; and
- (4) From 2010 through 2020, Defendants paid kickbacks in the form of above fair market value rent for the North ASC to physician-investors in the NCOA in violation of the Anti-Kickback Statute and submitted claims for services referred by those physician-investors in violation of the FCA.

The conduct set forth above is referred to in this Agreement as the “Covered Conduct.”

G. The State contends that it has certain civil claims against Defendants arising from Defendants submitting and causing the submission of false claims to Medicaid as follows:

- (1) From 2012 through June 30, 2014, CHN compensated its employed orthopedic surgeons in excess of fair market value and submitted claims for DHS referred by

those physicians in violation of the Stark Law and Indiana False Claims and Whistleblower Protection Act, Ind. Code § 5-11-5.5-1 *et seq.* (“IFCWPA”);

- (2) From 2010 through June 30, 2014, CHN compensated its employed obstetrician-gynecologists in excess of fair market value and submitted claims for DHS referred by those physicians in violation of the Stark Law and IFCWPA;
- (3) From January 1, 2014 through June 30, 2014, CHN made payments to Community Hospital Oncology Physicians that resulted in compensation to its four physician owners that was in excess of fair market value and submitted claims for DHS referred by the physicians in violation of the Stark Law and IFCWPA; and
- (4) From 2010 through June 30, 2014, Defendants paid kickbacks in the form of above fair market value rent for the North ASC to physician-investors in the NCOA in violation of the Anti-Kickback Statute and submitted claims for services referred by those physician-investors in violation of the IFCWPA.

The conduct set forth above is referred to in this Agreement as the “Indiana Covered Conduct.”

H. Defendants deny the United States’ allegations in Paragraph F, Indiana’s allegations in Paragraph G, and allegations set forth in Relator’s Second Amended Complaint.

I. This Agreement is neither an admission of liability by Defendants nor a concession by the United States, State of Indiana, or Relator that their claims are not well founded.

J. Relator claims entitlement under 31 U.S.C. § 3730(d) and Ind. Code § 5-11-5.5-6 to a share of the proceeds of this Agreement and to all of Relator’s reasonable expenses, attorneys’ fees and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Agreement, the

Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. Defendants shall pay to the United States and Indiana, collectively, the sum of \$135,000,000, plus interest at a rate of 4.125% per *annum* from September 22, 2024 through the date of payment (the “Settlement Amount”), as follows:

- a. Defendants shall pay to the United States \$132,975,000 plus interest at a rate of 4.125% per *annum* from September 22, 2024 through the date of payment (“United States Settlement Amount”), \$69,695,500 of which is restitution, no later than five (5) days after the Effective Date of this Settlement Agreement, by electronic funds transfer pursuant to written instructions that were provided to Defendants by the Civil Division of the United States Department of Justice on December 23, 2024; and
- b. Defendants shall pay to the State \$2,025,000 plus interest at a rate of 4.125% per *annum* from September 22, 2024 through the date of payment (“Indiana Settlement Amount”), \$1,012,500 of which is restitution, no later than five (5) days after the Effective Date of this Agreement, by electronic funds transfer pursuant to written instructions that were provided to Defendants by the State of Indiana on December 12, 2024.

2. Conditioned upon the United States receiving the United States Settlement Amount and as soon as feasible after receipt, the United States shall pay \$38,981,129.42 to Relator by electronic funds transfer (“Relator’s Share from the United States”).

3. Defendants’ payment to Relator for attorneys’ fees, costs, and expenses, related to the claims brought by Relator on behalf of the United States and Indiana in the Civil Action,

which is inclusive of all claims resolved by the Settlement Agreement dated December 18, 2023, and all claims resolved by this Settlement Agreement, shall be addressed separately from this Agreement.

4. Relator asserted certain employment-related claims for retaliation under the FCA and IFCWPA, as well as claims for breach of contract, breach of oral contract, promissory estoppel, quantum meruit, and blacklisting in Relator's Second Amended Complaint ("Employment Claims"). Relator and CHN are entering into a separate settlement for the Employment Claims, including attorneys' fees, costs, and expenses associated with the Employment Claims.

5. Subject to the exceptions in Paragraph 8 (concerning reserved claims) below, and upon the United States' receipt of the United States Settlement Amount, plus interest due under Paragraph 1.a, the United States releases Defendants from any civil or administrative monetary claim the United States has for the Covered Conduct under the FCA, 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 and unjust enrichment.

6. Contingent upon receipt of the Indiana Settlement Amount, the State agrees to dismiss with prejudice any state law claims which the State has the authority to dismiss currently pending against Defendants in State or Federal Courts for the Indiana Covered Conduct, including any supplemental state law claims asserted in Relator's Second Amended Complaint.

7. Subject to the exceptions in Paragraph 8 below, and upon the United States' and Indiana's receipt of the United States and Indiana Settlement Amounts, plus interest due under Paragraph 1, Relator, for himself and for his heirs, successors, attorneys (past and present),

agents, and assigns, fully and finally releases Defendants and their predecessors, successors, assigns, subsidiaries, parent corporations, partners, joint ventures, and affiliates, and each and all of its officers, directors, members, managers, shareholders, employees, independent contractors, attorneys, agents, partners, and representatives (collectively “the Released Defendants”) from any and all claims, whether in law or equity, whether known or unknown, that Relator has or may have against the Released Defendants through the Effective Date of this Agreement, including, but not limited to, (a) all claims Relator has or may have against the Released Defendants on behalf of the United States or the State of Indiana, and (b) all claims Relator asserted, could have asserted, or may assert in the future related to the Covered Conduct, the Indiana Covered Conduct, and/or the Civil Action, including all claims for practices, activities, or conduct about which Relator learned prior to or during the pendency of this lawsuit. Notwithstanding the foregoing, this release specifically excludes all employment-related claims pursuant to 31 U.S.C. § 3730(h), all state law-based employment claims, and all claims for attorneys’ fees and costs as those will be addressed in separate settlement agreements.

8. Notwithstanding the releases given in Paragraphs 5, 6, and 7 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 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;
 - f. Any liability based upon obligations created by the Settlement Agreement entered into on December 18, 2023 between the United States and CHN;
 - g. Any liability of individuals;
 - h. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
 - i. Any liability for failure to deliver goods or services due;
 - j. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.
9. Notwithstanding the releases given in Paragraph 5, 6, and 7 of this Agreement, or

any other term of this Agreement, the following claims and rights of the State are specifically reserved and are not released:

- a. any criminal, civil, or administrative liability arising under state revenue codes;
- b. any criminal liability;
- c. any civil or administrative liability that any person or entity, including the Defendants, have or may have to the State or to individual consumers or state program payors under any statute, regulation, or rule not expressly covered by the release in Paragraph 6 above, including, but not limited to, any and all of the following claims: (i) claims involving unlawful or illegal conduct based on State or federal antitrust violations; and (ii) claims involving unfair and/or deceptive acts and practices and/or violations of consumer protection laws;

- d. any liability to the State for any conduct other than the Indiana Covered Conduct;
- e. any liability based upon obligations created by this Agreement;
- f. except as explicitly stated in this Agreement, any administrative liability or right, including exclusion from the State's Medicaid Program;
- g. any liability for expressed or implied warranty claims or other claims for defective or deficient products and services, including quality of goods and services;
- h. any liability for personal injury or property damage or for other consequential damages arising from the Indiana Covered Conduct;
- i. any liability for failure to deliver goods or services due; or
- j. any liability of individuals.

10. Defendants waive and shall not assert any defenses they may have to any criminal prosecution or administrative action relating to the Covered Conduct or Indiana 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.

11. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relator's receipt of the Relator's Share from the United States, Relator and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the United States, its agencies,

officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

12. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to the IFCWPA. Moreover, the State of Indiana and Relator and his heirs, successors, attorneys, agents, and assigns agree that they each retain all of their rights pursuant to the IFCWPA on the issue of the share percentage that Relator should receive of the Indiana Settlement Amount.

13. Defendants fully and finally release the United States and the State, their agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Defendants have asserted, could have asserted, or may assert in the future against the United States or Indiana, their agencies, officers, agents, employees, and servants, related to the Civil Action or the United States' and State's investigation or prosecution thereof.

14. Defendants fully and finally release the Relator, his heirs, successors, attorneys, agents and assigns, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that Defendants have asserted, could have asserted, or may assert in the future against the Relator, related to the Civil Action or the Relator's investigation and prosecution thereof.

15. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment by any Medicare contractor (*e.g.*, Medicare Administrative Contractor, fiscal intermediary, carrier) or any state payer, related to the Covered

Conduct or Indiana Covered Conduct; and Defendants agree not to resubmit to any Medicare contractor or any state payer any previously denied claims related to the Covered Conduct or Indiana Covered Conduct, agree not to appeal any such denials of claims, and agree to withdraw any such pending appeals.

16. Defendants agree 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 Defendants, their present or former officers, directors, employees, shareholders, and agents in connection with:

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

are unallowable costs for government contracting purposes and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program

("FEHBP") (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for in nonreimbursable cost centers by Defendants, and Defendants 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 Defendants or any of their subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Defendants further agree that within 90 days of the Effective Date of this Agreement they 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 Defendants or any of their 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. Defendants agree that the United States and/or the State, at a minimum, shall be entitled to recoup from Defendants any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States and/or the State pursuant to the direction of the Department of Justice and/or the affected

agencies. The United States and Indiana reserve their rights to disagree with any calculations submitted by Defendants or any of their subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Defendants or any of their 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 or the State to audit, examine, or re-examine Defendants' books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

17. 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 18 (waiver for beneficiaries paragraph), below.

18. Defendants agree that they waive 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 the Covered Conduct and Indiana Covered Conduct.

19. Upon receipt of the payment described in Paragraph 1, above, the Relator and Defendants shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal with prejudice of the claims in Relator's Second Amended Complaint, pursuant to Rule 41(a)(1)(A)(ii), with the exception of Relator's claims against Defendants under 31 U.S.C. § 3730(d) or Ind. Code § 5-11-5.5-6 for expenses, attorneys' fees and costs arising out of the Relator's Second Amended Complaint, including for claims arising from this Settlement Agreement, and for claims arising from the Settlement Agreement dated December 18, 2023, and with the exception of the Indiana statutory Relator share percentage as described in Paragraph

12. The United States shall consent to the dismissal of the claims brought by Relator pursuant to the FCA. Other than as stated herein, each Party shall bear its own legal and other costs incurred in connection with claims set forth in the Relator's Second Amended Complaint, including the preparation and performance of this Agreement.

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

21. 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 Southern District of Indiana. 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.

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

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

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

25. This Agreement is binding on Defendants' successors, transferees, heirs, and assigns.

26. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

27. All Parties consent to the United States' and State of Indiana's disclosure of this Agreement, and information about this Agreement, to the public.

28. 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: 12/26/2024

BY: Arthur S. Di Dio
Arthur S. Di Dio
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 12/26/2024

BY: Kelly Quinn McAuliffe
Kelly Quinn McAuliffe
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice


DATED: 12/27/2024

BY: Joanna G. Persio
Joanna G. Persio
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____


Digitally signed by
ZACHARY MYERS
Date: 2024.12.27
10:35:50 -05'00'
Zachary A. Myers
United States Attorney
Southern District of Indiana

DATED: _____

BY: _____

Shelese Woods
Chief, Civil Division
Southern District of Indiana

THE UNITED STATES OF AMERICA

DATED: _____

BY: _____

Zachary A. Myers
United States Attorney
Southern District of Indiana

DATED: December 27, 2024

BY: *s/ Shelese Woods*

Shelese Woods
Chief, Civil Division
Southern District of Indiana

THE STATE OF INDIANA

DATED: 12/26/2024

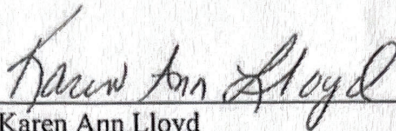
BY: Matthew Whitmire
Matthew G. Whitmire
Director, Medicaid Fraud Control Unit
Office of the Attorney General

DATED: 12/26/2024

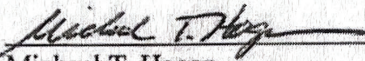
BY: Cora Steinmetz
Cora Steinmetz
Executive Director of Indiana Medicaid
Office of Medicaid Planning and Policy

DEFENDANTS

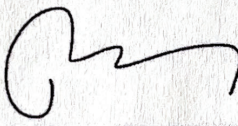
DATED: 12/26/2024

BY: 
Karen Ann Lloyd
Executive Vice President, General Counsel
CHN and CPI

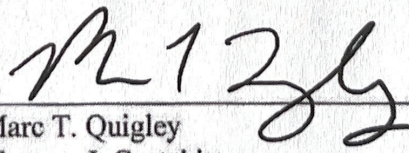
DATED: 12/26/2024

BY: 
Michael T. Hogan
President, VEI
ASC Defendants

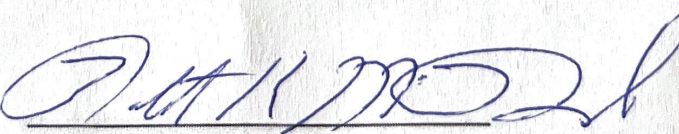
DATED: 12/26/2024

BY: 
George B. Breen
Richard W. Westling
Erica Sibley Bahnsen
Elizabeth A. Harris
Daniel C. Fundakowski
Epstein Becker & Green PC

DATED: 12/26/2024

BY: 
Marc T. Quigley
Thomas J. Costakis
Blake P. Holler
Libby Yin Goodknight
Krieg DeVault LLP

DATED: 12/26/2024

BY: 
Robert K. McBride
Taft Stettinius & Hollister LLP

Counsel for Defendants

RELATOR

DATED: 12/26/24

BY: Thomas P. Fischer
Thomas P. Fischer

DATED: 26/12/24

BY: Jay P. Holland
Jay P. Holland
Counsel for Thomas P. Fischer