

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into by and among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General of the Department of Health and Human Services (OIG-HHS) (collectively the “United States”); the State of New York, acting through the New York State Office of the Attorney General, Medicaid Fraud Control Unit (MFCU) (hereinafter “New York”); Relator Thomas Sabuda, DDS, (“Relator”); and Upper Allegheny Health System, Inc., (“UAHS”), through their authorized representatives. Collectively, all of the above will be referred to as “the Parties.”

RECITALS

A. UAHS is a health-care system and a domestic not-for-profit corporation incorporated under the laws of the State of New York, with its business headquarters located at 515 Main Street, Olean, New York. During the time period of the Covered Conduct, as defined below, Timothy Finan was President and Chief Executive Officer of UAHS. UAHS owns and operates Olean General Hospital in Olean, New York, and operates two associated dental clinics-- the Delevan Clinic in Delevan, New York, and the Gundlah Clinic in Olean, New York. UAHS also owns and operates Bradford Regional Medical Center in Bradford, Pennsylvania, and operated two associated dental clinics-- the Bradford Clinic in Bradford, Pennsylvania, and the Mount Jewett Health Center in Mount Jewett, Pennsylvania until February 2018. The dental clinics are hereinafter collectively referred to as the “Dental Centers”.

B. On or about July 3, 2013, Relator filed a *qui tam* action in the United States District Court for the Western District of New York captioned *United States ex rel. Thomas*

Sabuda, DDS v. Upper Allegheny Health System, Inc., Civ. No. 14-CV-539, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b). An Amended Complaint was filed on or about August 28, 2014, captioned *United States and New York State ex rel. Thomas Sabuda, DDS v. Upper Allegheny Health System, Inc.*, which added New York State as a plaintiff and included allegations under the New York State False Claims Act, N.Y. State Fin. Law §190(2) (hereinafter referred to as “the Civil Action”). On or about May 17, 2021, the United States and New York State intervened, in part, in the Civil Action for purposes of settlement.

C. The United States and New York contend that UAHS submitted or caused to be submitted false or fraudulent claims for payment to the Medicaid Program, Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396W-5 (“Medicaid”), by billing for services rendered using unsterilized dental handpieces.

D. The United States and New York allege and contend that they have certain civil claims against UAHS for engaging in the following conduct during the period from April 1, 2010 to May 31, 2015 (hereinafter referred to as the “Covered Conduct”):

UAHS failed to comply with Federal, New York State and Pennsylvania laws, regulations, and guidelines pertaining to infection control in a clinical setting, and more specifically, the sterilization of dental handpieces between patient use. Dental handpieces are considered semi-critical devices and are therefore required to be heat sterilized between each patient use. UAHS failed to purchase sufficient dental hand pieces to allow for such heat sterilization. Instead, UAHS directed personnel to use CaviWipes to “clean” handpieces between patients. UAHS submitted false claims for payment to the Medicaid program in violation of the False Claims Act, 31 U.S.C. § 3729 *et seq.*, and the New York False Claims Act, N.Y. State Fin. Law § 190(2), in that UAHS falsely stated that, in providing the services billed for, it had complied with all applicable rules, regulations and guidance, including those that required heat sterilization of dental handpieces.

E. This Agreement is neither an admission of liability by UAHS nor a concession by the United States or New York that their claims are not well founded.

F. Relator claims entitlement under 31 U.S.C. § 3730(d) and N.Y. State Fin. Law §190(6) to a share of the proceeds of this Settlement Agreement and to the Relator's reasonable expenses, attorneys' fees and costs.

G. To avoid the delay, uncertainty, inconvenience and expense of protracted litigation associated with the claims regarding the Covered Conduct, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. UAHS shall pay to the United States and New York collectively the sum of two million seven hundred six thousand, nine hundred thirty-six dollars and seventy-seven cents (\$2,706,936.77) ("Settlement Amount"),¹ of which \$1,809,908.87 is restitution, plus interest at the rate of 0.9% per annum from the Effective Date of this Agreement, (as defined in Paragraph 28 below), and continuing until and including the day before the final payment is made under this Agreement. The Settlement Amount shall constitute a debt immediately due and owing to the United States and New York on the Effective Date of this Agreement.

¹ The Covered Conduct involved UAHS' receipt of Medicaid payments from New York and the Commonwealth of Pennsylvania ("Pennsylvania"). The Settlement Amount breaks down to \$2,406,936.77 for the New York conduct, and \$300,000 for the Pennsylvania conduct. The United States' Medicaid share in New York is 43.92%. The United States' Medicaid share in Pennsylvania is 52.2%.

A. Payments Over Time: This debt shall be discharged by payments as follows:

i. Within fifteen (15) business days of the Effective Date of this Agreement, UAHS shall make a payment of one million, six thousand nine hundred thirty-six dollars and seventy-seven cents (\$1,006,936.77) as follows:

a. UAHS shall pay the United States, via the United States Attorney's Office for the Western District of New York ("USAO-WDNY"), \$398,326.63 by electronic funds transfer pursuant to written instructions from the USAO-WDNY;

b. UAHS shall pay New York \$508,610.14 by electronic funds transfer pursuant to written instructions from New York; and

c. UAHS shall pay the United States, via the United States Attorney's Office for the Western District of Pennsylvania ("USAO-WDPA"), \$100,000 by electronic funds transfer pursuant to written instructions from the USAO-WDPA, with 47.8% of the applicable portion of those proceeds to thereafter be paid by the USAO-WDPA to the Commonwealth of Pennsylvania Department of Human Services ("PA DHS") as the state share of Medicaid proceeds.

ii. On June 8, 2022, UAHS shall make a payment of eight hundred and fifty thousand dollars (\$850,000) plus interest as follows:

a. UAHS shall pay the United States, via the USAO-WDNY, \$329,400 plus \$5,929.20 in interest, for a total of \$335,329.20 by electronic funds transfer pursuant to written instructions from the USAO-WDNY;

- b. UAHS shall pay New York \$420,600 plus \$7,570.80 in interest, for a total of \$428,170.80 by electronic funds transfer pursuant to written instructions from New York; and
 - c. UAHS shall pay the United States, via the USAO-WDPA \$100,000 plus \$1,800 in interest, for a total of \$101,800 by electronic funds transfer pursuant to written instructions from the USAO-WDPA, with 47.8% of the applicable portion of those proceeds to thereafter be paid by the USAO-WDPA to the PA DHS as the state share of Medicaid proceeds.
- iii. On June 8, 2023, UAHS shall make a payment of eight hundred and fifty thousand dollars (\$850,000) plus interest as follows:
- a. UAHS shall pay the United States, via the USAO-WDNY \$329,400 plus \$2,964.60 in interest, for a total of \$332,364.60 by electronic funds transfer pursuant to written instructions from the USAO-WDNY;
 - b. UAHS shall pay New York \$420,600 plus \$3,785.40 in interest, for a total of \$424,385.40 by electronic funds transfer pursuant to written instructions from New York; and
 - c. UAHS shall pay the USAO-WDPA \$100,000 plus \$900 in interest, for a total of \$100,900 by electronic funds transfer pursuant to written instructions from the USAO-WDPA, with 47.8% of the applicable portion of those proceeds to thereafter be paid by the USAO-WDPA to PA-DHS as the state share of Medicaid proceeds.

B. The Payments Over Time shall be secured by a Confession of Judgment. UAHS will execute an Affidavit of Confession of Judgment in the amount of two million, seven hundred six thousand, nine hundred thirty-six dollars and seventy-seven cents (\$2,706,936.77), in the form annexed as **Exhibit A**, simultaneously with the execution of this Agreement. UAHS consents to the filing of said Affidavit of Confession of Judgment thereon without further notice.

C. Interest shall accrue on the unpaid settlement amount as indicated in Paragraph 1 above. Collectively the settlement amount and interest received by the United States and New York shall be referred to as the Settlement Payments.

D. If UAHS or any of its affiliates is sold, merged, or transferred, or a significant portion of the assets of UAHS or of any of its affiliates is sold, merged, or transferred into another non-affiliated entity, UAHS shall promptly notify the United States and New York, and all remaining payments owed pursuant to the Settlement Agreement shall be accelerated and become immediately due and payable.

E. The Settlement Amount may be prepaid, in whole or in part, without penalty or premium.

2. Conditioned upon the United States and New York receiving the Settlement Amount payments, the United States and New York agree that they collectively shall pay to Relator, pursuant to 31 U.S.C. Section 3730(d) and N.Y. State Fin. Law Section 190(6), 17% of each such payment received under the Settlement Agreement (the "Relator's Share"). Such

payments shall be made pursuant to electronic funds transfer as soon as feasible after the United States' and New York's receipt of each payment from UAHS. Relator expressly understands and agrees that the United States and New York are only liable to the Relator for a share of funds actually received or collected by the United States or New York that are being used to satisfy UAHS' obligations under this Agreement.²

3. Subject to the exceptions in Paragraphs 4 and 15 below (concerning reserved claims and bankruptcy proceedings, respectively), and upon the United States' and New York's receipt of the Settlement Amount plus interest due under Paragraph 1, the United States releases UAHS together with its current and former parent corporations; direct and indirect subsidiaries; brother or sister corporations; divisions; current or former corporate owners; and the corporate successors and assigns of any of them (the "UAHS Releasees"), from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C §§ 3729-2733; 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.

4. Notwithstanding the releases given in Paragraph 3 above, 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, United States Code (Internal Revenue Code);
- b. Any criminal liability;

² The Settlement Payments payable to Pennsylvania are not subject to a Relator's Share because the Commonwealth of Pennsylvania does not have a False Claims Act.

- 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; and
- f. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

5. Subject to the exceptions in Paragraphs 6 and 15 below (concerning reserved claims and bankruptcy proceedings, respectively), and upon the United States' and New York's receipt of the Settlement Amount plus interest due under Paragraph 1, New York agrees to release the UAHS Releasees from any civil monetary claim for the Covered Conduct that New York has or may have against the UAHS Releasees under the New York False Claims Act, N.Y. State Fin. Law § 189 *et seq.*; N.Y. Exec. Law § 63(12); N.Y. Soc. Serv. Law § 145-b; or the common law theories of payment by mistake, unjust enrichment, and fraud.

6. Notwithstanding the release agreed to by New York in Paragraph 5 above, the following claims of New York are specifically reserved and excluded from the scope and terms of this Agreement:

- a. Any civil, criminal or administrative liability arising under New York tax law;
- b. Any civil liability that UAHS has or may have under any state statute, regulation, or rule not covered by this Agreement;
- c. Any criminal liability;
- d. Any administrative liability, including mandatory or permissive exclusion from Medicaid;
- e. Any liability to New York (or its agencies) for any conduct other than the Covered Conduct;

- f. Any liability for personal or property damage or for other consequential damage arising from the Covered Conduct;
- i. Any liability based upon obligations created by this Agreement; and
- j. Any liability of individuals.

7. Subject to the exceptions in Paragraphs 4 and 6 above, and Paragraph 15 below, (concerning reserved claims and bankruptcy proceedings, respectively), and upon the United States' and New York's receipt of the Settlement Amount plus interest due under Paragraph 1, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases the UAHS Releasees from any civil monetary claim the Relator has on behalf of the United States or New York for the Covered Conduct under the False Claims Act, 31 U.S.C §§ 3729-2733, or the New York State False Claims Act, N.Y. State Fin. Law §190(2) .

8. 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 set forth in Paragraph 2 above, 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.

9. 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 New York State False Claims Act, N.Y. State Fin. Law § 190(5)(b)(ii). Conditioned upon Relator's receipt of the Relator's Share set forth in Paragraph 2 above, Relator and his heirs, successors, attorneys, agents, and assigns fully

and finally release, waive, and forever discharge New York, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under the New York State False Claims Act, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action.

10. UAHS waives and shall not assert any defenses UAHS 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.

11. UAHS fully and finally releases the United States and New York, and their respective agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that UAHS has asserted, could have asserted, or may assert in the future against the United States or New York, and their respective agencies, officers, agents, employees, and servants, related to the Covered Conduct or the United States' or New York's investigation or prosecution thereof.

12. UAHS fully and finally releases the Relator from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that UAHS has asserted, could have asserted, or may assert in the future against the Relator, related to the Covered Conduct and the Relator's investigation and prosecution thereof.

13. 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. §§ 1395-1395III and 1396-1396w-5; and the regulations and official program

directives promulgated thereunder) incurred by or on behalf of UAHS, its present or former officers, directors, employees, shareholders, and agents in connection with:

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

are unallowable costs for government contracting purposes and under the Medicaid Program, (hereinafter referred to as "Unallowable Costs").

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by UAHS, and UAHS 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 UAHS or any of its subsidiaries or affiliates to the Medicaid Program.

c. Treatment of Unallowable Costs Previously Submitted for Payment: UAHS further agrees that within ninety (90) days of the Effective Date of this Agreement it shall identify to

applicable Medicaid 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 UAHS or any of its 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. UAHS agrees that the United States and New York, at a minimum, shall be entitled to recoup from UAHS 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 or New York pursuant to the direction of the Department of Justice and/or the affected agencies. The United States and New York reserve their rights to disagree with any calculations submitted by UAHS or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on UAHS or any of its 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 New York to audit, examine, or re-examine UAHS' books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

14. a. In the event that UAHS fails to pay the Settlement Amount as provided in the payment schedule set forth in Paragraph 1 above, UAHS shall be in Default of UAHS'

payment obligations ("Default"). The United States or New York will provide a written Notice of Default, and UAHS shall have an opportunity to cure such Default within seven (7) calendar days from the date of receipt of the Notice of Default by making the payment due under the payment schedule and paying any additional interest accruing under the Settlement Agreement up to the date of payment. Notice of Default will be delivered to UAHS, or to such other representative as UAHS shall designate in advance in writing. If UAHS fails to cure the Default within seven (7) calendar days of receiving the Notice of Default and in the absence of an agreement with the United States or New York to a modified payment schedule ("Uncured Default"), the remaining unpaid balance of the Settlement Amount become immediately due and payable, and interest on the remaining unpaid balance shall thereafter accrue at the rate of 12% per annum, compounded daily from the date of Default, on the remaining unpaid total (principal and interest balance).

b. In the event of Uncured Default, UAHS agrees that the United States and New York, at their sole discretion, may (i) retain any payments previously made, rescind this Agreement and pursue the Civil Action or bring any civil and/or administrative claim, action, or proceeding against UAHS for the claims that would otherwise be covered by the releases provided in Paragraphs 6 and 8 above, with any recovery reduced by the amount of any payments previously made by UAHS to the United States or New York under this Agreement; (ii) take any action to enforce this Agreement in a new action or by reinstating the Civil Action; (iii) offset the remaining unpaid balance from any amounts due and owing to UAHS and/or affiliated companies by any department, agency, or agent of the United States or New York at the time of Default or subsequently; and/or (iv) exercise any other right granted by law, or under the terms of this Agreement or recognizable at common law or

in equity. The United States and New York shall be entitled to any other rights granted by law or in equity by reason of Default, including referral of this matter for private collection. In the event the United States or New York pursues a collection action, UAHS agrees immediately to pay the United States or New York the greater of (i) a ten-percent (10%) surcharge of the amount collected, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States' and New York's reasonable attorneys' fees and expenses incurred in such an action. In the event that the United States or New York opts to rescind this Agreement pursuant to this paragraph, UAHS waives and agrees not to plead, argue, or otherwise raise any defenses of statute of limitations, laches, estoppel or similar theories, to any civil or administrative claims that are (i) filed by the United States or New York against UAHS within 120 days of written notification that this Agreement has been rescinded, and (ii) relate to the Covered Conduct, except to the extent these defenses were available on the Effective Date of the Agreement. UAHS agrees not to contest any offset, recoupment, and/or collection action undertaken by the United States or New York pursuant to this paragraph, either administratively or in any federal or state court, except on the ground of actual payment to the United States or New York.

15. In exchange for valuable consideration provided in this Agreement, UAHS acknowledges the following:

a. UAHS has reviewed its financial situation and warrants that it is currently solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and expects to remain solvent following payment to the United States and New York of the Settlement Amount.

b. In evaluating whether the execute this Agreement, the Parties intend that the mutual promises, covenants, and obligations set forth herein constitute a contemporaneous exchange for new value give to UAHS, 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 UAHS 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 UAHS' 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, UAHS 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 UAHS' debts, or to adjudicate UAHS as bankrupt or insolvent; or seeking appointment of a receiver, trustee, custodian, or other similar official for UAHS or for all or any substantial part of UAHS' assets, (i) the United States and New York may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against UAHS for the claims that would otherwise be covered by the releases provided in Paragraphs 6 and 8 above; (ii) the United States and New York have an undisputed, noncontingent, and liquidated allowed claim against UAHS in the amount of \$6,177,438.48, less any payments received pursuant to

this Agreement, provided, however, that such payments are not otherwise avoided and recovered from the United States or New York by UAHS, a receiver, trustee, custodian, or other similar official for UAHS; and (iii) if any payments are avoided and recovered by UAHS, a receiver, trustee, custodian, or similar official for UAHS, Relator shall, within thirty days of written notice from the United States or New York to the undersigned Relator's counsel, return any portions of such payments already paid by the United States or New York to Relator pursuant to Paragraph 2.

f. UAHS agrees that any civil and/or administrative claim, action or proceeding brought by the United States or New York under Paragraph 15.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' and New York's police and regulatory power. UAHS shall not argue or otherwise contend that the United States' or New York's 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). UAHS 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 or New York within 120 days of written notification to UAHS that the releases have been rescinded pursuant to this paragraph, except to the extent such defenses were available on the Effective Date of the Agreement.

16. 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 3, 5, 7, 8, 9, and 19 (waiver for beneficiaries' paragraph), below.

17. UAHS agrees that it 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.

18. Upon receipt of the payment in Paragraph 1A(i), above, and subject to the terms of the Agreement, the Parties shall promptly sign and file in the Civil Action a Joint Stipulation of Dismissal of the Civil Action pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

19. Each Party shall bear its own legal and other costs incurred in connection with this matter, 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 Western District of New York. 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. Forbearance by the United States or New York from pursuing any remedy or relief available to it under this Agreement shall not constitute a waiver of rights under this Agreement.

23. The undersigned counsel and other signatories 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 UAHS' successors, transferees, heirs, and assigns.

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

27. All Parties consent to the disclosure of this Agreement and information about this Agreement by the United States, New York, and Pennsylvania to the public. UAHS agrees not to take any action or make or permit to be made any public statement denying, directly or indirectly, any finding in this Agreement or creating the impression that this Agreement is without factual basis.

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.

[Signatures follow]

THE UNITED STATES OF AMERICA

JAMES P. KENNEDY, JR.
United States Attorney
Western District of New York

DATED: 5-21-21

BY: MaryEllen Kresse
MARYELLEN KRESSE
Assistant United States Attorney
Western District of New York

STEPHEN R. KAUFMAN
Acting United States Attorney
Western District of Pennsylvania

DATED: _____

BY: _____
PAUL E. SKIRTICH
Assistant United States Attorney
Western District of Pennsylvania

NEW YORK STATE

LETITIA JAMES
Attorney General
State of New York

DATED: _____

BY: _____
LAURIE A. FRANK
Special Assistant Attorney General
New York State
Office of the Attorney General

THE UNITED STATES OF AMERICA


JAMES P. KENNEDY, JR.
United States Attorney
Western District of New York

DATED: _____

BY: _____
MARYELLEN KRESSE
Assistant United States Attorney
Western District of New York

SCOTT W. BRADY
United States Attorney
Western District of Pennsylvania

DATED: 24 MAY 2021

BY: 
PAUL E. SKIRTICH
Assistant United States Attorney
Western District of Pennsylvania

NEW YORK STATE

LETTITIA JAMES
Attorney General
State of New York

DATED: _____

BY: _____
LAURIE A. FRANK
Special Assistant Attorney General
New York State
Office of the Attorney General

THE UNITED STATES OF AMERICA

JAMES P. KENNEDY, JR.
United States Attorney
Western District of New York

DATED: _____

BY: _____
MARYELLEN KRESSE
Assistant United States Attorney
Western District of New York

STEPHEN R. KAUFMAN
Acting United States Attorney
Western District of Pennsylvania


DATED: _____

BY: _____
PAUL E. SKIRTICH
Assistant United States Attorney
Western District of Pennsylvania

NEW YORK STATE

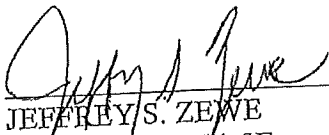
LETITIA JAMES
Attorney General
State of New York

DATED: 5/21/2021

BY: 
LAURIE A. FRANK
Special Assistant Attorney General
New York State
Office of the Attorney General

UPPER ALLEGHENY HEALTH SYSTEM - DEFENDANT

DATED: _____

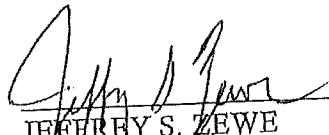
BY: 
JEFFREY S. ZEWE
President and Chief Executive Officer

DATED: _____

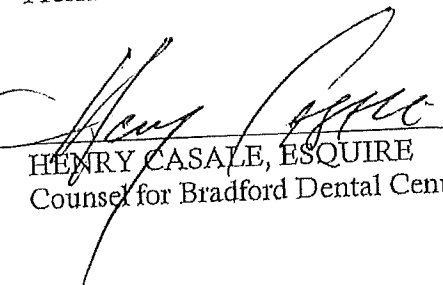
BY: _____
PHILIP ROSENBERG, ESQUIRE
Counsel for Upper Allegheny Health
System

BRADFORD DENTAL CENTER - DEFENDANT

DATED: _____

BY: 
JEFFREY S. ZEWE
President and Chief Executive Officer

DATED: _____

BY: 
HENRY CASALE, ESQUIRE
Counsel for Bradford Dental Center

THOMAS SABUDA, DDS - RELATOR

DATED: _____

BY: _____
THOMAS SABUDA, DDS
Relator

DATED: _____


BY: _____
ANDREW P. FLEMING, ESQUIRE
Counsel for Relator

UPPER ALLEGHENY HEALTH SYSTEM - DEFENDANT

DATED: _____

BY: _____
JEFFREY S. ZEWE
President and Chief Executive Officer

DATED: 5/20/21

BY: 
PHILIP ROSENBERG, ESQUIRE
Counsel for Upper Allegheny Health
System

BRADFORD DENTAL CENTER - DEFENDANT

DATED: _____

BY: _____
JEFFREY S. ZEWE
President and Chief Executive Officer

DATED: _____

BY: _____
HENRY CASALE, ESQUIRE
Counsel for Bradford Dental Center

THOMAS SABUDA, DDS - RELATOR

DATED: _____

BY: _____
THOMAS SABUDA, DDS
Relator

DATED: _____

BY: _____
ANDREW P. FLEMING, ESQUIRE
Counsel for Relator

UPPER ALLEGHENY HEALTH SYSTEM - DEFENDANT

DATED: _____

BY: _____
JEFFREY S. ZEWE
President and Chief Executive Officer

DATED: _____

BY: _____
PHILIP ROSENBERG, ESQUIRE
Counsel for Upper Allegheny Health
System

BRADFORD DENTAL CENTER - DEFENDANT

DATED: _____

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JEFFREY S. ZEWE
President and Chief Executive Officer

DATED: _____

BY: _____
HENRY CASALE, ESQUIRE
Counsel for Bradford Dental Center

THOMAS SABUDA, DDS - RELATOR

DATED: 5/19/21

BY: Thomas Sabuda DDS
THOMAS SABUDA, DDS
Relator

DATED: 5/19/21

BY: Andrew P. Fleming
ANDREW P. FLEMING, ESQUIRE
Counsel for Relator

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

THE UNITED STATES OF AMERICA and the
STATE OF NEW YORK *ex rel.* THOMAS SABUDA,

Plaintiffs,

14-CV-0539-A

v.

UPPER ALLEGHENY HEALTH SYSTEM, INC.,

Defendant.

AFFIDAVIT OF CONFESSION OF JUDGMENT

STATE OF NEW YORK)
COUNTY OF CATTARAUGUS) SS:

JEFFREY S. ZEWE, President and Chief Executive Officer of Upper Allegheny Health System, Inc. ("UAHS"), being duly sworn, deposes and says:

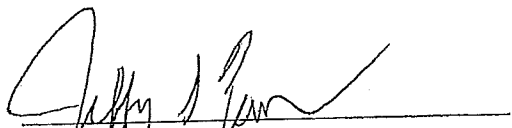
I am the individual named above, and am the President and Chief Executive Officer of UAHS;

I have authority to execute this Affidavit of Confession of Judgment on behalf of UAHS and have the power to bind UAHS;

UAHS has a corporate office at 515 Main Street Olean, New York 14760; and,
I hereby confess judgment against UAHS, and authorize entry thereof in the United States District Court for the Western District of New York, and in any county of any state in which UAHS owns property, in favor of plaintiffs the United States and the State of New York in the amount of Two Million, Seven Hundred Six Thousand, Nine Hundred Thirty Six Dollars and Seventy Seven Cents (\$2,706,936.77).

This Confession of Judgment is for a debt justly due the plaintiffs the United States and the State of New York relating to, and arising from the negotiated resolution set forth in the attached Settlement Agreement.

I authorize entry of judgment against UAHS in the United States District Court for the Western District of New York, and in any county in any state in which UAHS owns property, without further notice in the amount of Two Million, Seven Hundred Six Thousand, Nine Hundred Thirty-Six Dollars and Seventy-Seven Cents (\$2,706,936.77), at any time.


Jeffrey S. Zewe
President and Chief Executive Officer
Upper Allegheny Health System, Inc.

On this 18 day of May, 2021, before me personally came JEFFREY S. ZEWE, President and Chief Executive Officer of Upper Allegheny Health System, Inc., to me known, who being by me duly sworn, did depose and say that he resides in the County of Catt, State of NY and is the person who executed this instrument.


NOTARY PUBLIC

Annette M. Rickey
Notary Public - State of New York
No. 01R16280230
Qualified in Cattaraugus County
Commission Expires April 22, 2023