

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is entered into between the State of North Carolina, by and through the North Carolina Attorney General ("State"), and Stephen Arthur Wilkins, LCSW, ("Mr. Wilkins"), (collectively "the Parties").

I. PREAMBLE

As a preamble to this Settlement Agreement ("Agreement"), the Parties agree to the following:

A. Stephen Wilkins is a licensed clinical social worker residing in Caldwell County, North Carolina. Mr. Wilkins operated his private therapy and counseling practice in Caldwell County, North Carolina and participated as a health care provider in the North Carolina Medicaid Program, Title XIX of the Social Security Act, 42 U.S.C. § 1396-1396v ("Medicaid").

B. The State contends that, in his capacity as a health care provider providing services, Mr. Wilkins knowingly submitted false claims for approval to the Medicaid program, or made, used, or caused to be made or used a false record or statement material to a false or fraudulent claim for payment made to the Medicaid program.

C. The State contends that it has civil claims against Mr. Wilkins under North Carolina statutes and/or common law doctrines for submitting false billings to the Medicaid program for certain counseling and/or therapy services during the period from July 21, 2012 to May 24, 2014 ("Covered Conduct").

D. This Agreement is neither an admission of liability by Mr. Wilkins nor a concession by the State that its claims are not well founded. Neither this Agreement nor

its execution, nor the performance of any obligation arising under it, including any payment, nor the fact of the settlement is intended to be, or shall be understood as, an admission of liability or wrongdoing, or other expression reflecting on the merits of this matter.

E. In order to avoid the delay, uncertainty, inconvenience and expense of protracted litigation of these claims, the Parties mutually desire to reach a full and final settlement as set forth below.

II. TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations set forth below, and for good and valuable consideration as stated herein, the Parties agree as follows:

1. Mr. Wilkins agrees to pay the State of North Carolina the sum of Ninety Five Thousand Six Hundred Seventy Nine Dollars (\$95,679.00) ("Settlement Amount") as follows: Mr. Wilkins agrees to deliver a certified or cashier's check in the amount of \$95,679.00 made payable to the North Carolina Fund for Medical Assistance to the North Carolina Department of Justice, Medicaid Investigations Division, 5505 Creedmoor Road, Suite 300, Raleigh, NC 27612, on or before February 3, 2016.

2. Subject to the exceptions in this Agreement, in consideration of the obligations of Mr. Wilkins set forth in this Agreement, and conditioned upon payment in full of the Settlement Amount, the State releases and discharges Mr. Wilkins, and his employees and agents, from any civil monetary claims and administrative penalties the State has or may have under North Carolina statutes and/or common law doctrines for the Covered Conduct.

3. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement, are the following:

- a. Any claims arising under any North Carolina revenue laws or regulations;
- b. Any liability to North Carolina for any conduct other than the Covered Conduct;
- c. Any claims based upon obligations created by this Agreement;
- d. Any claims for defective or deficient medical services, including claims as may be brought under North Carolina consumer protection statutes; and
- e. Any claims against any entities or persons other than Mr. Wilkins and his employees and agents.

4. Nothing in this Agreement constitutes an agreement by the State concerning the characterization of the settlement amount for purposes of the Internal Revenue Code or State revenue laws.

5. In the event that Mr. Wilkins breaches this Agreement, Mr. Wilkins expressly agrees not to plead, argue or otherwise raise any defenses under the theories of statute of limitations, laches, estoppel or similar theories, except to the extent that these defenses were available on or before January 19, 2015, to any civil claims (a) that are filed by the State within 120 days of written notification to Mr. Wilkins that this Agreement has been breached and the releases herein have been rescinded and (b) that relate to the Covered Conduct.

6. Mr. Wilkins fully and finally releases the State, its agencies and employees, from any claims (including attorneys fees, costs, and expenses of every kind and however denominated) which Mr. Wilkins could have asserted or may assert in the future against

the State, its agencies and employees, related to the Covered Conduct and the investigation of the State of the Covered Conduct.

7. Mr. Wilkins agrees that he will not amend or resubmit any claims already submitted to the Medicaid program for the Covered Conduct unless requested to do so by the Medicaid Program.

8. Mr. Wilkins agrees that all costs incurred by him in connection with: (1) the matters covered by this Agreement, (2) the State's audit and investigation of the Covered Conduct, (3) Mr. Wilkins' investigation, defense, and corrective actions undertaken in response to the State's audit and investigation of the Covered Conduct, including attorney's fees, (4) the negotiation of this Agreement, and (5) the payment made pursuant to this Agreement, are unallowable costs on contracts with the State and United States and for Medicaid and Medicare reimbursement purposes (hereinafter, "unallowable costs"). Mr. Wilkins represents and agrees that these unallowable costs have been and will be separately estimated and accounted for by Mr. Wilkins, and that Mr. Wilkins has not and will not charge these unallowable costs directly or indirectly to any contracts with the State, the United States, or any state Medicaid Program, or seek payment for unallowable costs through any cost report, cost statement, information statement, or payment request submitted by Mr. Wilkins to the Medicaid Program, Medicare Program or to any other State or Federal program.

9. This Agreement is intended to be for the benefit of the Parties only, and by this instrument the Parties do not release any claims against any other person or entity.

10. Mr. Wilkins agrees that he will not seek payment for any of the health care claims covered by this Agreement from any health care recipients or their family

members, sponsors, heirs, guardians, trustees, agents, attorneys-in-fact, or private insurance carriers. Mr. Wilkins waives any causes of action against these recipients or their family members, sponsors, heirs, guardians, trustees, agents, attorneys-in-fact, or private insurance carriers based upon the claims for payment covered by this Agreement. However, this provision is not intended to extend to any Medicaid billing company which Mr. Wilkins relied upon in his billing practices which are the subject of this Agreement.

11. The Parties will each bear their own respective legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

12. Mr. Wilkins represents that this Agreement is freely, knowingly, and voluntarily entered into without any degree of duress or compulsion whatsoever. Mr. Wilkins acknowledges that he has the right and the opportunity to consult legal counsel with respect to the basis, terms and conditions of this Agreement. Mr. Wilkins acknowledges and represents that he fully understands this Agreement and the effect of signing this Agreement.

13. This Agreement shall be governed, construed, and enforced by and in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules, and the Parties agree that the sole and exclusive jurisdiction and sole and exclusive venue for any dispute arising between the Parties under, regarding, or relating to this Agreement will be Superior Court for Wake County, North Carolina.

14. This Agreement constitutes the complete agreement between the Parties, and supersedes all prior negotiations, agreements and understandings with respect thereto. This Agreement may not be amended except by written consent of the Parties.

15. The undersigned individuals signing this Agreement represent and warrant that they are fully authorized to execute this Agreement on behalf of the Parties, and that any and all necessary actions have been taken to fully authorize the execution of this Agreement by the undersigned individuals on behalf of the respective Parties.

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

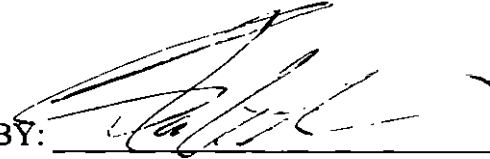
17. The invalidity, illegality, or unenforceability of any provisions of this Agreement shall not affect the validity, legality, or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

18. This Agreement is effective on the date of signature of the last signatory to the Agreement and shall become final and binding only upon signing by each of the Parties hereto.

This SETTLEMENT AGREEMENT agreed and executed by the Parties hereto:

THE STATE OF NORTH CAROLINA

1-19-16
DATE

BY: 
STEVEN K. McCALLISTER
Special Deputy Attorney General
North Carolina Department of Justice
Medicaid Investigations Division
5505 Creedmoor Road, Suite 300
Raleigh, North Carolina 27612

1-19-16
DATE

BY: Lareena J. Phillips
LAREENA J. PHILLIPS
Assistant Attorney General
North Carolina Department of Justice
Medicaid Investigations Division
5505 Creedmoor Road, Suite 300
Raleigh, North Carolina 27612

1-19-16
DATE

BY: Stephen A. Wilkins
STEPHEN WILKINS