

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Attorney’s Office for the Eastern District of North Carolina and on behalf of the Office of Inspector General (OIG-HHS) of the Department of Health and Human Services (HHS); the State of North Carolina, acting through the North Carolina Office of the Attorney General (collectively the “Government”); Haritha Nadendla, M.D. and Triangle Women’s Center, P.C. (collectively “Triangle”), each of whom were at all relevant times North Carolina Medicaid Providers; and Hannah Turnbull (“Relator”). Each of the above are hereafter collectively referred to as “the Parties” through their authorized representative.

RECITALS

A. Since at least January 1, 2018, Triangle was a Medicare and Medicaid Provider which provided obstetrical/gynecological services to beneficiaries of Governmental Programs (both Federal and State) in the Eastern District of North Carolina. Triangle has three medical offices located in Wake County, North Carolina. As an enrolled provider for both the Medicare and Medicaid programs, Triangle may submit claims for services that are provided for the care of Medicare and Medicaid beneficiaries.

B. The Government contends that it has certain civil claims against Triangle arising from the following conduct, during the dates of January 1, 2018, through December 31, 2021, for Triangle’s submission of claims to the North Carolina Medicaid Program for medical services, to wit, as follows:

“Claims for CPT 99215 – Evaluation & Management for an established patient in an office or outpatient location, which the Government contends were not supported by the medical

record and were not medically necessary (the “Covered Conduct”).”

C. The Government contends that Triangle’s submission of such claims for payment to the North Carolina Medicaid Program (Medicaid), Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396v, violates the Federal False Claims Act, 31 U.S.C. §§ 3729-3733, and the North Carolina False Claims Act, N.C.G.S. §§ 1-605, *et seq.*

D. On or about October 8, 2020, Relator filed a qui tam action in the United States District Court for the Eastern District of North Carolina captioned *United States ex rel. Hannah Turnbull v. Triangle Women’s Center, P.C., et al.*, No. 5:20-CV-535-BO, pursuant to the qui tam provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). The Complaint alleged that Haritha Nadendla, M.D., Triangle Women’s Center, P.C., and Greg Brannon, M.D., submitted false claims to the Medicare and Medicaid programs based on various alleged violations of applicable law and regulations.

E. On or about November 1, 2022, the Government filed a Notice of Partial Intervention and Notice of Settlement in the Civil Action.

F. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator’s reasonable expenses, attorneys’ fees, and costs.

G. This Settlement Agreement is neither an admission of liability by Haritha Nadendla, M.D., and/or Triangle Women’s Center, P.C., , nor a concession by the Government that its claims are not well founded.

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

TERMS AND CONDITIONS

1. Triangle shall pay the North Carolina Medicaid Program the sum of \$385,000.00 (“Settlement Amount”), of which \$244,400.00 is restitution. The Settlement Amount constitutes a debt immediately due and owing in full on the Effective Date of this Agreement. Triangle shall pay said amount(s) by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney for the Eastern District of North Carolina pursuant to the terms set forth below. No later than forty-five (45) days following the Effective Date of this Agreement, Triangle shall pay the full amount of \$385,000.00 via wire transfer to the Government.

2. Conditioned upon the Government receiving the Settlement Amount, the Government shall pay Relator an eighteen percent (18%) share of any such payment(s) actually received by the Governments (“Relator’s Share”) pursuant to written instructions provided by Relator’s Counsel.

3. In the event that Triangle fails to pay the settlement amount as provided in Paragraph 1, above, within five (5) business days of the date upon which such payment is due, Triangle shall be in Default of their payment obligations (“Default”). The Government will provide written notice of the Default, and Triangle shall have an opportunity to cure such Default within thirty (30) business days from the date of the receipt of the notice. Notice of Default will be delivered via certified mail to Triangle, or to such other representative as Triangle shall designate in advance in writing. If Triangle fails to cure the Default within thirty (30) business days of receiving the Notice of Default (“Uncured Default”), the remaining unpaid balance of the Settlement Amount shall become immediately due and payable, and interest shall accrue at the rate of 12% per annum compounded daily from the date of Default on the remaining unpaid total (principal, balance, and interest due). In the event of Uncured Default, the Government may, in its sole discretion, choose to set aside the Agreement and bring an action against Haritha Nadendla, M.D., and/or Triangle

Women's Center, P.C., for the Covered Conduct. In the event of Uncured Default, the Government may also, in its sole discretion, pursue any other remedy or course of action permitted by law, including but not limited to filing a complaint for breach of contract. In the event of Uncured Default, OIG-HHS may exclude Triangle from participating in all Federal health care programs until Triangle pays the Settlement Amount, with interest, as set forth above ("Exclusion for Default"). OIG-HHS will provide written notice of any such exclusion to Triangle. Triangle waives any further notice of the exclusion under 42 U.S.C. § 1320a-7(b)(7), and agrees not to contest such exclusion either administratively or in any state or federal court. Reinstatement to program participation is not automatic. If at the end of the period of exclusion, Triangle wishes to apply for reinstatement, it must submit a written request for reinstatement to OIG-HHS in accordance with the provisions of 42 C.F.R. §§ 1001.3001-.3005. Triangle will not be reinstated unless and until OIG-HHS approves such request for reinstatement. The option for Exclusion for Default is in addition to, and not in lieu of, the options identified in this Agreement or otherwise available. Triangle agrees not to contest any action taken by the Government pursuant to this paragraph.

4. Subject to the exceptions in Paragraph 6 (concerning excluded claims) below, and subject to Paragraph 14.d. (concerning bankruptcy) below, and conditioned upon the full payment of the Settlement Amount, the Government releases Triangle from any civil or administrative monetary claims the Government has for the Covered Conduct under the Federal 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, the North Carolina False Claims Act, N.C.G.S. § 1-605, *et seq.*, or the common law theories of payment by mistake, unjust enrichment, and fraud.

5. Relator, for herself and for her heirs, successors, attorneys, agents, and assigns, releases

Triangle and Greg Brannon, M.D. from any civil monetary claim the Relator has on behalf of the Government for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733 and the North Carolina False Claims Act, N.C.G.S. §§ 1-605, *et seq.*, and all other statutory or common-law claims, lawsuits, causes of action, damages, costs and fees.

6. Notwithstanding the releases given in Paragraph 4 of this Agreement, or any other term of this Agreement, the following claims are specifically reserved by the Government and are not released:

a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code) or North Carolina revenue codes;

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 civil or administrative liability that any person or entity, including Triangle, has or may have to the Government or to individual consumers or federal or state program payors under any statute, regulation, or rule not expressly covered by the release in Paragraph 4 above, including but not limited to, any and all of the following claims:

(i) State or federal antitrust violations;

(ii) Claims involving unfair and/or deceptive acts and practices and/or violations of consumer protection laws;

e. Any liability to the Government for any conduct other than the Covered Conduct; or

f. Any liability based upon obligations created by this Agreement.

7. Relator and her 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, Relator and her heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge the Government, 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.

8. Triangle waives and shall not assert any defenses Triangle 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.

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

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

11. The Settlement Amount shall not be decreased as a result of the denial of claims for payment and which are now being withheld from payment by the Medicaid Program or any

Medicaid contractor or intermediary or any state payor on behalf of the Medicaid Program, related to the Covered Conduct; and Triangle agrees not to resubmit to the Medicaid Program, any state payor or any of the other above entities acting on behalf of the Medicaid Program, 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.

12. Triangle 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 Triangle, its present or former officers, directors, employees, shareholders, and agents in connection with:

(i) The matters covered by this Agreement;

(ii) The United States' audit(s) and civil and criminal investigation(s) of the matters covered by this Agreement;

(iii) Triangle's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);

(iv) The negotiation and performance of this Agreement; and

(v) The payment Triangle makes to the United States pursuant to this Agreement and any payments that Triangle 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 by Triangle, and Triangle 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 Triangle or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Triangle further agrees that within 90 days of the Effective Date of this Agreement it 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 Triangle 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. Triangle agrees that the United States, at a minimum, shall be entitled to recoup from Triangle 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 Triangle or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this paragraph) on Triangle 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 to audit, examine, or re-examine Triangle's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this paragraph.

13. 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 as provided herein. Triangle agrees that it waives and shall not seek payment for any of the health care billings related to the Covered Conduct from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third-party payors based upon the claims defined as Covered Conduct.

14. In exchange for valuable consideration provided in this Agreement, Triangle acknowledges the following:

a. 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 Triangle, 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.

b. 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.

c. The Parties do not intend to hinder, delay, or defraud any entity to which Triangle 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).

d. If Triangle's 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, Triangle 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 Triangle's debts, or to adjudicate Triangle as bankrupt or insolvent; or seeking appointment of a receiver, trustee, custodian, or other similar official for Triangle or for all or any substantial part of Triangle's assets:

(i) The Government may rescind the releases in this Agreement and bring any civil and/or administrative claim, action, or proceeding against Triangle for the claims that would otherwise be covered by the releases provided in Paragraph 4 above;

(ii) The Government has an undisputed, noncontingent, and liquidated allowed claim against Triangle in an amount not less than \$120,518,584.00 less any payments received pursuant to this agreement, provided, however, that such payments are not otherwise avoided and recovered from the Government by Triangle, a receiver, trustee, custodian, or other similar official for Triangle; and

(iii) If any payments are avoided and recovered by Triangle, a receiver, trustee, custodian, or similar official for Triangle, Relator shall, within thirty days of written notice from the Government to the undersigned Relator's counsel, return any portions of such payments already paid by the Government to Relator pursuant to Paragraph 2.

e. Triangle agrees that any civil and/or administrative claim, action, or proceeding brought by the United States under Paragraph 14.d.(i) is not subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a) because it would be an exercise of the Government's police and regulatory power. Triangle shall not argue or otherwise contend that the Government'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). Triangle 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 Government within 120 days of written notification to Triangle that the releases have been rescinded pursuant to this paragraph, except to the extent such defenses were available on October 8, 2020.

15. Upon the full and final execution of this 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). The stipulation of dismissal shall provide that the action is being dismissed “subject to the terms of the settlement agreement,” and that the Court retains jurisdiction over the Parties to the extent necessary to enforce the terms and conditions of this Agreement.

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

17. The Parties each represent that they freely and voluntarily enter into this Agreement without any degree of duress or compulsion.

18. 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 Eastern District of North Carolina. 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.

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

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

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

22. This Agreement is binding on the Parties' successors, transferees, heirs, and assigns.

23. The Parties consent to the disclosure of this Agreement and information about this Agreement to the public.

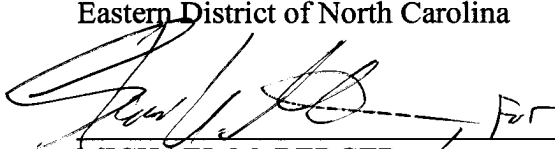
24. This Agreement is effective on the date of signature of the last signatory to the Agreement ("Effective Date"). Facsimiles, PDFs, or similar electronic transmissions of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

25. If any term or provision of this Agreement is determined to be invalid, illegal, or unenforceable, such term or provision will be excluded and stricken from this Agreement to the extent of such invalidity, illegality, or unenforceability; all other terms and provisions herein shall remain in full force and effect.

UNITED STATES OF AMERICA

MICHAEL F. EASLEY, JR.
United States Attorney
United States Attorney's Office
Eastern District of North Carolina

Dated: _____



MICHAEL M. BERGER
Special Assistant United States Attorney
United States Attorney's Office
Eastern District of North Carolina

Dated: 10.26.22

LISA M. RE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
United States Department of Health and Human Services

Dated: _____

STATE OF NORTH CAROLINA

F. EDWARD KIRBY, JR.
Director, Medicaid Investigations Division
Office of the Attorney General

Dated: _____

**NC DEPARTMENT OF HEALTH & HUMAN SERVICES,
DIVISION OF HEALTH BENEFITS**

DAVE RICHARD
Deputy Secretary, NC Medicaid
NC Department of Health & Human Services, Division of Health Benefits

Dated: _____

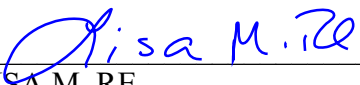
UNITED STATES OF AMERICA

MICHAEL F. EASLEY, JR.
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United States Attorney's Office
Eastern District of North Carolina

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Eastern District of North Carolina

Dated: _____



LISA M. RE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
United States Department of Health and Human Services

Dated: 10/24/2022

STATE OF NORTH CAROLINA

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Office of the Attorney General

Dated: _____

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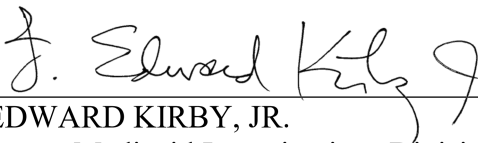
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Dated: _____

LISA M. RE
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
United States Department of Health and Human Services

Dated: _____

STATE OF NORTH CAROLINA



F. EDWARD KIRBY, JR.
Director, Medicaid Investigations Division
Office of the Attorney General

Dated: 10/25/2022

**NC DEPARTMENT OF HEALTH & HUMAN SERVICES,
DIVISION OF HEALTH BENEFITS**

DAVE RICHARD
Deputy Secretary, NC Medicaid
NC Department of Health & Human Services, Division of Health Benefits

Dated: _____

UNITED STATES OF AMERICA

MICHAEL F. EASLEY, JR.
United States Attorney
United States Attorney's Office
Eastern District of North Carolina

Dated: _____

MICHAEL M. BERGER
Special Assistant United States Attorney
United States Attorney's Office
Eastern District of North Carolina

Dated: _____

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United States Department of Health and Human Services

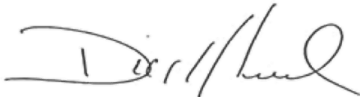
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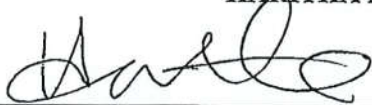
**NC DEPARTMENT OF HEALTH & HUMAN SERVICES,
DIVISION OF HEALTH BENEFITS**



DAVE RICHARD
Deputy Secretary, NC Medicaid
NC Department of Health & Human Services, Division of Health Benefits

Dated: 10/24/2022

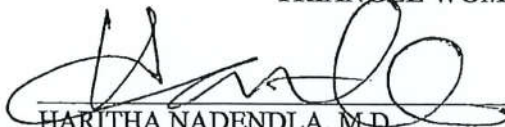
HARITHA NADENDLA, M.D.



HARITHA NADENDLA, M.D.

Dated: 10/24/22

TRIANGLE WOMEN'S CENTER, P.C.



HARITHA NADENDLA, M.D.
Authorized agent

Dated: 10/24/22



G. GRAY WILSON
Counsel for Haritha Nadendla, M.D., and Triangle Women's Center, P.C.

Dated: 10-24-22

HANNAH TURNBULL – RELATOR

HANNAH TURNBULL

Dated: _____

W. STACY MILLER, II
Counsel for Relator Hannah Turnbull

Dated: _____

HARITHA NADENDLA, M.D.

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Dated: _____

TRIANGLE WOMEN'S CENTER, P.C.

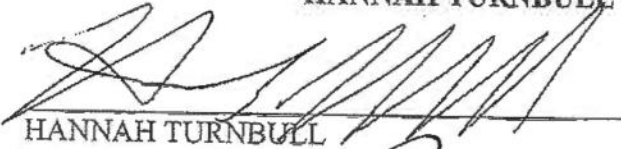
HARITHA NADENDLA, M.D.
Authorized agent

Dated: _____

G. GRAY WILSON
Counsel for Haritha Nadendla, M.D., and Triangle Women's Center, P.C.

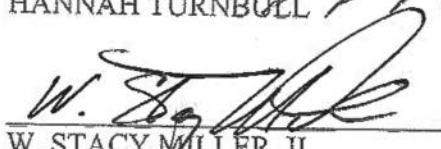
Dated: _____

HANNAH TURNBULL - RELATOR



HANNAH TURNBULL

Dated: 10/19/2022



W. STACY MILLER, II
Counsel for Relator Hannah Turnbull

Dated: 10.21.2022