

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

THIS SETTLEMENT AGREEMENT AND MUTUAL RELEASE (“Settlement Agreement”) is entered into this 28th day of February, 2017 (“Effective Date”) by and between CAPITAL HEALTH SYSTEM INC. (“Capital”), its owners, directors, officers, successors and assigns, represented by Lourdes M. Martinez, Esq., of Garfunkel Wild P.C. and STATE OF NEW JERSEY, OFFICE OF THE STATE COMPTROLLER, MEDICAID FRAUD DIVISION (“MFD”). Capital and MFD are hereinafter collectively referred to as the "Parties" and each individually as a “Party.”

WHEREAS, MFD investigated Capital and determined that between June 13, 2012 and August 27, 2013, Capital submitted claims and was reimbursed for sleep studies performed by [REDACTED], which were not conducted according to appropriate guidelines, as well as follow-up sleep studies justified by the faulty sleep study results, in violation of N.J.S.A. 30:4D-12, N.J.A.C. 10:49-9.8, N.J.A.C. 10:49-11.1(d)12 and (d)18 (“the Covered Conduct”), resulting in Capital receiving overpayments from the Medicaid Program; and

WHEREAS, Capital has asserted that all services for which Capital submitted claims to be paid by Medicaid program funds were performed and properly supported by documentation, and has denied all wrongdoing; and

WHEREAS, the parties desire to amicably resolve all disputes between them giving rise to the Covered Conduct and have reached a mutually acceptable resolution of the controversies that exist between them;

NOW THEREFORE, in consideration of the mutual promises contained herein, as well as for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree to settle their dispute on the following terms:

(1) Capital agrees to pay restitution to the Medicaid program in the sum of One Hundred Thirty-Eight Thousand Seven Hundred Seventy-Eight Dollars and Sixteen Cents (\$138,778.16), in the following manner:

(a) A lump sum payment of One Hundred Thirty-Eight Thousand Seven Hundred Seventy-Eight Dollars and Sixteen Cents (\$138,778.16) shall be remitted no later than the close of business on the last day of March, 2017;

(2) Payment shall be by certified check, bank check, or attorney trust check made payable to "Treasurer, State of New Jersey," and shall be mailed or delivered as follows:

Attention: Processing Bureau
Treasurer, State of New Jersey
Division of Revenue
200 Woolverton Street, Building 20
Lockbox 656
Trenton, New Jersey 08646

Capital will include "Capital Health System – OSC-MFD" in the memo line so that it is properly credited.

(3) If the payment arrangement as provided for in this Settlement Agreement is more than ten (10) days late, Capital will be in default of this Settlement Agreement and the outstanding and unpaid balance plus interest will immediately become due and collected through any means available to MFD as provided by law.

(4) The parties agree that this Settlement Agreement is intended to be a final resolution of all issues arising out of the Covered Conduct, referenced above, and is intended by each party to release the other party and its representatives from liability arising out of the Covered Conduct, unless MFD is mandated to act by federal or State law; or mandated by order or judgment of a court or administrative agency (other than MFD).

(5) Nothing in this Settlement Agreement waives the rights of any other State or federal agency, including, among others, the New Jersey Division of Criminal Justice, from continuing with a pending or beginning a future civil or criminal investigation or other action for alleged conduct concerning Capital or from taking any action for such conduct. Nothing in this Settlement Agreement waives the rights of MFD to conduct an audit or investigation of prior or future years for the improper submission of any claims or conduct not specifically covered by this agreement, and to take any action civilly or criminally for such conduct. Nothing in this Settlement Agreement waives any defenses that Capital, its officers, directors, successors or assigns may raise with respect to claims of any nature that may be raised by MFD or any other state or federal agency.

(6) Subject to the express terms of this Settlement Agreement as provided for in paragraphs 1-5 above, by the signatures set forth below, the authorization of which is hereby affirmed, Capital and MFD agree to the following release: in consideration of the provision hereof including this release, each party agrees to release the other party and its representatives from liability, obligations and damages arising out of the Covered Conduct, referenced above.

(7) Nothing herein shall constitute an admission, concession or finding of wrongdoing or liability by any party.

(8) This Settlement Agreement shall be construed, enforced and governed by the laws of the State of New Jersey.

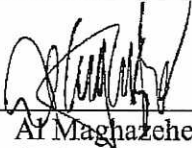
(9) This Settlement Agreement may be executed in Counterparts.

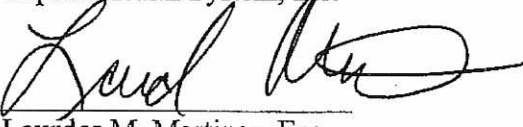
(10) This Settlement Agreement is effective upon the last date it is executed by the parties hereto.

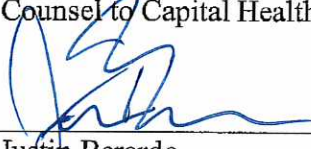
(11) This Settlement Agreement sets forth the entire agreement between and among the parties hereto with respect to the claims described herein and supersedes any other written or oral understandings. This Settlement Agreement does not reflect any other terms or conditions or agreements between or among the parties with respect to any other matter.

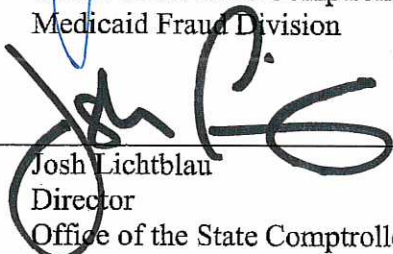
IN WITNESS WHEREOF, and intending to be legally bound, the parties hereto on the following page have executed the foregoing Settlement Agreement:

FORM AND CONTENT ACCEPTED AND AGREED TO BY:

DATE: _____ By:  _____
Al Maghazeh
CEO
Capital Health System, Inc.

DATE: _____ By:  _____
Lourdes M. Martinez, Esq.
Garfunkel Wild P.C.
Counsel to Capital Health System, Inc.

DATE: 3/22/17 By:  _____
Justin Berardo
Regulatory Officer
Office of the State Comptroller
Medicaid Fraud Division

DATE: 3/27/17 By:  _____
Josh Lichtblau
Director
Office of the State Comptroller
Medicaid Fraud Division