

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Inspector General (OIG-HHS) of the Department of Health and Human Services (HHS), (collectively, the "United States"), Lexington County Health Services District, Inc., d/b/a Lexington Medical Center ("LMC"), and David H. Hammett, M.D. ("Relator"), (hereafter collectively referred to as "the Parties"), through their authorized representatives.

RECITALS

A. LMC is a political subdivision of the State of South Carolina that operates the Lexington Medical Center hospital and associated office-based clinics. LMC employs physicians and other health care professionals. LMC provides health care services to Medicare and other federal payor beneficiaries.

B. On September 15, 2014, Dr. David Hammett filed a *qui tam* action in the United States District Court for the District of South Carolina captioned *United States ex rel. David H. Hammett, M.D. v. Lexington County Health Services District, Inc. d/b/a Lexington Medical Center*, Civil Action No. 3:14-cv-03653-CMC, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the "Civil Action").

C. The United States contends that LMC submitted or caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395kkk-1 ("Medicare").

D. The United States contends that it has certain civil claims against LMC arising from violations of the Physician Self-referral Law (the "Stark Law") and the False Claims Act ("FCA") during the time periods as listed in Attachment A. Specifically, the United States contends that LMC had compensation arrangements within the meaning of the Stark Law in the

form of asset purchase agreements and employment arrangements with certain physicians, and that such arrangements did not satisfy all of the requirements of any applicable exception to the Stark Law's referral and billing prohibitions. The United States therefore contends that LMC violated the False Claims Act by submitting, or causing to be submitted, claims to Medicare for designated health services furnished to patients referred to LMC by these physicians.

E. The relevant physicians were part of five separate physician practice groups. The physicians and physician groups at issue are identified in Attachment A to this Agreement. The relevant time period includes those dates as shown in Attachment A.

F. That conduct described in Paragraph D above with respect to the physicians and time periods listed in Attachment A is referred to below as the "Covered Conduct."

G. This Settlement Agreement is neither an admission of liability by LMC nor a concession by the United States that its claims are not well founded. LMC expressly denies the allegations of the United States and the Relator set forth herein and in the Civil Action.

H. 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.

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 Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

I. LMC shall pay to the United States **seventeen million dollars and no cents (\$17,000,000.00)** (Settlement Amount), plus accrued interest on the Settlement Amount at a rate of 1.5% from April 14, 2016, continuing until and including the day before the payment is made, which payment shall be made no later than 10 (ten) days after the Effective Date of this

Agreement by electronic funds transfer pursuant to written instructions to be provided by the Office of the United States Attorney for the District of South Carolina.

2. Conditioned upon the United States receiving the Settlement Amount from LMC and as soon as feasible after receipt, the United States shall pay \$4,590,000.00 (four million five hundred ninety thousand dollars and no cents) to Relator's counsel by electronic funds transfer.

3. LMC and Relator have entered into a separate agreement which provides for the payment of attorneys' fees and any costs related to this action.

4. Subject to the exceptions in Paragraph 7 (concerning excluded claims) below, and conditioned upon LMC's full payment of the Settlement Amount, the United States releases LMC from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Civil Monetary Provisions of the Stark Law, 42 U.S.C. § 1395nn(g)(3) and (g)(4); any statutory provision creating a cause of action for civil damages or civil penalties that the Civil Division of the Department of Justice has actual and present authority to assert and compromise pursuant to 28 C.F.R. Part O, Subpart I, 28 C.F.R. § 0.45(d), or the common law theories of payment by mistake, unjust enrichment, and fraud.

5. Subject to the exceptions in Paragraph 7 below, and conditioned upon LMC's full payment of the Settlement Amount, Relator for himself and for his heirs, successors, attorneys, agents, assigns, and any other person or entity acting on his behalf or asserting his rights, agrees to dismiss with prejudice any currently pending claims against LMC in any federal or state court or in any other forum, and fully and finally releases, waives, and forever discharges LMC, its predecessors, and its current and former directors, trustees, agents, officers, employees, representatives, attorneys, consultants, successors, heirs, executors, administrators, assigns,

individually and collectively, (collectively, the “LMC Entities”) from any claims or allegations that Relator has standing to bring or would have standing to bring as of the date of this Agreement, or which Relator may now have or claim to have against the LMC Entities, from any and all claims, claims for relief, actions, rights, causes of action, suits, debts, obligations, liabilities, demands, losses, damages (including treble damages and any civil penalties), punitive damages, costs and expenses of any kind, character or nature whatsoever, known or unknown, fixed or contingent, in law or in equity, in contract or tort, or under any state or federal statute or regulation, or arising in any way out of or connected in any way with the facts, claims, and circumstances alleged in, arising under, or arising from the filing of the Civil Actions, or from any past activities and actions of the LMC Entities, or from any civil monetary claim the United States has or may have for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3730(b) and (d) or any similar federal or state statute. Relator’s release of the LMC Entities does not extend to any claim by Relator and/or his counsel for reasonable attorneys’ fees, expenses, and costs resulting from the Civil Actions pursuant to 31 U.S.C. § 3730(d) or § 3733.

6. In consideration of the obligations of LMC in this Agreement and the Corporate Integrity Agreement (CIA), entered into between OIG-HHS and LMC, and conditioned upon LMC’s full payment of the Settlement Amount, the OIG-HHS agrees to release and refrain from instituting, directing, or maintaining any administrative action seeking exclusion from Medicare, Medicaid, and other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) against LMC under 42 U.S.C. § 1320a-7a (Civil Monetary Penalties Law) or 42 U.S.C. § 1320a-7(b)(7) (permissive exclusion for fraud, kickbacks, and other prohibited activities), or 42 U.S.C. § 1395nn(g)(3), (4) (permissive exclusion under the Stark Law) for the Covered Conduct, except as reserved in this Paragraph and in Paragraph 7 (concerning excluded claims), below. The OIG-HHS expressly reserves all rights to comply with any statutory obligations to exclude LMC

from Medicare, Medicaid, and other Federal health care programs under 42 U.S.C. § 1320a-7(a) (mandatory exclusion) based upon the Covered Conduct. Nothing in this Paragraph precludes the OIG-HHS from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph 7, below.

7. Notwithstanding the releases given in paragraphs 4 and 6 of this Agreement, or any other term of this Agreement, the following claims 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, 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 of individuals;
- g. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- h. Any liability for failure to deliver goods or services due; and
- i. Any liability for personal injury or property damage or for other consequential damages arising from the Covered Conduct.

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 payment described in Paragraph 2, 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. LMC waives and shall not assert any defenses it 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. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

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

11. LMC fully and finally releases, waives, and forever discharges Relator, his heirs, successors, attorneys, agents, assigns, and any other person or entity acting on his behalf or asserting his rights (collectively, "Relator") from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) or allegations LMC could bring as of the date of this Agreement, or which LMC may now have or claim to have against Relator from any and all claims, claims for relief, actions, rights, causes of action, suits, debts, obligations,

liabilities, demands, losses, damages, punitive damages, costs and expenses of any kind, character or nature whatsoever, known or unknown, fixed or contingent, in law or in equity, in contract or tort, or under any state or federal statute or regulation or arising in any way out of or connected in any way with the facts, investigation, prosecutions, claims, and circumstances alleged in, arising under, or arising from the filing of the Civil Actions or from any past activities and actions of Relator, or from any civil monetary claim the United States has or may have for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3730(b) and (d) or any similar federal or state statute.

12. 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; and LMC agrees not to resubmit to any Medicare contractor or any state payer 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.

13. LMC 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. §§ 1395-1395kkk-1 and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of LMC, its 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) LMC's 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 attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment LMC makes to the United States pursuant to this Agreement and any payments that LMC may make to Relator, including costs and attorneys' fees;
- (6) the negotiation of, and obligations undertaken pursuant to the CIA to:
 - (i) retain an independent review organization to perform annual reviews as described in Section III of the CIA; and
 - (ii) prepare and submit reports to the OIG-HHS

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). However, nothing in paragraph 14.a.(6) that may apply to the obligations undertaken pursuant to the CIA affects the status of costs that are not allowable based on any other authority applicable to LMC.

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

c. Treatment of Unallowable Costs Previously Submitted for Payment:

LMC 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 LMC 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. LMC agrees that the United States, at a minimum, shall be entitled to recoup from LMC 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 LMC or any of its subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Paragraph) on LMC 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 LMC's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

14. 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 16 (waiver for beneficiaries paragraph), below.

15. LMC 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.

16. Upon receipt of the payment described in Paragraph 1, above, 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).

17. Except as provided in paragraph 3 of this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

18. Each Party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

19. 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 District of South Carolina. 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.

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

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

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

23. This Agreement is binding on LMC's successors, transferees, heirs, and assigns.

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

25. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

26. 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: _____

BY: _____
AMY L. LIKOFF
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: _____

BY: _____
FRAN TRAPP
Assistant United States Attorney
District of South Carolina

DATED: 7/20/16

BY: Robert K. DeConti
ROBERT K. DECONTI
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

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THE UNITED STATES OF AMERICA

DATED: 7/19/16

BY: 
AMY L. LIKOFF
Trial Attorney
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 7/19/2016

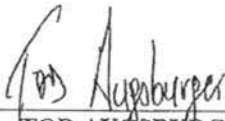
BY: 
FRAN TRAPP
Assistant United States Attorney
District of South Carolina

DATED: _____

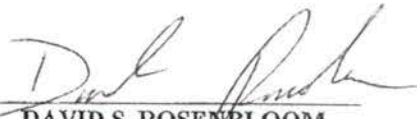
BY: _____
ROBERT K. DECONTI
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
United States Department of Health and Human Services

LEXINGTON COUNTY HEALTH DISTRICT, INC d/b/a
LEXINGTON MEDICAL CENTER

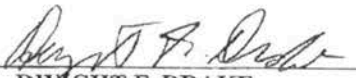
DATED: 7/18/16

BY: 
TOD AUGSBURGER
Chief Executive Officer
Lexington Medical Center


DATED: 7/18/16

BY: 
DAVID S. ROSENBLOOM
Counsel for Lexington Medical Center

DATED: 7/18/16

BY: 
DWIGHT F. DRAKE
Counsel for Lexington Medical Center

DATED: 7-18-16

BY: 
DAVID B. SUMMER, JR.
Counsel for Lexington Medical Center

DR. DAVID H. HAMMETT - RELATOR

DATED: 7.18.10/16

BY:


DAVID H. HAMMETT, M.D.
Relator

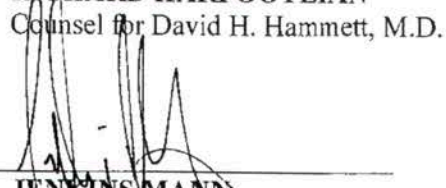
DATED: 7/18/16

BY:


RICHARD HARPOOTLIAN
Counsel for David H. Hammett, M.D.

DATED: 7/18/16

BY:


JENKINS MANN
Counsel for David H. Hammett, M.D.

ATTACHMENT A TO SETTLEMENT AGREEMENT

Physician Name	Practice	Date Range
S. Stanley Juk	Lexington Cardiology	8/1/2012-9/15/2015
Rich Umbach	Lexington Cardiology	8/1/2012-9/15/2015
Michael Roberts	Lexington Cardiology	8/1/2012-9/15/2015
Joseph Lawton	Lexington Cardiology	8/1/2012-9/15/2015
Robert Malanuk	Lexington Cardiology	8/1/2012-9/15/2015
Amy Epps	Lexington Cardiology	8/1/2012-9/15/2015
R. Taylor Williams	Lexington Cardiology	8/1/2012-9/15/2015
Stephan Van Horn	Lexington Cardiology	8/1/2012-9/15/2015
William D. Brearley, Jr.	Lexington Cardiology	8/1/2012-9/15/2015
Dr. Erik Crook	Columbia Medical Group	1/1/2011-4/30/2016
Dr. Edgard Deschamps, III	Columbia Medical Group	1/1/2011-4/30/2016
Dr. David Hammett	Columbia Medical Group	1/1/2011-9/15/2015
Dr. Rosa Jimenez	Columbia Medical Group	1/1/2011-9/15/2015
Dr. Ruben Mayer	Columbia Medical Group	1/1/2011-4/30/2016
Dr. Kim Meadows	Columbia Medical Group	1/1/2011-4/30/2016
Dr. Stacie Moore-Bowens	Columbia Medical Group	1/1/2011-4/30/2016
Dr. Bradley Word	Columbia Medical Group	1/1/2011-4/30/2016
Dr. William Strat Stavrou	Sumter Cardiology	1/1/2011-9/15/2015
Dr. Charles W. Jacocks, IV	Sumter Cardiology	1/1/2011-9/15/2015
Dr. Mitchell W. Jacocks	Sumter Cardiology	1/1/2011-9/15/2015
Alan C. Peterson, Jr.	Peterson & Plante Internal Medicine	7/11/2009-9/30/2015
G. Stuart Hooks	Peterson & Plante Internal Medicine	7/11/2009-9/30/2015
Jaiprakash N. Patel	Peterson & Plante Internal Medicine	7/11/2009-9/30/2015
Jeffery C. Ford	Peterson & Plante Internal Medicine	7/11/2009-9/30/2015
Kristina P. Hursey	Peterson & Plante Internal Medicine	7/11/2009-9/30/2015
Nehal T. Desai	Peterson & Plante Internal Medicine	7/11/2009-9/30/2015
Paul A. J. Plante	Peterson & Plante Internal Medicine	7/11/2009-9/30/2015
Kevin Nahagian	Carolina Shoulder & Knee	8/28/2012-9/30/2015