

## SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the State of Nebraska, acting through the Medicaid Fraud and Patient Abuse Unit of the Nebraska Department of Justice (the State) and Kathleen A. Wiley, individually (Kathleen) and as the owner of Kathy Wiley MS MSW, LLC (Kathy Wiley LLC). This Agreement, once executed, constitutes the final settlement of the Parties to this Agreement regarding the legal proceedings currently pending against Kathleen in the District Court of Lancaster County, Nebraska, Case No. CI 19-3535 concerning only the Covered Conduct of Kathleen, as described herein.

### RECITALS

Kathleen, at all relevant times, provided mental health services. Before March 24, 2014, Kathleen operated as a sole proprietorship doing business as Real Solutions. On March 24, 2014, Kathy Wiley LLC registered with the Nebraska Secretary of State to become a limited liability company. Kathy Wiley LLC became inactive due to nonpayment of taxes on June 2, 2015. Between June 3, 2015 and December 31, 2018, Kathleen's mental health business reverted to a sole proprietorship, but Kathleen continued to use Kathy Wiley LLC as a trade name. Kathleen closed her business on or around July 2019. At all relevant times, Kathleen's principal place of business was in Omaha, Douglas County, Nebraska.

- A. At all relevant times Kathleen had sole ownership of Kathy Wiley LLC and was the only employee of Kathy Wiley LLC. Also at all relevant times, Kathleen was credentialed to provide services to recipients of the Nebraska Medical Assistance Program (commonly known as Nebraska Medicaid) which was established pursuant to Neb. Rev. Stat. §68-1018.
- B. Kathleen and Kathy Wiley LLC received payment from Nebraska Medicaid or its managed

care contractor(s) for the services referenced in paragraph C.

- C. The State contends that it has certain civil claims, as specified below, against Kathleen and Kathy Wiley LLC for allegedly engaging in the following conduct, hereinafter referred to as the "Covered Conduct":

Kathleen and/or Kathy Wiley LLC submitted or caused to be submitted 1,201 claims totaling \$109,274.37 to Nebraska Medicaid or its managed care contractor between September 1, 2013 and December 31, 2018 for services that were non-reimbursable by Nebraska Medicaid, because documentation was not maintained as required under Nebraska Medicaid rules and regulations. Kathleen knowingly allowed these claims to be billed in disregard of the fact that documentation for the claims was not maintained.

- D. Kathleen and Kathy Wiley LLC are represented by counsel and deny all claims and allegations of the State and deny any wrongdoing or that they have any liability related to the Covered Conduct.
- E. This Agreement is neither an admission of liability or wrongdoing by Kathleen and Kathy Wiley LLC nor a concession by the State that its claims are not well-founded.
- F. To avoid the delay, uncertainty, inconvenience and expense of continued litigation of the above claims, the Parties have reached a full and final settlement pursuant to the terms and conditions set forth below:

#### TERMS AND CONDITIONS

1. Kathleen agrees to pay to the State the total sum of TWO HUNDRED THOUSAND and 00/100 DOLLARS (\$200,000) in one lump payment before May 3, 2021.
2. Upon payment of the full amount, the State agrees to dismiss its case in the District Court of

Lancaster County, Nebraska, Case No. CI 19-3535, against Kathleen and to release Kathleen from any further obligation involving the Covered Conduct.

3. No exercise, delay in exercising, or omission to exercise any of the rights, powers and remedies of the State shall be deemed a waiver thereof. Every such right, power and remedy may be exercised repeatedly.
4. Kathleen agrees not to submit or cause the submission of any future claims to Medicaid for her services.
5. Subject to any exceptions set forth below, and in consideration of the obligations set forth herein, **and conditioned upon full payment of the agreed amount**, the State, on behalf of itself, its officers, agents, agencies and departments, fully and finally releases Kathleen, and her successors and assigns, from any civil claim for the Covered Conduct that the State has or may have under the Nebraska False Medicaid Claims Act or any common law theories of payment by mistake, unjust enrichment, breach of contract, disgorgement, recoupment, conversion or fraud.
6. Kathleen acknowledges and agrees that this Agreement is only for the purpose of resolving the Covered Conduct and does not resolve, affect, or preclude any other action or proceeding that may be brought against her after December 31, 2018.
7. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person are the following:
  - a. Any civil, criminal, or administrative liability to the government of the United States.
  - b. Any criminal action under Nebraska law brought by any governmental entity, having concurrent jurisdiction with the Nebraska Attorney General, to prosecute the Covered Conduct under the laws of the State of Nebraska. No such action is known by the Nebraska Attorney General's Office and the Nebraska Attorney General's Office will make no efforts to refer this

matter to any such entity.

- c. Any administrative remedy, except as explicitly stated in this Agreement.
  - d. Any liability to the State or its agencies for any conduct other than the Covered Conduct.
8. Kathleen fully and finally releases the State and its agencies, employees, and agents from any claims (including attorney's fees, costs and expenses of any kind) which Kathleen asserted or could have asserted, or may assert in the future against the State related to the Covered Conduct and the State's investigation and prosecution thereof.
9. This Agreement is intended only for the benefit of the Parties hereto. The Parties do not release any claims that either of them may have against any other person or entity, unless specifically set forth herein.
10. Each Party hereto shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.
11. Kathleen represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.
12. This Agreement is governed by the laws of the State of Nebraska, and the parties agree that exclusive jurisdiction and venue for any dispute arising between them shall be in the District Court in Lancaster County, Nebraska.
13. The individual signing this Agreement on behalf of Kathy Wiley LLC represents and warrants that she is authorized to execute this document. The State's signatory represents that he is signing this Agreement in his official capacity and that he is authorized to sign this document.
14. The Parties agree this settlement is fair, adequate and reasonable under all the circumstances and is in the public interest.

15. This Agreement is binding upon Kathleen's successors, transferees, heirs and assigns.
16. This Agreement constitutes the entire agreement of the Parties and it may not be amended without the express written consent of the Parties.
17. The provisions of this Agreement shall be severable and should any provision be declared by a court of competent jurisdiction to be unenforceable, the other provisions of this Agreement shall remain in full force and effect.
18. The Parties may execute this agreement in counterparts, each of which shall constitute an original [which may include an original signature on a facsimile of the original agreement] and all of which shall constitute one and the same agreement.

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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

Dated: 5/31/2021

STATE OF NEBRASKA  
DOUGLAS J. PETERSON,  
Attorney General

By: Matthew A. Olson  
Matthew A. Olson, #26376  
Assistant Attorney General

Dated: 5/7/2021

KATHLEEN A. WILEY, Individually

Kathleen A. Wiley

Dated: 5/7/2021

KATHY WILEY MS MSW, LLC  
KATHLEEN WILEY, Owner

Kathleen A. Wiley