

SETTLEMENT AGREEMENT

I. Recitals

1. Parties. The Parties to this Settlement Agreement (Agreement) are the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS), the State of Nebraska, and The Mary Lanning Memorial Hospital Association d/b/a Mary Lanning HealthCare (Respondent). OIG, the State of Nebraska, and Respondent shall hereafter collectively be referred to as the "Parties."

2. Factual Background and Covered Conduct. On June 16, 2016, Respondent made a submission pursuant to OIG's Self Disclosure Protocol (Protocol), and the OIG accepted Respondent into the Protocol on June 30, 2016. Simultaneously, Respondent made a disclosure to the State of Nebraska on June 16, 2016. The OIG contends that Respondent knowingly presented to Medicare and Medicaid claims for items or services that Respondent knew or should have known were not provided as claimed and were false or fraudulent. Specifically, the OIG contends that during the period beginning January 1, 2010 through April 1, 2016, Respondent contracted with Franklin County Hospital for its employee, Dr. Daniel Mazour, to provide professional medical services, on a part-time basis to patients of Respondent at the Blue Hill Clinic, a rural health clinic owned and operated by Respondent in Blue Hill, Nebraska. Dr. Mazour reassigned his billing rights for services performed under the agreement to Respondent, which then billed for his services. Dr. Mazour documented and billed E&M codes for services performed in nursing homes that were not medically necessary and did not meet the requirements of the E&M code billed. Respondent billed for these codes. The OIG contends that the conduct described in this Paragraph (hereinafter referred to as the "Covered Conduct") subjects Respondent to civil monetary penalties, assessments, and exclusion under 42 U.S.C. §§ 1320a-7a and 1320a-7(b)(7).

The State of Nebraska contends that Respondent knowingly presented, or caused to be presented, claims to the Nebraska Medical Assistance Program, for items or services that were not provided as claimed in violation of Nebraska's False Medicaid Claims Act, Neb. Rev. Stat. §68-936(1)(a). Knowingly, for purposes of this agreement, shall be defined as actual knowledge, reckless disregard, or deliberate ignorance of the deficiencies of the services provided. Specifically, the State of Nebraska contends that during the period beginning January 1, 2010 through April 1, 2016, Respondent contracted with Franklin County Hospital for its employee, Dr. Daniel Mazour, to provide professional medical services, on a part-time basis, to patients of Respondent at the Blue Hill Clinic, a rural health clinic owned and operated by the Respondent in Blue Hill, Nebraska. Dr. Mazour reassigned his billing rights for services performed under the agreement to Respondent, which then billed for his services. Dr. Mazour documented

and billed E&M codes for services performed in nursing homes that were not medically necessary and did not meet the requirements of the E&M code billed. The State of Nebraska contends that the conduct described in this paragraph (hereinafter referred to as the "Covered Conduct") subjects Respondent to damages up to three times the single damages, penalties of \$10,000 per false claim, attorney fees and costs of litigation.

3. No Admission or Concession. This Agreement is neither an admission of liability by Respondent nor a concession by the OIG that its claims are not well-founded.

4. Intention of Parties to Effect Settlement. In order to avoid the uncertainty and expense of litigation, the Parties agree to resolve this matter according to the Terms and Conditions below.

II. Terms and Conditions

5. Payment. Respondent agrees to pay to OIG \$677,239.56 (Settlement Amount), of which \$451,493.07 is restitution of \$343,499.32 to OIG and \$107,993.75 to the State of Nebraska. This payment shall be made via wire transfer to the United States Department of Health and Human Services according to written instructions provided by OIG. Respondent shall make full payment no later than three business days after the Effective Date.

6. Release by the OIG. In consideration of the obligations of Respondent under this Agreement and conditioned upon Respondent's full payment of the Settlement Amount, the OIG releases Respondent from any claims or causes of action it may have against Respondent under 42 U.S.C. §§ 1320a-7a and 1320a-7(b)(7) for the Covered Conduct. The OIG and HHS do not agree to waive any rights, obligations, or causes of action other than those specifically referred to in this Paragraph. This release is applicable only to the Respondent and is not applicable in any manner to any other individual, partnership, corporation, or entity.

7. Release by the State of Nebraska. Subject to the exceptions set forth below in Paragraph 10, and in consideration of the obligations set forth herein, and conditioned upon full payment of the settlement amount, the State, on behalf of itself, its officers, agents, agencies and departments, fully and finally release the Respondent, along with their 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, disorgement, recoupment, conversion or fraud.

Except as noted above, the Respondent acknowledges and agrees that this Settlement Agreement and Release is only for the purpose of resolving the covered

conduct stated above in Nebraska MFCU File No. 2016-0049, and does not resolve, affect, or preclude any other action or proceeding that may be brought against the Respondent.

8. Agreement by Released Parties. Respondent shall not contest the Settlement Amount or any other term of this Agreement in any federal, state, or administrative forum. Respondent waives all procedural rights granted under the exclusion statute (42 U.S.C. § 1320a-7), the CMPL (42 U.S.C. § 1320a-7a) and related regulations (42 C.F.R. Part 1003), and HHS claims collection regulations (45 C.F.R. Part 30), including, but not limited to, notice, hearing, and appeal with respect to the Settlement Amount.

9. Reservation of Claims. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Respondent) are the following:

- a. Any criminal, civil, or administrative claims 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.

10. Reservation of Claims by the State of Nebraska. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including Respondent) are the following:

- a. 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.
- b. Any administrative remedy, except as explicitly stated in this Stipulation, although no such action is known of or contemplated by the Attorney General.

c. Any liability to the State or its agencies for any conduct other than the Covered Conduct.

11. Binding on Successors. This Agreement is binding on Respondent and its successors, heirs, transferees, and assigns.

12. Costs. Each Party to this Agreement shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

13. No Additional Releases. 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, except as provided in paragraph 14.

14. Claims Against Beneficiaries. Respondent waives and shall not seek payment, including copay and deductible amounts, 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.

15. Effect of Agreement. This Agreement constitutes the complete agreement between the Parties. All material representations, understandings, and promises of the Parties are contained in this Agreement. Any modifications to this Agreement shall be set forth in writing and signed by all Parties. Respondent represents that this Agreement is entered into with advice of counsel and knowledge of the events described herein. Respondent further represents that this Agreement is voluntarily entered into in order to avoid litigation, without any degree of duress or compulsion.

16. Effective Date. The Effective Date of this Agreement shall be the date of signing by the last signatory.

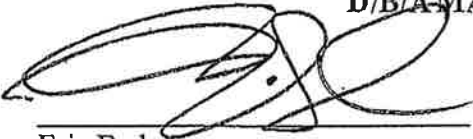
17. Disclosure. Respondent consents to the OIG's disclosure of this Agreement, and information about this Agreement, to the public.

18. Execution in Counterparts. This Agreement may be executed in counterparts, each of which constitutes an original, and all of which shall constitute one and the same agreement.

19. Authorizations. The individuals signing this Agreement on behalf of the Respondent represent and warrant that they are authorized by Respondent to execute this Agreement. The individuals signing this Agreement on behalf of the OIG represent and

warrant that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

**THE MARY LANNING MEMORIAL HOSPITAL ASSOCIATION
D/B/A MARY LANNING HEALTHCARE**



Eric Barber
President and CEO
The Mary Lanning Memorial Hospital
Association

3/21/18
Date

Julie A. Knutson
Baird Holm, LLP

Date

**FOR THE OFFICE OF INSPECTOR GENERAL OF
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Lisa M. Re
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services

Date

Tamar V. Terzian
Senior Counsel
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services

Date

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D/B/A MARY LANNING HEALTHCARE**

Eric Barber
President and CEO
The Mary Lanning Memorial Hospital
Association

Date

Julie A. Knutson

Julie A. Knutson
Baird Holm, LLP

3/21/2018
Date

**FOR THE OFFICE OF INSPECTOR GENERAL OF
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Lisa M. Re
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services

Date

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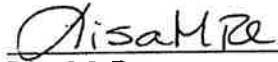
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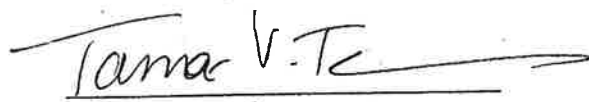
Date

**FOR THE OFFICE OF INSPECTOR GENERAL OF
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**



Lisa M. Re
Assistant Inspector General for Legal Affairs
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services

3/30/2018
Date



Tamar V. Terzian
Senior Counsel
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services

4/2/2018
Date

FOR THE STATE OF NEBRASKA

Vicki L. Adams

Vicki L. Adams
Assistant Attorney General
State of Nebraska

3/21/18
Date