

**CONSENT AGREEMENT
BETWEEN
NORMAN ISAK HIRSCH, D.O.
AND
THE STATE MEDICAL BOARD OF OHIO**

This Consent Agreement is entered into by and between Norman Isak Hirsch, D.O. [Dr. Hirsch], and the State Medical Board of Ohio [the Board], a state agency charged with enforcing Chapter 4731., Ohio Revised Code.

Dr. Hirsch enters into this Consent Agreement being fully informed of his rights under Chapter 119., Ohio Revised Code, including the right to representation by counsel and the right to a formal adjudicative hearing on the issues considered herein.

BASIS FOR ACTION

This Consent Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. The Board is empowered by Section 4731.22(B)(9), Ohio Revised Code, to limit, revoke, suspend a certificate, refuse to register or reinstate an applicant, or reprimand or place on probation the holder of a certificate for “[a] plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony.”
- B. The Board enters into this Consent Agreement in lieu of formal proceedings based upon the violation of Section 4731.22(B)(9), Ohio Revised Code, to wit: 18 U.S.C. § 1035, False Statements Related to Health Care Matters, as set forth in Paragraph (E) below, and expressly reserves the right to institute formal proceedings based upon any other violations of Chapter 4731. of the Revised Code, whether occurring before or after the effective date of this Agreement.
- C. Dr. Hirsch is licensed to practice osteopathic medicine and surgery in the State of Ohio, License # 34-002533.
- D. Dr. Hirsch states that he is also licensed to osteopathic practice medicine and surgery in the State of Kentucky.
- E. Dr. Hirsch states that on or about February 9, 2001, he voluntarily disclosed to the United States Department of Justice, Federal Bureau of Investigation, that he had violated, *inter alia*, the False Claim Act, 31 U.S.C. 3729, *et seq.*, by submitting claims for reimbursement for psychiatric related services at a higher CPT code than was appropriate for the services rendered, and by submitting claims for

reimbursement for services that were not actually performed. Dr. Hirsch specifically states that to his knowledge the federal government had no awareness of such false claims, and that he chose to disclose such information of his volition as a matter of conscience. Dr. Hirsch further states that the full scope of his acts related to the submission of false claims was strictly limited to the two aforementioned types of misrepresentation, and expressly attests that at no time were any of his patients ever subjected to unnecessary medical procedures or testing in order to generate reimbursement for services that were not otherwise clinically indicated. Additionally, Dr. Hirsch states that on or about July 20, 2001, he voluntarily notified the Board regarding the federal investigation of his billing practices, of which the Board had not previously been made aware, and informed the Board of his ongoing voluntary cooperation with the Healthcare Fraud Task Force related to this matter. Dr. Hirsch admits that on or about December 13, 2001, he and the United States of America entered into a criminal Plea Agreement that resulted in Dr. Hirsch's plea of guilty to Count 1 of the Information charging him with False Statements Relating to Health Care Matters, a felony. Dr. Hirsch admits that on or about December 13, 2001, he also executed a civil Settlement Agreement that is presently being processed by the United States of America's Department of Justice, Department of Health and Human Services, and other government agencies, and that such agreement sets forth Dr. Hirsch's commitments to make specified financial restitution and to undertake formal training in proper reimbursement ethics and standards. Dr. Hirsch further states that on or about December 13, 2001, he and the Ohio Bureau of Workers' Compensation entered into a Settlement Agreement setting forth the terms of Dr. Hirsch's commitment to make specified financial restitution for overpayment for services. Such aforementioned Plea Agreement and Settlement Agreements are attached and hereby incorporated into this Consent Agreement.

AGREED CONDITIONS

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any formal proceedings at this time, Dr. Hirsch knowingly and voluntarily agrees with the Board to the following terms, conditions and limitations:

SUSPENSION OF CERTIFICATE

1. The certificate of Dr. Hirsch to practice osteopathic medicine and surgery in the State of Ohio shall be **SUSPENDED** for a period of two years from the effective date of this Consent Agreement.

INTERIM PROVISIONS

2. During the period that Dr. Hirsch's certificate to practice osteopathic medicine and surgery in the State of Ohio is suspended, Dr. Hirsch shall comply with the following terms, conditions and limitations:

- a. Dr. Hirsch shall obey all federal, state and local laws, and all rules governing the practice of osteopathic medicine and surgery in Ohio; shall comply with all terms and conditions of his December 13, 2001 criminal Plea Agreement in the United States District Court for the Southern District of Ohio, Western Division, including any additional requirements arising from his final sentencing hearing in that matter, which is currently scheduled for May 13, 2002; and shall comply with all terms and conditions of his December 13, 2001 civil Settlement Agreements with the United States Department of Justice and the Ohio Bureau of Workers' Compensation.

Quarterly Declarations and Appearances

- b. Dr. Hirsch shall submit quarterly declarations under penalty of Board disciplinary action and/or criminal prosecution, stating whether there has been compliance with all the conditions of this Consent Agreement. The first quarterly declaration must be received in the Board's offices on the first day of the third month following the month in which this Consent Agreement becomes effective, provided that if the effective date is on or after the 16th day of the month, the first quarterly declaration must be received in the Board's offices on the first day of the fourth month following. Subsequent quarterly declarations must be received in the Board's offices on or before the first day of every third month.
- c. Dr. Hirsch shall appear in person for an interview before the full Board or its designated representative during the third month following the effective date of this Consent Agreement. Subsequent personal appearances must occur every three months thereafter, and/or as otherwise requested by the Board. If an appearance is missed or is rescheduled for any reason, ensuing appearances shall be scheduled based on the appearance date as originally scheduled.

Community Service

- d. Dr. Hirsch shall complete, and shall provide evidence satisfactory to the Board of successful completion of, a minimum of 100 hours of community service within Ohio during each year his certificate is suspended pursuant to this agreement. Dr. Hirsch shall submit a proposed plan to the Board identifying the type(s) of community service to be performed, the organization(s) sponsoring such services, the location(s) where such services will be provided, and the time period(s) during which such services will be rendered. This proposed plan must be approved by the Board prior to commencement of the services in order for service hours to apply toward the annual minimum hours required. All documentation required under this paragraph shall be submitted in a format

acceptable to the Board and must be received in the Board's office no later than the annual anniversary date of the effective date of this Consent Agreement.

Professional Ethics Course(s)

- e. Within one year of the effective date of this Consent Agreement, or as otherwise approved by the Board, Dr. Hirsch shall provide the Board with acceptable documentation of successful completion of a course or courses dealing with professional ethics. The exact number of hours and the specific content of the course or courses shall be subject to the prior approval of the Board or its designee. Any courses taken in compliance with this provision shall be in addition to the standard mandatory Continuing Medical Education requirements for re-licensure.

Approval of Certified Public Accountant

- f. Prior to or at the time that Dr. Hirsch submits his application for reinstatement, he shall submit for the Board's prior approval the name of a Certified Public Accountant who shall oversee Dr. Hirsch's medical business practices on an ongoing basis as specified in Paragraph 3.b. below.

PROBATIONARY CONDITIONS

3. Upon reinstatement pursuant to an application and payment of appropriate fees, Dr. Hirsch's certificate to practice osteopathic medicine and surgery in the State of Ohio shall be subject to the following PROBATIONARY terms, conditions, and limitations for an indefinite period of time, but not less than five years:
 - a. Dr. Hirsch shall continue to be subject to the terms, conditions, and limitations specified in Paragraphs 2.a., 2.b., 2.c., and shall continue to complete and document 100 hours of community service for each year of probation, in the manner described in Paragraph 2.d., as set forth above.

Financial Record Audits/Certifications

- b. Dr. Hirsch's financial practices shall be overseen by a Certified Public Accountant, who shall generally review Dr. Hirsch's business records to ensure that they comply with standard accounting practices; shall specifically review Dr. Hirsch's patient charts, appointment schedules, and associated billing records to verify that all claims submitted for reimbursement are based upon appropriate CPT codes for services rendered; and shall prepare a written report of such review to the Board on a quarterly basis. Dr. Hirsch shall cause such quarterly financial reports to be received in the Board's offices no later than the due date for Dr. Hirsch's quarterly declarations, and shall promptly make any

and all underlying information used as the basis for such quarterly financial reports available to the Board upon demand. The Certified Public Accountant's specific review of Dr. Hirsch's patient charts, appointment schedules, and associated billing records may be based upon a random sampling, with the number of patient encounters to be determined by the Board. In the event that the approved Certified Public Accountant becomes unable or unwilling to serve, Dr. Hirsch shall immediately notify the Board in writing and shall submit for the Board's prior approval the name of another Certified Public Accountant within 30 days. Dr. Hirsch shall refrain from practicing until such supervision is in place, unless otherwise determined by the Board.

REQUIRED REPORTING BY LICENSEE

4. Within thirty days of the effective date of this Consent Agreement, Dr. Hirsch shall provide a copy of this Consent Agreement by certified mail, return receipt requested, to the proper licensing authority of any state or jurisdiction in which he currently holds any professional license. Dr. Hirsch further agrees to provide a copy of this Consent Agreement by certified mail, return receipt requested, at time of application to the proper licensing authority of any state in which he applies for any professional license or reinstatement of any professional license. Further, Dr. Hirsch shall provide this Board with a copy of the return receipt as proof of notification within thirty days of receiving that return receipt.
5. Within thirty days of the effective date of this Consent Agreement, Dr. Hirsch shall provide a copy of this Consent Agreement to all employers or entities with which he is under contract to provide health care services or is receiving training; and the Chief of Staff at each hospital where he has privileges or appointments. Further, Dr. Hirsch shall provide a copy of this Consent Agreement to all employers or entities with which he contracts to provide health care services, or applies for or receives training, and the Chief of Staff at each hospital where he applies for or obtains privileges or appointments.

FAILURE TO COMPLY

If, in the discretion of the Secretary and Supervising Member of the Board, Dr. Hirsch appears to have violated or breached any term or condition of this Consent Agreement, the Board reserves the right to institute formal disciplinary proceedings for any and all possible violations or breaches, including, but not limited to, alleged violations of the laws of Ohio occurring before the effective date of this Consent Agreement.

If the Secretary and Supervising Member of the Board determine that there is clear and convincing evidence that Dr. Hirsch has violated any term, condition or limitation of this Consent Agreement, Dr. Hirsch agrees that the violation, as alleged, also constitutes clear and convincing evidence that his continued practice presents a danger of immediate and serious harm

to the public for purposes of initiating a summary suspension pursuant to Section 4731.22(G), Ohio Revised Code.

DURATION/MODIFICATION OF TERMS

Dr. Hirsch shall not request termination of this Consent Agreement for a minimum of seven years from the effective date of this Consent Agreement. In addition, Dr. Hirsch shall not request modification of the probationary terms contained herein for a minimum of three years from the effective date of this Consent Agreement. Otherwise, the above-described terms, limitations and conditions may be amended or terminated in writing at any time upon the agreement of both parties.

ACKNOWLEDGMENTS/LIABILITY RELEASE

Dr. Hirsch acknowledges that he has had an opportunity to ask questions concerning the terms of this Consent Agreement and that all questions asked have been answered in a satisfactory manner.

Any action initiated by the Board based on alleged violations of this Consent Agreement shall comply with the Administrative Procedure Act, Chapter 119., Ohio Revised Code.

Dr. Hirsch hereby releases the Board, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.


This Consent Agreement shall be considered a public record as that term is used in Section 149.43, Ohio Revised Code, and may be reported to appropriate organizations, data banks, and governmental bodies. Dr. Hirsch agrees to provide his social security number to the Board and hereby authorizes the Board to utilize that number in conjunction with that reporting.

EFFECTIVE DATE

It is expressly understood that this Consent Agreement is subject to ratification by the Board prior to signature by the Secretary and Supervising Member and shall become effective upon the last date of signature below, or June 1, 2002, whichever is later.



NORMAN ISAK HIRSCH, D.O.



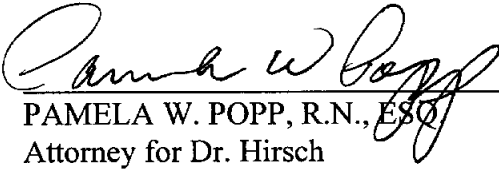
ANAND G. GARG, M.D.
Secretary

5/6/02

DATE

05/06/02

DATE



PAMELA W. POPP, R.N., ESQ.
Attorney for Dr. Hirsch

5/6/01

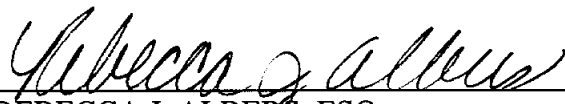
DATE



RAYMOND J. ALBERT
Supervising Member

5/8/02

DATE



REBECCA J. ALBERS, ESQ.
Assistant Attorney General

5/8/02

DATE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA :
 :
 v. : NO.
 :
 NORMAN I. HIRSCH :

PLEA AGREEMENT

The United States of America and Defendant NORMAN I. HIRSCH, represented herein by Pamela W. Popp, Esq., hereby enter into the following Plea Agreement pursuant to Rule 11(e) of the Federal Rules of Criminal Procedure:

1. Defendant NORMAN I. HIRSCH will enter a plea of guilty to Count 1 of the Information filed herein, which charges him with False Statements Relating To Health Care Matters, in violation of 18 U.S.C. §1035 and §2.
2. Defendant NORMAN I. HIRSCH understands that the maximum penalty which may be imposed pursuant to his plea of guilty to Count 1 of the Information, False Statements Relating to Health Care Matters, in violation of 18 U.S.C. §1035, is a term of imprisonment of five (5) years, a fine of \$250,000.00, and a three (3) year term of supervised release.
3. Defendant NORMAN I. HIRSCH will pay a special assessment of \$100.00 as required by 18 U.S.C. §3013. The payment shall be made to the United States District Court, at the Clerk's Office, 100 East Fifth Street, Cincinnati, OH 45202.
4. Defendant NORMAN I. HIRSCH agrees to testify truthfully and completely concerning all matters pertaining to the Information and to any and all other unlawful activities related to the delivery of health care services of which he may have been involved or as to which

he may have knowledge. Defendant further agrees to provide a complete statement to authorities of the United States concerning such matters prior to the entry of his guilty plea pursuant to this agreement. Defendant agrees to submit to supplemental debriefings and testify on such matters whenever requested by authorities of the United States, whether before or after his plea is entered. Pursuant to §1B1.8 of the Federal Sentencing Guidelines, the United States agrees that any self-incriminating information so provided will not be used against the Defendant in determining the applicable guideline range for sentencing, or as a basis for upward departure from such guideline range.

5. If such plea of guilty is entered, and not withdrawn, and Defendant NORMAN I. HIRSCH acts in accordance with all other terms of this agreement, the United States Attorney for the Southern District of Ohio agrees not to file additional criminal charges against Defendant based on his activities charged in the Information or based on other unlawful activities related to the delivery of health care services occurring prior to the date of the Information and as to which Defendant NORMAN I. HIRSCH gives testimony or makes statements pursuant to this agreement.

6. The parties agree that pursuant to United States Sentencing Guidelines ("U.S.S.G.") §2B1.1(b)(1)(C), the relevant conduct attributable to Defendant NORMAN I. HIRSCH, as the specific offense characteristic which can be proved by the United States independent of the proffer for the offense to which he is pleading guilty is more than \$10,000.00 but less than \$30,000.00. The parties further understand that this agreement is not binding on the Court and the final determination concerning the amount of money to be considered as relevant conduct for purposes of sentencing rests with the Court.

7. The parties agree that Defendant NORMAN I. HIRSCH is liable for full restitution to those Victim Health Care Benefit Programs referred to in the Information in an amount to be determined by the United States Probation Department and submitted to the Court prior to sentencing. The parties further understand that this agreement is not binding on the Court and the final determination of the amount of restitution rests with the Court.

8. The parties agree that pursuant to U.S.S.G. §3E1.1, at the time of his plea, Defendant NORMAN I. HIRSCH has accepted responsibility for these offenses and that he is entitled to a two (2) level reduction in the applicable base offense level under the sentencing guidelines. At the time of sentencing, the United States will not object to this same determination provided Defendant's conduct has continued to demonstrate compliance with the terms of U.S.S.G. §3E1.1. The parties further understand that this agreement is not binding on the Court and the final determination concerning the Defendant's acceptance of responsibility for purposes of sentencing rests with the Court.

9. By virtue of pleading guilty to Count 1 of the Information, Defendant NORMAN I. HIRSCH understands that he is not a prevailing party as defined in 18 U.S.C. §3006(A), and hereby expressly waives any right he may have to sue the United States.

10. Defendant NORMAN I. HIRSCH understands that this agreement does not protect him from prosecution for perjury, should he testify untruthfully, or for making false statements, nor does it protect him from prosecution for other crimes or offenses as to which he does not make admissions or give truthful information and which the United States discovers by independent investigation. Further, should Defendant fail to comply with the terms and conditions set forth herein or should he fail to appear as required for sentencing, this agreement is

void and of no effect, and Defendant shall be subject to prosecution as if the agreement had never been made.

11. Defendant NORMAN I. HIRSCH is aware that his sentence will be imposed in accordance with the United States Sentencing Guidelines and Policy Statements. The Defendant is further aware that the District Court has jurisdiction and authority to impose any sentence within the statutory maximum set forth for the offenses to which the Defendant pleads guilty. The Defendant is aware that the Court has not yet determined a sentence. The Defendant is also aware that any estimate of the probable sentencing range under the United States Sentencing Guidelines that the Defendant may have received from his counsel, the United States, or the Probation Office is a prediction, not a promise, and is not binding on the United States, the Probation Office, or the Court. The United States makes no promise or representation concerning what sentence the Defendant will receive, and the Defendant cannot withdraw the guilty plea based upon the actual sentence imposed.

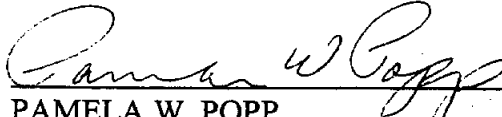
12. It is agreed that if the Court refuses to accept any provision of this Plea Agreement, neither party is bound by any of its provisions, Defendant NORMAN I. HIRSCH may withdraw his guilty plea, and the United States Attorney for the Southern District of Ohio may pursue prosecution of the same or additional charges without prejudice.

13. No additional promises, agreements or conditions have been made relative to this matter other than those expressly set forth herein, and none will be made unless in writing and signed by all parties.

12/13/01
DATED

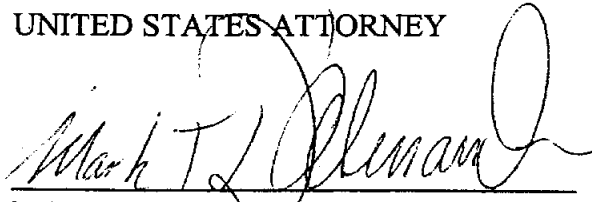


NORMAN I. HIRSCH
Defendant



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P.O. Box 2673
Covington, KY 41012-2673
(859) 655-4200
Attorney for Defendant

GREGORY G. LOCKHART
UNITED STATES ATTORNEY



MARK T. D'ALESSANDRO (0019877)
Assistant United States Attorney
Two Nationwide Plaza
280 North High Street, 4th Floor
Columbus, OH 43215
(614) 469-5715

SETTLEMENT AGREEMENT

OPY

I. PARTIES

1. This civil Settlement Agreement (Agreement) is entered into between the United States of America, acting through the United States Department of Justice (USDOJ), the United States Department of Health and Human Services, Office of Inspector General (HHS-OIG) (collectively the "United States"), the State of Ohio, Department of Job and Family Services ("State") and Dr. Norman I. Hirsch, D.O. ("Hirsch") (collectively the "Parties").

II. RECITALS

2. On February 9, 2001, Hirsch voluntarily disclosed to the United States Department of Justice, Federal Bureau of Investigation ("FBI") that Hirsch had violated the False Claims Act, 31 U.S.C. 3729, *et seq*, and other civil common laws including; unjust enrichment, conversion and breach of contract (hereinafter the "disclosure"). Specific violations and dates are set forth below.

3. Norman I. Hirsch is a Doctor of Osteopathic Medicine specializing in Psychiatry. Hirsch has been licensed in the State of Ohio since 1977. Hirsch is a sole practitioner operating a private practice specializing in Psychiatry.

4. Hirsch submitted false claims for reimbursement to the United States and the State. Hirsch submitted claims for reimbursement for services which were not performed and billed for a higher reimbursement rate than should have been submitted, commonly known as "upcoding."

5. At the time of the disclosure Hirsch had fourteen (14) active Medicare patients and approximately fourteen (14) Medicaid patients. Each patient was typically treated once a month for pharmacological management. Visits typically lasted ten to fifteen minutes. Hirsch completed reimbursement forms for qualifying visits which should have correctly cited Current Procedural Terminology ("CPT") Code 90862, which correctly established the level of care and time necessary for treatment.

6. In year 2000 Medicare reimbursement requests, Hirsch fraudulently billed for CPT Code 99125 when CPT Code 90862 was appropriate for services rendered. CPT Code 99125 is reimbursed at a higher rate than CPT Code 90862. Hirsch billed at the higher rate knowing the services for CPT Code 99125 had not been performed and that he was fraudulently submitting claims for reimbursement.

7. In year 2000 Medicare reimbursement requests, Hirsch fraudulently billed for visits with patients which did not occur. An extra visit was billed at an approximate two (2) week interval from the date of the actual visit. Hirsch also billed for missed visits by the patients.

8. In year 2000 Medicaid reimbursement requests, Hirsch fraudulently billed CPT Code 90807 when CPT Code 90862 or 90805 were appropriate for services rendered. CPT Code 90807 is reimbursed at a higher rate than CPT Code 90862 or 90805. Hirsch billed at the higher rate knowing the services for CPT Code 90807 had not been performed and that he was fraudulently submitting claims for reimbursement.

9. In year 2000, Hirsch billed Medicare for extra visits which did not occur using CPT Code 90807, a practice known as "phantom visits."

10. From 1995 until 2000, Hirsch upcoded to CPT Code 90844 , a full hour psychiatric session, and G0074, from the twenty to thirty minute individual psychotherapy code. Similar upcoding to CPT code 90806 and 90807, forty-five to fifty minute individual psychotherapy sessions, occurred during this period. Some of the CPT Code 90844 billings Hirsch submitted to Medicare were valid. Additionally during this time period, Hirsch billed Medicare for CPT Code 99214 and 99215 which were upcoded from the pharmacological management CPT Code 90862.

11. From 1997 until 2000, Hirsch fraudulently billed Medicare and Medicaid for missed sessions and upcoded pharmacological services (as described above).

12. From 1995 to 2000, Hirsch fraudulently billed the Medicare and Medicaid programs. The false claims submitted were neither consistent nor regular.

13. An investigation by the United States has estimated and concluded that overpayments to Hirsch from the Medicare program in the amount of fifty-nine thousand two hundred ninety- four dollars and eighty eight cents (\$59, 294.88) occurred based on the above described conduct. Additionally, overpayments to Hirsch from the Medicaid program in the amount of five thousand seven hundred seventeen dollars and fifty two cents (\$5,717.52) occurred based on the above described conduct.

14. The United States, the State and Hirsch desire to resolve the matters set forth in this Agreement without further litigation. Nothing in this Agreement shall be construed as an admission of fact, liability, or wrongdoing, or as a waiver of any rights or legal defenses by Hirsch or his respective current and former directors, officers, employees, agents, businesses, divisions, subsidiaries, affiliates, parents, successors and assigns.

III. TERMS

15. For valuable consideration, mutually presented and received, the Parties agree as follows:

16. Hirsch shall initiate and complete a wire transfer in the amount of eight thousand dollars (\$8000.00), a portion of the total obligation of one hundred thirty thousand twenty four dollars and eighty cents (\$130, 024.80) made payable to the "United States Department of Justice" within thirty (30) days of the effective date of this Agreement. Monthly payments in the amount of three thousand four hundred thirty-four dollars and four cents (\$3434.04) shall be made by Hirsch, for a term of three years in satisfaction of the total obligation stated above with interest at the rate of three(3) percent.; the monthly obligations shall commence sixty (60) days after the effective date of this Agreement. A request for directions for the wire transfer will be made by Hirsch ten (10) days prior to the wire transfer to the United States Attorney's Office for the Southern District of Ohio, Eastern Division. The contact and address for said request for directions shall be made to (unless otherwise indicated): Financial Litigation Unit, United States Attorney's Office, 280 North High Street, 4th Floor, Columbus, Ohio 43215, (614) 469-5715.

17. The United States shall have no further civil or administrative monetary claim against Hirsch, or his officers, directors, affiliates, agents or employees against which the United States has or may have under the False Claims Act, 31 U.S.C. §§ 3729-33, the Contract Disputes Act, 41 U.S.C. §§ 601-613, the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812, the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a or common law remedies for the conduct specified in the Recitals above.

18. **Compliance Provisions:** Hirsch agrees to pursue the following course of action for the three (3) year period commencing with the effective date of this Agreement, to ensure full and accurate compliance with Medicare, Medicaid, and all other Federal health care statutes, regulations, and program requirements:

A. **Training & Certification:** Within sixty (60) days of the effective date of this Agreement, Hirsch shall be trained in the proper reimbursement standards, program policies, and verification and compliance procedures to ensure the propriety and accuracy of claims for services and items furnished to Federal health care program patients. The training shall be conducted by an independent and appropriately trained person or entity with sufficient knowledge of Federal and/or State health care statutes, regulations, program requirements, policies and procedures.

1. This training program shall provide for no less than four (4) hours annually for this three (3) year period. Hirsch will sign a certification indicating attendance at the training session and further attesting to an understanding of the provisions in the billing policy manual and all applicable health care laws, including Medicare and Medicaid

statutes, regulations, and standards of business conduct. These certifications will be maintained by Hirsch and shall be available for inspection by HHS/OIG or its duly authorized representatives. A schedule and topic outline of the training shall be included in the Annual Report. At a minimum, the training sessions will include the following:

- a. The proper billing and coding standards and procedures for the submission of accurate claims to a Federal and/or State health care program for services rendered and/or items provided;
- b. All applicable statutes, rules, regulations, and guidelines related to Federal and/or State health care program billing, reimbursement and the legal sanctions for improper billing;
- c. All applicable statutes, rules, regulations, and guidelines related to health care fraud and abuse and the legal sanctions for violating these laws; and
- d. Examples of improper or fraudulent coding or billing.

B. Reporting: Hirsch shall submit annual reports to HHS/OIG describing the measures Hirsch has taken to implement and maintain the integrity program contemplated by this paragraph and to ensure compliance with the terms of this Agreement. Each Annual Report shall be submitted on the thirtieth (30th) day following the anniversary date of the effective date of this Agreement for its duration as set forth in paragraph 18 of this Agreement.

1. Unless otherwise stated, all notifications and reports required under the terms of this paragraph shall be submitted to the entities listed below:

Civil Recoveries Branch - Compliance Unit
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
330 Independence Avenue, SW
Cohen Building, Room 5527
Washington, D.C. 20201
(202) 619-2078 --- tel
(202) 205-0604 --- fax

2. All notices and correspondence to Hirsch shall be sent to: Dr. Norman Hirsch, P.O. Box 19026, Cincinnati, Ohio 45219 (address)
(phone number) 513-232-3676 (facsimile number).

3. In accordance with the provisions above, the Annual Report shall include:

- a. A description, schedule and topic outline of the training programs participated in pursuant to section 18.A of this Agreement, and a copy of Hirsch's certification that he received training pursuant to the requirements set forth in section 18.A of this Agreement.
- b. A certification by Hirsch that he has disclosed all probable violations pursuant to paragraph 18.C of this Agreement.
- c. A certification signed by Hirsch certifying that he has reviewed the Annual Report, he has made a reasonable inquiry regarding its content and believes that the information is accurate and truthful.

C. **Disclosure of Misconduct:** During the term of this Agreement, Hirsch will report to HHS/OIG any reliable evidence of actions that Hirsch, after promptly considering such evidence with outside consultants or counsel, believes constitutes a probable violation of any state or Federal or state civil or criminal statutes, regulation, or rule governing a Federal or state health care program. When such disclosure is required by the Agreement, Hirsch shall make the required disclosure as soon as practicable, but, in no event later than thirty (30) calendar days after becoming aware of the existence of the probable violation. The evidence to be disclosed under this paragraph will include evidence relating to conduct by any of Hirsch's personnel and any person or entity with a financial interest in Hirsch's business, and it will include evidence disclosed to Hirsch from any source. Notwithstanding any other provision of this paragraph, any disclosures of information obtained by Hirsch from his legal counsel shall not constitute a waiver of the attorney-client privilege. Hirsch will certify in writing to HHS/OIG that all disclosures made under this paragraph have been fully investigated and that appropriate actions have been taken to ensure that Hirsch is in compliance with all state and Federal civil, criminal, and administrative statutes, regulations and rules governing all Federal and/or state health care programs. Nothing in the paragraph shall constitute a waiver by HHS/OIG of its right to enforce any and all statutes and regulations governing any Federal and/or State health care program, except those expressly released in this Agreement.

19. The State shall have no further civil or administrative monetary claim against Hirsch, or his officers, directors, affiliates, agents or employees against which the State may have a claim pursuant to the laws of the State of Ohio.

20. The Terms of this Agreement are strictly limited to the Recitals agreed to by the Parties as set forth above.

21. Hirsch agrees that the settlement and Agreement are fair, adequate and reasonable, that he enters into this Agreement freely and voluntarily and that he will not challenge the Agreement pursuant to federal or state law.

22. Hirsch fully and finally releases the United States and the State, their agencies, employees, servants, and agents from any claims (including attorneys fees, costs, and expenses of every kind and however denominated) which Hirsch has asserted, could have asserted, or may assert in the future against the United States and the State, their agencies, employees, servants, and agents, related to the Recitals above and the United States' investigation thereof, as well as this Agreement.

23. Hirsch warrants that the above facts are true and correct and represent a full disclosure of all known misconduct related to the areas described above.

24. The United States entered into this Settlement Agreement in reliance on facts in the Recital above provided by Hirsch. In the event the United States or the State learns that the facts or disclosures are untrue, as determined by the United States and/or State, this Agreement shall be null and void. Upon such determination by the United States and/ or State, any and all information disclosed prior to or after this Agreement may be used for any purpose in seeking a civil or administrative remedy.

25. The United States' rights against other tortfeasors, are expressly reserved. The Parties are the sole intended beneficiaries of this Settlement Agreement and all rights not expressly released are reserved.

26. The United States does **not** release Hirsch from any criminal, civil, or administrative claims arising under Title 26, U.S. Code (Internal Revenue Code).

27. This Agreement does **not** release Hirsch from any liability under any contract or any modifications thereof, for the delivery of any deficient or defective products/services, from liability under any express or implied product/service liability warranties, or liability for the failure to deliver items or services due.

28. This Agreement does **not** release Hirsch from any claims for personal injury or property damage or for other consequential damages arising from the products/services delivered under any contract or any modifications thereof.

29. This Settlement Agreement does **not** release Hirsch from any criminal liability under Title 18 of the U.S. Code.

30. This Settlement Agreement does **not** release Hirsch from any administrative action for suspension or debarment.

31. Hirsch waives and will not assert any defenses he may have to any criminal prosecution or administrative action relating to the matters covered in this Agreement, which defenses 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 Settlement bars a remedy sought in such criminal prosecution or administrative action. Hirsch agrees that this Agreement is not punitive in purpose or effect. 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.

32. Each Party reserves the right to enforce any claim[s] or cause of action[s] that is/are created by this Agreement.

33. The Parties shall bear their own respective costs and fees related to the matters covered by this Agreement.

34. This Agreement may not be changed, altered, or modified, except in writing signed by all parties hereto. This Settlement Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by all parties.

35. Each person who signs this Agreement in a representative capacity warrants that he/she is duly authorized to do so.

36. This Agreement is effective on the date it has been executed by all the Parties (the date on which the last of the Parties has executed the Agreement).

37. This Agreement supercedes any prior and contemporaneous understandings and agreements and contains the entire agreement of the Parties with respect to the subject matter herein.

38. This Agreement may be executed in counterparts, and all counterparts together shall be construed as one Agreement.

NORMAN I. HIRSCH, D.O.

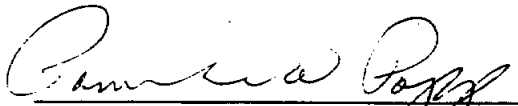
by:


NORMAN I. HIRSCH, D.O.

Date: 12/13/01

GREENEBAUM, DOLL & MCDONALD
PLLC

by:


PAMELA W. POPP, R.N. Esquire
Attorney for Hirsch

Date: 12/13/01

UNITED STATES OF AMERICA

by:

DALE A. GOLDBERG
Chief, Civil Division
Office of the United States Attorney
for the Southern District of Ohio

Date: _____

DOUGLAS W. SQUIRES
Assistant United States Attorney
Office of the United States Attorney
for the Southern District of Ohio

Date: _____

LEWIS MORRIS
Assistant Inspector General
United States Department of
Health and Human Services

Date: _____

STATE OF OHIO

by:

MARTHA LANG
Assistant Bureau Chief
Bureau of Plan Operations
Ohio Department of Job and Family
Services

Date: _____

7

SETTLEMENT AGREEMENT

COPY

This Settlement Agreement, dated this 13th day of December, 2001, is by and between The Ohio Bureau of Workers' Compensation (Bureau), and Norman Hirsch, D.O., of 106 Wellington Place, Cincinnati, Ohio, 45219-1775.

Whereas, Norman Hirsch, D.C., at all times relevant to this Settlement Agreement, is a medical service provider under the Ohio Workers' Compensation program, and;

Whereas, the bureau conducted an analysis and audit of billing and payments for billing invoices submitted between October 1, 1995 to the present, covering dates of service between October 1, 1995 to the present;

Whereas, the Bureau determined that Norman Hirsch, D.O., submitted billing invoices to the BWC showing that he had performed an American Medical Association (AMA) Current Procedural Terminology (CPT) code 90807 or 90844 Insight Oriented, Behavior modifying and/or Supportive Psychotherapy and;

Whereas, the Bureau determined that Norman Hirsch, D.O., billed and was paid for a higher level of service than was provided, and;

Whereas, the Bureau determined that Norman Hirsch, D.O., was overpaid in the amount of \$73,763.52 (Seventy three thousand seven hundred sixty three dollars and fifty two cents), and;

Whereas, on July 27, 2001, the Bureau sent Norman Hirsch, D.O., a letter declaring the overpayment in the amount of \$73,763.52 and demanded payment, and;

Whereas, the parties wish to reach a complete and final settlement of the claims, differences, disputes and causes of action described above;

Now therefore, the Bureau and Norman Hirsch, D.O. agrees and stipulate as follows:

I (A) Norman Hirsch, D.O. shall refund the Bureau the amount of Seventy-three

Thousand seven hundred sixty three dollars and fifty two cents
(\$73,763.52) by an established monthly payment arrangement between the
Bureau of Workers' Compensation in the amount of \$1,024.49 per month
to commence on 15th day of January, 2002 and to continue until such
reimbursement to the Bureau has been made in whole.
and mailed to:

Bureau of Workers' Compensation
Recovery Unit
P.O. Box 15187
Columbus, Ohio 43215-9748
Attn: Carol Breckenridge

- II. Norman Hirsch, D.O.'s compliance with the above provision(s) shall constitute full and complete satisfaction of all administrative or civil claims the BWC or any agents or parties otherwise affiliated or contracted with the BWC have or may have against Norman Hirsch, D.O. regarding Norman Hirsch D.O.'s billing of workers' compensation claims for dates of service October 1, 1995 to the present.
- III. On or after the date of this agreement, neither the BWC, nor any agents or parties otherwise affiliated or contracted with the BWC shall pursue any administrative or civil actions, claims, penalties, audits or investigations against Norman Hirsch, D.O. regarding Norman Hirsch, D.O.'s billing of workers' compensation claims for dates of service October 1, 1995 to the present, under CPT code 90807 or 90844 as previously identified.
- IV. This Agreement by Norman Hirsch, D.O. to reimburse the BWC for the declared overpayment does not constitute an admission of any wrongdoing.

V. This Settlement Agreement contains the entire agreement between the parties with regard to the matter set forth herein. There are no other understandings or agreements, verbal or otherwise, in relation thereto between the parties except as expressly set forth herein.

AGREED:

Date: 12/13/01

Scott Clark
Scott Clark, Special Agent - SIU
Bureau of Workers Compensation
30 West Spring Street
Columbus, Ohio 43215-9748

Date: 12/13/01

Norman Hirsch
Norman Hirsch, D.O.
106 Wellington Place
Cincinnati, Ohio 45219-1775