

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice (the "United States"); and Yale-New Haven Hospital (YNHH) (hereafter referred to as "the Parties"), through their authorized representatives.

II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

- A. YNHH is a hospital located at 20 York Street, New Haven, Connecticut.
- B. The United States contends that YNHH submitted or caused to be submitted claims for payment to the Medicare Program (Medicare), Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395hhh.
- C. The United States contends that it has certain civil claims, as specified in Paragraph 2, below, against YNHH for submitting claims to Medicare for one night inpatient hospitalizations that were not medically necessary for patients undergoing Gamma Knife stereotactic radiosurgery procedures during the period from April 1, 1998 through March 31, 2002 (hereinafter referred to as the "Covered Conduct").
- D. This Agreement is neither an admission of liability by YNHH nor a concession by the United States that its claims are not well founded.
- E. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions below.

III. TERMS AND CONDITIONS

1. YNHH agrees to pay to the United States \$885,953.00 (the “Settlement Amount”). YNHH agrees to pay the Settlement Amount by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney’s Office for the District of Connecticut. YNHH agrees to make this electronic funds transfer no later than two (2) business days after the Effective Date of this Agreement.

2. Subject to the exceptions in Paragraph 3, below, in consideration of the obligations of YNHH set forth in this Agreement, conditioned upon YNHH’s full payment of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release YNHH, together with its parent corporation, YNH Network Corporation (“YNHNC”) and YNHNC’s parent corporation, Yale-New Haven Health Services Corporation, and their respective officers, directors, trustees and employees, and the successors and assigns of any of them, from any civil monetary claim the United States has or may have under the common law theories of payment by mistake, unjust enrichment, and fraud for the Covered Conduct.

3. 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 YNHH) are the following:

- a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;

- c. Any administrative liability, including mandatory and permissive 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 such obligations as are created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services;
- g. Any liability for failure to deliver goods or services due; and
- h. Any False Claims Act liability.

4. YNHH waives and shall not assert any defenses YNHH may have to any criminal prosecution or administrative action relating to the Covered Conduct, 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 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.

5. YNHH fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that YNHH has asserted, could have asserted, or may

assert in the future against the United States, its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. 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 carrier or intermediary or any state payer, related to the Covered Conduct; and YNHH agrees not to resubmit to any Medicare carrier or intermediary or any state payer any previously denied claims related to the Covered Conduct, and agrees not to appeal any such denials of claims.

7. YNHH agrees to the following:

a. Unallowable Costs Defined: that 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. §§ 1395-1395hhh and 1396-1396v; and the regulations and official program directives promulgated thereunder incurred by or on behalf of YNHH, its present or former officers, directors, employees, shareholders, and agents in connection with the following shall be "unallowable costs" on government contracts and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP):

- (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) YNHH'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; and
(5) the payment YNHH makes to the United States pursuant to this Agreement, including any costs and attorneys fees.

b. Future Treatment of Unallowable Costs: These unallowable costs shall be separately determined and accounted for by YNHH, and YNHH 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 YNHH or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: YNHH 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 YNHH 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. YNHH agrees that the United States, at a minimum, shall be entitled to recoup from YNHH 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 YNHH or any of its subsidiaries or affiliates on the effect of inclusion of unallowable costs (as defined in this Paragraph) on YNHH or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports. Nothing in this Agreement shall constitute a waiver of the rights of the United States to examine or reexamine the unallowable costs described in this Paragraph.

8. This Agreement is intended to be for the benefit of the Parties and those individuals and entities identified in Paragraph 2 of this Agreement only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraph 9, below.

9. YNHH 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.

10. YNHH warrants that it has reviewed its financial situation and that it currently is solvent within the meaning of 11 U.S.C. §§ 547(b)(3) and 548(a)(1)(B)(ii)(I), and shall remain solvent following its payment to the United States of the Settlement Amount. Further, the Parties warrant that, in evaluating whether to execute this Agreement, they (a) have intended that the mutual promises, covenants, and obligations set forth constitute a contemporaneous exchange for new value given to YNHH, within the meaning of 11 U.S.C. § 547(c)(1); and (b) conclude that these mutual promises, covenants, and obligations do, in fact,

constitute such a contemporaneous exchange. Further, the Parties warrant that the mutual promises, covenants, and obligations set forth herein are intended to and do, in fact, represent a reasonably equivalent exchange of value that is not intended to hinder, delay, or defraud any entity to which YNHH was or became indebted, on or after the date of this transfer, all within the meaning of 11 U.S.C. § 548(a)(1).

11. 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.

12. YNHH represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

13. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the United States District Court for the District of Connecticut.

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

15. The individuals signing this Agreement on behalf of YNHH represent and warrant that they are authorized by YNHH to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacity and that they are authorized to execute this Agreement.

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


17. This Agreement is binding on YNHH's successors, transferees, heirs, and assigns.

18. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.


[SIGNATURE BLOCKS ON FOLLOWING PAGES]

THE UNITED STATES OF AMERICA


DATED: 7/1/09

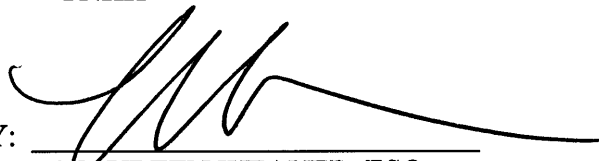
BY: 
JOHN B. HUGHES
Assistant United States Attorney
Chief, Civil Division
District of Connecticut

DATED: 7/1/09

By: 
RICHARD M. MOLOT
Assistant United States Attorney
District of Connecticut

YALE-NEW HAVEN HOSPITAL

DATED: 6/09 BY: 
MARNA BORGSTROM
President and Chief Executive Officer
YNHH

DATED: 6/26/09 BY: 
MAUREEN WEAVER, ESQ.
Wiggin and Dana LLP
Counsel for YNHH