

## SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among (a) 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) and the Defense Health Agency (DHA), acting on behalf of the TRICARE program (collectively, “the United States”); and (b) Vijesh Patel, M.D. (Dr. Patel) and Laju Patel (Mrs. Patel) (collectively, “the Patels”), through their authorized representatives. Collectively, all of the above will be referred to as “the Parties.”

### RECITALS

A. Vijesh Patel, M.D., a physician licensed in Texas, practices medicine in Port Neches, Texas. His spouse, Laju Patel, is his practice’s office manager.

B. The United States contends that the Patels caused to be submitted claims for payment to the Medicare Program, Title XVIII of the Social Security Act, 42 U.S.C. §§ 1395-1395lll (“Medicare”) and the TRICARE Program, 10 U.S.C. §§ 1071-1110b (TRICARE).

C. The United States contends that it has certain civil claims against the Patels arising from the following conduct, by which the Patels caused the submission of false or fraudulent claims to Medicare and TRICARE:

1. From December 2, 2016 through July 24, 2018, the Patels knowingly and willfully solicited and/or received remuneration from Indus MG LLC (Indus) in return for ordering clinical laboratory services from True Health Diagnostics, LLC (THD), a clinical laboratory in Frisco, Texas, in violation of the Anti-Kickback Statute (AKS), 42 U.S.C. § 1320a-7b(b). Indus, a purported management service organization (MSO), paid thousands of dollars in kickbacks to Dr. Patel that were disguised as investment returns but were actually based on, and offered in return for, Dr. Patel’s referrals to THD for laboratory testing.

2. From August 29, 2018 through August 31, 2021, the Patels knowingly and willfully solicited and/or received remuneration from Avior Group LLC (Avior) in return for ordering clinical laboratory services from RDx Bioscience, Inc. (RDx), a clinical laboratory in Kenilworth, New Jersey, in violation of the AKS, 42 U.S.C. § 1320a-7b(b). RDx funded remuneration to Dr. Patel in the form of volume-based commissions paid to an independent contractor recruiter, Corum Group LLC (Corum), which used an associated company, Avior, to pay kickbacks to Dr. Patel and other physicians in return for their referrals. Avior, a purported MSO, paid thousands of dollars to Dr. Patel that were disguised as investment returns but were actually based on, and offered in return for, Dr. Patel's referrals to RDx for laboratory testing.

3. From December 14, 2018 through August 4, 2022, the Patels knowingly and willfully solicited and/or received remuneration from RDx in return for Dr. Patel's referrals to RDx for laboratory testing, in violation of the AKS, 42 U.S.C. § 1320a-7b(b). To induce Dr. Patel's laboratory testing referrals, RDx used various payroll companies to pay Mrs. Patel commercially unreasonable fees to purportedly collect urine specimens eight hours per business day for testing that Dr. Patel referred to RDx.

4. From August 1, 2019 to December 31, 2021, the Patels knowingly and willfully solicited and/or received remuneration from Labtech Diagnostics LLC (Labtech), a clinical laboratory in Anderson, South Carolina, in return for Dr. Patel's referrals to Labtech for laboratory testing, in violation of the AKS, 42 U.S.C. § 1320a-7b(b). To induce his laboratory testing referrals, Labtech paid Dr. Patel hundreds of dollars per month in inflated space rental payments for a commercially unreasonable amount of space and excessive days and time.

The conduct set forth in Paragraph C is referred to below as the "Covered Conduct."

D. This Settlement Agreement is neither an admission of liability by the Patels nor a concession by the United States that its claims are not well founded.

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

1. The Patels shall pay to the United States Four Hundred Twenty-Two Thousand Seven Hundred Eighty-Nine Dollars (\$422,789.00) (Settlement Amount), of which Two Hundred Eleven Thousand Three Hundred Ninety-Four Dollars and Fifty Cents (\$211,394.50) is restitution, no later than February 15, 2023 by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the Department of Justice.

2. Subject to the exceptions in Paragraph 3 (concerning reserved claims) below, conditioned upon Paragraph 8 (concerning cooperation) and Paragraph 9 (concerning default) below, and upon the United States' receipt of the Settlement Amount, the United States releases the Patels 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; or the common law theories of payment by mistake, unjust enrichment, and fraud.

3. Notwithstanding the release given in Paragraph 2 of this Agreement, or any other term of this Agreement, the following claims and rights 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 or enforcement right, including mandatory or 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 obligations created by this Agreement;
- f. Any liability of corporate entities;
- 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.

4. The Patels each waive and shall not assert any defenses either or both of the Patels 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.

5. The Patels fully and finally release 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 either or both of the Patels has asserted, could have asserted, or may assert in the future against the United States, and its agencies, officers, agents, employees, and servants 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 contractor (e.g., Medicare

Administrative Contractor, fiscal intermediary, carrier), TRICARE, or any state payer, related to the Covered Conduct; and the Patels agree not to resubmit to any Medicare contractor, TRICARE, or any state payer any previously denied claims related to the Covered Conduct, agree not to appeal any such denials of claims, and agree to withdraw any such pending appeals.

7. The Patels agree 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. §§ 1395-1395lll and 1396-1396w-5; and the regulations and official program directives promulgated thereunder) incurred by or on behalf of the Patels, Dr. Patel's medical practice, or the Patels' present or former employees and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil and criminal investigation(s) of the matters covered by this Agreement;
- (3) the Patels' investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal 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 the Patels make to the United States pursuant to this Agreement,

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).

b. Future Treatment of Unallowable Costs: Unallowable Costs shall be separately determined and accounted for by the Patels, and the Patels 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 the Patels, Dr. Patel's medical practice, or any of Dr. Patel's medical practice's subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or FEHBP Programs.

c. Treatment of Unallowable Costs Previously Submitted for Payment: The Patels further agree that within ninety (90) days of the Effective Date of this Agreement they 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 the Patels, Dr. Patel's medical practice, or any of Dr. Patel's medical practice's 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. The Patels agree that the United States, at a minimum, shall be entitled to recoup from the Patels 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 the Patels, Dr. Patel's medical practice, or any of Dr. Patel's medical practice's subsidiaries or affiliates on the effect of

inclusion of Unallowable Costs (as defined in this Paragraph) on the Patels, Dr. Patel's medical practice, or any of Dr. Patel's medical practice's 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 the Patel's books and records to determine that no Unallowable Costs have been claimed in accordance with the provisions of this Paragraph.

8. The Patels each agree to cooperate fully, truthfully, completely, and forthrightly with the United States' investigation(s) of, and/or legal proceeding(s) against, individuals and entities not released in this Agreement. Upon request by the United States and reasonable notice, Dr. Patel and Mrs. Patel shall be available for interviews by the United States and shall fully, truthfully, completely, and forthrightly answer questions. Upon request by the United States and reasonable notice, Dr. Patel and Mrs. Patel shall testify under oath fully, truthfully, completely, and forthrightly at any and all trials of cases or other court proceedings, including depositions, at which either or both of the Patels' testimony may be deemed relevant by the United States. The Patels agree to encourage, and not impair, the cooperation of Dr. Patel's medical practice's directors, officers, and employees, and to use their best efforts to make available, and encourage, the cooperation of former directors, officers, and employees of Dr. Patel's medical practice for interviews and testimony, consistent with the rights and privileges of such individuals. The Patels further agree to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in their possession, custody, or control relating to THD, RDx, Labtech, Indus, Corum, Avior, any MSO, or any agent of the foregoing entities.

9. The Settlement Amount represents the amount the United States is willing to accept in compromise of its civil claims against the Patels arising from the Covered Conduct pursuant to the terms and conditions in this Agreement.

a. The Patels shall be in default of this Agreement (Default) if they fail to pay the Settlement Amount set forth in Paragraph 1 above on or before the due date, or if they fail to comply materially with any other term or condition of this Agreement, including Paragraph 8 above (concerning cooperation).

b. If the Patels fail to pay the Settlement Amount set forth in Paragraph 1 above on or before the due date, the United States will provide a written Notice of Default, and the Patels shall have an opportunity to cure such Default within ten (10) calendar days from the date of receipt of the Notice of Default by making the payment due under the payment schedule and paying any additional interest accruing under this Agreement up to the date of payment. Notice of Default will be delivered to the Patels, or to such other representative as the Patels shall designate in advance in writing. If the Patels fail to cure the Default within ten (10) calendar days of receiving the Notice of Default and in the absence of an agreement with the United States to a modified payment schedule (Uncured Default), the remaining unpaid balance of the Settlement Amount shall become immediately due and payable, and interest on the remaining unpaid balance shall thereafter accrue at the rate of twelve percent (12%) per annum, compounded daily from the date of Default, on the remaining unpaid total (principal and interest balance).

c. In the event of Uncured Default, or a failure to comply materially with Paragraph 8 above (concerning cooperation), the Patels agree that the United States, at its sole discretion, may (i) retain any payments previously made, rescind this Agreement and bring any civil and/or administrative claim, action, or proceeding against the Patels for the claims that would otherwise be covered by the release provided in Paragraph 2 above with any recovery reduced by the amount



of any payments previously made by the Patels to the United States under this Agreement; (ii) take any action to enforce this Agreement in a new action; (iii) offset the remaining unpaid balance from any amounts due and owing to the Patels and/or affiliated companies by any department, agency, or agent of the United States at the time of Default or subsequently; and/or (iv) exercise any other right granted by law, or under the terms of this Agreement, or recognizable at common law or in equity. The Patels shall not contest any offset imposed or any collection undertaken by the United States pursuant to this Paragraph, either administratively or in any Federal or State court. The United States shall be entitled to any other rights granted by law or in equity by reason of Default, including referral of this matter for private collection. In the event the United States pursues a collection action, the Patels agree immediately to pay the United States the greater of (i) a ten-percent (10%) surcharge of the amount collected, as allowed by 28 U.S.C. § 3011(a), or (ii) the United States' reasonable attorneys' fees and expenses incurred in such an action. In the event that the United States opts to rescind this Agreement pursuant to this Paragraph, the Patels waive and agree not to plead, argue, or otherwise raise any defenses of statute of limitations, laches, estoppel or similar theories, to any civil or administrative claims that are filed by the United States against the Patels individually or collectively within one hundred twenty (120) days of written notification that this Agreement has been rescinded, and relate to the Covered Conduct, except to the extent these defenses were available on the Effective Date.

d. In the event of Uncured Default, or a failure to comply materially with Paragraph 8 above (concerning cooperation), OIG-HHS may exclude Dr. Patel and/or Mrs. Patel from participating in all Federal healthcare programs (Exclusion for Default). OIG-HHS will provide written notice of any such exclusion to the Patels. The Patels waive any further notice of the exclusion under 42 U.S.C. § 1320a-7(b)(7), and agree not to contest such exclusion either administratively or in any state or federal court. Reinstatement to program participation is not

automatic. If, at the end of the period of exclusion, the Patels wish to apply for reinstatement, they must submit a written request for reinstatement to OIG-HHS in accordance with the provisions of 42 C.F.R. §§ 1001.3001–.3005. The Patels will not be reinstated unless and until OIG-HHS approves such request for reinstatement. The option for Exclusion for Default is in addition to, and not in lieu of, the options identified in this Agreement or otherwise available.

10. 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 11 (waiver for beneficiaries Paragraph), below.

11. The Patels agree that they waive 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.

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

13. Each Party and signatory to this Agreement represents that he or she freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

14. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the District of New Jersey. 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.

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

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

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

18. This Agreement is binding on the Patels' successors, transferees, heirs, and assigns.

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

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

[SIGNATURE PAGE(S) FOLLOW]

THE UNITED STATES OF AMERICA

DATED: 12/12/2022

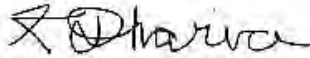
BY:



CHRISTOPHER TERRANOVA  
Senior Trial Counsel  
Commercial Litigation Branch  
Civil Division  
United States Department of Justice

DATED: 12/12/22

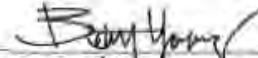
BY:



KRUTI DHARIA  
Assistant United States Attorney  
United States Attorney's Office  
District of New Jersey

DATED: 12/9/2022

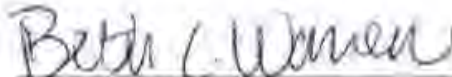
BY:



JAMES GILLINGHAM  
ADRIAN GARCIA  
BETTY YOUNG  
Assistant United States Attorneys  
United States Attorney's Office  
Eastern District of Texas

DATED: 12/12/22

BY:



BETH C. WARREN  
Assistant United States Attorney  
United States Attorney's Office  
District of South Carolina

DATED: 12/12/2022

BY:



LISA M. RE  
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

DATED: 12/09/2022

BY:

BLEY.PAUL.NICHO Digitally signed by  
BLEY.PAUL.NICHOLAS.1099873821  
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for

SALVATORE M. MAIDA  
General Counsel  
Defense Health Agency  
United States Department of Defense

**THE PATELS**


DATED: 12/7/22

BY:   
\_\_\_\_\_  
VIJESH PATEL, M.D.

DATED: 12/7/22

BY:   
\_\_\_\_\_  
LAJU PATEL

DATED: 12/9/22

BY:   
\_\_\_\_\_  
RICHARD KUNIANSKY  
Law Offices of Richard Kuniansky  
Attorney for Vijesh Patel, M.D. and Laju Patel