

**An Agreement Between the Attorney General of the State of Connecticut  
and  
Women's Health USA, Inc.**

**WHEREAS**, the Attorney General of the State of Connecticut (the "Attorney General") has conducted an investigation concerning certain payments to Women's Health USA, Inc. ("WHUSA") relating to the purchase of medical malpractice insurance for Physician's for Women's Health, LLC ("PWH") (the "Attorney General's Investigation");

**WHEREAS**, the Attorney General is prepared to allege that WHUSA's activities with respect to certain payments under investigation violate the Connecticut Unfair Insurance Practices Act, Conn. Gen. Stat. §§ 38a-815 et seq., and the Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. §§ 42-110a et seq., and more specifically that WHUSA: a) entered into agreements whereby insurers and insurance brokers paid compensation to WHUSA as an inducement to the purchase of medical malpractice insurance; and b) accepted premium rebates as an inducement to the purchase of medical malpractice insurance;

**WHEREAS**, WHUSA has been and continues to cooperate with the Attorney General's Investigation;

**WHEREAS**, WHUSA has adopted, and under this Agreement (the "Agreement"), will continue to adopt, certain business reforms that will govern the conduct of WHUSA and its employees;

**WHEREAS**, the Attorney General and WHUSA enter into this Agreement solely for the purpose of resolving all issues related to the Attorney General's Investigation and

not for any other purpose, and this Agreement is not intended to be used for any other purpose;

**WHEREAS**, the Attorney General finds the relief and agreements contained in this Agreement appropriate and in the public interest;

**WHEREAS**, without admitting or denying any of the foregoing or any of the Attorney General's allegations or findings contained herein, WHUSA enters into this Agreement without any court entering any findings of fact or conclusions of law relating to the Attorney General's Investigation;

**WHEREAS**, neither this Agreement, nor any acts performed nor documents executed in furtherance of this Agreement are an admission of liability, or may be used as an admission of liability or of any wrongdoing; and

**WHEREAS**, based upon the Attorney General's Investigation, the Attorney General was prepared to allege the following facts:

#### **FINDINGS**

1. PWH is headquartered in Connecticut and is the largest group of OB/GYN doctors in the United States. PWH has over 150 doctors in 25 practitioner groups located throughout the State of Connecticut. WHUSA is a health care management company responsible for, *inter alia*, overseeing the purchase of medical malpractice insurance for PWH and its affiliated physicians.

2. In 1998, WHUSA oversaw the purchase of medical malpractice insurance for PWH from the Medical Inter-Insurance Exchange (MIIX). At the same time WHUSA was negotiating with MIIX for the placement of malpractice insurance for PWH, PWH requested that WHUSA secure funding for risk management services for

PWH. WHUSA directed PWH's insurance broker, Hilb Rogal & Hobbs, Inc. (HRH"), to solicit a "grant" from MIIX to compensate WHUSA for risk management services that WHUSA was performing for PWH. In order to induce the placement of PWH's malpractice insurance, MIIX agreed to pay WHUSA an annual grant of \$78,000 for two years. Specifically, in a memo dated June 10, 1998, HRH was informed by MIIX that the payment of the "grant" was "conditioned on the placement and maintenance of medical malpractice for the [PWH] affiliated physicians ...." The memo continued that "the carrier will provide the funds without restriction and they are not subject to any reporting mechanisms." Although the initial agreement was for two years, only \$78,000 in payments were made to WHUSA.

3. Similarly, in 2000, WHUSA oversaw the purchase of medical malpractice insurance coverage for PWH from The Doctors Company ("TDC"). To induce the placement of PWH's insurance with TDC, HRH agreed to pay WHUSA \$90,000 to again compensate WHUSA for the risk management services that WHUSA was performing for PWH. After the agreement for the \$90,000 payment was made, the HRH accounting department asked the HRH broker "what the auditors will make of" the payments to WHUSA. As a result, HRH employees decided to "put together a services agreement relating to credentialing, applications, etc." that will help to "justify the payment." When WHUSA subsequently signed an agreement formalizing the \$90,000 payment, the agreement stated the payment was for WHUSA's "consultative services and assistance in developing marketing and distribution information to assist [HRH] in rendering its services to third parties in the healthcare field." No consulting or marketing services were performed by WHUSA under the agreement and HRH placed the agreement in its

file with a note that: “No action required on any of this – it just needs to go into the file.” The agreement was designed to obscure the fact that the \$90,000 was an inducement for the placement of PWH’s malpractice insurance.

4. In 2002, WHUSA and HRH entered into another agreement in conjunction with PWH’s renewal of its malpractice insurance. Specifically, WHUSA agreed to recommend to PWH that HRH receive a \$420,000 commission on the placement of PWH’s insurance. WHUSA’s recommendation, however, was conditioned on HRH separately agreeing to share \$50,000 of its commission with WHUSA. HRH agreed to share its fee with WHUSA, but despite this agreement, WHUSA only received \$30,000 of the originally intended \$50,000. WHUSA used the \$30,000 to pay for risk management services for PWH.

**NOW THEREFORE**, the Attorney General and WHUSA do hereby enter into this Agreement and agree as follows:

5. WHUSA shall pay One Hundred Ninety-Eight Thousand and 00/100 Dollars (\$198,000.00) to PWH as restitution upon the execution of this Agreement. No portion of this payment shall be considered a fine or a penalty. The Attorney General shall not seek to impose any other financial obligation or liability on WHUSA related to the Attorney General’s Investigation, except to the extent there may be costs associated with any requirement of this Agreement.

6. Upon execution of this Agreement, a WHUSA officer shall provide a written certification, in the form attached hereto as **Exhibit A**, that WHUSA did not receive or solicit, and was not offered, any other payment or other consideration as a

rebate of premium or otherwise to induce the purchase of medical malpractice or any other insurance.

7. WHUSA agrees that it shall not, directly or indirectly, accept or solicit any rebate payment in violation of Connecticut General Statutes § 38a-825, and shall not, directly or indirectly, engage or attempt to engage in any violation of this Agreement or of the Connecticut Unfair Insurance Practices Act, (Conn. Gen. Stat. §§ 38a-815 et seq.) or the Connecticut Unfair Trade Practices Act (Conn. Gen. Stat. §§ 42-110a et seq.).

8. Immediately upon execution of this Agreement, WHUSA shall forward, via certified mail, an executed copy of this Agreement to each individual physician practicing in a PWH affiliated practice (the “PWH Physicians”) together with a cover letter from a WHUSA officer stating that WHUSA has entered into this Agreement and that the Agreement requires a copy of the Agreement to be sent to each individual physician practicing in a PWH affiliated practice. Any other statements contained in the letter required by this paragraph shall be consistent with this Agreement. Nothing herein shall preclude PWH from communicating with its physicians regarding the Attorney General’s Investigation or this Agreement.

9. Nothing in this Agreement shall relieve WHUSA of any obligations imposed by any applicable state or federal law or regulation.

10. WHUSA shall not seek or accept, directly or indirectly, indemnification pursuant to any insurance policy, with regard to any or all of the amounts payable pursuant to this Agreement.

11. By entering into this Agreement, the Attorney General resolves all issues relating to WHUSA and its affiliates and the Attorney General's Investigation uncovered as of the date of this Agreement.

12. As consideration for WHUSA's willingness to enter into this Agreement and WHUSA's cooperation with the Attorney General's Investigation, the Attorney General has agreed to enter into this Agreement in lieu of commencing a statutory proceeding under Conn. Gen. Stat. §§ 42-110m concerning events related to the Attorney General's Investigation. The Attorney General reserves the right to take any legal action he deems necessary relating to the Attorney General's Investigation in the event that WHUSA fails to comply with any provision of this Agreement.

13. WHUSA agrees that it will continue to fully and promptly cooperate with the Attorney General and the Commissioner of the Connecticut Department of Insurance (the "Commissioner") with regard to their ongoing investigations of compensation practices in the insurance and insurance brokerage and agency industries, any related proceedings and actions, and of any other person, producer, corporation or entity related to such investigations. Cooperation shall include without limitation: a) acceptance of service of subpoena(s) and production pursuant thereto of any information and all documents or other tangible evidence reasonably requested by the Attorney General or the Commissioner, and any compilations or summaries of information or data that the Attorney General or the Commissioner reasonably requests be prepared, subject only to the receipt of reasonable assurances of confidential treatment of such information produced without service of subpoena; b) without the necessity of a subpoena, using its best efforts to have WHUSA's officers, directors, employees and agents attend any

proceedings at which the presence of any such persons is requested by the Attorney General or the Commissioner, and having such persons answer any and all inquiries that may be put by the Attorney General (or any of the Attorney General's deputies, assistants or agents) or the Commissioner to any of them at any proceedings or otherwise ("proceedings" shall include, but are not limited to, any meetings, interviews, depositions, hearings, administrative proceeding, grand jury hearing, trial or other proceedings); and c) fully, fairly and truthfully disclosing all information and producing all records and other evidence in its possession relevant to all inquiries reasonably made by the Attorney General or the Commissioner concerning any fraudulent conduct whatsoever about which WHUSA has any knowledge or information.

14. The Attorney General may make such application as appropriate to enforce or interpret the provisions of this Agreement, or in the alternative, maintain any action within his legal authority for such other and further relief as the Attorney General may determine in his sole discretion is proper and necessary for the enforcement of this Agreement. The exclusive forum for resolving any disputes under this Agreement shall be the superior court for the Judicial District of Hartford, or as otherwise required by law. If compliance with any aspect of this Agreement proves impracticable, WHUSA may request that the parties modify the Agreement.

15. This Agreement shall not confer any rights upon any persons or entities besides the Attorney General, the Commissioner, and WHUSA.

16. The parties to this Agreement will use good faith and best efforts in implementing the terms of this Agreement and resolving any unanticipated issues.

17. In any application, legal action, or proceeding, facsimile transmission of any papers to current counsel for WHUSA shall be good and sufficient service on WHUSA unless WHUSA designates, in a writing to the Attorney General, another person to receive service by facsimile transmission.

18. This Agreement shall be governed by the laws of the State of Connecticut without regard to conflict of laws principles.

19. This Agreement may be executed in counterparts.

**WHEREFORE**, the following signatures are affixed hereto on this 24th day of April, 2006.

RICHARD BLUMENTHAL

By:   
\_\_\_\_\_  
Attorney General of the State of Connecticut  
Office of the Attorney General  
55 Elm Street  
Hartford, Connecticut 06141

WOMEN'S HEALTH USA, INC.

By: \_\_\_\_\_  
Robert E. Patricelli  
Chief Executive Officer  
22 Waterville Road  
Avon, Connecticut 06001

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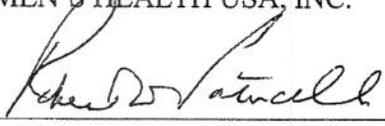
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RICHARD BLUMENTHAL

By: \_\_\_\_\_  
Attorney General of the State of Connecticut  
Office of the Attorney General  
55 Elm Street  
Hartford, Connecticut 06141

WOMEN'S HEALTH USA, INC.

By:  \_\_\_\_\_  
Robert E. Patricelli  
Chief Executive Officer  
22 Waterville Road  
Avon, Connecticut 06001

**EXHIBIT A**

**CERTIFICATION**

I, Robert E. Patricelli, a duly authorized officer of Women's Health, USA, Inc. currently holding the position of Chief Executive Officer, do hereby certify, to the best of my knowledge and belief and after reasonable inquiry, that neither Women's Health USA, Inc., nor any of its affiliates received or solicited, nor were offered any premium rebate or other special favor that violate Connecticut General Statutes § 38a-825, excepting only such premium rebates or other special favors that may be alleged in An Agreement Between the Attorney General of the State of Connecticut and Women's Health, USA, Inc., dated April 24, 2006.

Robert E. Patricelli  
Name

4/24/06  
Date

State of Connecticut)

) ss:

County of Hartford)

Subscribed to and sworn to before me this 24<sup>TH</sup> day of  
APRIL, 2006.

Beverly V. Stadler  
Notary Public  
~~Commissioner of the Superior Court~~

My Commission Expires:

**BEVERLY V. STADLER**  
**NOTARY PUBLIC**  
MY COMMISSION EXPIRES APR. 30, 2008