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FILED UNDER SEAL

31 U.S.C. § 3730(b)(2)

DO NOT ENTER ON PACER

AND DEMAND FOR JURY TRIAL

1. KAREN REYNOLDS (“Relator”) brings this action on behalf of the United States of America and the State of Texas against Defendants for treble damages and civil penalties arising from Defendants’ false statements and false claims in violation of the Civil False Claims Act, 31 U.S.C. §§ 3729 *et seq.*, and the TEXAS HUMAN RESOURCES CODE §§ 32.039, *et seq.*, and 36.002, *et seq.* The violations arise out of billing for medical services not rendered, billing for unwarranted medical services, creating false information in medical records which was material to billing for

medical services, creating false documentation to demonstrate compliance with government program requirements which was material to billing for pharmaceuticals, creating false documentation to demonstrate compliance with government funding program requirements which was material to billing for medical services, fraudulently demonstrating compliance under Title X, and conspiring to violate Sections 3729(a)(1)(A) and (B) of the federal Civil False Claims Act.

2. As required by the False Claims Act, 31 U.S.C. § 3730(b)(2), Relator has provided to the Attorney General of the United States, and to the United States Attorney for the Eastern District of Texas, a statement of all material evidence and information related to this Complaint. The disclosure statement presented to the United States Attorney General and the United States Attorney is supported by material evidence known to Relator at her filing, establishing the existence of Defendants' false claims. Because the statement includes attorney-client communications and work product of Relator's attorneys, and is submitted to the Attorney General and to the United States Attorney in their capacity as potential co-counsel in this litigation, Relator understands this disclosure to be confidential and privileged.

3. As required by the Texas False Claims Act, TEX. HUM. RES. CODE § 36.102(a), Relator has provided to the Attorney General of the State of Texas a statement of all material evidence and information related to this Complaint. The disclosure statement presented to the Texas Attorney General is supported by material evidence known to Relator at her filing, establishing the existence of Defendants' false claims. Because the statement includes attorney-client communications and work product of Relator's attorneys, and is submitted to the Texas Attorney General in his capacity as potential co-counsel in this litigation, Relator understands this disclosure to be confidential and privileged.

Jurisdiction and Venue

4. Jurisdiction for the Eastern District of Texas is proper, pursuant to the Federal False Claims Act, 31 U.S.C. §§ 3730(b) and 3732(a) and (b), because Relator is a private person bringing a civil action on behalf of the United States Government for violations of Section 3729, *et seq.*, and pursuant to 28 U.S.C. § 1345 because the United States Government is a Plaintiff, and because Relator is bringing a civil action brought under the laws of the State of Texas for the recovery of funds paid by a State agency also arising from the transactions or occurrences as proscribed under Section 3729, *et seq.*, and TEX. HUM. RES. CODE §§ 32.039, *et seq.*, and 36.002, *et seq.*, and because Defendants, individually or severally, transacted their business within the Eastern District of Texas. Furthermore, this Court possesses proper jurisdiction, pursuant to 28 U.S.C. §§ 1331 (federal question) and 1367 (supplemental jurisdiction).

5. Venue for the Eastern District of Texas is proper, pursuant to 31 U.S.C. § 3732(a) because the acts proscribed by 31 U.S.C. §§ 3729 *et seq.* and complained of herein took place in this District, and is also proper pursuant to 28 U.S.C. § 1391(b) and (c), because at all times material and relevant, Defendants, individually or severally, were qualified to conduct business in the State of Texas, and did conduct business in the State of Texas, and did transact and do transact business in the Eastern District of Texas.

Parties

6. Relator Karen Reynolds is a citizen of the United States and a resident of the State of Texas. From October, 1999 through February, 2009, Relator was an employee of Defendant, Planned Parenthood of Houston and Southeast Texas, Inc., (hereinafter "PPHST"). Relator brings

this action based on her direct, independent, and personal knowledge, and also based on information made available to her during the course of her employment with Defendant, PPHST.

7. Relator is an original source of this information to the United States. She has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the government before filing an action under the False Claims Act which is based on this information.

8. The United States of America (“U.S.”) and the State of Texas (“Texas”) fund medical service provision, and pharmaceutical delivery, grants and programs through the federal Department of Health and Human Services, the Texas Medicaid & Healthcare Partnership, the Texas Department of State Health Services, and the Texas Health and Human Services Commission. These departments and departmental programs oversee medical services and pharmaceutical delivery services for family planning preventative care, counseling services, and educational services. These departments, departmental programs, and contract providers are federally funded by Title V (42 U.S.C. § 701, *et seq.*), Title X (42 U.S.C. § 300a, *et seq.*), Title XIX (42 U.S.C. § 1396a, *et seq.*), and Title XX (42 U.S.C. § 1397, *et seq.*).

9. Defendants own, administer, and operate at least ten health clinics in Texas and two health clinics in the State of Louisiana, which represented purpose is to provide medical services, deliver pharmaceuticals, and provide counseling and educational services and materials for family planning and family planning preventative care. Defendants and Defendants’ clinics are grantees or recipients of federal funds provided through Texas programs and/or provided directly through U.S. programs.

10. Defendant, PPHST, maintains its executive and corporate administrative offices at

3601 Fannin, Suite 200, Houston, Texas 77004. This is also the address of its registered agent, Peter J. Durkin.

11. Defendant, Planned Parenthood of Southeast Texas Surgical and Comprehensive Health Services, Inc. (hereinafter “PPSTSCHS”), maintains its executive and corporate administrative offices at 3601 Fannin, Suite 100, Houston, Texas 77004. This is also the address of its registered agent, Peter J. Durkin.

12. Defendant, Planned Parenthood of Houston and Southeast Texas Action Fund, Inc. (hereinafter “PPHSTAF”), maintains its executive and corporate administrative offices at 3601 Fannin, Houston, Texas 77004. This is also the address of its registered agent, Peter J. Durkin.

Facts Common to All Counts

13. Relator Karen Reynolds was an employee of Defendant, PPHST, from October, 1999, through February, 2009. Relator held a position as a “Health Care Assistant” at Defendant’s Lufkin Health Center, located in Lufkin, Texas.

14. As a health center assistant, Relator performed a variety of duties and was responsible for a variety of tasks, including but not limited to, patient in-take processing, conducting general patient services, such as in-center testing procedures, reporting and recording of patient services in patients’ charts, assisting nurse practitioners and registered nurses with patient services, delivery/distribution of prescribed pharmaceuticals to patients, recording medical billing codes in patients’ charts, entering medical and pharmaceutical billing codes into billing reports (either manually or electronically) for submission to Defendant’s corporate offices, participating in voluminous “chart reviews” in order to reconcile patients’ chart information with submitted billing

codes and required procedures in preparation for internal and external audits, and other general administrative support duties.

15. Throughout the course of her employment, Relator observed that all formal and informal policies and procedures which governed the creation and retention of medical records, billing records, billing requirements, service requirements, personnel training and requirements, and general clinic administration were derived from, produced by, or conducted by and out of, Defendants' shared corporate offices. These policies and procedures were then disseminated to all of Defendants' clinics, jointly and severally owned.

16. Pursuant to Defendants' corporate policies and procedures, the health clinics were required to constantly increase their "pay-per-visit" goals which were the bills charged to Medicaid for every patient visit. Extensive and ongoing training, as well as dynamic policy adjustments, were provided and implemented by Defendants' corporate administration in order to ensure that the health clinics, their management and personnel, were all constantly maximizing the financial payments and grants made by Medicaid, either directly or through Texas' programs.

17. Throughout the course of her employment, Relator had direct knowledge of clinic personnel entering Medicaid billing codes for services which were not originally attested to by entries made, or absent from, patients' charts. Clinic personnel who entered the Medicaid billing codes, even without the presence of the correct documented entry having been made in a patient's chart to indicate that the service had been performed, did so based exclusively on Defendants' corporate policy mandates and subsequent instruction by Defendants' clinic management. Defendants' billing policies routinely instructed clinic staff to enter billing codes for certain services, regardless of whether the patients' charts recorded that such service was actually provided, when

Defendants had mandated that those certain services be provided to all patients, or a predetermined class of patients. Defendants' service policies and billing policies were driven by increasing each clinic's "pay-per-visit" goals. Defendants then presented those billing codes to the U.S. and Texas Governments for payment.

18. Throughout the course of her employment, Relator had direct knowledge of clinic personnel entering Medicaid billing codes for services which individual patients did not need, request, or warrant. Clinic personnel who provided certain services, documented that such services had been provided, and caused the submission of correlated Medicaid billing codes, even when an individual patient did not need, request, or warrant the service, did so based exclusively on Defendants' corporate policy mandates, and the subsequent instruction by Defendants' clinic management. Defendants' policies routinely instructed clinic staff to provide services, and to submit billing codes for those services, to all patients, or to predetermined classes of patients, regardless of whether those patients needed, requested, or warranted those services. Defendants' service policies and billing policies were driven by increasing each clinic's "pay-per-visit" goals. Defendants then presented those billing codes to the U.S. and Texas Governments for payment.

19. Throughout the course of her employment, Relator had direct knowledge of clinic personnel changing, through addition or redaction, patients' chart information so that the verification of provided services contained in the patients' charts would match the patients' government billing receipts. Clinic personnel routinely participated in internal "chart reviews," specifically to make material changes to patients' chart information so that the chart information would match the patients' government billing receipts, and so that the chart information would satisfy or exceed quality assurance audits conducted by corporate management or state or federal regulators and

auditors. Defendants had presented billing codes to the U.S. and Texas Governments for payment on the basis of fraudulently altered patient chart information. Moreover, Defendants fraudulently altered patient chart information that the U.S. and Texas Governments materially relied upon when paying the claims for those presented billing codes and when qualifying Defendants for participation in the U.S. and Texas Governments' Medicaid programs.

20. Throughout the course of her employment, Relator had direct knowledge of clinic personnel removing and hiding all literature and all other types of materials or documentation, relating to abortion procedures and abortion counseling, during all audit inspections conducted by federal regulators whose purpose was to verify compliance with Title X funding and participation restrictions. Defendants' clinic management routinely instructed clinic personnel to deceive federal auditors in order to continue receiving Title X funding. The U.S. government materially relied upon Defendants' fraudulent representations when granting funding to Defendants under Title X and when qualifying Defendants for participation in the Title X grant program.

Count I

False Presentation of Claims for Services Not Rendered

21. Relator re-alleges and incorporates the allegations of paragraphs 1–20 as if fully set forth herein.

22. Defendants repeatedly instructed and/or trained their personnel to enter billing codes for certain services even when patients' chart information did not indicate that those same certain services had actually been rendered.

23. Defendants had actual knowledge, or acted in deliberate ignorance, or acted in

reckless disregard for the truth, when Defendants' policies and the actions of Defendants' employees repeatedly submitted billing claims for services that Defendants' original and unaltered patient chart information indicated were never actually provided to Defendants' patients.

24. Defendants then presented those billing codes to the U.S. and/or Texas Governments for payment.

25. This ongoing course of conduct violated the Civil False Claims Act, 31 U.S.C. §§ 32.039, *et seq.* This ongoing course of conduct also violated the Texas False Claims Act, TEX. HUM. RES. CODE §§ 32.039, *et seq.*, and 36.002, *et seq.*

26. The U.S. Government, and the Texas Government, unaware of the falsity of the claims and/or statements made by Defendants, and in reliance on the accuracy thereof, awarded grants and/or payments to Defendants in excess of \$6.6 million between February, 2003, and February, 2009.

Count II

False Billings for Services Not Needed or Warranted

31. Relator re-alleges and incorporates the allegations of paragraphs 1–26 as if fully set forth herein.

32. Defendants repeatedly instructed and/or trained their personnel to enter billing codes for certain services regardless of whether a patient needed, requested, or warranted those same services.

33. Defendants had actual knowledge, or acted in deliberate ignorance, or acted in reckless disregard for the truth, when Defendants' policies and the actions of Defendants' employees

repeatedly submitted billing claims for services that Defendants' patients did not need, did not request, or did not warrant.

34. Defendants then presented those illegitimate billing codes to the U.S. and/or Texas Governments for payment.

35. This ongoing course of conduct violated the Civil False Claims Act, 31 U.S.C. §§ 32.039, *et seq.* This ongoing course of conduct also violated the Texas False Claims Act, TEX. HUM. RES. CODE §§ 32.039, *et seq.*, and 36.002, *et seq.*

36. The U.S. Government, and the Texas Government, unaware of the falsity of the claims and/or statements made by Defendants, and in reliance on the accuracy thereof, awarded grants and/or payments to Defendants in excess of \$6.6 million between February, 2003, and February, 2009.

Count III

Falsifying Documentation Material to the Payment of Claims

36. Relator re-alleges and incorporates the allegations of paragraphs 1–36 as if fully set forth herein.

37. Defendants repeatedly instructed and/or trained their personnel to change, alter, add, and/or redact information in patients' charts before submitting billing codes in order to reflect that certain services had been provided when, in fact, the patients' charts did not originally indicate that those same services had actually been provided.

38. Defendants repeatedly instructed and/or trained their personnel to change, alter, add, and/or redact information in patients' charts after billing codes had been submitted in order to reflect

that certain services had been provided when, in fact, the patients' charts did not originally indicate that those same services had actually been provided.

39. Defendants repeatedly instructed and/or trained their personnel to change, alter, add, and/or redact information in patients' charts after billing codes had been submitted in order to prepare for internal quality assurance audits, which purpose in-part was to verify the truthfulness and accuracy of patients' chart information, according to the provider requisites that are required to participate in, and therefore receive funding from, U.S. and Texas Medicaid programs.

40. Defendants repeatedly instructed and/or trained their personnel to change, alter, add, and/or redact information in patients' charts after billing codes had been submitted in order to prepare for external, state or federal, quality assurance audits, whose purpose in-part was to verify the truthfulness and accuracy of patients' chart information, according to the provider requisites that are required to participate in, and therefore receive funding from, U.S. and Texas Medicaid programs.

41. Defendants had actual knowledge, or acted in deliberate ignorance, or acted in reckless disregard for the truth, when Defendants' policies, and the actions of Defendants' employees, repeatedly changed, altered, added to, or redacted from information in patients' charts in order to falsely reflect information that would substantiate billing codes submitted by Defendants.

42. Defendants had actual knowledge, or acted in deliberate ignorance, or acted in reckless disregard for the truth, when Defendants' policies and the actions of Defendants' employees repeatedly changed, altered, added to, or redacted from information in patients' charts in order to falsely reflect information that would substantiate satisfy the provider requisites that are required in order to participate in, and therefore receive funding from, U.S. and Texas Medicaid programs.

43. Based upon the false information contained in patients' charts, Defendants then presented illegitimate billing codes to the U.S. and/or Texas Governments for payment.

43. Based upon the false information contained in patients' charts, Defendants then passed quality assurance audits, both internally and externally, thereby falsely representing compliance in order to participate as a contracted provider in U.S. and Texas Medicaid programs.

44. This ongoing course of conduct violated the Civil False Claims Act, 31 U.S.C. §§ 32.039, *et seq.* This ongoing course of conduct also violated the Texas False Claims Act, TEX. HUM. RES. CODE §§ 32.039, *et seq.*, and 36.002, *et seq.*

45. The U.S. Government, and the Texas Government, unaware of the falsity of the information underlying claims and/or statements made by Defendants for the purposes of receiving funding under U.S. and Texas Medicaid programs, and in reliance on the material accuracy thereof, awarded grants and/or payments to Defendants in excess of \$8.5 million between February, 2003, and February, 2009.

Count IV

Falsely Representing Compliance with Title X Funding Limitations

46. Relator re-alleges and incorporates the allegations of paragraphs 1–45 as if fully set forth herein.

47. Defendants repeatedly instructed and/or trained their personnel to remove and hide all literature and all other types of materials or documentation, relating to abortion procedures and abortion counseling, during all quality assurance and audit inspections and reviews conducted by federal regulators and auditors whose purpose, in-part, was to verify compliance with Title X

funding and participation restrictions, which disallows the use of any Title X funding for programs “where abortion is a method of family planning.” *See* 42 U.S.C. § 300a-6.

48. Defendants had actual knowledge, or acted in deliberate ignorance, or acted in reckless disregard for the truth, when Defendants’ policies, and the actions of Defendants’ employees, repeatedly removed and hid all literature and all other types of materials or documentation, relating to abortion procedures and abortion counseling, in order to deceive and mislead federal regulators and auditors by falsely representing that Defendants’ clinics were in compliance with the statutorily defined limitations to participate in, and therefore receive funding from, Title X grant programs.

49. This ongoing course of conduct violated the Civil False Claims Act, 31 U.S.C. §§ 32.039, *et seq.* This ongoing course of conduct also violated the Texas False Claims Act, TEX. HUM. RES. CODE §§ 32.039, *et seq.*, and 36.002, *et seq.*

50. The U.S. Government, unaware of the falsity of the representations and/or statements made by Defendants for the purposes of receiving funding under Title X grant programs, and in reliance on the material accuracy thereof, awarded grants and/or payments to Defendants in excess of \$5 million between February, 2003, and February, 2009.

Count V

Conspiracy to Violate the U.S. False Claims Act

51. Relator re-alleges and incorporates the allegations of paragraphs 1–50 as if fully set forth herein.

52. Defendants combined, conspired, and agreed together to defraud the U.S. Government

by knowingly submitting false claims to the U.S. Government, and to the Texas Government, and/or knowingly misrepresenting compliance with funding program requirements, for the purpose of obtaining payment and/or grant funding.

53. Defendants allowed and committed the actions and/or omissions set forth above in furtherance of this conspiracy, all in violation of 31 U.S.C. § 3729(a)(3), thereby causing damage to the U.S. Government in excess of \$26.7 million between February, 2003, and February, 2009.

Count VI

Retaliation in Violation of 31 U.S.C. § 3730(h) and TEX. HUM. RES. CODE § 36.115

54. Relator re-alleges and incorporates the allegations of paragraphs 1–53 as if fully set forth herein.

55. During the period of 2008 through February, 2009, Relator and Plaintiff, Karen Reynolds, was harassed in her employment by Defendant PPHST as a result of her lawful acts, including Relator Reynolds' final refusal to falsify documentation meant to cover up Defendants' liability for the distribution of pharmaceuticals to a patient by an unauthorized, unsupervised, and unlicensed employee. This harassment, and ultimate termination in February, 2009, was in violation of 31 U.S.C. § 3730(h) and TEX. HUM. RES. CODE § 36.115.

56. As a direct and proximate result of this unlawful and discriminatory harassment and termination, Plaintiff, Karen Reynolds, has personally suffered emotional pain and mental anguish, together with serious economic hardship, including lost wages and special damages associated with her efforts to obtain alternative employment, in an amount to be proven at trial.

WHEREFORE, Relator respectfully requests this Court to enter judgment against Defendants, as follows:

(a) That the U.S. Government be awarded damages in the amount of three times the damages sustained by the U.S. because of the false claims and fraud alleged within this Complaint, as the Civil False Claims Act, 31 U.S.C. §§ 3729, *et seq.*, provides;

(b) That civil penalties of \$11,000 be imposed for each and every false claim that Defendants presented to the U.S. Government and/or its grantees;

(c) That the Texas Government be awarded damages in the amount of two times the damages sustained by Texas because of the false claims and fraud alleged within this Complaint, as the Texas False Claims Act, TEX. HUM. RES. CODE §§ 32.039(c), *et seq.*, and 36.052(a) and (b), *et seq.*, provide;

(d) That civil penalties of \$10,000 be imposed for each and every false claim that Defendants presented to the Texas Government and/or its grantees;

(e) That pre- and post-judgment interest be awarded, along with reasonable attorneys' fees, costs, and expenses which Relator and Plaintiffs necessarily incurred in bringing and prosecuting this case;

(f) That the Court grant permanent injunctive relief to prevent any recurrence of the federal and state False Claims Acts for which redress is sought in this Complaint;

(g) That Relator, Karen Reynolds, be awarded the maximum amount allowed to her pursuant to the federal and state False Claims Acts; and

(h) For Count VI, that Relator and Plaintiff, Karen Reynolds, be granted all relief necessary to make her whole, including but not limited to, two times her back pay, and other compensatory

damages sustained as a result of Defendants' harassment and retaliation; and

(i) That this Court award such other and further relief as it deems proper.

DEMAND FOR JURY TRIAL

Relator, on behalf of herself and the United States, demands a jury trial on all claims alleged herein.

Dated: July 30, 2009

Respectfully submitted,

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By: _____


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STATEMENT OF DOCUMENTS UNDER SEAL

Pursuant to Local Rule CV-5(a)(7)(A), I hereby certify that (1) a motion to seal the foregoing document, and documents related to the instant case, has been filed, or (2) this Court has already granted authorization to seal the foregoing document.



Steven Lovett