BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE
OF THE STATE OF CALIFORNIA

IN THE MATTER OF: Enforcement Matter Nos.: 12-227, 12-243,
San Francisco General Hospital Medical 13-275, 14-074, and 14-092
Group, SETTLEMENT AGREEMENT
Respondent.

Michelle Rouillard, the Director of the Department of Managed Health Care, and the San
Francisco General Hospital Medical Group wish to resolve the issues raised in Enforcement Matters
Nos. 12-227, 12-243, 13-275, 14-074, and 14-092, and agree to the following terms:

I. PARTIES

1. Michelle Rouillard, the Director of the Department of Managed Health Care (hereafter
"the DMHC Director"), is the chief officer of the Department of Managed Health Care and may exercise
all powers necessary or convenient for the enforcement and administration of, among other laws, the
laws of this State relating to health care service plans and the health care service business. (Health and
Safety Code section 1341.)
2. Respondent San Francisco General Hospital Medical Group, also known as the “Clinical Practice Group” or “CPG” (hereafter “CPG”) provides health care services to the San Francisco General Hospital. Those services include “emergency services and care” as that term is defined in Health and Safety Code section 1317.1.

II. VIOLATIONS

3. CPG hereby acknowledges that since approximately January 2009 it has been in violation of the Knox-Keene Health Care Service Plan Act of 1975 (Health & Saf. Code, § 1340 et seq.) (hereafter “the Knox-Keene Act”), to the extent that it has billed patients with Blue Shield of California PPO plans for the difference between the amount the CPG charged for emergency services, and the amount that an enrollee’s health care service plan paid to CPG or to the enrollee for those services. This practice, called “balance billing,” was prohibited in Prospect Medical Group, Inc. v. Northridge Emergency Medical Group (2009) 45 Cal.4th 497, 507 (interpreting various sections of the Knox-Keene Act). Under the Knox-Keene Act and Prospect providers of emergency services like CPG can only bill an enrollee for co-payments and deductibles that the plan has determined are the patient’s responsibility.

4. In particular, CPG acknowledges that beginning in January 2009 and continuing to March 2014, CPG balance-billed enrollees of California Physicians’ Service, doing business as Blue Shield of California, for emergency services provided at San Francisco General Hospital because it did not realize that Blue Shield of California PPO plans were subject to DMHC jurisdiction (in contrast with HMO plans). The Blue Shield enrollees CPG unlawfully balance-billed include but are not limited to the enrollees identified in Enforcement Matter No. 13-275 as “N.O.” (dates of service October 2012); in Enforcement Matter No. 14-074 as “R.L.” (dates of service December 2012); in Enforcement Matter No. 14-092 as “F.D.” (dates of service August 2013); in Enforcement Matter No. 12-227 as “T.K.” (dates of service October 2011); and in Enforcement Matter No. 12-243 as “A.M.” (dates of service February 2012).

III. TERMS

5. The DMHC Director determined that a Corrective Action Plan (CAP) is warranted, and CPG has agreed to a CAP, and submitted a proposed CAP to the DMHC Director that she has accepted. Under the CAP, CPG agrees to do, or has done, the following:

Settlement Agreement
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a. Effective March 5, 2014, CPG ceased balance billing patients enrolled in Blue Shield of California PPO products.

b. Effectively immediately, CPG agrees not to balance bill, as defined herein, any patients enrolled in health care service plans licensed by the Department of Managed Health Care.

c. The Director of CPG ("CPG Director") has met with the CPG account managers three times to reinforce the managers' understanding of the balance billing prohibition. The CPG Director has implemented a plan to periodically monitor compliance.

d. CPG has instructed its current contracted collection agency, Provider Recovery Network ("PRN"), to suspend collection efforts on all Blue Shield PPO patients. The CPG Director also personally met with PRN to reiterate this directive. CPG agrees that if it changes contracted collection agencies, it will ensure that the collection agency complies with the covenants agreed to herein by CPG with respect to balance billing.

e. CPG has modified the processing of correspondence to ensure that correspondence from regulatory agencies such as the Department of Managed Health Care is routed to the appropriate CPG officials. Those CPG employees responsible for processing mail have received training so they can identify regulatory agencies and types of correspondence they may send to CPG. Correspondence will now be sent to the appropriate account representatives and to the CPG Director.

f. CPG has met with PRN and discussed new procedures to ensure that correspondence that PRN receives from regulatory agencies such as the Department of Managed Health Care regarding CPG patients is forwarded directly to the CPG Director. CPG agrees that if it enters into a contract with a new collection agency, it shall review with the new agency procedures to ensure that correspondence that agency receives from regulatory agencies regarding CPG patients is forwarded directly to the CPG Director.

g. CPG has reiterated to all staff the importance of responding to telephone calls, including those from regulatory agencies such as the Department of Managed Health Care, in a timely manner.

h. CPG agrees to audit its records to identify Blue Shield PPO enrollees who were billed after January 9, 2009, for emergency services, and to refund to those enrollees all amounts paid by the enrollee that exceed the enrollees' responsibility for copayments and deductibles. CPG will include
interest at the rate of 10% per year on the amount to be refunded. Interest will accrue from the date the enrollee paid CPG more than the copayment or deductible. CPG will send the refund amounts, including interest, to each enrollee using the enrollee’s last known address. All refunds must be mailed by March 1, 2015.

i. CPG will submit progress reports to the Department on November 1, 2014, and January 2, 2015, informing the Director of (1) the number of enrollees to whom refunds have been issued, (2) the amount of each enrollee’s refund, and (3) the estimated date by which all refunds will have been made.

j. If any refund due an enrollee is returned to CPG by the U.S. Postal Service because the enrollee is no longer at the address contained in CPG’s records, CPG agrees to deposit the total amount due to that enrollee with the State Controller in accordance with the Unclaimed Property Law (“UPL”) (Code of Civil Procedure section 1500 et seq.), and the regulations promulgated in furtherance of the UPL (title 2, California Administrative Code, section 1150 et seq.) The deposit shall be made on or before March 1, 2015. CPG will provide a copy of all documents filed with the State Controller to the DMHC Director.

6. The Department agrees that performance of the CAP to the Director’s satisfaction will settle all issues, accusations, and claims pertaining to the enforcement matters listed herein.

7. This Settlement Agreement may not be used as an admission by CPG in any criminal proceedings; however, it may be used by the Department in future civil or administrative proceedings.

IV. ADDITIONAL TERMS

8. Release. CPG’s performance of the terms set forth in Section III-Terms, above, will release the CPG and its affiliates, successors and assigns from any further disciplinary actions based on a claim of violation arising from the facts set forth in Section II above. It will not release the CPG from any further disciplinary action for violations that take place after the date this Agreement is signed by both parties. The parties understand and agree that, except as herein described, nothing in this Agreement limits or in any way affects the Director’s right and authority under Health and Safety Code section 1387, and regulations California Code of Regulations, title 28, section 1300.87. Nor shall anything in this Agreement constitute a disclaimer, relinquishment, estoppel, or a waiver of any form of any right or authority of the Department, including without limitation to continue with its current
investigations, surveys, audits, or examinations and/or to exercise its enforcement and disciplinary authority relative to, or independent of, those investigations, audits, or examinations. Nothing in this Agreement shall limit, affect, or inhibit in any manner the Department's powers to initiate any new or additional investigations, or to require and/or order any remediation, penalties, and/or other remedies the Department deems necessary or appropriate to carry out the objectives of this Agreement and/or Knox-Keene Act, including, without limitation, actions necessary to protect and/or effectuate remediation to enrollees.

9. **Binding Effect.** The terms set forth herein shall be binding on CPG and its respective successors and assigns and on the CPG Director. If CPG fails to fulfill its obligations to the Director as provided under the terms set forth herein, CPG stipulates and agrees that Sacramento County is the proper venue if the Director determines that a civil action is necessary to compel CPG's compliance with the Knox-Keene Act.

10. **Assignment.** No obligation set forth herein may be assigned by the CPG Director to any other person or entity in whole or part without the prior written consent of the Department.

11. **Amendment.** This Agreement may not be altered, amended, or otherwise changed or modified, except in writing signed by both of the parties.

12. **No Inducement.** The parties declare and represent that other than as contained herein, no promises, inducements, or other agreements have been made and that this document contains the entire agreement between the parties and the terms of this Settlement Agreement are contractual and not mere recitals.

13. **Authority of Signatories.** All signatories warrant that they possess the necessary capacity and authority to enter into and execute this Settlement Agreement.

14. **Additional Documents.** The parties agree to cooperate in the drafting, execution, and delivery of such other additional documents as reasonably may be required to effectuate each of the terms of this Settlement Agreement.

15. **Advice of Attorney.** Each party warrants and represents that, in executing this Settlement Agreement, they have relied upon legal advice from the attorney of their choice; that the terms of this Settlement Agreement have been read, and its consequences (including, but not limited to,
risks, complications, and costs) have been completely explained to them by that attorney; that adequate
time has been given for them to consult with their attorney, to ask any questions concerning this
Settlement Agreement, to receive responses to those questions, and to contemplate the attorney’s advice
concerning this Settlement Agreement; and that the parties fully understand the terms of this Settlement
Agreement. The parties to this Settlement Agreement acknowledge, warrant, and represent that, in
executing this Settlement Agreement, they have not relied on any inducements, promises, or
representations made by any other party to this Settlement Agreement or any person or entity
representing or serving another party, except for those expressly stated in this Settlement Agreement.

16. **Integration.** This Agreement is the complete, final, and exclusive statement of the terms
of the Agreement and supersedes prior or contemporaneous negotiations, representations, statements,
 writings, and/or agreements, whether written or oral, which relate to the subject matter of this
Agreement.

17. **Construction.** As used in this Settlement Agreement, the masculine, feminine, or neuter
gender, the singular or plural numbers, and the conjunctive or disjunctive shall each be deemed to
include the other whenever the context so indicates. This Settlement Agreement shall be construed in
accordance with its fair meaning, the captions being for the convenience of the parties only and not
intended to describe or define the provisions in the portions of the Settlement Agreement to which they
pertain. The parties have engaged in arms-length negotiations and have freely negotiated the terms of
this Settlement Agreement, and this Settlement Agreement shall not be construed against the drafter, as
these drafting services have been performed as a courtesy to the other parties to this Settlement
Agreement. In the event that any provision of this Settlement Agreement is held to be ineffective or
invalid, the remaining provisions will nevertheless be given full force and effect.

18. **Counterparts.** For the convenience of the parties, this document may be executed in
counterparts, which shall together constitute the agreement of the parties. If an original signature is
affixed by a party to a counterpart of this Agreement and a facsimile, or copy, of such originally
executed counterpart signature is thereafter sent to a party or a party’s attorneys of record, the facsimile,
or copy, shall be afforded the same validity as the originally executed counterpart, and may be relied
upon by all parties for any and all purposes relating to this Agreement.

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19. **Effective Date of Agreement.** This Settlement Agreement shall take effect immediately upon execution by the Director of the Department of Managed Health Care or her designee.

20. **Public Record.** CPG understands that this Agreement will be posted on the Department’s public website in its Enforcement Action Database.

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**IT IS SO AGREED:**

Dated: **September 21, 2014**

SAN FRANCISCO GENERAL HOSPITAL MEDICAL GROUP/CLINICAL PRACTICE GROUP


**IT IS SO AGREED:**

Dated: **September 30, 2014**

DEPARTMENT OF MANAGED HEALTH CARE


Settlement Agreement
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