

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (“Agreement”) is entered into by the State of California by and through the California Insurance Commissioner, Dave Jones (“the Commissioner”), in his capacity as California Insurance Commissioner, Bristol-Myers Squibb Company, (“BMS”), Mychal Wilson, Eve Allen, and Lucius Allen (Mychal Wilson, Eve Allen, and Lucius Allen are referred to collectively as “Relators”) (hereinafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. BMS is a Delaware corporation with its principal place of business in New York City, New York. BMS is a global BioPharma company with a mission to discover, develop and deliver innovative medicines to patients with serious diseases. Among the products BMS developed and/or marketed during the period covered by the Complaint (as defined in this Agreement) were Plavix, Pravachol, Monopril, Abilify, Avandia, Glucovance, Metaglip, Glucophage, Glucophage XR, Cefzil, BuSpar, Serzone, Tequin, Pravigard, and Avapro (collectively the “Subject Drugs”).

B. On March 16, 2007, Mychal Wilson filed a *qui tam* action in the Superior Court for the County of Los Angeles captioned *The People of the State of California ex rel. Michael Wilson v. Bristol-Myers Squibb, Inc.*, Case No. BC 367873, pursuant to the *qui tam* provisions of the California Insurance Frauds Prevention Act (“IFPA”), California Insurance Code section 1871.7¹ (“the Action”).

C. On or about July 6, 2010, Mychal Wilson, Lucius Allen, and Eve Allen filed a First Amended Complaint in the Action captioned *The People of the State of California ex rel. Michael Wilson, Lucius Allen, and Eve Allen v. Bristol-Myers Squibb, Inc.* under the same case number.

¹ Unless otherwise specified, all statutory references in this Agreement are to the California Insurance Code.

D. On or about March 25, 2011, the State, by and through the Commissioner, intervened in the Action and took over primary responsibility for prosecuting the Action.

E. On or about November 16, 2011, the Relators and the Commissioner filed a Third Amended Complaint in the Action captioned *The State of California ex rel. Michael Wilson, Lucius Allen, and Eve Allen v. Bristol-Myers Squibb, Inc.*, under the same case number.

F. The Third Amended Complaint ("the Complaint") sets forth the pending allegations in the Action.

G. The Relators were dismissed from the Action on or about March 30, 2015, and although on November, 20, 2015, the Court of Appeal of the State of California granted Relators' petition for writ of mandate to enter judgment to appeal the trial court's decision, the Commissioner remains as the sole plaintiff in the Action to prosecute the allegations in the Complaint.

H. The Commissioner contends that he has certain civil claims against BMS for allegedly engaging in the following conduct:

(1) The Commissioner contends that BMS: (i) knowingly offered and/or paid illegal remuneration or offered and/or provided any other thing of value to physicians and their staff, including but not limited to physician assistants and nurse practitioners, and pharmacists (or their staffs) for, or in connection with, their participation in National Consulting Conferences, Regional Consulting Conferences, Clinical Advisory Councils, District Advisory Boards, Interactive Training Sessions, Speakers Bureaus, Preceptorships, Lunch and Learn programs, and similar consulting and/or marketing programs for the Subject Drugs in violation of the Insurance Frauds Prevention Act, Insurance Code section 1871.7(a) and (b); and (ii) knowingly offered and/or paid illegal remuneration or offered and/or provided any other thing of value, including, but not limited to, lavish meals, liquor, gifts, gift cards, sporting events, entertainment, or recreational activities, in connection with the Subject Drugs to physicians and their staff, including but not limited to physician assistants and nurse practitioners, and pharmacists (or their

staffs) in violation of the Insurance Frauds Prevention Act, Insurance Code section 1871.7(a) and (b) (hereinafter referred to as "the Covered Conduct").

(2) The Commissioner contends that BMS engaged in the Covered Conduct during the period 1997 to 2003.

I. Relators claim entitlement under Section 1871.7, subdivisions (g)(1)(A)(i) & (iii) to a share of the proceeds of this Agreement.

J. BMS denies any and all wrongdoing and denies that it has any liability relating to the Covered Conduct.

K. Solely to avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the claims alleged in the Action, the Parties have reached a full, fair, and final settlement, which the Parties acknowledge and agree is not punitive in purpose or effect, and which is set forth in this Agreement.

L. This Agreement is made in compromise of disputed issues of law and fact and is not an admission of facts or liability by BMS. BMS expressly denies the allegations set forth herein and in the Action. BMS has numerous defenses to the Commissioner's and Relators' claims and denies that it has engaged in any wrongful conduct in connection with the Covered Conduct. Neither this Agreement, nor its execution, nor the performance of any obligation under it, including any payment, nor the fact of settlement, is intended to be, or shall be understood as, an admission of liability or wrongdoing, or other expression reflecting upon the merits of the dispute by BMS. The allegations described herein are not intended to constitute evidence admissible in a court of law.

TERMS AND CONDITIONS

1. BMS shall pay to the California Department of Insurance ("CDI") the sum of \$30,000,000 ("the Settlement Amount") in full and final settlement and discharge of claims brought in the Action, or which could have been brought in the Action. Such payment shall be made within fifteen (15) calendar days of the Effective Date of the Agreement (as defined in this Agreement). The Parties agree that the Settlement Amount is inclusive of any and all attorneys'

fees and/or costs that might otherwise have been recoverable by the State/Commissioner and/or the Relators pursuant to Section 1871.7.

2. The Settlement Amount shall be provided as follows: BMS shall send a check in the amount of \$30,000,000 via overnight delivery with the check made payable to the California Department of Insurance, referencing *State ex-rel. Wilson v. Bristol-Myers Squibb* and addressed to:

California Department of Insurance
Accounting Services Bureau
300 Capitol Mall, Suite 14000
Sacramento, CA 95814
Attn: Cashiering

Contact Name:
Merita Chung, Chief
Accounting Services California Department of Insurance
(916) 492-3451
Merita.Chung@insurance.ca.gov

3. BMS shall have no responsibility for the allocation, if any, of the Settlement Amount between the Commissioner and any other individual or entity, including the Relators, or their respective attorneys, and after paying the Settlement Amount in full, BMS shall have no further liability for payment of any further sum of any kind or nature whatsoever, including, without limitation, attorneys' fees, including the Commissioner's and Relators' attorneys' fees, experts' fees, expenses, and costs.

4. In consideration of the obligations of BMS set forth in this Agreement, and conditioned upon BMS's full payment of the Settlement Amount, Dave Jones in his capacity as the Insurance Commissioner of the State of California, hereby fully and finally releases, acquits, covenants not to sue, and forever discharges BMS, its predecessors and successors, and each of their respective board members, officers, employees, representatives, agents, attorneys, past and present owners, shareholders, partners, subsidiaries, and affiliates (the "BMS Released Parties") from any and all suits, arbitrations, claims, demands, actions, rights, obligations, limitations,

claims for relief, charges, and causes of action, of any kind, character, or nature whatsoever, arising in any way out of or connected in any way with the facts, claims, and circumstances that are set forth in or that arise from the Covered Conduct up to and including through the date of the execution of the Agreement or that were alleged or that could have been alleged or asserted relating in any way to the Covered Conduct in the Action, up to and including through the date of the execution of this Agreement, whether known or unknown, suspected or unsuspected, fixed or contingent, matured or unmatured, whether or not concealed or hidden, and without regard to the subsequent discovery or existence of such different or additional facts, in law or in equity, or in contract or tort, including, but not limited to, any and all penalties, fines, assessments, trebling, disgorgements, overcharges, costs, fees, expenses, or general or special damages of any kind or nature ("the Commissioner's Released Claims").

5. In consideration of the obligations of BMS set forth in this Agreement, and conditioned upon BMS's full payment of the Settlement Amount and the non-monetary consideration described in this Agreement, the Relators, for themselves and for their heirs, successors, attorneys, agents, and assigns, hereby fully and finally release, acquit, covenant not to sue, and forever discharge BMS and the BMS Released Parties from any and all suits, arbitrations, claims, demands, actions, rights, obligations, limitations, claims for relief, charges, and causes of action, of any kind, character, or nature whatsoever, whether known or unknown, suspected or unsuspected, fixed or contingent, matured or unmatured, whether or not concealed or hidden, and without regard to the subsequent discovery or existence of such different or additional facts, in law or in equity, or in contract or tort, now existing or arising in the future, based on any act, omission, event, occurrence or nonoccurrence from the beginning of time to the date of execution of this Agreement, including, but not limited to, those arising out of or connected in any way to the facts, claims, and circumstances that are set forth in or that arise from the Covered Conduct, those that were alleged or that could have been alleged or asserted in the Action, and those arising out of or relating to Relators' employment with BMS and the cessation of said employment, and including, but not limited to, any alleged violation of the

National Labor Relations Act, Title VII of the Civil Rights Act of 1964, Sections 1981 through 1988 of Title 42 of the United States Code and all amendments thereto, the Employee Retirement Income Security Act of 1974 ("ERISA"), the Americans with Disabilities Act of 1990 and any amendments thereto, the Age Discrimination in Employment Act of 1967 ("ADEA"), the Equal Pay Act, the Fair Labor Standards Act ("FLSA"), the Occupational Safety and Health Act ("OSHA"), the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), the California Family Rights Act ("CFRA"), the Federal Family and Medical Leave Act ("FMLA"), the federal False Claims Act ("FCA"), 31 U.S.C. §§ 3729-33, as amended, the California False Claims Act (Cal. Gov't Code § 12653), the California Insurance Frauds Prevention Act (Cal. Ins. Code § 1871.7), the California Fair Employment and Housing Act ("FEHA"), the California Labor Code (excluding section 2802 and workers' compensation laws), California Business And Professions Code § 17200 et seq., the New Jersey Law Against Discrimination, the Conscientious Employee Protection Act, the New Jersey Family Leave Act, the New Jersey Constitution, the common law of the State of New Jersey, New Jersey Family Leave Act, the New Jersey Wage Payment Law, the New Jersey Equal Pay Act, the New Jersey Security and Financial Empowerment Act, and any other alleged violation of any local, state or federal law, regulation or ordinance, and/or public policy, under the laws of the State of California, or any other state or territory, or any rights or remedies in contract or tort or common law, including claims for attorneys' fees and costs (the "Relators' Released Claims"). The release does not apply to any claim for vested benefits under a BMS retirement, pension or welfare plan, or claims that, as a matter of law, cannot be released by private or court-approved agreement. This shall not prevent Relators' counsel, or Relator Wilson in his capacity as counsel for future litigants, from bringing claims against BMS in the future based on unrelated facts.

6. Conditioned upon BMS's full payment of the Settlement Amount, the Commissioner and Relators covenant and agree that they, individually and collectively, will not sue, sue further, pursue any appeal or writ, or otherwise prosecute in any way, or pursue claims of any nature, against any BMS Released Parties with respect to any of their own respective

Released Claims. It is expressly agreed, intended, and understood by the Parties that this Agreement is a complete accord and satisfaction of any and all of the claims that the Commissioner, in his capacity as Insurance Commissioner of the State of California, and/or Relators may have or may have had against the BMS Released Parties with respect to any of their own respective Released Claims.

7. BMS fully and finally releases the Commissioner and the California Department of Insurance, its agencies, officers, agents, and employees, from any claims (including, but not limited to attorneys' fees, costs, and expenses of every kind and however denominated) that BMS has asserted, could have asserted, or may in the future assert against the Commissioner and/or the California Department of Insurance, its agencies, officers, agents, and employees related to the Action and the Commissioner's investigation and prosecution thereof ("BMS's Released Claims Against the Commissioner").

8. BMS fully and finally releases the Relators from any claims (including, but not limited to attorneys' fees, costs, and expenses of every kind and however denominated) that BMS has asserted or could have asserted as of the date of this Agreement related to the Action and the Commissioner's investigation and prosecution thereof ("BMS's Released Claims Against Relators"); provided, however, that the release set forth in this paragraph is contingent upon the following warranty by the Relators: the Relators have no intention to file or participate in any lawsuit against BMS as plaintiffs and/or relators. This release does not apply to any claims by BMS against Relators arising out of any act, omission, or statement after the Effective Date of this Agreement, including but not limited to any claim arising out of or related to any breach of this Agreement.

9. The Parties have conducted their own due diligence regarding their respective Released Claims and all matters relating to their respective Released Claims. This Agreement is expressly intended to release known and unknown claims, including all past, present, and future rights of action arising out of the Commissioner's Released Claims and the Relators' Released

claims respectively, and to the extent it applies, the Parties expressly waive application of Section 1542 of the Civil Code of the State of California, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

10. Notwithstanding any provision of the California Insurance Code, or any other rule, regulation, or statute, each Party will pay its own attorneys' fees and costs, including, but not limited to, experts' fees and costs, and all other expenses incurred in connection with the subject matter of the Action (except to the extent such fees, costs, or expenses may be included within the Settlement Amount).

11. Upon payment of the Settlement Amount, the Commissioner shall dismiss the Action with prejudice. The Parties agree to request, and do hereby request, that the Los Angeles County Superior Court retain jurisdiction to enforce this Agreement according to the procedure set forth in California Code of Civil Procedure section 664.6 or by any other procedure permitted by law pertaining to the enforcement of this agreement. This Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, arbitration demand, or other proceeding that may be instituted, prosecuted, or attempted, arising out of or in any way related to the Commissioner's Released Claims and the Relators' Released Claims respectively.

12. Relators and their counsel agree that they each may issue no more than one press release concerning this settlement or the litigation. If such a press release is issued, it shall be framed as a comment upon a statement or press release issued by CDI. Relators and their counsel understand that a violation of this provision will constitute a material breach of this Agreement.

13. The agencies and officials of the State of California, including but not limited to the California Department of Insurance, shall have no liability for a breach, implied or actual, of this Agreement by Relators, and/or their counsel, or by BMS, with respect to duties they may owe each other under this Agreement. In the event of a breach of this Agreement by either BMS or Relators or their counsel with respect to duties owed to each other under this Agreement, such breach will not affect the duties owed to the Commissioner by BMS and/or Relators under this Agreement. Neither Relators nor their counsel, nor BMS shall join or attempt to join any agency or official of the State of California in any lawsuit or administrative action alleging that Relators or their counsel, or BMS breached any provision of this Agreement ("a Subsequent Action") with respect to duties they may owe to each other, unless a cause of action alleging breach of this Agreement against the State of California or the California Department of Insurance also exists. If any of them should join or attempt to join any agency or official of the State of California in a Subsequent Action without reasonable and good faith justification (as determined by the court in such Subsequent Action), the State of California and the official(s) joined or attempted to be joined shall be entitled to all attorney's fees and costs reasonably incurred in the defense of such Subsequent Action from the party to this Agreement that did so without reasonable and good faith justification.

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

15. Each of the Parties has been represented by competent legal counsel in connection with this Agreement. The language of this Agreement was fully negotiated and jointly drafted, and the Parties expressly waive application of any rule of construction that would cause the language of this Agreement to be construed against the party that drafted it. In addition, each of the Parties has been fully advised by its own counsel of the meaning and effect of this Agreement, and expressly warrants that it has not relied on any statements, promises, interpretations, facts, or opinions, provided by any other Party or its counsel.

16. This Agreement constitutes the entire understanding and agreement between the Parties as to the final settlement of any civil claims the Commissioner and Relators assert they have arising out of the Covered Conduct or their respective Released Claims. There are no other prior or contemporaneous oral agreements concerning the Parties' respective Released Claims or this Agreement. This Agreement may be amended at any time by agreement of BMS and the Commissioner without the consent of any Relator, but to be effective, any such amendment must be in writing, dated, and signed by BMS and the Commissioner (individually or through his CDI counsel).

17. The individuals who execute this Agreement represent and warrant that the Party they are signing for owns the claims the Party is releasing and that such Party has not assigned, encumbered, or otherwise transferred the claim or any interest in the claim, and that such individual has full authority from the Party they are signing for to execute this Agreement on its behalf.

18. As material condition of this agreement, BMS warrants that it has established and is utilizing a Comprehensive Compliance Program (CCP) in accordance with Health & Safety Code sections 119400 – 119402, that the CCP applies to commercial markets and, that the CCP requires compliance with pertinent California legal requirements relevant to interactions with California healthcare professionals, including but not limited to the provisions of Insurance Code sections 1871.7(a) and (b) to the extent applicable.

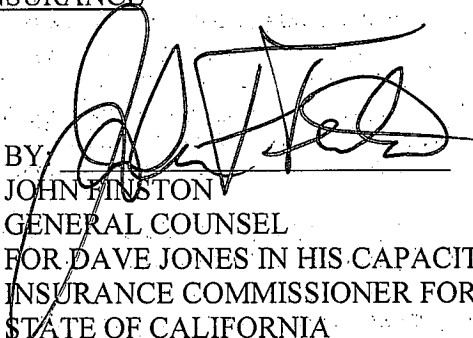
19. This Agreement is a settlement of disputed claims. By executing this Agreement, no Party admits any liability or fault in relation to the matters identified in or subject to this Agreement, and neither the execution of this Agreement nor the consideration therefore shall be construed as an admission as to the merits of any claim released herein.

20. In the event any portion of this Agreement is declared void by a court, such portion shall be severed from this Agreement, and the remaining provisions shall remain in effect, unless the effect of such severance would be to substantially alter the Agreement or obligations of the Parties, in which case the Agreement may be immediately terminated.

21. The Recitals are hereby incorporated into this Agreement by this reference.
22. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement, and each Party shall provide a copy of the signature page with the signature of its authorized representative to the other Parties.
23. This Agreement is binding on Bristol-Myers Squibb Company's successors, transferees, heirs, and assigns.
24. This Agreement is binding on Relators' successors, transferees, heirs, and assigns.
25. This Agreement is effective on the date of signature and transmittal to the other Parties, of the last signatory to the Agreement ("Effective Date of the Agreement"). Facsimiles and scanned pdfs of physical (as opposed to typed) signatures shall constitute acceptable, binding signatures for purposes of this Agreement.
26. This Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws principles.

THE CALIFORNIA DEPARTMENT OF INSURANCE

DATED: 7-1-16

BY: 
JOHN H. JOHNSTON
GENERAL COUNSEL
FOR DAVE JONES IN HIS CAPACITY AS
INSURANCE COMMISSIONER FOR THE
STATE OF CALIFORNIA

BRISTOL-MYERS SQUIBB COMPANY

DATED: _____

BY: _____
SANDRA LEUNG
Executive Vice President and General Counsel
Bristol-Myers Squibb Company

(Signatures continued on following page)

21. The Recitals are hereby incorporated into this Agreement by this reference.
22. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement, and each Party shall provide a copy of the signature page with the signature of its authorized representative to the other Parties.
23. This Agreement is binding on Bristol-Myers Squibb Company's successors, transferees, heirs, and assigns.
24. This Agreement is binding on Relators' successors, transferees, heirs, and assigns.
25. This Agreement is effective on the date of signature and transmittal to the other Parties, of the last signatory to the Agreement ("Effective Date of the Agreement"). Facsimiles and scanned pdfs of physical (as opposed to typed) signatures shall constitute acceptable, binding signatures for purposes of this Agreement.
26. This Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws principles.


THE CALIFORNIA DEPARTMENT OF INSURANCE

DATED: _____

BY: _____
JOHN FINSTON
GENERAL COUNSEL
FOR DAVE JONES IN HIS CAPACITY AS
INSURANCE COMMISSIONER FOR THE
STATE OF CALIFORNIA

BRISTOL-MYERS SQUIBB COMPANY

DATED: 7/1/16

BY: 
SANDRA LEUNG
Executive Vice President and General Counsel
Bristol-Myers Squibb Company

(Signatures continued on following page)

DATED: 7-1-16

BY: David Marcus / DL
DAVID C. MARCUS
Wilmer Cutler Pickering Hale & Dorr LLP
350 South Grand Avenue, Suite 2100
Los Angeles, CA 90071
Counsel for Bristol-Myers Squibb Company.

DATED: 7-1-16

BY: Mitchell Lazris / DL
MITCHELL LAZRIS
Hogan Lovells US LLP
555 Thirtieth Street, NW
Washington, D.C. 20004
Counsel for Bristol-Myers Squibb Company.

(Signatures continued on following page)

RELATORS

DATED:

6/30/16

BY:

MYCHAL WILSON

MW, BSG

DATED: _____

BY: _____

EVE ALLEN

DATED: _____

BY: _____

LUCIUS ALLEN

DATED: _____

BY: _____

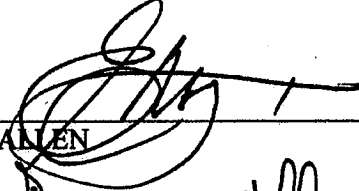
MICHAEL ARMITAGE
Waters, & Kraus LLP
Counsel for Relators

RELATORS

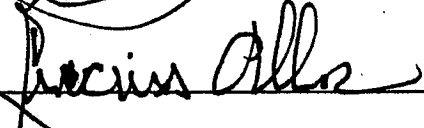
DATED: _____

BY: _____
MYCHAL WILSON

DATED: June 30, 2016

BY:  _____
EVE ALLEN

DATED: June 30, 2016

BY:  _____
LUCIUS ALLEN

DATED: _____

BY: _____
MICHAEL ARMITAGE
Waters, & Kraus LLP
Counsel for Relators

RELATORS

DATED: _____

BY: _____
MYCHAL WILSON

DATED: _____

BY: _____
EVE ALLEN

DATED: _____

BY: _____
LUCIUS ALLEN

DATED: 06.30.16

BY: 
MICHAEL ARMITAGE
Waters, & Kraus LLP
Counsel for Relators