

STATE OF MICHIGAN
COURT OF CLAIMS

DAVID HOREIN, ET.AL.,

COC No. 23-000063-MM

Plaintiffs,

HON. JAMES REDFORD

v

MICHIGAN DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

CLASS ACTION SETTLEMENT
AGREEMENT

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PLAINTIFFS' UNOPPOSED MOTION
TO CERTIFY SETTLEMENT CLASS AND APPOINT SETTLEMENT CLASS COUNSEL

Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B. and a class of similarly situated Minor Children; and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., individually and on behalf of a class of similarly-situated adults, through their attorneys, move for an Order certifying this action as a class action, for settlement purposes only, pursuant to MCR 3.501 of the Michigan Rules of Civil Procedure. The above-captioned matter has been consolidated with the following related actions for settlement purposes: Horein v Petti, No. 23-005451-CZ (Wayne CC); Woodruff v MDHHS, No. 23-000071-MM (COC); Woodruff v Petti, No. 23-006141-CZ (Wayne CC); Kennedy v Petti, No. 23-010125-CZ (Wayne CC).

1. Plaintiffs seek certification of two settlement classes, including one sub-class, defined as follows:

- a. **A Patient Plaintiff Class** (also referred to herein as **Patient Plaintiffs**), **defined as:** all individuals who were patients at the Hawthorn Center and were present in the Hawthorn Center on December 21, 2022, between the hours of 9:00 a.m. and 11:00 a.m.
- b. **A Staff Plaintiff Class** (also referred to herein as **Staff Plaintiffs**), **define as:** all Department employees and DK Security employee(s) who were present in the Hawthorn Center on December 21, 2022 between the hours of 9:00 a.m. and 11:00 a.m., excluding Victoria Petti, Derek Leppek, Wayne Soucie, and Dr. George Mellos. This Staff Patient Class includes a special subclass comprising only Brandon Woodruff and Hawk Kennedy.

2. Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B.; and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., request that they be appointed class representatives and that Brandon Woodruff and Hawk Kennedy be appointed representative for a special sub-class of the Staff Plaintiffs that only includes Mr. Woodruff and Mr. Kennedy. Mr. Kennedy is represented Nancy K. Chinonis of Cline, Cline & Griffen. All other Class Representatives are represented by Pitt, McGehee, Palmer, Bonanni & Rivers, PC.

3. Plaintiffs further request that their counsel, Pitt, McGehee, Palmer, Bonanni & Rivers, PC, and Michigan Law Center, PLLC be appointed as class counsel for the Patient Plaintiffs Class.

4. In support of this motion, Plaintiffs rely upon the Brief and Declaration filed with this motion and attached below.

5. Defendant does not oppose this motion.

WHEREFORE, Plaintiffs respectfully request the Court 1) appoint Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B. be appointed class representatives on behalf of the Patient Class; 2) appoint Plaintiffs NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., as class representatives for the Adult Class, with Brandon Woodruff and Hawk Kennedy as representatives of a special sub-class that only includes them; 3) appoint Pitt, McGehee, Palmer, Bonanni & Rivers, PC as class counsel; 4) approve the Settlement Agreement; and 5) approve the proposed method and notice of settlement to the settlement classes.

Respectfully submitted,

PITT, McGEHEE, PALMER & RIVERS, P.C.

/s/ Robin B. Wagner

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Dated: January 31, 2024

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**BRIEF IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION TO CERTIFY
SETTLEMENT CLASS AND APPOINT CLASS COUNSEL**

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STATEMENT OF ISSUES PRESENTED

1. Do the proposed Adult Class and Patient Class meet MCR 3.501 requirements for class certification?

Answer: Yes.

2. Should Pitt McGehee Palmer Bonanni & Rivers, PC be appointed Counsel of the Settlement Class?

Answer: Yes.

3. Should Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B., be appointed Class Representatives for the Patient Class?

Answer: Yes.

4. Should NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., be appointed Class Representatives for the Staff Plaintiff Class, with Brandon Woodruff and Hawk Kennedy as representatives of a special sub-class that only includes Mr. Woodruff and Mr. Kennedy?

Answer: Yes.

5. Should the Court approve the Settlement?

Answer: Yes.

6. Should the Court approve the method of Notice to the Settlement Class Members?

Answer: Yes.

CONTROLLING AUTHORITY

Cases

<i>A&M Supply Co v Microsoft Corp</i> , 252 Mich. App. 580 (2002).....	8
<i>Amchem Prods., Inc. v. Windsor</i> , 521 U.S. 591, 620 (1997).....	5
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Other Authorities

Alba Conte & Herbert B. Newberg, 4 Newberg on Class Actions § 11:22 (4th ed. 2002).	16
Manual for Complex Litigation §§ 21.632-634 (4th ed. 2004)	15

INTRODUCTION

Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B. and the Patient Class they seek to represent, and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr., on behalf of themselves and the Adult Class they seek to represent, allege that they were suffered injuries and harms including but not limited to severe psychological, emotional and physical distress because of the acts and omissions of the leaders of the Hawthorn Center, a Children's Psychiatric Hospital owned and operated by the Michigan Department of Health and Human Services. After months of negotiations, the parties have reached a proposed settlement ("Settlement Agreement"), which, if approved by the Court, would resolve the Plaintiffs' claims and those of other similarly situated individuals who were subjected to Defendant's gross negligence and abuse, which constituted violations of the Plaintiffs' and class members' Constitutional rights.

Plaintiffs seek certification, *for settlement purposes only*, of the following classes:

- A. **A Patient Plaintiff Class** (also referred to herein as **Patient Plaintiffs**), **defined as:** all individuals who were patients at the Hawthorn Center and were present in the Hawthorn Center on December 21, 2022 between the hours of 9:00 a.m. and 11:00 a.m.
- B. **A Staff Plaintiff Class** (also referred to herein as **Staff Plaintiffs**), **define as:** all Department employees and DK Security employee(s) who were present in the Hawthorn Center on December 21, 2022 between the hours of 9:00 a.m. and 11:00 a.m., excluding Victoria Petti, Derek Leppek, Wayne Soucie, and Dr. George Mellos. This Staff Patient Class includes a special subclass comprising only Brandon Woodruff and Hawk Kennedy.

For the reasons explained below, the Patient and Adult Classes should be certified, and Plaintiffs respectfully request that the Court grant their motion. Special Subclass member Hawk Kennedy is represented by Mr. Kennedy is represented by Nancy Chinonis of Cline, Cline & Griffen, and does not oppose this motion.

BACKGROUND

A. Statement of Facts

The Hawthorn Center is located at 18471 Haggerty Road in Northville, Michigan. The Hawthorn Center is a Children's Psychiatric Hospital owned and operated by the Michigan Department of Health and Human Services, an administrative department of the State of Michigan reporting directly to the Governor. On December 21, 2022, approximately 50 children were patients at the Hawthorn Center for inpatient psychiatric treatment. Approximately 110 employees, including childcare workers, psychologists and social workers, nurses, physicians, maintenance workers, housekeepers, office staff, teachers, and food preparers, were also present and on duty. The main entrance to the Hawthorn Center, which has since been razed to make way for a new facility to be constructed on that site, was staffed by a security guard and a front desk clerical worker.

Mid-morning on December 21, 2022, the Hawthorn Center held an "Active Shooter" drill. The staff and patients in the facility did not have advanced notice that the drill was not a real event. A front desk worker was ordered to announce over the building loudspeaker that there were armed intruders in the building, one Black man and one white man, with automatic weapons. A second announcement indicated that shots had been fired. Nearly all staff and patients believed the truth of the announcement.

Plaintiffs allege that the drill caused the 50 children and over 100 adults under their care and responsibility to experience extreme trauma and distress that continues to cause them pain. Employees, hiding under their desks and barricading the doors to the areas where they hid with the children in their care, called 911, texted their last messages of love to family, and waited in extreme fear, praying that they would not die. Because the Hawthorn Center had not provided law enforcement with any advanced warning about the drill, some 50 police and state troopers from

multiple jurisdictions responded to the Hawthorn Center, armed themselves with automatic weapons and armor, and prepared to confront the active shooters described over the intercom and relayed to them through 911. People in the Hawthorn Center who were not sure if this was a drill or not, saw the police response assembling outside the building and believed that this was a genuine mass-shooter attack. See NBC News, “Active Shooter Drill Sparks Fear & Confusion”, available at <https://www.nbcnews.com/now/video/active-shooter-drill-sparks-fear-and-confusion-atmichigan-children-s-facility-166159429854> (Last visited April 14, 2023) and Northville Township, Michigan, “Police Respond to Hawthorn Center’s Surprise Drill”, available at <https://www.twp.northville.mi.us/Home/Components/News/News/188/15> (last visited April 15, 2023), for press reports with dash cam, body cam, and audio footage of this December 21, 2022, incident.

Meanwhile, Hawthorn Official Derek Leppek ordered maintenance workers Brandon Woodruff, a Black man, and Hawk Kennedy, a white man, to walk through the entire building playing the “role” of the active shooters. Only Woodruff and Kennedy had no idea that the children and colleagues at the Hawthorn Center did not know this was “only a drill” and were unaware that the police had been called and had arrived in great force to neutralize the mass shooters who had been described over the building loudspeakers as a white man and a Black man armed and firing shots. When Woodruff and Kennedy left the building, having completed the “drill,” a group of armed police confronted them and yelled at them to get down on the ground. They were arrested and held in police custody outside the Hawthorn Center as the police responding to the incident confirmed their identities and ascertained the facts of the “drill” from Hawthorn Center officials.

This unannounced mass-shooter “drill” may have lasted less than an hour, but Plaintiffs allege it has indelibly scarred the patients and adults at the Hawthorn Center that morning.

Plaintiffs representing the class describe severe post-traumatic stress conditions that have caused them to miss work, struggle in their family relationships, and suffer from numerous ailments related to severe anxiety and depression brought on by the horror they experienced.

B. Procedural History and Settlement Discussions

Plaintiffs filed this action in the Court of Claims on April 28, 2023. Additionally, Plaintiffs filed a related action against individual defendants in the Wayne County Circuit Court, *Horein et al. v Petti et al.*, No. 23-005451-CZ (Wayne CC). Three other matters, *Woodruff v MDHHS*, No. 23-000071-MM (COC); *Woodruff v Petti et al.*, No. 23-006141-CZ (Wayne CC); *Kennedy v Petti et al.*, No. 23-010125-CZ (Wayne CC) also arise out of the same core operative facts as this action; therefore, at the parties joint request, the Court of Claims and the Wayne County Circuit Court have agreed to dismiss without prejudice the other cases, *Horein et al. v Petti et al.*, No. 23-005451-CZ (Wayne CC), *Woodruff v MDHHS*, No. 23-000071-MM (COC), *Woodruff v Petti et al.*, No. 23-006141-CZ (Wayne CC), *Kennedy v Petti et al.*, No. 23-010125-CZ (Wayne CC), and consolidate all five actions under this one for settlement purposes.¹

In lieu of filing an answer, Defendant asked Plaintiffs' counsel to engage in a mediated settlement process to resolve all claims on behalf of Plaintiffs seeking to represent the Adult class and the Patient class, as well as the claims brought by Mr. Woodruff. Mr. Kennedy filed his case in August of 2023, and he joined his claims to the mediated settlement conversations as a member of the class. Mr. Woodruff, represented by Pitt, McGehee, Palmer, Bonanni & Rivers, PC, and Mr. Kennedy and his counsel, Nancy Chinonis of Cline, Cline & Griffen, along with the State of

¹ Wayne County Circuit Court, No. 23-005451-CZ, Order entered on November 17, 2023, by Hon. Leslie K. Smith; Court of Claims, No. 23-000071-MM, Order entered on November 20, 2023, by Hon. James Robert Redford; Wayne County Circuit Court, No. 23-006141-CZ, Order entered on November 17, 2023, by Hon. Leslie K. Smith; Wayne County Circuit Court, No. 23-010125-CZ, Order entered on November 17, 2023, by Hon. Leslie K. Smith.

Michigan, have since agreed to participate in the negotiated settlement as a Special Sub-Class of the Adult Class.

With the assistance of a neutral mediator, attorney William W. Jack, Jr., the parties engaged in extensive settlement negotiations from August through November of 2023. On November 8, 2023, the parties reached an agreement to resolve all claims arising from the unannounced “active shooter drill” of December 21, 2022, for \$13,000,000, inclusive of all attorney’s fees and costs. On January 31, 2024, the parties executed a Settlement Agreement. (See Exhibit 1).

Plaintiffs now seek to certify the proposed Settlement Classes so that the terms of the Settlement Agreement can be presented to the Court for preliminary approval and distribution of notice. Defendants do not oppose the relief requested in this motion to certify. Because the Court has granted stays of the proceedings to accommodate the parties’ efforts to resolve this matter, this motion is timely under MCR 3.501(B)(1)(a).

THE PROPOSED CLASSES SHOULD BE CERTIFIED FOR SETTLEMENT

Classes certified for settlement purposes, like classes certified for the litigation process, must meet the requirements of MCR 3.501(A)(1).² *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 620 (1997). A class is properly certified under MCR 3.501(A)(1) where:

- (a) The class is so numerous that joinder of all members is impracticable;
- (b) There are questions of law or fact common to the members of the class that predominate over questions affecting only individual class members;
- (c) The claims or defenses of the representative parties are typical of the claims or defenses of the class;

² “[T]he rules governing class certification in MCR 3.501(A) very closely mirror the federal prerequisites for class certification found in” Fed. R. Civ. P. 23. *Henry v. Dow Chemical Co.*, 484 Mich. 483, 503 (2009). Thus, Michigan Courts often rely on federal case law construing Fed. R. Civ. P. 23. *See Neal v. James*, 252 Mich. App. 12, 21 (2002) *overruled on other grounds by Henry v. Dow Chemical Co.*, 484 Mich. 483 (2009). Thus, where relevant, Plaintiffs rely on similar provisions of federal law.

- (d) The representative parties will fairly and adequately assert and protect the interests of the class; and
- (e) The maintenance of the action as a class action will be superior to other available methods of adjudication in promoting the convenience administration of justice.

As explained below, the Settlement Class satisfies each of the requirements of the rule.

A. Plaintiffs have satisfied the Numerosity requirement.

To satisfy numerosity, the settlement class must be “so numerous that joinder of all members is impracticable.” MCR 3.501(A)(1)(a). “While no strict numerical test exists, ‘substantial’ numbers of affected consumers are sufficient to satisfy this requirement.” *Young v. Nationwide Mut. Ins. Co.*, 693 F.3d 532, 541 (6th Cir. 2012). “There is no particular minimum number of members necessary to meet the numerosity requirement, and the exact number of members need not be known as long as general knowledge and common sense indicate that the class is large.” *Zine v. Chrysler Corp.*, 236 Mich. App. 261, 288 (1999). Generally, when a class consists of 25 or more individuals, joinder is presumed to be impracticable. *Talbott v. GC Services Ltd Partnership*, 191 FRD 99, 102 (W.D. Va 2000); *In Re Kirschner Medical Corporation Securities Litigation*, 139 F.R.D. 74, 78 (D.Md.1991); *see also Zeidman v. J. Ray McDermott & Co.*, 651 F.2d 1030, 1038 (5th Cir.1981) (recognizing that courts certify classes with 25-30 members); *Philadelphia Elec. Co. v. Anaconda Am. Brass Co.*, 43 F.R.D. 452 (E.D.Pa.1968) (certifying class with 25 members) (finding “no necessity for encumbering the judicial process with 25 lawsuits, if one will do.”); *Cypress v. Newport News General and Nonsectarian Hospital Ass'n*, 375 F.2d 648, 653 (4th Cir.1967) (certifying class with 18 members).

In the present case, the Settlement Class is so numerous as to make joinder impracticable. According to Defendant’s records, 50 children were patients and present at the Hawthorn Center when the incident took place, and over 100 adults who worked for the Hawthorn Center or for the

security company serving the Hawthorn Center and were present at the time of the incident. General knowledge and common sense dictate that 50 minors with diverse custody and familial statuses, along with over 100 adults is substantial enough in size to satisfy the numerosity requirement, or else risk 150 individual lawsuits to the Department of Health and Human Services. Plaintiffs have therefore satisfied the numerosity requirement.

B. Plaintiffs have satisfied the Commonality requirement.

To satisfy Commonality, there must exist “questions of law or fact common to the members of the class that predominate over questions affecting only individual members.” MCR 3.501(A)(1)(b). Commonality “is concerned with whether there ‘is a common issue the resolution of which will advance the litigation.’” *Zine*, 236 Mich App at 289. “[A] common question is one where the same evidence will suffice for each member to make a prima facie showing or the issue is susceptible to generalized, class-wide proof.” *Tyson Foods, Inc v Bouaphakeo*, 577 U.S. 442, 452 (2016).

In the present case, members of the Patient Class share a common question of fact and law that predominates over any question affecting only individual members. Patient Class members were all subjected to a deprivation of their liberty and forced to fear for their lives during the “active shooter drill” of December 21, 2022, in violation of the Michigan Constitution, Article 1, Section 17. Patient Class members were also victims of cruel and unusual punishment in violation of the rights under Article 1, Section 16 of the Michigan Constitution when the State inflicted gratuitous fear for their lives on them during the December 21, 2022, “active shooter drill” when they were being held in the State’s custody.

Likewise, the Adult Class members were deprived of their liberty and made to genuinely fear for their lives without any meaningful notice or opportunity to be heard on whether they consented to participate in the horrifying “active shooter drill” incident, in violation of the

Michigan Constitution, Article 1, Section 17. The Adult Class members were also subjected to an unreasonable seizure of their persons in violation of the Michigan Constitution, Article 1, Section 11, when they were required to barricade themselves and hide for fear of their lives with no freedom to leave during the “active shooter drill” on December 21, 2022.

Moreover, while the amount of damages per individual class member may vary, “the amount of damages need not be uniform as long as the trial court has some basis for concluding that all members of the class had a common injury that could be demonstrated with generalized proof, rather than evidence unique to each class member.” *Hill v City of Warren*, 276 Mich. App. 299, 312 (2007), quoting *A&M Supply Co v Microsoft Corp*, 252 Mich. App. 580, 588 (2002). Here, the same incident caused the harm and injuries to all members of the Patient Class and the Adult Class. Therefore, commonality is satisfied.

C. Plaintiffs have satisfied the Typicality requirement.

To satisfy Typicality, “the claims or defenses of the representative parties [must be] typical of the claims or defenses of the class.” MCR 3.501(A)(1)(c). This “directs the court ‘to focus on whether the named representatives’ claims have the same essential characteristics as the claims of the class at large.’” *Neal v. James*, 252 Mich. App. 12, 21 (2002) overruled on other grounds by *Henry v. Dow Chemical Co.*, 484 Mich. 483 (2009). “[T]he representative’s interests [must] be aligned with those of the represented group, and in pursuing [their] own claims, the named plaintiff[s] [must] also advance the interests of the class members.” *Young*, 693 F.3d at 542. Typicality and commonality are similar and tend to merge. *Gen Tel Co of the Southwest v Falcon*, 457 US 147, 157 n 13 (1982).

In the present case, the claims of representatives are the same as those of the Settlement Class members. The State engaged in the same wrongful conduct—the unannounced “active shooter drill”—toward the Plaintiffs as it did the members of the two classes. The Plaintiffs’ claims

are typical cases with essential characteristics that are reflected across the entire class. All Patient Class members, including D.H. and A.B., were deprived of their liberty without specific notice or an opportunity to be heard and subjected to cruel and unusual punishment, causing them to suffer immensely. Likewise, all Adult Class members, including Jones, Smith, Vance, Mason, Padula, Payne, and sub-class members Kennedy and Woodruff were deprived of their liberty and made to genuinely fear for their lives without any meaningful notice or opportunity to be heard and were subjected to an unreasonable seizure, causing them to suffer immensely. These are the “same essential characteristics as the claims of the class at large.” *Neal*, 252 Mich. App. at 121. As a result, typicality is satisfied.

D. Plaintiffs have satisfied the Adequacy requirement.

To satisfy adequacy, “the representative parties [must] fairly and adequately assert and protect the interests of the class.” MCR 3.501(A)(1)(d). A named plaintiff is an adequate class representative if he or she will pursue the rights of the class vigorously through qualified counsel. *In re American Medical Systems, Inc*, 75 F3d 1069, 1083 (6th Cir 1996); *Grigg v Michigan National Bank*, 405 Mich 148, 175 (1979); *Smolen v Dahlmann Apartments Ltd*, 127 Mich App 108, 121 (1983).

Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B., and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, Chauncey Payne, Jr., Brandon Woodruff and Hawk Kennedy have proven themselves to be zealous advocates of the class and have committed themselves to fulfilling this duty for the Settlement Classes. Plaintiffs have suffered the same injury as the prospective Class Members. Plaintiffs and class members share identical interests of recovery, and therefore Plaintiffs’ interests are not antagonistic to the Settlement Class as a whole, consistent with *Neal*, 252 Mich. App. 22.

Moreover, class counsels Robin B. Wagner, Michael L. Pitt, and Beth M. Rivers possess decades of experience with class action litigation. Class Counsel Michele P. Fuller is a leading expert in Michigan on advocacy, protection, and asset preservation for persons with disabilities, which are particular concerns for the patient class members. (Exhibit 2, Michele P. Fuller Declaration.) Furthermore, Plaintiffs’ counsel has already undertaken substantial efforts to prepare the necessary framework for a responsible, equitable, and efficient disbursement of funds to the two settlement classes. Therefore, counsel should be appointed Counsel of the Adult and of the Patient settlement classes.

For all of these reasons, Plaintiffs and Plaintiffs’ Counsel have demonstrated their commitment to the Settlement Class and have satisfied the Adequacy requirement.

E. Plaintiffs have satisfied the Superiority requirement.

Superiority is satisfied where “the maintenance of the action as a class action [is] superior to other available methods of adjudication in promoting the convenient administration of justice.” MCR 3.501(A)(1)(e). In other words, a “class action, rather than individual suits, [are] the most convenient way to decide the legal questions presented, making a class action a superior form of action.” *A&M*, supra, at 601. “Use of the class method is warranted [where] ... class members are not likely to file individual actions [and] the cost of litigation ... dwarf[s] any potential recovery.” *In re Whirlpool Corp. Front-Loading Washer Prods. Liability Litig.*, 722 F.3d 838, 861 (6th Cir. 2013).

The impracticality of 160 individual recovery actions—50 of them involving minors who are persons with disabilities and have special legal requirements for safeguarding their rights and any assets awarded to them—demonstrates that a class action is the superior method of adjudication that would promote the convenient administration of justice for all parties and for the Court. The central question of law and fact at issue here is shared by every Settlement Class member. While

the Adult claimants' recoveries may differ from each other, the proposed settlement process provides for an equitable process for each individual. Here, a class action provides the most equitable and efficient pathway to ensure settlement funds are disbursed equitably among the class members. For these reasons, a certified Settlement Class is the superior method of resolution.

THE COURT SHOULD APPOINT THE CLASS REPRESENTATIVES

Plaintiffs David and Kortni Horein, parents and next friends to minor child D.H., and Mollie and Brent Bonter, parents and next friends to minor child A.B., on behalf of D.H. and A.B., and NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, Chauncey Payne, Jr., along with Brandon Woodruff and Hawk Kennedy, will fulfill the full scope of their duties as class representatives and the Court should appoint them class representatives.

PLAINTIFFS' COUNSEL SHOULD BE APPOINTED CLASS COUNSEL

Class counsel Robin B. Wagner, Michael L. Pitt, and Beth M. Rivers possess decades of experience with class action litigation, including actions involving the State of Michigan. Class Counsel Michele P. Fuller is a leading expert in Michigan on advocacy, protection, and asset preservation for persons with disabilities, which are particular concerns for the patient class members. Furthermore, Plaintiffs' counsel has already taken substantial efforts to prepare the necessary framework for a responsible, equitable, and efficient disbursement of funds to the two settlement classes. Therefore, counsel should be appointed Counsel of the Adult and of the Patient settlement classes.

For all of these reasons, Plaintiffs and Plaintiffs' Counsel have demonstrated their commitment to the Settlement Class and have satisfied the Adequacy requirement.

CONCLUSION

For the reasons stated above, Plaintiffs, with the concurrence of Defendant, hereby respectfully request that this Court grant their motion Certify the Settlement Class and Appoint Plaintiffs' counsel as Class Counsel.

Respectfully submitted,

PITT, McGEHEE, PALMER & RIVERS, P.C.

/s/ Robin B. Wagner

Robin B. Wagner (P79408)

Michael L. Pitt (P24429)

Beth M. Rivers (P33614)

Attorneys for Plaintiffs

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Dated: January 31, 2024

PROOF OF SERVICE

Carrie Bechill states that she served counsel of record with Plaintiffs' Unopposed Motion to Certify Settlement Class and Appoint Settlement Class Counsel with this Proof of Service via the Michigan Supreme Court's electronic filing system to counsel of record on January 31, 2024.

/s/ Carrie Bechill

Carrie Bechill, Legal Assistant

STATE OF MICHIGAN
COURT OF CLAIMS

DAVID HOREIN, ET.AL.,

COC No. 23-000063-MM

Plaintiffs,

HON. JAMES REDFORD

v

MICHIGAN DEPARTMENT OF HEALTH AND
HUMAN SERVICES,

Defendant.

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**INDEX OF EXHIBITS PLAINTIFFS' UNOPPOSED MOTION
TO CERTIFY SETTLEMENT CLASS AND APPOINT
SETTLEMENT CLASS COUNSEL**

Exhibit 1	Settlement Agreement
Exhibit 2	Declaration of Michele P. Fuller

Exhibit 1

STATE OF MICHIGAN
COURT OF CLAIMS

DAVID HOREIN, ET.AL.,

COC No. 23-000063-MM

Plaintiffs,

HON. JAMES REDFORD

v

CLASS ACTION SETTLEMENT
AGREEMENT

MICHIGAN DEPARTMENT OF HEALTH
AND HUMAN SERVICES,

Defendant.

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CLASS ACTION SETTLEMENT AGREEMENT

Document received by the MI Court of Claims.

This Settlement Agreement (Agreement) is entered into between Plaintiffs D.H., A.B., NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, Chauncey Payne, Jr., Brandon Woodruff, and Hawk Kennedy, on behalf of themselves and the Patient Plaintiff Class and Staff Plaintiff Class as defined and to be certified, as set forth below, and the Michigan Department of Health and Human Services (collectively, the “Parties”).

Recitals

1. On April 23, 2023, Plaintiffs D.H., by and through parents David and Kortni Horein, A.B., by and through parents and next friends Mollie and Brent Bonter, NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr. (collectively, *Horein* Plaintiffs) filed this class action lawsuit on behalf of themselves and other patients and staff who were present at the Hawthorn Center on the morning of December 21, 2022, alleging constitutional violations from an active intruder drill held that day.

2. On the same day, *Horein* Plaintiffs filed a related action in Wayne County Circuit Court (No. 23-005451-CZ) on behalf of themselves and the same putative classes, alleging various torts from the December 21, 2022 active intruder drill at the Hawthorn Center.

3. On May 15, 2023, Plaintiff Brandon Woodruff filed two related actions in the Court of Claims (No. 23-000071-MM) and Wayne County Circuit Court (No. 23-006141-CZ) alleging constitutional and tort violations from the December 21, 2022 active intruder drill at the Hawthorn Center.

4. On August 7, 2023, Plaintiff Hawk Kennedy, through his counsel

Nancy K. Chinonis, filed a related action in Wayne County Circuit Court (No. 23-010125-CZ) alleging tort violations from the December 21, 2022 active intruder drill at the Hawthorn Center.

5. The parties have negotiated to settle all five actions stemming from the December 21, 2022, active intruder drill. Through these negotiations, and consistent with the terms set forth in this Agreement, the Michigan Department of Health and Human Services (the Department) agreed to pay a sum total of thirteen million dollars (\$13,000,000.00) to resolve all claims that Plaintiffs, the putative class members, and subclass members could raise from the December 21, 2022 active intruder drill at the Hawthorn Center, including to compensate eligible staff members under the Worker's Disability Compensation Act, MCL 418.101, *et seq.*

6. During negotiations and since the litigations were filed, the Department has asserted, and continues to assert, that it has substantial defenses to the allegations raised by, and claims brought by, Plaintiffs and the classes. The Department denies all allegations and claims of wrongdoing or liability that were asserted, or could have been asserted, by Plaintiffs in the litigations. The Department's decision to enter into this Agreement shall not be construed as any form of admission of liability. Rather, all liability is expressly disclaimed. Plaintiffs, for their part, dispute the validity of the Department's defenses.

7. Notwithstanding their differing views on the merits of the various allegations, assertions, and claims in this litigation, and in measured consideration of the foregoing and as a consequence of the negotiations between the Parties

through mediation efforts and of Class Counsel and Counsel for the Special Subclass Representative Hawk Kennedy's investigation and analysis, the Parties agree to settle the litigation under the terms and conditions memorialized in this Agreement. Class Counsel, Counsel to Special Subclass Representative Hawk Kennedy, and Plaintiffs believe such settlement is fair, reasonable, adequate, and in the best interest of the classes.

8. NOW THEREFORE, in consideration of the foregoing and of the promises and mutual covenants contained herein, and other good and valuable consideration, it is hereby agreed, by and among the undersigned Parties, as follows:

Definitions

9. **Department** means the Michigan Department of Health and Human Services.

10. **Claims Administrator** means the entity selected by Class Counsel to prepare the Class Notice, manage the distribution of Class Notice and other notices provided for in this Agreement, develop and maintain a website (see paragraph 65), process payment out of the Qualified Settlement Fund (QSF), and perform other administrative functions to effectuate this Agreement as directed by Class Counsel.

11. **Class Counsel** means Michael L. Pitt, Robin Wagner, and Beth M. Rivers of Pitt McGehee Palmer Bonanni & Rivers PC, and Michele P. Fuller of Michigan Law Center PLLC. Nancy Chinonis of Cline, Cline & Griffin, PC is counsel for Special Subclass Representative Hawk Kennedy, only.

12. Class definitions:

a. **Patient Plaintiff Class** or **Patient Plaintiffs** means individuals who were patients at the Hawthorn Center and were present in the Hawthorn Center on December 21, 2022, between the hours of 9:00 a.m. and 11:00 a.m.

b. **Staff Plaintiff Class** or **Staff Plaintiffs** means Department employees and DK Security employee(s) who were present in the Hawthorn Center on December 21, 2022 between the hours of 9:00 a.m. and 11:00 a.m., excluding Victoria Petti, Derek Leppek, Wayne Soucie, and Dr. George Mellos. The Staff Plaintiff class includes a special subclass comprising only Special Subclass Representatives Brandon Woodruff and Hawk Kennedy.

13. **Class Notice** means the notices approved by the Court that comports with MCR 3.501(C)(1-7).

14. **Class Representatives for the Patient Plaintiffs** or **Patient Plaintiff Class Representatives** means D.H., through Next Friends David and Kortni Horein, and A.B., through Next Friends Mollie and Brent Bonter.

15. **Class Representatives for the Staff Plaintiffs** or **Staff Plaintiff Class Representatives** means NaQuana Jones, Jason Smith, Jennifer Vance, Kai Mason, Annette Padula, and Chauncey Payne, Jr.

16. **Class Representatives for the Special Subclass of Staff Plaintiffs** or **Special Subclass Representatives** means Brandon Woodruff and Hawk Kennedy. The Special Subclass only includes Mr. Woodruff and Mr.

Kennedy. Mr. Kennedy is represented by Nancy K. Chinonis of Cline, Cline & Griffin, PC.

17. **Court** means the Michigan Court of Claims.

18. **Effective Date** means the first day after the first date on which all of the following have occurred:

- a. All Parties and Class Counsel have executed this Agreement;
- b. The court has issued a preliminary approval order;
- c. Reasonable notice has been given to members of the Patient Plaintiff Class and the Staff Plaintiff Class, including providing them an opportunity to opt-out of the class and settlement;
- d. The Court has entered a Final Approval Order dismissing the Litigation with prejudice and approving the settlement, including the allocation for Class Counsel's attorney fees and costs; and
- e. Only if there are written objections filed within the applicable time period and those objections are not later withdrawn, the last of the following events to occur:
 - i. If no appeal is filed, then the date on which the objector's time to appeal the Final Approval Order has expired with no appeal or any other judicial review having been taken or sought; or
 - ii. If an appeal of the Final Approval Order has been timely filed or other judicial review was taken or sought, the date that order is finally affirmed without modification by an appellate

court with no possibility of subsequent appeal or other judicial review or the date the appeals or any other judicial review are finally dismissed with no possibility of subsequent appeal other judicial review.

It is the intention of the Parties that the settlement shall not become effective until the Court's Final Approval Order has become completely final and until there is no timely recourse by an appellant or objector who seeks to contest the settlement.

19. **Eligible Class Members** means, collectively, all members of the Patient Plaintiff Class and the Staff Plaintiff Class, including the Special Staff Plaintiff Subclass. Only Eligible Class Members may receive compensation from the Patient Compensation Fund and the Staff Compensation Fund. Eligibility is automatic for individuals on the list of patients or staff provided by the Department to Class Counsel. Individuals who believe that they have been erroneously omitted from the list of Patient Plaintiffs or Staff Plaintiffs provided by the Department may appeal to the Special Master through a process described in paragraphs 31 and 46.b, below.

20. **Execution Date** means the date when all Parties have executed this Agreement.

21. Forensic Assessment terms:

- a. **Forensic Assessment Team**, also referred to as the "Trauma Assessment Team," means Drs. Ann Burgess and Victor Petreca of Boston College. See Appendix B to this Agreement for the Forensic

Assessment Plan and curriculum vitae for Drs. Burgess and Petreca.

- b. **Forensic Assessment** means the psychological assessment of individual Staff Plaintiff Class Members by the Forensic Assessment Team. Results of these individual assessments will be provided to the Special Master to inform disbursements based on relative psychological impact of the incident on each individual.
- c. **Assessed Staff Plaintiff** means a Staff Plaintiff Class Member who returns a completed Forensic Assessment according to the instructions provided in the Class Notice within sixty (60) days of the date that the Forensic Assessments are provided to the Staff Plaintiff Class Members.
- d. **Non-Assessed Staff Plaintiff** means a Staff Plaintiff Class Member who does not return a completed Forensic Assessment within sixty (60) days of the date that the Forensic Assessments are provided to the Staff Plaintiff Class Members.

22. **Final Approval Order** means the Court's order granting final approval of this Settlement Agreement and dismissing the Litigation with prejudice.

23. **Gross Settlement Amount** means \$13,000,000.00, which shall be the total amount from which (1) the Class Members will be paid, (2) all out-of-pocket costs of settlement administration will be paid, and (3) Class Counsel's and Counsel

for Special Subclass Representative Hawk Kennedy's attorneys' fees and litigation expenses, if approved by the Court, will be paid. The Department will pay the Gross Settlement Amount into the Qualified Settlement Fund, established by Class Counsel with the Department's approval, within thirty (30) days of the date of Preliminary Approval, as set forth in paragraph 35 below; this sum represents the total, complete, and final payment by the Department in settlement of this Litigation. The Gross Settlement Fund shall be divided between the Patient Compensation Fund, the Staff Compensation Fund, and the Administrative Costs and Attorney Fees Pool.

- a. **Patient Compensation Fund** means \$2,888,888.89 from the Gross Settlement Amount that shall be allocated and utilized as described below in the Plan of Allocation for the Patient Compensation Fund section, paragraphs 43 – 45 and Appendix A.
- b. **Staff Compensation Fund** means \$5,777,777.78 from the Gross Settlement Amount that shall be allocated and utilized as described below in the Plan of Allocation for the Staff Compensation Fund section, paragraphs 46 – 53. The **Adult Compensation Fund** means the amount remaining in the Staff Compensation Fund after the initial payments and Staff Plaintiff Class Representative payments as set forth in paragraphs 48 – 49.
- c. **Administrative Costs and Attorney Fees Pool** means \$4,333,333.33 from the Gross Settlement Amount that shall be

utilized as described below in the Plan for the Administrative Costs and Attorney Fees Pool section, paragraphs 54 – 61.

24. **Litigation** means this lawsuit styled *Horein v MDHHS*, Court of Claims Case No. 23-000063-MM, assigned to the Honorable James Redford, Judge of the Court of Claims.

25. **Related Litigations** mean, collectively, *Horein v Petti*, No. 23-005451-CZ (Wayne CC), *Woodruff v MDHHS*, No. 23-000071-MM (COC), *Woodruff v Petti*, No. 23-006141-CZ (Wayne CC), *Kennedy v Petti*, No. 23-010125-CZ (Wayne CC).

26. **Opt-Out Deadline** means the date the Court establishes as the deadline by which putative class members must mail and postmark a written notice of their intent to opt-out of the class and settlement. The Parties shall jointly request that the Opt-Out Deadline shall be 60 days after the notices are sent to class members.

27. **Parties** means Plaintiffs, on behalf of themselves and their respective classes, and the Department.

28. **Plaintiffs** means, collectively, the Class Representatives for the Patient Plaintiffs, the Class Representatives for the Staff Plaintiffs, and the Class Representatives for the Special Subclass of Staff Plaintiffs.

29. **Preliminary Approval** means an order from the Court granting preliminary approval of class certification and this settlement such that notice can issue.

30. **Qualified Settlement Fund Administrator or QSF**

Administrator means the administrator of a Qualified Settlement Fund for federal tax purposes pursuant to Treas. Reg. § 1.468B-1 as established by Class Counsel and approved by the Court. The QSF Administrator is responsible for the escrowing of the Gross Settlement Amount prior to disbursements of the funds as set forth in the Settlement Agreement, issuing checks or making electronic funds transfer to Class Members based on the terms of the Settlement Agreement, and the preparation and filing of all documents required by the Internal Revenue Service or its agreement with Class Counsel.

31. **Registration** means the process required of an individual who is not on the patient or staff lists provided by the Department to Class Counsel, pursuant to paragraph 74. Individuals who believe they have been erroneously omitted from the patient or staff list will need to make themselves known by registration with the Special Master so that he can determine eligibility.

- a. This registration must occur no later than thirty (30) days prior to the Opt-Out Deadline specified in the Class Notice and requires the individual to provide the Special Master with clear and convincing evidence that they fully meet the definition of a class member as provided in paragraphs 12.a or 12.b of this Agreement.
- b. “Clear and convincing evidence” means that the Eligible Class Member has produced a document that directly supports the claim for Eligibility. Examples of such documentation include, but are not

limited to, employee timecard entries.

- c. The Special Master shall determine eligibility within fourteen (14) days of Registration and shall notify the Department, Class Counsel, and the individual(s) seeking eligibility of the determination. The Special Master's determination of eligibility shall be final and binding.

32. **Released Parties** means the State of Michigan, the Michigan Department of Health and Human Services, Victoria Petti, Wayne Souci, Derek Leppek, and Patti Glenn.

33. **Settlement Agreement** means this Agreement, including its appendices (Appendices A-B).

34. **Special Master** means the individual appointed by the Court to (1) determine if an individual is an Eligible Class Member (see paragraphs 31 and 46.b); and (2) administer and process claims for payments from the Adult Compensation Fund, pursuant to the Plan of Allocation for the Staff Compensation Fund (see paragraphs 46 – 53). The Parties agree to seek the appointment of William W. Jack, Jr. (P23403) as the Special Master.

Terms and Conditions of the Settlement

I. General Terms

35. **Payment by Department:** In consideration for the terms and conditions described herein, including the complete release of all claims as described below and the dismissal of the Lawsuit and Related Lawsuits with prejudice, the Department shall pay the Gross Settlement Amount of

\$13,000,000.00, which shall be distributed as discussed in this Agreement.

- a. With fourteen (14) days of the date of Preliminary Approval, Class Counsel, the Claims Administrator, and/or the QSF Administrator shall register the QSF as a vendor on the Statewide Integrated Government Management Application System (SIGMA). Payment of the Gross Settlement Amount is contingent upon registration with SIGMA.
- b. The Gross Settlement Amount shall be deposited into a QSF, established by Class Counsel with the Department's approval, within thirty (30) days of the date of Preliminary Approval. The payment will be made by electronic funds transfer (EFT) through SIGMA.
- c. The Department and Class Counsel shall provide to the QSF Administrator the documentation necessary to facilitate obtaining QSF status.

36. **Release of Claims:** For themselves and all Patient Plaintiffs Class Members and Staff Plaintiffs Class Members—including their agents, representatives, heirs, beneficiaries, attorneys, successors, assignees, and claimants—Staff Plaintiff Class Representatives, Special Subclass Representatives, and Patient Plaintiff Class Representatives, hereby release and forever discharge Victoria Petti, Wayne Soucie, Derek Leppek, Patti Glenn, the Department, and the State of Michigan and its departments, and their respective past, present, and

future directors, officers, employees, attorneys, agents, representative, predecessors- and successors-in-interest, assigns, indemnitors, and insurers from any and all claims that Staff Plaintiff Class Members, Special Staff Subclass Representatives, or Patient Plaintiff Class Members individually, collectively, directly, indirectly, derivatively, or in any other capacity ever had, has, or may have, from the beginning of time until the date of this Agreement, which are known or unknown, and that in any way relate to or are based upon the December 21, 2022 active intruder drill at the Hawthorn Center.

37. **Dismissal of Claims:** Plaintiffs covenant to the dismissal of this Litigation and the Related Litigations with prejudice, and further covenant that they will refrain from commencing any action or proceeding, or prosecuting any pending action or proceeding against any Released Party herein on account of any matter released hereunder.

38. **No Admission of Liability:** The Department's agreement to this Settlement is not, and should not be construed as, a direct or implied admission or acknowledgment of any wrongdoing, illegality, liability, or responsibility to any person or party for any conduct or omission, alleged or unalleged, whatsoever. The Department enters into this Settlement for the purpose of elimination of ongoing contested legal proceedings, repose, savings of expenses and resources, and for no other purposes.

39. **Jurisdiction:** The Parties shall request that the Court retain jurisdiction to enforce the Agreement.

40. **Settlement Contingent on Final Approval:** This Settlement is contingent upon final approval of a class action settlement on behalf of all Class Members described herein. This Agreement shall terminate and be of no further force or effect without any further action by the Parties if (i) the Court determines not to grant preliminary or final approval of the Class Settlement; (ii) if the Court refuses to certify the classes as defined without modification; and (iii) the Parties do not agree to any changes to the Settlement Agreement required by the Court for approval or are unable or do not agree to obtain reconsideration and reversal or appellate review and reversal of any adverse decision by the Court regarding the Settlement Agreement. However, the Parties agree to act in good faith to accept any non-material and procedural changes to this Settlement Agreement if so, required by the Court in connection with preliminary or final approval of the Settlement Agreement. If settlement is rescinded, the QSF Administrator will return the Gross Settlement Amount, including any interest, to the State of Michigan, the classes shall be decertified (if applicable) by stipulation of the parties, and the Litigation and Related Litigations reinstated.

41. **Communication with Class Members:** All notices and communications with putative class members shall be by email, when the email address is known, as well as by hard copy US mail. In addition, Staff Plaintiff Class Members will be encouraged to communicate with the Claims Administrator through a website and by electronic means such as email and texting as established by the Claims Administrator and explained in the Class Notice.

42. **Special Master**

- a. **Appointment:** Along with the Motion for Preliminary Approval, Class Counsel shall move, and the Department will concur, the Court for the appointment of William W. Jack, Jr., as the Special Master.
- b. **Role:** The Special Master shall have authority to (1) determine if an individual is an Eligible Class Member; (2) administer the Adult Compensation Fund as described herein; and (3) direct the QSF Administrator to distribute funds from the Adult Compensation Fund after the Effective Date consistent with the terms described herein.

II. Plan of Allocation of the Patient Compensation Fund

43. **Allocation:** The Patient Compensation Fund shall be allocated equally among the Patient Plaintiff Class Members, except that each Class Representative for the Patient Plaintiffs shall receive an additional \$5,000.00 in their distributions (see paragraph 7 in Appendix A), and conform with the requirements of MCR 2.420.

44. **Protection of Patient Plaintiff Class Members:** The Plan of Allocation shall ensure that Patient Plaintiff Class Members are informed of the potential impact of an award allocation on their eligibility for or status as a recipient of public benefits.

45. **The Plan of Allocation of the Patient Compensation Fund,** including all definitions, terms, and processes, is appended to this Agreement as

Appendix A and incorporated by reference here in its entirety.

III. Plan of Allocation for the Staff Compensation Fund

46. Determination of Eligible Staff Plaintiff Class Members:

- a. **Eligibility:** Individuals who appear on the list of Staff Plaintiff Class Members provided by the Department, pursuant to paragraph 74, shall be deemed automatically eligible for participation in the Staff Plaintiff Class.
- b. **Registration Process:** Any individual who believes that their name was erroneously omitted from the list of Staff Plaintiff Class Members provided by the Department, may register with the Special Master by no later than 30 days prior to the opt-out deadline specified in the Class Notice. Registration requires the individual to provide the Special Master with clear and convincing evidence (e.g. timecard records) that the individual fully meets the definition of a class member as provided in paragraph 12.b of the Settlement Agreement. The Special Master shall make his determination of eligibility within fourteen (14) days of receiving any registration, and his determination of eligibility shall be final and binding.

47. Structure and Components of Allocation for Staff

Compensation Fund: The allocation of the Staff Compensation Fund comprises the following components:

- a. **Initial Payments** to each participating Staff Class Member and

made in consideration for a release of all claims other than claims that may not be released, including but not limited to claims under the Michigan Worker's Disability Compensation Act, MCL 418.301 *et seq.* ("Worker's Compensation"). See paragraph 48, below.

- b. **Staff Plaintiff Class Representative Payments**, which are defined in paragraph 49, below.
- c. **Redemption Payments** from the Adult Compensation Fund to each Staff Plaintiff, issued as a worker's compensation redemption, and to compensate the Staff Plaintiffs' claims of workplace injury through the processes prescribed by the Worker's Disability Compensation Act. See paragraphs 50 through 53, below.

48. **Initial Payments:** Within fourteen (14) days after the Effective Date, each Staff Plaintiff shall be issued a check by the QSF Administrator in the amount of \$1,000.00 from the Staff Compensation Fund.

- a. The QSF Administrator shall mail the checks to the Staff Plaintiffs' last known addresses or process an electronic payment if the Staff Plaintiff has provided such payment instructions.
- b. The QSF Administrator, on the Department's behalf, will issue to each Staff Plaintiff an IRS Form W-2 and/or 1099 if required by law and within the time required by law.
- c. The initial payments are made in consideration of a release of all claims, as articulated in paragraph 36 above, that can be lawfully

released by the Staff Plaintiffs.

49. **Staff Plaintiff Class Representative Payments:** Within fourteen (14) days after the Effective Date, each Staff Plaintiff Class Representative and Special Staff Subclass Representative shall be issued an electronic payment according to instructions provided by each representative or mailed a check to their last known address by the QSF Administrator in the amount of \$5,000.00 from the Staff Compensation Fund.

50. **Forensic Assessment Process:** The forensic assessment process shall be used to establish the impact of the active intruder drill held on December 21, 2022, on each Staff Plaintiff Class Member.

- a. Within fourteen days after the Opt-Out Deadline, the Claims Administrator shall email, where an email address is known, and mail each Staff Plaintiff Class Member a notice containing a URL link for the Forensic Assessment, with instructions to complete the Forensic Assessment within forty-five (45) days. The Staff Plaintiff Class Members will thereafter have forty-five (45) days to complete the Forensic Assessment and return the completed assessment according to the instructions provided in the Class Notice and on the website containing the Forensic Assessment materials.
- b. Upon receipt of the Forensic Assessments, the Forensic Assessment Team shall follow the process described in the document “Methodology for Active Shooter Drill – Evaluation,” appended

hereto as Appendix B.

- c. Once all of the timely Forensic Assessment materials have been evaluated and assigned a traumatic-impact score from 1 to 100, the Forensic Assessment Team shall provide a list of the Forensic Assessment scores for the Assessed Staff Plaintiffs to the Special Master. This process shall take no more than thirty (30) days from the deadline for Staff Plaintiff Class Members to submit their Forensic Assessment materials.
- d. Using the Forensic Assessment scores, the Special Master will assign a preliminary disbursement amount for each Assessed Staff Plaintiff by dividing the remaining funds in the Adult Compensation Fund (after accounting for the funds to be disbursed to the Non-Assessed Staff Plaintiffs, see paragraph 51, below) proportional to each Assessed Staff Plaintiff's Forensic Assessment score.
- e. The Special Master shall also assign a preliminary disbursement amount for the Special Subclass Representatives at three times the amount that their Forensic Assessment score would otherwise provide.
- f. The Special Master shall compile the preliminary disbursement amount for each Assessed Staff Plaintiff into a list and provide a copy of the list to Class Counsel and counsel for the Department

within 14 days of receipt of the Forensic Assessment scores.

- g. The Special Master shall also mail or email each Assessed Staff Plaintiff a notice (1) identifying their preliminary disbursement amount, (2) identifying the Forensic Assessment score, (3) providing information about appealing the preliminary disbursement amount to the Special Master, and (4) advising the Assessed Staff Plaintiff that the preliminary disbursement amount is not final and may increase or decrease.
- h. The Assessed Staff Plaintiffs shall have fourteen (14) days to appeal their preliminary disbursement amount to the Special Master. Any appeal must be post-marked or electronically delivered by the fourteenth (14th) day after the Special Master mails or emails the notice of preliminary disbursement amounts. Assessed Staff Plaintiffs may submit documentation to the Special Master demonstrating medical expenses with their appeals.
- i. Assessed Staff Plaintiffs may request a copy of their Forensic Assessment from the Special Master during the appeal period.
- j. The Special Master shall review all timely appeals submitted by Assessed Staff Plaintiffs. When justice so requires and in the Special Master's sole discretion, the Special Master may assign additional points to the Forensic Assessment score for an Assessed Staff Plaintiff who timely appeals their preliminary disbursement

amount.

- k. Following the appeals, the Special Master will re-calculate the disbursement amounts for each Assessed Staff Plaintiff, considering any additional points awarded through appeal by the Special Master.

51. **Disbursements for Non-Assessed Staff Plaintiffs:** Non-Assessed Staff Plaintiffs shall each be assigned \$4,000 for disbursement from the Adult Compensation Fund through a Worker's Compensation Redemption, as described in paragraph 53, below.

52. **Plan of Disbursement from the Adult Compensation Fund:** Following the Forensic Assessment Process set forth in paragraph 50, the Special Master shall provide Class Counsel and counsel for the Department a Plan of Disbursement from the Adult Compensation Fund listing the assigned disbursement for each Staff Plaintiff (both Non-Assessed Staff Plaintiff and Assessed Staff Plaintiff). The Special Master shall provide Counsel for Special Subclass Representative Hawk Kennedy a redacted copy of this Plan of Allocation, whereby only Mr. Kennedy and Mr. Woodruff's names are revealed.

- a. Class Counsel shall submit a copy of the Plan of Disbursement from the Adult Compensation Fund with the Motion for Final Approval of the Settlement.
- b. The disbursements from the Adult Compensation Fund for all Staff Plaintiffs (both Non-Assessed Staff Plaintiff and Assessed Staff

Plaintiff) shall be processed through worker's compensation redemptions, as described in paragraph 54.

53. **Worker's Compensation Redemption:** Except as provided in paragraphs 53.b and 53.c, all disbursements from the Adult Compensation Fund for Staff Plaintiffs (both Non-Assessed Staff Plaintiff and Assessed Staff Plaintiff) shall be assigned as the value for the individual Staff Plaintiffs' workers' compensation claims. Following the Effective Date, Class Counsel shall retain a worker's compensation attorney(s) for each Staff Plaintiff to process the worker's compensation redemptions. The Special Master and the Forensic Assessment Team shall assist Staff Plaintiffs' worker's compensation attorneys in processing the worker's compensation redemptions by providing relevant documentation of the workplace injuries necessary to process the Staff Plaintiff Class Members' claims. Plaintiffs acknowledge that any Staff Plaintiffs' workers' compensation redemption is subject to the filing of the appropriate claim documents, the statutory redemption fee, and approval by the Workers' Disability Compensation Agency Board of Magistrates. Plaintiffs and the Department agree that the worker's compensation redemptions will be narrowly tailored so that they only release claims arising from the active intruder drill of December 21, 2022, and not any other claim an individual may have. Any Staff Plaintiff who refuses to complete the worker's compensation redemption process shall be deemed to have forfeited their entitlement to their assigned disbursement from the Adult Compensation Fund.

a. For purposes of effectuating the Redemption Payments, the

Department will not contest Worker's Compensation claims arising from the December 21, 2022, incident brought by Staff Plaintiff Class Members under the terms of this Agreement.

- b. Should the Magistrate Judge not approve the worker's compensation redemption for any Staff Plaintiff Class Member or reduces the disbursement amount assigned to the Staff Plaintiff under the Plan of Disbursement from the Adult Compensation Fund, the QSF Administrator shall promptly issue payment to that Staff Plaintiff from the Adult Compensation Fund in the amount equal to the difference between the disbursement amount assigned to the Staff Plaintiff and the amount awarded by the Worker's Compensation Magistrate Judge to the Staff Plaintiff (if any). These payments shall be considered 1099 compensation, and the QSF Administrator shall issue IRS Form W-2 and/or 1099 if required by law and within the time required by law.
- c. Staff Plaintiffs employed by DK Security as of December 21, 2022, are exempt from the Worker's Compensation Redemption process set forth in this paragraph. The assigned disbursements for the Staff Plaintiffs employed by DK Security as of December 21, 2022, shall be paid by the QSF Administrator within thirty (30) days of the Effective date. These payments shall be considered 1099 compensation, and the QSF Administrator shall issue IRS Form W-

2 and/or 1099 if required by law and within the time required by law.

IV. Plan for Allocation of the Administrative Costs and Attorney Fees Pool

54. **Coverage of Administrative Costs and Attorney Fees Pool:** The funds in the Administrative Costs and Attorney Fees Pool shall cover all costs and fees of (1) the Special Master, (2) the Forensic Assessment Team, (3) the QSF Administrator, (4) Class Counsel, (5) Counsel for Special Subclass Representative Hawk Kennedy, (6) the Claims Administrator, and (7) any other administrative costs required to effectuate this Settlement Agreement.

55. Special Master Costs and Fees:

- a. The Special Master shall be entitled to recover all reasonable costs expended to effectuate the Special Master's obligations under this Settlement Agreement. In addition, the Special Master shall be entitled to reasonable fees, at the Special Master's standard hourly rate for mediations, for time expended to effectuate the Special Master's obligations under the terms of this Settlement Agreement.
- b. At least quarterly, the Special Master shall submit bills documenting any costs and fees that the Special Master seeks reimbursement to the QSF Administrator, Class Counsel, and counsel for the Department. Class Counsel or counsel for the Department may object to the Special Master's bills within ten (10) days of the Special Master submitting his bills and shall send any

objection to the Special Master, the QSF Administrator, Class Counsel and counsel for the Department. If no timely objection is submitted, the QSF Administrator shall issue the amount requested in the Special Master's bill to the Special Master from the Administrative Costs and Attorney Fees Pool. If an objection is raised, the Special Master and the objecting party shall meet and confer regarding the objection. If the Special Master and the objecting party are unable to resolve the objection, the Special Master and objecting party may raise the dispute with the Court.

56. Forensic Assessment Team Costs and Fees:

- a. The Forensic Assessment Team shall be entitled to recover all reasonable costs expended to effectuate the Forensic Assessment Team's obligations under this Settlement Agreement. In addition, the Assessment Team shall be entitled to reasonable fees, at an hourly rate agreed upon with Class Counsel, for time expended to effectuate the Forensic Assessment Team's obligations under the terms of this Settlement Agreement.
- b. The Forensic Assessment Team shall submit a bill documenting any costs and fees that the Forensic Assessment Team seeks reimbursement to the QSF Administrator, Class Counsel, and counsel for the Department, within thirty (30) days of completing their review and scoring of the Forensic Assessments (see

paragraph 50.c, above, and Appendix B to this Agreement). Class Counsel or counsel for the Department may object to the Forensic Assessment Team's bills within ten (10) days of the Forensic Assessment Team submitting their bill and shall send any objection to the Forensic Assessment Team, the QSF Administrator, Class Counsel and counsel for the Department. If no timely objection is submitted, the QSF Administrator shall issue the amount requested in the Forensic Assessment Team's bill to the Forensic Assessment Team from the Administrative Costs and Attorney Fees Pool. If an objection is raised, the Forensic Assessment Team and the objecting party shall meet and confer regarding the objection. If the Forensic Assessment Team and the objecting party are unable to resolve the objection, the Assessment Team and objecting party may raise the dispute with the Special Master and his determination will be binding.

57. QSF Administrator Costs and Fees:

- a. The QSF Administrator shall be entitled to recovery all reasonable costs and fees expended to effectuate the QSF Administrator's obligations under this Settlement Agreement. The QSF Administrator may utilize, and seek reimbursement for the costs and fees of, administrative staff to effectuate the QSF Administrator's obligations under the terms of this Settlement

Agreement.

- b. The QSF Administrator shall submit a bill documenting any costs and fees that the QSF Administrator seeks reimbursement to Class Counsel and counsel for the Department. Class Counsel or counsel for the Department may object to the QSF Administrator's bills within ten (10) days of the QSF Administrator submitting their bill and shall send any objection to the QSF Administrator, Class Counsel and counsel for the Department. If no timely objection is submitted, the QSF Administrator shall collect the amount requested in the QSF Administrator's bill from the Administrative Costs and Attorney Fees Pool. If an objection is raised, the QSF Administrator and the objecting party shall meet and confer regarding the objection. If the QSF Administrator and the objecting party are unable to resolve the objection, the QSF Administrator and objecting party may raise the dispute with the Court.

58. Claims Administrator Costs and Fees:

- a. The Claims Administrator shall be entitled to recovery all reasonable costs and fees expended to effectuate the Claims Administrator's obligations under this Settlement Agreement. The Claims Administrator may utilize, and seek reimbursement for the costs and fees of, administrative staff to effectuate the Claims

Administrator's obligations under the terms of this Settlement Agreement.

- b. The Claims Administrator shall submit a bill documenting any costs and fees that the Claims Administrator seeks reimbursement to Class Counsel and counsel for the Department. Class Counsel or counsel for the Department may object to the Claims Administrator's bills within ten (10) days of the Claims Administrator submitting their bill and shall send any objection to the Claims Administrator, Class Counsel and counsel for the Department. If no timely objection is submitted, the QSF Administrator shall issue the amount requested in the Claims Administrator's bill from the Administrative Costs and Attorney Fees Pool. If an objection is raised, the Claims Administrator and the objecting party shall meet and confer regarding the objection. If the Claims Administrator and the objecting party are unable to resolve the objection, the Claims Administrator and objecting party may raise the dispute with the Court.

59. Attorneys' Fees and Costs for Counsel for Special Subclass

Representative Hawk Kennedy: The QSF Administrator shall issue an amount equal to 1/3 of the disbursement to Hawk Kennedy set forth in the Plan of Distribution from the Adult Compensation Fund, plus reimbursement for reasonable and documented costs, from the Administrative Costs and Attorney Fees

Pool to Cline, Cline, & Griffin, PC within thirty (30) days of the Effective Date.

60. **Class Counsel's Attorneys' Fees and Costs:** Class Counsel shall apply to the Court for an award of fees and costs to be paid solely from the Administrative Costs and Attorney Fees Pool. An initial application for an award of fees and costs shall be included in the Motion for Preliminary Approval of Settlement, with an estimated amount of attorney fees and costs that will be sought. The Motion for Final Approval of Settlement shall include an application for an application for attorney fees and costs with the specific amount to be collected by Class Counsel.

- a. The application for an award of fees and costs shall be made on behalf of Class Counsel to completely cover all costs and fees of Class Counsel, and this amount will be the net in the Administrative Costs and Attorney's Fees Pool after all other costs and fees, including those of Counsel for Special Subclass Representative Kennedy, are paid.
- b. The application for attorneys' fees and costs shall be in a sum not to exceed the amount in the Administrative Costs and Attorney Fees Pool, after all costs and fees of the Special Master, Forensic Assessment Team, Claims Administrator, QSF Administrator and Counsel for Special Subclass Representative Kennedy are accounted. Costs (i.e., litigation expenses) shall be paid in addition to attorneys' fees in the amount in which they were or are incurred

by Class Counsel and are approved for reimbursement by the Court.

- c. The Department will not oppose the request for attorneys' fees and costs if consistent with the terms of this Settlement Agreement.

The Department shall have no obligation to pay any attorneys' fees or costs in addition to the payment of the Gross Settlement Amount.

- d. If approved by the Court, attorneys' fees and costs will be paid to Class Counsel by the QSF Administrator in one lump sum payment within 30 days of the Effective Date of this Agreement.

61. **Additional Administrative Costs:** To the extent additional administrative costs arise in effectuating the terms of this Settlement that are not otherwise accounted for in the preceding paragraphs, the administrative costs shall be paid for using funds from the Administrative Costs and Attorney Fees Pool. Class Counsel and counsel for the Department shall meet and confer to discuss such costs if they arise, and may direct the QSF Administrator to pay such costs from the Administrative Costs and Attorney Fees Pool.

V. Process for Class Certification and Settlement Approval

62. Class certification:

- a. **Stipulation to Class Certification.** Solely for the purposes of effectuating this Settlement Agreement, the Parties stipulate and agree to certification of classes. As such, the Parties stipulate and agree that in order for this Settlement Agreement to occur, the Court

must certify the Class as defined in this Agreement without modification. If the Court wishes to modify the class definition, this Settlement Agreement is void. If the Settlement Agreement does not become effective, the fact that the Parties were willing to stipulate to certification as part of the Settlement Agreement shall not be admissible or used in any way in connection with the question of whether the Court should certify any claims in a non-settlement context in this Litigation, the Related Litigations, or any other lawsuit or venue. If the Settlement Agreement does not become effective, the Department reserves the right in further proceedings to contest any issues relating to class certification, liability, and damages. Class Counsel will be required to establish that all of the elements of class certification are present so that the Court may certify this Litigation as a class action.

- b. **Timeframe for Motion for Class Certification:** Class Counsel will file a stipulated motion for class certification with the Court pursuant to MCR 3.501(B)(1). The motion will seek certification of two classes: the Patient Plaintiff Class and the Staff Plaintiff Class, consistent with the definitions for each respective class as set forth in paragraph 12, above. The Motion for Class Certification shall be filed concurrently with the Motion for Preliminary Approval of Settlement and include a draft Notice of Class Action

and Class Settlement (see paragraph 64, below) for each the Patient Plaintiff Class and the Staff Plaintiff Class, for the Court's approval.

63. Timing of Motion for Preliminary Approval of Settlement:

Within ten (10) business days of the Execution Date, Class Counsel will file a stipulated Motion for Preliminary Approval of Settlement pursuant to MCR 3.501(E), seeking preliminary approval of the Settlement Agreement on behalf of the Patient Plaintiff Class and the Staff Plaintiff Class. The Motion for Preliminary Approval of Settlement shall include a draft Notice of Class Action and Class Settlement (see paragraph 64, below) for each the Patient Plaintiff Class and the Staff Plaintiff Class, for the Court's approval.

64. Notice of Class Action and Class Settlement: Within five (5) business days of entry of the Order for Preliminary Approval of the Settlement and Class Certification, Class Counsel shall issue the approved Notice of Class Action and Class Settlement to each putative class member in each class. For putative Patient Plaintiff Class Members who are under the age of eighteen years old, the Notice of Class Action and Class Settlement shall be provided to the putative Patient Plaintiff Class Member's parent or legal guardian. The Notice of Class Action and Class Settlement shall be approved by the Court and comport with MCR 3.501(C)(1-7).

65. Class Action Website: Class Counsel, through the Claims Administrator, will establish a website that will be functional within five (5)

business days of entry of the Order for Preliminary Approval of the Settlement and Class Certification and will provide putative class members and members of public with information about the class action litigation, the settlement, and relevant and material court documents, and shall feature a means by which potential class members can communicate with Class Counsel to verify Class Member status and other information necessary to join the class.

66. **Right to Opt-Out:** All putative class members will have the right to be excluded from, *i.e.*, to “opt-out” of, the Class and the Settlement in accordance with MCR 3.501(C)(5)(b).

- a. On or before the Opt-Out Deadline, each individual who elects to opt-out of the class and settlement must send, by mail, written notice addressed to Class Counsel indicating their name and address and stating that they desire to opt-out of the Class and Settlement. In no event shall putative class members who seek to opt-out of the classes as a group, aggregate, collective, or class involving more than one individual be considered a successful opt-out.
- b. In no event shall a class member be permitted to opt-out of the Settlement but be included in one of the certified classes; if a putative class member opts-out of the class, the putative class member likewise opts-out of the settlement.
- c. Any putative class members who fails to timely and validly opt-out

of the class and settlement shall be bound by the terms of this Settlement Agreement and the Final Approval Order entered in this Litigation.

- d. If ten (10) percent of the putative Patient Plaintiff Class Members or the putative Staff Plaintiff Class Members opt-out of either respective classes, the Department may terminate this Agreement. The Department has the option of terminating this Agreement within fourteen (14) days of the deadline to submit timely opt-out notices. Class Counsel is responsible for providing to counsel for the Department, by email, timely notice of each opt-out. In the event the opt-out threshold is met and the Department chooses to terminate, this Agreement is null, void, and unenforceable and all monies shall be returned to the Michigan Department of Treasury.

67. Non-Participatory Class Members: Individuals who (1) meet the Patient Plaintiff class definition or the Staff Plaintiff class definition, (2) do not opt-out of the class and settlement, and (3) cannot be located to effectuate the terms of this Settlement Agreement or otherwise refuse to complete an obligation necessary to effectuate the Settlement Agreement on their behalf, shall remain bound by the terms of this Settlement Agreement and the Final Approval Order and forfeit their entitlement to any funds under the terms of this Settlement.

68. Motion for Final Approval of Settlement and Fairness Hearing: Class Counsel shall move for Final Settlement Approval no later than two weeks

(14 days) following receipt of the Plan of Disbursement from the Adult Compensation Fund from the Special Master. The Court, at the Fairness and Final Approval Hearing, will review the reasoned Plan of Disbursement prepared by the Special Master to ensure no errors were made in applying the terms of this Settlement Agreement for the Assessed Staff Plaintiff. An Order of Final Approval of the Settlement pursuant to MCR 3.501(E) will be entered by the Court at the conclusion of the Fairness Hearing and upon exhaustion of any appeal. Once the Final Approval Order is entered, this Settlement Agreement will bind all Class Members who have not opt-ed out of their respective class.

Additional Terms

69. **Payment into QSF and QSF Obligations:** In accordance with the terms of this Settlement Agreement, the Gross Settlement Amount shall be deposited into the QSF within thirty (30) days of the date of Preliminary Approval, as set forth in paragraph 35. The funds within the QSF will be held in a fiduciary capacity. The QSF shall comply with 26 CFR 1.468B-1, et seq., including the requirements for taxation and tax reporting obligations. The QSF shall be deemed to be in the custody of the Court. The QSF shall remain subject to the jurisdiction of the Court until the funds are distributed in their entirety or upon further order of the Court. It shall be the responsibility of the QSF Administrator to cause the timely and proper preparation and delivery of the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur. The QSF Administrator may invest the escrowed funds in United States Treasury Notes or Bonds redeemable in time to make payment within thirty (30)

days after the Effective Date of the Settlement Agreement. Net Interest, if any, earned in the QSF will be divided in proportion among the Patient Compensation Fund, the Staff Compensation Fund, and the Administrative Costs and Attorney's Fees Pool. The Net Interest is the amount available for distribution after a reduction for the payment to the QSF Administrator portion of the interest per the QSF Administrator fee agreement. The Department shall not have any responsibility, financial obligations, or liability whatsoever with respect to the investment, distribution, or use of the QSF.

70. QSF Administrator Duties and Obligations: The QSF Administrator shall be the "QSF Administrator" within the meaning of Treasury Regulation §1.468B-2(k)(3). The Parties shall cooperate in securing an order of the Court to establish the QSF in accordance with the terms hereof in conjunction with its preliminary approval of the Settlement and Notice as described in the Agreement. In addition to all of the Administrator's other obligations under this Agreement, the QSF Administrator shall make all approved distributions to eligible Class Members, Class Counsel, and the Special Master as directed by the terms of this Agreement, the Special Master (for the Staff Compensation Fund only), or the Court. The QSF Administrator shall handle all federal and state tax matters related to the QSF. The QSF Administrator shall take all steps necessary to ensure that any tax obligations imposed upon the QSF are paid. To the extent necessary to satisfy this objective, the QSF is hereby authorized to, among other things, (i) communicate with the Internal Revenue Service and any state agency on behalf of

the QSF, (ii) make payment of taxes on behalf of the QSF (which taxes will be paid out of the QSF assets), and (iii) file all applicable tax returns for the QSF. All ordinary and necessary expenses incurred in connection with the preparation of such tax returns shall be paid from the QSF.

71. **Cy Pres or Residual Funds:** To the extent any funds remain in the Patient Compensation Fund, the Staff Compensation Fund, and/or the Administrative Costs and Attorney Fees Pool following all allocations and disbursements called for under the terms of this Settlement Agreement, any residual funds shall be paid by the QSF Administrator, pursuant to MCR 3.501(D)(6), to the Children Trust Michigan, as the cy pres or residual funds recipient.

72. **Taxes:** The QSF Administrator, in consultation with Class Counsel, will determine if taxes should be withheld from Class Member payments. Plaintiffs agrees that they are solely responsible for their portion of any and all federal, state or local taxes that are due as a result of payments made under this Agreement. Plaintiffs further acknowledges and agrees to indemnify and hold the Department harmless in the event that any federal, state, or local taxing authority asserts any claim for liability based upon payment of these sums to the Class Members, including but not limited to unpaid taxes; failure to withhold taxes; penalties; interest or other sums that may become due to any taxing authority. The Department makes no representations or warranties about the tax consequences of any monies paid pursuant to this Agreement. The Michigan and United States

Departments of Treasury are empowered to exercise any right of set-off to which it is entitled by law. To the extent settlement payments trigger any employer-side payroll or other tax obligations, the Department shall be solely responsible for those employer-side obligations to the extent described herein.

73. **Independent Tax Advice:** Each Class Member shall be obligated to obtain their own independent tax advice concerning the proper income reporting and tax obligations regarding payments that they receive pursuant to this Settlement Agreement. Class Members shall further assume the responsibility of remitting to the Internal Revenue Service or any other relevant taxing authorities all amounts required by law to be paid out of any monies received under this Agreement, without any contribution from the Department, Class Counsel, or the settlement funds maintained by the QSF Administrator.

74. **Class Member Contact Information:** The Department shall provide a list of last known addresses for all Staff Plaintiffs to Class Counsel and the Special Master within fourteen (14) days of the Execution Date. Pursuant to the Protective Order, dated December 7, 2023, to the extent the information is in the Department's possession, the Department shall also provide Class Counsel last known contact information for the Patient Plaintiffs, their parent(s)/guardian(s), and other legal representatives (e.g., guardian ad litem). The Parties agree that the contact information provided by the Department and other information about a Class Member shall be used for purposes of effectuating this Settlement Agreement and for no other purposes. Any information provided by the Department about

Class Members shall be deemed confidential and shall be destroyed at the completion of this Settlement Agreement.

75. **Claw-Back Rights:** The QSF Administrator may invest the escrowed settlement funds in United States Treasury Notes or Bonds redeemable in time to make payment within 30 days after the Effective Date of the Settlement Agreement. In the event the Settlement Agreement is set aside by the Court or a final appellate court order, the QSF Administrator shall liquidate the fund within thirty (30) days of the Court's order or the final appellate court order and repay to the Department the amount in the fund minus all reasonable administrative costs already incurred.

76. **Settlement Modification:** The Parties may agree by stipulation executed by counsel to modify any aspect of this Agreement or Motions and Brief submitted in support of the Settlement Agreement. Any stipulation modifying the Agreement must be filed with the Court and is subject to the Court's approval.

77. **Authority:** The signatories below represent they are fully authorized to enter into this Agreement and to bind the Parties.

78. **Best Reasonable Efforts and Mutual Full Cooperation:** The Parties agree to fully cooperate with one another to accomplish the terms of this Agreement, including but not limited to, executing such documents and taking such other actions as may be reasonably necessary to implement the terms of this Settlement. The Parties to this Agreement will use their best reasonable efforts, including all efforts contemplated by this Agreement and any other efforts that may

become necessary or ordered by the Court, or otherwise, to effectuate this Agreement and the terms set forth in it and to the best of their ability make it possible for distributions from the Gross Settlement Amount to be made as early as possible under the terms of this Agreement.

79. **Entire Agreement:** This Agreement, together with any exhibits, constitutes the full and entire agreement among the Parties with regard to the subject matter and supersedes all prior representations, agreements, promises, or warranties, written, oral, or otherwise. No party shall be liable or bound to any other party for any prior representation, agreement, promise, or warranty, oral or otherwise, except for those that are expressly set forth in or attached to this Agreement.

80. **Binding:** This Agreement will be binding upon and will inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors, and assigns.

81. **Construction:** The Parties agree that the terms and conditions of this Agreement are the result of lengthy, arms-length negotiations between the Parties and that this Agreement will not be construed in favor of or against any party by reason of the extent to which any party or the party's counsel participated in the drafting of this Agreement.

82. **Construction of Captions and Interpretations:** Paragraph titles, captions, or headings in this Agreement are inserted as a matter of convenience and for reference and in no way define, limit, extend, or describe the scope of this

Agreement or any provision in it. Each term of this Agreement is contractual and is not merely a recital.

83. **Agreement may be executed in one or more counterparts:** All executed counterparts and each of them shall be deemed to be one and the same Agreement. This Agreement may be executed by signature delivered by facsimile, PDF, text, or .jpg and need not be the original “ink” signature. A complete set of executed counterparts shall be filed with the Court. This Agreement shall become binding upon its execution by the Class Representatives, Class Counsel, and the Department’s authorized representative.

SIGNATURE ON NEXT PAGE

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Dated: _____

Annette Padula
Staff Plaintiff Class Representative

Dated: _____

Chauncey Payne, Jr.
Staff Plaintiff Class Representative

Dated: _____

Brandon Woodruff
Special Subclass Representative

Dated: January __, 2024

Hawk Kennedy
Special Subclass Representative

For All Plaintiffs except Hawk Kennedy:

Dated: _____

Robin B. Wagner (P79408)
Attorney for Plaintiffs


For Hawk Kennedy Only:

Dated: January __ 2024

Nancy K. Chinonis (P71350)
Attorney for Hawk Kennedy

For Michigan Department of Health and Human Services:

Dated: January 30, 2024

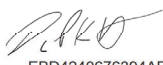


Elizabeth Hertel
Director

Signatures

For Patient Plaintiff Class:

Dated: 1/26/2024

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David Horein

Dated: 1/26/2024

DocuSigned by:

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Kortni Horein

Parents and Next Friend of Patient Plaintiff
Class Representative D.H.


Dated: 1/28/2024

DocuSigned by:

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Mollie Bonter

Dated: 1/29/2024

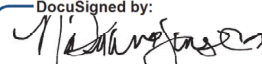
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Brent Bonter

Parents and Next Friends of Patient Plaintiff
Class Representative A.B.

For Staff Plaintiff Class:

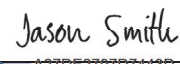
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NaQuana Jones

Staff Plaintiff Class Representative

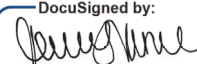
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Jason Smith

Staff Plaintiff Class Representative


Dated: 1/26/2024

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Jennifer Vance

Staff Plaintiff Class Representative

Dated: 1/29/2024

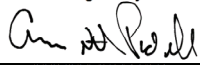
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Kai Mason

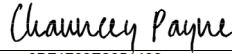
Staff Plaintiff Class Representative

Document received by the MI Court of Claims.


Dated: 1/28/2024

DocuSigned by:

Annette Padula
Staff Plaintiff Class Representative

Dated: 1/26/2024

DocuSigned by:

Chauncey Payne, Jr.
Staff Plaintiff Class Representative

Dated: 1/29/2024

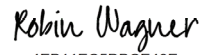
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Brandon Woodruff
Special Subclass Representative

Dated: January __, 2024

Hawk Kennedy
Special Subclass Representative

For All Plaintiffs except Hawk Kennedy:

Dated: 1/29/2024

DocuSigned by:

Robin B. Wagner (P79408)
Attorney for Plaintiffs

For Hawk Kennedy Only:

Dated: January __ 2024

Nancy K. Chinonis (P71350)
Attorney for Hawk Kennedy

For Michigan Department of Health and Human Services:

Dated: January __, 2024

Elizabeth Hertel
Director

Signatures

For Patient Plaintiff Class:

Dated: 1/26/2024

DocuSigned by:

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David Horein

Dated: 1/26/2024

DocuSigned by:

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Kortni Horein

Parents and Next Friend of Patient Plaintiff
Class Representative D.H.

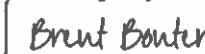
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Mollie Bonter

Dated: 1/29/2024

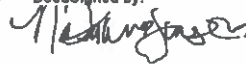
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Brent Bonter

Parents and Next Friends of Patient Plaintiff
Class Representative A.B.

For Staff Plaintiff Class:

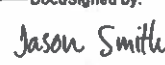
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NaQuana Jones

Staff Plaintiff Class Representative

Dated: 1/26/2024

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Jason Smith

Staff Plaintiff Class Representative

Dated: 1/26/2024

DocuSigned by:

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Jennifer Vance

Staff Plaintiff Class Representative

Dated: 1/29/2024

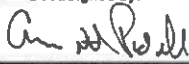
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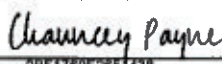
Kai Mason

Staff Plaintiff Class Representative

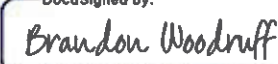
Dated: 1/28/2024

DocuSigned by:

Annette Padula
Staff Plaintiff Class Representative

Dated: 1/26/2024

DocuSigned by:

Chauncey Payne, Jr.
Staff Plaintiff Class Representative

Dated: 1/29/2024


DocuSigned by:

Brandon Woodruff
Special Subclass Representative

Dated: January 29, 2024


Hawk D. Kennedy (Jan 29, 2024 16:08:55)
Hawk Kennedy
Special Subclass Representative


For All Plaintiffs except Hawk Kennedy:

Dated: 1/29/2024

DocuSigned by:

Robin B. Wagner (P79408)
Attorney for Plaintiffs

For Hawk Kennedy Only:

Dated: January 29, 2024


Nancy K. Chinonis (P71350)
Attorney for Hawk Kennedy

For Michigan Department of Health and Human Services:

Dated: January 29, 2024

Elizabeth Hertel
Director








Hawthorn_Settlement Agreement_PMPBR Client Sigs

Final Audit Report

2024-01-29

Created:	2024-01-29
By:	Nancy Chinonis (chinonis@gmail.com)
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"Hawthorn_Settlement Agreement_PMPBR Client Sigs" History

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-  Signer openurhrt@hotmail.com entered name at signing as Hawk D. Kennedy
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-  Document e-signed by Hawk D. Kennedy (openurhrt@hotmail.com)
Signature Date: 2024-01-29 - 9:08:05 PM GMT - Time Source: server- IP address: 128.231.234.5
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APPENDIX A

PLAN OF ALLOCATION: PATIENT COMPENSATION FUND

This Plan of Allocation is an Appendix to the Class Action Settlement Agreement for *Horein, et al v Michigan Department of Health and Human Services*, COC No. 23-000063-MM, (“Settlement Agreement”) and incorporates by reference here the entirety of that Settlement Agreement, including all definitions, recitations, and terms of agreement documented in that Agreement. The Patient Plaintiff Class to which this Plan of Allocation applies is defined in Paragraph 12.a of the Settlement Agreement.

This Plan of Allocation operates solely to define and prescribe the process by which the Patient Compensation Fund, defined by Paragraph 23.a of the Settlement Agreement, shall be allocated among the class representatives and class members of the Patient Plaintiff Class. This Plan of Allocation may be modified only in accordance with the terms of the Settlement Agreement.

This Plan of Allocation shall conform with the requirements of MCR 2.420. The parties agree that if any of the components of this Plan of Allocation fail to conform with the requirements of MCR 2.420, they shall work in good faith to amend the Plan to bring it back into conformity with MCR 2.420.

DEFINITIONS

1. For the Plan of Allocation for the Patient Compensation Fund, the following definitions shall apply:
 - a. “CMS” means the Centers for Medicare & Medicaid Services, the agency within the United States Department of Health and Human Services responsible for administration of the Medicare Program and the Medicaid Program.
 - b. “Legally Incapacitated or Incompetent Individual” or “LII” means an individual described in MCL 700.1105(a).
 - c. “Medicaid Program” means the federal program administered by the states under which certain medical items, services, and/or

prescription drugs are furnished to Medicaid beneficiaries under Title XIX of the Social Security Act, 42 USC 1396-1, *et seq.*

- d. “Minor” means any Patient Plaintiff that is less than eighteen (18) years of age at the time the Court issues the Final Approval Order.
- e. “Next Friend” shall mean an individual who is appointed under the order required under paragraph 5(a) of this Appendix to represent the interests of another individual who lacks legal capacity to act on his or her own behalf due to being a Minor, or due to physical or mental impairment, and have been determined to lack legal capacity, being an LII.
- f. “Settlement Preservation Trust” shall mean a pooled trust consisting of a Master Trust Agreement and joinder agreement to hold, manage, and administer funds for individuals who are not receiving means-tested government benefits, such as SSI, Medicaid, Social Security Disability Insurance, or Childhood Disabled Beneficiary Benefits.
- g. “Special Needs Trust” shall mean a pooled special needs trust, that complies with the requirements of 42 USC 1396p(d)(4)(C) and Bridges Eligibility Manual (BEM) 401, consisting of a master trust agreement and joinder agreement drafted consistent with federal and state statutes and policies to be considered an exempt resource for public benefit purposes in order for assets held, managed, and administered according to its terms in such a way as to protect and preserve means-

tested government benefits, such as Supplemental Security Income or Medicaid, for persons with disabilities. Pursuant to 42 USC

1396p(d)(4)(C) such joinder agreement may be executed by a legally competent beneficiary, parent, grandparent, guardian, or the court.

- h. “Pooled Trust” means a trust that is created to hold, manage, and administer the funds of a class or type of individual. A pooled trust consists of a master trust agreement which defines how such funds will be administered, the rights and duties of the trustee and beneficiaries. To join a pooled trust, a party with legal authority, such as a parent or Next Friend, executes a document called a Joinder Agreement. Assets are pooled for purposes of investment, but separate records are kept for each individual’s assets.

ALLOCATION PROCESS

2. Determination of Eligible Patient Plaintiff Class Members:

Pursuant to paragraph 72 of the Settlement Agreement, the Department shall provide Class Counsel with a list of all Patient Plaintiff Class Members. This list, and its contents, is subject to the Protective Order entered by the Court on December 7, 2023.

- a. **Eligibility:** Individuals who appear on the list of Patient Plaintiff Class Members provided by the Department shall be deemed automatically eligible for participation in the Patient Plaintiff Class.
- b. **Registration Process:** Any individual who believes that their

name was erroneously omitted from the list of Patient Plaintiff Class Members provided by the Department, may register with the Special Master by no later than the opt-out deadline specified in the Class Notice. Registration requires the individual, or a parent, guardian or other suitable representative acting on their behalf, to provide the Special Master with clear and convincing evidence, as defined in paragraph 31.b of the Settlement Agreement, that the individual fully meets the definition of a class member as provided in paragraph 12.a of the Settlement Agreement. The Special Master shall make his determination of eligibility within fourteen (14) days of receiving any registration, and his determination of eligibility shall be final and binding.

3. Unless a Patient Class Member opts out of this Settlement Agreement, all Eligible Patient Class Members shall be included in the allocation process.
4. **For each Patient Plaintiff Class Member who is not a Minor or LII:**
 - a. The Patient Plaintiff Class Member shall receive the Notice of Class Action and Class Settlement pursuant to paragraph 64 of the Settlement Agreement.
 - b. Within fourteen (14) days after the Opt-Out Deadline, Class Counsel shall contact Patient Plaintiff Class Member to determine the manner of disbursement for the Patient Plaintiff's share of the Patient Compensation Fund. The Patient Plaintiff

will have the option of receiving the funds through a cash payment, through the Pooled Special Needs Trust provided for in Paragraph 6 below, or through the Settlement Preservation Trust provided for in Paragraph 6 below. Class Counsel will assist each Patient Plaintiff Class Member in providing advice on the differences between these options and executing the necessary documentations to obtain the funds.

5. For each Patient Plaintiff Class Member who is a Minor and/or

LII:

- a. Within sixty (60) days after Preliminary Approval of the Settlement Agreement, Class Counsel shall file a motion pursuant to MCR 2.201(E) seeking an order appointing individuals to act as a Next Friend on behalf of each Minor and LII.
- b. If the Patient Plaintiff is receiving SSI, the Patient Plaintiff shall receive their portion of the Patient Compensation Fund through a through a Pooled Special Needs Trust that comports with 42 USC 1396p(d)(4)(C).
- c. For all other Patient Plaintiffs (i.e., those not addressed by either paragraphs 4 or 5(b), above), the appointed Next Friend shall select either a Pooled Special Needs Trust or a Pooled Settlement Preservation Trust to receive the proceeds of the

Patient Compensation Fund. The Next Friends shall select the type of trust, in writing, for the Patient Plaintiff within fourteen (14) days after the Opt-Out Deadline.

6. **List of Disbursement Methods:** Class Counsel shall compile a list of disbursement methods selected for each Patient Plaintiff based on the terms set forth in paragraphs 4 and 5, above. The list of disbursement methods for the Patient Plaintiffs shall be submitted with the Motion for Final Approval of the Settlement Agreement (see paragraph 68 of the Settlement Agreement).

7. **Disbursement of Patient Compensation Fund:** No later than two (2) business days after the Effective Date, Class Counsel shall provide the list of disbursement methods for each of the Patient Plaintiffs to the QSF Administrator. Within seven (7) days of receiving the list of disbursement methods for the Patient Plaintiffs, the QSF Administrator shall distribute the Patient Compensation Fund, \$2,888.888.89, such that (1) \$5,000.00 shall be distributed for each Class Representative for the Patient Plaintiffs through their designated method of distribution, and (2) the remaining funds will be distributed equally by the number of participating Patient Plaintiffs, including the Class Representatives for the Patient Plaintiffs.

8. **Selecting the Trusts and Facilitating Entry into the Trusts:** Class Counsel shall, upon exercising due diligence, select one or more Pooled Special Needs Trust and Settlement Preservation Trust administrators, facilitate the proper execution and funding of each trust and accompanying documentation,

and notify the Department and other applicable government agencies of each Patient Plaintiffs' change of circumstance where such notification obligations exist, including where the Patient Plaintiff is receiving a means-based public benefits.

9. **Costs of the Trusts:** All costs of the trust(s) utilized to effectuate the Settlement Agreement for the Patient Plaintiffs shall be borne by the funds allocated to the individual Patient Plaintiff's trust.

Ann Wolbert Burgess, DNSc
Victor G. Petreca, PhD, DNP
Active Shooter Drill - Report
burgess@bc.edu
petreca@bc.edu

November 20, 2023

Robin Wagner

Pitt McGehee Palmer Bonanni & Rivers PC
117 West Fourth Street, Suite 200
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Re: Methodology for Active Shooter Drill - Evaluation

Purpose:

The purpose of this project is to provide expert consultation to a legal team. Our aim includes evaluating the trauma associated with an active shooter drill that takes place in an institutional context. Moreover, exploring the power differential and social factors associated with the event that took place is of particular interest.

Population & Setting

The project will focus on evaluating individuals who participated in the drill but believed it to be an actual situation. More specifically, the 110 participants were all adult staff at a psychiatric hospital.

Inclusion/Exclusion Criteria

Inclusion criteria requires participants to be 18 years of age or older and have been identified as participating in the drill. Only those who have capacity to consent to the process will be included. All forms and responses will be anonymous in that instead of name, a code number will be used.

Sampling and recruitment

Purposive sampling - The partners (ie legal team) requesting the consultation and expert opinion will be responsible for sampling. They will connect our team with individuals who will be receiving an evaluation. Participation is voluntary.

Procedures

Data collection

Instruments: Data collection will consist a basic demographic questionnaire (e.g., age, gender, education, etc.), one brief write-in answer to 5 questions regarding the incident, and three surveys completed by each individual: Symptom Checklist 90R, International Trauma Questionnaire, and Trauma History Questionnaire and

International Trauma Questionnaire (ITQ)

The International Trauma Questionnaire (ITQ) is an 18 question self-report measure focusing on the core features of Post Traumatic Stress Disorder (PTSD) and Complex PTSD (CPTSD). It was developed to be consistent with the organizing principles of the ICD-11.

The Trauma History Questionnaire (THQ) is a 24-item self-report measure that examines experiences with potentially traumatic events such as crime, general disaster, and sexual and physical assault using a yes/no format. For each event endorsed, respondents are asked to provide the frequency of the event as well as their age at the time of the event.

The **Symptom Checklist-90-Revised** instrument helps evaluate a broad range of psychological problems and symptoms of psychopathology. The SCL-90-R® is also useful in measuring patient progress or treatment outcomes.

Data Management

All files will be saved in a special cloud sever. Only Drs. Burgess and Petreca will have access to the raw information and confidentiality will be kept in all cases.

Data Analysis and Report

The team will review all the survey data addressing the following areas: identifying information; pre-existing risk and resiliency factors; post-abuse mental and physical functioning; post-abuse employment and educational issues; global severity of impact suffering.

The data is then compiled (using a scoring algorithm) into a draft report outline. Each draft report is reviewed by Dr. Burgess and Dr. Petreca for completeness, uniformity and agreement on the scoring of mild, moderate or severe injury. The final report is then sent to the legal team.

A copy of the final report will be available to attorney Wagner and her team. In partnership with attorney Wagner, a copy of the final report may be made available to a participating plaintiff upon written request.

Timeline

	Month 1	Month 2	Month 3
Data collection (psychometric instruments)	X		
Coding	X	X	
Reports completion	X	X	X

Budget

We estimate at least 3-5 hours to process each case, synthesize findings and write report. Considering the volume of cases and our prior partnerships, we propose 110 cases, at \$500/case

One part-time assistant at 10 hrs/week or \$250/week for 12 weeks

Software for instrument response processing: \$6.10/ case = \$671

Items	Cost	Total
110 cases	\$500/case	\$55,000
120 hours	\$25/hour	\$ 3,000
Software processing for 110 cases	\$6.1/case	\$ 671

	Grand Total	\$58,671
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Deliverables: 1-page standardized report:

**We propose submitting the initial 10 reports for your review for feedback and/or requested edits, so we can continue the remainder reports with an approved template.*

Scoring criteria

1. Pre-existing risk and resiliency factors **(20 points)**.
 - a. *Trauma History Questionnaire*
 - b. *Demographics*
2. Nature of traumatic response **(30 points)**
 - a. *ITQ score*
 - b. *Trauma History Questionnaire*
 - c. *Written questions*
3. Post-trauma functional, mental and physical functioning **(40 points)**
 - a. *MH symptoms (SCL-90 score)*
 - b. *PTSD and chronic trauma (ITQ) – trauma-related sequelae*
4. Global severity of impact suffering **(10 points)**

To note, once the evaluations are completed, damages and suffering will be represented as a score ranging from 0 to 100, with 100 representing the highest level of severity. As an additional reference guide, damages and suffering may be interpreted as below:

- *0-30 points – Mild*
- *31-70 points – Moderate*
- *71-100 points – Severe*

ANN WOLBERT BURGESS
Curriculum Vitae

Office address:
228 Highland Avenue
West Newton, MA 02465
617-965-6261
Fax: 617-244-2324
burges@bc.edu

Academic Address:
Boston College School of Nursing
140 Commonwealth Ave.
Chestnut Hill, MA 02467
617-552-6133
HYPERLINK "mailto:burges@bc.edu"

EDUCATION

Bachelor of Science
Master of Science.
Doctor of Nursing Science
Doctor of Humane Letters (Hon)

Boston University
University of Maryland
Boston University
University of San Diego

REGISTRATION AND CERTIFICATION

Registered nurse/PC: Massachusetts license #:71027; Controlled Substances Practitioner MB0204115L; Pennsylvania license RN-258646-L
American Nurses Association Certification as a Clinical Specialist in Psychiatric-Mental Health Nursing #6057, 1980-
Sexual Assault Nurse Examiner, 1995-

PROFESSIONAL EXPERIENCE

Academic Appointment

2014-2016 Visiting Professor, Uniformed Services University of the Health Sciences
2001- Professor of Psychiatric Nursing, Boston College
1983 - 2000 van Ameringen Professor of Psychiatric Mental Health Nursing,
University of Pennsylvania, School of Nursing; Chair, Psychiatric Nursing 1990-1995;
Professor Emeritus, 2000-
1979 - 1982 Professor and Director of Nursing Research. Boston University School of Nursing;
Adjunct Assistant Professor (1966-1969); Instructor (1961-1962)
1976 - 1979 Professor of Nursing, Boston College
Associate Professor and Coordinator of Graduate Community Health Nursing (1975-1976);
Associate Professor (1971-1975);
Adjunct Assistant Professor (1969-1971)

Research positions

1981 - 1993 Associate Director of Nursing Research, Department of Health and Hospitals, City of Boston
1965 - 1966 Research Nursing Supervisor, Metabolic Depression Unit, Mass. Mental Health Center, Mass.
2012 Nurse Scientist, Liaison with Newton-Wellesley Hospital, Newton, MA

Administrative positions

1976-1980 Chairperson, Department of Nursing, Graduate School of Arts & Sciences, Boston College
1980 - 1981 Dean ad litem, Boston University School of Nursing

1990 - Chairperson, Division of Psychiatric Mental Health Nursing, University of Pennsylvania

Nursing Service

1959 - 1961 Clinical nursing instructor, Spring Grove State Hospital,
Baltimore, MD

1958 - 1958 Staff nurse, Newton-Wellesley Hospital, Newton, MA

Private Practice: 1966 - Individual and Couples psychotherapy

Forensic Nursing Evaluations and Reports: 1979-

MEMBERSHIPS AND PARTICIPATION IN PROFESSIONAL ORGANIZATIONS

American Nurses Association, 1966 - .

ANA Council of Specialists in Psychiatric-Mental Health Nursing, 1972 Nominating
Committee, 1974-1976, Executive Committee, 1978- 1980.

ANA Cabinet of Nursing Research, 1982-1988; Member, Private Sector Funding 1982-1985;
Chairperson 1986-1987.

American Academy of Nursing, 1977; Governing Council, 1978-1980; Program Committee,
1978-1980; Chair, 1980; Sigma Theta Tau, 1957; Research Committee, 1983-1985; Chair,
Expert Panel on Violence, 1997-

American Orthopsychiatric Association, Member 1975-1979; Fellow, 1979 - Board of
Directors, 1982-1984.

National Organization of Victim Assistance, 1976 - Board of Directors, 1977-1979.

The Society for Traumatic Stress Studies, 1985; Vice President, 1985 -1988.

American Professional Society on the Abuse of Children, Board of Directors, 1988-1990.

International Association of Forensic Nurses, Advisory Board, 1993-1997; member 1993-
National Academy of Sciences, Institute of Medicine 1994

American College of Forensic Examiners, Member 1997- present; Chair, Forensic Nursing
Advisory Board, 1998-2000.

Forensic Panel, 1999-

Cyril H. Wecht Institute of Forensic Science and the Law, 2003-

Board of Visitors, University of Scranton, 2006-2008

Court Recognized Areas of Expertise

Rape trauma; Rape trauma in trusted relationships; Elder abuse; Relationship violence; Child
pornography; Child sexual abuse; Posttraumatic Stress Disorder; Crime classification; Infant
and child abduction; Offender typology; Serial offenders; Profiling; Mental illness; Standards
of practice; Neurobiology of trauma.

GRANTS

MH 11499 - Mental Health Concepts in Public Health Nursing, National Institute of Mental
Health, Project Director, 1971 - 1973.

90-CA-8101 - Research on the Use of Children in Pornography, National Center for Child-
Abuse and Neglect, Principal Investigator, 1980 - 1982, \$100,000.

6244 - Demonstration to Increase the Rate of Return to Work of Heart Attack Victims, Robert
Wood Johnson Foundation, Principal Investigator, 1981 - 1984, \$589,678.

2-0283-0-MA-IJ - Sexual Homicide Crime Scene Data, National Institute of Justice, Principal Investigator, 1982 - 1984, \$127,835.

84-JW-AXK010 - Possible Linkages between Sexual Abuse and Exploitation of Children and Juvenile Delinquency, Violence and Criminal Activity, Department of Justice, Principal Investigator, 1984 - 1986, \$844,839.

90-CA-1273 - Children as Witnesses in Cases of Child Sexual Abuse, National Center on Child Abuse and Neglect, U.S. Department of Health and Human Services, Co-Principal Investigator with Ellen Gray, National Council of Jewish Women, 1986-89, \$150,000.

5 TO1 MH 18611-02 - Clinical Training on Child Abuse Cases for Graduate Nursing Students in Psychiatric Mental Health Nursing, National Institute of Mental Health, Project Director, 1986-87, \$41,000.

96-MC-CX-K003 - National Center for Missing & Exploited Children. Monograph on Abducted and Sexually Exploited Children. Project Director, 1987, \$12,000.

A Working Meeting: AIDS, Ethics and Sexual Assault, NIMH Special Projects, August - September, 1987, \$9,980.00.

A Working Meeting II: Counseling Victims of Sexual Assault About AIDS, NIMH Special Projects, March - July, 1988, \$19,764.00.

RO1 MH43747-01 HIV Antibody Testing: Developing Guidelines for Screening Sexual Assault Victims, NIMH and NCNR, Principal Investigator 1988 - 1991, \$119,260.

90-MU-MU-KOO1 Child Sexual Abuse: Victims of Federal Crimes, Office for Victims of Crime. Sub-contract to Paul & Lisa, Inc., \$44,240, 1990 - 1991.

91-MC-R-004 Abducted Child Study, FBI Interagency Agreement with OJJDP, DOJ, \$257,888, 1990-1994.

H28/CCH317184 National Sexual Violence Resource Center, CDC. Subcontract to Pennsylvania Coalition Against Rape, 1999-2004, \$700,000

00-VA Battering and Stalking Behaviors Reported by Veterans Followed by the Behavioral Health Clinics, Veteran's Administration Agency, 2000-2003, \$48,995.

NIJ Identifying Forensic Markers in Elder Sexual Abuse, National Institute of Justice, PI, 2000-2003, \$99,285.

NIJ Evaluating SANE/SART Programs. Sub-contract to American Prosecutors Research Institute, \$75,000, 2003-2005.

NIJ Elder Sexual Abuse Victims and their Offenders, PI, 2003-2005, \$252,110.

OJJDP Strategies used by Internet Offenders in Crimes Against Children. Co-PI, 2006-2007 \$100,046

OJJDP A Multi-Pronged Approach to Internet Child Safety, OJJDP Award # 2006-JW-BX-K069, Co-PI, \$295,000.

DOJ Campus Sexual Misconduct: Using Perpetrator Risk Assessment and Tailored Treatment to Individualize Sanctioning, DOJ SMART grant DOJ#2014-AW-BX-K002. PI Robert Prentky, Multi-site project with University of Arizona and Fairleigh Dickenson University, 2014-2017, \$1,315,906.

Collegiate Athlete Warrior Initiative, Wounded Warrior Project, PI, 2015-2016, \$249,000.

2021 CSON Innovation Grant project entitled "Strangulation and Asphyxiation: A Data-Driven Exploration of Offender Characteristics and Predictor Factors." With Petreca (PI), Capotosto, Patch and Brucato

PROFESSIONAL ACTIVITIES

Chairperson, Advisory Committee to the National Center on Rape Prevention and Control,

Department of Health & Human Services, 1976 - 80.
 Visiting Privileges, Department of Health & Hospitals, Boston, MA, 1976-93.
 Member, Task Force on Families of Catastrophe, Family Research Institute, Purdue University, 1980.
 Member, Scientific Committee on the Mental Health Needs of Victims, World Federation of Mental Health, 1981 - 1983.
 Member, Task Force on Special Dispositional Statutes Sentencing and Placement of Mentally Disabled Offenders and Treatment of Mentally Disabled Prisoners, American Bar Association, Criminal Justice Mental Health Standards Project, Phase II, 1982 - 1983.
 Member, U.S. Attorney General's Task Force on Family Violence, 1983 - 1984.
 Member, Surgeon General's Symposium on Violence, Leesburg, VA, 1985.
 Charter Member, National Center for Nursing Research Advisory Council of the National Institutes of Health, 1986-88.
 Member, National Center for Nursing Research Priority Expert Panel B. on HIV Infection: Prevention and Care, 1988 - 89.
 Member, Office for Technology Assessment, Advisory Panel on Adolescent Health, in U.S. Congress, 1988-89.
 Member, Study Section on HIV and Related Research, NIH, 1989-1992.
 Chair, Study Section on HIV and Related Research, NIH, 1992-94
 Chair, Special Study Section of Nursing and HIV, NINR, 1994.
 Member, National Institutes of Health Reviewers Reserve (NRR), 1994-
 Consultation, research and training, FBI Academy, Quantico, VA, 1978 - 94.
 National Academy of Sciences, Institute of Medicine, 1994-
 Chair, Developing a Research Agenda on Violence Against Women, National Research Council, 1994-1996;
 Cardinal's Commission on Protection of Children, Boston Archdioceses, 2002-2003.
 Member, US Surgeon General Richard Carmona's Workshop, "Making Prevention of Child Maltreatment A National Priority", March 31, 2005

Editorial Experience

Interim Editor, Victims & Offenders Journal, 2008

Editorial Board:

Member, Journal of Traumatic Stress, 1988-1991
 Journal of Family Violence, 1985-
 Journal of Child Sexual Abuse, 1991-
 Archives of Psychiatric Nursing, 1990-1996
 Crisis Intervention and Time-Limited Treatment, 1994-2000
 American Journal of Psychotherapy, 1994-
 Brief Treatment and Crisis Intervention, 2001-
 Victims & Offenders, 2006-

Associate Editor: The Journal of Psychotherapy: Practice and Research

Contributing Editor: Sexual Assault Report

Editorial Consultant: Journal of Emergency Nursing, Journal of Interpersonal Violence

Reviewer, American Journal of Psychiatry, Hospital and Community Psychiatry, Research in Nursing and Health, Journal of the American Medical Association, Journal of Child Abuse and Neglect, Journal of Emergency Nursing, Psychiatry, Nursing Research, American Journal

of Orthopsychiatry, Obstetrics; Journal of Orthopedic Nursing; Journal of Neuropsychiatry and Clinical Neurosciences,
The Forensic Panel, 1999-

SERVICE WORK IN THE COMMUNITY

Founded with Lynda Lytle Holmstrom, a Victim Counseling Program at Boston City Hospital, 1972-1975.

Counseling rape victims; on call with Lynda Lytle Holmstrom, July 1972 - July 1973.

Accompanied rape victims to court, July 1972 - 1974.

Testified in court regarding Victim Counseling Program, 1974 - 1978.

Organized and implemented training program for victim counselors, with Lynda Lytle Holmstrom, at Boston City Hospital, July - August, 1973.

Supervised, with Lynda Lytle Holmstrom, the second year of the Victim's Counseling Program, July 1973 - August 1974; conducted weekly case references.

2018 - Boston College Advisory Group on Veteran and Military Issues

2018 – Faculty Advisor to Students for Soldiers, Boston College

ACADEMIC HONORS AND AWARDS

Undergraduate: Dean's List: 1957, 1958

Sigma Theta Tau, 1957

Graduate: U.S.P.H. Traineeship, 1958 - 1959; 1962 - 1965

Doctor of Humane Letters (honorary): 2001 University of San Diego

Professional

Honorary Key Member, Boston College Gold Key Society, Class of 1976.

Stephen Shafer Award, National Organization of Victim Assistance for achievements for research, evaluation, theory development and academics, 1978.

Current Impact on Research and Scholarship Award of the American Nurses Association Council of Specialists in Psychiatric Mental Health Nursing, 1979.

C. Wright Mills Honorable Mention Award of the Society for the Study of Social Problems for the book, The Victim of Rape: Institutional Reactions (with Lynda Lytle Holmstrom), 1979.

American Journal of Nursing Books of the Year Award for the book, Rape: Crisis & Recovery (with Lynda Lytle Holmstrom), 1979; Psychiatric Nursing in the Hospital and the Community 4th edition, 1985 and 5th edition, 1990.

Psychiatric Nurse of the Year by Nurse Educator and Perspectives in Psychiatric Care, 1980.

Massachusetts Nurses Association General Award, 1980.

American Nurses Association Honorary Nursing Practice Award, 1982.

Advocates for Child Psychiatric Nursing, National Advocacy Award, 1989.

Journal of Psychosocial Nursing Psychiatric Nurse of the Year Award, November 1991.

Eastern Regional Conference on Abuse and Multiple Personality Annual Award, June, 1992.

American Professional Society on the Abuse of Children, Outstanding Professional Award, January 1992.

International Society of Traumatic Stress Studies, Pioneer Award, October, 1993.

International Police Chiefs Book Award for Crime Classification Manual, 1994.
 International Association of Forensic Nurses Scholar award, October, 1995.
 Sigma Theta Tau Audrey Hepburn Award, November 1995.
 American Nurses Association Hildegard Peplau Award, June 1996.
 Sigma Theta Tau Episteme Award, November 1999.
 University Distinguished Teaching Award. Boston College. May 2007.
 International Association of Forensic Nurses Burgess Research Award, October 2009
 Sigma Theta Tau International Nurse Researchers Hall of Fame, July 2010
 Connell School of Nursing Nurse Scientist at Newton-Wellesley Hospital, 2012-2013.
 New England Chapter of the American Psychiatric Nurses Association (NEAPNA), Inaugural
 Living Legend Award, March 8, 2013.
 University of Pennsylvania School of Nursing. Honoring Distinguished Service to Psychiatric
 Mental Health Nursing. May 16, 2014.
 American Professional Society on the Abuse of Children award July 23, 2015
 American Academy of Nursing Living Legend Award, October 20, 2016.

PUBLICATIONS

Books

1. Burgess, A.W. Psychiatric Nursing in the Hospital and Community, Norwalk, CT: Appleton & Lange, Fifth ed., 1990; Fourth ed. 1985; Third ed. 1981; Second ed. 1976 & First ed. 1973 with Aar on Lazare.
2. Burgess, A.W. and Holmstrom, L.L. Rape: Victim of Crisis, Bowie, MD: Brady Co., 1974.
3. Burgess, A.W. Nursing: Levels of Health Intervention, Englewood Cliffs, NJ: Prentice Hall, Inc., 1978.
4. Burgess, A.W., Groth, A.N., Holmstrom, L.L. & Sgroi, S.M. Sexual Assault of Children and Adolescents, New York: Lexington/Macmillan Inc., 1978.
5. Holmstrom, L.L. and Burgess, A.W. The Victim of Rape: Institutional Reactions, New York: Wiley, 1979. Published in paperback. New Brunswick, NJ: Transactions, 1983.
6. Burgess, A.W. and Baldwin, B.A. Crisis Intervention: Theory and Practice, Englewood Cliffs, NJ: Prentice-Hall, Inc., 1981.
7. Hazelwood, R.R., Dietz, P.E. and Burgess, A.W. Autoerotic Fatalities, NY: Lexington Books/Macmillan, 1983.
8. Burgess, A.W. (ed.) Child Pornography and Sex Rings, NY: Lexington Books/Macmillan, Inc., 1984.
9. Burgess, A.W. and Holmstrom, L.L. Rape: Crisis and Recovery, West Newton, MA: Awab, Inc., 1986.
10. Burgess, Ann Wolbert (ed.), Rape and Sexual Assault, Vol. I: A Research Handbook (New York: Garland Publishing, Inc.), 1985; Vol. II 1987; Vol. III 1991.
11. Burgess, Ann Wolbert and Hartman, C.R. (Eds.) Sexual Exploitation of Patients by Health Professionals. (New York: Praeger), 1986.
12. Hazelwood, R.R. and Burgess, A.W. (Eds.) Practical Rape Investigation, (New York: Elsevier), 1987. Second ed. published by CRC Press, Inc. Boca Raton, FL, 1995; Third ed. 2001, 4th. ed 2009; 5th edition 2016.
13. Janus, M.D., McCormack, A., Burgess, A.W. & Hartman, C.R.: Adolescent Runaways, (Lexington, Mass: Lexington Books), 1987.
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168. Carretta, C., Burgess, A.W., Dowdell, E.B. & Caldwell, B. (2018) Adolescent Suicide Cases: Toxicology Reports and Prescription Drugs. *Journal of Nurse Practitioners*, 14 (7). 552-558.
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172. Burgess, AW, Thabault, P, Flahery, E., and Leestma, K. (2019) College Athlete Warrior Initiative and Academic Nursing. *Journal of American College Health*, 67, Published online: 12 Jun 2019
173. Petreca, V. G., Burgess, A. W., Stone, M. H., & Brucato, G. (2020). Dismemberment and Mutilation: A Data-Driven Exploration of Patterns, Motives, and Styles. *Journal of forensic sciences*, 65(3), 888-896.

174. Tidrick, M., Brucato, G., Petreca, V., Burgess, A. W., & Stone, M. H. (2020). The insanity defense in cases of homicide involving post-mortem dismemberment. *Forensic Science International: Mind and Law*, 1, 100033.
175. Petreca, V. G., Brucato, G., Burgess, A. W., & Dixon, E. (2020). Criminal cannibalism: An examination of patterns and styles. *Aggression and Violent Behavior*. <https://doi.org/10.1016/j.avb.2020.101531>
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BOSTON COLLEGE
WILLIAM F. CONNELL SCHOOL OF NURSING

Chestnut Hill, MA 02467

CURRICULUM VITAE

Victor Petreca, PhD, DNP, PMHNP-BC

E-Mail: victor.petreca@bc.edu

EDUCATION

- | | |
|------|---|
| 2021 | Ph.D. in Nursing - Boston College, William F. Connell Graduate School of Nursing |
| 2017 | Doctor of Nursing Practice - University of Massachusetts Boston |
| 2013 | M.S./B.S.N - MGH Institute of Health Professions |
| 2009 | B.S. in Clinical Laboratory Sciences/Medical Technology - Eastern Michigan University |

LICENSURE/ CERTIFICATIONS

- | | |
|----------------|--|
| 2013 – present | American Nurses Credentialing Center (ANCC),
<i>Psychiatric-Mental Health Nurse Practitioner (Lifespan)</i> #2013007141 |
| 2013 – present | Massachusetts Registered Nurse/Certified Nurse Practitioner #RN2277278 |
| 2017 – present | Rhode Island Registered Nurse/APRN #RN58372/APRN01745 |
| 2020 – present | Maine Registered Nurse/Certified Nurse Practitioner #RN75670/ CNP191307 |
| 2020 – 2021 | Florida APRN #APRN11007873 |

ADDITIONAL TRAINING

Certified Personality Disorder Treatment Provider (C-PD)

PROFESSIONAL EXPERIENCE

Academic Faculty Appointments

Boston College, William F. Connell School of Nursing

- | | |
|----------------|---|
| 2022 – present | Assistant Professor
Program Director - Psychiatric-Mental Health Nurse Practitioner Program |
| 2018 – 2022 | Clinical Assistant Professor
Program Director - Psychiatric-Mental Health Nurse Practitioner Program |
| 2017 – 2018 | Visiting Scholar and Preceptor |
| 2017 | Clinical Preceptor – Psychiatric-Mental Health Nurse Practitioner |

Regis College, Weston, MA

- | | |
|-------------|---|
| 2017 – 2018 | Assistant Professor |
| 2018 | Clinical Preceptor – Psychiatric-Mental Health Nurse Practitioner |

MGH Institute of Health Professions, Boston, MA

C.V.
Petreca, V. G.

2014 – 2017 Clinical Preceptor – Psychiatric-Mental Health Nurse Practitioner

Professional Nursing Experience

CPS HEALTHCARE

2013 – present **Regional Supervisor/ Psychiatric-Mental Health Nurse Practitioner**

Federal Bureau of Prisons (MA, RI, ME)

Norfolk County Sheriff's Office

Bristol County Correctional Facility

Plymouth County Correctional Facility

Suffolk County Sheriff's Department

Middlesex Sheriff's Office

Dukes County Sheriff's Office

Barnstable County Correctional Facility

York County Jail

Kennebec County Correctional Facility

ELIOT COMMUNITY HUMAN SERVICES

2012 – 2013 **Registered Nurse**

Other Professional Experience

BETH ISRAEL DEACONESS MEDICAL CENTER

2009 – 2013 **Medical Technologist - Chemistry**

AWARDS/HONORS

2022 Connell Award – Boston College

2022 Ann W. Burgess Award

2022 Excellence in Teaching & Clinical Research – Boston College

2017 Inducted, Golden Key Honour Society

2013 DNP Capstone Speaker, Research Day - University of Massachusetts Boston

2012 Inducted, Sigma Theta Tau International Honor Society of Nursing

2009 EMU Honors Fellowship Recipient

2009 Departmental Honors (Clinical Laboratory Sciences)

2005 EMU Regents Scholarship

PROFESSIONAL AND LEARNED SOCIETIES

2022 Sigma Theta Tau, International Honor Society of Nursing. Alpha Chi Chapter, President elect.

2022 American Academy of Forensic Sciences – Associate Member

2017 Golden Key Honour Society

C.V.
Petreca, V. G.

- 2017 American Psychiatric Nurses Association
2012 Sigma Theta Tau, International Honor Society of Nursing

COURT RECOGNIZED AREAS OF EXPERTISE

Psychopharmacology; Psychiatric diagnostics; Suicide; Mental illness; Standards and scope of practice; Trauma; Neurobiology of trauma; Correctional healthcare; Forensic care; Sexual Assault/Sex crimes; Relationship violence; Posttraumatic Stress Disorder.

PUBLICATIONS

Refereed Articles

***Petreca, V. G.**, Flanagan, J., Lyons, K., Burgess, A.W. (2023). Reintegrating into society: An exploration of the lived experience of sex offenders using hermeneutic phenomenology. Manuscript in preparation.

Petreca, V. G., & Patch, M. (2023). Homicidal strangulation: An integrative review of perpetrator characteristics. Submitted.

***Petreca, V. G.**, Barros, J. T., & Popp, A. (2023). Jail and Emergency Department diversion: A statewide profile of programs and intervention models. Submitted

***Petreca, V.G.**, Dowdell, E. B., Harding, S., Mars, M., Pudvah, E., Jeune, J., & Burgess, A.W. (2023). Murdered Native and Indigenous women: A comparison study of victim and perpetrator patterns and characteristics. Submitted.

***Petreca, V. G.**, Burgess, A. W. (2023). Long-term psychological and physiological effects of Male Sexual Trauma. Submitted. *In Print*.

***Petreca, V. G.**, Burgess, A. W. Jarvis, K. (2023). Manual and instrument asphyxiation/strangulation: Examining perpetrator and victim characteristics. *In Print*.

Harding, S.L., Ellis, K.A., Boisseau, J., & **Petreca, V.** (2023). (In press). Psychiatric deprescribing: A narrative review. *Journal of the American Psychiatric Nurses Association*.

***Petreca, V. G.**, Brucato, G., Burgess, A. W., Flores, J. & Leary, T. (2022). Female murderers who mutilate or dismember their victims: An exploration of patterns and sex differences. *Journal of Forensic Sciences*. 00:1-11. doi: 10.1111/1556-4029.15136

Petreca, V. G. (2021). Death and dying in prison: An integrative review of the literature. *Journal of Forensic Nursing*, 17(2), 115-125.

***Petreca, V. G.**, Brucato, G., Burgess, A. W., & Dixon, E. (2020). Criminal cannibalism: An examination of patterns and styles. *Aggression and Violent Behavior*. doi: <https://doi.org/10.1016/j.avb.2020.101531>

*Tidrick, M., Brucato, G., **Petreca, V.**, Burgess, A.W., & Stone, M.H. (2020). The Insanity defense in cases of homicide involving post-mortem dismemberment. *Forensic Science International: Mind and Law*. 100033.

***Petreca, V. G.**, Burgess, A. W., Stone, M.H., & Brucato, G. (2020). Dismemberment and mutilation: A data-driven exploration of patterns, motives, and styles. *Journal of forensic sciences*, 65(3), 888-896.

PhD Dissertation

C.V.
Petreca, V. G.

Petreca, V. G. (2021). The meaning of being considered a sex offender for the person who is reintegrating into society – A hermeneutic phenomenology approach. Chestnut Hill, Massachusetts: Boston College

Chaired by Dr. Ann W. Burgess. Committee members: Dr. Jane Flanagan and Dr. Karen Lyons.

DNP Capstone

Petreca, V. G. (2017). Development of a computer-based program to enhance providers' adherence to clinical guidelines when formulating psychiatric diagnoses. Boston, Massachusetts: University of Massachusetts Boston.

Capstone project. Mentors included Dr. Sheryl LaCoursiere, Dr. Patricia Halon and Dr. Jorge Veliz,

RESEARCH ACTIVITIES AND COLLABORATIONS

Narrative

My research and scholarship are focused on exploring the intersection between nursing, psychiatry/mental health and the law. My program of research is grounded in ethics, individual/public safety, and health service utilization. It strives to humanize individuals, particularly those who come in contact with the legal system, both victims and perpetrators, while facilitating healing and optimizing quality of life. I have used quantitative methodologies to explore patterns and characteristics of offender behavior, specifically as it pertains to motive, level of organization, and aggravating factors (e.g. dismemberment, strangulation, mutilation, rape, etc.). In my dissertation, I used qualitative methodology to explore the meanings that individuals who committed a sexual crime attach to the label of 'sex offender' as they reintegrate into society. As I embark in the next stage of my research career, I will be partnering with the Massachusetts Department of Mental Health (MA DMH) to examine the Jail/Arrest Diversion Program. A community-based participatory research approach will be used and quantitative and qualitative methodologies will be applied. A fundamental aspect and goal of my program of research is to contribute to nursing as a discipline and forensic nursing as a specialty.

FUNDED EDUCATIONAL/SCHOLARLY PROJECTS

Submitted, funded

Massachusetts Department of Mental Health (Petreca, PI)

7/2023-11/2026

Jail/Arrest Diversion Grant Program, BD-18-1022-DMH08-8210B-21306/
SCDMH822024087790000

Program of Study Title: *Exploring the Biopsychosocial Factors in Diversion to Other Treatment-Based Alternatives.*

Supplemental funding provided to expand upon analyzing crisis intervention teams, including training program evaluation and development. Considering the expansion of Jail Diversion Programs involving specialized officers, there is the need to standardize training, evaluate outcomes and promote evidence based practice. An exploration of a new crisis intervention model is supported by the additional funding. Moreover, the supplement supports expanding the program to encompass behavioral cases that go through the court system, particularly when it comes to juvenile offenders, so further intercept and diversion points can be evaluated.

Massachusetts Department of Mental Health (Petreca, PI)

2/2022-11/2026

Jail/Arrest Diversion Grant Program, BD-18-1022-DMH08-8210B-21306

Program of Study Title: *Exploring the Biopsychosocial Factors in Diversion to Other Treatment-Based Alternatives.*

By analyzing the data pertaining to diversion programs accumulated by DMH for over the past 15 years, patterns in diversion models, as well as patient/individual outcomes, will be explored. Trends over time will be examined, considering the ever changing healthcare and legal landscape, as well as temporal factors such as sociocultural movements, the economy and the recent COVID-19 pandemic. This program of study will strive to ensure the mental health needs of individuals of all ages are optimized and diversion strategies are implemented effectively and equitably. Approaches that will evaluate and promote effective and culturally competent care will be a fundamental component of this work. A community-based participatory action research (CBPAR) approach will be used to ensure that the goals and needs of the Department of Mental Health remain at the forefront, so the impact of diversion programs which aid to address the over-representation of persons with serious mental illnesses and substance use disorders noted in initial calls can be explored and optimized.

Boston College William F. Connell School of Nursing (Petreca, PI)

2022-2023

Innovation Grant

Study Title: *Strangulation and asphyxiation: A data-driven exploration of offender characteristics and predictor factors. *External grant application to be submitted: W.E.B. Du Bois Program of Research on Reducing Racial and Ethnic Disparities in the Justice System*

Homicide is one of the leading causes of premature death of young women. Femicide is largely prevalent, particularly in the context of intimate partner violence (IPV). The occurrence of any type of strangulation and asphyxiation in domestic partnerships have been identified as a main risk factor for the woman's death by homicide. Strangulation/asphyxiation have also been demonstrated to be a common method of homicide in sexually motivated killings. In order to gain a greater understanding of factors associated with strangulation and asphyxiation, a dataset retained by the Radford University/Florida Gulf Coast University, The Serial Killer Database, will be used to explore characteristics and predictor factors associated with perpetrators who exclusively and non-exclusively engaged in strangulation and asphyxiation. It is hypothesized that perpetrators who act in an organized fashion will engage in strangulation/asphyxiation with more frequency than perpetrators who are disorganized, and exclusive acts of strangulation will be used with greater frequency than non-exclusive acts of violence. Moreover, it is hypothesized that sadistic tendencies, use of bare hands (ie no instruments) and acting in an organized fashion predicts whether someone will exclusively strangle or asphyxiate their victims.

Boston College (Marchetti/Petreca, Co-applicants)

2020-2021

Teaching Advising and Mentoring Expense (TAME) Grant

2021 award

2020 award

Project title: *Addressing Challenges of Realism in Psychiatric-Mental Health (PMH) Nursing Clinical Simulations*

The grant was used to develop an engaging and realistic clinical simulation learning experiences for the Psychiatric-Mental Health Nurse Practitioner students. Professional actors were included in the project to convey realistic and relevant psychiatric signs, symptoms, and diagnoses. Students had the opportunity to engage in psychotherapeutic and risk assessment exercises.

Submitted, pending

National Institute of Justice (Lamade, R.V., PI; Petreca, V., Co-PI; Burgess, A., Co-I).

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NIJ FY23

Study title: Research and Evaluation on Violence Against Women. Violence Against Indigenous Populations: Developing a database to identify risk factors and explore culturally relevant intervention strategies \$1,757,437 Submitted on May 10, 2023.

Submitted, not funded

National Institute of Justice (Lamade, R.V., PI; Burgess, A., Co-PI, Petreca, V., Co-I).

NIJ FY22

Study title: Research and Evaluation on Violence Against Women. Testing risk and mitigation models of homicide and violent deaths of women and girls using contextual characteristics and multi-level demographic \$627,942. Submitted on May 10, 2022.

UNFUNDED EDUCATIONAL/SCHOLARLY PROJECTS

Offenders who engage in dismemberment and mutilation

Partnership with Columbia University, New York University, Florida Gulf Coast University. 2019 – present

Role: Co-PI (Burgess/Petreca).

Project in partnership with Dr. Ann W. Burgess, Dr. Gary Brucato, Dr. Michael Stone and Dr. Terrence Leary. Investigations focus on quantitative data exploring the relationships between offenders' characteristics, patterns of violence, motives, and styles.

Partnership with BC Law School - Defenders Clinic: Compassionate Release and Parole

2019 – present Consultation focusing on healthcare information for clients pursuing compassionate release/medical parole. Guide students and establish metric measures to collect data and synthesize medical information as applications for compassionate release are prepared by the Law School.

Role: Consultant to the Law School Compassionate Release and Parole Clinic.

Collaborators: Herrmann, F. (Boston College Law School), Donohue, C. (Boston College Law School), Burgess, A.W. (CSON)

PRESENTATIONS

**Denotes peer reviewed*

⁺Denotes international

V. Petreca. "Psychiatric and Forensic Nursing: Advancing the Discipline." Upcoming presentation at Regis College, selected as Distinguished Scholar in Nursing, April 2023.

***M. Bonanni, T.S. Moser, K. Daughtry, & V. Petreca.** "Trauma Informed Lawyering: Sexual Trauma and the Forensic Psychiatric Evaluation." Presentation at Federal Bar Association Civil Rights Conference, New Orleans, LA. March, 2023.

***V. Petreca, J. Barros.** "Clinical Forensics in Jail/ER Diversion." Presentation at Co-Response Research Symposium at William James College. Accepted. Upcoming presentation on March 31, 2023.

V. Petreca. "Clinical Forensics in Jail Diversion." Presentation at Clinical Forensics: A Global Perspective, Chestnut Hill, MA. December 15, 2022.

+*V. Petreca. “Sexual Offending: An exploration of Experiences and Meanings.” Presentation at INPALMS 2022: International Conference of Indo Pacific Association of Law Medicine and Science. Colombo, Sri Lanka. December 13, 2022.

+*V. Petreca. “Sexual Offending: An exploration of Experiences and Meanings.” Presentation at Balkan Academy of Forensic Sciences, Kosovo. October 28, 2022

V. Petreca, J. Barros. “Best Practices for Treatment Refusers and Resisters – Increasing Mental Health Awareness.” Presentation at WRHSAC First Responder Mental Health Resilience Conference 2022. October 27, 2022.

***V. Petreca, A. Burgess.** “Strangulation: Manual Versus Ligature.” Presentation at The 21st Annual Forensic Science & Law Symposium - Duquesne University. Pittsburg, PA. October 13, 2022.

+*V. Petreca, A. Burgess, G. Brucato, T. Leary. “Motivational and Mutilation Patterns of Female Serial Killers.” Presentation at Society for Police and Criminal Psychology, Quebec, Canada. September 22, 2022.

+*T. Girmurugan, T. Leary, V. Petreca, A. Burgess. “Construction Of A Multivariate Model By Which To Elucidate Critical Factors Aligned With One's Propensity To Serially Kill.” Presentation at Society for Police and Criminal Psychology, Quebec, Canada. September 22, 2022.

+*T. Leary, V. Petreca, A. Burgess T. Girmurugan. “Killers in the Ranks: An Exploratory Analysis of Serial Killers with Military Experience.” Presentation at Society for Police and Criminal Psychology, Quebec, Canada. September 22, 2022.

V. Petreca. “Forensic psychiatry: Personality Disorders.” Pennsylvania State Police Behavioral Training, Hershey, PA. June, 2022

+V. Petreca. “Psychiatric and Forensic Nursing: Advancing the Discipline through Research, Teaching and Innovation,” Guest speaker at III CICS – Congresso Internacional de Ciencias da Saude – Medicina e Enfermagem UNIFUNEC, Sao Paulo, Brazil. 2022.

***M. O'Reilly-Jacob, V. Petreca, & J. Perloff.** The Effect of Temporary Full Practice Authority on Psychiatric Mental Health Nurse Practitioners During a COVID-19 Surge: A Mixed Methods Survey Analysis. Oral presentation at the Eastern Nurses Research Society, Providence, RI, April 2022.

V. Petreca. “Sexual Offending from the Offender Perspective.” Presentation at: A Killer by Design: A Forensic Exploration, Chestnut Hill, MA. February 26, 2022.

+V. Petreca. “Forensic and Correctional Nursing,” Guest speaker at ABEFORENSE, Aracaju, Brazil. 2021.

V. Petreca, “Falling to pieces: An exploration of mutilation and dismemberment,” Podium presentation at: Evolution of Evil Conference, Newton, MA. 2019.

V. Petreca, “Self-Care for the correctional employee,” Podium presentation at: Suicide Prevention: Behind and Beyond the Wall Conference, Quincy, MA. 2018.

V. Petreca, S. LaCoursiere, P. Halon, J. Veliz, “Development of a computer-based program to enhance providers’ adherence to clinical guidelines when formulating psychiatric diagnoses,” Poster presented at: APNA New England Chapter Spring Conference, Lake Morey, VT. 2017.

Other

V. Petreca. “Forensic psychiatry.” Training at Pennsylvania State Police Criminal Investigation Assessment Unit/Missing Persons Unit. PA. 2021

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V. Petreca. “Mental Illness among the inmate population.” Barnstable County Sheriff’s Office. Bourne, MA. 2017

Media

V. Petreca, A. Burgess, G. Brucato. What Bryan Kohberger asked ex-cons on his Reddit crime survey – YouTube channel The Interview Room. 2023.

A. Burgess, **V. Petreca,** G. Brucato. Understanding Mutilation & Dismemberment – Podcast Criminal Perspective. 2021.

TEACHING ACTIVITIES

Boston College

Graduate Courses

2021 – 2022	FORS 5317 Forensic Mental Health (Graduate; Spring) – co-taught with Dr. Ann W. Burgess
2020 - 2022	NURS 9837 Advanced Practice Psychiatric Nursing Across the Lifespan I (Graduate; Fall)
2018 - 2022	NURS 7437 Psychiatric-Mental Health Advanced Practice Nursing Across Lifespan I (Graduate; Fall)
2019 - 2022	NURS 7537 Psychiatric-Mental Health Advanced Practice Nursing Across Lifespan II (Graduate; Spring)
2019 - 2022	NURS 7426 Advanced Psychopharmacology Across the Life Span (Graduate; Spring)
2018	NURS 4253 Psychiatric-Mental Health Nursing Clinical Lab

Graduate Guest Lectures

2021, 2022	NURS 9731 Pharmacotherapeutics in Advanced Practice Nursing (Graduate; Summer)
2019	NURS 7470 Community and Family Health - Advanced Theory I (Graduate; Fall)
2019, 2020, 2021	NURS 7420 Advanced Pharmacology Across Lifespan (Graduate; Fall; Summer)
2018, 2019	FORS 5318 Forensic Science I (Graduate; Fall)
2018	NURS 6468 MSE Psychiatry-Mental Health Nursing Theory (Graduate; Fall)
2018	NURS 7426 Advanced Psychopharmacology Across the Life (Graduate; Spring)
2018-2021	FORS 5315 Victimology (Graduate; Fall)

Undergraduate Guest Lectures

2019, 2021	NURS 4252 Psychiatric-Mental Health Nursing Theory (Undergraduate; Fall)
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2021, 2023 UNAS3254 Community Advocacy and Research Engagement
(Undergraduate; Fall)

Doctoral Advisement

Regis College, Weston, MA

2019 DNP Committee Member, Sheri Boisseau, *The effectiveness of an educational program on compassion fatigue as experienced by psychiatric nurses*

PROFESSIONAL ACTIVITIES AND SERVICE

Academic Committees and Service, William F. Connell School of Nursing

2019 – 2021 Member, Doctor Nurse Practice (DNP) Committee

2021 - present Faculty Affairs

Review Panels

Reviewer *Journal of the American Psychiatric Nurses Association*
International Journal of Nursing Knowledge
Journal of Interpersonal Violence

INTERNATIONAL COLLABORATION

I am in the initial stages of collaborating with ABEFORENSE (Brazilian Association of Forensic Nurses). I have been invited to be the keynote speaker at the 2022 ABEFORENSE annual conference in Brazil. In partnership with ABEFORENSE and other partners in Brazil, there are opportunities and prospective research plans, including: intimate partner violence, fetal abduction and forensic psychiatric nursing.

STUDENT MENTORSHIP

Undergraduate Research Fellow (UGRF): Colleen Stapleton

Mentoring includes: research methods, data entering and data cleaning, literature review.

PROFESSIONAL ACTIVITIES/SERVICE:

Boston College Service

KILN - "Faculty Focus" meeting – ethnicity/nationality, February 2022

CSON - Appointed: Faculty Affairs Committee, 2021 - present

CSON - Appointed: DNP Committee, 2019 - 2021

CSON - Commencement, Faculty Marshall, 2019

Community Service:

Stoughton English Learner Parent Advisory Council (ELPAC), 2019 – present

Member of the council supporting the educational needs of students who speak English as a second language.

Super Sleuths Club, Executive Board, 2020 – present

Member-only Interdisciplinary group including forensic nurses, psychologists, pathologists, medical examiners, entomologists, crime scene investigators, DNA specialists, FBI BSU agents. The

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group works closely with the Cold Case Foundation to establish new leads to criminal cases that have gone unsolved.

Exhibit 2

**AFFIDAVIT OF MICHELE P. FULLER IN SUPPORT OF PLAINTIFFS'
UNOPPOSED MOTION FOR APPROVAL OF
ATTORNEY FEES, COSTS OF LITIGATION AND ADMINISTRATIVE COSTS**

STATE OF MICHIGAN)

) ss.

COUNTY OF MACOMB)

I, Affiant, Michele P. Fuller, state as follows in support of Plaintiffs' Unopposed Motion for Approval of Attorney Fees, Costs of Litigation and Administrative Costs:

BACKGROUND:

1. I am the principal of the probate and estate planning firm, the Michigan Law Center, PLLC ("MLC") in Macomb, Michigan. My practice has focused on planning for persons with disabilities and minors for over 25 years.
2. I am the former Chair of the Elder Law and Disability Rights Section of the State Bar of Michigan, and currently serve on the board of directors for the Michigan Chapter of the National Academy of Elder Law Attorneys, the advisory committee for the Academy of Special Needs Planners and am a fellow of the Academy of Court-Appointed Neutrals.
3. I was appointed Special Assistant Attorney General to assist in creating and streamlining and consolidating claim process from initial claim to receipt of funds by individual claimants; identify and create special process and options for receipt of funds particularly for legally incapacitated claimants, minors, and those with disabilities which creates accountability, transparency, and minimizes fees and costs to the plaintiffs.
4. I am the recipient of the Unsung Hero Award of the State Bar of Michigan, given to an attorney exhibiting the highest standards of practice and commitment for the benefit of others. I have been a member of Super Lawyers since 2018. In 2013, *Parenting Magazine* named me as one of the nation's top child advocates for my work fighting for the rights of children with special needs.
5. I am the author (or co-author) of *Administering the Michigan Special Needs Trust*, published in 2020; *Administering the California Special Needs Trust* (2nd and 3rd editions) published in 2020; *ASNP's Guide to Drafting the World's Greatest Special Needs Trust*, published in 2017 by ASNP; and the 6-8th editions of the *Special Needs Trusts: Protecting Your Child's Financial Future* published by Nolo Press.
6. I co-host the Great Lakes Special Needs Planning Symposium, a two-day professional event learning cutting-edge special needs planning and trust administration, and a three-day intensive held in Napa, California, with over 480 attendees.
7. I am a member of the elder law advisory board for the Institute of Continuing Legal Education.
8. I have published articles in the following publications, a detailed list is available upon request: *Trial Magazine*, *Michigan Association for Justice Journal*, *NAELA Journal*, *Michigan Bar Journal*, *NAELA News*, *ABA Commission on Law and Aging*, and *Trusts & Estates* magazine.
9. I have established hundreds of first and third-party special needs trusts and many national and state-wide pooled trusts and continue to serve as advisor and counsel for one

of the largest pooled special needs trusts in Michigan administered by Springhill Housing Corporation, a non-profit based in Troy, Michigan.

HAWTHORN SETTLEMENT PLANNING ACTIVITIES:

10. I became involved with this case as co-counsel to Pitt, McGehee, Palmer, Bonanni & Rivers, P.C. ("Pitt McGehee") in the fourth quarter of 2023 as the parties began approaching resolution.

11. Due to my background and experience and the underlying condition and minority of the claimants, I joined the Plaintiffs' litigation team to assist Pitt McGehee to prevent any negative impact on government benefits, afford protection from creditors or predators, with a system of professional administration of the funds to maximize the positive impact for each client.

12. Through analyzing the class makeup, their current underlying condition(s), government benefits, capacity, compliance with state and federal court rules, statutes, and policy compliance, I outlined a settlement plan that allows for the protection of the clients, flexibility, and economic professional administration.

17. I contributed to drafting the portions of the Settlement Agreement and Class Notice that pertain to my area of focus, which is persons with disabilities and minors. I researched relevant court rules and statutes for compliance. I drafted Motions for Appointment of Next Friend and Guardian ad Litem.

18. I drafted a Request for Proposal and issued an invitation to five (5) national or state-wide organizations to serve as a potential provider for trust administration.

19. My ongoing duties to the Plaintiff class members will be to review the submissions of RFPs, select a provider (s), educate claimants or their legal representatives (being their Next Friend or Guardian ad Litem) on the options available, respond to questions, assist in the completion and submission of documents to join the pooled trust selected, issue notices to government agencies as applicable, and communicate and assist in the transfer of funds from the QSF to the proper trust for funding purposes.

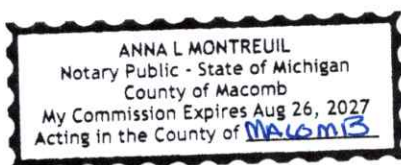
20. My staff will assist in meeting the above duties and obligations.

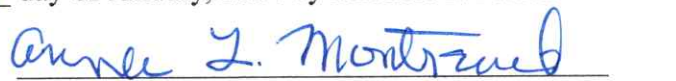
21. I will also communicate with the Guardian ad Litem, counsel, and providers as required.

Dated: January 29, 2024


Michele P. Fuller

Subscribed and sworn before me on this 29 day of January, 2034 by Michele P. Fuller.




Notary Public in the County of MACOMB
State of Michigan
Acting in the County of MACOMB
My commission expires: 8/26/27