

North Carolina Department of Health & Human Services  
DIVISION OF HUMAN RESOURCES  
2001 Mail Service Center ~ Raleigh, NC 27699-2001  
Telephone: 919 855-4900 ~ Fax: 919 733-6087 ~ Courier #: 56-20-11

Pat McCroy, Governor  
Aldona Z. Wos, M.D.  
Ambassador(Ret.)  
Secretary DHHS

Don Webb, Deputy Director

## FAX COVER SHEET

Date: April 23, 2013 Destination FAX Number: 919-733-0658  
Number of Pages Including Cover Sheet: 6

**SEND TO:**

Name

Paula Hoodhouse - only

Agency:

OSP

Sender:

Shavella J. Echard / for Don Webb

Message:

Paula,

I am sending the attached document per  
request of Don Webb. Please confirm receipt  
Thank you.

**NOTE: The information contained in this facsimile is privileged and confidential information and is intended only for the individual named above. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this information is strictly prohibited. If you have received this information in error, please call the sender at the telephone number listed above. Thank you!**

Location: Raleigh Campus ~ 101 Blair Drive ~ Adams Building ~ Raleigh, NC  
An Equal Opportunity Employer

**SEVERANCE AGREEMENT**

**THIS AGREEMENT** is entered into by and between Thomas L. Adams (“Adams”) and North Carolina Department of Health and Human Services (“DHHS”), an agency of the State of North, acting by and through its authorized officials.

**WHEREAS**, Adams has been and is now employed by the DHHS (hereinafter the “Employment Relationship”) and is an exempt employee of DHHS;

**WHEREAS**, DHHS recognizes that Adams provided the State of North Carolina with good and valuable service through the Employment Relationship;

**WHEREAS**, DHHS recognizes that Adams has expended resources in anticipation of at least a six-month term of employment;

**WHEREAS**, Adams and the DHHS mutually desire to end the Employment Relationship between the parties on an amicable basis prior to the end of six months;

**NOW, THEREFORE**, for good and valuable considerations, including the promises and covenants contained herein, the parties agree as follows:

**I. WARRANTIES**

- A. Each party warrants and represents to the other that it has been fully informed and has full knowledge of the terms, conditions and effects of this Agreement.
- B. Each party warrants and represents to the other that no promise or inducement has been offered or made except as herein set forth, and this Agreement is executed without reliance upon any statement or representation by any other party or agent.
- C. Each party warrants and represents to the other that they have been advised to consult with legal counsel prior to executing this agreement.

**II. PAYMENT**

The DHHS will pay Adams the amount of Thirty-Seven Thousand Two Hundred Twenty Seven Dollars and Twenty- five Cents (\$37,227.35) less income tax and other required withholdings. Payment shall be made upon full execution of this Agreement and the expiration of the revocation period referred to in Paragraph XII below.

*Per Don Webb  
2013 6/14/13*

### **III. RELEASE**

In consideration of DHHS's promises and agreements set forth in this Agreement, Adams, for himself and his heirs, executors, administrators, agents, representatives and assigns, hereby releases, waives and forever discharges any and all claims and liabilities against the DHHS and the State of North Carolina and their elected officials, officers, agents, employees, representatives, and assigns, of whatever kind or nature which Adams has or ever had, known or unknown, including but not limited to, any and all claims, or counterclaims (i) for breach of contract, breach of fiduciary duty, defamation, infliction of emotional distress, wrongful or unlawful discharge, constructive discharge, or (ii) for wages, salary, bonuses, earnings, deferred compensation or other forms of compensation, any claims for damages due to personal injury, compensatory or punitive damages, claims for attorney's fees, or (iii) for violation of Title VII of the Civil Rights Act of 1964 as amended, 42 U.S.C. §2000 et seq., the Americans with Disabilities Act, the Age Discrimination in Employment Act, 29 U.S.C. §621 et seq., or the Employment Retirement Income Security Act of 1974, and all amendments thereto, or (iv) for violations of any state whistleblowing statutes or laws, or fair employment statutes or laws, any state administrative, or personnel laws, or violations of any other law, rule, regulation, or ordinance pertaining to employment, wages, hours, or any other terms and conditions of employment, and termination of employment, and any other claims, counterclaims and/or third party claims, which have been, or could have been, asserted by Adams in any court, arbitration, or other forum, arising out of or any way related to the Employment Relationship to the fullest extent permitted by law. This release and waiver does not apply to claims that may arise after the date this Agreement is executed. This provision shall not in any way limit Adams's rights as established by this Agreement or any future employment with the State nor shall it limit in any way Adams's ability to be employed with any State or local agency or to receive any benefits of any sort whatsoever from the State or any of its agencies or political subdivisions.

### **IV. OLDER WORKERS BENEFIT PROTECTION ACT**

By signing this Agreement, Adams specifically acknowledges and represents that:

- A. Adams has been given a period of twenty-one (21) days to consider the terms of this Agreement;
- B. the terms of this Agreement are clear and understandable to Adams;
- C. Adams acknowledges that he has received consideration under the terms of this Agreement in exchange for his waiver of rights under the Age Discrimination in Employment Act and the Older Workers Benefit Protection Act.
- D. Adams has been advised to consult with an attorney prior to signing this agreement;

- E. Adams has been advised that he has the right to revoke this Agreement at any time within the seven (7) day period following his signature on this Agreement.

#### **V. NONDISPARAGEMENT**

The DHHS and Adams agree that they will at all times hereafter refrain from making any disparaging, untrue, or misleading statements or representations regarding Adams, the DHHS, or the Employment Relationship, whether orally or in writing.

#### **VI. COMPROMISE OF DISPUTED CLAIMS**

Each party understands and agrees that this settlement is in compromise of doubtful and disputed claims; that no covenant herein is to be construed as an admission of liability on the part of any party hereby released; that each party hereby released denies any liability for such claims; and that each party intends merely to resolve the claims between them without litigation.

#### **VII. CONFIDENTIALITY**

To the extent, and only to the extent, permitted by North Carolina law, the parties and their agents and representatives agree to maintain the confidentiality of this Agreement, including any and all terms and conditions of this Agreement.

The parties agree not to disclose, discuss, publicize, circulate, or advertise this Agreement, including any and all terms and conditions of this Agreement. The parties agree to respond to inquiries about this case and settlement in words only to the effect that the matter has been resolved by mutual agreement unless otherwise required by law.

If the Agency receives a public records request for this Agreement, which both parties recognize is a public record, the parties agree that the Agency shall comply with the public records request despite the covenants in this section.

#### **VIII. CONSIDERATION PERIOD**

Adams hereby acknowledges and understands that after receiving this Agreement from the DHHS, he/she has at least twenty-one (21) days to consider this Agreement, and he/she is further aware of the right to consult with an attorney prior to signing this Agreement. By signing this Agreement, Adams waives the right to consider whether to sign this Agreement for a period of at least twenty-one (21) days. Adams acknowledges that the DHHS is imposing no requirement or duress on Adams to take less than twenty-one (21) days to consider signing this

Agreement or to waive the Consideration Period.

#### **IX. EFFECT OF AGREEMENT**

A. This Agreement shall be binding upon and inure to the benefit of the parties and their agents, officers, employees, successors, assigns, heirs, executors, and administrators.

B. This Agreement constitutes the entire Agreement between the parties and supersedes previous discussions or agreements that the parties may have had or made regarding the settlement of their disputes.

#### **X. SEVERABILITY**

If any of the provisions of the Agreement are determined to be invalid or unenforceable, that provision so determined shall be severable from the other provisions of the Agreement, and the Agreement shall be construed and enforced as if such invalid or unenforceable provision had not been included herein.

#### **XI. GOVERNING LAW AND FORUM SELECTION**

It is agreed, between the parties, that this Agreement shall be governed by and construed and enforced in accordance with laws of the State of North Carolina and that the place of this contract, its situs and forum shall be Wake County, North Carolina, where all matters relating to the validity, construction, interpretation, and enforcement shall be determined.


#### **XII. EFFECTIVE DATE—REVOCATION RIGHT**


This Agreement shall not become effective and enforceable until the day that is seven (7) days following its execution by the DHHS and Adams and may be revoked by Adams at any time within that seven (7) day period. If Adams desires to revoke this Agreement, Adams shall provide notice to the DHHS no later than midnight on the last day of the seven (7) day revocation period. Adams's revocation must be in writing to be effective and must be submitted by (i) submitting a written statement of revocation by hand delivery, email, or facsimile to Emery Milliken, Esq., and (ii) immediately confirming the written statement delivery by calling or leaving a voicemail message for Emery Milliken at 919-855-4891 before midnight on the last day of the seven (7) day revocation period. No attempted revocation after the expiration of such seven (7) day period shall have any effect on the terms of this Agreement.

By the signatures below, the parties indicate that they have read, understand, and agree with the terms and conditions stated in this Agreement, and by their signature they acknowledge the Agreement and that in signing this Agreement they intend to be legally bound by it.

Executed and agreed upon as follows:

BY:

  
\_\_\_\_\_  
Aldona Z. Wos, Secretary for the  
N.C. Department of Health and Human  
Services

  
\_\_\_\_\_  
Thomas L. Adams

April 1, 2013  
DATE

19 APR 13  
DATE



**North Carolina Department of Health and Human Services**

Pat McCrory  
Governor

Aldona Z. Wos, M.D.  
Ambassador (Ret.)  
Secretary DHHS

July 29, 2013

Via Electronic Delivery and US Mail

Mr. Art Pope  
State Budget Director  
Office of State Budget and Management  
20320 Mail Service Center  
Raleigh, NC 27699-0320

RE: Tom Adams' Settlement Agreement Payment

Dear Mr. Pope:

The Department of Health and Human Services entered into a signed Mutual Release and Settlement Agreement with Mr. Thomas L. Adams to settle any and all potential outstanding claims and obligations arising from his employment and separation from the Department, effective April 1, 2013.

In exchange for Mr. Adams' agreement to waive all appeal rights and release the Department and its officials and employees from any liability or responsibility, the Department agreed to pay Mr. Adams the total sum of \$37,227.35, less applicable taxes and other required withholdings. This payment is not considered "severance" as that term is defined by N.C.G.S. § 126-8.5. Therefore, this payment should be paid from the Department's budget and not from the severance reserve established by the NC General Assembly.

Please let me know if you have any questions or need additional information. Thank you in advance for your assistance in this matter.

Sincerely,

Aldona Wos, M.D.  
Secretary

*OK to process.*

*Art Pope*

*7/30/13*

cc: Emery E. Milliken  
Mark Gogal