

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

R.B., individually, and on behalf of all those similarly situated,	)	
	)	
Plaintiff,	)	Civil Action No. 1:21-cv-00553-DNH-
	)	CFH
v.	)	
United Behavioral Health,	)	
	)	
Defendant.	)	
	)	

**CLASS SETTLEMENT AGREEMENT AND RELEASE**

THIS CLASS SETTLEMENT AGREEMENT AND RELEASE (“Settlement Agreement”) is entered into and executed by and among the following Parties: United Behavioral Health (“UBH,” or “Defendant”); and Named Plaintiff R.B. (“Named Plaintiff”), on behalf of himself and the “Class” (as defined below), acting by and through “Class Counsel” (as defined below).

WHEREAS, in May 2021, Plaintiff filed a class action complaint in this Action (*see* Dkt. 1);

WHEREAS, in September 2023, after discovery and legal briefing, the Court certified a class under Rule 23(b)(1) (*see* Dkt. No. 97).

WHEREAS, after additional discovery and arm’s-length, good faith settlement discussions, including mediation, the Parties reached an agreement in principle on or about September 5, 2024;

WHEREAS, the Parties now enter into the settlement embodied in this Settlement Agreement, and in doing so agree herein to settle, compromise, and fully resolve all Released Claims (defined below), in exchange for the consideration provided in this Settlement Agreement.

## 1. DEFINITIONS

For purposes of this Class Settlement Agreement and Release, the following terms shall have the meanings set forth below:

1.1 **“Action”** means the above-captioned class action lawsuit.

1.2 **“Agreement”** or **“Settlement Agreement”** means this Class Settlement Agreement and Release including all exhibits.

1.3 **“Class”** means the class certified by the Court (*see* Dkt. No. 97 at 13):

All persons covered under ERISA-governed health care plans, administered or insured by United Behavioral Health, whose requests for coverage for mental health and substance abuse treatment services received at a licensed residential treatment center were denied in total based on its determination that a component of such services is considered experimental, investigational, or unproven.

The Class is limited to the Class Period set forth in Plaintiff’s Complaint (Dkt. 1 at 8); *see also* Dkt. No 97 (class certification order).

1.4 **“Class Counsel”** means the following lawyers: Jordan Lewis, of Jordan Lewis, P.A., and Arthur M. Stock of Milberg Coleman Bryson Phillips Grossman, PLLC.

1.5 **“Class Member”** means a member of the Class.

1.6 “Class List” means the list of Class Members provided to Class Counsel by UBH, based on the Class certified by the Court and data parameters agreed to by the Parties in discovery and as part of settlement discussions.

1.7 “Complaint” means the complaint filed in this Action (*see* Dkt. No. 1).

1.8 “Court” means the United States District Court for the Northern District of New York, the Honorable Judge David N. Hurd, presiding.

1.9 “Effective Date” means the date by which all of the events and conditions specified in Sections 12.1.1 through 12.1.3 of this Agreement have occurred and been satisfied.

1.10 “Fairness Hearing” means the hearing at which the Court will consider whether to give final approval to this Agreement; approve, modify, or deny an award of attorneys’ fees, Incentive Award, costs, and expenses; enter the Final Approval Order; and make such other final rulings as are contemplated by this Agreement.

1.11 “Final Approval Order” means the Court’s entry of a final judgment approving this Agreement.

1.12 “Monetary Benefits” has the meaning set out in Section 8.2 of this Agreement and the incorporated anticipated Plan of Allocation.

1.13 “Party” or “Parties” mean the persons who have entered into this Agreement, being the Named Plaintiff, on behalf of himself and the Class, acting by and through Class Counsel, and Defendant. For avoidance of doubt, Class Members shall be considered Parties under this Agreement and subject to all applicable terms of this Agreement.

1.14 “Person” means a natural person, individual, business, corporation, association, limited liability company, partnership, limited partnership, joint venture, affiliate, and any other type of legal entity and their respective spouses, heirs, predecessors, successors, executors, administrators, representatives, or assigns.

1.15 “Plan of Allocation” means the anticipated Plan of Allocation to be proposed by Plaintiff, agreed to by Defendant, and approved by the Court (as set forth in Exhibit B).

1.16 “Preliminary Approval” means the Court’s order certifying the Class, directing notice to the Class, and preliminarily approving this Agreement and all exhibits under Federal Rule of Civil Procedure 23, where such approval is in substantially the same form as the Preliminary Approval Order attached as Exhibit A to this Agreement.

1.17 “Released Claims” means any and all actions, causes of actions, claims, and demands that are, were, or could have been asserted by Named Plaintiff or any Class Member in the Action during the Class Period, regardless of legal theory, known or unknown, concerning any claims arising out of or related to a denial of coverage (including any pre or post-service denial, initially or on appeal) by any Released Persons for mental health or substance abuse treatment received at a residential treatment or wilderness program, based in whole or in part on a determination that the treatment or a component of the treatment was experimental, unproven or investigatory.

1.18 “Released Persons” means Defendant and each of its present and former, direct, and indirect, divisions, parents, subsidiaries, and affiliates (including without limitation United Behavioral Health, UnitedHealth Group, Inc., UnitedHealthcare

Insurance Company, UnitedHealthcare Services, Inc., or Optum, Inc.); any Class Member's health benefits plan or any plan administrator, claims administrator, fiduciary, or other person involved in administration of such plan; any predecessors, successors, insurers, and assigns of any of the foregoing; and all of the present and former agents, servants, officers, directors, employees, attorneys, consultants, advisors, owners, shareholders, members, and partners (whether limited or general), of any of the above.

1.19 "**Settlement Administrator**" means the entity selected by Class Counsel in consultation with Defendant, and subject to Court approval, to perform the settlement administration duties described in Articles 4 and 8 of this Agreement. In the motion for preliminary approval, Class Counsel shall propose and recommend a Settlement Administrator to the Court with experience handling cases that involve protected health information ("PHI"), as defined by 45 C.F.R. § 160.103 and applicable state laws.

1.20 "**Settlement Amount**" means \$1,415,000. This is the maximum amount Defendant shall be obligated to pay under this Agreement under any circumstances.

1.21 "**Settlement Fund**" means the qualified settlement fund created by Defendant's payment of the Settlement Amount (\$1,415,000). Payment by Defendant of the Settlement Amount into the Settlement Fund shall fully satisfy all financial obligations by Defendant under this Settlement Agreement, and the Settlement Fund will be used to pay any amounts owed under this Settlement Agreement, including any Monetary Benefits to the Class Members, any attorneys' fees and expenses to Class Counsel, any Incentive Award to the Named Plaintiff, and any settlement administration

expenses and costs (including any payments to the Settlement Administrator), each as described in this Agreement.

## 2. NO ADMISSION OF WRONGDOING OR LIABILITY

2.1 Nothing in this Agreement or in any final judgment or order of dismissal entered in this Action constitutes an admission or concession of any liability or wrongdoing by Defendant or that there is any validity to any allegation in the Complaint. Neither this Agreement, the Final Approval Order, the fact of settlement, the settlement negotiations, nor any documents or facts related to the settlement or settlement negotiations, shall be offered or received in evidence against any Party for any purpose in any proceeding other than (i) in such proceedings as may be necessary to consummate or enforce this Agreement, or (ii) in any action against or by Named Plaintiff or Class Members against or by any of the Released Persons to support a defense of *res judicata*, collateral estoppel, release, or other theory of claim preclusion, issue preclusion, or similar defense. A breach of the provisions of this Article 2 shall entitle the aggrieved person(s) to an injunction from any such future conduct. If a Class Member breaches this provision, and continues to breach this provision after UBH's Counsel or Class Counsel provides notice to the Class Member that the Class Member is in breach, the breach shall entitle the aggrieved person(s) to an injunction from any such future conduct.

## 3. CONFIDENTIALITY

3.1 The Settlement Administrator will keep confidential from all persons, except as authorized in writing by a Class member or as ordered by the Court, the Class List and all other PHI of members of the Class, which includes names, addresses, and any

other personally identifiable information that can be used on its own or combined with other information to identify, contact, or locate an individual, or to identify an individual in context. The Settlement Administrator shall utilize UBH's redacted patient numbers for Class Members so that it can communicate with Class members, Class Counsel, UBH, and UBH's counsel to the extent needed to provide the necessary reports and to facilitate settlement administration. Any permitted disclosures of Class member information under this Section or any other section of the Settlement shall be limited to the minimum necessary to satisfy the Settlement's requirements. Class members who ask the Settlement Administrator for contact information for Class Counsel shall be provided such information and a form prepared by the Settlement Administrator through which the Class member can authorize the Settlement Administrator to share his or her identity and/or PHI with Class Counsel to assist in answering questions or in facilitating the Settlement. Without limitation of the foregoing limitations and restrictions, Class Counsel will ensure that the Settlement Administrator executes an agreement substantially in the form of Exhibit A to the Discovery Confidentiality Order in the Action (Dkt. No. 51), and all permitted disclosures of Class members' information under this Settlement shall be subject to the additional protections governing Confidential Health Information in that order. Within sixty (60) days after completion of all payments and related settlement administration by the Settlement Administrator, the Settlement Administrator shall destroy the Class List and any PHI related to this Settlement and provide a written certification of same to Class Counsel and UBH's counsel.

#### 4. NOTICE OF PROPOSED CLASS SETTLEMENT

4.1 Within thirty days after the Preliminary Approval Order is entered by the Court, UBH will provide to the Settlement Administrator any addresses that UBH is able to locate, through a reasonable, good faith search, for any Class Member included on the Class List.

4.2 Provided no appeal is taken of the Preliminary Approval of the Agreement and certification of the Class (or upon the conclusion of any such appeal), in cooperation with the Parties, the Settlement Administrator will provide notice of the proposed settlement to the Class List as required by Federal Rule of Civil Procedure 23 and all applicable due process requirements. Subject to Court approval, that notice shall be provided as outlined in the notice plan included as part of the Preliminary Approval Order attached as Exhibit A. In cooperation with the Parties, the Settlement Administrator will also provide the notice required by the Class Action Fairness Act, 28 U.S.C. § 1715, to the appropriate federal and state officials.

4.3 The text of the notices to the Class shall be substantially equivalent to the notices included with the proposed Preliminary Approval Order, which is attached as Exhibit A.

#### 5. OBJECTION PROCEDURE

5.1 Each Class Member wishing to object to the settlement shall file a timely written notice of their objection with the Court, postmarked no more than 45 days after the mailing of the Notice distributed pursuant to Article 4, the exact calendar date to be specified in such Notice. The objection shall set forth the reasons for the Class Member's



objection. The objection must be signed by the Class Member, or the objector's duly authorized representative (including attorney), and state (i) the objector's name and address, (ii) all bases claimed for membership in the Class, (iii) whether the objector plans to appear at the Final Fairness Hearing, and (iv) the reason or reasons for the objection, along with whatever legal authority, if any, the objector asserts supports the objection. The objection shall be filed with the Clerk of Court for the United States District Court for the Northern District of New York, Alexander Pirnie Federal Building & U.S. Courthouse, 10 Broad St. Utica, NY 13501. Additionally, the objector shall serve copies of the written objection upon Class Counsel and counsel for Defendant, according to the procedure described in Section 13.1 of this Agreement.

## **6. PRELIMINARY AND FINAL COURT APPROVAL**

6.1 The Class, acting by and through Class Counsel, shall move for the Preliminary Approval Order. Defendant shall not oppose the motion to the extent it is consistent with the terms of this Agreement.

6.2 After Notice is given pursuant to Article 4, the Class, acting by and through Class Counsel, shall move for the Court's final approval of this settlement, and agree to use its best efforts to obtain such approval under Federal Rule of Civil Procedure 23. The motion shall be accompanied by a proposed Final Approval Order, Judgment, and Order of Dismissal that (i) approves the class settlement as fair, adequate, and reasonable under Federal Rule of Civil Procedure 23(e), (ii) dismisses the Action with prejudice, (iii) enjoins all further litigation on the Released Claims, and (iv) enters final judgment (with continuing jurisdiction to administer the settlement). These materials shall be filed prior

to the Fairness Hearing, or as the Court may order. Defendant shall not oppose the Motion for Final Approval to the extent it is consistent with the terms of this Agreement.

6.3 Based on an analysis of the facts and the law and taking into account the burden and expense of litigation, as well as the fair, cost-effective, and assured method of resolving claims of the Class Members, the Parties have concluded that this Agreement provides benefits to the Parties and is fair, adequate, reasonable, and in the best interest of Class Members and Defendant. The Parties agree to recommend approval of this Agreement by the Court, and to support approval of this settlement as fair, adequate, and reasonable. The Parties further agree to undertake their best efforts, including all reasonable and proper steps and efforts that may become necessary by order of the Court, to effectuate the terms and purposes of this Agreement, and to secure the Court's approval.

6.4 The Class, acting by and through Class Counsel, shall use their best efforts to resolve any and all objections that may arise or be filed with respect to the Settlement. Defendant will not be obligated to contribute any money for addressing or resolving any objector issue.

6.5 If any person appeals the Court's Final Approval Order, Class Counsel will use their best efforts to defeat the appeal.

6.6 The terms of this Agreement are conditioned upon the Court's Final Approval Order being entered as described in Section 6.2, and, in the event the Final Approval Order is appealed, the dismissal of said appeals or affirmance of the Court's Final Approval Order.

6.7 In the event of any appeal, all dates and deadlines herein set to occur after the date of the issuance of the Final Approval order shall be stayed until the final disposition of all such appeals, and adjusted by adding the duration of the appeal to the otherwise applicable date or deadline.

## 7. TERMINATION

7.1 In the event of any order by any court altering this Agreement in a way that materially and adversely affects the Class or Defendant, the affected Party may void the Agreement within ten business days from the date that such order becomes final and not subject to any appeal or further appeal.

7.2 A Party wishing to avail itself of this option must deliver written notice of intent to counsel for the other Parties (by email, with a paper copy following), and the Court (via electronic filing) by such deadline, except that the additional paper copy need not be received by the deadline. Notwithstanding the above, the Court's entry of an order for Class Counsel's attorneys' fees, costs, expenses, and/or incentive award below the amounts (as described in Article 9), or an appellate court order to the same effect, shall not be grounds to void the Agreement. The only remedy in such an event shall be a separate appeal or further appeal to the extent provided by law.

7.3 The Parties agree that, if final approval of the Agreement is not achieved, or the Agreement is terminated, the settlement and all proceedings had in connection therewith shall be without prejudice to the status quo ante rights of the Parties, and the Parties further agree to jointly move the Court to vacate all court orders issued pursuant to the Settlement and certification of the Class.

## 8. CLASS RELIEF

8.1 The Parties have agreed to this Agreement to provide for the resolution of any and all disputes concerning the Class Members and Named Plaintiff arising from the Complaint, and believe that this Agreement provides substantial and meaningful benefits to the Class Members.

### 8.2 Class Monetary Benefits

Defendant shall pay \$20,000 of the Settlement Amount to the Settlement Fund within fifteen business days of the Court entering an Order granting Preliminary Approval to the Settlement. This Fund may be used for cost of distributing Notice to Class members prior to the Effective Date. Defendant shall pay the remainder of the Settlement Amount, \$1,395,000 to the Settlement Fund on or before fifteen business days after the Effective Date.

8.2.1 Class Members identified on the Class List are eligible to receive Monetary Benefits under the Settlement Agreement. There is no Claim Form. In order to be eligible for Monetary Benefits under this Agreement, each Class Member must cooperate with the Settlement Administrator in providing such other and further information as may be reasonably necessary. Failure to cooperate with the Settlement Administrator in a timely manner shall be a sufficient basis for denial of the claim, in whole or in part.

8.2.2 Counsel for UBH will provide the Settlement Administrator with the Class List, as defined in Section 1.6.

8.2.3 A Monetary Benefit will be allocated to each Class Member for which there is any valid claim according to the terms set forth in the attached Plan of Allocation, which sets forth anticipated payment amounts for Class Members by settlement tier. The Plan of Allocation is contingent on the final approved amount of any attorneys' fees and expenses to Class Counsel, any Incentive Award to the Named Plaintiff, and any settlement administration expenses and costs (including any payments to the Settlement Administrator). The anticipated Plan of Allocation is subject to modification by written agreement of the Parties.

8.2.4 All decisions by the Settlement Administrator as to whether a Class Member qualifies for Monetary Benefits and the amount of Monetary Benefits due shall be final.

8.2.5 The Settlement Administrator will maintain a complete and accurate record of all payments or anticipated payments to Class members, using the redacted patient numbers for each Class member provided by counsel for UBH. At least seven days prior to the filing of a motion for final approval, the Settlement Administrator will provide UBH's counsel with a copy of the schedule of anticipated payments as it exists at that point in time. An updated copy of this report will also be provided to UBH and its counsel upon completion of all payments under this Settlement.

8.2.6 The Settlement Administrator will distribute checks to the Class Members in the amounts set forth in the anticipated Plan of Allocation. Failure by Class Members to cash or deposit distributed checks within 150 days from receipt

shall result in permanent waiver of all remedies and release of rights. These Class Members will still be subject to and bound by the provisions in the Final Approval Order and Judgment. All funds from uncashed checks will revert to the Settlement Fund.

**9. ATTORNEYS' FEES, COSTS, EXPENSES, AND NAMED PLAINTIFF**

**INCENTIVE AWARD**

9.1 The Parties agreed to all substantive terms of this Agreement prior to reaching any agreement concerning attorneys' fees. Class Counsel shall file a motion with the Court seeking reasonable fees and expenses (including any payments to the Settlement Administrator or other settlement administration costs, as well as any litigation-related costs) to be paid out of the Settlement Fund, and Defendant agrees not to oppose Class Counsel's fee application or appeal the amounts awarded as fees and expenses by the Court, so long as all fees and expenses are drawn exclusively from the Settlement Fund and the amount of the requested fees, exclusive of reimbursed expenses, does not exceed \$471,667.

9.2 Class Counsel's fee petition shall comply in all respects with the requirements of Federal Rule of Civil Procedure 23(h).

9.3 Class Counsel may at their sole discretion file a motion with the Court seeking an Incentive Award for the individual Named Plaintiff, and Defendant agrees not to oppose Class Counsel's motion for Named Plaintiff's Incentive Award, as long as all of the Incentive Award is drawn exclusively from the Settlement Fund and the amount of the Incentive Award does not exceed \$15,000 to the Named Plaintiff.

## 10. COSTS OF CLAIMS ADMINISTRATION

10.1 All costs necessary for the establishment and operation of the Settlement Fund claims administration procedures described in this Agreement, including fees of the Settlement Administrator, shall be paid from the Settlement Fund and approved by the Court.

10.2 The Settlement Administrator shall be entitled to a reasonable fee. These fees shall be paid from the Settlement Fund subject to Court approval.

10.3 The Settlement Administrator may perform certain pre-Effective Date administrative services, including printing and distribution of the class notice, receipt of Claim Forms, and development of claims administration procedures. The Settlement Administrator shall be entitled to a reasonable fee for such services according to the provisions of this Agreement and the Preliminary Approval Order; but in no event shall the Settlement Administrator engage in any pre-Effective Date services, except where the services were expressly authorized in writing in advance by Class Counsel and Defendant or their designated representatives.

10.4 In addition to all other rights under applicable law, upon reasonable notice, Class Counsel and Defendant shall have the right to examine all books and records of the Settlement Administrator related to the processing of Settlement Fund claims under this Agreement.

## 11. CLASS MEMBERS' RELEASE AND EXCLUSIVE REMEDY

11.1 **Release.** Class Members and each of their respective heirs, executors, administrators, predecessors, successors, insurers, and assigns fully and finally release

all Released Persons as defined in Section 1.18 from any and all Released Claims as defined in Section 1.17 of this Agreement.

11.2 In connection with the release in Section 11.1 and to the extent allowed by law, Named Plaintiff and Class Members acknowledge that they are aware that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those which they now know or believe to be true with respect to the Released Claims. Nevertheless, it is the intention of the Named Plaintiff and the Class Members to fully, finally, and forever settle and release all such Released Claims, which exist, hereafter may exist, or might have existed (whether or not previously or currently asserted in any action) and accrued on or before the date that the Final Judgment and Order of Dismissal is entered. In this regard, Named Plaintiff and the Class Members expressly waive, to the extent allowed by law, any potentially applicable statutory or common law provisions that arguably provide otherwise.

11.3 **Exclusive Remedy.** Any available relief to a Class Member under this Settlement Agreement is the EXCLUSIVE remedy for any and all Released Claims, regardless of whether a Class Member actually obtains any Monetary Benefit. For avoidance of doubt, any request for a Monetary Benefit under this Settlement Agreement by any Class Member should be directed to the Settlement Administrator, and not to Defendant, its counsel, or any other Released Person.

11.4 **Covenant Not To Sue.** Class Members shall not commence, prosecute, or cause to be commenced or prosecuted any action or other proceedings against any Released Person involving any Released Claims or conduct at issue in any Released



Claims. No Class Member has assigned, sold, or otherwise transferred any Released Claims of any kind, and no such assignments, sales, or transfers shall be permitted under this Settlement Agreement.

11.5 **Injunction Against Additional Litigation.** Upon Final Approval, all Class Members shall be enjoined from filing or becoming part of any action, including, without limitation, any putative class actions, filed against the Released Persons or any other person or entity, and that relate to the subject matter of the instant action, insofar as those actions implicate any of the Released Claims or otherwise interfere with this Agreement or the settlement of the class action claims generally. This Paragraph does not apply to any action to enforce the terms of this Agreement or the Final Approval Order.

11.6 Nothing contained in this Article 11 releases, nor shall be construed to release, any continuing rights of Class Members resulting from this Agreement and the remedies and benefits created and conferred hereby.

## 12. EFFECTIVE DATE OF THE SETTLEMENT

12.1 The Effective Date, as used in this Agreement, is the date on which the last of all of the following events and conditions has occurred or been met:

12.1.1 The Parties, through their respective counsel, have executed this Agreement;

12.1.2 The Court has entered a Final Approval Order approving this Agreement as fair, adequate, and reasonable under Federal Rule of Civil Procedure 23 and entered a Final Judgment; and

12.1.3 Five business days have passed after the latest of the following has occurred: (i) the time to appeal from the Final Approval Order has expired and no notice of appeal has been filed; (ii) in the event of an appeal, any appeal from the Final Approval Order has been finally dismissed or the Final Approval Order and Final Judgment has been affirmed on appeal; (iii) the time to petition for review with respect to any appellate decision affirming the Final Approval Order has expired; and (iv) if a petition for review of an appellate decision is filed, the petition has been denied or dismissed, or, if granted, has resulted in affirmance of the Final Approval Order.

### 13. NOTICE

13.1 Any notice required to be given to the Named Plaintiff, Class, or Class Counsel or Defendant or its counsel shall be given in the manner prescribed in the relevant provision of this Agreement using the addresses specified below, or if not specified by email or United States mail (return receipt requested) to those addresses:

FOR NAMED PLAINTIFF, CLASS, AND CLASS COUNSEL:

Jordan Lewis  
JORDAN LEWIS, P.A.  
4473 N.E. 11th Avenue  
Fort Lauderdale, FL 33334  
Jordan@jmlw-lawfirm.com

Arthur Stock  
MILBERG COLEMAN BRYSON PHILIPS GROSSMAN  
800 S. Gay Street, Suite 1100  
Knoxville, Tennessee 37020  
Astock@milberg.com

FOR DEFENDANT:

Geoffrey Sigler  
Clare Steinberg  
GIBSON, DUNN & CRUTCHER LLP  
1700 M Street, N.W.  
Washington, D.C. 20036  
GSigler@gibsondunn.com  
csteinberg@gibsondunn.com

#### 14. NONDISPARAGEMENT

14.1 No press release shall be issued by Class Counsel, Named Plaintiff, or Defendant's Counsel regarding this Agreement or the resolution of this matter unless the content of such press release is first agreed to by Class Counsel and Defendant's Counsel. For purposes of this subsection, "press release" shall include blog posts or other Internet postings and announcements, except that Class Counsel may publish publicly available information on its website such as the allegations in the Complaint, the fact of a proposed settlement, or the preliminary or final approval of any settlement. Nothing herein shall be construed to interfere with any attorney's or law firm's practice of law.

14.2 The Parties agree to keep all of the negotiations leading up to this Agreement strictly confidential, except to the extent necessary to move for preliminary or final approval so as to define efforts made to obtain an adequate class settlement. The Parties further agree that until this Agreement is filed with the United States District Court for the Northern District of New York, they will not disclose the existence of this Agreement or any of the terms or conditions of this Agreement to any third parties other than their attorneys, insurers, and tax or financial advisor and immediate family (all of

whom shall agree to maintain this information in confidence), or as may be required pursuant to legal process.

## 15. MISCELLANEOUS

15.1 This Agreement constitutes the entire settlement among the Parties and supersedes all prior agreements or understandings between them relating to the settlement of the Action.

15.2 The Parties acknowledge that this Agreement was jointly drafted, and agree that if any of its terms are ambiguous, that the rule of construction construing the ambiguity against the drafting party shall not be employed in the interpretation of this Agreement.

15.3 The Agreement shall be governed by, construed by, and follow the laws of the State of New York, without regard to its conflicts of laws rules. Jurisdiction and venue for all proceedings in connection with the Agreement, or arising as a result of any matter relating to this settlement, or addressed in the Agreement, shall be in the United States District Court for the Northern District of New York.

15.4 The Parties may agree in writing to reasonable extensions of time to carry out any of the provisions of the Agreement, subject to approval by the Court as may be required.

15.5 To the extent any deadline set forth in this Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued until the following business day.

15.6 In construing this Agreement, the use of the singular includes the plural (and vice-versa), and the use of the masculine includes the feminine (and vice-versa).

15.7 This Agreement may be executed in counterparts and shall be binding upon each Party and all Parties executing this or any counterpart.

15.8 Counsel for Defendant is authorized to sign the Settlement on behalf of Defendant. Class Counsel are authorized to sign this Settlement on behalf of Plaintiff and the Class. This Settlement may be amended or modified only by written instrument signed by authorized representatives of all Parties or their successors in interest.

15.9 Plaintiff and Class Counsel agree that the Class List information will be used for settlement purposes only, i.e., effectuating, supporting, and carrying out the terms of the Settlement.

Defendant

For United Behavioral Health

Joann Lee  
Joann Lee

12/18/2024

Date

Geoffrey Sigler  
Geoffrey M. Sigler

12/18/2024

Date

Named Plaintiff

[Redacted Signature]  
[Redacted Name]

12/17/2024

Date

Class acting by and through Class Counsel

[Signature]  
Jordan M. Lewis

12/17/2024

Date

Class acting by and through Class Counsel

[Signature]  
Arthur M. Stock

12/17/2024

Date

**A**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

Case No.: 1:21-CV-00553-DNH-CFH

R.B., individually, and on behalf  
of all those similarly situated;

Plaintiff,

v.

United Behavioral Health;

Defendant.

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[PROPOSED] ORDER GRANTING PLAINTIFF'S  
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT

Upon preliminary review, the **Court finds the settlement is fair, reasonable, and adequate** to warrant providing notice of the settlement to the Class and accordingly it is preliminarily approved. In making this determination, the Court has considered the benefits to the Class, the specific risks faced by the Class in prevailing on Plaintiff's claims, the stage of the proceedings at which the settlement was reached, the effectiveness of the proposed method for distributing relief to the Class Members, the proposed manner of allocating benefits to Class Members, and all of the other factors required by Rule 23. All capitalized terms used in this Proposed Order have the same meaning as set forth in the Settlement Agreement unless separately set forth.

The Court has reviewed and considered all papers filed in connection with the motion, including the Settlement Agreement, and all attached exhibits. On the basis thereof, and on all of the files, records, and proceedings herein,



IT IS HEREBY ORDERED THAT:

**Jurisdiction**

The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2), and personal jurisdiction over the Parties before it. Additionally, venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1).

**Preliminary Approval**

The terms and conditions set forth in the Settlement Agreement place the Settlement Agreement within the range of fair and reasonable settlements, making appropriate further consideration at a hearing held pursuant to notice to the Class. The Court therefore preliminarily approves the Settlement Agreement and directs the parties to perform and satisfy the terms and conditions of the Settlement Agreement that are triggered.

**Final Fairness Hearing**

A Final Fairness Hearing shall be held on\_\_\_\_, 2025, [via telephone or videoconference or in-person] at the U.S. District Court, Northern District of New York, Alexander Pirnie Federal Bldg. and U.S. Courthouse, 10 Broad Street, Utica, NY 13501, in Courtroom \_\_\_\_, to determine, among other things, whether: (a) the settlement should be approved as fair, reasonable and adequate, and finally approved pursuant to Fed. R. Civ. P. 23(e); (b) this action should be dismissed with prejudice pursuant to the terms of the Settlement Agreement; (c) Class Members should be bound by the releases set forth in the Settlement Agreement; (d) the application of Class Counsel for an award of attorneys' fees, costs, and expenses should be approved pursuant to Fed. R. Civ. P.

23(h); and (e) the application of the Class Representatives for service awards should be approved.

The hearing shall take place 125 days or later from the date of entry of this Order.

**Claims Administrator**

The Court appoints RG/2 Claims Administration to serve as Settlement Administrator.

**Notice**

The proposed method for providing notice set forth in the Settlement Agreement and the Notice attached to the Settlement Agreement is approved. Non-material modifications to this Exhibit may be made with approval by the Parties but without further order of the Court. The Court approves the form and substance of the CAFA Notices, attached to the Settlement Agreement. The Court further finds and orders that upon mailing of the CAFA Notice to the attorneys general of the United States and the states where Class members are located (based on available information at the time such notices are sent), Defendant will have complied with the notice requirements of CAFA.

Consistent with the Settlement Agreement, Defendant and its counsel are authorized and directed to disclose agreed-upon information about Class Members to the Settlement Administrator and Class Counsel, as needed to facilitate notice to the Class and administration of the Settlement in accordance with this Order and the Settlement's terms. Such disclosures, which may include personal health information and other information protected by HIPAA and potentially other laws (including state privacy laws), are necessary to facilitate the Settlement, and therefore good cause and a

compelling need exist for these disclosures, the interests supporting disclosure outweigh the need for greater confidentiality, and non-disclosure would be contrary to the public interest. To the extent any provision of federal or state law requires the Parties to obtain a court order as a precondition for the disclosure of information related to or arising out of the treatment of a mental health condition, this Order satisfies that requirement. Defendants shall designate any such material produced containing “Confidential Health Information” as “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” under the Protective Order in this case (Dkt. No. 51).

The Settlement Administrator will keep confidential from all persons, except as authorized in writing by a Class member or as ordered by the Court, the Class List and all other personal health information of members of the Class, which includes names, addresses, and any other personally identifiable information that can be used on its own or combined with other information to identify, contact, or locate an individual, or to identify an individual in context. The Settlement Administrator shall utilize Defendant’s redacted patient numbers for Class Members so that it can communicate with Class members, Class Counsel, Defendant, and Defendant’s counsel to the extent needed to provide the necessary reports and to facilitate settlement administration. Any permitted disclosures of Class member information under this Order or any section of the Settlement Agreement or any other order in this case shall be limited to the minimum necessary to satisfy the Settlement’s requirements. Class members who ask the Settlement Administrator for contact information for Class Counsel shall be provided such information and a form prepared by the Settlement Administrator through which the Class member can authorize the Settlement Administrator to share

his or her identity and/or PHI with Class Counsel to assist in answering questions or in facilitating the Settlement. Class Counsel will ensure that the Settlement Administrator executes an agreement substantially in the form of Exhibit A to the Discovery Confidentiality Order in the Action (Dkt. No. 51), and all permitted disclosures of Class members' information under this Settlement shall be subject to the additional protections governing Confidential Health Information in that order. Within 60 days after completion of all payments and related settlement administration by the Settlement Administrator, the Settlement Administrator shall destroy the Class List and any PHI related to this Settlement and provide a written certification of same to Class Counsel and Defendant's counsel.

**Findings Concerning Notice**

The Court finds that the proposed form, content, and method of giving notice to the Class as described in the Settlement Agreement and exhibits: (a) will constitute the best practicable notice to the Class; (b) are reasonably calculated, under the circumstances, to apprise Class Members of the pendency of the action, the terms of the proposed settlement, and their rights under the proposed settlement, including but not limited to their rights to object to or exclude themselves from the proposed settlement and other rights under the terms of the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including Federal Rule of Civil Procedure 23(c) and (e), and the Due Process Clause of the United States Constitution. The Court further finds that the Notice is written in plain language, uses simple terminology, and is designed to be readily understandable by class

members. Counsel are directed to carry out the Notice Program in conformance with the Settlement Agreement.

### **Objections and Appearances**

Any class member may object to the settlement, class counsel's request for fees and expenses, and/or the request for service award payments to the named plaintiff; provided, however, that no class member shall be heard or entitled to contest such matters, unless the objection is filed with the Clerk of Court, by first class mail, at the address listed in the notice, and postmarked by no later than the objection deadline, as specified in the notice. Additionally, the objector shall serve copies of the written objection upon Class Counsel and counsel for Defendant, no later than the objection deadline, at the addresses specified in the notice.

For the objection to be considered by the Court, the objection must be in writing and include:

- (a) the name or caption of this Litigation;
- (b) the objector's full name, address, telephone number, and e-mail address (if any);
- (c) information identifying the objector as a Class Member, including proof that the objector is a member of the Class;
- (d) a written statement of all grounds for the objection, accompanied by any legal support for the objection that the objector believes is applicable;
- (e) the identity of all counsel representing the objector, if any, in connection with the objection;
- (f) a statement confirming whether the objector and/or the objector's counsel will appear and/or testify at the Final Fairness Hearing;
- (g) a statement identifying all class action settlements objected to by the objector and his/her attorney, if applicable, in the previous 5 years; and

(h) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative, if any.

Any class member who fails to comply with the provisions in this Order and/or fails to timely file and serve an objection in writing in accordance with this Order and the Settlement Agreement will waive and forfeit any and all rights they may have to object, will have their objection stricken from the record, and will lose their rights to appeal from approval of the settlement. Any such class member also shall be bound by all subsequent proceedings, orders, and judgments in this action, including but not limited to the Release set forth in the Final Approval Order and Judgment if entered.

#### **Claims Process**

As set forth in the Settlement Agreement, Defendant shall fund a non-reversionary cash settlement fund in the total amount of \$1,415,000 (the "Settlement Fund"). The Settlement Fund will be used to pay for: (1) reimbursement for attorneys' fees and costs any settlement administration expenses and costs (including any payments to the Settlement Administrator), as approved by the Court; (2) any Incentive Award to the Named Plaintiff, as approved by the Court; and (3) any Monetary Benefits to the Class Members. Defendant shall not owe any amounts beyond this Settlement Fund. The Court preliminarily approves this Settlement Fund and the claims process set out in the Settlement Agreement.

If the Final Approval Order and Judgment is entered, all class members who qualify for any benefit under the settlement but fail to cash or deposit their distributed checks in accordance with the requirements and procedures specified in the Notice shall

be forever barred from receiving any such benefit, but will in all other respects be subject to and bound by the provisions in the Final Approval Order and Judgment.

**Release and Exclusive Remedy**

Pending this Court's ruling on final approval of the Settlement Agreement, all Class Members and each of their respective heirs, executors, administrators, predecessors, successors, insurers, and assigns shall be preliminarily enjoined and barred from asserting any Released Claims (as defined in Section 1.17 of the Settlement Agreement) against all Released Persons (as defined in Section 1.18 of the Settlement Agreement).

Upon final approval of the Settlement Agreement, any relief to a Class Member under the Settlement Agreement will be the exclusive remedy for any and all Released Claims, regardless of whether a Class Member actually obtains any monetary benefit. All Class Members shall also be permanently enjoined from filing or becoming part of any action, including, without limitation, any putative class actions, filed against the Released Persons (as defined in Section 1.18 of the Settlement Agreement) or any other person or entity, and that relate to the subject matter of the instant action, insofar as those actions implicate any of the Released Claims or otherwise interfere with the Settlement Agreement or the settlement of the class action claims generally. However, final approval does not prevent any action to enforce the terms of the Settlement Agreement or the final approval order.

**Termination of Settlement**

This Order, the Settlement Agreement, the proposed settlement, and all related proceedings shall become null and void, shall have no further force or effect, and shall

be without prejudice to the rights of the parties, all of whom shall be restored to their respective positions existing immediately before the Settlement Agreement was signed, if: a) the settlement is not finally approved by the Court; b) the Settlement Agreement and the proposed settlement are terminated in accordance with the applicable provisions of the Settlement Agreement; or c) there is no Effective Date. In such event, the settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders, including this Order, relating to the settlement shall be used or referred to for any purpose whatsoever. The Litigation shall thereupon revert forthwith to its respective procedural and substantive status prior to the date of execution of the Settlement Agreement and shall proceed as if the Settlement Agreement and all other related orders and papers had not been executed.

**Use of Order**

This Order shall be of no force or effect if the Final Approval Order and Judgment is not entered or there is no Effective Date. Neither this Order nor the Settlement Agreement nor any other settlement-related document nor anything contained herein or therein or contemplated hereby or thereby nor any proceedings undertaken in accordance with the terms set forth in the Settlement Agreement or herein or in any other settlement-related document, shall constitute, be construed or used as an admission, concession, or declaration by or against defendant of any fault, wrongdoing, breach, or liability for any claim that has been or could have been asserted against it or as to any liability by it as to any matter set forth in this Order, or as to the propriety of class certification for any purposes other than for purposes of the current



proposed settlement. Nor shall this Order be construed or used as an admission, concession, or declaration by or against the Named Plaintiff or any other Class Member that his or her claims lacks merit or that the relief requested is inappropriate, improper, or unavailable, or as a waiver by any Party of any defense or claims they may have in this Litigation or in any other lawsuit.

### **Continuance of Hearing**

The Court reserves the right to adjourn or continue the Final Fairness Hearing and related deadlines without further written notice to the class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the website maintained by counsel. The Court may approve the Settlement, with such modifications as may be agreed upon by the Parties, if appropriate, without further notice to the class.

### **Retained Jurisdiction**

The Court retains jurisdiction over this action, the Parties, and all matters relating to the Settlement Agreement.

### **Proposed Schedule and Deadlines**

Plaintiff proposes the following schedule for the period leading up to the fairness hearing at which the Court will consider whether to grant final approval to the proposed Settlement.

#### **Event**

Deadline to provide notice to State Attorneys General or others as required by 28 U.S.C. § 1715(b)

#### **Timing**

**10 days** after filing of the Motion for Preliminary Approval

Deadline for Defendant to provide addresses that Defendant is able to locate, through a reasonable, good faith search,

**30 days** after entry of this Order

for any Class Member on the Class List previously exchanged

Notice Program Commencement	<b>30 days</b> after entry of this Order
Notice Program Completion	<b>60 days</b> after entry of this Order
Deadline for Class Counsel to file motion for attorneys' fees, costs, expenses and service awards	<b>14 days</b> before Objection Deadline
Objection Deadline	<b>45 days</b> after the Class Notice Commencement Date
Deadline for plaintiff to file motion for final approval of settlement and responses to any timely submitted class member objections, which shall include a declaration from counsel confirming execution of and compliance with its obligations in the Settlement Agreement as of the date of the declaration	<b>21 days</b> before Final Fairness Hearing
Final Fairness Hearing	_____, 2025 at __: __ .m. in Courtroom ____ [105 days or later from the date of entry of this Order].

**DONE AND ORDERED** in Utica, New York on this day of \_\_\_\_\_, 2024.

/s/ \_\_\_\_\_  
**Hon. David N. Hurd**  
**United States District Judge**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK**  
Case No.: 1:21-CV-00553-DNH-CFH

R.B., individually, and on behalf  
of all those similarly situated;  
Plaintiff,

v.

United Behavioral Health;  
Defendant.

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**NOTICE OF CLASS ACTION SETTLEMENT AND FAIRNESS HEARING**

**This is a notice of a proposed class action settlement in the above-referenced lawsuit.  
Your legal rights may be affected if you are a member of the following class  
(the “Class”):**

All persons covered under ERISA-governed health care plans, administered or insured by United Behavioral Health, whose requests for coverage for mental health and substance abuse treatment services received at a licensed residential treatment center were denied in total based on its determination that a component of such services is considered experimental, investigational, or unproven.

The Class is limited to the Class period set forth in Plaintiff’s Complaint in the above-referenced lawsuit (Dkt. 1 at 8, ¶ 29); *see also* Dkt. No 97 (class certification order).

**PLEASE READ THIS SETTLEMENT NOTICE CAREFULLY**

- The Court has given its preliminary approval to a proposed settlement (the “Settlement”) of a class action lawsuit brought by a participant in an ERISA-regulated health plan, alleging that United Behavioral Health (“Defendant”), in administering ERISA-regulated health plans, violated its duties to its customers, and violated the Parity Act (29 U.S.C. § 1185a), by denying in total claims for coverage for mental health and substance abuse treatment services received at licensed residential treatment centers based on a determination that a component of such services was considered to be experimental, investigational, or unproven.
- The terms and conditions of the Settlement are set forth in the Settlement Agreement dated December 18, 2024. Capitalized terms used but not defined in

this notice have the meanings assigned to them in the Settlement Agreement. All papers filed in this lawsuit are also available via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, and may also be reviewed in person, as allowed by the Court, during regular business hours at the Office of the Clerk of the United States District Court for the Northern District of New York, Alexander Pirnie Federal Bldg. and U.S. Courthouse, 10 Broad Street, Utica, NY 13501. Class Members can also request copies of any of the filed papers by contacting Class Counsel. Key settlement documents are also available at Plaintiffs' Counsel's website at [www.jml-lawfirm.com](http://www.jml-lawfirm.com).

- The Settlement will provide for a \$1,415,000 Settlement Fund that will be used to pay any amounts owed under this Settlement Agreement, including any Monetary Benefits to the Class Members, any attorneys' fees and expenses to Class Counsel, any Incentive Award to the Named Plaintiff, and any settlement administration expenses and costs (including payments to the Settlement Administrator).
- The Settlement includes a RELEASE of claims and other rights you may have to the extent you are a Class Member, as more fully explained in response to Question No. 4 below and in the Settlement Agreement.
- Your rights and the choices available to you – and the applicable deadlines to act – are explained in this Notice. Please note that neither Defendant nor any of its employees or representatives may advise you as to what the best choice is for you or how you should proceed.
- The Court still has to decide whether to give its final approval to the Settlement. Payments under the Settlement will be made only if the Court approves the Settlement and the final approval is upheld in the event of any appeal.
- A Fairness Hearing will take place on [DATE], at [TIME] before the Honorable David N. Hurd, at the Alexander Pirnie Federal Bldg. and U.S. Courthouse, 10 Broad Street, Utica, NY 13501, in Courtroom \_\_\_\_, to determine whether to grant final approval of the Settlement and approve the requested attorneys' fees and costs, administrative expenses, and Incentive Award to the Named Plaintiff. The date and time of the Fairness Hearing are subject to change by Court Order. If you intend to speak at the Fairness Hearing, you must mail a notice of intent to appear to Class Counsel, Defendant's counsel, and the Clerk of Court, at least 30 days before the Fairness Hearing.

Any objections to the Settlement, or to the requested attorneys' fees and costs, along with any supporting documents, must be filed with the Court, postmarked no more than forty-five (45) days after the mailing of this Notice. The objection shall be sent by first class mail to the Clerk of Court for the United States District

Court for the Northern District of New York, Alexander Pirnie Federal Building & U.S. Courthouse, 10 Broad St. Utica, NY 13501. The objection must also be mailed or emailed to Class Counsel and Defendant’s counsel, as identified under Question 11 of this Notice, through a timely written notice postmarked or sent via email no more than forty-five (45) days after the mailing of this Notice. Any objections not complying with these filing, notice, and timeliness requirements will be invalid.

<b>YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT:</b>	
<p><b>YOU CAN OBJECT (NO LATER THAN [45 Days after the date of this notice, or X date])</b></p>	<p>If you wish to object to any part of the Settlement, or to the requested attorney’s fees and costs, you must file your objection with the Court and mail or email it to Class Counsel and Defendant’s counsel, as identified under Question 11 of this Notice, through a timely written notice postmarked or sent via email no more than forty-five (45) days after the mailing of this Notice. Any objections not complying with these filing, notice, and timeliness requirements will be invalid.</p>
<p><b>YOU CAN ATTEND A HEARING ON [DATE]</b></p>	<p>You may also attend the Fairness Hearing and speak at the Fairness Hearing on [DATE]. You may attend the hearing without filing a notice of your intention to appear, but you will not be permitted to make an objection if you do not comply with the requirements for making objections. If you intend to speak at the Fairness Hearing, you must mail a notice of intent to appear to Class Counsel, Defendant’s counsel, and the Clerk of Court, at least <b>30 days</b> before the Fairness Hearing.</p>

**The Class Action**

The case is called *R.B. v. United Behavioral Health*, Case No. 1:21-cv-00553 (N.D.N.Y.) (the “Class Action” or “lawsuit”). It has been pending since May 12, 2021. The Court presiding over the case is the United States District Court for the Northern District of New York. The Plaintiff (the individual who brought this lawsuit) is called the Named Plaintiff or the class representative, and the entity he sued is called Defendant. The Class Representative, R.B., was covered under a health plan that was administered by United Behavioral Health and governed by ERISA and submitted claims for reimbursement for mental health and substance abuse services received at a residential treatment center, which were denied by Defendant. The Class Representative’s claims are described below.

### **Attorneys' Fees and Costs Sought in the Class Action**

Class Counsel has devoted many hours to investigating the facts, prosecuting the lawsuit, reviewing documents obtained from Defendant and third parties, and negotiating the Settlement. They also have advanced all costs necessary to pursue the case, and have not been paid for any of their time while this case has been pending.

Class Counsel will apply to the Court for payment of attorneys' fees and costs for their work in the case. The amount of fees that Class Counsel will request will not exceed \$471,667, which is one third of the Settlement Fund. In addition, Class Counsel will also seek to recover their costs and the administrative expenses associated with the Settlement, up to \$52,500. Any attorneys' fees and expenses (including any payments to the Settlement Administrator or other settlement administration costs, as well as any litigation-related costs) awarded by the Court will be paid from the Settlement Fund.

Class Counsel will also ask the Court to approve an Incentive Award, not to exceed \$15,000, for the Named Plaintiff who took on the risk of litigation and committed to spend the time necessary to bring the case to conclusion. Any Incentive Award awarded by the Court also will be paid from the Settlement Fund.

A full and formal application for attorneys' fees and costs will be filed with the Court on or before [DATE]. You may obtain a copy of this application through the Public Access to Court Electronic Records System (PACER) at <http://www.pacer.gov>.

### **1. Why Did I Receive This Settlement Notice?**

The Court caused this Notice to be sent to you because our records indicate that you are a Class Member. If you fall within the definition of the Class, you have a right to know about the Settlement and about the options available to you before the Court decides whether to give its final approval to the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, the Settlement Fund will be allocated among Class Members according to a Court-approved Plan of Allocation. The Settlement Fund will also be used to pay any attorneys' fees and expenses to Class Counsel, any Incentive Award to the Named Plaintiff, and any settlement administration expenses and costs (including any payments to the Settlement Administrator).

### **2. What Is The Class Action About?**

In the Class Action, the Class Representative claims that Defendant violated the Mental Health Parity and Addiction Equity Act (29 U.S.C. § 1185a) and breached its duties imposed by ERISA by denying in full his claim for reimbursement for a family member's substance abuse and mental health treatment services received at a licensed residential facility, because Defendant determined that one component of these services was experimental, investigational, or unproven in circumstances in which Defendant did not

deny all coverage where comparable medical providers offered services with a component that was experimental, investigational or unproven. In the lawsuit, the Class Representative sought to represent others who had claims denied by Defendant for similar reasons.

The case was filed on May 12, 2021. On September 14, 2023, the Court certified the case to proceed as a Class Action. Defendant petitioned the United States Court of Appeals for the Second Circuit for permission to appeal this ruling, and that petition was denied on January 4, 2024.

Following class certification, Defendant produced additional documents concerning the claims of other Class members. This information demonstrated that there were 349 Class members.

The Named Plaintiff and Defendant agreed to attempt to resolve the case through mediation. A mediation was held on August 28, 2024, in Miami, Florida before an experienced mediator. The Mediation led to the Settlement described in this notice.

Defendant denies all claims and asserts that it has always acted prudently, in compliance with all applicable laws, and in the best interests of participants and beneficiaries.

### **3. Why Is There A Settlement?**

The Court has not reached a decision as to the merits of the Named Plaintiff's claims. Instead, the Named Plaintiff and Defendant have agreed to the Settlement. The Settlement is the product of extensive negotiations between the Class Representative, Defendant, and their counsel. The parties to the Settlement have taken into account the uncertainty and risks of litigation and have concluded that it is desirable to settle on the terms and conditions set forth in the Settlement Agreement. The Named Plaintiff and Class Counsel believe that the Settlement is best for all Class Members. Nothing in the Settlement Agreement is an admission or concession on Defendant's part of any fault or liability whatsoever. The Settlement has been entered into to avoid the uncertainty, expense, and burden of additional litigation.

### **4. What Does The Settlement Provide?**

Under the Settlement, United Behavioral Health will pay a total of \$1,415,000 into a Settlement Fund to resolve the claims of the Class. The Settlement Fund will be allocated to Class Members according to a Plan of Allocation to be approved by the Court (as explained further under Question 5, below), after it is used to pay any attorneys' fees and expenses to Class Counsel, any Incentive Award to the Named Plaintiff, and any

settlement administration expenses and costs (including any payments to the Settlement Administrator).

All Class Members, and each of their respective heirs, executors, administrators, predecessors, successors, insurers, and assigns will fully release the Released Persons from Released Claims (as defined in the Settlement Agreement). Released Persons include Defendant and each of its present and former, direct, and indirect, divisions, parents, subsidiaries, and affiliates (including without limitation United Behavioral Health, UnitedHealth Group, Inc., UnitedHealthcare Insurance Company, UnitedHealthcare Services, Inc., or Optum, Inc.); any Class Member's health benefits plan or any plan administrator, claims administrator, fiduciary, or other person involved in administration of such plan; any predecessors, successors, insurers, and assigns of any of the foregoing; and all of the present and former agents, servants, officers, directors, employees, attorneys, consultants, advisors, owners, shareholders, members, and partners (whether limited or general), of any of the above. Released Claims means any and all actions, causes of actions, claims, and demands that are, were, or could have been asserted by Named Plaintiff or any Class Member in the Action during the Class Period, regardless of legal theory, known or unknown, concerning any claims arising out of or related to a denial of coverage (including any pre or post-service denial, initially or on appeal) by any Released Persons for mental health or substance abuse treatment received at a residential treatment or wilderness program, based in whole or in part on a determination that the treatment or a component of the treatment was experimental, unproven or investigatory. Generally, the release means that Class Members will not have the right to sue the Released Persons regarding any Released Claims or conduct at issue in any Released Claims. The entire release language is set forth in the Settlement Agreement, which is available at the Court Electronic Records System (PACER), available online at <http://www.pacer.gov>, as well as at Class Counsel's website, located at [www.jml-lawfirm.com](http://www.jml-lawfirm.com). Class Members can also request copies of any of the filed papers by contacting Class Counsel.

## **5. How Much Will My Payment Be?**

Payments will be allocated to each Class Member for which there is any valid claim by Settlement Tier, as set forth below. The estimated amount of Monetary Benefit set forth below is based on Class Counsel's best estimate of what the Monetary Benefits will be for each Settlement Tier based on available information and the Plan of Allocation negotiated between the Parties as part of the Settlement. The precise dollar amounts Class Members ultimately will receive could vary substantially from these estimates, and will depend on the amounts the Court awards for attorneys' fees, costs, and any Incentive Award for the Named Plaintiff, and the extent to which Class Members can be located by the Settlement Administrator, among other factors.



- a. If the designation WILDERNESS appears above your name on this notice, you sought reimbursement for Wilderness Therapy from Defendant. The Parties' best estimate is that you will receive approximately \$950.
- b. If the designation MULTIPLE appears above your name on this notice, you sought reimbursement from Defendant for Mental Health or Substance Abuse treatment, and your claim was denied for multiple reasons. The Parties' best estimate is that you will receive approximately \$9,500.
- c. If the designation EXPERIMENTAL appears above your name on this Notice, you sought reimbursement from Defendant for Mental Health or Substance Abuse treatment, and your claim was denied because a component of the treatment you received was determined by Defendant to be experimental, investigational, or unproven. The Parties' best estimate is that you will receive approximately \$19,000.

Each Class Member shall receive one payment per valid wilderness or residential treatment program or course of treatment for which they had sought reimbursement from Defendant.

If you fail to cash or deposit distributed checks within 150 days from receipt, you will be barred from receiving any Monetary Benefit under the Settlement.

In the event that sufficient money remains in the Settlement Fund following completion of the distribution process and the payment of other amounts expressly provided for from the Settlement Fund, there will be a second round of distributions, with members of each tier receiving a *pro rata* amount, in the same ratios as in the first distribution. If there are insufficient funds after the first round distribution, or if there are funds remaining after a second round distribution, the remainder will be distributed to a charitable organization.

## 6. How Can I Receive My Distribution?

**Payments will be mailed to you at the address to which this Notice was mailed. You do not need to take any action.** If your address changes, or is different from the address on this Notice, please notify the Claims Administrator of your correct address at P.O. Box 59479, Philadelphia, PA 19102-9479, or via email at [info@rg2claims.com](mailto:info@rg2claims.com) or at +1 866 742 4955.

## 7. When Will I Receive My Payment?

The timing of the distribution of the Monetary Benefit for Class Members depends on several matters, including the Court's final approval of the Settlement and any approval becoming final and no longer subject to any appeals in any court. An appeal of the Final Approval Order may take several years. If the Settlement is approved by the Court, and

there are no appeals, the Settlement distribution likely will occur within six months of the Court's Final Approval Order.

**There will be no payments under the Settlement if the Settlement Agreement is terminated.**

If you fail to cash or deposit distributed checks within 150 days from receipt, you will be barred from receiving any Monetary Benefit under the Settlement.

## **8. Can I Get Out Of The Settlement?**

No. The Class has been certified under Federal Rule of Civil Procedure 23(b)(1). Therefore, as a Class Member, you are bound by the Settlement (if it receives final Court approval) and any judgments or orders that are entered in the Class Action. If you wish to object to any part of the Settlement, you may write to counsel about why you object to the Settlement, as discussed below.

## **9. Do I Have a Lawyer in the Case?**

The Court has appointed the following law firms as Class Counsel in the Class Action:

MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN  
800 S Gay Street - Suite 1100 Knoxville, TN 37929  
T. 865-247-0080

JORDAN LEWIS, P.A.  
4473 N.E. 11th Avenue  
Fort Lauderdale, FL 33334  
T: (954) 616-8995

If you want to be represented by your own lawyer, you may hire one at your own expense.

## **10. How Will The Lawyers Be Paid?**

Class Counsel will file a motion for an award of attorneys' fees and expenses (including any payments to the Settlement Administrator or other settlement administration costs, as well as any litigation-related costs) to be paid out of the Settlement Fund at least 14 days prior to the objection deadline. Class Counsel will limit their application for attorneys' fees to not more than one-third of the Settlement Fund. Class Counsel also will

seek to recover all actual and anticipated litigation costs and administrative expenses associated with the Settlement, estimated to be \$52,500 (including \$20,000 to pay for a claims administrator, RG2 Claims Administration, to administer the payment of claims). In addition, Class Counsel will seek compensation for the Named Plaintiff of no more than \$15,000. The Court will determine the amount of fees, costs, administrative expenses, and the Named Plaintiff’s Incentive Award that will be awarded, if any. All papers filed in this action, including Class Counsel’s motion for attorney’s fees and costs, will be available via the Public Access to Court Electronic Records System (PACER), available online at <http://www.pacer.gov>. Class Members can also request copies of any of the filed papers by contacting Class Counsel.

**11. How Do I Tell The Court If I Don’t Like The Settlement?**

If you wish to object to any part of the Settlement, or to the requested attorney’s fees and costs, you must file your objection with the Court, postmarked by no later than forty-five (45) days after the mailing of this Notice. The objection must be sent by first class mail to the Clerk of the Court for the United States District Court for the Northern District of New York, at Alexander Pirnie Federal Building & U.S. Courthouse, 10 Broad St. Utica, NY 13501.

You must also mail or email your objection to Class Counsel and Defendant’s counsel (at the below addresses), through a timely written notice postmarked or sent via email no more than forty-five (45) days after the mailing of this Notice. Any objections not complying with these filing, notice, and timeliness requirements will be invalid.

Your written objection must be mailed no later than [DATE] to be considered.

CLASS COUNSEL	DEFENDANT’S COUNSEL
Randi A. Kassan (N.D.N.Y. Bar No. 517821) MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN 100 Garden City Plaza, Suite 500 Garden City, NY 11530 rkassan@milberg.com  Arthur M. Stock Ryan P. McMillan MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN 800 S Gay Street - Suite 1100 Knoxville, TN 37929 astock@milberg.com	Geoffrey M. Sigler Gibson, Dunn & Crutcher LLP 1700 M Street, N.W. Washington, DC 20036 gsigler@gibsondunn.com  Clare F Steinberg Gibson, Dunn & Crutcher LLP 1700 M Street, N.W. Washington, DC 20036 csteinberg@gibsondunn.com  James Alexander Tsouvalas Gibson, Dunn & Crutcher LLP

<p>rncmillan@milberg.com</p> <p>Jordan Lewis  JORDAN LEWIS, P.A.  4473 N.E. 11th Avenue  Fort Lauderdale, FL 33334  jordan@jml-lawfirm.com</p>	<p>333 South Grand Avenue LLP - Suite 5147a  Los Angeles, CA 90071  jtsouvalas@gibsondunn.com</p>
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## 12. When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold a Fairness Hearing at [TIME] on [DATE] at Courtroom XXX. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider the motion for attorneys' fees and costs. If there are objections, the Court will consider them then. The date and time of the Fairness Hearing are subject to change by Court Order.

## 13. Do I Have To Attend The Fairness Hearing?

No, but you are welcome to come at your own expense. You may also make an appearance through an attorney. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time, the Court will consider it.

## 14. May I Speak At The Fairness Hearing?

Yes. Any person wishing to speak at the Fairness Hearing shall file and serve a notice of intent to appear within the time limitation set forth above for objecting. You must also comply with the requirements for making an objection (set forth above) if you wish to object.

## 15. What Happens If I Do Nothing At All?

If you do nothing at all, and all conditions of the Settlement are met, you will receive your share of the Settlement. You will be bound by the Settlement of the Class Action as described above in this Settlement Notice if the Settlement is finally approved, whether or not you receive any money.

## 16. How Do I Get More Information?

If you have questions regarding the Settlement, you can call 1 866 742 4955 or write to the Settlement Administrator at P.O. Box 59479, Philadelphia, PA 19102-9479 or by email at [info@rg2claims.com](mailto:info@rg2claims.com). All papers filed in this lawsuit are also available via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, and may

be reviewed in person, as allowed by the Court, during regular business hours at the Alexander Pirnie Federal Bldg. and U.S. Courthouse, 10 Broad Street, Utica, NY 13501. Class Members can also request copies of any of the filed papers by contacting Class Counsel. Key settlement documents are also available at Plaintiffs' Counsel's website at [www.jml-lawfirm.com](http://www.jml-lawfirm.com).

# GIBSON DUNN

Geoffrey Sigler  
Partner  
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gsigler@gibsondunn.com

December XX, 2024

Client: 93570-00027

## VIA UPS OVERNIGHT

Merrick Garland  
Attorney General  
United States Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530-0001

Re: Notice Pursuant to 28 U.S.C. § 1715 of Proposed Class Action Settlement

Dear Attorney General Garland:

I write to you on behalf of United Behavioral Health (“UBH”), defendant in the certified class action *R.B. v. United Behavioral Health* that is currently pending in the United States District Court, Northern District of New York (Civil Action No. 1:21-cv-00553-DNH-CFH), before the Honorable David N. Hurd. Pursuant to the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1715, UBH is notifying you of a proposed settlement of the class action.

The following is a brief description of the litigation covered by the proposed settlement, which is described in greater detail in the enclosures. Plaintiff in this action asserts a federal claim for benefits due under the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. § 1001, *et seq.*, challenging UBH’s denial of coverage for his son’s stay at a residential treatment center offering experimental and unproven services to treat mental health and substance abuse disorders. Plaintiff alleges that UBH should have covered portions of the services his son received at the residential treatment center that were not experimental or unproven, and that UBH’s failure to do so violated the Parity Act, 29 U.S.C. § 1185a. UBH denies all of Plaintiff’s allegations and claims, but has agreed to settle the action to avoid the risks inherent in further litigation. The settlement covers all persons covered under ERISA-governed health care plans, administered or insured by UBH, whose requests for coverage for mental health and substance abuse treatment services received at a residential treatment or wilderness program were denied, based in whole or in part, on a determination that the treatment or a component of the treatment is experimental, investigational, or unproven. Because the class was certified under Rule 23(b)(1) of the Federal Rules of Civil Procedure, class members possess no right to request exclusion from the class. The class definition, and additional information about the scope of the litigation, settlement, relief to class members, and the scope of their release are described in greater detail in the enclosures. *See, e.g.*, Dkt. 1 at 7–8, ¶¶ 27–29; Dkt. 97 at 5, 12–13; Class Settlement Agreement & Release §1.3, §1.17; §1.18; §8.2.

# GIBSON DUNN

Merrick Garland  
United States Department of Justice

December XX, 2024  
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## Notice and Enclosed Copies of Settlement Materials

Pursuant to 28 U.S.C. § 1715(b), enclosed please find a disk containing the following materials (in Adobe Acrobat (.pdf.) format) relating to the proposed settlement, many or all of which are also available through the Internet on the Court's PACER web site (<https://ecf.nynd.uscourts.gov/cgi-bin/iquery.pl>):

- (1) the settlement agreement between the parties, including the proposed class member notices and other exhibits;
- (2) the motion for preliminary approval filed by the parties with the Court on December 18, 2024, as well as the proposed preliminary approval order; and
- (3) the complaint, as well as the Court's class certification ruling.

## Other Agreements

Pursuant to 28 U.S.C. § 1715(b)(5), there are no settlements or other agreements contemporaneously made between class counsel and counsel for UBH relating to the actions and class covered by the settlement agreement, other than the settlement agreement and related exhibits and filings on the enclosed disk.

## Hearing Dates

The parties filed their motion for preliminary approval on December 18, 2024. The Court has/has not set a hearing for that motion on \_\_\_\_\_. Objections and other filings related to the settlement will be due by deadlines to be set by the Court. The Court also has/has not set a fairness/final approval hearing on the settlement on \_\_\_\_\_. In the event the Court reschedules any of these deadlines or hearings, you may find this information by visiting the PACER online docket for the action at <https://ecf.nynd.uscourts.gov/cgi-bin/iquery.pl>.

If you have any questions regarding these materials, please do not hesitate to contact me by phone at (202) 887-3752 or by email at [gsigler@gibsondunn.com](mailto:gsigler@gibsondunn.com). You can also contact my colleague Clare Steinberg by phone at (202)-955-8623 or by email at [csteinberg@gibsondunn.com](mailto:csteinberg@gibsondunn.com).

# GIBSON DUNN

Merrick Garland  
United States Department of Justice

December XX, 2024  
Page 3

Sincerely,

Geoffrey Sigler  
Partner

Enclosures

cc: Clare Steinberg  
James Tsouvalas



# GIBSON DUNN

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December XX, 2024

Client: 93570-00027

VIA UPS OVERNIGHT

[Recipient Information]

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# GIBSON DUNN

[Recipient Information]

December XX 2024  
Page 2

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## Hearing Dates

The parties filed their motion for preliminary approval on December 18, 2024. The Court has/has not set a hearing for that motion on [REDACTED]. Objections and other filings related to the settlement will be due by deadlines to be set by the Court. The Court also has/has not set a fairness/final approval hearing on the settlement on [REDACTED]. In the event the Court reschedules any of these deadlines or hearings, you may find this information by visiting the PACER online docket for the action at <https://ecf.nynd.uscourts.gov/cgi-bin/iquery.pl>.

## Estimated Class Information

Pursuant to 28 U.S.C. § 1715(b)(7)(A), it is not feasible to provide the names of class members who reside in your State or Territory. Instead, pursuant to 28 U.S.C. § 1715(b)(7)(B), UBH is providing a reasonable estimate, based on currently available and readily accessible information, of the number of class members in the class residing in your State or Territory and the estimated proportionate share of the claims of such members to the entire settlement.

UBH's estimates for each State or Territory are based on claim and preauthorization request data that UBH produced to plaintiff's counsel, subject to a protective order in the litigation. Based on this data, UBH's estimates for your State or Territory are as follows:

- Estimated number of class members in your State: [REDACTED]
- Estimated proportionate share of claims, based on the estimated number of class members in your State divided by the total estimated number of class members nationwide: [REDACTED]

If you have any questions regarding these materials, please do not hesitate to contact me by phone at (202) 887-3752 or by email at [gsigler@gibsondunn.com](mailto:gsigler@gibsondunn.com). You can also contact my colleague Clare Steinberg by phone at (202)-955-8623 or by email at [csteinberg@gibsondunn.com](mailto:csteinberg@gibsondunn.com).

# GIBSON DUNN

[Recipient Information]

December XX 2024  
Page 3

Sincerely,

Geoffrey Sigler  
Partner

Enclosures

cc: Clare Steinberg  
James Tsouvalas

**B**

## EXHIBIT B TO SETTLEMENT AGREEMENT

*R.B. v. United Behavioral Health*, Civ. No. 1:21-cv-00553-DNH-CFH

### PLAN OF ALLOCATION

- A. Objective: The goal of this anticipated Plan of Allocation is to distribute the Settlement Fund to all Class Members, after payment of any attorneys' fees and expenses to Class Counsel, any Incentive Award to the Named Plaintiff, and any settlement administration expenses and costs.
- B. Definitions
1. Terms used in the Plan of Allocation have the same meaning as set forth in the Settlement Agreement unless defined differently below.
- C. The anticipated Plan of Allocation is contingent on the final approved amount of any attorneys' fees and expenses to Class Counsel, any Incentive Award to the Named Plaintiff, and any settlement administration expenses and costs (including any payments to the Settlement Administrator).
- D. The anticipated Plan of Allocation is subject to modification by written agreement of the Parties.
- E. Determination of Monetary Benefit to Class Members
1. Counsel for UBH will provide the Settlement Administrator with the Class List, as defined in the Settlement Agreement, with additional information, including the names of Class Members and their addresses, and the Settlement Tier, defined below, for each Class Member.
  2. In order to be eligible for certain Monetary Benefits under this Agreement, the Class Member shall cooperate with the Settlement Administrator in providing such other and further information as may be reasonably necessary. Failure to cooperate with the Settlement Administrator in a timely manner shall be a sufficient basis for denial of the claim, in whole or in part.
  3. There are three different "Settlement Tiers" for purposes of Monetary Benefit allocation. Class Members will be identified by settlement tier in the Class List. The three tiers are:
    - a. Class Members who sought coverage for treatment received at a wilderness therapy program ("Wilderness Tier");
    - b. Class Members who sought coverage for treatment received at a non-wilderness residential treatment program whose requests were denied for multiple distinct reasons ("Multiple Tier"); and

- c. Class Members who sought coverage for treatment received at a non-wilderness residential treatment program whose requests for coverage were only denied because of experimental/unproven/investigatory treatment components (“Experimental Tier”).

Counsel for Plaintiff and Defendant have reviewed the files of UBH and have determined that 295 Class Members are in the Wilderness Tier, 46 Class Members are in the Multiple Tier, and 8 Class members are in the Experimental Tier.

4. A Monetary Benefit will be allocated to each Class Member for which there is any valid claim by Settlement Tier, as set forth below. The estimated amount of Monetary Benefit set forth below is based on Counsel’s best estimate of what the Monetary Benefits will be for each Settlement Tier based on available information and the Plan of Allocation negotiated between the Parties as part of the Settlement. The precise dollar amounts ultimately Class Members will receive could vary substantially from these estimates, and will depend on the amounts the Court awards for Attorney fees, costs, and any Incentive Award for the Named Plaintiff, and the extent to which Class Members can be located by the Settlement Administrator, among other factors.
  - a. The Parties’ best estimate is that Class Members in the Wilderness Tier will receive a Monetary Benefit of approximately \$950.
  - b. The Parties’ best estimate is that Class Members in the Residential Multiple Denial Reasons Tier will receive a Monetary Benefit of approximately \$9,500.
  - c. The Parties’ best estimate is that Class Members in the Residential Experimental Denial Tier will receive a Monetary Benefit of approximately \$19,000.
5. Each Class Member shall receive one payment per valid wilderness or residential treatment program or course of treatment for which they sought reimbursement from UBH.
6. All decisions by the Settlement Administrator as to whether a Class Member qualifies for Monetary Benefits and the amount of Monetary Benefits due shall be final.

#### F. Payment Process

1. The Settlement Administrator will maintain a complete and accurate record of all payments or anticipated payments to Class members, using the redacted patient numbers for each Class member provided by counsel for UBH. At least seven days prior to the filing of a motion for final approval, the Settlement Administrator will provide UBH’s counsel with a copy of the schedule of anticipated payments as it exists at that point in time. An updated copy of this report will also be provided to UBH and its counsel upon completion of all payments under this Settlement.

2. The Settlement Administrator will distribute checks to the Class Members in the amounts set forth in the anticipated Plan of Allocation, as modified and approved by the Court after final approval of the Settlement. Failure by Class Members to cash or deposit distributed checks within 150 days from receipt shall result in permanent waiver of all remedies and release of rights. All funds from uncashed checks will revert to the Settlement Fund.

G. Pro Rata Payments:

1. Following completion of the distribution process and the payment of other amounts expressly provided for herein from the Settlement Fund, if there is a sufficient balance remaining in the Settlement Fund, the Settlement Administrator shall determine *pro rata* payments for each Class Member with valid claims who had cashed the first check that they received.
2. These pro rata payments shall be consistent with the Monetary Benefit allocation set forth above (*i.e.*, the determinations will be based on which Settlement Tier the Class Member is a member of). If more than 40% of the disbursed checks are not cashed or deposited, the parties will meet and confer regarding caps for the *pro rata* payments.
3. The Settlement Administrator may exercise reasonable judgment to resolve questions concerning the allocation of the Settlement Fund and any *pro rata* payments. The Settlement Administrator may consult with Class Counsel concerning this Plan of Allocation to address such questions as they arise. Costs of the *pro rata* distribution shall be paid from the remaining Settlement Fund.
4. Following completion of the distribution process and the payment of other amounts from the Settlement Fund (including *pro rata* payments), if there is any balance remaining in the Settlement Fund, the balance will be placed into a *Cy Pres* Fund. The parties will negotiate to reach agreement regarding a mental health organization recipient of any *Cy Pres* Fund amounts.