STATE OF NEW YORK : DEPARTMENT OF HEALTH

IN THE MATTER

OF

JAMES V. MCDONALD, M.D., M.P.H., as Acting Commissioner of Health of the State of New York, to determine the action to be taken with respect to:

VNS CHOICE,

Respondent,

Doing business as:

VNSNY Choice
220 East 42nd Street, 3rd Floor
New York, New York 10017

arising out of alleged violations of Article 44 of the Public Health Law of the State of New York and Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York

STIPULATION

AND

ORDER

MC-23-003

WHEREAS, the New York State Department of Health (the "Department") conducted focused Mental Health Parity and Addiction Equity Act (MHPAEA; 29 U.S.C. §1185a) testing surveys of VNS Choice ("Respondent"), doing business as VNSNY Choice on August 22, 2018 through September 8, 2020, and on March 11, 2020 through November 30, 2020; and

WHEREAS, the Department's surveys resulted in findings of alleged violations of Article 44 of the Public Health Law ("PHL") and Part 98 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR), identified in Statements of Deficiencies that are attached hereto as Attachment A and Attachment B; and

WHEREAS, prior to commencement of administrative enforcement action based upon the alleged violations by service of a Notice of Hearing and Statement of Charges, the Department and the Respondent engaged in settlement discussions wherein Respondent agreed to a Corrective Action Plan; and

WHEREAS, the parties wish to resolve this matter by means of a settlement instead of an adversarial administrative hearing.

NOW, THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. The violations of Article 44 of the Public Health Law and 10 NYCRR Part 98 alleged in the aforementioned Statements of Deficiencies (Attachments A and B), are settled and discontinued with prejudice upon the terms and conditions set forth in this Stipulation and Order.

2. The Respondent, for the purpose of resolving this administrative matter only, admits to the violations of 10 NYCRR Part 98 and Public Health Law Article 44 alleged in Attachments A and B which do not provide that Respondent engaged in discriminatory practices, only that Respondent failed to provide adequate comparability and stringency documentation.

3. Pursuant to Public Health Law §§ 12(1)(a) and 206, the Respondent is assessed a civil penalty of One Hundred Ninety-Four Thousand Dollars ($194,000) and shall pay the entire amount of that sum within fifteen (15) days of the effective date of this Stipulation and Order.

4. Payment shall be sent by certified mail and shall be made payable to the New York State Department of Health, Bureau of Accounts Management, Corning

Tower, Room 2748, Empire State Plaza, Albany, New York 12237-0016.

5. Any civil penalty not paid in accordance with this Stipulation and Order shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection and non-renewal of permits or licenses [Tax Law §171(27); State Finance Law §18; CPLR §5001; Executive Law §32].

6. It is further stipulated and agreed by the Respondent and the Department that there exist valid and sufficient grounds as a matter of fact and law for the issuance of this Stipulation and Order under the Public Health Law and the Respondent consents to its issuance, accepts its terms and conditions and waives any right to challenge or review this Stipulation and Order through administrative or judicial proceedings, including a proceeding pursuant to Article 78 of the Civil Practice Law and Rules.

7. The foregoing admissions made by the Respondent in this Stipulation and Order are solely for the purpose of resolving the instant administrative matter and are not intended for use in any other forum, tribunal or court outside the Department, including any civil or criminal proceedings in which the issues or the burden of proof may differ. In addition, any such admissions are without prejudice to the Respondent's rights, defenses and claims in any other matter, proceeding, action, hearing or litigation not involving the Department.

8. This Stipulation and Order shall be effective upon service on Respondent or Respondent's attorney or representative of a copy by personal service or by certified or registered mail.

DATED: ___, New York
2, 1 , 2023

VNS CHOICE

BY: _____

Print Name: Hany Abdelaal

AGREED AND SO ORDERED:

DATED: Albany, New York
6 February , 2023

New York State Department of Health

BY: _____
JAMES V. MCDONALD, M.D., M.P.H.
Acting Commissioner of Health

Mail Stipulation and Order To:

Mark Fleischer, Director
Bureau of Administrative Hearings
Corning Tower, Room 2412
Empire State Plaza
Albany, New York, 12237-0016

Mail Payment To:

New York State Department of Health
Bureau of Accounts Management
Corning Tower, Room 2784
Empire State Plaza
Albany, New York 12237-0016