

**HAWAII HEALTH SYSTEMS CORPORATION
PHYSICIAN PROFESSIONAL CLINICAL SERVICES AGREEMENT**

Insert Contract Number

This PHYSICIAN PROFESSIONAL CLINICAL SERVICES AGREEMENT (hereinafter “Agreement”) is made by and between Hilo Medical Center, a division of Hawaii Health Systems Corporation, a public body corporate and politic and an instrumentality and agency of the State of Hawaii (hereinafter “HOSPITAL” or “HHSC”), and **Insert Name of Physician** (hereinafter “PHYSICIAN”), , whose business address is as follows:

PHYSICIAN’s Business Address: **Insert Street Address**
Insert City, Insert State Insert Zip Code

RECITALS

WHEREAS:

- A. HOSPITAL operates the following health care facilities (collectively “Facilities”) at which PHYSICIAN will be providing or may be expected to provide professional services under this Agreement:
- Acute Care Hospital(s)
 - Critical Access Hospital(s) (hereinafter “CAH”)
 - Outpatient Clinic(s)
 - Skilled Nursing Facility (SNF)
 - Long Term Care (LTC)
- B. In light of the COVID-19 pandemic and federal and state emergency proclamations and the need to augment HOSPITAL’s existing Medical Staff with willing and able physicians pursuant to HOSPITAL’s emergency operations plan, HOSPITAL desires to contract with PHYSICIAN to provide general and/or specialty medical services in the area of **Insert Physician’s Specialty** (collectively, “Medical Services”) at the Facilities.
- C. PHYSICIAN is duly licensed to practice medicine in the State of Hawaii (hereinafter “State”) or otherwise eligible for Disaster Privileges under HOSPITAL’s bylaws, is qualified to provide Medical Services, and desires to perform the Medical Services under the proposed arrangement with the HOSPITAL.

NOW, THEREFORE, in consideration of the recitals above and the mutual covenants and conditions contained herein, HOSPITAL and the PHYSICIAN agree as follows:

1. Scope of Service. PHYSICIAN shall, in a proper and satisfactory manner as determined by HOSPITAL, provide all the Services set forth in ATTACHMENT 1, which is attached hereto and hereby made a part of this Agreement.
2. Time of Performance. The performance required of PHYSICIAN under this Agreement shall be executed in accordance with the time period set forth in ATTACHMENT 2, which is attached hereto and hereby made a part of this Agreement.
3. Compensation. PHYSICIAN shall be compensated for services performed under this Agreement in accordance with the Compensation schedule set forth in ATTACHMENT 3, which is attached hereto and hereby made a part of this Agreement.
4. Standards of Conduct Declaration. The Standards of Conduct Declaration of the PHYSICIAN is attached hereto and hereby made a part of this Agreement.
5. Other Terms and Conditions. The General Conditions for Purchase of Goods and Services from Healthcare Service Providers, version 7/16, available on-line at the HHSC internet site, www.hhsc.org/GC-HSP, are incorporated herein as if set out fully in this Agreement; any Special Conditions are attached hereto and hereby made a part of this Agreement. In the event of a conflict between the General Conditions and the Special Conditions, the Special Conditions shall control.
6. Notices. Any written notice required to be given by any party to this Agreement shall be (a) delivered personally, or (b) sent by United States first-class mail, postage prepaid. Notice required to be given to the HOSPITAL or the HHSC shall be sent to:

- 1) Regional CEO, East Hawaii Region
1190- Waianuenu Ave
Hilo, Hawaii 96720
- 2) General Counsel
Hawaii Health Systems Corporation
3675 Kilauea Avenue
Honolulu, Hawaii 96816

Notice to the PHYSICIAN shall be sent to the PHYSICIAN's address as indicated above in this Agreement. The PHYSICIAN is responsible for notifying HOSPITAL in writing of any change of address.

A notice shall be deemed to have been received three (3) days after mailing or at the time of actual receipt, whichever is earlier.

7. Technical Representative. The Technical Representative shall have the right to oversee the successful completion of contract requirements, including monitoring, coordinating and assessing PHYSICIAN's performance; and approving completed work/services with verification of same for PHYSICIAN's invoices. The Technical Representative also serves as the point of contact for the PHYSICIAN for "Technical" matters (non-contractual) from award to contract completion. The Technical Representative is:

Name and Title of Technical Representative: Kathleen Katt MD
Chief Medical Officer

Address of Technical Representative: 1190 Waianuenu Ave
Hilo, Hawaii 96720

8. Not-to-Exceed Amount of the Agreement. The total sum of money HOSPITAL is administratively authorized to expend under this Agreement, including all applicable taxes and expenses incurred, is ONE HUNDRED THOUSAND and NO/100 DOLLARS (\$100,000.00 subject to appropriation.

IN VIEW OF THE ABOVE, the parties execute this Agreement by their signatures, on the dates below.

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY.

EXECUTIONS APPEAR ON THE FOLLOWING PAGES.]

**HAWAII HEALTH SYSTEMS CORPORATION
PHYSICIAN PROFESSIONAL CLINICAL SERVICES AGREEMENT**

HOSPITAL/HHSC

Signature: _____

Dan Brinkman

East Hawaii Region Chief Executive Officer

Date _____

CERTIFICATE OF EXEMPTION FROM CIVIL SERVICE

I certify that the Services to be provided under this Agreement by the PHYSICIAN may be performed concurrently with the PHYSICIAN's private business or profession or other private employment, and that it is impracticable to ascertain or anticipate the portion of time to be devoted to the service of the State or HHSC. Pursuant to section 76-16(15), Hawaii Revised Statutes, the Services are exempt from the State civil service.

_____ Date _____

By: Dan Brinkman
East Hawaii Region Chief Executive Officer

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY.]

**HAWAII HEALTH SYSTEMS CORPORATION
PHYSICIAN PROFESSIONAL CLINICAL SERVICES AGREEMENT**

I hereby represent and warrant that I have the legal right and authority to execute this Agreement on behalf of the PHYSICIAN above named.

I further confirm that I have reviewed the General Conditions for Purchase of Goods and Services from Healthcare Service Providers, version 7/16, available on-line at the HHSC internet site, www.hhsc.org/GC-HSP, which are incorporated herein as if set out fully in this Agreement.

PHYSICIAN/CONTRACTOR

Signature: _____

Insert Name and Title of Physician (e.g. M.D.)

Insert Title

Date: _____

[THE REMAINDER OF THIS PAGE IS LEFT BLANK INTENTIONALLY.]

STANDARDS OF CONDUCT DECLARATION

For the purposes of this declaration:

"Controlling interest" means an interest in a business or other undertaking which is sufficient in fact to control, whether the interest is greater or less than fifty percent (50%).

"Employee" means any nominated, appointed, or elected officer or employee of the State or HHSC, including members of boards, commissions, and committees, and employees under Agreement to the State or HHSC or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices, and judges.

On behalf of Physician name, CONTRACTOR, the undersigned does declare, under penalty of perjury, as follows:

1. CONTRACTOR** IS or IS NOT a legislator or an employee or a business in which a legislator or an employee has a controlling interest (Section 84-15(a), HRS).
2. CONTRACTOR has not been assisted or represented personally in the matter by an individual who has been an employee of HHSC within the preceding two years and who participated while so employed in the matter with which the Agreement is directly concerned. (Section 84-15(b), HRS).
3. CONTRACTOR has not been assisted or represented by a legislator or employee for a fee or other compensation to obtain this Agreement and will not be assisted or represented by a legislator or employee for a fee or other compensation in the performance of this Agreement, if the legislator or employee had been involved in the development or award of the Agreement. (Section 84-14(d), HRS).
4. CONTRACTOR has not been represented on matters related to this Agreement, for a fee or other consideration by an individual who, within the past twelve (12) months, served as an HHSC employee or in the case of the Legislature, a legislator, and participated while an employee or legislator on matters related to this Agreement (HRS 84-18(b) and (c), HRS).

CONTRACTOR understands that the Agreement to which this document is attached is voidable on behalf of the State or HHSC if this Agreement was entered into in violation of any provision of chapter 84, Hawaii Revised Statutes, commonly referred to as the Code of Ethics, including the provisions which are the source of the declarations above. Additionally, any fee, compensation, gift, or profit received by any person as a result of a violation of the Code of Ethics may be recovered by the State or HHSC.

CONTRACTOR

By: _____

Print Name: _____

Print Title: _____

Date: _____

Name of CONTRACTOR: _____

ATTACHMENT 1

SCOPE OF SERVICES

I. PHYSICIAN'S OBLIGATIONS

- A. Licensure and Qualifications.** Throughout the term of this Agreement PHYSICIAN shall maintain:

Temporary Disaster Privileges and credentials necessary for PHYSICIAN to practice the Medical Services at Hilo Medical Center and such other HHSC East Hawaii Region Facilities as HOSPITAL and PHYSICIAN may agree to during the term of this agreement. Other East Hawaii Region facilities include Ka'u Hospital and Hale Ho'ola Hamakua Critical Access Hospitals.

- B. General Performance, Time Commitment, and Administrative Coordination.** PHYSICIAN shall discharge his or her duties conscientiously, diligently, in good faith, and to the best of PHYSICIAN's ability, experience and talents. PHYSICIAN shall devote sufficient time and effort to the proper performance of PHYSICIAN's duties and responsibilities under this Agreement. PHYSICIAN shall maintain records as the HOSPITAL deems necessary or appropriate to document the time spent in discharging his or her duties.

- C. Services.** While this Agreement is in effect, PHYSICIAN shall provide Medical Services at the Facilities designated by HOSPITAL from time to time.

- D. Coverage.** While this Agreement is in effect, PHYSICIAN shall devote appropriate and adequate time and attention to the Facility or Facilities to which PHYSICIAN is assigned, taking into consideration the needs and demands of the Facilities; notwithstanding,

- E. Absences.** [Intentionally deleted.]

- F. On-Call Coverage.** [Intentionally deleted.]

- G. Records and Reports.** PHYSICIAN shall provide or cause to be provided to HOSPITAL all records and reports requested by HOSPITAL. PHYSICIAN shall also promptly submit to the medical records administrator all applicable Facilities' medical records and/or the patient's private physician written reports of all examinations, treatments and procedures performed pursuant to this Agreement. PHYSICIAN agrees that all records and reports required by this Section shall be the exclusive personal property of the Facilities.

- H. Use of Premises.** PHYSICIAN shall not use or knowingly permit any other person who is under his direction to use, any part of Facilities' premises for any

purpose other than the performance of medical services for Facilities, Facilities' patients and their private physicians (if applicable) pursuant to this Agreement. This Agreement shall not constitute a lease or rental of any portion of the Facility, but shall constitute merely a license to use the Facility for the purposes set forth herein.

II. HOSPITAL'S DUTIES

- A. Equipment, Facilities, Supplies, Utilities and Services.** HOSPITAL shall, at no cost to PHYSICIAN, provide, on a non-exclusive basis, all equipment, facilities, supplies, utilities, including telephone service, and other services, as the HOSPITAL shall, in its sole discretion, after consultation with PHYSICIAN, determine from time to time to be necessary for the proper operation of the Medical Services at HOSPITAL's Facilities. The parties expressly agree that all items supplied by HOSPITAL pursuant to this provision shall remain the exclusive personal property of HOSPITAL.
- B. Personnel.** HOSPITAL shall employ such non-physician personnel as HOSPITAL deems necessary for the proper operation of the HOSPITAL.

C. GENERAL PROVISIONS

1. Records and Intellectual Property.

- a. All books, records, lists, charts, forms, correspondence, papers, writings, and other typed or printed documents, videos, films, and recordings, whether furnished by HOSPITAL or prepared by PHYSICIAN which contain any information relating to HOSPITAL and its business, activities, or existing or prospective customers or clients (collectively, "Materials") are and shall remain the exclusive property of HOSPITAL. PHYSICIAN shall neither make nor retain any copies of such Materials without the prior written consent of HOSPITAL. PHYSICIAN shall have no interest or right in or to any Materials.
- b. Any document or discovery, invention or development produced in whole or in part under this Agreement shall be the exclusive property of HOSPITAL and shall not be the subject of an application for copyright or patent by or on behalf of PHYSICIAN.
- c. If and to the extent that Section 1861(v)(1)(I) of the Social Security Act applies to this Agreement, then PHYSICIAN shall keep, maintain and make available the appropriate records to the persons authorized under the statute.

2. Further Acts.

Each party shall perform any further acts and execute and

deliver any further documents that may be reasonably necessary or otherwise reasonably required to implement the provisions of this Agreement. Without limiting the generality of that statement, PHYSICIAN shall sign such document relating to the privacy of medical records under HIPAA that HOSPITAL reasonably requests.

3. **No Assignment or Delegation.** Neither this Agreement nor any of the rights or duties under this Agreement may be assigned or delegated by PHYSICIAN, and any purported assignment shall be void.
4. **Billing and Collections.**
 - a. **HOSPITAL Billing.** HOSPITAL shall bill and collect all fees for the Services rendered pursuant to this Agreement and PHYSICIAN agrees that he or she shall not take any actions whatsoever to bill (or cause to be billed) any patient, other individual, or entity for any such services and agrees to accept only such compensation as is set forth in this Agreement as payment in full for all Services rendered in accordance with the terms of this Agreement. PHYSICIAN further agrees to provide HOSPITAL with documentation in a manner satisfactory to HOSPITAL regarding all professional Services rendered by PHYSICIAN for HOSPITAL patients and further agrees to cooperate with HOSPITAL to ensure the prompt billing of all patients for all services rendered.
 - b. **Assignment of Professional Fees.** PHYSICIAN hereby assigns to HOSPITAL all amounts directly or indirectly payable as a result of Services provided by PHYSICIAN under the terms of this Agreement and during the term of this Agreement, including, by way of example and not by way of limitation, amounts paid by patients, by any insurance company, pursuant to any workers' compensation program, by employers or employer plans and amounts paid by any other third party payor. HOSPITAL shall provide billing and collection services pursuant to its usual policies and procedures, and shall not be required to take any extraordinary action in this regard, including litigation. With respect to any claims submitted to the Medicare program with respect to services provided by PHYSICIAN hereunder, PHYSICIAN and HOSPITAL agree that applicable Medicare regulations (42 CFR 424.80) provide as follows:
 - “(d) *Reassignment to an entity under a contractual arrangement: Conditions and limitations.*
 - (1) *Liability of the parties.* An entity enrolled in the Medicare program that receives payment under a contractual arrangement under paragraph (b)(2) of this section and the supplier that otherwise receives payment

are jointly and severally responsible for any Medicare overpayment to that entity.

(2) *Access to records.* The supplier furnishing the service has unrestricted access to claims submitted by an entity for services provided by that supplier.”

ATTACHMENT 2

TIME OF PERFORMANCE

1. PHYSICIAN shall provide the services required under this Agreement from **Insert Start Date**, to and including **Insert End Date**, unless sooner terminated or extended as provided.

2. This Agreement:

May not be extended; or

May be extended for one (1) additional term(s) of one (1) year(s), subject to appropriation, and upon mutual agreement in writing.

3. The HOSPITAL may, at any time, terminate this Agreement upon the death or permanent disability of PHYSICIAN, the loss or suspension of PHYSICIAN's license to practice medicine, or the loss or suspension of PHYSICIAN's Medical Staff membership or clinical privileges. If PHYSICIAN is unable to perform PHYSICIAN's functions under this Agreement for a period in excess of 30 consecutive days, or 45 days in the aggregate over any three-month period, PHYSICIAN shall be considered to be permanently disabled for the purposes of this Section.

4. The HOSPITAL may, at any time, terminate this Agreement upon PHYSICIAN's commission of any illegal act, including but not limited to fraud or misrepresentation, detrimental to the business or reputation of HOSPITAL.

COMPENSATION

In full consideration for the services to be performed by the PHYSICIAN under this Agreement, the HOSPITAL agrees, subject to appropriation, to pay to the PHYSICIAN the following compensation, inclusive of all applicable taxes and expenses incurred, in accordance with and subject to the following:

A. **Compensation Rate.** HOSPITAL agrees to pay PHYSICIAN for services satisfactorily performed during this Agreement, compensation at the rate of :

Hourly Rate for In-Hospital Medical Services: ONE HUNDRED AND NO/100 DOLLARS (\$100.00) per hour, payable monthly, as provided herein.

Hourly Rate for Outpatient Medical Services: FIFTY AND NO/100 DOLLARS (\$50.00) per hour, payable monthly, as provided herein.

B. **Payment; Required Documentation.** Each installment or payment shall be paid in arrears, subject to the prior receipt of the following written documentation:

- The dates(s) of the service(s) performed;
- Start and stop times specifying type of service being provided (inpatient or outpatient)Thirty
- A description of the tasks performed with such detail as the HOSPITAL's Administrator may reasonably request; and
- Signed and dated by PHYSICIAN

PHYSICIAN's invoice is due by the tenth (10th) day of the month immediately following the month in which the Services are provided or the reimbursable cost is incurred. The HOSPITAL shall pay sums due no later than Thirty (30) days after receipt of PHYSICIAN'S invoice.

SPECIAL CONDITION

1. Paragraph 16, **INSURANCE**, of the General Conditions, is hereby deleted in its entirety and replaced with the following:

“16. During the term of this Agreement, and upon termination or expiration of this Agreement, HOSPITAL shall maintain, at its expense, professional liability insurance coverage written on a claims made basis, with limits of \$1,000,000 each common cause/aggregate for PHYSICIAN and shall pay all premiums and deductibles under such policy or policies; provided however that if PHYSICIAN has current professional liability coverage in effect at any time during the term of this Agreement that provides coverage for claims arising out of PHYSICIAN’s work under this Agreement, such coverage shall be primary, and HOSPITAL’s insurance shall be excess thereto. PHYSICIAN’s coverage under the policy or policies maintained by HOSPITAL shall be limited to claims that both (a) arise out of PHYSICIAN’s duties and responsibilities under this Agreement and (b) are asserted from incidents occurring during the term of this Agreement, and will not cover claims asserted from incidents occurring before the Start Date or after termination of this Agreement or from any activities undertaken by PHYSICIAN outside the scope of this Agreement or other terms and conditions of the Agreement. Nothing in this paragraph affects PHYSICIAN’s responsibility to maintain professional liability insurance coverage for services provided pursuant to any other Agreement(s) between PHYSICIAN and HOSPITAL, if any.”

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]