

California Contracted Medical Staff Services Agreement

This Staff Services Agreement (this "Agreement") is made by and between the State of California, as represented by the California Emergency Medical Services Authority (hereinafter the "State"), and _____ :
(hereinafter "Facility").

WHEREAS, California is facing a pandemic arising from the spread of the novel coronavirus (COVID-19), including a surge in the number of people who are infected and have COVID-19 (the "Pandemic");

WHEREAS, in response to the Pandemic, the Governor issued a Proclamation of State of Emergency dated March 4, 2020 and Executive Order (EO) N-25 dated March 12, 2020 (collectively, and as may be further expanded from time to time, the "Emergency Declaration and Executive Order");

WHEREAS, all agencies of the state government are required to perform all activities consistent with the direction of the State, pursuant to the Emergency Declaration and Executive Order;

WHEREAS, certain facilities are experiencing a surge in patients or staffing shortages as a result of the Pandemic;

WHEREAS, maximizing the number of qualified healthcare workers in service in California is imperative to ensure that Californians impacted by COVID-19 can access care;

WHEREAS, the State, in accordance with the Emergency Declaration and Executive Order, has established contracts with private staffing agencies to provide medical staffing resources to ensure adequate staff for treatment sites experiencing staffing impacts due to the Pandemic;

WHEREAS, the Facility, as a result of the Pandemic, requires additional healthcare workers and desires to use to use direct patient care medical staff registered with the State's contracted staffing agencies (hereinafter "contracted medical staff") to meet the needs of the Facility's patients;

WHEREAS, the State and the Facility desire to set forth in writing the terms and conditions of their agreements and understandings;

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises herein contained, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed as follows:

1. TERM OF AGREEMENT AND TERMINATION

This Agreement shall be in effect until the Governor declares an end to the State of Emergency declared on March 4, 2020, unless terminated earlier pursuant to the terms delineated in this Agreement.

2. DUTIES OF STATE

The State shall:

- a. Assign contracted medical staff on a temporary basis to the Facility for the purposes of addressing shortages of Facility nursing staff resulting from the COVID-19 pandemic.
 - i. Assignments shall be based on the availability contracted medical staff and shall be made in the sole discretion of the State, subject to acceptance by the Facility,
- b. Confirm that contracted medical staff possess current, valid and unrestricted licenses or certification as applicable,
- c.
 - i. The State will not otherwise evaluate medical care staff competency or provide scope of practice training. Maintain responsibility for the payment of contracted medical staff wages, and other compensation, and for any mandatory withholdings and contributions.

3. DUTIES OF FACILITY

The Facility shall:

- a. Supervise assigned contracted medical staff performing the Facility's work in accordance with the Facility's policies and, procedures,
- b. Provide contracted medical staff with an orientation to the Facility's policies and procedures necessary for contracted medical staff to meet the Facility's expectations,
- c. Retain responsibility for management of care of the Facility's patients and for ensuring that services provided by the Facility, including services by contracted medical staff, are furnished in accordance with applicable standards,
- d. Furnish, at the cost of the Facility, such equipment, supplies, drugs and other items necessary for contracted medical staff to perform the services provided under this Agreement,
- e. Furnish, at the cost of the Facility, personal protective equipment required to perform contracted medical staff services under this Agreement,

- f. Notify the State within 24 hours, in writing, of any:
 - i. unexpected incidents, errors and sentinel events that involve contracted medical staff;
 - ii. any occupational safety hazards or events that involve contracted medical staff; or
 - iii. unsatisfactory job performance by contracted medical staff due to incompetence, negligence, or misconduct; or
Any complaint or claim raised by or against contracted medical staff related to harassment, discrimination and/or relation under applicable state or federal laws.
- g. Track and report to the State, in accordance with such written instructions as may be provided by the State, the hours worked by contracted medical staff, including any overtime or State holidays worked; and
- h. Comply with any rules, regulations and any other policies and procedures covering the Facility, pursuant to both state and federal law, including, but not limited to, laws concerning hours of work and regular breaks for contracted medical staff, equal employment opportunity laws, including Title VII, the Fair Employment and Housing Act, and the California Labor Code.

4. REIMBURSEMENT

- a. In consideration for the services provided to the Facility under this Agreement, the Facility shall reimburse the State based on the applicable Hourly Rate set forth in Attachment A.
- b. The amounts paid under this Agreement will be the Hourly Rate multiplied by the number of contracted medical staff hours worked and reported by the Facility to the State. In addition, costs for overtime or holiday hours will be charged as applicable.
- c. The State will submit invoices to the Facility at the rates set forth in Attachment A on a schedule to be determined by the State. Full payment for invoices is due within thirty (30) days from the date of invoice, and the Facility shall remit payments in the manner set forth on the invoice.

5. LIABILITY OF THE STATE FOR CLAIMS AGAINST CONTRACTED MEDICAL STAFF

In accordance with the Government Claims Act (California Government Code section 810, *et seq.*), the State shall defend any contracted medical staff providing services under this Agreement against any claim or action against the contracted medical staff for an injury arising out of an act or omission occurring within the scope of contracted medical staff employment with the State, including the provision of services under this Agreement, and the State shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the State has agreed and as allowed by law.

6. TERMINATION OF AGREEMENT AND EMPLOYMENT

The State and the Facility hereby agree that during the term of this Agreement and any extensions hereof, this Agreement may be terminated: (i) at will by either party with 10 (ten) day notice; (ii) immediately by mutual consent of both parties; or (iii) immediately upon the State providing written notice to the Facility upon the occurrence of any of the following events:

- a. Suspension, revocation, cancellation, or limitation of the Facility's right to provide any services whether because of loss of the Facility's license or any other reason.
- b. Failure or refusal by the Facility to perform diligently its duties under this Agreement or to comply with the rules, regulations or other policies established by state and federal law.
- c. The termination of the State of Emergency declared by the Governor on March 4, 2020.

7. NON-DISCRIMINATION CLAUSE

During the performance of this Agreement, the Facility shall not discriminate unlawfully against any contracted medical staff because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The Facility shall insure that the evaluation and treatment of contracted medical staff are free of such discrimination.

8. INDEPENDENT RELATIONSHIP

None of the provisions of this Agreement are intended to create, nor shall they be deemed or construed to create, any relationship between the State and the Facility other than that of independent entities contracting with each other hereunder solely for the purpose of effecting the provisions of this Agreement. Neither of the parties hereto, nor any of their respective employees, shall be construed to be the agent, employer, employee or representative of the other. Each party is solely responsible for its own acts or omissions to act.

9. NOTICES

All notices required or permitted to be given pursuant to this Agreement shall be sufficient if in writing and hand delivered to the State or the Facility or if forwarded by registered or certified mail, return receipt requested.

10. ASSIGNABILITY

Neither this Agreement nor any right or interest hereunder shall be assignable by the Facility or its legal representatives without the State's prior written consent.

11. AMENDMENT

No amendment or modification of this Agreement shall be effective unless or until executed in writing by the parties hereto.

12. WAIVER OF BREACH

The waiver by any party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver or breach of any other provision or any subsequent breach of any party.

13. TERMINATION DUE TO LEGISLATURE OR ADMINISTRATIVE CHANGE

In the event that there are changes in applicable federal or state laws or regulations, or a change in other third party reimbursement systems which materially affect this Agreement, the State may immediately terminate this Agreement by providing appropriate notice under Section 6.

14. GOVERNING LAW

The construction and interpretation of this Agreement shall at all times and in all respects be governed by the laws of the State of California.

15. SEVERABILITY

If any provision of the Agreement shall be determined to be invalid, illegal or unenforceable in whole or in part, neither the validity of the remaining part of such provision nor the validity of any other provision of this Agreement shall in any way be affected thereby.

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16. ENTIRE AGREEMENT

This Agreement and the attachment to this Agreement together constitute the entire agreement and understanding by and between the State and the Facility, and no representations, promises, agreements or understandings, written or oral, not herein contained shall be of any force and effect. No change or modification hereof shall be valid or binding unless the same is in writing and signed by the party intended to be bound.

SIGNATURES

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their authorized representatives:

STATE OF CALIFORNIA, CALIFORNIA EMERGENCY MEDICAL SERVICES AUTHORITY:

Date: _____ By: _____

Name: _____

Title: _____

Facility Name: _____

Date: _____ By: _____

Name: _____

Title: _____