

SAMPLE

PATIENT TRANSFER AGREEMENT

THIS AGREEMENT is made effective as of _____ by and between _____ (Children’s Hospital) _____ a nonprofit corporation, and _____ (“Hospital”), a _____ corporation.

WHEREAS, _____ operates a tertiary level acute care pediatric hospital to provide access to patient care for the residents of its primary service area and to provide tertiary level services on a regional and national basis to individuals requiring specialized pediatric care; and

WHEREAS, Hospital operates a general acute care hospital to provide access to patient care for the residents of its primary service area; and

WHEREAS, _____ and Hospital (the “Institutions”) have determined that it would be in the best interest of patient care and it would promote the optimum use of facilities, including addressing surge capacity, to enter into a transfer agreement for transfer of patients between the respective Institutions;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, and for other valuable consideration, the receipt and sufficiency of which is acknowledged, _____ and Hospital agree as follows:

1. **Term.** This Agreement shall commence on the date written above and shall continue for a period of one year. Thereafter it shall be renewed automatically for successive periods of one year unless terminated earlier as provided in this Agreement.

2. **Purpose of Agreement.** Each Institution agrees to transfer to the other Institution and to receive from the other Institution patients in need of the care which may not be available in the other Institution and provided by their respective Institutions for the purpose of providing continuity of patient care and treatment appropriate to the needs of each patient.

3. **Patient Transfer.** This Agreement shall apply to transfers between _____ hospital location and referring Hospital. The need for transfer of a patient from one Institution to another shall be determined by the patient’s attending physician who will contact the receiving hospital regarding the need for transfer. The receiving Institution shall confirm its acceptance of the patient after confirming the following: a) the receiving Institution has appropriate space, equipment and personnel to provide safe patient care; and b) the receiving physician has been identified and has agreed to accept responsibility for the care of the patient. Requests for transfer shall be made only after the patient has been evaluated and the referring Institution has provided appropriate treatment, personnel and equipment to stabilize the patient within the capabilities of the referring Institution in compliance with EMTALA. The receiving

Institution agrees to admit the patient as promptly as possible. However, the receiving Institution is not obligated to accept a patient if the receiving Institution determines, in its sole discretion, it does not then have the capacity to provide the services required for the patient, that the care required can be provided at the referring Institution (unless transfer is required by a third party payor) or that the transfer request is based solely on the patient's lack of financial resources. The receiving Institution may deny requests for non-emergent transfers to a specific hospital program if the patient does not meet the specific admission criteria of the program to which transfer is proposed.

4. **Medical Staff Membership.** Once the receiving Institution has accepted the transfer, if the attending physician responsible for determining the medical need for transfer is not a member of the receiving Institution's medical staff with admitting privileges, that physician shall arrange for transfer of responsibility for the care of the patient to a member of receiving Institution's medical staff for the period of hospitalization, or the non-member physician must apply for and obtain appropriate clinical privileges to admit and attend the patient during hospitalization.

5. **Provision of Information to Each Institution.** The Institutions agree to provide to each other information about the type of resources offered at their respective facilities and the types of patients and health conditions that each Institution will accept and/or transfer. Each Institution shall provide the other Institution with the names or classifications of persons authorized to initiate, confirm and accept the transfer of patients on behalf of their respective Institution and shall update such information at least annually.

6. **Patient Record and Personal Effects.** Each Institution agrees to provide the following information to accompany the patient from one Institution to the other. The information shall include the following when available:

- a. Patient's name, address, patient identification number, age and the name, address and telephone number of at least one of the following (in the order of priority): the patient's legal guardian or other person authorized to make medical decisions for the patient;
- b. Pertinent administrative and social information;
- c. Patient's third party billing data, if any, including information regarding whether the patient participates in a managed care plan and any prior authorizations for treatment, provided, with respect to emergency transfers, that this information can be obtained without delaying treatment;
- d. All medical records (or copies of such records) related to the patient's condition that are available at the time of transfer, including available history, records relating to the patient's emergency medical condition, observation of signs or symptoms, preliminary diagnosis, results of

diagnostic studies or telephone reports of the studies, treatment provided and results of any tests;

- e. Written informed consent to transfer signed by the patient or the patient's legally authorized representative or written certification by a physician that the medical benefits reasonably expected from the provision of appropriate treatment at the receiving Institution outweigh the risks to the patient (or unborn child) from being transferred;
- f. Name, address and phone number of physician referring patient;
- g. Name of physician in receiving Institution to whom patient is to be transferred, if different from the referring physician;
- h. Name of physician at receiving Institution who has been contacted about patient; and
- i. Name of any on-call physician at the referring Institution who has refused or failed to appear within a reasonable time to provide necessary stabilizing treatment.

Each Institution agrees to supplement the above information as necessary for the maintenance of the patient during transport and treatment upon arrival at the receiving Institution and to send other pertinent records not readily available at the time of transfer to the receiving Institution as soon as practicable after transfer. Each Institution shall provide the other with a receipt for any original medical records received from the other and the patient's valuables and personal effects exchanged between the parties as a result of a transfer.

7. **Transfer Consent.** The referring Institution shall have the responsibility for obtaining the patient's or guardian's written informed consent to the transfer or that of the patient's authorized representative prior to the transfer. If such consent is not possible, the Institution shall obtain certification of the need for the transfer from the attending physician or other qualified medical personnel in accord with the requirements of the Emergency Medical Treatment and Active Labor Act ("Act"). When the patient has an emergency medical condition that has not been stabilized within the meaning of the Act, the referring Institution shall comply with the requirements of the Act in securing the patient's consent to transfer or certification of the need for transfer by a physician or other qualified medical personnel in accord with the Act's requirements.

8. **Return of Patient.** In the event the transfer is only temporary and for a specific procedure or service with the intent that the patient is to be returned to the referring Institution, the referring Institution agrees to accept the patient for continued care upon completion of the procedure or service that necessitated the transfer, provided the patient is stabilized within the meaning of the Act.

9. **Payment For Services.** The patient is primarily responsible for payment for care received from each Institution. Except as otherwise agreed to in writing between transferring hospital and receiving hospital, each Institution shall be responsible for collecting its own payment for services rendered to the patient by it from the patient, insurer or Medicare/Medicaid programs, as appropriate. No clause of this Agreement shall be construed to authorize either party to look to the other to pay for services rendered as a result of a transfer pursuant to this Agreement, except to the extent that such liability for a particular transfer is set forth in a written agreement signed by both parties or is negotiated between the parties, or where such liability would exist separate and apart from this Agreement.

10. **Transfer Arrangements.** Transfer arrangements will be made by mutual consent of the referring and receiving physicians. It shall be the responsibility of the receiving physician to arrange the admission of the patient to the receiving Institution. The referring physician, in collaboration with the receiving physician (pursuant to ss 146.50, 2006 Interfacility Transport Guidelines, U.S. Department of Health and Human Services), shall determine the mode of transport and team configuration based on patient needs and the scope of practice of the transporting team.

Requests for children's Transport Team and Medical Control support and patient transfer can be generated by telephone to:

11. **Transportation of Patient.** Unless contrary arrangements have been mutually agreed upon in advance, referring Institution shall have responsibility for arranging and paying for transportation of the patient to the other Institution, including selection of the appropriate mode of transportation and providing appropriate health care practitioner(s) to accompany the patient. The referring Institution retains the right to seek payment from the patient or other third party payor for the cost of transfer. Subject to Section 13 below, the receiving Institution's responsibility for patient care shall begin when the patient is physically delivered into the hands of a health care professional authorized by the receiving Institution to accept transfers under this Agreement.

12. **Responsibility For Care or Treatment of Patients Transported by Transport Team.** The Transport Team provides care based on patient specific orders submitted by on-line Medical Control. The team assumes primary care responsibilities in collaboration with the referring Institution for transferring patients while the patient is within the referring Institution and after formal patient hand-off has been completed. The referring physician and patient care team should remain available to the Transport Team for mutual support as patient acuity dictates and to provide further information.

13. **Responsibility For Care or Treatment.** The receiving Institution shall not be responsible for any care or treatment provided by the referring Institution. The referring Institution is responsible for any care or treatment given any transferred patient or any untoward

event concerning such patient unless and until the referring Institution fulfills its responsibility for all of the following: a) notifying the receiving Institution promptly and providing all information appropriate under the circumstances whenever it wants to transfer a patient to the receiving Institution; b) obtaining any necessary medical authorization by a physician or other qualified medical person and any necessary consent by or on behalf of the patient for the transfer; c) documenting the medical justification for the transfer in the patient's medical records; d) making all transportation arrangements required to accomplish the transfer; and e) delivering the patient to the receiving Institution or the receiving Institution's Transport Department, with his or her billing information (if, in the case of an emergency transfer, the referring Institution is able to obtain the same without causing delay in providing appropriate treatment or screening to patient), valuables, medical records and other information sufficient to allow knowledgeable treatment of the patient at the receiving Institution.

To the extent possible, stabilization and treatment will be initiated prior to transfer to ensure that the transfer will not, within reasonable medical probability, result in harm or jeopardize survival of the patient or transporting team.

14. **Advertising and Public Relations.** Neither Institution shall use the name of the other Institution in any promotional or advertising material unless review and approval of the intended advertisement is first obtained from the party whose name is to be used. Both Institutions shall deal with each other publicly and privately in an atmosphere of mutual respect and support.

15. **Medicare/Medicaid Certification.** Each Institution shall remain Medicare/Medicaid certified, shall accept and treat Medicare/Medicaid patients and shall remain eligible for payment from the Medicare/Medicaid programs.

16. **Applicable Standards.** Each Institution shall assure that all duties performed and services provided pursuant to this Agreement are in compliance with applicable standards, rulings and regulations of The Joint Commission, the United States Department of Health and Human Resources, the State Department of Health Services, and/or any other government agency, corporate entity or individual exercising authority with respect to the Institution.

17. **Compliance With COBRA.** Each Institution acknowledges that it is aware of and agrees to comply with the requirements of the Consolidated Omnibus Budget Reconciliation Action of 1985, as amended, as it relates to patient transfers.

18. **Confidentiality.** Each party agrees to maintain the confidentiality of patient information disclosed for the purposes of providing necessary medical care and not to disclose any such information except where permitted by law. Both parties acknowledge that in receiving or otherwise dealing with any records or information relating to patients receiving treatment for alcohol or other drug abuse, both Institutions are fully bound by the provisions of the federal regulations governing confidentiality of alcohol and drug abuse patient records (42 C.F.R. Part 2, as amended from time to time).

19. **Independent Contractor Status.** Both Institutions are independent contractors. Neither Institution is authorized or permitted to act as an agency or employee of the other. Nothing in this Agreement is intended nor shall be construed to create an employer/employee partnership, or joint venture relationship or to allow either party to exercise control or direction over the manner or method by which either party provides services to patients, provided that such services are performed in accordance with all applicable medical standards and the terms and conditions of this Agreement.

20. **Liability.** Each Institution shall be responsible for its own acts and omissions and agrees to indemnify and hold the other Institution harmless from any actual or threatened harm caused by or arising out of any claimed improper, negligent or wrongful act or omission of the indemnifying Institution, its trustees, officers, agents and employees. The term “harm” as set forth in the preceding sentence includes any and all: claims, suits or legal proceedings; damages or injuries; interest; costs, expenses or fees, including costs associated with investigating and defending claims, suits or legal proceedings and including reasonable attorneys’ fees attributable to such investigation or defense or attributable to enforcing the provisions of this Agreement; loss of profits; and all other loss or liability of whatever kind or nature.

21. **Insurance.** Each Institution shall secure and maintain, or cause to be secured and maintained during the term of this Agreement, comprehensive general and professional liability insurance and property damage insurance providing adequate limits of liability for their respective operations. Each party shall cause its insurance carrier to file a certificate of continuous coverage with the other party, and each party shall immediately notify the other of any notice received from its insurance carrier of intent to modify or cancel such insurance coverage.

22. **Termination.**

- a. **Voluntary Termination.** This Agreement may be terminated by either party for any reason, by giving at least thirty (30) days’ written notice of its intention to withdraw from this Agreement, and by ensuring the continuity of care to patients who already are involved in the transfer process.
- b. **Involuntary Termination.** This Agreement shall be terminated immediately upon the occurrence of any of the following:
 - 1) Either Institution is destroyed to such an extent that the patient care provided by such Institution cannot be carried out adequately;
 - 2) Either Institution loses or has its operating license or approval, its Joint Commission accreditation or its Medicare/Medicaid certification suspended or revoked;

- 3) Either Institution no longer is able to provide the services for which this Agreement was sought; or
- 4) Either Institution is in default under any of the terms of this Agreement.

23. **Nonwaiver.** No waiver of any term or condition of this Agreement by either party shall be deemed a continuing or further waiver of the same term or condition or a waiver of any other term or condition of this Agreement.

24. **Governing Law.** This Agreement is made and entered into in the State of _____ and shall be governed and construed in accordance with the laws of _____.

25. **Assignment.** This Agreement shall not be assigned in whole or in part by either party without the express written consent of the other party.

26. **Severability.** If any provision of this Agreement shall be held or declared to be invalid, illegal or unenforceable under any applicable law, such provision shall be deemed deleted from this Agreement and shall be replaced by a valid and enforceable provision which so far as possible achieves the same objectives as the severed provision was intended to achieve and the remaining provisions of this Agreement shall continue in full force and effect.

27. **Amendment.** This Agreement may be amended at any time by a written agreement signed by the parties, which amendment shall be attached to and become a part of this Agreement.

28. **Notices.** All notices regarding the transfer or care of patients shall be made via telephone to the parties designated in this Agreement, as amended from time to time. Any other notice required or allowed to be given under this Agreement shall be deemed to have been given upon facsimile transmission with confirmation of receipt, upon personal delivery, or upon deposit in the United States mail, registered or certified, with return receipt requested and addressed as follows, unless and until either of the parties notifies the other in accordance with this section of a change of address:

Attention: _____

29. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and contains all of the agreements between them with respect to the subject

matter hereof and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter of this Agreement.

30. **Binding Agreement.** This Agreement shall be binding upon the successors or assigns of the parties.

31. **Confidentiality of Information.** Neither party shall disclose information relating to the operations of the other persons other than to authorized agents or employees of the other, state licensing boards, The Joint Commission or third-party reimbursement agencies and professional organizations, without the prior written consent of the other party.

32. **Headings.** The headings to the various sections of this Agreement have been inserted for convenience only and shall not modify, define, limit or expand express provisions of this Agreement.

IN WITNESS WHEREOF, CHW and Hospital have executed this Agreement effective the day and year first above written.