

**FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT**

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (the "Amendment") is made and entered into as of July 1, 2012, by and between COUNTY OF MONTEREY ("County") on behalf of NATIVIDAD MEDICAL CENTER ("Hospital"), and SALINAS PATHOLOGY SERVICES MEDICAL GROUP, INC., a California professional corporation ("Contractor") with respect to the following:

**RECITALS**

- A. County owns and operates Hospital, a general acute care teaching hospital facility located in Salinas, California under its acute care license.
- B. Contractor and Hospital have entered into that certain Professional Services Agreement dated July 1, 2011 (the "Agreement") pursuant to which Contractor provides professional services in the Specialty to Hospital Patients.
- C. Hospital and Contractor desire to amend the Agreement.

**AGREEMENT**

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, Hospital and Contractor agree as follows:

- 1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.
- 2. **Exhibit 1.13.** Exhibit 1.13 to the Agreement is hereby amended to read in its entirety as attached hereto as Attachment A.
- 3. **New Section 1.23.** Section 1.23 is hereby added to the Agreement to read in its entirety as follows:

**"1.23 Group Physicians.**

- (a) Contractor shall employ, contract with, or otherwise engage Group Physicians. Contractor has initially engaged those Group Physicians listed (and identified by NPI number) on Exhibit 1.23(a) to provide the Services, which Group Physicians are hereby approved and accepted by Hospital.
- (b) Contractor may from time to time engage one (1) or more additional Group Physicians (including locum tenens physicians) to provide the Services under this Agreement, subject to Hospital's prior written approval, which approval may be given, withheld or conditioned by Hospital in its sole discretion.

In the event Hospital withholds approval with respect to any additional Group Physician, such Group Physician shall not be entitled to any "fair hearing" or any other hearing or appellate review under any provision of the Medical Staff Bylaws, unless Hospital determines that the withholding of approval is reportable to any state's medical board or other agency responsible for professional licensing, standards or behavior.

(c) Contractor shall ensure that, during the term of this Agreement, any and all Group Physicians (including locum tenens physicians) providing the Services satisfy the professional standards and qualifications set forth in this Article I of this Agreement.

(d) Contractor shall provide prompt written notice to Hospital in the event any Group Physician resigns, is terminated by Contractor, or otherwise ceases to provide the Services.

(e) Contractor shall ensure that the Services are performed only by Group Physicians who have been approved and accepted by Hospital, and have not been removed in accordance with this Agreement.

(e) Contractor shall cause each Group Physician providing the Services to comply with all obligations, prohibitions, covenants and conditions imposed on Contractor pursuant to this Agreement. Contractor shall cause each Group Physician to execute and deliver to Hospital a letter of acknowledgment in the form attached as Exhibit 1.23(b) prior to providing any Services under this Agreement.

4. Section 2.1. Section 2.1 to the Agreement is hereby amended to read in its entirety as follows:

**"2.1 Compensation.** Hospital shall pay to Contractor the amount determined in accordance with Exhibit 2.1 (the "Compensation"), upon the terms and conditions set forth therein. The total amount payable by Hospital to Contractor under this Agreement shall not exceed the sum of **One Hundred Thousand Dollars (\$100,000)** for the full term of this Agreement."

5. Section 5.1. Section 5.1 to the Agreement is hereby amended to read in its entirety as follows:

**"5.1 Term.** This Agreement shall become effective on July 1, 2011 (the "Effective Date"), and shall continue until June 30, 2013 (the "Expiration Date"), subject to the termination provisions of this Agreement."

6. **New Section 5.8.** Section 5.8 is hereby added to the Agreement to read in its entirety as follows:

**“5.8 Immediate Removal of Group Physicians.** Contractor shall immediately remove any Group Physician from furnishing Services under this Agreement who:

(a) has his or her Medical Staff membership or clinical privileges at Hospital terminated, suspended, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(b) has his or her license to practice medicine in the State, DEA registration denied, suspended, restricted, terminated, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) is convicted of a felony, a misdemeanor involving fraud, dishonesty, or moral turpitude, or any crime relevant to Professional Services or the practice of medicine;

(d) is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program or state equivalent;

(e) fails to satisfy any of the standards and qualifications set forth in Sections 1.7, 1.8, 1.10 and 1.12 of this Agreement; or

(f) fails to be covered by the professional liability insurance required to be maintained under this Agreement.”

7. **New Section 5.9.** Section 5.9 is hereby added to the Agreement to read in its entirety as follows:

**“5.9 Removal of Group Physicians upon Hospital Request.** Upon written request by Hospital, Contractor shall immediately remove any Group Physician from furnishing Services under this Agreement who:

(a) engages in conduct that, in Hospital’s good faith determination, jeopardizes the mental or physical health, safety or well-being of any person or damages the reputation of Hospital;

(b) fails to comply with any other material terms or conditions of this Agreement after being given written notice of that failure and a reasonable opportunity to comply; or

8. **New Section 5.10.** Section 5.10 is hereby added to the Agreement to read in its entirety as follows:

**“5.9 Effect of Removal.** Upon the removal of a Group Physician pursuant to Section 5.8 or Section 5.9 of this Agreement, Contractor shall employ, contract

with, or otherwise engage, at its cost and expense, a qualified substitute for the removed Group Physician, or shall demonstrate to Hospital's satisfaction Contractor's ability to continuously perform the Services without such a substitute. Failure to take such action shall constitute a material breach of this Agreement, subject to Section 5.2. Nothing herein shall be construed to limit Hospital's rights under Section 5.2 or any other provision of this Agreement."

9. **Section 6.3.** Section 6.3, "Attorneys' Fees," to the Agreement is hereby deleted in its entirety.

10. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

11. **Continuing Effect of Agreement.** Except as herein provided, all of the terms and conditions of the Agreement remain in full force and effect from the Effective Date of the Agreement.

12. **Reference.** After the date of this Amendment, any reference to the Agreement shall mean the Agreement as amended by this Amendment.

*[signature page follows]*

IN WITNESS WHEREOF, Hospital and Contractor have executed this Amendment as of the day and year first written above.

**CONTRACTOR**

SALINAS PATHOLOGY SERVICES a  
California professional corporation

Date: 3-22, 2012

By: Andrew J. Wicker  
Its President

By: [Signature]  
Its \_\_\_\_\_

Tax I.D. No. 77-0107393

**NATIVIDAD MEDICAL CENTER**

\_\_\_\_\_  
Purchase Order Number

By: [Signature]  
Contracts / Purchasing Manager

Date: 7-1, 2012

By: Anne Rosenberg  
Natividad Medical Center Representative

Date: 5-25, 2012

APPROVED AS TO LEGAL FORM:  
CHARLES J. McKEE, County Counsel

[Signature]  
Stacy Saetta, Deputy County Counsel

Date: 5/31, 2012

Reviewed as to fiscal provisions  
[Signature]  
Auditor-Controller  
County of Monterey 6-1-12

Attachment A

Exhibit 1.13



**MEDICAL STAFF POLICY**

<b>Title:</b> Practitioner Code of Conduct	<b>Effective:</b> 05/09 <b>Reviewed/Revised:</b> 08/11
<b>Standard:</b> MSP004-2	<b>Approved:</b> MEC 08/11 BOT 09/11

As a member of the Medical Staff or an Allied Health Professional (AHP) of Natividad Medical Center (NMC) (collectively Practitioners), I acknowledge that the ability of Practitioners and NMC employees to jointly deliver high quality health care depends significantly upon their ability to communicate well, collaborate effectively, and work as a team. I recognize that patients, family members, visitors, colleagues and NMC staff members must be treated in a dignified and respectful manner at all times.

**POLICY**

In keeping with the accepted standards of the health care profession as evidenced by the Hippocratic Oath, the Code of Ethics of the American Medical Association (AMA) and other professional societies, and the values of NMC, Practitioners are leaders in maintaining professional standards of behavior. In keeping with this responsibility to maintain professional standards of behavior at NMC, Practitioners:

1. Facilitate effective patient care by consistent, active, and cooperative participation as members of the NMC health care team.
2. Recognize the individual and independent responsibilities of all other members of the NMC health care team and their right to independently advocate on behalf of the patient.
3. Maintain respect for the dignity and sensitivities of patients and families, as well as colleagues, NMC employees, and all other health care professionals.
4. Participate in the Medical Staff quality assessment and peer review activities, and in organizational performance improvement activities.
5. Contribute to the overall educational mission of NMC.
6. Reflect positively upon the reputation of the health care profession, the Medical Staff, and NMC in their language, action, attitude, and behavior.

Behaviors of Practitioners which do not meet the professional behavior standards established in this Code of Conduct (Code) shall be referred to as Disruptive or Unprofessional Behavior. Disruptive or Unprofessional Behavior by Practitioners exhibited on the premises of NMC, whether or not the Practitioner is on duty or functioning in his/her professional capacity, are subject to this Code.

#### **EXAMPLES OF PROFESSIONAL BEHAVIOR**

Practitioners are expected to exhibit professional behavior at NMC, consistent with this Code, as follows:

1. Be consistently available with cooperative and timely responsiveness to appropriate requests from physicians, nurses, and all other members of the NMC health care team in patient care and other professional responsibilities.
2. Provide for and communicate alternate coverage arrangements to assure the continuity and quality of care.
3. Demonstrate language, action, attitude and behavior which consistently convey to patients, families, colleagues, and all other members of the NMC health care team a sense of compassion and respect for human dignity.
4. Understand and accept individual cultural differences.
5. Maintain appropriate, timely, and legible medical record entries which enable all NMC professionals to understand and effectively participate in a cohesive plan of management to assure continuity, quality, and efficiency of care and effective post-discharge planning and follow-up.
6. Respect the right of patients, families or other designated surrogates to participate in an informed manner in decisions pertaining to patient care.
7. Treat patients and all persons functioning in any capacity within NMC with courtesy, respect, and human dignity.
8. Conduct one's practice at NMC in a manner that will facilitate timely commencement of medical/surgical procedures at NMC, including but not limited to, timely arrival at the hospital, pre-ordering all needed special equipment and/or supplies, and timely notification of required staff.

#### **EXAMPLES OF DISRUPTIVE OR UNPROFESSIONAL BEHAVIOR**

Disruptive or Unprofessional Behavior, as characterized in this Code, includes but is not limited to:

1. Misappropriation or unauthorized removal or possession of NMC owned property.
2. Falsification of medical records, including timekeeping records and other NMC documents.

3. Working under the influence of alcohol or illegal drugs.
4. Working under the influence of prescription or over-the-counter medications when use of such medications significantly affects the practitioner's level of cognitive functioning.
5. Possession, distribution, purchase, sale, transfer, transport or use of illegal drugs in the workplace.
6. Possession of dangerous or unauthorized materials such as explosives, firearms, or other weapons in the workplace.
7. Writing derogatory and/or accusatory notes in the medical record which are not necessary for the provision of quality patient care services. Concerns regarding the performance of other Practitioners or NMC employees should be reported on a NMC Quality Review Report form and submitted pursuant to NMC policy and should not be entered into the patient's medical record.
8. Harassment
  - a. Harassment is verbal or physical contact that denigrates or shows hostility or aversion toward an individual based on race, religion, color, national origin, ancestry, age, disability, marital status, gender, sexual orientation, or any other basis protected by federal, state, or local law or ordinance, and that:
    1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or;
    2. Has the purpose or effect of unreasonably interfering with an individual's work performance, or;
    3. Otherwise adversely affects an individual's employment opportunity.
  - b. Harassing conduct includes, but is not limited to:
    1. Epithets, slurs, negative stereotyping, threatening, intimidating, or hostile acts that relate to race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation.
    2. Written material or illustrations that denigrate or show hostility or aversion toward an individual or group because of race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation, and is placed on walls; bulletin boards, or elsewhere on NMC's premises or circulated in the workplace.
9. Physical behavior that is harassing, intimidating, or threatening, from the viewpoint of the recipient, including touching, obscene or intimidating gestures, or throwing of objects;



10. Passive behaviors, such as refusing to perform assigned tasks or to answer questions, return phone calls, or pages;
11. Language that is a reasonable adult would consider to be foul, abusive, degrading, demeaning, or threatening, such as crude comments, degrading jokes or comments, yelling or shouting at a person, or threatening violence or retribution;
12. Single incident of egregious behavior, such as an assault or other criminal act.
13. Criticism of NMC staff in front of patients, families, or other staff.

#### **PROCEDURE**

1. Any person who functions in any capacity at NMC who observes Practitioner language, action, attitude, or behavior which may be unprofessional, harassing, or disruptive to the provision of quality patient care services should document the incident on a NMC Quality Review Report form.
2. Identified incidents involving Practitioners shall be reviewed pursuant to the current Road Map for Handling Reports of Disruptive or Unprofessional Behavior or the County Sexual Harassment Policy, as determined by the nature of the behavior and the person who exhibits it.

I acknowledge that I have received and read this Practitioner Code of Conduct. I acknowledge that hospitals are required to define and address disruptive and inappropriate conduct to comply with The Joint Commission standards for accreditation. I agree to adhere to the guidelines in this Code and conduct myself in a professional manner. I further understand that failure to behave in a professional fashion may result in disciplinary actions set forth in the RoadMap for Handling Reports of Disruptive or Unprofessional Behavior or as determined by the Medical Executive Committee pursuant to the Medical Staff Bylaws.

Exhibit 1.23(a)

**GROUP PHYSICIANS/GROUP PROVIDERS**

Group Physician	NPI Number
ANDREW J. WILSON	1770585473
JOANNY HU	1740245828
HUGL E. WILSON	1528060340