

**COLLABORATIVE AGREEMENT
BETWEEN
ALBUQUERQUE AREA INDIAN HEALTH SERVICE
AND
THE COUNTY OF MONTEREY, ON BEHALF OF
NATIVIDAD MEDICAL CENTER FAMILY RESIDENCY PROGRAM**

1. **Purpose of Agreement.** This Collaborative Agreement (Agreement) is made between the Albuquerque Area Indian Health Service and Natividad Medical Center Family Residency Program Residency Program (“Residency Program”). The purpose of this Agreement is to establish guidelines for the clinical education of the Residents participating in the Residency Program. This Agreement does not involve the transfer of Federal funds (or property in lieu of funds) nor receipt of any fees or payment for preceptor services.

2. **Identification Number.** For purposes of Indian Health Service (IHS) internal administrative needs, this Agreement will carry the following identification number _____, and an official Albuquerque Area Indian Health Service file will be maintained by the Area Coordinator for Collaborative Agreements.

3. **Description of Services.** The Residency Program is offering an accredited professional educational program in family medicine for qualified physicians preparing for a career in health care and requires additional facilities to provide clinical experience for such residents. The Albuquerque Area Indian Health Service has facilities for furnishing such experience and recognizes the potential benefits of exposing residents interested in health care to its health care system. Therefore, the parties are desirous of providing learning opportunities through clinical education in family medicine to residents in the Residency Program. The clinical education objectives, the variety of clinical experiences, and the method of supervision and resident education shall be determined between the Residency Program and the Albuquerque Area Indian Health Service.

4. **Authority.** Pursuant to the authority of 42 U.S.C. § 254a, IHS is authorized to enter into agreements with schools of medicine and other health schools, agencies, or institutions for such interchange or cooperative use of facilities and services on a reciprocal basis, as will be of benefit to the training or research programs of the participating agencies/parties. Pursuant to 5 U.S.C. § 3111 and 5 C.F.R. § 308.101-103, IHS may accept voluntary service by a resident, with the permission of the institution at which the resident is enrolled, as part of a program established for the purpose of providing educational experiences for the resident. This Agreement is also made under Indian Health Service policy set forth in the IHS General Administration Manual, Chapter 8-79, “Use of Collaborative Agreements.”

5. **The Residency Program Agrees to:**
 - A. Designate a representative to coordinate placement of residents and to provide educational guidance (the “Program Director”).

- B. Designate only residents who are regularly enrolled in good standing with the Residency Program and who have completed the necessary course work and didactic training called for by this Agreement.
- C. Be responsible for and in control of the education of its residents.
- D. Provide instructional materials or other educational resources, if required by the Residency Program, during the course of this Agreement.
- E. Instruct residents in proper dress and conduct in accordance with professional standards. The Albuquerque Area Indian Health Service will not provide uniforms or lab coats. In this regard, the uniform or other dress that residents wear shall be acceptable to the Albuquerque Area Indian Health Service facility as well as to the Residency Program and all residents shall be identified as residents of the Residency Program.
- F. Enforce disciplinary action against a resident who violated applicable policies, procedures, standards, rules, and regulations consistent with Residency Program's policies and procedures.
- G. Withdraw or reassign any resident whose work, conduct, or health may have a detrimental effect on patients or personnel of the Albuquerque Area Indian Health Service facility.
- H. Require that the residents:
 - (1) hold confidential all patient and other confidential and proprietary information obtained as a participant in these activities and not disclose any personal, medical, financial, or other confidential or proprietary information to third parties, including family members, other residents, faculty members, or other health care providers;
 - (2) protect from any disclosure, whether written or oral, any and all confidential information of the Albuquerque Area Indian Health Service facility that they may come into contact with;
 - (3) not copy patient schedules, procedure schedules, patient medical records, or similar confidential or proprietary documents of the Albuquerque Area Indian Health Service;
 - (4) not use any confidential or proprietary information of the Albuquerque Area Indian Health Service in presentations, reports, or publications of any kind without the Albuquerque Area Indian Health Service's prior written consent; and
 - (5) comply with all applicable provisions on disclosure and all other applicable federal and state statutes and regulations, to the extent that residents have access to patient information protected by the Privacy Act (5 U.S.C. § 552a), Health Insurance Portability and Accountability Act (HIPAA) Privacy Standards

(45 C.F.R. Parts 160 and 164), and/or regulations protecting the confidentiality of alcohol and drug abuse patient records (42 C.F.R. Part 2).

- I. Require that residents meet all the safety, health and technical standards of the IHS Employee Immunization Program, including the requirements for residents to provide evidence of screening for tuberculosis infection, vaccination for seasonal influenza for those who have no contraindications, and immunity against Rubella, Measles (Rubeola) and Hepatitis B. If the tuberculosis skin test is positive, there shall be evidence of treatment in accordance with U.S. Department of Health and Human Services Centers for Disease Control and Prevention Guidelines.
- J. Require that residents comply with the infection control guidelines for the Albuquerque Area Indian Health Service facility.
- K. Provide a reasonable accommodation for any resident with a disability who may require one.
- L. Not allow residents and faculty to solicit the Albuquerque Area Indian Health Service for funding, fund raisers or donations.

6. **The Albuquerque Area Indian Health Service Agrees to:**

- A. Designate a representative to coordinate placement activities with the Residency Program's designated representative.
- B. Provide necessary orientation to residents on the Albuquerque Area Indian Health Service's facilities, Standards of Conduct, rules, policies, procedures, schedules, and practices.
- C. Retain full responsibility for the care of its patients.
- D. Provide clinical experience for residents and participate and cooperate in the educational guidance of residents.
- E. Maintain administrative and professional supervision of residents insofar as their presence affects the operation of the Albuquerque Area Indian Health Service and/or care of patients. Supervision will be available at all times the residents are on duty to ensure that each resident assumes an appropriate level of responsibility for safe, effective, and compassionate patient care that is consistent with his/her level of experience and training.
- F. Provide, upon request, and in the form required by the Residency Program, timely evaluations of the clinical performance of residents. Resident's performance will

be evaluated in accordance with the Residency Program's published curricular guidelines.

- G. Provide, if possible, continuing education, consultative support, and related services to both residents and facility staff.
- H. Provide conference space, as available, for clinical conferences concerning patient care or professional education.
- I. In the event a resident is exposed to an infectious or environmental hazard or other occupational injury (i.e., needle stick) while at the Albuquerque Area Indian Health Service facility, the Albuquerque Area Indian Health Service facility, upon notice of such incident from the resident, will provide such emergency care as is provided its employees. In the event that the Albuquerque Area Indian Health Service facility does not have the resources to provide such emergency care, the Albuquerque Area Indian Health Service facility will refer such resident to the nearest emergency facility. All costs and expenses related to such treatment shall be the responsibility of the resident or the resident's health insurance. Albuquerque Area Indian Health Service is not responsible for hospitalization or medical costs incurred by the resident during the course of this Agreement. In the event of a work-related injury, IHS will notify the Residency Program within 24 hours of the injury and coordinate follow-up care and transportation back to Monterey County as needed.

7. **Mutually Agreed upon Administration.**

- A. Assignment. The number and assignment of residents will be mutually agreed upon between the Albuquerque Area Indian Health Service and the Residency Program prior to the beginning of each training period. The Albuquerque Area Indian Health Service reserves the right to refuse acceptance of any resident in this clinical education experience and/or to remove any resident when it is determined that further participation would not be in the best interest of the Indian Health Service. The Albuquerque Area Indian Health Service will advise the Residency Program at the earliest opportunity of any deficiency noted in an assigned resident's ability to progress toward achievement of the stated objectives of the clinical education experience.
- B. Acceptance/Rejection. After selection by the Residency Program, the resident's contact information, credentials, and dates of desired rotation shall be forwarded to the Albuquerque Area Indian Health Service, which may unilaterally accept or reject the resident. For record keeping purposes, the Albuquerque Area Indian Health Service shall complete all necessary paperwork as referenced in the Albuquerque Area Indian Health Service's circular or policy, if any.

- C. Child Care Statement. All residents must pass a criminal history background check, pursuant to the Indian Child Protection and Family Violence Prevention Act, 25 U.S.C. §§ 3201-3210, and the Crime Control Act of 1990, Subtitle E, Child Care Worker/Employee Background Checks, 34 U.S.C. § 20351, as well as all regulations promulgated pursuant to such laws. One part of the background check is a fingerprint check. All residents must undergo a fingerprint check at the Albuquerque Area Indian Health Service. Fingerprint results must be cleared prior to the residents' entry on duty.

Other parts of the background check may be deferred, but not waived, until after entry on duty, but only if the resident is supervised by an individual who has already received such a clearance. *See* 34 U.S.C. § 20351(b)(3). Upon the resident's clearance, the Albuquerque Area Indian Health Service facility shall verify same with the Albuquerque Area Indian Health Service, Division of Personnel Management.

While a resident's background check is pending, all activities in which the resident will be interacting with or providing care to children less than 18 years old, must be performed within the sight and supervision of an IHS employee who has satisfactorily completed the Child Care National Agency Check with Written Inquiries Security Investigation.

- D. Nondiscrimination. Each party agrees that there shall be no discrimination on the basis of race, color, national origin, religion, sex, disability, or age in the assignment, acceptance, or activities of the residents.
- E. Description of Services. The resident will observe and/or participate, as appropriate, in the provision of health care services to patients, and otherwise perform clinical assignments as specified by the Albuquerque Area Indian Health Service facility's Clinical Director and/or designee, during the hours of operation of the particular facility.
- F. Resident Access. The resident will receive appropriate orientation and have access to Albuquerque Area Indian Health Service facility conference areas, equipment, supplies, records, and other facility resources needed to provide health care services within the clinical setting.
- G. Rotation Plan. The Residency Program shall establish a rotation plan for the clinical experience by mutual agreement between the parties.
- H. Records. The Residency Program shall keep all attendance and academic records of the participating residents.

- I. Limit Activity. Notwithstanding anything herein to the contrary, the Albuquerque Area Indian Health Service reserves the right to limit or prohibit any activity that, in its opinion, will interfere with the normal operations of any of its facilities.
- J. Description of Review Process. The resident will work under the supervision of the Clinical Director and/or designee. The resident will meet with the Clinical Director and/or designee, as required, to discuss their scheduling, progress and experience. If needed, the clinical affiliation will be reviewed annually by representatives of the Albuquerque Area Indian Health Service and the Residency Program.
- K. Medical Costs. The Albuquerque Area Indian Health Service is not responsible for hospitalization or medical costs incurred by the resident during the course of this Agreement. In addition, the Residency Program shall provide workers' compensation coverage for residents for injury or disease arising out of their use of the Albuquerque Area Indian Health Service facility during the course of this Agreement.
- L. Employment Status. Residents are not considered employees, officers, or agents of the IHS, except for the limited purpose of permitted disclosure of patient records and other protected health information as needed to perform the assigned clinical duties under this Agreement.
- M. Recognition. Neither the Residency Program nor its residents will receive recognition or award as a result of participation under this Agreement. In place of special recognition or an award, the participating resident will have obtained required clinical experience. The Albuquerque Area Indian Health Service will have received the benefit of the current methodology and technology being utilized by the Residency Program.
- N. Accreditation Council for Graduate Medical Education's Common Program Requirements. The Residency Program as the sponsoring institution and IHS will work to create and provide a learning and working environment which promotes resident engagement in Patient Safety, Quality Improvement, Transitions of Care, Supervision, Duty Hour, Fatigue Management and Mitigation, and Professionalism. The parties will ensure the residents' work environment is one where they can raise concerns and provide feedback without intimidation or retaliation and in a confidential manner as appropriate.

8. **Mutually Agreed upon Provisions.**

- A. Indemnification/insurance. The Residency Program and its residents agree not to seek indemnification from either the United States or the IHS for any settlement, verdict or judgment resulting from any claim or lawsuit against it and its residents

in general or arising out of the performance of its residents' professional duties while training at the Albuquerque Area Indian Health Service. Each party agrees that each will be responsible for claims or damages resulting from personal injury or property damage to the extent they result from the negligent or intentional acts or omissions by their own employees.

(1) State-Operated Institutions. The Residency Program represents that it is self-insured according to the state's Tort Claims Act. During the term of this Agreement, the Residency Program specifically agrees to require that residents maintain liability coverage, in amounts that are reasonable and customary in the community for the appropriate specialty. The Residency Program shall arrange for the residents to provide a certificate of insurance to the Albuquerque Area Indian Health Service evidencing such coverage and shall notify the Albuquerque Area Indian Health Service immediately if an adverse change in coverage occurs for any reason. The policy shall provide that it may not be cancelled or terminated.

(2) Institutions Not State-Operated. The Residency Program shall provide professional liability (malpractice) coverage, in amounts that are reasonable and customary in the community for the appropriate specialty (not less than \$1,000,000 per occurrence), covering liability for personal injury or property damage, including legal representation and expense of defense of any such liability claims, actions or litigation, resulting from participation by the Residency Program and its residents under this Agreement. This coverage may come from any source, but shall clearly cover the Residency Program and its residents while participating under this Agreement at the Albuquerque Area Indian Health Service. The Residency Program and residents must provide documentary proof of the insurance coverage to the Albuquerque Area Indian Health Service prior to the start of the residents' clinical experience and such proof will be attached to this Agreement. The professional liability insurance coverage may be on either an occurrences basis or on a claims-made basis. If the policy is on a claims-made basis, an extended reporting endorsement for a period of not less than three (3) years after the end of the contract term must also be provided. The Residency Program shall notify the Albuquerque Area Indian Health Service immediately if an adverse change in coverage occurs for any reason.

- B. No Federal Tort Claims Act Coverage. Coverage under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2401(b), and 2671–2680, is not available to residents operating at Albuquerque Area Indian Health Service facilities under this Agreement.
- C. Reimbursement/Compensation. Residents shall not receive reimbursements from the Albuquerque Area Indian Health Service for expenses such as tuition, meals,

lodging, travel, parking, books, or supplies. Likewise, residents shall serve without compensation from the Albuquerque Area Indian Health Service.

- D. Confidentiality of Records. The content of patient medical records shall be held in confidence and in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a; Privacy Act Regulations, 45 C.F.R. Part 5b; Drug Abuse Prevention, Treatment, and Rehabilitation Act, as amended, 42 U.S.C. § 290dd-2; Confidentiality of Alcohol and Drug Abuse Patients Records, 42 C.F.R. Part 2; HIPAA, 45 C.F.R. Parts 160 and 164; and the applicable state law in which the Albuquerque Area Indian Health Service facility is located.
- E. Training. The Albuquerque Area Indian Health Service agrees to provide training on its HIPAA policies and procedures to those who will be working in the Albuquerque Area Indian Health Service facility. No protected healthcare information is anticipated to be exchanged between the Albuquerque Area Indian Health Service and the Residency Program. It is understood that while receiving clinical training at the Albuquerque Area Indian Health Service pursuant to this Agreement, the residents of the Residency Program do not meet the definition of business associate under HIPAA. Therefore, no Business Associate Agreement between the Albuquerque Area Indian Health Service and the Residency Program is necessary.
- F. Publications. The publication or formal presentation of any materials by a person or an entity affiliated in any manner with the Residency Program, including the residents contemplated herein, the contents of which relate in any manner to any training and/or clinical experiences obtained by virtue of this Agreement, is strictly prohibited except by prior written approval by the Indian Health Service. In the event approval is obtained, presentations or published materials shall clearly state that the opinions or assertions contained therein are those of the author and do not reflect any official or unofficial view or opinion of the IHS. Additionally, such materials shall not infringe upon, violate, or otherwise compromise patients' rights to privacy under the Privacy Act, HIPAA, or any other applicable Federal or state statute or regulation.
- G. Effect of Agreement. This Agreement will not result in, nor is it intended to displace employees or impair existing contracts for services.
- H. Disputes. The Director of the IHS shall make final decisions concerning any disputes resulting from this Agreement. Notwithstanding the foregoing, both parties retain their rights to pursue disputes through the judicial process.
- I. Law. The parties agree that Federal law shall apply to any problem or dispute arising out of this Agreement. In the event of a conflict between this Agreement

and applicable Federal law, the parties acknowledge that Federal law shall prevail and supersede the terms of this Agreement.

- J. Eligibility. Each party represents that neither it, nor any of its management or any other employees or independent contractors who will have any involvement in the services supplied under this Agreement, have been excluded from participation in any government healthcare program, debarred from any other federal program (including, but not limited to, debarment under the Generic Drug Enforcement Act, 21 U.S.C. 301 *et seq.*), or convicted of any offense defined in 42 U.S.C. § 1320a-7 and it, its employees and independent contractors are not otherwise ineligible for participation in federal healthcare programs. Further, each party represents that it is not aware of any such pending action(s), including criminal actions, against it or its employees or independent contractors. Each party shall notify the other party immediately upon becoming aware of any pending or final action in any of these areas.
- K. Entirety of Agreement. It is expressly agreed that this written Agreement represents the entire understanding between the parties and supersedes any prior agreements or understanding with respect to the subject matter herein. Any changes or modifications to this Agreement must be in writing and be signed by both parties.
- L. Third Parties. Nothing in this Agreement, expressed or implied, is intended to confer any rights, remedies, claims, or interests upon an individual or entity not a party hereto. Neither party shall have the right to assign or transfer its rights to any third party under this Agreement without the prior written consent of the non-transferring party.
- M. Term and Termination. This Agreement may be terminated with or without cause at any time by either party upon thirty (30) days written notice to the other party. In the event of termination, consideration shall be paid to minimizing disruption to clinical schedules. This Agreement will be effective upon the latest signatory date below and will be in effect for one year from that date unless modified in accordance herewith. Thereafter, this Agreement shall automatically renew for two (2) additional one (1) year terms unless either party provides written notice to the other party at least thirty (30) days in advance of the end of the term.
- N. Contact information. The designated contact point for each party under this Agreement is designated below.

For the Albuquerque Area Indian Health Service:

Julianna J. Reece, MD
Chief Medical Officer

Albuquerque Area Indian Health Service
4101 Indian School Road, NE
Suite 225
Albuquerque, New Mexico 87110
Telephone: 505-256-6738
Facsimile: 505-256-6846

For the Residency Program:

Natividad Medical Center
Attn: Melissa Nothnagle, MD
1441 Constitution Blvd.
Salinas, CA 93906
Telephone 831-783-2582
nothnaglemb@natividad.com

- O. Both an Agreement executed, scanned, and transmitted electronically and an Agreement with electronic signatures shall be deemed as an original for purposes of this Agreement, with such scanned and electronic signatures having the same legal effect as original signatures.

IN WITNESS WHEREOF: The parties hereto have duly executed this Agreement in accordance with the terms and provisions contained herein. The persons signing this Agreement warrant that they have full authority to do so and that their signatures shall bind the parties for which they sign.

For Natividad Family Medical Center Residency Program:

By: _____
Name: Gary Gray, DO
Title: CEO
Date: _____

For the Albuquerque Area Indian Health Service:

By: _____
Name: Leonard D. Thomas, M.D.
Title: Area Director
Date: _____