
MEDICAL DIRECTOR SERVICES AGREEMENT

This Agreement (hereinafter "Agreement") is made and entered into by and between **TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER**, a public institution of higher education in the State of Texas ("TTUHSC"), on behalf of its School of Medicine, Department of Family Medicine, Odessa campus, and **ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT**, Public School System, ("ECISD").

Both TTUHSC and ECISD are also referred to herein as "Party" or, collectively, "Parties".

WHEREAS,

ECISD operates a currently licensed and accredited Public School System, 802 N Sam Houston Ave, Odessa, Texas 79761 and requires the services of a physician to serve in the capacity of Medical Director; and

TTUHSC employs "Physician" or "Physicians" who specialize in Family Medicine and who are qualified to provide Medical Director services; and

ECISD desires to engage the professional services of TTUHSC's Physicians for the purpose of serving as Medical Director at ECISD and such services are reasonable and necessary in support of ECISD'S operations.

NOW THEREFORE, the Parties agree as follows.

**ARTICLE I
RESPONSIBILITIES OF TTUHSC**

- A. TTUHSC agrees its Physician shall meet all applicable state and federal licensing requirements for practice in the State of Texas.
 - 1. TTUHSC represents to the best of its knowledge that it's Physician(s) providing services under this Agreement have not been excluded from any federal or state healthcare program and that no basis for such exclusion exists.
- B. TTUHSC agrees its Physician, as Medical Director, shall be responsible for the following administrative services:
 - 1. Serve as advising physician for ECISD'S Nursing Services program, to include providing input for determining appropriate outcomes for care, evaluating and improving services, and sharing medical expertise in reviewing and updating protocols and practice policies.
 - 2. Attending ECISD Interdisciplinary Team meetings, and if unable to attend, contact coordinator prior to scheduled meetings so alternative arrangements can be made.
 - 3. Provide resources for education and program development.
 - 4. Allow use of the physician's name and medical license to order supplies as detailed in

Exhibit A: Ector County Independent School District and Texas Tech University Health Sciences Center, Protocol for ECISD Orders with Physicians License
 - 5. Act as a liaison to the community and medical professionals, but not participate in marketing efforts for ECISD.
 - 6. Cooperate with ECISD in dealing with regulatory agencies related to ECISD's Nursing Services Program.
 - 7. Adhere to ECISD'S policies as may be applicable.
 - 8. Medical Director shall maintain a log of time spent with a description of the activities for each time period.
- C. Both Parties acknowledge that Physician is providing Medical Director Services as part of ECISD'S workforce, as the term is defined under HIPAA, and is subject to confidentiality obligations applicable to ECISD'S employees and other persons under its control.



- D. Notwithstanding other language in the Agreement, the Parties confirm that duties provided as Medical Director under this Agreement do **not** include providing direct patient care. If patient care is to be provided, it will be the subject of a separate agreement for physician services. ECISD shall have no claim under this Agreement to any patient revenues of Medical Director.
- E. If Physician is unable to perform the duties of Medical Director due to illness or absence, TTUHSC shall designate another faculty physician to cover during the absence. Should Physician become unwilling or unable to continue service as Medical Director, ECISD and TTUHSC will negotiate a replacement or this Agreement may be terminated in accordance with Article IV.

ARTICLE II
RESPONSIBILITIES OF ECISD

- A. ECISD will provide and maintain appropriate and necessary supplies and equipment which meets the current standard of care, and support staff who hold current licenses or certification and have professional liability insurance coverage, evidence of which shall be provided upon request.
- B. ECISD acknowledges that each party is subject to applicable federal and state laws and regulations, and policies and requirements of various accrediting organizations. Accordingly, each party will enforce compliance with all applicable laws, regulations, and requirements, and will make available such information and records as may be reasonably requested in writing by the ECISD to facilitate its compliance, except for records that are confidential and privileged by law.
- C. ECISD represents and warrants that it or its employees or agents not listed by a federal or state agency as debarred, excluded or otherwise ineligible for participation in federally funded programs, and will notify TTUHSC immediately of any change in this status.

ARTICLE III
COMPENSATION AND BILLING

- A. ECISD agrees to pay TTUHSC one thousand dollars (\$ 1,000.00) per month. This amount is compensation for all services set forth in Article I including travel. ECISD must make the payments from current revenues available to it.
- B. It is anticipated that Physician shall provide Medical Director services a maximum of approximately 4 hours per month for 12 months per year.
- C. TTUHSC will send an invoice monthly and ECISD shall remit payment within 30 days of the date of receiving the invoice to the address stated herein.
- D. The Parties agree that no third party will be billed for the medical director administrative services provided by TTUHSC's physician under this Agreement.
- E. Each party represents and warrants on behalf of itself, that all decisions regarding the medical care of patients shall be based solely upon the professional medical judgment of a patient's attending physician(s) and shall be made in the best interests of patients, that the aggregate benefit given or received under this Agreement, whether in cash or in kind, has been determined in advance through a process of arms-length negotiations that were intended to achieve an exchange of goods and/or services consistent with fair market value in the circumstances, and that any benefits given or received under this Agreement is not intended to induce, does not require, and is not contingent upon, the admission, recommendation or referral of any patient, directly or indirectly, to the ECISD.
- F. Other professional medical services provided by Physician to patients and billing for such services shall be the subject of a separate agreement.

ARTICLE IV
TERM AND TERMINATION

- A. The term of this Agreement is from July 1, 2023 through June 30, 2024.
 - 1. If notice of termination has not been given by either Party at the time of expiration of the current term of this



Agreement, this Agreement shall be automatically renewed on a year to year basis.

- B. Either Party may terminate this Agreement at any time with or without cause by giving the other Party a (30) days written notice of termination.
- C. This Agreement may be terminated immediately by TTUHSC for nonpayment as agreed upon written notice to ECISD.
- D. Either Party has the right to terminate this Agreement immediately upon notice of exclusion of TTUHSC's Physician(s) providing services under this Agreement or of the exclusion of ECISD or its personnel.
- E. Either Party may terminate this Agreement by written notice to the other Party, and may regard the other Party as in default of this Agreement, if the other party becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, becomes subject to any proceeding under any bankruptcy or insolvency laws, whether domestic or foreign, or has wound up or liquidated, voluntarily or otherwise.
- F. "Event of Force Majeure" means an event beyond the control of ECISD or TTUHSC which prevents or makes a Party's compliance with any of its obligations under this Agreement illegal or impracticable, including but not limited to: act of God (including, without limitation, fire, explosion, earthquake, tornado, drought, and flood); war, act or threats of terrorism, hostilities (whether or not war be declared), invasion, act of enemies, mobilization, requisition, or embargo; rebellion, insurrection, military or usurped power, or civil war; contamination or destruction from any nuclear, chemical, or biological event; riot, commotion, strikes, go slows, lock outs, or disorder; epidemic, pandemic, viral outbreak, or health crisis; or directive of governmental authority. No Party will be considered in breach of this Agreement to the extent that performance of their respective obligations is prevented or made illegal or impracticable by an Event of Force Majeure that arises during the term (or after execution of the Agreement but prior to the beginning of the term). A Party asserting an Event of Force Majeure hereunder ("Affected Party") will give reasonable notice to the other Party of an Event of Force Majeure upon it being foreseen by, or becoming known to, Affected Party. In the event of an Event of Force Majeure, Affected Party will endeavor to continue to perform its obligations under the Agreement only so far as reasonably practicable.
- G. Notwithstanding anything else in this Agreement to the contrary, if either Party terminates this Agreement during the initial twelve (12) months of the Agreement for any reason, the Parties agree that they shall not enter into an agreement with each other for the same or substantially the same services during the initial twelve (12) months of this Agreement.
- H. In the event this Agreement is terminated in accordance with this Article, then within thirty (30) days after the effective date of such termination, TTUHSC shall submit TTUHSC's termination statement for Services rendered to the date of termination, and ECISD shall pay TTUHSC for such Services within thirty (30) days of receipt of TTUHSC's termination statement.
- I. The termination or expiration of this Agreement shall not relieve either Party of any obligation pursuant to this Agreement which arose on or before the date of termination.

ARTICLE V
INSURANCE AND INDEMNIFICATION

- A. The TTUHSC School of Medicine Medical Self-Insurance Plan for medical liability provides coverage to its employed physicians in amounts of \$400,000 per claim/\$1.2 million annual aggregate, unless lower liability limits are set by law, in which case the lower liability limits set by law shall apply.
- B. TTUHSC and ECISD are both public entities subject to the provisions for the Texas Tort Claims Act located in Chapter 101 of the Texas Civil Practices and Remedies Code and the State Liability for Conduct of Public Servants located in Chapter 104 of the Texas Tort Claims Act (collectively the "Act") and as such, any liabilities for claims for damages from third parties shall be governed by the Act as they apply or they now hereinafter may be amended.

ARTICLE VI
COMPLIANCE

- A. The Parties enter into this Agreement with the intent of conducting their relationship in full compliance with the



federal physician anti-referral law, the Medicare and Medicaid Anti-Fraud and Abuse law and the Texas Occupations Code patient non-solicitation law. Notwithstanding any unanticipated effect of any of the provisions herein, neither Party will intentionally conduct itself under the terms of this Agreement in a manner to constitute a violation of the Medicare and Medicaid Anti-Fraud and Abuse law or Texas Occupations Code patient non-solicitation law.

- B. The Parties acknowledge that each is subject to applicable federal and state laws and regulations, and policies and requirements of various accrediting organizations. Accordingly, each Party will enforce compliance with all applicable laws, regulations, and requirements, and TTUHSC will make available such information and records as may be reasonably requested in writing by the ECISD to facilitate its compliance, except for records which are confidential and privileged by law.
- C. Pursuant to 42 U.S.C. Section 1395x(v) (1)(I) and 42 C.F.R. Part 420, Subpart D Section 420.300 et seq., both Parties shall, until the expiration of four (4) years after the furnishing of Medicare reimbursable services pursuant to this Agreement, upon proper written request, allow the Comptroller General of the United States, the Secretary of Health and Human Services, and their duly authorized representatives access to this Agreement and to the Parties books, documents and records necessary to certify the nature and extent of costs of Medicare reimbursable services provided by TTUHSC's Physician under this Agreement are carried out by means of a subcontract with an organization related to TTUHSC, and such related organization provides the services at a value or cost of \$10,000.00 or more over a twelve-month period, then the subcontract between TTUHSC and the related organization shall contain a clause comparable to the clause specified in the preceding sentence.

ARTICLE VII
CONFIDENTIALITY

- A. Both parties acknowledge that they are subject to requests for information under the Texas Public Information Act (Texas Gov't Code, Ch 552) (the "Act"). Both parties agree to comply with the Act in connection with any requests for information. ECISD acknowledges that TTUHSC is a public institution of higher education in the state of Texas and is subject to requests for information under the Texas Public Information Act (Texas Government Code, Chapter 552). Under this Act, there are exceptions to requests for disclosure, which include but are not limited to, information confidential by law and certain commercial information and trade secrets. The Texas Attorney General's office makes the final determination whether or not requested information is to be disclosed on a case by case basis after reviewing the materials and assertions against disclosure. If proprietary information is requested, the Act requires TTUHSC to provide written notice to the party whose proprietary information may be subject to the request, and that party may also submit information to the Texas Attorney General to establish that disclosure of the information would cause substantial competitive harm.

ARTICLE VIII
GENERAL PROVISIONS

- A. Independent Contractor. Nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship between the contracting Parties. The sole interest and responsibility of the Parties is to ensure that the services covered by this Agreement shall be performed and rendered in a competent, efficient, and satisfactory manner.
- B. Severability. If any term or provision of this Agreement is held to be invalid for any reason, the invalidity of that section shall not affect the validity of any other section of this Agreement provided that any invalid provisions are not material to the overall purpose and operation of this Agreement. The remaining provisions of this Agreement shall remain in full force and shall in no way be affected, impaired, or invalidated.
- C. Notices. All notices, requests and communications required or permitted hereunder shall be in writing and shall be sufficiently given and deemed to have been received upon personal delivery or delivery by overnight courier or, if mailed, upon the first to occur of actual receipt or seventy-two (72) hours after being placed in the United States mail, postage prepaid, registered or certified mail, receipt requested, addressed to the Parties at the addresses set forth below:

If to TTUHSC: Texas Tech University Health Sciences Center
ATTN: Wendy Thomas, Director of Finance
800 W. 4th Street
Odessa, TX 79765



If to ECISD: Ector County Independent School District
ATTN: Scott Muri, Superintendent
802 N Sam Houston Ave
Odessa, Texas 79761

Notice of a change in address of one of the Parties shall be given in writing to the ECISD as provided above, but shall be effective only upon actual receipt.

- D. Binding Effect; No Third Party Beneficiary. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors and permitted assigns. Nothing in this Agreement is intended, nor shall be deemed, to confer any benefits on any third party, including, without limitation any patients of the ECISD, nor shall such person or entity have any right to seek, enforce or recover any right or remedy with respect hereto.
- E. Entire Agreement. This Agreement contains the entire agreement of the Parties concerning the subject matter described herein and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter described herein. This Agreement supersedes any prior written or oral agreements between the Parties concerning the subject matter described herein.
- F. Amendment. This Agreement and each of its provisions shall be binding upon the Parties and may not be waived, modified, amended or altered except by in writing signed by the Parties.
- G. Assignment. Neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party.
- H. No Waiver. Any failure of a Party to enforce that Party's rights under any provision of this Agreement shall not be construed or act as a waiver of said Party's subsequent right to enforce any of the provisions contained herein.
- I. Governing Law; Venue. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas. Venue will be in accordance with the Texas Civil Practices and Remedies Code and any amendments thereto.
- J. Breach of Contract Claims. The dispute resolution process provided for in Texas Government Code, Chapter 2260 ("Chapter 2260") and the related rules adopted by the AG pursuant to Chapter 2260 will be used by the Parties to attempt to resolve any claim for breach of contract that cannot be resolved in the ordinary course of business. Chapter 2260 requires each Party to first provide written notice of a claim and negotiate with TTUHSC before proceeding to the contested case process. TTUHSC will examine ECISD's claim and any counterclaim and negotiate with ECISD in an effort to resolve such claims. Governed by rules adopted by the AG, the contested case process is ECISD's sole and exclusive method to seek a remedy for breach unless, after considering the Administrative Law Judge's report, the Legislature gives consent for ECISD to sue under Texas Civil Practice and Remedies Code Chapter 107. The Parties specifically agree that (i) neither the execution of the Agreement by TTUHSC nor any other conduct, action, or inaction of any representative of TTUHSC relating to the Agreement constitutes or is intended to constitute a waiver of TTUHSC or the State's sovereign immunity to suit; and (ii) TTUHSC has not waived its right to seek redress in the courts. Any term or provision in the Contractor Terms indicating agreement to arbitration, other alternative dispute resolution, or litigation options in the event of a dispute between the Parties is expressly rejected and is null and void. Notwithstanding any other provision of the Agreement to the contrary, unless otherwise requested or approved in writing by TTUHSC, ECISD will continue performance and will not be excused from performance during the period any breach of agreement claim or dispute is pending under the above processes; however, ECISD may suspend performance during the pendency of such claim or dispute if ECISD has complied with all provisions of Texas Government Code § 2251.051, and such suspension of performance is expressly applicable and authorized under that law.
- K. Use of Name. Neither Party to this Agreement shall use the name or indicia of the ECISD, nor of any of a Party's employees, in any manner of publicity, advertising, or news releases without prior written approval of the ECISD.
- L. Warranty of Authority. The person(s) executing this Agreement on behalf of the Parties, or representing themselves as executing this Agreement on behalf of a Party, warrant and guarantee that each has been duly authorized by the appropriate Party to execute this Agreement on behalf of the Party and to validly and legally bind the Party to all of its terms, performances, and provisions.




ARTICLE IX
E-SIGNATURES

This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" (.pdf), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature.

IN WITNESS WHEREOF, the undersigned Parties bind themselves to the faithful performance of this agreement.

TEXAS TECH UNIVERSITY
HEALTH SCIENCES CENTER

ECTOR COUNTY
INDEPENDENT SCHOOL DISTRICT



Penny Harkey (Oct 2, 2023 12:32 CDT)
Signature

Signature

Penny Harkey
Printed Name

Scott Muri
Printed Name

Executive Vice President

Superintendent of Schools

10/02/2023
Date

Date



Exhibit A

**Ector County Independent School District and Texas Tech University Health Sciences Center
Protocol for ECISD Orders with Physicians License**

Ector County Independent School District (hereafter “ECISD”) nursing staff offers an Immunization Program for Staff and Students. In order to accomplish this the ECISD Director of Nursing orders supplies to administer the vaccines, orders vaccines and on occasion orders medication to handle potential urgent or emergent situations that may arise from allergic reactions to the vaccines. The ordering of these items requires use of a physician’s license, the Medical Director. In order to provide oversight by the Medical Director of this ordering process ECISD agrees to the following process:

1. At least twice per year, or when ordering of medical supplies, vaccines and/or resuscitation medications occurs, ECISD will obtain prior approval by TTUHSC Family Medicine and the Medical Director.
2. Notice of approval will occur two weeks prior to submission of the order by faxing or electronically, via email, sending the purchase order document to the TTUHSC Family Medicine Department Administrator who will obtain approval from the Medical Director.
3. Once the Medical Director approves the purchase order, the ECISD Director of Nursing may proceed with the order. After the order is executed the ECISD Director of Nursing will provide via fax or electronically via email a copy of the invoice to the TTUHSC Family Medicine Department Administrator.
4. Approved supplies as listed:
 - (a) Vaccines – Tdap, DTap, MMR, Varicella, Polio, Meningococcal B, Meningococcal conjugate, HPV, Hep A, Hep B and flu
 - (b) Medical Supplies - IV fluid, IV epinephrine, IV Benadryl, Normal saline to dilute drugs, IV tubing, IV connections, IV catheters, syringes, needles, AED and AED pads

**ECISD – TTUHSC FAMILY MEDICINE PROTOCOLS
For
Oversight of Nursing Documentation**

ECISD nursing staff offers an immunization program for staff and students using vaccinations, and when necessary administering medications for vaccine reactions, ordered using the Medical Director’s license. In order to verify proper documentation of vaccine administration and/or track use of vaccines and/or medications as ordered, ECISD agrees to make available to the Medical Director nursing charts for random audits by the Medical Director.

