

## PHYSICIAN FELLOW EMPLOYMENT AGREEMENT

**THIS PHYSICIAN FELLOW EMPLOYMENT AGREEMENT** (the "Agreement") is made and entered into as of the date of full and final execution last written below, by and between Sam Houston State University College of Osteopathic Medicine ("Employer"), and \_\_\_\_\_ ("Physician Fellow"). Physician Fellow and Employer shall each be referred to herein as a "Party" and collectively as the "Parties."

### 1. Recitals.

WHEREAS, Employer operates a Fellowship Program (the "Program") under the laws of the state of Texas.

WHEREAS, Employer desires to employ Physician Fellow on a full-time basis, as a Fellow physician in training in the specialty of \_\_\_\_\_ (the "Specialty") during the Term of the Agreement.

WHEREAS, Physician Fellow desires to be so employed, agrees to devote Physician Fellow's full time and attention and hereby accepts and agrees to such employment pursuant to all of the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### 2. Term.

The term of this Agreement shall commence on \_\_\_\_\_ (the "Fellowship Commencement Date") and shall continue in full force and effect thereafter for twelve (12) months (except as otherwise indicated, the Term of the Agreement and any extension thereof shall hereinafter be referred to as the "Term"). Prior to the Fellowship Commencement Date, Physician Fellow agrees to: (a) submit to and successfully pass a pre-employment drug screening; (b) provide documentation of identity and right to work; (c) provide proof of compliance with the immunization policies of the clinical site to which they will be assigned; and (d) submit to a criminal background and credit check as well as a reference review that Employer determines, in its sole discretion, is acceptable and desirable and (e) complete background and reference verifications of the clinical site as detailed in 20 below. Physician Fellow acknowledges and agrees that Physician Fellow's employment under this Agreement is conditioned upon the above referenced items

### 3. Representations and Warranties of Physician Fellow.

3.1 Employer has entered into this Agreement in reliance on Physician Fellow's representations and warranties to Employer being true and accurate at the time Physician Fellow entered into this Agreement and at all times during the Term as follows:

(a) Physician Fellow shall possess a full independent license required as a Fellow physician in training in the Specialty and be authorized to practice medicine under the laws of the state of Texas or a Physician in Training license

required as a Physician Fellow in the specialty and be authorized to practice medicine under the laws of the state of Texas;

**MD - OPT** (b) Physician Fellow must provide official written documentation of successful completion of the USMLE Part III examination.

**DO - OPT** (b) Physician Fellow must provide official written documentation of successful completion of the COMLEX Part III examination.

(c) Physician Fellow has never been disciplined, suspended or terminated from any other graduate medical education program;

(d) Physician Fellow has never been reprimanded, sanctioned, or disciplined by any licensing board, state or otherwise; medical society; specialty board; or any healthcare facility;

(e) Physician Fellow has never been denied membership or reappointment of membership on the medical staff of any hospital, and no hospital medical staff membership or clinical privileges of Physician Fellow have ever been suspended, curtailed, denied or revoked;

(f) Physician Fellow has never been subject to any disciplinary order, sanction or decree of any federal or state governmental agency having jurisdiction over the practice of medicine or that Physician Fellow's license to practice medicine has never been suspended, curtailed, denied or revoked by any state licensing board;

(g) Physician Fellow (i) is not currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 U.S.C. § 1320a-7b(f) (the "Federal health care programs"), (ii) has not been convicted of a criminal offense related to the provision of health care items or services and has not been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs or Federal contracting, and/or (iii) is not under investigation or otherwise aware of any circumstances that may result in Physician Fellow being excluded from participation in the Federal health care programs or debarred from Federal contracting. This is an ongoing warranty and representation, and Physician Fellow must immediately notify Employer of any change hereto. A breach of this provision shall be a material breach of this Agreement; and

3.2 Upon successful completion of the entire Program (and all associated requirements), Physician Fellow shall be eligible to sit for the Board Certification examination in the specialty of \_\_\_\_\_ as offered by the \_\_\_\_\_.

#### 4. Duties and Covenants of Physician Fellow.

4.1 Physician Fellow shall be responsible for the following requirements as set forth in the Sam Houston Regional Education Consortium (SHREC) Sponsoring Institution Policy Manual and the requirements established by each and every clinical rotation and/or specialty to

which Physician Fellow will be assigned within the scope of the Program. Physician Fellow's duties shall include, but not be limited to, the following:

- (a) participate fully in the educational activities of the Program including any accreditation, submission and activities as required by Review Committee ("RC") and the Accreditation Council of Graduate Medical Education ("ACGME"), Program Director and the Program Evaluation Committee (PEC) as well as assume responsibility for teaching and supervision of other Physician Residents and students;
- (b) comply with all Employer rules, regulations, policies and procedures, including but not limited to, employee handbook, as well as \_\_\_\_\_ Medical Staff Bylaws, Rules and Regulations;
- (c) all other reasonable administrative duties as requested by Employer; and
- (d) comply with Program policies and procedures including, but not limited to, duty hours compliance, and restrictions on moonlighting.

5. Responsibilities of the Employer

(a) Employer shall provide a Director of the Program, who is an active member of the Hospital's Medical Staff, and who oversees the clinical and didactic aspects of the Program. Additionally, Employer shall comply with the accreditation and institutional requirements in accordance with the RC and ACGME as well as the other responsibilities as described in the SHREC Sponsoring Institution Policy Manual.

(b) Accommodation for Disabilities: In compliance with the Americans with Disabilities Act ("ADA"), the American Council of Graduate Medical Education ("ACGME") institutional requirements, and all other applicable state and local laws, Employer will provide reasonable accommodations to Fellows with disabilities, as set forth in Employer's Human Resources Workplace Accommodations Policy  
[https://www.shsu.edu/intranet/policies/finop/human\\_resources/documents/HR-05+Workplace+Accomodations.pdf](https://www.shsu.edu/intranet/policies/finop/human_resources/documents/HR-05+Workplace+Accomodations.pdf)

(c) Employer Policies: For the Term of this Agreement, Employer's policies will address health insurance benefits for Fellows and their eligible dependents; disability insurance for fellows; vacation and leave(s) of absence for Fellows, compliance with applicable employment laws; and institutional policies and procedures regarding Fellow clinical and educational work hours and moonlighting.

6. Professional Billing and Collection; Other Activities.

Employer shall bill, collect and retain all professional fees for professional medical services rendered by Physician Fellow under this Agreement, whether such professional medical services are provided to patients at \_\_\_\_\_, or at any other location (the "Professional Fees"). Physician Fellow hereby reassigns to Employer any rights Physician Fellow may have to payments made by Medicare or any other third-party payer for services rendered by Physician Fellow. In the event Physician Fellow receives any Professional Fees directly, Physician Fellow

shall promptly deliver such Professional Fees to Employer. Physician Fellow shall comply with those provisions of the law that affect Employer's and Hospital's reimbursement. Physician Fellow shall do nothing that will adversely affect such reimbursement or Employer's or Hospital's provider status with any third-party payer.

7. Compensation and Benefits.

7.1 As compensation for all services rendered during the term of this Agreement, Employer shall pay to Physician Fellow a Base Salary of \$ \_\_\_\_\_, which shall be payable in accordance with Employer's normal payroll policies, subject to withholding of statutory and elected deductions c. In addition, Physician Fellow shall receive employee benefits in accordance with applicable Employer policies and benefit programs, which are subject to amendment in Employer's sole discretion as well as described in the Program Manual(s). Physician shall also receive reimbursement for continuing medical education, which may include without limitation, study materials, memberships to professional organizations, and fees for testing, in an amount not to exceed One Thousand Dollars (\$1,000.00) for the Term of the Agreement. In order to receive such reimbursement, Physician must provide Employer with documented proof of such expense, including date of program and cost, as applicable. Physician Fellow acknowledges that all of the compensation payable under this Agreement shall constitute compensation for rendering professional medical services, and that no portion of the compensation payable hereunder constitutes remuneration in return for the referral of patients or the ordering of tests or supplies.

7.2 Fellow Physician may request a leave of absence in writing. Leaves of absence may be granted, subject to approval of Employer and the Director of the Program, which approval may be withheld for any reasons, subject to applicable laws and regulations and the requirements of the Program. Time spent away from the program may adversely affect the Fellow Physician's ability to timely complete the program requirements.

8. No Referrals Required/Regulatory Compliance.

The parties expressly agree that nothing contained in the Agreement shall require Physician Fellow to refer or admit any patients to, or order any goods or services from Employer or \_\_\_\_\_. Notwithstanding any unanticipated effect of any provision of the Agreement, neither Party will knowingly or intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs (42 U.S.C. §1320a-7b).

9. Insurance.

Employer shall procure and maintain professional malpractice liability insurance on a claims made basis in the amount of \$200,000 per occurrence/\$600,000 in the aggregate or an amount necessary to meet specific state requirements, covering Physician Fellow for professional medical services provided pursuant to this Agreement. Employer shall be a named insured on such policy. Upon the expiration or termination of this Agreement, Employer shall purchase for Physician Fellow an extended reporting endorsement (commonly known as "tail" coverage") for the policy purchased pursuant to this Section. If Physician Fellow engages in moonlighting, Physician Fellow shall maintain, at Physician Fellow's sole cost and expense, professional malpractice liability insurance for such activities.

10. Appointment.

10.1 Physician Fellow appointment in the Program is twelve months in length.

11. Discipline.

Discipline arising under this agreement shall be subject SHREC Sponsoring Institution Non-Promotion, Non-Renewal, Dismissal Policy and Resident/Fellow Grievance Policy.

12. Termination.

12.1 This Agreement may be terminated immediately by Employer upon the occurrence of any of the following events:

(a) the loss, suspension (whether temporary or permanent) or probation of Physician Fellow's permanent medical license or training license;

(b) Physician Fellow's dismissal from the Program;

(c) Physician Fellow's death or permanent disability (as defined in accordance with Employer's disability policy);

(d) the cessation of operations of \_\_\_\_\_;

(e) the bankruptcy, insolvency, or receivership of Employer;

(f) the Physician Fellow's breach of any representation or warranty set forth in Section 3;

(g) the Employer's determination that Physician Fellow's continued employment would pose an unreasonable risk of harm to patients, other employees, or others or would adversely affect the confidence of the public in the services provided by Employer or \_\_\_\_\_;

(h) upon Physician Fellow's failure to pass any drug test;

(i) conduct by the Physician Fellow that is reasonably considered by the Employer to be gross insubordination, gross dereliction of duty, unethical, unprofessional, fraudulent, unlawful, or adverse to the interest, reputation or business of the Employer or \_\_\_\_\_;

(j) Physician Fellow being charged with, indicted upon a charge of, and/or conviction of a crime (other than a minor traffic violation without injury); or

(k) notice that Physician Fellow has been suspended, excluded, or debarred from any federal government payer program.

12.2 In addition to the termination provisions listed above, if either Party materially breaches any provision in this Agreement, and fails to cure such material breach within thirty (30) days following delivery to such Party of a written notice of the alleged material breach, then the other Party thereafter may immediately terminate this Agreement upon written notice to the breaching Party subject to any appeal process contained in the Program Manual(s).

12.3 The termination provisions in this Section 12 shall not be exclusive, but in addition to any other rights and remedies that the parties may have at law or in equity. Termination of this Agreement shall not release or discharge either Party from any obligation, debt or liability that shall have previously accrued and remains to be performed on or after the date of termination.

12.4 This Agreement may be terminated by Employer with or without cause upon thirty (30) days written notice.

13. Patient Care.

All duties and obligations of Physician Fellow under this Agreement shall be performed under the supervision of an attending physician who shall have complete control over the diagnosis and treatment of patients assigned to Physician Fellow.

14. Confidential Information.

During the term of this Agreement, Physician Fellow may have access to confidential information, consisting of business accounts, patient information, confidential financial information, clinical protocols developed by Employer or \_\_\_\_\_, and other records of Employer or \_\_\_\_\_ (some of which may be developed in part by Physician Fellow under this Agreement), which items are owned exclusively by Employer or \_\_\_\_\_, as the case may be, and used in the operation of their businesses (the "Confidential Information"). During the Term of this Agreement, Physician Fellow agrees: (a) not to use or further disclose Confidential Information other than as permitted or required by this Agreement and by applicable federal and state laws; (b) to use appropriate safeguards to prevent the use or disclosure of Confidential Information other than as provided for in this Agreement; and (c) that upon termination of this Agreement, Physician Fellow will return all Confidential Information received from Employer in any form and retain no copies of such information. The confidentiality terms of this Agreement shall survive the termination of this Agreement.

15. Notices.

Any notice or other communication required or permitted by this Agreement shall be in writing and shall be effective upon hand delivery, deposit with a reputable overnight courier such as Federal Express for overnight delivery, or deposit with certified mail, postage prepaid, return receipt requested, and addressed as follows:

Employer:  
Sam Houston State University  
College of Osteopathic Medicine  
925 City Central Avenue  
Conroe TX 77304  
Attention:

Physician Fellow:  
(insert address)

16. Miscellaneous.

This Agreement shall be governed by and interpreted under the laws of the State of Texas. Venue for any action concerning this Agreement between the parties hereto shall be in Walker County. In the event that such action is brought in or removed to a federal court and no federal court of competent jurisdiction is located within such county, venue for such action shall lie in the nearest county in which a federal court of competent jurisdiction is located. Notwithstanding any provision of this Agreement, nothing herein shall be construed as a waiver by Employer of its constitutional, statutory or common law rights, privileges, immunities or defenses. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, and no amendment, alteration or modification of this Agreement shall be valid unless in each instance such amendment, alteration or modification is expressed in a written instrument duly executed in the name of the Party or Parties making such amendment, alteration or modification. The headings set forth herein are for the purpose of convenient reference only, and shall have no bearing whatsoever on the interpretation of this Agreement. Any waiver of any provision hereof shall not be effective unless expressly made in writing executed by the Party to be charged. The failure of any Party to insist on performance of any of the terms or conditions of this Agreement shall not be construed as a waiver or relinquishment of any rights granted hereunder or of the future performance of any such term, covenant or condition, and the obligations of the Parties with respect thereto shall continue in full force and effect.

17. Public Information Act.

Employer strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act (TPIA)*, [Chapter 552, Texas Government Code](#). In accordance with §§[552.002](#) and [2252.907](#), *Texas Government Code*, and at no additional charge to Employer, Physician Fellow will make any information created or exchanged with Employer pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by The System that is accessible by the public.

18. Dispute Resolution.

If a dispute, or controversy, or claim arises out of or relates to this Agreement, the parties will make a good faith attempt to resolve the issues. If the dispute cannot be settled by the parties, the parties agree to follow the dispute resolution process in Chapter 2260 of the Texas Government Code.

19. Severability.

In case any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.

20. Required Approvals.

This Agreement, or any amendment or modification hereto, shall not be effective or legally binding on the Employer until Physician Fellow has successfully completed \_\_\_\_\_ credentialing procedures, which include criminal and credit check review, and has been approved for employment by Sam Houston State University College of Osteopathic Medicine. Physician Fellow understands and agrees that Employer may, in its sole discretion, terminate this offer of

employment if Employer believes that the information obtained from any and all reference, credit, and/or background checks is unacceptable or undesirable.

SAMPLE



IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

**EMPLOYER:**

**PHYSICIAN FELLOW:**

\_\_\_\_\_  
**By: Michael T. Stephenson, Ph.D.  
Provost and Sr. Vice President for  
Academic Affairs**

\_\_\_\_\_  
**By:**

\_\_\_\_\_  
**Date:**

\_\_\_\_\_  
**Date:**

SAMPLE

## APPLICANT CERTIFICATION, AGREEMENT AND RELEASE

The information in my application, my resume, and disclosed in the interview process is true, correct and complete. I understand that any misrepresentation, falsification, omission or deception of material facts may cause my application to be rejected or any employment terminated.

I authorize the procurement and use of a consumer report or investigative consumer report about me by Employer, Hospital and their various agents. I understand that such reports will include information from private and government entities, as well as individuals, such as my education, character, competencies, general reputation, personal characteristics or mode of living, criminal, credit, and professional licensure or certification, claims history and employment eligibility.

I further authorize Employer (including Employer's affiliates), the Hospital, its medical staff (if applicable) and representatives to consult with the administrators, and members of medical staffs of other hospitals or relevant institutions with which I have been associated and with others, including, but not limited to governmental and professional organizations, educational institutions and past and present malpractice insurance carriers, who may have information bearing on my professional competence, character, and ethical qualifications. I hereby further consent to their inspection of all records and documents, including criminal and credit checks, and medical records at other hospitals, that may be material to an evaluation of my professional qualifications and competence to carry out the clinical privileges requested as well as my moral and ethical qualifications for staff membership.

I release and hold harmless any entities and individuals from all liability whatsoever related to the information or its furnishing, including, but not limited to, Employer, Hospital, all employees/agents/contractors/affiliates of either/both, and all individuals and organizations that provide information to Employer, Hospital, and/or the Hospital's Medical Staff

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Date of Birth

\_\_\_\_\_  
Print Email Address

\_\_\_\_\_  
Date