

This Health Care Provider Agreement ("Agreement") is made and entered into by and between Acu-Care, Inc., a California Acupuncture Corporation, and the Licensed Acupuncturist named on the signature page of this Agreement (hereinafter referred to as "Provider").

### recitals

WHEREAS, ACU-CARE intends to negotiate agreements for the provision of acupuncture services, on a state-wide and regional managed-care basis, with insurers, health care service plans, and other organizations that provide health care benefits and services under preferred provider and exclusive provider arrangements (collectively, "payors"); and

WHEREAS, Provider is an acupuncturist licensed by the appropriate State; and

WHEREAS, Provider intends to render acupuncture services pursuant to agreements negotiated by ACU-CARE to individuals entitled to health care services and benefits from Payors ("Beneficiaries").

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions therein contained it is agreed by and between the parties hereto as follows:

### 1. definitions

- 1.01 "Beneficiary" is a person who may be entitled to Health Care Services or Benefits from a Payor under a Beneficiary Agreement.
- 1.02 "Beneficiary Agreement" is a contract, certificate, policy, evidence of coverage or other legally enforceable document issued or sponsored by a Payor.
- 1.03 "Health Care Services or Benefits" shall be all or any medical services or benefits, including acupuncture services and benefits, rendered to Beneficiary covered under the Beneficiary Agreement.
- 1.04 "Payor" is an insurance carrier, health care service plan or any other organization that provides for health care benefits and services to Beneficiaries under preferred provider and exclusive provider arrangements.
- 1.05 "Payor Agreement" is an agreement negotiated by ACU-CARE with Payor pursuant to which Provider may render Health Care Services or Benefits to Beneficiaries.
- 1.06 "Payor Summary" is the summary of terms and conditions of a specified Payor Agreement entered into by ACU-CARE which is furnished to Provider by ACU-CARE. Provider may render Health Care Services or Benefits to Beneficiaries covered by a specified Payor Agreement by agreeing to the Payor Summary.

### 2. health care services or benefits

- 2.01 Provider hereby agrees to render Health Care Services or Benefits to Beneficiaries in accordance with the terms and conditions of this Agreement and the applicable Beneficiary Agreement.
- 2.02 If any Payor wishes to contract with ACU-CARE, ACU-CARE will negotiate a Payor Agreement and forward to Provider a Payor Summary, which will include the reimbursement amounts negotiated by ACU-CARE and the Payor. If Provider wishes to render Health Care Services and Benefits to Beneficiaries covered by the Payor, Provider must return a signed copy of the Payor Summary to ACU-CARE by the date specified by ACU-CARE. If the Payor Agreement becomes effective, the Payor Summary will become a part of this Agreement. If Provider does not return a signed copy of the Payor Summary to ACU-CARE by the specified date, ACU-CARE will assume that Provider has elected not to render health Care Services and Benefits for the Payor.

If any Payor wishes to contract directly with ACU-CARE Providers, ACU-CARE will negotiate and forward the Payor Agreement to Provider. If Provider wishes to enter into the Payor Agreement, Provider may return a signed copy of the Payor Agreement to ACU-CARE, and ACU-CARE shall forward the signed Payor Agreement to the Payor.

Provider understands that he or she is under no obligation to agree to any Payor Summary or Payor Agreement and is free to negotiate any and all terms and conditions of any Payor Summary or Payor Agreement directly with the Payor.

By entering into this Agreement, Provider acknowledges and agrees that ACU-CARE has not had and will not have any discussions with Provider regarding the price of Health Care Services and Benefits or the reimbursement amounts specified in any Payor Summary or Payor Agreement.

Provider further agrees that he or she will not discuss reimbursement amounts or the price of Health Care Services and Benefits with any other ACU-CARE providers.

- 2.02 For those Payor Summaries agreed to by Provider, Provider agrees to accept the reimbursement amounts specified in each Payor Summary as payment in full for services rendered and not seek additional payment from Beneficiaries unless required or allowed to do so by the Payor Summary. This will not apply to specified copayments or deductibles or to services that are not covered by the Payor.
- 2.03 Provider understands and agrees that a membership fee may from time to time be charged by ACU-CARE to Provider in order to cover the cost of services performed by ACU-CARE in connection with negotiating and administering Payor Agreements. This Agreement shall automatically terminate if Provider does not pay any membership fee by the date specified by ACU-CARE.
- 2.04 Provider shall at all times during the term of this Agreement be a member of ACU-CARE. Provider agrees to cooperate with any administrative procedures which may be adopted by ACU-CARE regarding the performance of services by Provider under this Agreement.

### 3. term; termination

- 3.01 This Agreement shall be effective for one (1) year following the effective date specified on the signature page of this Agreement and shall automatically renew for consecutive annual terms thereafter unless otherwise terminated as provided in this Agreement.
- 3.02 This Agreement may be terminated by either party upon 30 days prior written notice to the other party.
- 3.03 ACU-CARE will notify each applicable Payor of the termination of this Agreement with Provider.
- 3.04 Following termination of this Agreement, Provider agrees to notify all Beneficiaries who are under Provider's care and all Beneficiaries who seek services from Provider that Provider is no longer an ACU-CARE provider.
- 3.05 Notwithstanding Section 3.02 above, ACU-CARE shall have the right to immediately terminate this Agreement upon the occurrence of any of the following events:
  - A) Whenever Provider ceases to be a Licensed Acupuncturist;
  - B) Whenever Provider is no longer covered by malpractice insurance as required in this Agreement;
  - C) Whenever Provider allows billing under his/her name for any treatment rendered to a Beneficiary by a licensed acupuncturist who has not entered into an ACU-CARE Health Care Provider Agreement;
  - D) Whenever Provider dies or becomes permanently disabled so Provider cannot perform his or her duties under this Agreement.
- 3.06 Termination of this Agreement shall not affect any rights or obligations which have previously accrued or shall thereafter arise with respect to any occurrence prior to such termination. Such rights and obligations shall continue to be governed by the terms of this Agreement.

### 4. covenants of provider

Provider covenants and agrees to the following:

- 4.01 To render care in accordance with the highest standards; and

- 4.02 To render Health Care Services and Benefits in the same manner and quality to all patients and in accordance with the applicable Beneficiary Agreement, Payor Agreement and/or Payor Summary; and
- 4.03 To support any Payor's policies and procedures regarding the return to work of sick or injured Beneficiaries, consistent with Provider's professional judgement; and
- 4.05 To indemnify and hold harmless ACU-CARE, its partners, officers, employees and agents, from and against any and all loss, expenses, damage or liability of whatsoever kind, including reasonable attorney fees and costs, arising from, related to or resulting from in any manner, directly or indirectly, the services rendered by Provider to any Beneficiary or patient; and
- 4.06 To allow ACU-CARE and Payors to use Provider's name, address, phone number and willingness to accept new patients in rosters of participating providers. The roster may be inspected by and is intended to be used by Beneficiaries and others; and
- 4.07 To cooperate with ACU-CARE so that ACU-CARE may meet any and all requirements imposed by state and federal law, and to permit ACU-CARE, Payors and governmental agencies to have access to books, records and other papers relating to services rendered by Provider. Provider agrees to retain such books and records for a minimum of five (5) years from and after the termination of this Agreement; and
- 4.08 To not differentiate or discriminate in the provision of services to Beneficiaries because of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, or age.

## 5. covenants of ACU-CARE

ACU-CARE covenants and agrees to the following:

- 5.01 To furnish Providers with a Payor Summary for each new Payor Agreement entered into by ACU-CARE; and
- 5.02 To abide by a policy of non-interference with the professional relationship between Provider and Beneficiary.

## 6. compensation

- 6.01 Provider shall be compensated for services rendered to Beneficiaries in accordance with the terms and conditions of each Payor Agreement and/or Payor Summary
- 6.02 If specified by any Payor Agreements, Provider authorizes ACU-CARE: (i) to transmit Provider's billings to Payors; and/or (ii) to accept payment for Health Care Services and Benefits from Payors on Provider's behalf. If ACU-CARE accepts payment from any Payors on Provider's behalf, ACU-CARE shall promptly forward such payments to Provider. In transmitting billings or accepting payment hereunder, ACU-CARE is acting on Provider's behalf. Provider acknowledges and agrees that ACU-CARE may withhold a specified percentage of the payment to the Provider, as set forth in the applicable Payor Summary. Provider agrees that ACU-CARE shall not be responsible for nonpayment or delay in payment of Health Care Services or Benefits by any Payors.
- 6.03 Before entering into any capitated arrangement, ACU-CARE will propose a method for compensating Provider for services rendered under such arrangement. Provider may then elect to participate in any such arrangement.

## 7. utilization review and quality assurance

- 7.01 ACU-CARE has established a utilization review/quality assurance program to review the necessity and quality of services rendered by Provider to Beneficiaries. Provider shall comply with and shall be bound by such utilization review program. Upon request, Provider may choose to serve on the utilization review committee of such program.
- 7.02 ACU-CARE shall establish a grievance procedure for the processing of any complaints by beneficiaries regarding services rendered by Provider under this Agreement. Provider shall comply with and shall be bound by such grievance procedure.

## 8. records

- 8.01 ACU-CARE and Provider shall each maintain records with respect to any matters necessary for the proper administration of this Agreement.

- 8.02 Provider shall maintain medical records for each Beneficiary in accordance with applicable law.
- 8.03 Upon termination of this Agreement for any reason and upon the request of any Beneficiaries, Provider will promptly transfer the Beneficiaries' medical records to their new provider. Provider is entitled to reasonable charges for transferring such records.

## 9. insurance coverage

- 9.01 Provider shall carry professional liability insurance coverage in a minimum amount of \$1,000,000 for any one incident and \$3,000,000 in the aggregate. Provider acknowledges and agrees that some Payor Agreements may require additional insurance coverage, in which case Provider shall carry such additional coverage if Provider elects to participate in such Payor Agreement.
- 9.02 Provider agrees to maintain professional liability insurance for the amount required under Section 9.01 above until the statute of limitation expires for filing of claims pertaining to Health Care Services or Benefits rendered by Provider.

## 10. arbitration

- 10.01 If the parties can not settle disputes between themselves in an informal and expeditious way, both parties agree to binding arbitration by the American Arbitration Association.
- 10.02 In the event that either party institutes any arbitration or suit to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to recover its reasonable Attorneys' fees and costs.
- 10.03 Each party agrees to notify the other party at the time a lawsuit is initiated concerning any dispute with any third person or entity that is relevant to any rights, obligations, or other responsibilities or duties provided for under this Agreement

## 11. entire agreement; amendment

- 11.01 This Agreement is the entire agreement between the parties and may be amended only by mutual written agreement of the parties.

## 12. independent contractor

- 12.01 Provider renders his/her services under this Agreement as an independent contractor. Neither ACU-CARE nor Provider is an agent, employee or representative of the other, except as specified in this Agreement.

## 13. non-exclusivity

- 13.01 Provider may continue to render services to Providers' own patients independent of this Agreement.
- 13.02 Provider may contract directly with any insurers, health care service plans or third party payors and/or with any independent practice associations, preferred provider organizations, exclusive provider organizations or other managed care entities.

## 14. severability

- 14.01 If any term, provision or condition of this Agreement is held by a court to be invalid, void or unenforceable, the remainder of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated as a result of such decision.

## 15. notice

- 15.01 Any notice required or permitted to be given pursuant to this Agreement shall be in writing and shall either be personally delivered or sent by Registered or Certified Mail with the United States Postal Service, addressed to such party at its last known address.

## 16. assignment

16.01 Provider may not assign any of his or her rights or delegate any of his or her duties under this Agreement. ACU-CARE may assign this Agreement or any of its rights under this Agreement to any designated successor organization.

## 17. governing law

17.01 This Agreement shall be governed and construed under and in accordance with the laws of the State of California without regard to its conflict of laws principles. The parties further agree that the forum for the adjudication, arbitration, or litigation of any dispute or controversy between them shall be within the County of Los Angeles, State of California.

IN WITNESS THEREOF, the parties have executed this Agreement and it shall be effective the date and year last written below.

**provider**

**Acu-Care**

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signature

\_\_\_\_\_  
signature

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please print name

\_\_\_\_\_  
please print name

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date

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date

**Address:**

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