

MEDICAL DIRECTOR AGREEMENT

THIS MEDICAL DIRECTOR AGREEMENT (“Agreement”) is effective as of **September 1, 2020** (the “Effective Date”), by and between MADISON EMERGENCY PHYSICIANS, S.C. (“Provider”) and **Deer Grove Emergency Medical Services** (“Recipient”).

RECITALS

WHEREAS, Provider is comprised of physicians licensed to practice medicine in the State of Wisconsin who specialize in providing emergency services;

WHEREAS, Recipient operates an emergency medical service for which Recipient is required to engage a qualified medical director to provide medical direction in all matters relating to emergency medical services that requires the administrative services of a competent and qualified emergency medicine physician providing EMS Medical Direction, leadership and education (the “Program”);

WHEREAS, Recipient desires to engage Provider, as an independent contractor, to provide a designated Provider employee (“Physician”), to serve as the Medical Director of the Program and to provide certain services described herein (“Medical Director Services”).

NOW, THEREFORE, in consideration of the promises and the mutual agreements and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Provider and Recipient (collectively, “Parties” and individually, “Party”), the Parties agree as follows:

1. Services.

1.1 Services to Be Provided by Provider. Provider shall provide the physician employee designated on Exhibit A to serve as the Medical Director of the Program and perform the Medical Director Services set forth on Exhibit B, both of which exhibits are attached hereto and incorporated herein by this reference.

1.2 Services to Be Provided by Recipient. Recipient shall provide all the space, supplies, equipment, furniture and fixtures as may be deemed reasonably necessary by Provider and/or Physician for the proper operation and conduct of the Program and to facilitate Physician in providing Medical Director Services. Recipient may employ or contract with personnel necessary to provide support services to Physician to aid in the performance of Medical Director Services; such personnel shall remain under the direction and control of Recipient and Recipient shall have the sole right to hire, fire, and/or discipline such personnel.

1.3 Replacement of Physician. Provider may from time to time modify Exhibit A by designating a new physician employee who shall fulfill Provider’s obligations hereunder, provided that Provider shall not change such designation more than once annually, except in cases of unforeseen circumstances (including, but not limited to, Physician’s death or long-term disability), or at Recipient’s written direction, without obtaining Recipient’s prior approval of the newly-designated Physician. The term “Physician” as used herein shall refer to the physician employee designated on Exhibit A and any of his/her designated successors.

1.4 Relationship of the Parties. Provider and Recipient are independent contractors, and this Agreement shall not constitute the formation of a partnership, joint venture, employment, principal/agent relationship, or master/servant relationship. The Parties further agree that neither Provider nor any Physician shall not be entitled to any sick leave, vacation pay, retirement, social security, disability, health and unemployment benefits, nor any other benefits offered to employees of Recipient. Recipient shall not have or exercise any control or direction over the professional judgment or methods by which Provider or any employees or agents of Provider, including any Physician, perform Medical Director Services pursuant to this Agreement. Neither Party shall have any expressed or implied right or authority to assume or create any obligation or responsibility on behalf of or in the name of the other Party, except as herein provided.

2. Term and Termination.

2.1 Term. This Agreement shall be effective on the Effective Date and continue for a period of two (2) years thereafter (the “Initial Term”), unless earlier terminated as provided below. The Parties shall review this Agreement prior to the end of the then-current term and, if mutually agreed upon by the Parties, extend the term of the Agreement for an additional one (1) year period (each a “Renewal Term”). The “Term” of this Agreement shall mean the Initial Term and all Renewal Terms. All such extensions shall be documented in writing and signed by the Parties prior to the expiration of the then-current term. In the event the Parties fail to appropriately document an extension, and Provider continues to provide Medical Director Services hereunder, the Term of this Agreement shall be deemed to be automatically extended on a day- to-day basis until terminated by either Party upon thirty (30) days’ prior written notice or as otherwise provided by an applicable termination provision of this Agreement.

2.2 Early Termination. The Parties may terminate this Agreement prior to the natural end of the Term as follows:

(a) Termination Upon Notice. Either Party may terminate this Agreement, for any reason, by providing at least sixty (60) calendar days’ prior written notice to the other Party.

(b) Termination for Breach. In the event of a material breach of this Agreement by one Party, the non-breaching Party may provide written notice of the breach and terminate this Agreement provided, however, that the breaching Party shall be afforded the opportunity to cure such breach, if curable, within thirty (30) days of its receipt of written notice of such breach. If the breaching Party, prior to expiration of such time period, has cured the breach, this Agreement shall remain in effect.

(c) Immediate Termination. This Agreement shall terminate immediately and automatically when:

(i) A receiver is appointed to take possession of all or substantially all of the assets of a Party, or a Party makes an assignment for the benefit of creditors, or a Party takes any action under any insolvency, bankruptcy, or reorganization act, or a Party otherwise ceases to do business; or

(ii) Either Party is excluded from participation in any federally funded healthcare program, including Medicare or Medicaid, as of the effective date of such exclusion.

(d) Termination Based on Survey Results. If Recipient is a skilled emergency medical service provider and subject to survey by any division of the Wisconsin Department of Health Services, Provider shall have the right, in its sole discretion, to immediately terminate this Agreement in the event that, upon review of annual survey results; (a) Recipient is designated as exhibiting “substandard Quality Care”; or (b) the number of Severity/Harm or Scope/Frequency deficiencies exceed the stated average and include one or more deficiencies which are designated as either “Immediate Jeopardy” or “Significant Correction” deficiencies.

3. Compensation.

3.1 Compensation Rate / Monthly Hours. As compensation for Provider providing Physician to act as the Medical Director of the Program and performing Medical Director Services pursuant to this Agreement, Recipient shall pay Provider at a rate of **One Thousand Dollars (\$1,000) per month** for term of agreement, starting January 1, 2021 and **Five Hundred Dollars (\$500) per month** for September 1, 2020 through December 31, 2020.

3.2 Fair Market Value / No Referrals. The Parties acknowledge that any compensation paid under this Agreement intended to reflect fair market value for Medical Director Services, and does not, nor shall it be modified to, take into account the volume or value of any referrals between the Parties. Nothing in this Agreement shall be construed as requiring or inducing any Party or, as applicable, any of its owners, directors, members, officers, employees, affiliates, or agents to refer any patients or business, reimbursable in whole or in part under any federal or state health care program, to the other Party. Provider and Physician shall be entitled to refer patients to any hospital or other healthcare provider deemed to be best qualified to deliver medical services to any particular patient.

3.3 Payment. Recipient shall pay in full, all compensation owed to Provider within fifteen (15) days following the date on which Provider or Physician submits Time Records (defined below) to Recipient. Recipient’s obligation to make payments under this Agreement is expressly contingent upon Provider or Physician submitting Time Records as required by Section 3.4, below.

3.4 No Other Payments. Provider expressly agrees that payments made pursuant to this Agreement constitute payment in full for Provider and Physician’s provision of Medical Director Services hereunder, and that Recipient shall not be responsible for directly compensating any Provider employees, or persons otherwise under contract with Provider, including any Physician, while this Agreement is in effect. Provider shall be solely responsible for making all deductions and withholdings which may be required by federal, state and local law for any Physician and to any Provider employee that may directly or indirectly assist in the provision of services under this Agreement.

3.5 Professional Fees Excluded. Any billing or collection of professional fees in connection with Medical Director Services shall be the sole responsibility of Provider. Recipient shall not collect professional fees on Provider’s behalf.

4. Performance of Services.

4.1 Physician Qualifications. Provider shall ensure that any Physician:

- (a) Is duly licensed as a physician in the State of Wisconsin;
- (b) Maintains all customary and appropriate narcotics and controlled substances numbers and licenses as required by federal, state, and local laws and regulations;
- (c) Be board-certified in Emergency Medicine or board-eligible in Emergency Medicine, so long as Physician is actively pursuing board certification, unless this requirement is waived in writing, in whole or in part, by Recipient;
- (d) Maintains good standing participation in the Medicare and Wisconsin Medicaid programs;
- (e) Has current certification in ACLS, unless Physician is certified by the American Board of Emergency Medicine or the American Osteopathic Board of Emergency Medicine, if Medical Director Services includes providing medical direction for an emergency medical services provider; and
- (f) Meets all of the qualifications of Wis. Admin. Code DHS 110.49(1) and/or any current or future requirements of EMS Medical Directors imposed by federal or Wisconsin law, if Medical Director Services includes providing medical direction for an emergency medical services provider.

4.2 Physician Standards. Physician shall provide Medical Director Services in accordance with: (i) currently approved methods and practices of the appropriate licensing authority for physicians and any other applicable state agency or organization governing physicians; (ii) the ethical and professional standards of the American Medical Association; (iii) all applicable federal, state and local laws and regulations; (iv) prevailing professional standards in the community, at the time such services are rendered; (v) those internal policies and procedures of Recipient which have been provided to Provider in writing, specifically noting their inclusion under this Section 4.2(v); and (vi) standards of any applicable licensing, regulatory, accrediting or certifying body made known to Provider in writing, specifically noting their inclusion under this Section 4.2(vi).

4.3 Recipient Qualifications / Standards. Recipient agrees that any of its employees and agents who assist Physician in providing Medical Director Services under this Agreement must, at all times, be qualified and in good standing with any applicable professional standards. Recipient's employees and agents shall provide assistance to Physician in a workmanlike manner and in accordance with, as applicable: (i) currently approved methods and practices of the appropriate licensing authority and any other applicable state agency or organization; (ii) ethical and professional standards; (iii) federal, state and local laws and regulations; and (iv) prevailing professional standards in the community, at the time such services are rendered.

5. Insurance / Claims / Liabilities.

5.1 Provider / Physician Coverage. Physician is an employee of Provider, and, in performing Medical Director Services under this Agreement, Physician will be acting within the scope of Physician's employment with Provider. Provider shall, at its sole cost and expense, provide liability coverage for the acts or omission of acts of its employees, including Physician, which are committed within the scope of their employment. Upon Recipient's written request, Provider shall deliver copies

of such policies to Recipient, and any modifications, extensions or renewals of such policies to or upon notification from an insurance carrier that a policy will be canceled.

5.2 Recipient Coverage. Recipient, at its sole cost and expense, shall procure and maintain in full force and effect throughout the Term of this Agreement, such policies of general liability, professional liability and other insurance as shall be necessary to insure Recipient and its employees and agents against any claim(s) for damages arising by reason of personal injuries or death occasioned directly or indirectly in connection with the performance of any service by Recipient, the use of any property and facilities or equipment provided by Recipient and the activities performed by Recipient in connection with the Agreement.

5.3 Claims Notification. Each Party shall promptly notify the other in the event it has reason to believe a claim may exist against the other Party, or any Physician, related to the services provided under this Agreement. Notification under this section shall be for information purposes only and shall not substitute for the statutory notification and claim procedures of Sections 893.80 and/or 893.82 of the Wisconsin Statutes, if and as applicable.

5.4 Mutual Indemnification / Hold Harmless. To the extent permitted by law and except as may be limited by Section 5.5, below, each Party shall indemnify and hold harmless the other Party, its directors, officers, employees (including Physician), agents, affiliates, successors, and assigns from and against all claims, causes of action, suits, demands, liabilities, damages, penalties, judgments, and expenses (including, without limitation, reasonable attorney fees) arising out of or resulting from: (a) its breach of the representations, warranties, covenants, or agreements contained in this Agreement by the indemnifying Party; (b) its violation of applicable federal, state, or local laws, rules, or regulations; or (c) any action, claim, suit, or proceeding brought by any third party arising from any of its acts or omissions or acts or omissions of its employees or agents.

5.5 Immunity. Nothing in this Agreement is intended to amend, abrogate, or waive the right of either Party to claim immunity for acts or omissions undertaken under this Agreement, including but not limited to governmental/sovereign immunity and/or the civil immunity afforded to medical directors reviewing the performance of emergency medical services practitioners under Wis. Stat. § 146.37.

6. Confidentiality / Records.

6.1 Confidentiality. Neither Party will disclose confidential or proprietary information relating to the other Party's operations (such as strategic plans, business plans, financial information, volume data, etc.) which has been identified by one Party in writing to the other Party as confidential or proprietary, except as consented to or requested by the Party or as required by law, in which case, the Party legally compelled to disclose the information shall, as soon as practicable, inform the other Party of such circumstances.

6.2 Public Records Law. In the event that Recipient is an entity subject to Public Records Law, and a request for materials containing the financial terms of this Agreement, or other data, information, or materials identified by Provider in writing as confidential or proprietary is made to Recipient or Recipient's officials or employees pursuant to applicable Public Records Law, Recipient agrees to provide notice to Provider and allow Provider five (5) business days to identify those materials or parts of materials which Provider believes should be exempt from disclosure and kept

confidential. If Recipient does not agree that such records need not be disclosed, they will provide Provider with notice and an additional five (5) business days for Provider to seek protection against disclosure from a court of competent jurisdiction. If Provider receives a public record request for any documents or information arising out of the performance of services under this Agreement, it shall not respond to the request, but shall immediately forward the request to Recipient. Upon request from Recipient, Provider shall reasonably cooperate in producing the information or data to fulfill a public record request related to this Agreement.

6.3 Access to Records. Until the expiration of four (4) years after the furnishing of services described herein by Provider and its employed and contracted health care professionals, upon proper demand and with the prior written consent of Recipient, Provider shall make available to the Secretary of the U.S. Department of Health and Human Services, the Comptroller General of the United States, or any of their duly authorized representatives, this Agreement, and such books, documents and records of Provider as are necessary to certify the nature and extent of the cost or value of services provided hereunder. If Provider carries out any of its duties hereunder pursuant to a subcontract, and if the services provided pursuant to said subcontract have a value or cost of Ten Thousand Dollars (\$10,000.00) or more over a twelve (12) month period, and such subcontract is with a related organization, such subcontract shall contain a clause requiring the subcontractor to retain and allow access to its records on the same terms and conditions as required of Provider by this Section 6.3. This Section 6.3 shall be null and void should it be determined that Section 1861(v)(1)(I) of the Social Security Act, as amended, is not applicable to this Agreement.

6.4 Privacy / HIPAA. The Parties acknowledge all state and federal statutes and regulations regarding the privacy and security of patient health information, including but not limited to all such regulations under the Health Insurance Portability and Accountability Act of 1996. The Parties agree to protect the privacy and security of all patient health information in accordance with and as established by all such statutes and regulations.

7. Miscellaneous.

7.1 Notices. Any notice or communication required or permitted to be given under this Agreement shall be served personally, sent by United States certified mail, or sent by email to the following address:

If to Recipient: Deer Grove EMS
Attn: Eric Lang
Chief of EMS
4030 County Highway N
Cottage Grove, WI 53527

If to Provider: Madison Emergency Physicians, S.C.
Attn: Michael Foley, MD
President & CEO
Suite A404
700 South Park Street
Madison, WI 53715

Any change to the notice address listed above must be given to the other party in the same manner as described in this section. The date of notice shall be the date of delivery if the notice is personally delivered or the date of mailing if the notice is sent by United States certified mail. Each Party agrees to maintain evidence of the respective notice method utilized.

7.2 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior proposals, negotiations, representations, communications, writings and agreements between the Parties with respect to the subject matter hereof, whether oral or written. This Agreement may only be amended or modified by a subsequent written agreement between duly authorized representatives of the Parties. This Agreement shall be binding on the Parties, their successors, and permitted assigns.

7.3 Exclusivity. This Agreement is nonexclusive as to both of the Parties, and shall not interfere with the right of either Party to enter a similar agreement with other parties.

7.4 Assignment. No Party may assign any of its rights, duties or obligations under this Agreement without the prior written consent of the other Parties.

7.5 Governing Law and Venue. This agreement shall be governed by and interpreted under the laws of the State of Wisconsin. Venue of any action initiated by either Party shall be in Dane County, Wisconsin.

7.6 Waiver. Waiver by a Party of breach or noncompliance with any term or condition of this Agreement can be accomplished only by a specific written agreement and shall not operate as or be construed to be a waiver of any subsequent breach or noncompliance.

7.7 Severability. If any provision or any part of any provision of this Agreement shall be determined to be void, illegal, invalid or unenforceable, this determination shall not affect the remainder of this Agreement, which shall continue in full force and effect in accordance with its remaining terms.

7.8 Marketing. Recipient agrees to obtain advance written approval from the Provider's President, before referring to Provider or any Provider actor (including but not limited to Physician) in any advertising or other promotional materials, in any medium.

7.9 Non-Discrimination. Neither Party shall differentiate or discriminate in the provision of medical services on the basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, age, medical condition, medical history, genetics, evidence of insurability, or claims history, in violation of any applicable state, federal, or local law or regulation, or other rules or policies, including, without limitation, the Age Discrimination Act of 1975, the Americans with Disabilities Act, and all regulations issued pursuant thereto and as may be amended from time to time. As applicable, Provider and Recipient shall be in full compliance with Section 504 of the Rehabilitation Act of 1973, Titles VI and VII of the 1964 Civil Rights Act, and all regulations issued pursuant thereto and as may be amended from time to time.

7.10 Counterparts. This Agreement may be executed electronically and in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date written below.

RECIPIENT
Deer Grove EMS

Eric Lang
Chief of EMS

Signature Date: _____

PROVIDER
Madison Emergency Physician, S.C.:

Michael J. Foley, MD
President & CEO

Signature Date: _____

EXHIBIT A
DESIGNATED PHYSICIAN

The following physician employee(s) of Provider shall serve as Medical Director and provide Medical Director Services under this Agreement unless and until a substitute is appointed pursuant to the provisions of Section 1.3 of the Agreement:

Kacey Kronenfeld, MD (Primary)
John Aguilar, MD (Associate)

EXHIBIT B MEDICAL DIRECTOR SERVICES

The Medical Director shall have primary responsibility for ensuring that the professional and administrative activities provided within the Recipient's emergency services line are provided in accordance with all federal, state and local laws, applicable policies and procedures and all quality of care initiatives.

EXAMPLES OF SERVICES NOT SPECIFIC TO EMS:

- Serve as patient advocate and maintain liaison with area hospitals, emergency departments, physicians, pre-hospital providers and nurses
- Provide quarterly updates to Recipient's leadership team
- Assist in the coordination of research projects and their implementation
- Establish, implement, revise and authorize the use of system-wide protocols, policies, standing orders, and procedures for all patient care
- Provide off-line medical direction services to include review, and approval of the service protocols, quality improvement reviews
- Set and ensure compliance with patient-care standards

EXAMPLES OF SERVICES SPECIFIC TO EMS:

- Interact with regional, state and local EMS authorities to ensure standards, needs and requirements are met and resource utilization is optimized
- Assist EMS services in developing, implementing, evaluating, and supervising a continuous, system and patient quality improvement program in accordance with the state and federal regulations
- Participate in educational programs for EMS services
- Advise and assist in the planning and implementation of new or expanded EMS service programs that promote the public welfare
- Review EMS reports and run sheets
- Maintain and continue education appropriate for the EMS Medical Director, administrative staff, communication and patient care personnel
- Maintain education and proficiency testing for members of EMS services
- Provide medical advisory services related to the first responder programs
- Establish the procedures or protocols for non-transport of patients
- Establish criteria for initial emergency response and determine patient destination
- Develop professional relationships with other local EMS services
- Ensure the qualifications of EMS providers are maintained on an ongoing basis
- Recommend certification, recertification and decertification of EMS providers to the appropriate certifying agency