

# Sample One: Physician Employment Contract With a Medical Group

## PROFESSIONAL EMPLOYMENT AGREEMENT

### BETWEEN MEDICAL GROUP NAME AND PHYSICIAN NAME

THIS PROFESSIONAL EMPLOYMENT AGREEMENT ("Agreement"), is made and entered into this \_\_\_\_ day of MONTH, YEAR by and between MEDICAL GROUP, P.C., a STATE professional corporation ("MEDICAL GROUP") with its principal offices in STATE, and (Physician").

WITNESSETH THAT:

WHEREAS, the MEDICAL GROUP is a professional corporation engaged in the practice of medicine; and

WHEREAS, Physician is a licensed medical doctor desiring to enter the employ of MEDICAL GROUP;

NOW, THEREFORE, it is mutually agreed as follows:

#### 1. Duties and Responsibilities

(a) The Physician shall practice MEDICAL SPECIALTY solely on behalf of the MEDICAL GROUP, and shall devote his/her entire professional time to the affairs of the MEDICAL GROUP. In addition, the Physician shall devote his/her best efforts in the performance of his/her duties and shall perform such other reasonable duties, such as serving on MEDICAL GROUP committees, as may be requested of him/her from time to time by the MEDICAL GROUP. During the term hereof, the Physician shall not, without the written consent of the MEDICAL GROUP, render professional services to or for any other person, firm, corporation or other organization for compensation, or engage in any activity that competes with the interest of the MEDICAL GROUP, excluding non-patient related contact outside of regular MEDICAL GROUP hours, whether the Physician is acting on behalf of or as an officer, member, director, employee, shareholder, partner or fiduciary of another person or organization.

(b) MEDICAL GROUP shall establish the fees for Physician's services. MEDICAL GROUP shall bill and collect or arrange for the billing and collection for all services provided by Physician under this Agreement on a monthly or more frequent basis, as MEDICAL GROUP shall deem appropriate, and MEDICAL GROUP shall retain all revenues received from such billing. Physician shall promptly execute such forms, including assignments, as may be required to facilitate billing and collection by MEDICAL GROUP. Physician shall not directly or indirectly bill any party for any services provided pursuant to this Agreement. Physician shall promptly remit to MEDICAL GROUP any amounts received for services provided by Physician pursuant to this Agreement. It is understood that this provision shall not apply to any money or property received by the Physician as a gift or legacy (as defined by the United States Internal Revenue Code).

#### 2. Compensation

(a) Compensation. MEDICAL GROUP agrees to pay Physician, a monthly salary during the

Initial Term (as hereinafter defined) of \$20,834.00 for services rendered pursuant to this Agreement. Payment shall be made as follows: \$10,417.00 on the 15<sup>th</sup> and the last day of each month. If either of these days falls on a weekend, payment will be made to Physician on the Friday prior to or on the Monday following the weekend, at the MEDICAL GROUP'S discretion. In addition, MEDICAL GROUP shall pay Physician an additional amount based upon the following schedule:

Collections\* for Professional Services During the Prior Month

Production Incentive Bonus (per month)

\$0 - \$ \_\_\_\_\_

None

More than \$ \_\_\_\_\_

\_\_\_% of the excess over \$ \_\_\_\_\_

*\* Collections shall mean all amounts collected during the applicable month by or on behalf of Physician for fees attributable to any services rendered personally by the Physician during the period when this Agreement was in effect including Physician's treatment and/or consultation of inpatients and outpatients and procedures appropriately conducted at the MEDICAL GROUP, as any applicable refunds made may reduce such fees. Collections shall also expressly include any outside income for professional services rendered which are required to be turned over to the MEDICAL GROUP pursuant to the terms of this Agreement. No other fees, such as fees for ancillary services (including without limitation, lab and x-ray services), shall be included in the definition of Collections.*

During each Renewal Term, MEDICAL GROUP agrees to pay Physician, a monthly salary to be established by the MEDICAL GROUP'S Board of Directors. It is agreed that the principal factor to be given consideration in such salary determination shall be the Physician's productivity (net professional collections) in the MEDICAL GROUP'S business during the preceding employment year, and that the method to be used in such determination will be substantially the same as that used to determine physician shareholder salaries.

(b) Benefits. MEDICAL GROUP shall provide Physician with the benefits available to other non-shareholder physicians associated with MEDICAL GROUP, subject to all eligibility and contribution requirements and other conditions included in the plans and programs set forth on the Benefits Schedule attached hereto as Schedule 2(b). Physician shall not be entitled to any compensation or benefits except as specifically set forth in this Agreement. The Benefits Schedule is subject to change as directed and approved by the Board of Directors. Any changes will apply to and be the same for all non-shareholder physicians associated with the MEDICAL GROUP. MEDICAL GROUP will use its best effort to notify Physician prior to any benefit changes.

(c) Expenses. MEDICAL GROUP agrees to reimburse Physician, Physician's reasonable and necessary expenses incurred in MEDICAL GROUP'S behalf subject to procedures and limitations established from time to time by the Board of Directors. Physician agrees to maintain such records as MEDICAL GROUP determines appropriate to document these expenses and to abide by such other rules regarding expense submission, approval and reporting as MEDICAL GROUP deems necessary from time to time to comply with federal, state and local laws and MEDICAL GROUP'S policies. The Physician shall at his/her own expense provide a suitable automobile to enable him/her to efficiently perform his/her duties as an employee. However, the normal operating expenses of such automobile for business purposes, including insurance expenses, incurred in the course of his/her employment shall be

reimbursed to him/her if requested, subject to documentation requirements and limitations established by the Board of Directors from time to time. Physician agrees to maintain such records as MEDICAL GROUP determines appropriate to document these expenses and to abide by such other rules regarding expense submission, approval and reporting as MEDICAL GROUP deems necessary from time to time to comply with federal, state and local laws and MEDICAL GROUP'S policies.

(d) Withholding. All compensation shall be subject to the customary withholding tax and other employment taxes as required with respect to compensation paid by a corporation to any employee.

### **3. Term.**

(a) Initial Term/Renewal Terms. This Agreement and the terms contained herein shall commence on, MONTH, DAY, YEAR ("Commencement Date") and shall continue until MONTH, DAY, YEAR, subject to earlier termination as provided herein (the "Initial Term"). This Agreement shall renew automatically for additional one-year terms ("Renewal Term") unless either party provides written notice to the other party at least ninety (90) days prior to the conclusion of the then current term of its intention not to renew. For purposes of this Agreement, the use of "Term" shall be deemed to include the Initial Term and any Renewal Term pursuant to the terms of this Section 3.

(b) Termination by MEDICAL GROUP for Cause. Notwithstanding the foregoing, MEDICAL GROUP shall have the right to terminate this Agreement immediately (unless a cure period is otherwise specifically required to be given) by giving written notice of such action to Physician upon the occurrence of any of the following events:

- (i) Physician makes a false or misleading representation to MEDICAL GROUP regarding his/her qualifications to render professional medical services hereunder;
- (ii) Physician fails to maintain all customary narcotics and controlled substances numbers and licenses as required by federal, state, or local laws and regulations;
- (iii) Physician's medical staff privileges at any health care facility are suspended, revoked, restricted or otherwise limited or terminated or not maintained provided such aforementioned actions taken against Physician's privileges are not due solely to Physician's failure to complete medical records and provided that Physician has exhausted all of his/her remedies;
- (iv) Physician is expelled, suspended or is subject to other disciplinary action by a professional organization on grounds other than for nonpayment of dues or resignation by Physician from any such professional organization under threat of disciplinary action on such grounds and only after Physician has exhausted all of his/her remedies;
- (v) Physician fails to maintain her status as an active candidate for specialty board certification, or Physician's specialty board certification is terminated or suspended; provided, however, Physician shall have thirty (30) days' following notice from MEDICAL GROUP to cure the breach described in this subparagraph (v);
- (vi) Physician is convicted of a felony or any other crime involving moral turpitude, or commits an act of material misconduct which has a material adverse effect on MEDICAL GROUP;
- (vii) Physician becomes ineligible for professional liability insurance pursuant to Section 6 and only after Physician has exhausted all of his/her remedies;
- (viii) Physician fails to meet any credentialing requirement of a third party payor with which MEDICAL GROUP participates or is suspended from or otherwise not permitted to continue as a provider in any third party payor program and only after Physician has exhausted all of his/her remedies; or

(ix) Physician becomes an impaired professional. For the purpose of this Agreement, Physician would be considered an impaired professional if Physician is: (A) found to have an addictive disease for which he/she is not receiving treatment; (B) found to have diverted a controlled substance; or (C) found to be mentally or physically incompetent to practice medicine at a level that meets the minimum requirements of licensure, or Physician's ability to perform his/her duties hereunder is materially adversely affected due to intoxication or substance abuse as determined by the Board of Directors.

(c) Termination Due to Death or Disability. This Agreement shall terminate automatically upon the death or Disability (as hereinafter defined) of Physician. For purposes of this Agreement, Disability shall be defined as Physician's inability to perform the services required pursuant to this Agreement for a period of nine (9) months out of any twelve (12) month period.

(d) Termination upon Failure to Cure A Material Breach. This Agreement may be terminated by either party in the event of a breach of any term or condition of this Agreement by the other party if such breach has not been cured within thirty (30) days after the breaching party is notified of such breach by the non-breaching party.

(e) Termination without Cause. MEDICAL GROUP or Physician may terminate this Agreement at any time by providing the other party with at least ninety (90) days' advance written notice of the terminating party's intention to so terminate this Agreement.

#### **4. Medical Records and Histories**

On a timely basis, Physician shall prepare and maintain complete and accurate medical and other records, reports, claims, and correspondence relating to the services and treatment rendered by Physician for or on behalf of MEDICAL GROUP (the "Records"). MEDICAL GROUP shall be the sole owner of all of the Records. Medical Records shall remain at the MEDICAL GROUP at all times, unless a patient's course of treatment indicates otherwise. Notwithstanding anything contained herein to the contrary, following termination or expiration of this Agreement, Physician shall be entitled to access and copy the Records of MEDICAL GROUP patients he/she provided services and/or treatment to during the time this Agreement was in effect, on seventy two (72) hours prior notice to the MEDICAL GROUP, in the event Physician needs such records in connection with litigation or otherwise.

#### **5. No Ethical Violations**

No provision of this Agreement shall be so construed as to violate the code of professional ethics of Physician, nor shall such provisions be construed in any manner as to conflict with the Professional Corporation Law of STATE under which the MEDICAL GROUP has been formed.

#### **6. Insurance**

During the term of this Agreement, the MEDICAL GROUP shall maintain or cause to be maintained, a policy of professional liability insurance on an occurrence basis in such amounts as may be determined by the MEDICAL GROUP'S Board of Directors from time to time and other insurance as shall be necessary to insure Physician against any claim or claims arising by reason of personal injuries or death occasioned directly or indirectly in connection with the performance of any services by Physician. Nothing contained herein shall require MEDICAL

GROUP to maintain insurance on behalf of Physician if Physician becomes uninsurable or if the cost to do so is, in MEDICAL GROUP'S judgment, prohibitive.

## **7. Covenant Against Competition/Non-Solicitation.**

(a) Physician acknowledges that his/her employment by the MEDICAL GROUP provides an exposure to a patient base and a community of referring physicians and other health care providers. Physician further acknowledges that if he/she were to leave the MEDICAL GROUP and establish or join another medical practice within the MEDICAL GROUP'S service area, Physician would effectively compete with the MEDICAL GROUP in the provision of services in Physician's specialty on the basis of exposure provided to Physician by the MEDICAL GROUP.

(b) During the term of Physician's employment by the MEDICAL GROUP, and for a period of one (1) year thereafter, if Physician voluntarily terminates this Agreement, Physician shall not, without the prior written consent of the MEDICAL GROUP, (i) engage directly or indirectly in the practice of MEDICAL SPECIALTY or in any other business which competes or would compete with the MEDICAL GROUP in the geographic area specified in section 7 (e) or become an agent, partner, member, officer, director, employee, participant, or five percent (5%) shareholder in any practice or business so competing, or (ii) solicit, induce or attempt to influence any employee or independent contractor of MEDICAL GROUP to terminate his or her relationship with MEDICAL GROUP or directly or indirectly, employ, contract with, or otherwise maintain any relationship with any person who was employed by or under contract with MEDICAL GROUP to perform services. If MEDICAL GROUP terminates this agreement due to the occurrence of an event(s) listed under Section 3.(b), 3.(c) due to Disability, 3.(d), 3.(e), or if MEDICAL GROUP chooses not to renew this Agreement, the covenants contained in Section 7 (a), (b) i, (c), (d), and (e) shall not apply to Physician. Sections 7 (b)ii and 8 (a) shall not be affected hereby.

(c) Physician acknowledges and believes that the restrictions set forth in Section 7(b) are reasonable in scope and essential to MEDICAL GROUP'S legitimate business interests. To the extent that any provision hereof is judicially determined to be unenforceable by virtue of its scope in terms of area or length of time, but may be made enforceable by reductions of either or both thereof, Physician agrees that the same shall be enforced to the fullest extent permissible under the laws and public policies applied in the jurisdiction in which enforcement is sought.

(d) Physician acknowledges and agrees that a breach or violation of the covenants contained in Section 7 will have an irreparable, material and adverse effect upon the MEDICAL GROUP and that damages arising from any such breach or violation may be difficult to prospectively ascertain. Without limiting any other remedy at law or equity available to the MEDICAL GROUP, in the event of a breach of the covenants contained in Section 7, the MEDICAL GROUP shall have the right to seek an immediate injunction enjoining the Physician's breach or violation of such covenants. Every right and remedy of the MEDICAL GROUP shall be cumulative and the MEDICAL GROUP, in its sole discretion, may exercise any and all rights or remedies stated in this Agreement or otherwise available at law or in equity.

(e) The geographic area referred to in paragraph 7 (b)(i) is defined as a 7 ½ mile radius of the MEDICAL GROUP'S primary location at the time Physician provides notice of his/her intent to voluntarily terminate this Agreement.

## **8. Confidential Information**

(a) Physician acknowledges and agrees that MEDICAL GROUP shall have sole proprietary interest in any and all confidential information developed by MEDICAL GROUP, its employees or agents, in whatever form maintained, including but not limited to all patient and business records, reports and strategic plans, business methods, patient lists (including prospective, inactive, and active patient lists), or any other document developed for MEDICAL GROUP'S business which MEDICAL GROUP deems to be confidential. Physician shall not during the term of this Agreement and thereafter, without the express written consent of MEDICAL GROUP, disclose to any unauthorized third party or use in any manner other than in performing Physician's duties hereunder such confidential information. Physician also agrees not to reproduce any document or other object that contains, or is derived from, any such confidential information, or take any such confidential information upon termination of this Agreement. Physician further agrees that MEDICAL GROUP shall be entitled to injunctive or any other appropriate equitable relief in accordance with Section 7(d) to protect the disclosure or use of any confidential and proprietary information.

## **9. Notices.**

Any and all notices required or permitted to be given under this Agreement will be sufficient if furnished in writing and either personally delivered or sent by registered mail to the last known residence of the Physician or, in the case of the Employer to its principal office.

## **10. Entire Agreement**

This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, written or oral, with respect hereto, if any.

## **11. Waivers and Amendments**

This Agreement may be amended, modified, superseded, canceled, renewed or extended, and the terms and conditions hereof may be waived, only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance. No delay on the part of any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any right, power or privilege hereunder, nor any single or partial exercise of any right, power or privilege hereunder, preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder.

## **12. Governing Law and Remedies.**

(a) In the event that any sections, paragraphs, sentences, clauses or phrases of this Agreement and the related Schedules and Exhibits to this Agreement shall be found invalid, void and/or unenforceable, for any reason, neither this Agreement generally nor the remainder of this Agreement shall thereby be rendered invalid, void and/or unenforceable, but instead each such provision and (if necessary) other provisions hereof, shall be reformed by mutual agreement or by a court of competent jurisdiction so as to effect, insofar as is practicable, the intention of the parties as set forth in this Agreement. Notwithstanding the preceding sentence, if such court is unable or unwilling to effect such reformation, the remainder of this Agreement shall be construed and given effect as if such invalid, void and/or unenforceable provisions had not been a part hereof.

(b) This Agreement is entered into in the State of STATE and shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of STATE.

(c) In the event either the MEDICAL GROUP or Physician is required to invoke the provisions of this Agreement against the other, the prevailing party shall be entitled to collect all attorney's fees and costs in connection with the enforcement of this Agreement whether by litigation or otherwise.

### **13. Assignments**

This Agreement may not be assigned by either party except with the written consent of the other party.

### **14. Change in Law.**

The parties agree that in the event that future legislation is enacted or regulations are promulgated or a decision of a court is rendered ("Change in Law") that, in the opinion of Employers' or Physician's legal counsel, affects or may affect the legality of this Agreement or adversely affect the ability of either party to perform its obligations or receive the benefits intended hereunder, then within fifteen (15) days following written notice by such counsel to the parties, the parties shall meet to negotiate in good faith an amendment or substitute agreement which will carry out the original intention of the parties to the extent possible in light of the Change in Law. If the parties cannot reach agreement upon an amendment or substitute agreement as contemplated herein within thirty (30) days of such counsel's determination that a Change in Law has occurred, then this Agreement may terminate upon written notice by either party.

### **15. Opportunity to Become Shareholder**

If the relationship between the parties to this Agreement proves satisfactory to both parties (as determined in the sole discretion of each party to this Agreement), the MEDICAL GROUP may offer Physician an opportunity to become a shareholder-employee of the MEDICAL GROUP, in which event this Professional Employment Agreement will be terminated at that time by a Professional Employment Agreement for shareholder-employees similar to those agreements then in effect between the MEDICAL GROUP and its physician shareholders. It is expected that the Physician will become or remain board certified in Physician's practice specialty prior to being offered an opportunity to become a shareholder. Nothing contained in this Section shall be construed to obligate MEDICAL GROUP to offer shares of stock to Physician nor shall Physician have any right or expectancy to receive shares in the MEDICAL GROUP.

### **16. No Authority to Contract**

The Physician shall have no authority to enter into any contracts binding upon the MEDICAL GROUP, or to create any obligations on the part of the MEDICAL GROUP, except such as shall be specifically authorized by the Board of Directors of the MEDICAL GROUP or by an Executive Officer of the MEDICAL GROUP acting pursuant to authority granted by the Board of Directors.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

**MEDICAL GROUP, P.C.**

\_\_\_\_\_  
By: NAME  
President

(Corporate Seal)

**ATTEST:**

\_\_\_\_\_  
By: NAME  
Corporate Secretary

\_\_\_\_\_  
PHYSICIAN'S NAME



**SCHEDULE 2 (B)**  
**SUMMARY OF BENEFITS**

**Health Insurance.** Medical and Hospitalization Insurance coverage in accordance with the MEDICAL GROUP'S plans in effect from time to time. Fully paid by the MEDICAL GROUP for the physician and their family.

**Dental Insurance.** Fully paid by the MEDICAL GROUP for the physician and their family.

**Personal Liability Insurance.** MEDICAL GROUP will reimburse the physician the premium costs associated with the purchase or renewal of a \$2,000,000 Personal Excess Umbrella Liability Policy.

**Life Insurance.** Term life Insurance coverage in accordance with the MEDICAL GROUP'S plans in effect from time to time. Current coverage amount is \$220,000. Included with the life insurance is Accidental Death & Dismemberment insurance, which also carries a separate \$220,000 coverage limit.

**Medical Professional Liability Insurance.** Current coverage is provided through The Medical Protective Company with annual limits of \$1,000,000 per claim and \$3,000,000 aggregate.

**Long Term Disability Insurance.** Physician shall be entitled to 60% of his/her basic monthly salary herein established during any period of sick leave or disability after a ninety (90) day waiting period.

**Cafeteria Plan / Flexible Spending Account.** Available for medical and dependent child care expenses. The MEDICAL GROUP currently contributes \$300 per year and physician employees may contribute additional pre-tax money. These funds can be used to pay dependent care or family medical expenses not covered by insurance with pre-tax dollars. These accounts are subject to limitations established by the IRS.

**Vacation.** MEDICAL GROUP will provide Physician (10) days (2 weeks x 5 equivalent full time working days per week) of vacation in 2003 following the commencement of this Agreement. For calendar year 2004, and each subsequent calendar year, provided physician remains an employee of the MEDICAL GROUP pursuant to the terms of this Agreement, Physician shall be entitled to (20) days (4 weeks x 5 equivalent full time working days per week) of vacation. All vacation time shall be scheduled at times to be determined in a manner most convenient to the MEDICAL GROUP, giving due regard to the physician's preferences.

**Profit Sharing Plan.** The MEDICAL GROUP'S retirement plan is a Profit Sharing Plan with 401k provisions. Physicians enter the plan on January 1 or July 1, whichever comes first in their employment period. The MEDICAL GROUP will endeavor to make elective contributions to the plan that will be allocated among all participants as a percentage of eligible salary. Physicians may also elect to defer a percentage of their salary into the plan on a pre-tax basis subject to certain limits.

**CME/Professional Meetings.** Physician shall be entitled to attend continuing medical education courses, seminars and professional meetings as may be required to maintain physician's license and board certification or to maintain Physician's technical sufficiency, subject to limitations established from time to time by the MEDICAL GROUP'S Board of

Directors. Time off for CME/Professional Meetings is included as part of the vacation time allotment to the Physician noted above.

***Licenses / Dues / Memberships.*** Physician shall have an annual budget of \$1,500 that may be used for various business expenses, including CME, that are at least partially tax deductible to the MEDICAL GROUP. If a physician exceeds their \$1,500, the excess will be taken, on a pre-tax basis, from his/her paycheck(s). The \$1,500 for business expenses includes membership dues in any local, state, or national medical society or association.