

APPENDIX 29-1

SAMPLE EMPLOYMENT AGREEMENT FOR PEDIATRIC ARNP (SALARIED PROFESSIONAL)

[Note: This is a contract for an ARNP to be a W-2 employee of a medical group. It is written on behalf of the employer, not the employee. If writing a contract for an employee, you may want to change or delete many provisions that are contained in this one.]

THIS AGREEMENT (the "Agreement") is made and entered on the latest date indicated below between THE ABC CHILDREN'S CLINIC, a Florida corporation located at _____ Miami, Florida (hereinafter called "Employer") and Jane Roe, ARNP (hereinafter referred to as "Employee").

RECITALS:

WHEREAS, Employer operates a medical center providing health care services that include alternative health care services; and

WHEREAS, Employee is a licensed advance registered nurse practitioner in the State of Florida and desires to be employed in such capacity by Employer; and

WHEREAS, Employer desires to hire and use Employee in its clinic to provide authorized health care services for Employer's patients;

NOW, THEREFORE, for good and valuable consideration of the mutual covenants contained herein, the parties agree as follows:

1. EMPLOYMENT AND TERMS:

a. Employment. Employer hereby employs Employee as a licensed advanced registered nurse practitioner ("ARNP"), for the purpose of rendering on behalf of Employer professional nursing services to such members of the general public as are or hereafter shall be accepted as patients by Employer.

b. Term Of Employment. Employee shall be employed for a term of one (1) year commencing as of _____, 20____ ("the Initial Term"). Unless otherwise terminated under this Agreement, the Initial Term shall be automatically extended for a period of one year, for each successive year, unless either party gives the other party sixty (60) days advance written notice before the expiration of the Initial Term or any subsequent annual term of this Agreement, that the party does not desire to have the contract automatically extended or renewed for another term.

c. Professional Status. Employee is a health care professional and agrees that she shall be paid only at the salary rate indicated regardless of the number of hours worked in any given pay period.

d. Duties and Responsibilities of Employee:

(1) Employer hereby employs Employee as a licensed ARNP, for the purpose of rendering on behalf of Employer professional nursing services to such members of the general public as are or hereafter shall be, accepted as patients by Employer. Such services shall include homeopathic treatment and may include other alternative modalities of health care and treatment. Employee shall maintain a valid and current State of Florida dual ARNP license. Employee's ARNP license shall be in the field of pediatrics or family practice. Employee shall be experienced in working with pediatric patients. Employee agrees that in dealing with patients or prospective patients, she shall deal with such patients for and on behalf of Employer. Employee shall provide appropriate protocols for the state licensing board in the State of Florida. Employer shall file appropriate documentation with the state licensing board for the State of Florida indicating that (Employee) is employed by Employer and shall work under the supervision and monitoring of Employer's principal, _____, M.D. Employee shall follow-up to ensure such protocols are received, on file, and current with the state licensing board and shall advise Employer if they are not or if they should be amended.

(2) During the term of this Agreement, Employee shall, under the supervision of Employer, devote her entire working time, skill and experience to advancing and rendering profitable the interests of Employer, which shall include the continuing development of her competence in the field of nursing. Employee shall work thirty-two (32) to forty (40) hours a week for fifty (50) weeks per year as required by Employer and shall be available to work one or two Saturday mornings per month as required by Employer. Employee shall take call after hours Monday through Thursday from 5:00 p.m. until 8:00 a.m. No additional compensation shall be paid to Employee for this on-call duty. If the needs of Employer change in the future and on call duty is to include weekends, Employee will take call on weekends alternating with Employer.

(3) During the term of employment and any renewal term, Employee shall devote her professional time, attention and energies to the practice of Employer. At all times, Employee shall:

(i) continue to faithfully and competently perform her duties hereunder using her full professional skill and knowledge;

(ii) perform only those functions authorized by the Florida Board of Nursing within the framework of a protocol or practice agreement established by Employer including the provision of prescriptive medications, at Employer's sole discretion;

(iii) make and maintain timely, complete, legible medical records and medical record entries for all patient encounters and shall assist Employer as may be necessary to collect all professional fees;

(iv) Refrain from prescribing any narcotic substance or any other controlled substance prohibited by law, regulation, rule of the Board of Nursing or by Employer.

(v) render professional services to Employer's patients as determined by Employer; and

(vi) communicate clearly to Employer's patients and others the Employee's identity and capacity in which Employee renders professional services, including, but not limited to the wearing of a name tag provided by Employer.

(4) Employee shall use her best efforts to ensure that on-going referrals from physicians and other referral sources remain consistent with historical pattern and practice. Employee shall not in any manner communicate with any referral source with the intention and primary purpose of disrupting, hindering, obstructing or otherwise interfering with the relationship between such referral source and Employer if the result of such disruption, hindrance, obstruction or interference would have a materially adverse effect on the Employer's referral patterns or operation of the facilities. Employee shall not communicate with any medical staff member or any Employee of the Employer in a manner that would disrupt, hinder, obstruct or otherwise interfere with such Employee's ability to perform his or her job effectively and cause an adverse effect on the Employer or operation of the facilities. Employee shall use her best efforts to promote the good will and operation of the Employer and Employer's facility in a positive manner and shall refrain from disseminating any information that would result in a materially adverse effect on the operation of the facilities.

(5) During the term of employment, Employee shall immediately notify Employer if:

(i) the Employee's License or Certification to practice as an ARNP or Registered Nurse is restricted, suspended or revoked or if she is notified of any actual or potential complaint, charges or investigation by any patient, payor, state or government agency;

(ii) the Employee is reprimanded, sanctioned, investigated by, or disciplined by any licensing authority, state or local nursing or medical society, or any other regulatory body;

(iii) a professional liability claim is filed against or a judgment entered against the Employee, or the Employee enters into a settlement on her behalf in a suit claiming medical malpractice;

(iv) the Employee loses eligibility to participate in Medicare, Medicaid, CHAMPUS or any other state or federal program;

(v) any investigation, suspension, restriction, or limitation of privileges, if Employee has been granted clinical privileges by any hospital or any other entity;

(vi) Employee receives a patient, hospital, or insurance company complaint;

(vii) Employee receives any claim, notice or letter of intent to initiate medical negligence litigation or any demand letter related to her professional duties;

(viii) Employee is served with a summons, subpoena, complaint, or any other legal process; or,

(ix) Employee receives notice of cancellation or termination of her professional liability coverage.

(6) Employee shall comply with all policies, procedures, protocols, directions, instructions and guidelines of Employer, oral or written, which exist or may in the future exist.

2. COMPENSATION. Through the term of this agreement, Employer agrees to pay Employee the following compensation for services.

a. Employee shall be compensated at the gross rate (prior to deductions and withholdings) of \$ _____ per month which is expected to equal an annual salary of approximately

_____ Thousand Dollars (\$_____,000.00). Employee shall be paid twice per month on the 15th and last day of the month respectively, \$_____ per pay day. Employer shall only be obligated to pay Employee for those periods during which she performs under this Agreement and any shorter periods shall cause such payments to be prorated.

b. Bonuses as may from time to time be awarded to Employee by Employer as determined in Employer's sole discretion.

c. Employer shall withhold from Employee's gross pay for FICA, FUTA, Social Security, Medicare, disability, and any other withholdings required by state or federal law or as is Employer's normal pay practices as such may be amended from time to time in the Employer's sole discretion.

3. INSURANCE.

a. Minimum Policy. Employer shall at Employer's expense and at all times during the terms of employment maintain and keep in force professional liability insurance for the protection of Employee during her employment in the standard form required by the State of Florida and in a form and from a company acceptable to Employer, providing coverage for Employee in the amount of one million dollars per occurrence and three million dollars aggregate per annum (\$1 million/\$3 million). The policy or policies shall be placed with insurance companies authorized and licensed to issue such policies in the State of Florida and shall name Employer and Employer's principal, _____, M.D., as additional insureds. The insurance company shall be required to give written notice to Employer should any change in coverage occur. Employee shall cooperate fully with Employer and such insurance companies in order to obtain such professional liability insurance policies and shall provide a copy of the policy and certificate of coverage to Employer. Such policy shall be an "occurrences" policy; however, it may be a "claims made" policy if tail coverage is obtained.

b. Indemnification. Employee hereby agrees to defend, indemnify and hold Employer harmless from and against any loss, claim, suit, expense or obligation arising out of or resulting from Employee's negligence or intentional acts in the performance of services pursuant to this Agreement not otherwise covered by Employee's insurance carrier.

c. Loss of Professional Liability Insurance. Employer may immediately suspend Employee from practice under this agreement if, due to any act or omission of Employee, professional liability insurance is canceled, suspended, revoked or terminated. Employee shall not be reinstated or permitted to practice at Employer's facilities or on behalf of Employer until such time as the professional liability insurance for Employee is reinstated to the satisfaction of Employer. Employee shall not be entitled to any salary or other compensation from Employer during any such suspension. Employee will notify Employer within 24 hours of receipt by Employee of any notice or information that Employee's professional liability insurance has been canceled, terminated, revoked or suspended.

4. VACATION, SICK TIME AND MATERNITY LEAVE. During the term of this agreement, Employee shall be entitled to a total of fourteen (14) days per year of vacation or sick leave with full compensation. This shall be prorated for any portion less than a full year worked. Vacation time may be taken by Employee only with thirty (30) days advance notice to Employer, subject to the prior written approval of Employer and shall not interfere with or disrupt the scheduled functioning of Employer's clinic(s). Unused days of vacation or sick leave shall not be carried over from annual term of this Agreement to another ("use it or lose it"). Maternity leave shall be inclusive of paid time off and any additional time off would be without compensation. Employee shall also be entitled to up to five (5)

paid holidays per year if such holidays fall on regular work days.

5. NO HEALTH INSURANCE COVERAGE. Major medical health insurance coverage for Employee shall be at Employee's expense. Employer shall not provide nor subsidize, in whole or in part, any health insurance coverage for Employee.

6. TERMINATION. This Agreement and the employment of Employee may be terminated as follows:

a. Upon the death of Employee; or,

b. Upon Employee's "disability" (subject to applicable state or federal law). The term "disability" shall mean the inability of Employee, arising out of any medically determinable physical, mental, or emotional impairment, to perform the services required of Employee hereunder for a period of four (4) consecutive weeks after the week in which such disability occurs. Prior to the end of the fourth (4th) consecutive week, Employee's disability shall have ceased and she shall have commenced to perform her full duties hereunder, then this Agreement shall continue in full force and effect and Employee shall be entitled to resume her employment hereunder and to receive thereafter her full compensation as though she had not been disabled; provided, however, that if Employee again becomes disabled within twelve (12) months following a period of disability, then she shall not be entitled to start a new four (4) week period, but shall only be entitled to the remaining portion of the previous period of disability for the purpose of termination or compensation under this paragraph.

c. Employer may terminate this Agreement without cause upon thirty (30) days written notice to Employee, and Employer shall only be obligated to continue to pay Employee the salary due her under this Agreement up to the date of termination.

d. The parties may terminate this agreement by mutual agreement in writing. In such event, Employee shall only be entitled to the salary due her until the date of termination.

e. At Employer's option, immediately upon the existence of "cause" Employer may terminate employment. For purposes of this Agreement, the term "cause" shall be defined as:

- (1) The failure of Employee to perform the duties required of her in this Agreement in a manner satisfactory to Employer and at Employer's sole discretion including, but not limited to:
 - (i) the Employee's holding herself out or permitting another to represent her as a licensed physician;
 - (ii) the Employee's rendering services other than at the direction and under the supervision of a licensed doctor of medicine or osteopathy;
 - (iii) the Employee's performing work beyond her competence or beyond the scope of her authorized practice as an ARNP;
 - (iv) the Employee's failing to properly perform her obligations hereunder for any reason, including insubordination or duties;
 - (v) the Employee's being adjudicated mentally incompetent or obtaining a mental state whereby she is unable to safely perform her duties;

- (vi) the Employee's failing to comply with the rules and regulations of the Florida Board of Nursing, the Florida Department of Health, and the requirements stated in the Florida Statutes or the Florida Administrative Code;
- (2) Any dishonesty by Employee in her dealings with the Employer, commission of fraud by Employee, negligence or willful neglect in the performance of the duties of the Employee; the arrest or conviction of Employee of any felony or other crime involving dishonesty or moral turpitude;
- (3) Unlawful use of narcotics or other controlled substances or use of alcohol or other drugs in the manner that Employer determines to be adverse to the best interests of the Employer in Employer's sole discretion;
- (4) Failure of Employee to maintain her license and authorization to practice as an advanced registered nurse practitioner or registered nurse in the State of Florida;
- (5) Failure of Employee to participate in continuing educational programs to a sufficient degree as to allow Employee to maintain her proficiency and professional credentials;
- (6) If, due to any act or admission of Employee, the professional liability insurance required in Section IV(a) of this Agreement cannot be reasonably obtained or maintained, or if, due to act or admission of Employee, such professional liability insurance is canceled, terminated or revoked; or,
- (7) Revocation, suspension, involuntary reduction or involuntary restriction of privileges in any hospital where Employee now has or hereafter acquires privileges to practice.

8. WORKING FACILITIES. Employee shall be furnished with an office, clerical assistance, equipment and other facilities and services suitable to her position and adequate for the performance of her duties by the Employer and as shall be determined by Employer in its sole discretion.

9. FEES AND BILLING SERVICES. All professional fees produced as a result of Employer's labor shall be the sole property of Employer. Employer shall have sole responsibility and authority for preparation of billing and collection of income generated from Employee's practice as an ARNP pursuant to this agreement and the delegated authority to request, demand, collect, receive and provide receipts for all income on behalf of Employee including any payment or reimbursement from governmental agencies and insurance carriers on account of medical services provided to patients of the Employer. All funds collected from operation of the facilities, from Employee's practice as an ARNP hereunder, shall be the property of Employer and shall be deposited into Employer's account and Employer shall have sole authority to make disbursements therefrom, including refunds and repayment of payments received in error. Employer shall have sole responsibility for the accuracy of billings, subject to Employee's obligations to provide necessary information therefore, and Employer shall hold Employee harmless from all damages resulting from billing errors or failure to properly refund or repay except for

errors which are a result of information provided by Employee. Employee specifically acknowledges that Employer is her authorized billings and collection agent during the term of her employment hereunder and assigns that right to the Employer. Employee is under an affirmative obligation to provide timely, true, correct and complete information to Employer for billing purposes.

10. PATIENT AND BUSINESS RECORDS. Patient records and files concerning patients of Employer or patients consulted, interviewed or treated and cared for by the Employee shall belong to and remain the property of Employer. Upon termination of this Agreement, Employee shall have no right to originals or copies of such records or files.

11. NO AGENCY CREATED. Employee shall have no authority to enter into any contract binding upon Employer or to create any obligations on the part of Employer.

12. PERSONAL SERVICES NON-ASSIGNABLE. This is an Agreement for the personal professional services of this individual professional Employee. Employee agrees, on behalf of herself and her personal representatives, heirs, legatees, distributees and any other person or persons claiming any benefit under her by virtue of this Agreement, that this Agreement and rights, interests and benefits under it shall not be assigned, transferred, pledged or hypothecated in any way by Employee or any person claiming under Employee by virtue of this Agreement, and shall not be subject to execution, attachment or similar process. Any attempt to assign, transfer, pledge, hypothecate or otherwise dispose of this Agreement or of such rights, interests and benefit contrary to the foregoing provisions, or the levy or any attachment or similar process thereupon, shall be null, void and without effect and shall relieve Employer of any and all liability under this agreement.

13. REIMBURSEMENT FOR CONTINUING EDUCATION. Employer agrees to pay for Employee's reasonable, required continuing education. Employer shall reimburse Employee for any and all reasonable deductible expenses paid for these educational benefits, which the IRS allows Employer to deduct as a legitimate expense that Employee requires in order to remain current competent, and licensed as an ARNP. An estimate of any such expenses shall be submitted to Employer for approval in advance of Employee incurring them. However, in the event that this Agreement is terminated for any reason, Employee shall reimburse Employer for any amounts Employer has paid during the twelve (12) month period prior to the last day of employment.

14. NON-COMPETITION AND NON-DISCLOSURE AGREEMENT.

a. Non-Competition by Employee During the term of this Agreement, including any renewal term, and for a period of one (1) year thereafter (commencing, in the case of Employee upon expiration or termination of this Agreement or on the date Employee ceases to practice with Employer), Employee, shall not, without prior written consent of Employer:

- (1) employ any individual previously working for Employer as her employee;
- (2) directly or indirectly induce or attempt to influence any employee of Employer to terminate his or her employment with Employer; or
- (3) engage in, have any interest in (directly or indirectly, either as an employee, employer, independent contractor, sole practitioner, consultant, agent, principal, shareholder, stockholder, corporate officer, director, or in any other individual or representative capacity), own an interest in, or engage or participate in, or perform any professional

services as a R.N., ARNP, or health care provider of any type that is located within a ten (10) miles radius any of Employer's offices as they exist at that future time, including satellite offices that may exist at that time (the "Non-Competition Area").

b. Non-Disclosure. During the term of this Agreement and at all times thereafter, Employee, shall not disclose, communicate or divulge to any person or entity not a party to this Agreement, or use for the direct or indirect benefit of themselves or any person or entity not a party to this Agreement, any information regarding the business methods, business policies, procedures, techniques, or trade secrets, or other knowledge or processes of or developed by Employer or other confidential information relating to or dealing with the business operations or activities of Employer made known to Employee or learned or acquired by Employee during the term of this Agreement.

c. Reasonableness of Restrictions. The parties acknowledge that the restrictions contained in this Section 14 are reasonable and necessary to protect the legitimate interests of Employer and that any violation of these restrictions would result in irreparable injury to the Employer. If the period of time or geographic area specified in subsections a. or b. of this Section 14 should be adjudged unreasonable in any proceeding, then the period of time or geographic area shall be reduced by the elimination or reduction of such portion thereof so that such restrictions may be enforced for such time or geographic area as is adjudged to be reasonable and enforceable. The parties acknowledge that, in the event of a violation of any such restrictions, the Employer shall be entitled to preliminary and permanent injunctive relief as well as an equitable accounting of all earnings, profits and other benefits arising from such violation, which rights shall be cumulative and in addition to any other rights or remedies to which Employer may be entitled. In the event of a violation, the period referred to in subsections a. and b. of this Section 14 shall be extended by a period of time equal to that period beginning with the commencement of any such violation and ending when such violation shall have been finally terminated in good faith; in the event litigation is undertaken to either enforce this noncompetition agreement or to prevent its enforcement, the period of time referred to in subsections a. and b. of this Section 14 shall also be extended for the entire period of time such matter is in litigation until such litigation is final.

d. Buy-Out Provision. The parties agree that should Employee and its physicians or principals desire to practice in violation of the noncompetition portions of this Non-Competition and Non-Disclosure Agreement, then they may request release therefrom from doing so in writing and by paying to the Employer money in the amount of all amounts paid to Employee by the Employer in the twelve (12) months immediately preceding the date this Non-Competition and Non-Disclosure Agreement would first become enforceable, including reimbursement for all benefits and continuing education paid.

e. Legitimate Business Interests. Employee by her signature below, agrees and stipulates that the Employer has legitimate business interests that exist that justify such a restrictive covenant that include but is not limited to:

- (1) trade secrets;
- (2) valuable confidential business or professional information, including policies and procedures, marketing plans, advertising plans, method of doing business, and referral sources;
- (3) substantial relationships with specific prospective or existing patients

or clients.

- (4) patient or client goodwill associated with:
 - (i) an ongoing business or professional practice by way of its trade name, service marks, and trade dress;
 - (ii) a specific geographic location; and
 - (iii) a specific marketing area.
- (5) Additionally, Employee acknowledges that Employer has and will continue to teach and train her in the provision of homeopathic treatment and in the provision of alternative health care services to patients. Employee agrees that this training by Employer also is a protectable interest of Employer and also warrants the protection afforded by this Non-Competition and Non-Disclosure Agreement.
- (6) The parties hereby agree that the foregoing is stipulated to and may be used as a stipulation in any subsequent suit required to enforce this Non-Competition and Non-Disclosure Agreement.

f. Assignability and Survival. Employee specifically agrees that this Non-Competition and Non-Disclosure Agreement shall be assignable by the Employer. Additionally, this Non-Competition and Non-Disclosure Agreement shall survive the termination of this Agreement.

15. LEGISLATIVE LIMITATIONS. Notwithstanding any other provisions of this Agreement, if the governmental agencies (or their representative) which administer Medicare or Medicaid, or any other payor, or any other Federal, state or local government or agency, the Board of Medicine, the Board of Nursing, the Agency for Health Care Administration, or passes, issues or promulgates any law, rule, regulation, standard or interpretation at any time while this Agreement is in effect which prohibits, restricts, limits or in any way materially changes the method or amounts of reimbursements or payment for services rendered under this Agreement, or which otherwise materially affects either party's rights or obligations hereunder, either party may give the other party notice of a desire to amend this Agreement to the satisfaction of the noticing party, which amendment shall be to the minimum extent necessary to comply with the law, rule or regulation in question and to preserve to the parties their original rights and duties to the maximum extent possible. Unless the other party objects to the amendment in writing within thirty (30) days of receipt of the notice to amend, the amendment shall be deemed automatically adopted. If the other party timely objects to the amendment, the parties shall attempt to agree on an amendment within an additional thirty (30) days. If the parties are unable to agree on an amendment, they shall submit the matter to confidential binding arbitration by the American Health Lawyers Association's Alternative Dispute Resolution Service, which shall appoint an arbitrator to determine the minimum amendment necessary to comply with such law, rule or regulation, and to preserve to the parties their original rights and duties to the maximum extent possible. The decision of such arbitrator shall be final and binding on all parties. The cost of such arbitration shall be paid by the parties equally. Notwithstanding the above, if, at the election of either party, a formal appeal is filed with the relevant governmental agency, or a suit is filed in a court of competent jurisdiction, so as to stay the implementation of any such law, rule, regulation, standard or interpretation, during the period of such stay, the right to amend as set forth above shall also be stayed.

16. LICENSE TO USE NAME AND LIKENESS OF EMPLOYEE. Employee agrees that the Employer may use the names, trade names, and likenesses (including photographs) of Employee, in any marketing and advertising media, including directories, flyers, brochures and advertisements, during the existence of this Agreement. Such activity shall cease upon termination of this Agreement.

17. MISCELLANEOUS.

a. Indulgences, Etc. Neither the failure nor any delay on the part of any party to exercise any right, remedy, power or privilege ("Right") under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right preclude any other or further exercise of the same or of any other right, nor shall any waiver of any right with respect to any occurrence be construed as a waiver of such right with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

b. Controlling Law. This Agreement and all questions relating to its validity, interpretation, performance and enforcement, shall be governed by and construed in accordance with the laws of the State of Florida.

c. Notices. All notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when personally delivered or upon actual receipt of registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

If to Employer: THE ABC CHILDREN'S CLINIC
(Attention: Dr. _____, President)
9999 West South Street
Miami, Florida 39999

With a copy to
its counsel: GEORGE F. INDEST III
The Health Law Firm
1101 Douglas Avenue
Altamonte Springs, Florida 32714
Telephone: (407) 331-6620
Telefax: (407) 331-3030

If to Employee: _____

(Note: If no address is listed, then the Employee's employment address as given above may be used.)

Any party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this paragraph for the giving of notice.

d. Binding Nature of Agreement and Assignment. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns. Employer is specifically granted the right to assign this Agreement.

e. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

f. Provisions Separable. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

g. Entire Agreement. This Agreement contains the entire understanding among the parties hereto and with respect to the subject matter hereof and it supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained. This Agreement may not be modified or amended other than by an agreement in writing.

h. Paragraph Headings. The paragraph headings in this Agreement are for convenience only; they form no part of this Agreement and shall not affect its interpretation.

i. Gender, Etc. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context indicates is appropriate.

j. Number of Days. In computing the number of days for purposes of this Agreement, all days shall be counted, including Saturdays, Sundays and holidays; provided, however, that if the final day of any time period falls on a Saturday, Sunday or holiday, then the final day shall be deemed to be the next day which is not a Saturday, Sunday or holiday.

k. Jurisdiction. Each party hereto agrees to submit to the personal jurisdiction and venue of the courts in the state of Florida in the judicial circuit of Miami-Dade County, Miami, Florida, and do hereby waive all questions of personal jurisdiction and venue, including, without limitation, the claim or defense that such courts constitute an inconvenient forum.

l. Strict Construction. This Agreement was the joint, negotiated product of the parties. Therefore, neither party shall advance a position that any provision hereof should be more strictly construed against the other party on the basis that such other party prepared such provision.

m. Cumulative Rights. Unless otherwise provided herein, all rights, powers and privileges conferred upon the parties by law, this Agreement or otherwise shall be cumulative.

n. Reproduced Copies of Documents. This Agreement and all documents relating hereto other than promissory notes, including, without limitation, (a) consents, waivers and modifications which may hereinafter be executed, (b) documents received by any Party relating to this Agreement; (c) financial statements, certificates and other information previously or hereafter furnished, may be reproduced by any means or process including electronic or mechanical means. Any reproduction shall be admissible into evidence as the original itself and any litigation without regard to whether the original is in existence. If a Party signs this Agreement and then transmits an electronic facsimile of the signature page, the recipient may rely upon the electronic facsimile as a signed original of this Agreement without modification or change unless same is noted thereon.

o. Confidential. Other than as specifically provided elsewhere in this Agreement, each party to this Agreement will hold in confidence all documents and information concerning the other party furnished to it in connection with the transactions contemplated by this Agreement and not otherwise lawfully available to it, and will use such information only in connection with such transactions and, after the consummation of such transactions, only in the conduct of its business. Neither party will release or disclose such documents or information to any other person, except to its attorneys, accountants and other outside consultants in connection with this Agreement and its business, except to the extent such party can demonstrate such information was previously known by it, in the public domain through no fault of such party, disclosed to it by a third party having no confidentiality obligation to the other party, or required by law. Neither Party is authorized to waive any privilege available to the other Party and nothing in this Agreement is intended by either Party as a waiver of any privilege available to it.

p. Alternative Dispute Resolution. The Parties shall in good faith attempt to resolve any claim, controversy, dispute or disagreement arising out of or relating to this agreement, its interpretation, or the breach thereof, by negotiation.

If any such claim, controversy, dispute, or disagreement is not resolved within thirty (30) days of written notice to the other Party, that claim, controversy, dispute, or disagreement shall be submitted to confidential binding arbitration which shall be conducted in the Orlando, Florida area in accordance with the American Health Lawyers Association (AHLA) Alternative Dispute Resolution Service (ADRS) Rules of Procedure for Arbitration then in effect. Where not conflicting with the AHLA ADRS Rules of Procedure for Arbitration, the arbitration shall be undertaken pursuant to the Federal Arbitration Act, where possible, and the decision of the arbitrators shall be final, binding, and enforceable in any court of competent jurisdiction.

In any dispute in which a Party seeks in excess of \$100,000 in damages, three arbitrators shall be employed. Otherwise, a single arbitrator shall be employed. All costs relating to the arbitration shall be borne equally by the Parties, other than their own attorneys' and experts' fees. The arbitrators will not award punitive, consequential or indirect damages and shall be bound by and bound to apply Florida law. Each Party hereby waives the right to such damages and agrees to receive only those actual damages directly resulting from the claim asserted.

In resolving all disputes between the Parties, the arbitrators will apply the laws of the State of Florida and the United States. Except as needed for presentation in lieu of a live appearance, depositions will not be taken. The Parties will be entitled to conduct document discovery by requesting production of documents. The arbitrators will resolve any discovery disputes by such pre-hearing conferences as may be needed. Either Party may be entitled to pursue such remedies for emergency or preliminary injunctive relief in any court of competent jurisdiction, provided that each Party agrees that it will consent to the stay of such judicial proceedings on the merits of both this Agreement and the related transactions pending arbitration of all underlying claims between the Parties immediately following the issuance of any such emergency or injunctive relief.

This requirement for Alternative Dispute Resolution does not apply to Section 14 above, the Non-Competition and Non-Disclosure Agreement.

q. Authority of Signors. The individuals signing this Agreement on behalf of each Party hereby warrant and represent to the other Party (a) that they have full power and authority to bind the entity for which they are signing, (b) that the signatories are all of the signatories for the respective Party necessary for the full and valid execution of this Agreement for such Party, (c) that all corporate,

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partnership or other actions necessary for the respective Party to execute, bind and perform under the terms of this Agreement have been duly taken, and (d) that no other signature, act or authorization is necessary to bind the respective Party.

r. Cumulative Rights. Unless otherwise specifically provided otherwise herein, all rights, powers and privileges conferred upon the Parties by law, by this Agreement or otherwise, shall be cumulative.

s. Survival of Certain Duties and Obligations. Employee agrees that certain duties and obligations, including those contained in the Non-Competition and Non-Disclosure Agreement, shall independently survive the termination of or breach of this Agreement by any Party, and shall be enforceable regardless.

t. Cooperation Agreement. Employee agrees that she will cooperate completely and fully with Employer and any of Employer's attorneys, investigators and insurers, in the investigation, defense and litigation of any complaint, charges, suit, claim or investigation commenced against Employer regardless of the sources thereof and that this shall in no way be considered to be a waiver of any privilege or confidentiality by either Party.

u. Other Remedies. Nothing contained herein shall be construed to limit either Party's lawful remedies in the event of a material breach of this Agreement.

v. No Holding Out as Medical Doctor. Employee shall not hold herself out as a doctor of medicine (or osteopathy), as authorized to practice medicine (or osteopathy) (as that term is defined by Florida law), and that patients are not led in any way to believe that she is a doctor.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the last date entered below to be effective as of date written in the first paragraph above.

AGREED TO BY:

THE ABC CHILDREN'S CLINIC, "Employer," by:

_____/_____
Signature / Date

Name (print): _____

Title: _____

JANE ROE, ARNP, "Employee"

_____/_____
Signature / Date

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