

# ACCREDITATION SURVEY AGREEMENT

This Agreement entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, is by and between Florida Pain Medicine Accreditation and Standards, Inc. (hereinafter referred to as "Agency"), a Florida corporation, and \_\_\_\_\_ (hereinafter referred to as "Facility"), a Florida corporation or professional association.

## **Recitals**

WHEREAS, Facility operates a pain management clinic that aspires to provide the highest level of service to its patients, and

WHEREAS, Agency has been created to assess the adherence of pain management clinics to that certain set of quality standards set forth in Exhibit A, attached hereto and incorporated herein, and

WHEREAS, Facility is desirous of obtaining recognition from Agency for having complied with the standards attached as Exhibit A (the "Standards"), and wishes to be able to advertise such compliance to the public at large,

NOW THEREFORE, in consideration of the promises and mutual covenant made herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties do hereby agree as follows:

### **I. Statement of Work**

Agency, through the use of one of its subcontracted consultants, shall assess the Facility's compliance with the Standards set forth in Exhibit A, in accordance of the following schedule:

- A. Upon receipt of Facility's non-refundable examination fee, Agency shall set an examination date no less than thirty (30) and no more than sixty (60) days after the receipt of such application fee.
- B. No less than fourteen (14) days prior to the scheduled examination date, Facility shall provide Agency with written documentation demonstrating compliance with the applicable Standards.
- C. During the examination, Agency and its subcontracted consultant shall be granted access to any and all relevant Facility records, including, but not limited to patient records and Facility policies and procedures.
- D. Within thirty (30) days after the physical inspection, Agency shall issue a preliminary report to Facility, outlining deviations, if any, from the Standards and recommended remedial action.
- E. Facility shall have thirty (30) days from receipt of the preliminary report to take such remedial action as may be necessary to come into compliance with the Standards.

- F. Upon the finding by Agency that Facility is in compliance with one hundred percent (100%) of the applicable standards, Agency shall issue a Certificate of Accreditation, which shall be valid for a period of two (2) years from the date of the on-site inspection.
- G. Should Facility not be in substantial compliance with any of the Standards, no certificate will be granted, and no accreditation will be recognized.

**II. Term**

This Agreement is effective as of the date of full execution and shall continue for a period of two years or until terminated pursuant to the termination provisions contained herein.

**IV. Termination**

This Agreement may be terminated by either party at any time with or without cause upon fourteen (14) days written notice to the other party. In no event will the accreditation fee be returned.

**V. Indemnification**

Facility hereby agrees to indemnify, defend, and hold harmless Agency from any and all claims, judgments, costs, liabilities, damages and expenses whatsoever, including reasonable attorneys' fees, arising from any acts or omissions in the provision of medical services by Group, any of its affiliated health care providers. This provision shall survive termination or expiration of this Agreement.

**VI. Scope of Agreement**

The parties acknowledge and agree that nothing contained in this Agreement is intended to interfere with or hinder the medical practice of Facility or any of its affiliates, and Facility hereby acknowledges that all patient care and related decisions are the sole responsibility of Facility and the treating health care provider, and that Agency does not dictate or control facility's clinical decisions with respect to the medical care or treatment of its patients.

**VII. No Third Party Beneficiaries**

The parties have not created and do not intend to create by this Agreement any rights in other parties as third party beneficiaries of this Agreement including, without limitation, patients of Facility.

**VIII. Representations and Warranties**

Agency accreditation is not meant, nor should it be interpreted by any party, as a guaranty as to the quality of care being provided at the Facility or by its affiliated health care providers. Agency's finding of compliance with applicable state or federal law does not guarantee that a similar finding will be made by any controlling governmental entity, and Facility agrees not to rely on such finding as a binding determination of compliance with any such law.

**IX. HIPAA**

Agency recognizes that, during the accreditation process, it may be granted access to certain patient information otherwise protected by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and other patient confidentiality laws. Agency agrees only to examine such records as are necessary to fulfill its obligations under this Agreement, and shall strive to maintain the confidentiality of such records. In the event of unauthorized disclosure by Agency, Agency shall immediately report such disclosure to Facility and take immediate remedial actions. All patient information shall be returned to Facility or destroyed by Agency upon termination of this Agreement.

**X. Independent Contractor**

Agency, its agents and employees (if any) are independent contractors and not current employees of Facility. Agency is responsible for compliance with applicable federal and state laws and specifically assumes exclusive responsibility for payment of all taxes or contributions which, under such laws, may be payable based upon the compensation of Agency, including, by way of illustration but not limitation, federal and state income taxes, social security taxes, unemployment compensation taxes, workers compensation assessment, and any other taxes, assessments, or business license fees required. At no time shall the Agency make any commitments or include any charges or expenses for, or in the name of Facility. Moreover, Agency acknowledges that it is not entitled to participate in any of the Facility's benefit plans, even in the event that a court or administrative body determines that the Agency is an employee.

**XI. Compensation.**

Agency shall be paid the sum of \$1500.00 (fifteen hundred dollars) from Florida Academy of Pain Medicine members, or \$2500.00 (twenty five hundred dollars) from nonmembers, upon execution of this Agreement. In addition to the above, Agency shall be entitled to reimbursement for actual expenses occurred in accordance with the following fee schedule:

Travel: \$0.39 per mile  
Copies: \$0.10 per copy  
Phone/Fax \$3.00 per call  
Meals: \$35.00 per day during on-site inspection

In no event shall any accreditation or accreditation certificate be granted in the existence of any amount due under this Agreement.

**XII. Notices**

Any notice, amendment, or consent required or permitted under this Agreement shall be deemed given if mailed by United States mail or by overnight mail services (e.g., Federal Express), postage prepaid, to the address above written or to such other address as either party may designate by notice pursuant hereto. Such notice shall be deemed duly given as of the date received.

**XIII. Survival of Obligations**

Any provision of this Agreement which requires or reasonably contemplates the performance or existence of obligations by either party after the termination of the Agreement shall survive such termination period.

**XIII. Assignment and Delegation**

No right or interest in this Agreement shall be assigned by Facility or Agency without the prior written permission of the other party. Any attempted assignment or delegation in contravention of the above provision shall be void and ineffective.

**XIV. Non-Exclusive Rights**

This Agreement does not grant to Facility or Agency any exclusive privileges or rights to provide or receive the services set forth in this Agreement. Either party may contract with other companies or individuals for the procurement of comparable services.

**XV. Section Headings**

The headings of the several sections are inserted for convenience or reference only and are not intended to be part of, or to effect, the meaning or interpretation of this Agreement.

**XVI. Applicable Law**

The construction, interpretation and performance of this Agreement and all transactions under it shall be governed by the laws of the State of Florida. The venue for any litigation in which this Agreement is a material issue shall be brought in Duval County, Florida.

**XVII. Non-Waiver**

No course of dealing or failure of either party to strictly enforce any term, right or condition of the Agreement shall be construed as a waiver of such term, right or condition.

**XVIII. Severability**

If any of the provisions of this Agreement shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of each party shall be construed and enforced accordingly.

**XIX. Confidential Information**

- a. Confidential Information. During the course of this Agreement, each party acknowledges and agrees that it may be given access to information that is proprietary to or confidential to the other, including but not limited to customer lists, product inventions, Agency-published notebooks, and product descriptions (“Confidential Information”).
- b. Use of Confidential Information. Both parties agree to use Confidential Information of the other solely for the purpose of meeting the requirements of this Agreement and for no other purpose without the express written consent of the other. Neither party will sell, transfer, publish, disclose, or otherwise make available any portion of the Confidential Information of the other to third parties, except as necessary to perform its obligations under this Agreement or as expressly authorized in this Agreement.

**XX. Appeals**

In the event that Facility disagrees with any accreditation decision of Agency, it may appeal such decision to the Agency’s Board of Directors within fourteen (14) days of any such adverse decision. Any appeal must include the grounds upon which Facility disputes the finding of the Agency. The Agency Board of

Directors shall set a place and time (no more than sixty (60) days from the date any such appeal is received) to deliberate upon such appeal, and Facility shall be Accreditation Survey Agreement, page 6

informed of such date and time and shall be granted up to fifteen (15) minutes to address the Board at that time. The Facility shall not be entitled to be in attendance during the final deliberations of the Board of Directors, and any decision of the Board of Directors shall be final.

**XXI. Entire Agreement**

This Agreement shall constitute the entire Agreement between the parties with respect to the subject matter of this Agreement and shall not be altered, varied, revised or amended except in writing signed by both parties. The provisions of this Agreement supersede all prior oral or written quotations, communications, agreements and understandings of the parties with respect to the subject matter of this Agreement. This Agreement shall be binding upon Facility and Agency, as well as their respective employees, agents and subcontractors.

**XIX. IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives as of the day and year first above written.

\_\_\_\_\_

Florida Pain Medicine  
Accreditation and Standards,  
Inc.:

\_\_\_\_\_  
By:  
Title:  
Date:

\_\_\_\_\_  
By:  
Title:  
Date:  
Federal Tax I.D. Number: 06-  
1698193