

APPENDIX 29-2

SAMPLE INDEPENDENT CONTRACTOR AGREEMENT FOR A.R.N.P.

**[Note: This is a contract for an ARNP, through her professional service corporation or "professional association," to be an independent contractor of a medical group. It is written on behalf of the employee, not the employer. Therefore, it is written to have provisions that are more favorable to the A.R.N.P. If you are writing a contract for an employer, you may want to change many of the provisions that are contained in this one or add additional ones.]**

This Independent Contractor's Agreement for A.R.N.P. Services ("Agreement") is made and entered into as of the last date entered below, to become effective as of August \_\_\_\_\_, 200\_\_\_\_ (if blank, then the last date entered below), by and between \_\_\_\_\_, a Florida Corporation ("Company"), and Jane Roe, A.R.N.P., P.A., a Florida professional service corporation ("Contractor"), for the provision of advance registered nurse practitioner (A.R.N.P.) services.

RECITALS:

WHEREAS, Company operates a medical practice providing health care services to patients and includes a doctor of medicine (M.D.) or doctor of osteopathic medicine (D.O.) on its staff;

WHEREAS, Contractor is a professional service corporation made up of one or more licensed professional advanced registered nurse practitioners (A.R.N.P.'s), capable of providing advanced registered nurse practitioner services to Company;

WHEREAS, Company desires to contract with Contractor for the provision of A.R.N.P. services to its patient in support of its medical staff and under the supervision of its M.D.'s or D.O.'s;

WHEREAS, Company is willing to pay Contractor for these services and to provide an M.D. or D.O. to supervise any A.R.N.P. services provided hereunder;

WHEREAS, it is the intent of these parties that their acts at all times comply with all existing state and federal health care laws and regulations and that this transaction has been structured so as to comply;

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

1. Recitals Incorporated. The recitals stated above are agreed by the Parties to be true and correct, are incorporated herein by reference and shall constitute, in part, consideration for this Agreement.
2. Services to Be Provided by Contractor. Contractor will provide one or more licensed A.R.N.P.'s suitable for Company's purposes to perform the services a licensed A.R.N.P. is permitted to perform in the State of Florida on Company's premises. Said A.R.N.P. will be properly trained and experienced and will be approved by Company in advance.

3. Term of Agreement. This Agreement shall begin on the date indicated in the first paragraph at the top of this page and shall run for an initial term of one (1) year (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 (the "Renewal Term"), 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.

4. Termination.

4.1. This Agreement may be terminated by either Party to this Agreement by giving thirty (30) days written notice to the other Party to this Agreement. In the event the Parties terminate this Agreement and it has not been in effect for at least one year, then the Parties agree that they shall not contract with each other on the same subject until at least a full year has elapsed from the effective date of this Agreement.

4.2. This Agreement may be terminated without any prior notice whenever both Company and Contractor shall mutually agree to such termination in writing.

4.3. Upon termination of this Agreement or Contractor's engagement, Company shall pay Contractor all compensation due Contractor under this Agreement and expenses (if any) incurred by Contractor on behalf of Company.

4.4. For Cause Termination by Contractor. Contractor may, at Contractor's option, immediately terminate this Agreement upon the existence of "cause." "Cause" shall be defined to include:

a. Any dishonesty by Company in its dealings with the Contractor, the commission of fraud by Company or its employees or agents, fraud as determined under applicable Medicare or Medicaid statutes or any regulations promulgated thereunder;

b. Company or any of its officers, directors, employees, or contractors being debarred by the federal government, being excluded (or suspended) from the Medicare or Medicaid Programs, loss of Medicare/Medicaid provider identification number, or loss or revocation of DEA number or registration;

c. Material breach of this Agreement;

d. Failure to make a payment due under this Agreement.

5. Compensation. Company shall pay to Contractor the compensation for the services provided in this Agreement as set forth in Addendum 1 attached hereto and incorporated by reference. Company shall not make any deductions or withholdings from the payments made to Contractor. The amounts so paid to Contractor may be reflected on an IRS Form 1099 issued by Company each year. Contractor shall be responsible for making any required withholdings or government payments and for paying its professionals and other Contractor employees.

6. Duties and Responsibilities of Company

6.1. Supervising Physician and Protocol. Company agrees to provide a supervising physician for Contractor's personnel and to require one or more of them to execute a Protocol with Contractor's personnel.

6.2. Supplies. Company shall provide all supplies, medical and administrative, Contractor requires for the provision of services at Company's facilities.

6.3. Scheduling, Check In and Checkout. Company will provide scheduling, patient check-in, patient checkout and pre-authorization services for all patients seen by Contractor at Company's facilities.

6.4. Medical Records. Company shall provide to Contractor medical record supplies and storage, photocopying services and access, archiving and access to medical records.

7. Professional Liability Insurance. Contractor will at all times carry sufficient professional liability insurance on its A.R.N.P. employees and contractors or will require them to do so. Company shall carry professional liability insurance on Company and on Company's employees.

8. No Benefits to Be Provided by Company. Company will furnish no health insurance or other benefits to Contractor or Contractor's employees.

9. Working Facilities and Administrative Support. Contractor's personnel shall be furnished with an office, clerical assistance, equipment and other facilities and services suitable and adequate for the performance of their duties. Company shall provide Contractor with office space, support personnel and practice related supplies at the expense of Company.

10. Company's Ownership and Authority, Fees and Billings.

10.1. Professional Fees. All fees resulting from the delivery of health care services in Company's facilities shall be the sole property of Company. All funds collected from operation of the Facilities, from Company's practice of medicine hereunder, and for the services provided by Contractor shall be the sole property of Company and shall be deposited into Company's account.

10.2. Billing and Collection Activities. Company shall have authority for preparation of billings for, and collection of income generated from Contractor's practice at Company's facilities and offices during the term of this Agreement. Pursuant to this Agreement, the Contractor delegates authority to request, demand, collect, receive and provide receipts for all income on behalf of Contractor including any payment or reimbursement from governmental agencies and insurance carriers on account of services provided to patients of the Company. Contractor will provide Company with Contractor's (or its personnel's) provider numbers (if any) to bill on behalf of Contractor for payment and reimbursement from governmental agencies and insurance carriers and accurate information on the services rendered, acuity or complexity of the patient and other information which may include coding information so as to allow Company to accurately bill. Company shall have sole responsibility for the accuracy of billings, subject to Contractor's obligations to provide necessary information therefor, and Company shall hold Contractor 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 Contractor. Contractor (and its personnel) shall specifically acknowledge that Company is their authorized billing and collection agent for those services

provided by Contractor (and its personnel) pursuant to this Agreement. Contractor authorizes (and shall cause its physicians to so authorize) Company to bill these fees in Contractor's (or its personnel's) name, collect them and endorse and deposit any checks or drafts for these.

11. Patient and Business Records. Patient records and files concerning patients of Company or patients consulted, interviewed or treated and cared for by the Contractor shall belong to and remain the property of Company.

11.1 Contractor agrees that clinical records of patients shall be regarded as confidential and shall comply with all applicable federal and state laws and regulations regarding confidentiality of such records.

11.2 Contractor agrees to maintain all patient charts in accordance with Company's policies and procedures for medical record documentation and as may be required by applicable laws and regulations or by health care plan contracts.

11.3 Upon termination of the Agreement, Company shall keep and preserve all patient records or charts, all of which is the property of Company. Copies of such records shall be made available by Company to Contractor upon request by Contractor, if and as needed by Contractor.

12. Miscellaneous Provisions.

12.1. Assignability. This Agreement shall not be assignable by Company without the written consent of Contractor.

12.2. 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 as shown by a signed receipt therefore, or five business days after mailed by U.S. mail, postage prepaid, addressed as set forth below:

If to Company: \_\_\_\_\_, President  
\_\_\_\_\_, Inc.  
9898 Smith Road  
Miami, Florida 39999

If to Contractor: Jane Roe, A.R.N.P.  
3333 33rd St. North  
Miami, Florida 38888

With a copy to:  
her attorney: George F. Indest III  
The Health Law Firm  
1101 Douglas Avenue  
Altamonte Springs, Florida 32714  
Telephone: (407) 331-6620  
Telefax: (407) 331-3030

Any party may alter the address to which communications or copies are to be sent by notice of such change of addresses in conformity with the provisions of his paragraph for the giving of notice. The date of service of any notice or communication hereunder shall be the date of the hand delivery, or as shown on the receipts, or five (5) business days after the mailing.

12.3. Severability. Each section, subsection and lesser section of this Agreement constitutes a separate and distinct undertaking, covenant or provision hereof. In the event that any provision of this Agreement shall be determined to be invalid or unenforceable, such provision shall be deemed limited by construction in scope and effect to the minimum extent necessary to render the same valid and enforceable, and, in the event such a limiting construction is impossible, such invalid or unenforceable provision shall be deemed severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

12.4. Survival of Certain Duties and Obligations. Contractor agrees that certain duties and obligations, including those contained in Sections 1, 5, 10, 11 and 12 of this Agreement, shall independently survive the termination of or breach of this Agreement by any Party, and shall be enforceable regardless.

12.5. Effect of Termination. The termination of this Agreement, for whatever reason, shall not extinguish those obligations of either Party as specified in any separate agreements, nor shall the same extinguish the right of either Party to bring an action, either in law or in equity, for breach of this Agreement by the other Party, except as may otherwise be specified in this Agreement.

12.6. Waiver. The failure of a Party to enforce any term, provision or condition of this Agreement at any time or times shall not be deemed a waiver of that term, provision or condition for the future, nor shall any specific waiver of a term, provision or condition at one time be deemed a waiver of such term, provision or condition for any future time or times.

12.7. 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.

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

12.9. Successors. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their heirs, personal representatives, legal representatives and proper successors and assigns, as the case may be.

12.10. Entire Agreement/Incorporation. This Agreement contains the entire understanding among the Parties hereto and with respect to the subject matter hereof, and that it supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained. Any prior agreements by these parties on the subject of this Agreement

shall be considered to be incorporated into and superseded by this Agreement, and the prior agreements shall be null and void.

12.11. 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.

12.12. No Third Party Beneficiary. The Parties acknowledge and agree that no third party shall be a beneficiary of any right or obligation created by this Agreement and no third party shall have any right to enforce any obligation hereunder except as may be specifically stated herein. .

12.13. No Partnership or Agency Created. The Parties agree that at all times they shall be and shall act as independent contractors to each other. The Parties agree that it is not their intent to create any partnership, agency, joint venture or other arrangement through this Agreement and none shall be assumed.

12.14. Cooperation Agreement. Each Party agrees that it will cooperate completely and fully with the other and any of their attorneys, investigators and insurers, in the investigation, defense, negotiation, mediation, settlement, or litigation of any complaint, charges, suit, claim, notice of intent, notice of audit, request for repayment, subpoena, charge, or investigation commenced against any of them regardless of the source thereof and that this shall in no way be considered to be a waiver of any privilege or confidentiality by any Party. A joint defense privilege shall be assumed to apply to such cooperation. This Section 12.14 shall survive the termination of this Agreement or the employment hereunder.

12.15. HIPAA Privacy Compliance. Contractor agrees that it will be bound by Company's obligations pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and its implementing regulations, specifically those affording patients the security and privacy of their health information and will review and carry out Company's HIPAA Privacy Policy in this respect.

12.16. Amendment. This Agreement may not be modified or amended other than by an agreement in writing and signed by the Party against whom enforcement is sought.

12.17. Immediate Notice of Potentially Adverse Events. Each Party is under a continuing obligation to immediately advise the other Party in writing (also providing a copy of any documentation it receives) of any potentially adverse occurrence or event which may constitute or result in a breach of this Agreement, including but not limited to, any subpoena, summons, charges, letter of complaint from a patient or third party payer, process, notice of intent, notice of a claim, audit, probe, investigation, demand, notice of investigation, suspension, notice of audit, probe or review, or any other document or action contemplated. Such notice shall be given immediately to the other Party and shall be followed up with notice as provided in Section 12.2 above. The Parties each agree that they shall cooperate in resolving such matter in accordance with Section 12.14 above.

12.18. Attorney's Fees. In the event legal action is required by a Party to this Agreement to enforce its rights or obligations or as the result of any action between the Parties hereto, then it is agreed that the substantially prevailing party shall be entitled to its attorney's fees, legal expenses and costs from the other Party. Such attorney's fees and legal expenses shall be treated as and taxed as costs. Such attorney's fees and legal expenses shall also include those for any appeal, as well as those required to

## FLORIDA NURSING LAW MANUAL

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litigate the amount of attorney's fees and those for the collection of any judgment, award or attorney's fees as may be required.

12.19. Necessary Action. Each Party hereby agrees to perform any further acts and to execute and deliver any other documents which may be reasonably necessary to carry out the provisions of this Agreement.

12.20. No Holding Out as Medical Doctor. Contractor agrees that Contractor's personnel shall not hold themselves 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 they are a doctor. Likewise, Company agrees that it will fully identify Contractor's personnel as "A.R.N.P." or "Nurse Practitioner" or other appropriate abbreviations or designations in all signage, letterhead, name tags, business cards, communications, etc. Company agrees that it will provide a suitably licensed and qualified employee who will act as the proctor or supervising physician for any of Contractor's A.R.N.P. employees providing services for Company and will require that physician to execute the appropriate A.R.N.P. protocol, collaborative practice agreement, proctor's agreement or supervising physician's agreement.

**AGREED TO BY:**

**COMPANY:** \_\_\_\_\_, Inc.

By: \_\_\_\_\_ / \_\_\_\_\_  
Signature

Name (print): \_\_\_\_\_ / Date

Title: \_\_\_\_\_

Name of Company/Medical Group: \_\_\_\_\_

**CONTRACTOR:** JANE ROE, A.R.N.P., P.A.

By: \_\_\_\_\_ / \_\_\_\_\_  
Jane Roe, A.R.N.P., President /Date

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## **ADDENDUM 1**

### **Compensation**

Company shall pay Contractor Thirty-Five Dollars (\$35) per hour for each hour it provides the services of an A.R.N.P.

Company shall pay Contractor each \_\_\_\_\_ on \_\_\_\_\_ day.

Company shall not make any deductions or withholdings from the payments made to Contractor. The amounts so paid to Contractor may be reflected on an IRS Form 1099 issued by Company each year. Contractor shall be responsible for making any required withholdings or government payments and for paying its professionals and other Contractor employees.

### **Work Schedule**

Contractor shall provide the services of one (1) A.R.N.P. for Company pursuant to the following schedule, except as otherwise indicated below:

Tuesdays:	8:30 a.m. to 5:00 p.m.
Wednesdays:	8:30 a.m. to 12:30 p.m.
Fridays:	8:30 a.m. to 3:00 p.m.

Contractor's personnel shall be entitled to at least a thirty (30) minute lunch break each day Contractor is scheduled for more than four (4) hours.

### **Exceptions to above:**

**Reduced Services Provided During Summer.** During June 2004 and July 2004, Contractor shall provide one (1) A.R.N.P. for Company only one (1) day per week from 8:30 a.m. to 5:00 p.m., on a day each week to be agreed upon between the Parties and scheduled accordingly.

**Periodic Vacations for Contractor's Personnel.** During four (4) full weeks at various times throughout the year, Contractor shall not have to furnish personnel to Company so that Contractor's personnel may have vacations or time off. These times will be scheduled in advance with the mutual agreement of Company and Contractor. There shall be no obligation to pay Contractor during these times.

**Holidays.** Company's and Contractors' schedule shall adhere to the Brevard County public school calendar for schedule days off so that Contractor will not have to furnish personnel on such dates. Additionally, Contractor's personnel shall be entitled to the following holidays each year : January 1st, July 4th, Memorial Day, Labor Day, Thanksgiving Day and the day after Thanksgiving, December 24th, and December 25th.



FLORIDA NURSING LAW MANUAL

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**AGREED TO BY:**

**COMPANY:** \_\_\_\_\_, Inc.

By: \_\_\_\_\_ / \_\_\_\_\_

Name (print): \_\_\_\_\_ / Date

Title: \_\_\_\_\_

Name of Company/Medical Group: \_\_\_\_\_

**CONTRACTOR:** JANE ROE, A.R.N.P., P.A.

By: \_\_\_\_\_ / \_\_\_\_\_  
Jane Roe, A.R.N.P., President /Date

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