



SCHOOL AFFILIATION AGREEMENT

This Agreement is made and entered into as of this 1st day of January, 2013 by and between Marshall University Joan C. Edwards School of Medicine & University Physicians & Surgeons ("School") and Thomas Health System ("Hospital"-check appropriate facility(s) below).

- Thomas Memorial Hospital
- Saint Francis Hospital

WITNESSETH:

Marshall and Thomas Health System share responsibility for creating an appropriate learning environment. The learning environment includes formal learning activities, as well as attitudes, values and information "lessons" conveyed by individuals with whom the student comes into contact. Therefore, all personnel are expected to conduct themselves in a professional manner, adhere to ethical principles and demonstrate sensitivity to patients and colleagues.

WHEREAS, School offers to enrolled students a degree/ Program in the field of Clinical Training of Medical Students & Residents and

WHEREAS, Hospital manages a comprehensive acute care medical-surgical facility; and

WHEREAS, School desires to provide to its students a clinical learning experience through the application of knowledge and clinical skills in actual patient-centered situations in a health care facility; and

WHEREAS, Hospital has agreed to make its facility available to School for such purposes.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties hereby agree as follows:

1. Responsibilities of School.

(a) Clinical Program: School shall be responsible for the implementation and operation of the clinical component of its program at Hospital ("Program"), which Program shall be approved in advance by Hospital. Such responsibilities shall include, but not be limited to, the following:

- (i) orientation of students to the clinical experience at designated Hospital;
- (ii) provision of classroom theory and practical instruction to students prior to their clinical assignments at designated Hospital;
- (iii) preparation of student/patient assignments and rotation plans for each student and coordination of same with designated Hospital;
- (iv) continuing oral and written communication with designated Hospital regarding student performance and evaluation, absences and assignments of students, and other pertinent information;

- (v) supervision of students and their performance at designated Hospital, including adherence to all hospital policies and procedures;
- (vi) participation, with the students, in Hospital's Quality Assurance and related programs;
- (vii) performance of such other duties as may from time to time be agreed to between School and Hospital;
- (viii) School shall provide adequate documentation attesting to competency of each instructor.

All students, faculty, employees, agents and representatives of School participating in the Program at Hospital (the "Program Participants") shall be accountable to the Hospital's Department.

(b) Student Statements: School shall require each Program participant to sign a Statement of Responsibility in the form attached hereto as Exhibit A, and a Statement of Confidentiality in the form attached hereto as Exhibit B.

(c) Insurance:

- (i) School shall, at School's own expense, with a company acceptable to School and Hospital, carry and maintain occurrence type professional liability/malpractice insurance in amounts not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate. If occurrence type liability insurance is not available, School shall purchase claims-made type professional liability insurance covering the same amounts.
- (ii) If School shall have purchased and carried claims made professional liability/malpractice insurance during the term of this Agreement pursuant to subparagraph (i) above, School shall purchase tail professional liability/malpractice insurance coverage covering for a period of three (3) years after such termination or cancellation, to the same extent and amount as the claims made coverage, the acts and omissions of School or Service personnel upon termination of its claims made policy or School otherwise ceases to be insured.
- (iii) School shall at its own expense, carry, maintain and provide workers' compensation insurance, and unemployment insurance for any and all Service personnel assigned to Hospital.
- (iv) For insurance required under clauses (i) and (ii) of this paragraph (c), Hospital shall be named as an additional insured. For all insurance required by this paragraph (c), School shall require that the insurance carrier notify Hospital at least thirty (30) days in advance of any cancellation or modification of such insurance policy. In each instance, the insurance carrier shall be reasonably acceptable to Hospital. Service shall provide to hospital, upon request, certificates of insurance evidencing the above coverage and renewals thereof.

(d) Health of Participants: The Hospital will provide emergency first aid in the event of injury while on hospital premises. In no event, shall hospital be financially or otherwise responsible for said medical care and treatment, with the exception of blood-borne pathogen exposure. Program Participants will present documentation of the following health records on the first day of their educational experience at Hospital (Program Participants will not be allowed to commence experiences until all records are checked off):

- (i) Tuberculin skin test within the past 12 months or documentation as a previous positive reactor; and
- (ii) Proof of Rubella and Rubella immunity by positive antibody titers or 2 doses of MMR; and
- (iii) Varicella immunity, by positive history of chickenpox or proof of Varicella immunization; and

- (iv) Proof of Hepatitis B immunization or declination of vaccine, if patient contact is anticipated.

(e) Dress Code; Breaks: School shall require the students to dress in accordance with dress and personal appearance standards approved by School. Such standards shall be in accordance with Hospital's standards regarding same. All Program Participants shall remain on the Hospital premises for breaks, including meals. Program Participants shall pay for their own meals at each Hospital.

(f) General Standards: All faculty provided by School shall be duly licensed, certified or otherwise qualified to participate in the Program at Hospital. School shall have a specially designated staff for

the performance of the services specified herein. School and all Program Participants shall perform their duties and services hereunder in accordance with all relevant local, state and federal laws, and shall comply with the standards and guidelines of all applicable accrediting bodies and the Bylaws and rules and regulations of Hospital, and any rules and regulations of School as may be in effect from time to time. Neither School nor any Program participant shall interfere with or adversely affect the operation of Hospital or the performance of services therein. School shall assign to Hospital students who have completed sufficient classroom and other course work to allow students meaningful participation in a clinical experience and so that the students can participate in the Program without disruption to patient care or any other Hospital operations. If required, School/faculty is responsible for providing proof of primary sourced licensure validation.

(g) School Status: School represents and warrants to Hospital that the School and its students providing services hereunder: (i) are not currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs as defined in 42 U.S.C. Section 1320a-7b(f) (the "Federal health care programs"); (ii) are not convicted of a criminal offense related to the provision of health care items or services but has not yet been excluded, debarred or otherwise declared ineligible to participate in the Federal health care programs, and (iii) are not under investigation or otherwise aware of any circumstances which may result in the School being excluded from participation in the Federal health care programs. This shall be an ongoing representation and warranty during the term of this Agreement and the School shall immediately notify Hospital of any change in status of the representation and warranty set forth in this section. Any breach of this Section 1 shall give Hospital the right to immediately terminate this Agreement for cause.

(h) Background Checks: School represents that it will timely conduct (or will timely have conducted) a background check on each and every student assigned to the Program and on each and every member of the staff/faculty who is responsible for supervision and/or instruction of said student (s) at Thomas Health System. The school obtains a criminal background check on the students/faculty as required by law and regulation. Criminal background checks are documented and available upon request. Background check information deemed inappropriate for clinical rotation will be provided to the facility for collaborative discussion/inclusion in assigned rotation. Background check results will be furnished upon hospital request. At a minimum, background checks shall include:

- Violent Sexual Offender and Predatory Registry Search;
- Criminal Search (7 years or up to 5 criminal searches)

Should the School determine that a background check discloses (1) conviction of a felony offense, (2) a misdemeanor offense, if job related, (3) termination from a previous job related to criminal conduct or sexually predatory behavior, (4) providing a false statement on the application or resume, (5) inclusion on the list of Ineligible Persons by or of any student and/or member of the staff/faculty, or (6) other adverse information that would affect the student's and/or member of the staff/faculty's participation, it shall notify the Hospital, which shall immediately remove said student and/or member of the staff/faculty from participation in the Program at Hospital.

2. Responsibilities of Hospital.

(a) Hospital shall accept the students assigned to the Program by School and reasonably cooperate in the orientation of all Program Participants to Hospital. Hospital shall provide reasonable opportunities for such students, who shall be supervised by School and Hospital, to observe and assist in various aspects of patient care to the extent permitted by applicable law and without disruption of patient care or Hospital operations, as determined by Hospital in its sole discretion. Hospital shall coordinate School's rotation

and assignment schedule with its own schedule and those of other educational institutions. Hospital shall at all time retain ultimate control of the Hospital and responsibility for patient care.

(b) Upon the request of School, Hospital shall assist School in the evaluation of each Program Participant's performance in the Program. However, School shall at all times remain solely responsible for the evaluation and grading of Program Participants.

3. Mutual Responsibilities.

The parties shall cooperate to fulfill the following mutual responsibilities:

(a) Students shall be treated as trainees who have no expectation of receiving compensation or future employment from the Hospital or the School.

(b) Any courtesy appointments to faculty or staff by either the School or Hospital shall be without entitlement of the individual to compensation or benefits for the appointed party.

4. Withdrawal of Program Participant.

Hospital may request School to withdraw or dismiss a student of other Program Participant from the Program at Hospital when his/her clinical performance is unsatisfactory to Hospital or his/her behavior, in Hospital's discretion, is disruptive or detrimental to Hospital and/or its patients. In such event, said Program Participant's participation in the Program shall immediately cease. It is understood that only School can dismiss the Program Participant from the Program at Hospital.

5. Independent Contractor; No Other Beneficiaries.

The parties hereby acknowledge that they are independent contractors, and neither the School nor any of its agents, representatives, students or employees shall be considered agents, representatives, or employees of Hospital. In no event shall this Agreement be construed as establishing a partnership or joint venture or similar relationship between the parties hereto. School shall be liable for its own debts, obligations, acts and omissions, including the payment of all required withholding, social security and other taxes or benefits. No Program Participant shall look to Hospital for any salaries, insurance or other benefits.

No student or other third person is entitled to, and shall not receive any rights under this Agreement.

6. Confidentiality.

School and its agents, students, faculty, representatives and employees agree to keep strictly confidential and hold in trust all confidential information of Hospital and its operations and/or its patients and not disclose or reveal any confidential information to any third party without the express prior written consent of Hospital. School shall not disclose the terms of this Agreement to any person who is not a party to this Agreement except as required by law or as authorized by Hospital. Unauthorized disclosure of confidential information or of the terms of this Agreement shall be a material breach of this Agreement and shall provide Hospital with the option of pursuing remedies for breach or, notwithstanding any other provision of this Agreement, immediately terminating this Agreement upon written notice to School.

7. Indemnification.

School will be responsible for the costs and liabilities of any acts of negligence of its students, assessed by the court of competent jurisdiction.

8. Records.

Any records that are generated as part of the students' participation in the Program at the Hospital as it relates to patient care shall be the property of Hospital. School and its students agree to keep and maintain any and all medical records as may be required by federal, state, or local law and regulations and Hospital policies and procedures.

9. Term; Termination.

(a) The initial term of this Agreement shall be one (1) year, commencing the 1st day of January, 2013. At the end of said initial term, unless otherwise terminated as provided herein, this Agreement may be renewed for one year successive terms upon mutual agreement of the parties.

(b) Except as otherwise provided herein, either party may terminate this Agreement at any time upon at least thirty (30) days written notice, provided that all students currently enrolled in the Program at

Hospital at the time of notice of termination shall be given the opportunity to complete their clinical Program at Hospital, such completion not to exceed six (6) months.

10. Entire Agreement.

This Agreement and its accompanying Exhibits set forth the entire Agreement with respect to the subject matter hereof and supersedes any prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This Agreement shall not be modified or amended except by mutual written agreement. All continuing covenants, duties, and obligations shall survive the expiration or termination of this Agreement.

11. Severability.

If any provisions of this Agreement are held to be invalid or unenforceable for any reason, this Agreement shall remain in full force and effect in accordance with its terms disregarding such unenforceable or invalid provision.

12. Captions.

The caption headings contained herein are used solely for convenience and shall not be deemed to limit or define the provisions of this Agreement.

13. No Waiver.

Any failure of a party to enforce that party's rights under any provision of this Agreement shall not be construed or act as a waiver of said party's subsequent right to enforce any of the provisions contained herein.

14. Governing Law.

This Agreement shall be governed and construed in accordance with the laws of the State of West Virginia.

15. Assignment; Binding Effect.

School may not assign or transfer any of its rights, duties or obligations under this Agreement, in whole or in part, without the prior written consent of Hospital. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

16. Notices.

All notices, requests, demands or other communications hereunder shall be in writing, delivered personally, by registered or certified mail, return receipt requested, or by overnight mail by a reputable overnight carrier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, addressed as follows:

If to Hospital: Daniel J. Lauffer, COO
Thomas Health System
4605 MacCorkle Ave, SW
South Charleston, WV 25309

If to School: Marshall University Joan C. Edwards School of Medicine
1600 Medical Center Drive
Huntington, WV 25701-3655

Or to such other persons or places or places as either party may from time to time designate by written notice to the other.

17. HIPAA Requirements.

School agrees to comply with the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d ("HIPAA") and any current and future regulations promulgated thereunder including without limitation the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164 (the

"Federal Privacy Regulations"), the federal security standards contained in 45 C.F.R. Part 142 (the "Federal Security Regulations"), and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162, all collectively referred to herein as "HIPAA Requirements". Provider agrees not to use or further disclose any Protected Health Information (as defined in 45 C.F.R. Section 164.501) or Individually Identifiable Health Information (as defined in 42 U.S.C. Section 1320d), other than as permitted by HIPAA Requirements and the terms of this Agreement.

The School shall direct its Program Participants to comply with the policies and procedures of Hospital, including those governing the use and disclosure of individually identifiable health information under federal law, specifically 45 CFR parts 160 and 164. Solely for the purpose of defining the Program Participants' role in relation to the use and disclosure of Hospital's protected health information, the Program Participants are defined as members of the Hospital's workforce, as that term is defined by 45 CFR 160.103, when engaged in activities pursuant to this Agreement. However, the Program Participants are not and shall not be considered to be employees of Hospital.

School will makes its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services to the extent required for determining compliance with the Federal Privacy Regulations.

18. Excluded Parties

School represents and warrants to Thomas Health System that the School, its officers, directors and employees (i) are not currently excluded, debarred, or otherwise ineligible to participate in the federal health care programs as defined in 42 USC § 1320a-7b(f) (the "Federal Healthcare Programs"); (ii) have not been convicted of a criminal offense related to the provision of healthcare items or services but have not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal Healthcare Programs, and (iii) are not, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in the School being excluded from participation in the Federal Healthcare Programs. This shall be an ongoing representation and warranty during the term of this Agreement and the School shall immediately notify Thomas Health System of any change in the status of the representations and warranty set forth in this section. Any breach of this section shall give Thomas Health System the right to terminate this Agreement immediately for cause.

The School shall direct its students to comply with the policies and procedures of Hospital, including those governing the use and disclosure of individually identifiable health information under federal law, specifically 45 CFR parts 160 and 164. Solely for the purpose of defining the students' role in relation to the use and disclosure of Hospital's workforce, as that term is defined by 45 CFR 160.103, when engaged in activities pursuant to this Agreement. However, the students are not and shall not be considered to be employees of Hospital.

19. Non-Discrimination.

There shall be no unlawful discrimination on the basis of race, national origin, religion, creed, sex, age, veteran status, or handicap in either the selection of students for participation in the Program, or as to any aspect of the clinical training; provided, however, that with respect to handicap, the handicap must not be such as would, even with reasonable accommodation, in and of itself preclude the Program Participant's effective participation in the Program.

20. Execution of Agreement.

This Agreement shall not become effective or in force until all of the below named parties have fully executed this Agreement.

21. No Requirement to Refer.

Nothing in this Agreement requires or obligates School to admit or cause the admittance of a patient to Hospital or to use Hospital's services. None of the benefits granted pursuant to this Agreement is conditioned on any requirement or expectation that the parties make referrals to, be in a position to make or influence referrals to, or otherwise generate business for the other party. Neither party is restricted from referring any services to, or otherwise generating any business for, any other entity of their choosing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date herein above written.

ATTEST:

SCHOOL:

Marshall University Joan C. Edwards School of Medicine

By: 

Print Name: Joseph I. Shapiro, M.D.

Title: Dean

Date: 1-3-13

HOSPITAL:

Thomas Health System

By: 

Print Name: Daniel J. Lauffer

Title: Chief Operating Officer

Date: 12/18/12

EXHIBIT A

STATEMENT OF RESPONSIBILITY

For and in consideration of the benefit provided the undersigned in the form of experience in a clinical setting at Thomas Health System ("Hospital"), the undersigned and his/her heirs, successors and/or assigns do hereby covenant and agree to assume all risks and be solely responsible for any injury or loss sustained by the undersigned while participating in the Program operated by Marshall University Joan C. Edwards School of Medicine ("School") at Hospital unless such injury or loss arises solely out of Hospital's gross negligence or willful misconduct.

Signature of Program Participant

Date

Print Name

Parent or Legal Guardian if Program Participant is under 18

Date

Print Name

EXHIBIT B

PROTECTED HEALTH INFORMATION, CONFIDENTIALITY, AND SECURITY AGREEMENT

- Protected Health Information (PHI) includes patient information based on examination, test results, diagnoses, response to treatment, observation, or conversation with the patient. This information is protected and the patient has a right to the confidentiality of his or her patient care information whether this information is in written, electronic, or verbal format. PHI is individually-identifiable information that includes, but is not limited to, patient's name, account number, birth date, admission and discharge dates, photographs, and health plan beneficiary number.
- Medical records, case histories, medical reports, images, raw test results, and medical dictations from healthcare facilities are used for student learning activities. Although patient identification is removed, all healthcare information must be protected and treated as confidential.
- Students enrolled in school programs or courses and responsible faculty are given access to patient information. Students are exposed to PHI during their clinical rotations in healthcare facilities.
- Students and responsible faculty may be issued computer identifications (IDs) and passwords to access PHI.

Initial each to accept the Policy

Initial	Policy
	1. It is the policy of the school/institution to keep PHI confidential and secure.
	2. Any or all PHI, regardless of medium (paper, verbal, electronic, image or any other), is not to be disclosed or discussed with anyone outside those supervising, sponsoring or directly related to the learning activity.
	3. Whether at the school or at a clinical site, students are not to discuss PHI, in general or in detail, in public areas under any circumstances, including hallways, cafeterias, elevators, or any other area where unauthorized people or those who do not have a need-to-know may overhear.
	4. Unauthorized removal of any part of original medical records is prohibited. Students and faculty may not release or display copies of PHI. Case presentation material will be used in accordance with healthcare facility policies.
	5. Students and faculty shall not access data on patients for whom they have no responsibilities or a "need-to-know" the content of PHI concerning those patients.
	6. TMH-A computer ID and password are assigned to faculty. SF-- Computer ID and password are assigned to designated disciplines. Students and faculty are responsible and accountable for all work done under the associated access.
	7. Computer IDs or passwords may not be disclosed to anyone. Students and faculty are prohibited from attempting to learn or use another person's computer ID or password.
	8. Students and faculty agree to follow Hospital's privacy and security policies.
	9. Breach of patient confidentiality by disregarding the policies governing PHI is grounds for dismissal from the Hospital.

- I agree to abide by the above policies and other policies at the clinical site. I further agree to keep PHI confidential.
- I understand that failure to comply with these policies will result in disciplinary actions.
- I understand that Federal and State laws govern the confidentiality and security of PHI and that unauthorized disclosure of PHI is a violation of law and may result in civil and criminal penalties.

 Signature of Program Participant

 Date

 Print Name

 Parent or Legal Guardian if Program Participant is under 18

 Date

 Print Name