

BURN TRANSFER AGREEMENT

THIS AGREEMENT is made this 14th day of May, 2018 by and between JERSEY SHORE UNIVERSITY MEDICAL CENTER, having an address at 1945 Route 33, Neptune, New Jersey 07753 ("Hospital") and The Burn Center at Saint Barnabas Medical Center, having an address at 94 Old Short Hills Road, Livingston, New Jersey 07039 ("Burn Center"). Hospital and Burn Center also are referred to collectively in this Agreement as the "Institutions".

WITNESSETH

WHEREAS, Burn Center is a regional provider of inpatient and outpatient health care services through the Saint Barnabas Medical Center (the "Medical Center"), an affiliate of RWJBarnabas Health, Inc. (the "System") and which is organized for the delivery of integrated health care services and graduate medical education throughout the state, through its multiple programs and affiliated facilities; and

WHEREAS, Burn Center at Saint Barnabas Medical Center is certified by the New Jersey State Department of Health as a designated burn treatment facility, and verified by the American Burn Association and the Committee of Trauma of the American College of Surgeons; and

WHEREAS, the Hospital is requesting that its patients, who have been diagnosed with burn injuries and/or who require treatment for burn injuries be transferred to the Burn Center for diagnosis and treatment;

WHEREAS, the parties share the objectives of good patient care and optimum and efficient use of health care resources; and

WHEREAS, the parties have determined that it is in the best interest of their burn patients to provide a continuum of care by facilitating the transfer of patients between the Institutions, in accordance with the terms set forth in this Agreement and the transfer agreement requirements as described in the New Jersey Department of Health's Manual of Standards for the Licensure of Hospital Facilities (*N.J.A.C 8:43G, et al.*); and

NOW, THEREFORE, in consideration of the covenants and promises contained herein, and intending to be legally bound, the parties agree as follows:

1. TRANSFER OF PATIENTS.

a. When a patient's treating physician determines that it is medically necessary to transfer a patient from the Hospital to the Burn Center, then the Hospital shall immediately notify the Burn Center of the impending transfer. The Burn Center agrees to admit the patient for inpatient, outpatient and/or diagnostic services, as promptly as possible, provided that (i) appropriate accommodations are available and (ii) the patient satisfies the applicable admissions requirements of the Burn Center.

b. Both Institutions agree that the transfer of patients shall be in accordance with the Burn Center's burn transfer protocol.

c. When the patient is transferred by means of a designated transport unit from the Hospital, the Burn Center shall retain responsibility for the patient once the patient is within the Burn Center.

d. The Burn Center's responsibility for patient care shall begin when the patient is on site and is admitted, either as an inpatient or an outpatient, to the Burn Center. Both Institutions agree to implement any necessary protocols to assure quality control and patient safety, as agreed upon by both Institutions.

e. When a patient's treating physician determines that it is no longer medically necessary for a patient to receive the specialized services for burn patients at the Burn Center, then the Burn Center shall facilitate the return of the patient to the Hospital for those patients who continue to require hospitalization, but no longer require the specific services for burn patients of the Burn Center.

f. Consent to and Notice of Transfer. Except in an emergency when there is insufficient time for notice and/or consent, the patient's relatives or legally responsible party, shall be given adequate notice of the proposed transfer before the transfer occurs. Prior to any transfer under this Agreement, the Hospital shall secure all applicable consents required from the patient, the person responsible for the patient or the patient's attending physician. The patient, or if appropriate, the person responsible for the patient, shall be given adequate notice of the patient's transfer prior to the transfer in accordance with customary practice of the Hospital. The Hospital agrees to notify the Burn Center, as far in advance as reasonably possible, of an impending transfer.

2. TERM.

a. This Agreement shall commence as of May 14, 2018 and shall have a term of one (1) year and shall renew from year to year thereafter. Either party may terminate this Agreement at any time with or without cause upon thirty (30) days prior written notice.

b. Following the date of termination of this Agreement, each party shall continue to treat all patients transferred by the other party prior to such date in accordance with this Agreement.

3. PATIENT RECORDS; PERSONAL ARTICLES.

The Hospital agrees to send with each patient at the time of transfer, or in the case of an emergency, as promptly as possible after the transfer, an abstract of pertinent medical and other information necessary to continue the patient's treatment without interruption, together with essential identifying and administrative information. This abstract shall include current medical findings, diagnosis, rehabilitation potential, a brief summary of the course of treatment followed in the Hospital, nursing and dietary information, and ambulation status. Without limiting the foregoing, the parties shall comply with all applicable federal and state requirements with respect to patient advance directives.

4. TRANSPORTATION.

Arrangements for the safe transportation of a patient, including (but not limited to) the selection of the mode of transportation and providing appropriate health care practitioner(s) to accompany the patient, shall be made by, or caused to be made by the Hospital.

5. BILLING AND COLLECTION.

Each party shall be responsible for billing and collecting its own payments for rendering services to the patients transferred to it pursuant to this Agreement. The patient or his/her third-party payor or insurer shall be responsible for paying the charges of each party for services rendered. Neither party to this Agreement shall be responsible to the other for paying such charges in the event the patient or third-party payor or insurer does not pay such charges. Also, neither party shall have any liability for any debts or obligations of a financial or legal nature incurred by the other party by virtue of this

Agreement. Each party agrees that it shall not submit any bill or accept payment from any patient or third party payor with respect to services provided by the other party.

6. INDEPENDENT CONTRACTORS.

The parties are independent contractors. This Agreement does not make either party the agent, employee or servant of the other party for any purpose. Nothing in this Agreement shall be construed as limiting the rights of either party to affiliate or contract with any other health care facility on any basis, including (but not limited to) other transfer agreements, while this Agreement is in effect. After a patient has been transferred from one facility to the other, the patient shall be solely and exclusively under the control and supervision of the receiving institution, and the transferring institution shall neither have nor exercise any supervision or control whatsoever over the rendering of services to the patient or the exercise of medical judgment in connection with such services.

Each party shall be solely responsible for: (a) managing all patient care activities conducted within its facility; (b) providing and maintaining all equipment, facilities, and supplies needed for patient care activities within its facility; (c) the employment, discipline and compensation of all employees or contractors who may be involved from time to time in providing patient care or ancillary services within its facility; and (d) credentialing and monitoring all personnel providing patient care within its facility.

7. COMPLIANCE WITH ALL LAWS.

a. During the term of this Agreement (and all renewals thereof), each party shall comply with all applicable standards as outlined by Joint Commission, New Jersey Department of Health, and all applicable regulatory requirements.

b. During the term of this Agreement (and all renewals thereof), each party shall comply with all applicable federal, New Jersey state and local laws, rules, and regulations, including, but not limited to, the Emergency Medical Treatment and Active Labor Act ("EMTALA") 42 U.S.C.A. Sec. 1395 dd(a), and the regulations promulgated thereto in carrying out the terms of this Agreement.

8. NON-DISCRIMINATION/PATIENT HIV STATUS.

Both parties agree that (a) neither party may refuse to receive a patient by reason of patient's race, religion, gender, country of national origin, sexual orientation, or medical diagnosis; (b) neither party may refuse to receive a patient because of patient's HIV status; (c) the portion of the medical records indicating the patient is HIV positive or is known to have been exposed but has not been established to be HIV negative to a reasonable degree of scientific certainty will be transmitted in a confidential manner and in accordance with federal and state laws and regulations; (d) patient's HIV status may be disseminated only to those health care providers who have a medical need to know; and (e) both parties understand that each is equally obligated to use universal precautions for all patients, regardless of HIV status, during transfer or treatment.

9. ACCESS TO RECORDS.

For a period of five (5) years after the furnishing of services pursuant to this Agreement, each party agrees to provide the Secretary of Health and Human Services or the Comptroller General of the United States with all requested records necessary to verify the nature and cost of such services.

10. PROMOTIONAL MATERIALS; USE OF OTHER PARTY'S NAME.

Neither party shall use the name of the other party in any promotional or advertising material unless review and written approval shall be first obtained from the party whose name is to be used.

11. HIPAA; PROTECTED HEALTH INFORMATION.

a. Both the Hospital and the Burn Center shall comply with the Federal Health Insurance Portability and Accountability Act of 1996 and its related regulations ("HIPAA"), and the Health Information Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009 and related regulations (the "HITECH Act").

b. Either party may terminate this Agreement upon a determination that the other party has violated a material term of this Section. Prior to taking any such action, the non-violating party agrees to provide the violating party with reasonable notice of, and an opportunity to correct, the violation.

c. Each party shall require its physicians, employees and agents, including subcontractors, to whom it provides PHI to agree to the same restrictions and conditions as set forth in this Section with respect to such information.

12. MISCELLANEOUS.

a. This Agreement may be executed in more than one (1) counterpart, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Copies of original signatures sent via e-mail in a scanned PDF document are deemed originals for purposes of execution and proof of this Agreement. If this Agreement is executed in counterparts, no signatory hereto shall be bound until each of the

parties named below shall have duly executed or caused to be executed a counterpart of this Agreement.

b. No failure on the part of either party to exercise, and no delay in exercising, any right or remedy hereunder shall operate as a waiver hereof, nor shall any single or partial exercise of any right or remedy hereunder preclude any other or a future exercise thereof or the exercise of any other right or remedy granted hereby or by a related document or by law.

c. This Agreement may only be modified, supplemented or amended by a written instrument executed by the party to be charged therewith.

d. All notices, consents, waivers or other communications which are required hereunder shall be in writing and shall be sufficient if delivered personally (including by means of a recognized carrier service for which a written receipt is given) or by registered or certified mail, return receipt requested, postage prepaid, or by facsimile providing a receipt, to the address of the receiving party first stated above, attention of the individual who executed this Agreement, or to such other address as may be given by written notice. All such notices shall be deemed to have been given on the date personally delivered or three (3) days after mailed in the manner provided above.

e. This Agreement shall be governed by and construed in accordance with the laws of the State of New Jersey without regard or giving effect to its principles of conflicts of law. All disputes arising out of this Agreement shall be resolved by a court of competent jurisdiction in the State of New Jersey and both parties hereby consent to the jurisdiction of the courts of the State of New Jersey and the Federal District Court for the District of New Jersey.

f. The headings contained in this Agreement are solely for convenience of reference and shall not in any way limit or affect the meaning or interpretation of any of the terms or provisions of this Agreement.

g. This Agreement and the performances of any obligations hereunder may not be assigned by either party, but shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, legal representatives and permitted assigns. Nothing contained in this Agreement, express or implied, is intended to confer upon any person or entity other than the parties hereto and their respective successors, legal representatives and permitted assigned, any rights or remedies under or by reason of this Agreement.

h. The provisions of this Agreement shall be deemed severable, and the invalidity and unenforceability of any one or more of the provisions hereof, shall not affect the validity and enforceability of the other provisions.

i. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior promises, agreements, communications, representations and warrants, and understanding of the parties, oral and written, with respect to such matters.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party has caused this Agreement to be executed by its duly authorized officers or representatives as of the date first written above.

~~ATTEST:~~ WITNESS;

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Jersey Shore University Medical Center

By: 

Name: Kenneth N. Sable, M.D.

Title: President

ATTEST:

The Burn Center at Saint Barnabas Medical Center

By: _____

Name: Michael A. Marano, M.D.

Title: Medical Director