

Billings Clinic

RESIDENT EMPLOYMENT AGREEMENT

THIS RESIDENT EMPLOYMENT AGREEMENT (“Agreement”) is made this ___ day of _____, 201___, and is effective as of _____, 201___ (“Effective Date”), by and between Billings Clinic (“Billings Clinic”), a Montana nonprofit corporation, and _____ (“Resident”), of «Address», «City», «state» «zip», (collectively, the Parties”).

RECITALS

- A. Billings Clinic is a Montana nonprofit corporation operating a licensed hospital facility and outpatient facilities in the State of Montana;
- B.
- C. Billings Clinic is the sponsoring institution of a graduate medical education and clinical training programs accredited by the Accreditation Council for Graduate Medical Education (“ACGME”);
- D.
- E. Resident holds an advanced degree in medicine from an approved medical college or university and has applied (or been approved) for a license to practice medicine in the State of Montana;
- F.
- G. In the interest of scholarship and professional growth, Resident desires to participate in the education experience offered by Billings Clinic.

NOW, THEREFORE, in consideration of the mutual promises of the parties set forth in this Agreement, it is agreed as follows:

1. **Appointment.** Billings Clinic appoints Resident, and Resident accepts appointment, as a resident in the Billings Clinic Internal Medicine Residency Program (the “Program”). In addition to this Term, if Resident is new to the Program, Resident will be provided orientation by Billings Clinic, to be scheduled on or after _____ (“Initial Orientation Period”).
2. **Resident Obligations.** Resident will perform the following obligations:
 - a. Satisfy the educational and clinical requirements of the Program as Program’s director (the “Program Director”), Graduate Medical Education Committee (GMEC) and Billings Clinic determine. Requirements shall be determined in conformity with the conditions established by ACGME, by Billings Clinic, and as provided in the Billings Clinic Program Handbook, including changes made by ACGME or by Billings Clinic from time to time.

- b. Comply with the Billings Clinic's Hospital Medical Staff Medical Record Completion Policy which stipulates that admission H&Ps must be completed within 24 hours of admission, discharge summaries must be completed within 14 days of discharge, and all documentation in the hospital record must be completed within 30 days of discharge, unless there is a valid and approved excuse (i.e., approved vacation, leave of absence, or out of town rotation). Outpatient clinic notes must be completed prior to submission of charges for that service. Resident's performance in record completion will be taken into consideration in determining whether or not to extend Resident's appointment, and recurrent ongoing failure to fulfill this obligation may result in Resident's termination of this Agreement and removal from the Program.
- c. Perform the duties and responsibilities under this Agreement to the best of Resident's abilities and at a level of competence commensurate with Resident's level of training, advancement and responsibility, as determined by the Program Director, Graduate Medical Education Committee, and the Clinical Competency Committee.
- d. Comply with all applicable policies, procedures and regulations of Billings Clinic, including changes made by Billings Clinic from time to time. This specifically includes but is not limited to the Graduate Medical Education Committee (GMEC) policies in the Program Handbook.
- e. Successfully complete an occupational health screening, drug screening, and maintain all required vaccines and immunizations pursuant to Billings Clinic policies.
- f. Maintain a permanent or educational limited license to practice medicine in the State of Montana, a controlled substance registration as required by the State of Montana, ACLS and any other program-specific certifications. During the Term, Resident shall notify Billings Clinic immediately in the event that any license, registration or certification is suspended, terminated, or limited in any respect, regardless of the reason.
- g. Not accept or require compensation of any kind or nature from any patient or third party for any services offered and/or rendered. Resident's sole compensation and benefits are described in Section 4 below.
- h. Pay all financial obligations owed to Billings Clinic no later than the termination of this Agreement and employment under this Agreement. Resident agrees that any personal outstanding amounts owed to Billings Clinic may be deducted from Resident's final paycheck, and acknowledges that this consent for deduction is made freely and without coercion. Resident agrees to execute, upon request of Billings Clinic, any further written consent that may be required by law for Billings Clinic to

make the deduction.

3. **Billings Clinic Obligations.** Billings Clinic will perform the following obligations:

- a. Maintain substantial compliance with the ACGME's Institutional Requirements, Common and Specialty-Specific Program Requirements and the ACGME and Billings Clinic Policies and Procedures, in conducting the Program.
- b. Provide Resident with orientation and continuous electronic access to the Billings Clinic Program Handbook, which includes Graduate Medical Education Policies and Procedures and applicable Billings Clinic Policies and Procedures.
- c. Provide due process for review of any applicable and eligible grievance as described in the Grievance Policy, by providing the opportunity for an internal appeal within Billings Clinic of any non-renewal of appointment, non-promotion, or termination.

4. **Compensation/Benefits.** The parties acknowledge that all compensation, in any form, paid to Resident is not payment for patient care services but is a grant to further the medical education of Resident. As the sole consideration to be received by Resident, Billings Clinic shall pay Resident an annual stipend for the Term in the gross amount of **\$«Salary».00**, which will be earned by and disbursed to Resident on a semi-monthly basis in accordance with Billings Clinic's regular payroll practices.

If Resident participates in the Initial Orientation Period, Billings Clinic will provide an orientation stipend based on course participation. Both the annual stipend and the orientation stipend will be paid, less required federal, state, and/or local withholding taxes, as well as any other voluntary deductions elected by Resident. In addition, Billings Clinic shall provide Resident with the following benefits during the Term, and in the case of all group benefits, also during the Initial Orientation Period: Resident acknowledges that Billings Clinic, in its sole discretion, shall have the ability to add, change, or eliminate any of the benefits items listed in this Section 4, so long as the change is generally applicable to other Billings Clinic Residents at comparable level.

- a. Group benefits available to residents participating in the Billings Clinic Residency Program in accordance with the plan documents in effect from time to time, including options for health insurance, dental insurance, short term and long term disability insurance, life insurance and employee assistance program.
- b. Benefits (according to terms in the Program Handbook), including vacation, CME, and leaves of absence

c. Food service, call rooms, parking, pager, electronic documentation and communication devices, lab coats, and laundry.

d. Professional Liability Insurance. During the Term of this Agreement, Billings Clinic shall provide professional liability insurance or self-insurance, covering the acts or omissions of Resident in performing Resident's duties pursuant to this Agreement. Although the amount of coverage shall be not less than the amount required by Billings Clinic's Board of Directors, Billings Clinic may change coverage amounts offered from time to time. Such coverage shall apply to Resident both before and after termination of this Agreement, but only with respect to any professional liability claim arising out of Resident's services under this Agreement.

5. **Outside Professional Activities other than Moonlighting.** During the Term, Resident may participate or engage in outside remunerative work (other than Moonlighting as defined in the Program Handbook) only if such activities are determined by the Program Director not to interfere with Resident's obligations under this Agreement. Resident will indemnify and hold harmless Billings Clinic from all losses and expenses resulting from or caused by such activities, unless this is waived by Billings Clinic, in its sole discretion, if deemed appropriate in view of the activities in which Resident seeks to engage. Resident acknowledges that while engaging in any outside activities Resident is not acting as an employee or agent of Billings Clinic and accordingly Resident is not covered by the liability insurance programs of Billings Clinic.

6. **Term and Termination.** This Agreement shall be effective on the Effective Date and shall continue for a period of one year, unless terminated earlier as provided in below. The parties expressly acknowledge and agree that (a) this Agreement constitutes a written contract of employment for a specific Term within the meaning of Section 39-2-912 of the Montana Code Annotated; (b) no promises or representations have been made concerning the renewal or extension of this Agreement; and (c) neither party has any right to continued employment beyond the Term stated herein unless both parties mutually agree. Billings Clinic may terminate this Agreement for legitimate business reasons and for other good cause, including without limitation the following (any of which shall constitute good cause for termination):

- a. If Resident consistently fails to perform the duties required of Resident under this Agreement in a manner satisfactory to Billings Clinic;
- b. If Resident is dishonest in Resident's dealings with Billings Clinic, or if Resident commits any fraud;
- c. If Resident is convicted of (or pleads guilty or nolo contendere to) any felony or other crime involving dishonesty or moral turpitude;

- d. If Resident fails to maintain the required license and authorization to practice medicine in the State of Montana as appropriate to Resident's status in the Program;
- e. If, due to any act or omission of Resident for any reason, medical professional liability insurance cannot be reasonably obtained or maintained, or if, due to any act or omission of Resident for any reason, such medical professional liability is canceled, terminated or revoked;
- f. If Resident is excluded from participation in Medicare, Medicaid, or other federal or state health programs;
- g. If Resident materially fails to comply with Billings Clinic's policies and procedures applicable to Residents;
- h. If Resident is removed, suspended, or subject to other disciplinary proceedings in relation to Resident's work at a health care facility other than Billings Clinic, by the final action of a professional medical organization, government insurance program, third party payor, health plan, or resigns in lieu of disciplinary action; or
- i. If Resident's performance is determined to be less than satisfactory, in the Billings Clinic's sole discretion.
- j. This Agreement shall automatically and immediately terminate for good cause upon the Resident's death.
- k. Billings Clinic may terminate this Agreement for good cause in the event of a disability that prevents Resident, with or without reasonable accommodation, from performing the essential job functions required hereunder. Such does not include short-term illness or pregnancy.
- l. Resident may terminate this Agreement for good cause in the event of Billings Clinic's breach of a material Term of this Agreement.
- m. Upon termination, Billings Clinic shall be obligated only to pay the stipend and additional benefits through the date of termination. Resident's entitlement to the stipend and group benefits or other benefits ceases as of the date of termination.

7. Renewal of Appointment.

- a. Billings Clinic may renew the Resident's appointment in Billings Clinic's sole discretion. The manner in which Billings Clinic determines whether or not to renew Resident's appointment shall be consistent with Billings Clinic's GME Evaluation, which Billings Clinic may revise from time to time.

- b. The non-renewal of an agreement of appointment by the Program requires a written notice of intent no later than one hundred and twenty days prior to the end of the Resident's current agreement.
- c. If Billings Clinic elects to renew Resident's appointment for any successive year following the Term, then Billings Clinic will offer a new agreement to Resident before the start of the following year and in accordance with Billings Clinic's GME Evaluation and Promotion Policy. If no offer of a new agreement is made, or if Resident does not execute and return the new agreement to Billings Clinic within the timeframes established in the ACGME Evaluation and Promotion Policy, then this Agreement shall automatically cease and terminate at the end of the Term.

8. Program Changes: Billings Clinic Not Continuing as a Sponsoring Institution. Should it become necessary for Billings Clinic to reduce the size of, or close, the Program or should Billings Clinic (or successor entity) cease to be the Sponsoring Institution, Billings Clinic shall promptly notify Resident. In the event of such reduction or closure, Billings Clinic shall have the sole discretion to terminate this Agreement and Resident's appointment. However, Billings Clinic shall make reasonable efforts to allow Resident, along with other Residents already in the Program, to complete their education. If Resident is displaced by a reduction in the number of Residents, the closure of the Program or Billings Clinic as the Sponsoring Institution, Billings Clinic shall make reasonable efforts to assist Resident in enrolling in an alternative ACGME-accredited program for continuation of Resident's education.

9. Release of Information. Resident acknowledges the Program provides academic training and that work evaluations and progress in the Program are an integral part of the Program. Resident acknowledges and agrees the Program maintains various other records relating to Resident's participation and performance in the Program. Resident acknowledges that any information relating to Resident's participation and performance in the Program may be furnished by Billings Clinic (without Resident's consent) to certification boards, any institution or organization to which Resident may apply for training, employment or privileges, or to any other person or entity that Billings Clinic determines should receive the information. Resident releases Billings Clinic, its employees and other personnel including but not limited to Program Directors and teaching staff, for all claims, liabilities, damages, expenses and attorneys' fees relating to, or arising from, the release of such information. The parties agree that this section shall survive termination of this Agreement.

10. **Release of Prior Information.** Resident authorizes all previous employers, law enforcement agencies, and individuals to disclose to Billings Clinic or to its agents, any and all information in their possession about Resident's employment history (including disciplinary and other matters), personal background, academic history, and criminal records. Resident further authorizes educational institutions and licensing agencies to disclose to Billings Clinic any and all information in their possession regarding Resident's attendance and performance at and licensure by each such institution and/or agency, including but not limited to disclosure of: any diploma or degree of certification awarded; academic information and transcripts; any disciplinary information; licensing applications; and licensure files. Resident hereby waives written or other notice of release of any information to Billings Clinic.

11. **Confidentiality.** Resident acknowledges that he/she is subject to the provisions of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended, and regulations under this Act ("HIPAA"), and shall comply in all material respects with HIPAA, as well as all policies, procedures and practices of Billings Clinic relating to privacy, confidentiality, and security of patient health information. Except as may be required to perform Resident's duties and responsibilities under this Agreement, Resident shall not divulge, furnish, or make accessible to anyone any trade secret, patient list, or confidential information of any kind with respect to the patients or operations of Billings Clinic. The parties agree that this section shall survive termination of this Agreement.

12. **Legal Work Status.** The parties acknowledge that Resident is required to document that he/she is legally authorized to participate in the Program. Notwithstanding any other provision contained herein, this Agreement and Resident's employment shall be terminated if Resident does not timely produce such evidence, or if at any time it becomes known that Resident is not legally authorized to perform all his/her obligations arising out of the Agreement within the United States. In that case, Billings Clinic shall have no obligations or liabilities, contractual or otherwise, to Resident.

13. **Access Clause.** In the event the Secretary of Health and Human Services or the Comptroller General of the United States or their representatives determine that this Agreement is a contract described in the Social Security Act, Resident agrees that he/she shall retain for four years the books, documents and records which are necessary to certify the nature and extent of costs paid by Billings Clinic pursuant to this Agreement. In addition, he/she shall make such materials available, upon written request to Billings Clinic or the Secretary of Health and Human Services, or upon request to the Comptroller General of the United States, or any of their duly authorized representatives.

14. **Assignment.** This Agreement is personal to Resident and neither his/her duties nor his/her rights may be assigned, delegated or otherwise alienated in any manner without the express written consent of Billings Clinic.

15. **Third-Parties.** This Agreement shall be enforceable only by the parties, and in the case of Billings Clinic by any successor in interest. No other person shall have the right to enforce any Term of this Agreement.

16. **Notice.** Any notice, offer, demand or communication required or permitted to be given under any provision of this Agreement shall be deemed to have been sufficiently given for all purposes if delivered personally to the party to whom the same is directed, or if sent by registered or certified mail, postage and charges prepaid, to the last known address of record for purposes of this Agreement by giving the other party notice in writing of such change.

17. **Entire Agreement.** If Resident submitted to Billings Clinic a written Application for Employment (Application) with a page entitled Applicant's Certification and Agreement (Certification), the terms of that Certification continue to apply to the extent that those terms are not superseded by this Agreement. In all other respects, this Agreement contains the entire agreement of the parties relating to these matters. Any modification of this Agreement must be made in writing signed by Resident and an officer of Billings Clinic.

18. **Severability.** If any provision of this Agreement is found to be unenforceable or illegal, the remaining parts of the Agreement shall remain in effect and be enforceable.

19. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Montana, regardless of where Resident may reside or be located at the time any action related to this Agreement may be commenced.

Date: _____, 2014

Resident

BILLINGS CLINIC

By _____