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## **PARTICIPATING PROVIDER AGREEMENT**

Thank you for your interest in joining the network of participating providers in North American Preferred (NAP). Please make sure you have done the following before returning your documents:

1. Signed, original Participating Provider Agreement
2. Completed and signed original Participating Provider Application including the signed Provider Statement, signed Authorization Section and enclosed copies of all requested attachments

Please contact the Provider Relations Department with any questions at (716) 319-5341 or (877) 777-5993.

Mail signed, original documents and attachments to:

North American Preferred  
Attention: Provider Relations Department  
300 Corporate Parkway  
Amherst, New York 14226

Thank you.

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**300 Corporate Parkway**  
**Amherst, New York 14226-9501**  
Ph: 716-319-5341  
Fax: 716- 319-5708



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## PARTICIPATING PROVIDER AGREEMENT

### **I. RECITALS:**

- 1.1 This Agreement shall be effective on \_\_\_\_\_ (date will be determined by NAP, unless specified) between Meritain Health, Inc., d/b/a North American Preferred, ("NAP") and \_\_\_\_\_ ("PROVIDER").
- 1.2 NAP is a Preferred Provider Organization ("PPO") which coordinates "Preferred Provider" medical services arrangements between providers of these services and the payors of these services. NAP'S payor clients, who may be employers, unions, or insurers, contract with NAP as an agent to provide a network of providers for the delivery of cost-efficient quality medical services to their benefit plan participants. Such participants will be known as PPO Members.
- 1.3 PROVIDER is duly licensed in his or her area of expertise in the state listed on the Participating Provider Application attached hereto and incorporated into this Agreement.
- 1.4 NAP desires to contract with PROVIDER and PROVIDER desires to be a Participating Provider in NAP'S PPO.

### **II. DEFINITIONS:**

- 2.1 PARTICIPATING PROVIDER means a hospital, licensed physician, or other licensed or certified health care provider which has entered into an Agreement with NAP to provide Covered Services to PPO Members.
  - 2.2 UTILIZATION REVIEW ("UR") and QUALITY ASSURANCE ("QA") means a program established by NAP to assure that a PPO Member receives medically necessary services and quality patient care.
  - 2.3 BENEFIT PLAN shall mean the health benefits program as described in the written documents and contracts issued by NAP or NAP Clients, as may be amended from time to time, that specifies the health care services that are eligible for financial coverage by the applicable NAP Client.
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- 2.4 COVERED SERVICES are Medically Necessary services, both professional and hospital, which NAP arranges to provide to PPO Members as set forth in the Benefit Plan.
- 2.5 EMERGENCY SERVICES are Medically Necessary services rendered to treat the sudden and unexpected onset of an illness or injury of such nature that the life of the PPO Member would be threatened or permanent disability would result without immediate medical treatment.
- 2.6 MEDICALLY NECESSARY health care services are those required to preserve and maintain a PPO Member's health in accordance with acceptable standards of medical practice and received in an appropriate setting. The Medical Director, or his designee, of NAP shall determine whether a particular health care service rendered to a PPO Member is Medically Necessary for the purpose of determining whether such health care services are Covered Services and not for the purpose of practicing medicine or determining a course of treatment, which course is to be determined by the Participating Provider.

### **III. PROVIDER RESPONSIBILITIES**

- 3.1 PROVIDER agrees to provide Covered Services to PPO Members which are Medically Necessary and appropriate for the diagnosis. PROVIDER agrees, where appropriate, to refer PPO Members to other Participating Providers.
- 3.2 PROVIDER agrees to participate in the Utilization Review and Quality Assurance programs established by NAP.
- 3.3 PROVIDER has completed the Participating Provider Application, which is attached to and is part of this Agreement.
- 3.4 PROVIDER agrees to provide Covered Services to PPO Members, no matter where rendered, on the same basis as to non-Members regardless of race, sex, age, religion, health status, or PPO membership.
- 3.5 PROVIDER shall render Covered Services in accordance with generally accepted professional standards of care, safety and efficiency and in compliance with all relevant federal, state and local laws and regulations.
- 3.6 PROVIDER agrees to cooperate with NAP reviews of the quality, necessity and appropriateness of services rendered to PPO Members and on the investigation of any grievances of PPO Members and to abide by decisions made by NAP thereon.
- 3.7 PROVIDER agrees that claim and utilization review decisions by NAP pursuant to the applicable Benefit Plan made for the sole purpose of determining whether the services rendered are Covered Services. Such decisions shall not affect PROVIDER's
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responsibility to provide care in a manner consistent with sound professional judgment and practice. Nothing herein contained and nothing in such decisions shall be construed to require PROVIDER to take any action inconsistent with PROVIDER's professional judgment regarding a PPO Member's care.

- 3.8 PROVIDER agrees to maintain adequate records for all care provided to PPO Members and, subject to appropriate laws and regulations pertaining to the confidentiality of such records, provide such records and other information to NAP and/or its designee(s) at no charge as may be requested for NAP to make determinations regarding quality, utilization, grievance or claims payment reviews. NAP will only pay for Covered Services which are documented in the PROVIDER's records.
- 3.9 PROVIDER will, during the term of this Agreement, maintain his or her license to practice in the state listed on the Participating Provider Application. No payment will be made under this Agreement for any services rendered during any time when PROVIDER is not so licensed.

#### **IV. NAP RESPONSIBILITIES**

- 4.1 NAP agrees to grant PROVIDER the status of "Participating Provider," to identify PROVIDER as such in informational and promotional materials, and to direct PPO Members to Participating Providers by listing PROVIDER as a Participating Provider until this Agreement terminates.
- 4.2 NAP agrees to provide identification cards for Members. NAP will verify a Member's coverage status, if requested by PROVIDER.
- 4.3 NAP agrees to provide PROVIDER with a list of Participating Providers.

#### **V. COMPENSATION AND BILLING**

- 5.1 PROVIDER shall submit to NAP complete typed and coded billing forms or such other format, such as electronic claims submission, diskette or tape, as NAP may approve or require, for Covered Services provided to a PPO Member. Claims should be submitted within 60 days following the date of service or discharge. Claims not filed with NAP within such time will not be paid and PROVIDER agrees not to seek payment from the PPO Member or any other person for any such services. If the claim is a clean claim, NAP shall reimburse PROVIDER in accordance with the NAP fee schedule. If the claim is not complete, NAP will reimburse PROVIDER in accordance with the discounts in the fee schedule upon receipt of any follow up documentation that may be required.
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PROVIDER acknowledges that Meritain Health, Inc., as a third party administrator, is not an insurer or guarantor under this Agreement and that Meritain Health's Clients are ultimately liable to pay all bills to PROVIDER.

- 5.2 PROVIDER agrees to bill NAP for Covered Services provided. For Covered Services PROVIDER will accept from NAP, or in the case of self-insured NAP clients, from NAP on behalf of such clients, the amounts set forth in the NAP fee schedule as payment in full and will not bill or seek payment from PPO Members.

Further, PROVIDER agrees to not seek payment from PPO Members for services determined by NAP not to be Medically Necessary or when PROVIDER does not follow NAP's authorization, referral or utilization protocols.

- 5.3 Notwithstanding the foregoing, PROVIDER shall collect any applicable copayment, co-insurance, deductible, or amounts that may be payable under the PPO Member's Benefit Plan. PROVIDER may collect for Non-Covered Services, including services which are not Medically Necessary, provided that the Member is informed in advance in writing that the service may not be a Covered Service or may not be Medically Necessary and the PPO Member agrees in writing to be personally liable for payment for such services.
- 5.4 PROVIDER will cooperate with NAP in coordination of benefits and similar programs to assure that payment is obtained from other health benefit payors or from workers' compensation or no-fault automobile insurance programs when such payments are available and are primary to the Benefit Plan. If the plan of NAP is secondary to another payor and that primary payor has a fee schedule which PROVIDER has agreed to accept as payment in full, no balance will be due from NAP. If the primary payor has no negotiated rates with PROVIDER, PROVIDER agrees to accept such amount, which when added to the primary payor's benefit, is equal to the amount provided in this Agreement. PROVIDER agrees to cooperate with NAP in obtaining from PPO Members all available information regarding PPO Members' coverage for health care services from other payors.
- 5.5 PROVIDER agrees to promptly refund to NAP, or, at the option of NAP, allow NAP to offset against future amounts payable, any amount that NAP has paid to PROVIDER through error or mistake of NAP, or any other person or entity or which should have been paid by another health benefit payor or workers' compensation or no fault automobile insurance program.
- 5.6 NAP will deduct from payment for Covered Services any applicable visit fee or copayment.
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## **VI. UTILIZATION REVIEW (UR) AND QUALITY ASSURANCE (QA)**

- 6.1 NAP shall establish a UR and QA program to assure that a PPO Member receives Medically Necessary provider services and quality patient care. PROVIDER agrees to furnish NAP such reasonable medical information as may be requested for a Member's case.
- 6.2 PROVIDER agrees to comply with the program policies and procedures established by NAP.

## **VII. LIABILITY AND INSURANCE**

- 7.1 NAP and PROVIDER are independent contractors entering into this agreement for each party's respective benefit. PROVIDER and NAP each agree to indemnify and hold harmless the other from any and all liability which may result from the negligence of the other party or its agents or employees. This indemnification and hold harmless provision is intended solely for the benefit of NAP and PROVIDER, not for third parties.
- 7.2 PROVIDER, at his/her sole expense, agrees to maintain in effect policies of professional liability insurance in minimum amounts of \$1 million per occurrence, \$3 million aggregate, or the minimum amount required by the state in which PROVIDER is licensed, and adequate comprehensive general liability insurance. Upon request from NAP, PROVIDER shall supply NAP with copies of his/her insurance policies. PROVIDER agrees to immediately provide NAP written notice of any change in the status of coverage, including but not limited to termination or decrease in the limits of coverage.

## **VIII. MARKETING, ADVERTISING, AND PUBLICITY**

- 8.1 NAP shall encourage PPO Members to utilize Participating Providers. NAP shall have the right to use the name of PROVIDER for purposes of informing PPO Members and prospective PPO Members of the identity of Participating Providers.

## **IX. TERM AND TERMINATION**

- 9.1 This Agreement is effective as of the date noted on page one, and continues in effect until terminated.
  - 9.2 This Agreement may be terminated:
    1. at any time by mutual agreement between PROVIDER and NAP;
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2. immediately and without notice in the event that either party hereto is no longer licensed or authorized by government regulatory agencies to perform its obligations and/or responsibilities under this Agreement;
  3. by NAP immediately in the event PROVIDER:
    - a. loses or suffers a reduction of its professional liability insurance; or
    - b. commits any act or engages in any conduct for which his or her license is, or may be, revoked, suspended or restricted by any licensing authority.
  4. except as otherwise provided herein, by either party upon not less than ten (10) days prior written notice to the other in the event:
    - a. of a material breach of the Agreement by the other party. A material breach shall occur if either party shall fail to keep, observe, pay or perform any material covenant, obligation, term or provision of this Agreement and such condition is not remedied within sixty (60) days after receipt by one party from the other party of written notice thereof;
    - b. a party becomes insolvent, bankrupt, files a voluntary petition in bankruptcy, makes an assignment for the benefit of creditors, or consents to the appointment of a trustee or receiver;
    - c. a trustee or receiver is appointed for a substantial part of the properties of a party and the appointment is not dismissed within thirty (30) days.
    - d. bankruptcy, reorganization, arrangement or liquidation proceedings are instituted by or against a party, and if against a party are consented to or remain undismissed for thirty (30) days; or
    - e. the enactment of any federal, state or local law or regulation or the written interpretation of any law or regulation by a court or government agency affects the method of reimbursement or any other material provision of this Agreement in a significant and major manner.
  5. by NAP upon not less than thirty (30) days prior written notice, in the event PROVIDER fails to meet the participation standards for Participating Providers adopted by NAP from time to time including, but not limited to, complying with the utilization, credentialing and quality review standards established by NAP.
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6. by either party upon not less than ninety (90) days prior written notice.
- 9.3 In the event this Agreement is terminated, PPO Members who are undergoing a course of therapy may continue to undergo such course of therapy until NAP is able to transfer such PPO Members to other Participating Providers. PROVIDER shall be eligible for reimbursement at the rates set forth in this Agreement until the PPO Member is transferred or discharged.
- 9.4 With respect to medical services rendered to PPO Members prior to termination of this Agreement, NAP shall continue, after the termination of this Agreement, to have access to any required medical records in accordance with state law.

**X. AGREEMENT AND AMENDMENTS**

- 10.1 It is understood that PROVIDER has a direct relationship with PPO Members and that the traditional provider/patient relationship is not disturbed by this Agreement.
  - 10.2 All notices required under this Agreement shall be in writing and sent by mail to the address set forth for each party at the end of this Agreement.
  - 10.3 The Agreement may be amended:
    1. By a written amendment signed by each party; or
    2. By NAP at any time provided that such amendment shall first become effective thirty (30) days after such Amendment has been mailed to PROVIDER.
  - 10.4 This Agreement shall be governed by the laws of the state(s) listed on the Participating Provider Application. Any action brought hereunder or relating to this Agreement shall be brought in a court in Erie County, State of New York.
  - 10.5 Neither PROVIDER nor NAP may assign this Agreement, in whole or in part, or rights under this Agreement, without the written consent of the other party, provided however that NAP may assign this Agreement to a parent, subsidiary or affiliate.

This Agreement shall extend to and be binding upon any assignee of NAP or PROVIDER.
  - 10.6 Any waiver by either party of a breach of any provision of this Agreement shall not be deemed a waiver of any other breach of the same or any other provision of this Agreement.
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10.7 It is expressly agreed by and between the parties that this is not an exclusive arrangement:

1. PROVIDER shall retain his or her full right and ability to establish, contract, or otherwise associate with any other health maintenance organization, individual practice association, preferred provider organization, insurer, third party payor or other entity without being deemed in breach of this Agreement provided that any contract or other arrangement with any of the foregoing entities shall not interfere with or prevent PROVIDER from fulfilling his or her obligations under this Agreement.
2. NAP shall retain its full right and ability to establish, contract or otherwise associate with any other provider or other provider of services provided that any contract or arrangement with any such provider or other provider of services shall not interfere with or prevent NAP from fulfilling its obligation under this Agreement.

10.8 The appropriate party will use its best efforts to obtain any regulatory approvals that may be required of this Agreement. In the event such approval is denied, or is conditioned upon certain changes hereto, the parties will enter into good faith negotiations to revise this Agreement to the extent necessary to obtain regulatory approval.

10.9 This Agreement, together with the Participating Provider Application, constitutes the entire contract between NAP and PROVIDER.

MERITAIN HEALTH, INC.  
d/b/a NORTH AMERICAN PREFERRED:

PROVIDER:

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Provider Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Print Provider Name)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Tax ID Number)

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revised 2/21/06