

Professional Services Volunteer Agreement

Patient Serving Clinics

College of Health Professions

Approved by the College of Health Professions Executive Council on January 9, 2018

This PROFESSIONAL SERVICES VOLUNTEER AGREEMENT (“Agreement”) is entered as of the date of the last signatures to this Agreement (“Effective Date”), by and between **WICHITA STATE UNIVERSITY**, a state educational institution of Kansas, 1845 Fairmount, Wichita, Kansas 67260-0007, (hereinafter “WSU”) on behalf of its College of Health Professions, and **[NAME OF VOLUNTEER]**, located at **[VOLUNTEER ADDRESS]** (hereinafter “VOLUNTEER”).

WITNESSETH:

WHEREAS, VOLUNTEER has offered to donate his/her time and skills to the College of Health Professions Program(s) at WSU; and

WHEREAS, WSU is desirous of retaining the services of VOLUNTEER to volunteer in the College of Health Professions Program(s) at WSU;

WHEREAS, the parties deem it to be to their mutual benefit and advantage to set forth the terms of their agreement in writing;

NOW, THEREFORE, in consideration of the above premises and the individual and mutual promises of the parties hereinafter set forth, and for other good and valuable consideration, it is hereby agreed by and between the parties:

1. **Term.** That the term of this Agreement for Volunteer Professional Services shall be considered to begin **[BEGINNING DATE]** and to continue through the termination of the Agreement as provided in Section 2.
2. **Termination.**
 - 2.1. VOLUNTEER acknowledges and agrees that while WSU may rely on his/her commitment to perform certain activities as a volunteer, VOLUNTEER is not obligated to WSU and WSU is not obligated to VOLUNTEER. Accordingly, WSU may release VOLUNTEER from his/her status as a volunteer at any time, and for any reason, and VOLUNTEER may choose not to be a volunteer for WSU at any time, and for any reason. Upon the end of VOLUNTEER’s status as a volunteer for WSU, neither VOLUNTEER nor WSU will have any obligation to the other except as explicitly stated in this Agreement.

- 2.2. This Agreement shall be terminated immediately without notice to VOLUNTEER upon the happening of any of the following:
 - 2.2.1. Whenever VOLUNTEER shall not be duly licensed or otherwise legally authorized to practice their professional discipline in the State of Kansas;
 - 2.2.2. Death of VOLUNTEER or the determination by WSU, the State of Kansas, or any professional association having control over VOLUNTEER, of the incompetence of VOLUNTEER;
 - 2.2.3. At any time when there is not professional liability/medical malpractice insurance in full force and effect with regard to VOLUNTEER;
 - 2.2.4. The suspension, expulsion or any other disciplinary action finally taken by the State of Kansas or the relevant licensing board;
 - 2.2.5. Conviction of a felony crime;
 - 2.2.6. Other actions determined by a neutral arbitrator to endanger the professional standing of VOLUNTEER.
3. **Services.** VOLUNTEER will be responsible for providing comprehensive treatment services to WSU's patients in the appropriate patient serving clinic within the College of Health Professions. In addition, VOLUNTEER may provide supervision of students/residents in a variety of capacities (e.g., demonstration purposes, taking over during a procedure, etc.) should the need arise. All services set forth in this paragraph shall hereinafter be referred to as "Services". WSU and VOLUNTEER will establish, prior to VOLUNTEER commencing any volunteer work, a mutually agreeable schedule for VOLUNTEER's provision of the Services. WSU will retain full control of the scheduling of patients.
4. **Relationship of the Parties and Volunteer Status.** The parties agree that VOLUNTEER undertakes the furnishing of Services pursuant to the terms of this Agreement as a volunteer. The parties agree that WSU shall not control or have the right to control what VOLUNTEER does and how VOLUNTEER performs the work. By signing this Agreement, VOLUNTEER agrees that he/she is offering his/her services freely and without pressure or coercion and is not otherwise employed by WSU to perform the same type of services that he/she will be providing hereunder. Nothing in this Agreement shall be construed as creating any type of employment, partnership, or affiliate relationship between the parties. Neither party has any responsibility nor liability for the actions of the other party except as specifically provided in this Agreement. Neither party has any right or authority to bind or obligate the other party in any manner or make any representation of warranty on behalf of the other party.
5. **No Compensation.** VOLUNTEER understands and agrees that he/she is a volunteer and not an employee of WSU. Accordingly, VOLUNTEER agrees that he/she is providing the Services set forth herein without promise, expectation or receipt of compensation, remuneration, reimbursement, benefits and/or insurance. VOLUNTEER agrees to release WSU from any and all claims to compensation, reimbursement, remuneration, benefits and/or insurance related to his/her volunteer service. VOLUNTEER further understands and agrees that even if WSU provides him/her with financial support or assistance for his/her time and services as a volunteer (e.g., stipends, reimbursements, access to WSU facilities), it does not change VOLUNTEER's status as a volunteer.

6. **Insurance Requirements.** Pursuant to K.S.A. 75-6101 *et seq.*, the Kansas Tort Claims Act (“KTCA”) is not applicable to claims arising from the rendering of or failure to render professional services by a health care provider. Rather, the KTCA requires claims for damages against a health care provider that is an employee (as that term is defined under the KTCA) of a governmental entity arising out of the rendering of or failure to render professional services by that health care provider to be recovered in the same manner as claims for damages against any other health care provider. Accordingly, VOLUNTEER must procure and maintain, at VOLUNTEER’S expense, during the period of this Agreement, the professional liability insurance described herein. Insurance must be with a company or companies qualified to do business in Kansas or in the state where the Services are being performed, as acceptable to WSU, and written on the standard approved certification forms. VOLUNTEER must furnish a certificate showing that such insurance exists and is valid upon execution of this Agreement and no less than annually thereafter. VOLUNTEER must provide WSU with a notice in writing ten (10) days prior to any cancellation of said insurance and must provide WSU with a notice in writing immediately upon any termination of said insurance.
- 6.1. **Professional Liability Insurance.** VOLUNTEER shall maintain professional liability insurance in accordance with K.S.A. 65-1468(a) and any and all other applicable laws. Such coverage must contain minimal limits of \$1,000,000 per case and \$3,000,000 annual aggregates.
7. **Indemnification and Hold Harmless.**
- 7.1. By signing this Agreement, VOLUNTEER agrees to voluntarily waive, release and hold harmless WSU, the WSU Board of Directors and/or their officers, servants, agents, students and employees from any and all claims, causes of action and damages for bodily injury or death that VOLUNTEER may suffer as a result of, or in any manner connected with, directly or indirectly, VOLUNTEER’S participation as a Clinic volunteer. VOLUNTEER understands that this waiver and release precludes his/her right to recovery of damages in the event VOLUNTEER is injured in the course of performing his/her volunteer duties and/or Services provided hereunder whether on site, off site and/or during transportation to WSU.
- 7.2. By signing this Agreement, VOLUNTEER agrees to defend, hold harmless and indemnify WSU, the WSU Board of Directors and/or their officers, servants, agents, students and employees from and against all damages, claims, liabilities, causes of action, judgments, settlements, costs and expenses (including, but not limited to reasonable expert witness and attorney fees) that may at any time arise or be claimed by any person as a result of bodily injury, death or property damage, or as a result of any other claim or cause of action of any nature whatsoever, arising from or in any manner connected with, directly or indirectly, VOLUNTEER’S volunteer duties and/or Services provided hereunder, whether on site, off site and/or during transportation to and from WSU.
- 7.3. WSU shall not be precluded from receiving the benefits of any policy coverage or proceeds that an insurance company may carry which provides for indemnification for any loss or damage to property in VOLUNTEER’S custody and control, where such loss or destruction is to WSU property. VOLUNTEER shall do nothing to prejudice WSU right(s) to recover against third parties for any loss, destruction or damage to WSU property.
8. **Standards; Compliance with Laws and Policy.** VOLUNTEER will use his/her best efforts, skill, judgment, and abilities to perform the Services and to further the interests of WSU in accordance with

WSU's requirements and procedures, in accordance with the highest standards of VOLUNTEER's profession or business and in compliance with all applicable national, federal, state, and municipal, laws, regulations, codes, ordinances and orders (collectively, the "Applicable Laws"). In addition, VOLUNTEER will be subject to WSU policies and procedures, including but not limited to policies regarding ethical conduct, health and safety, the protection of sensitive information, the ownership of intellectual property, and others. VOLUNTEER agrees to conduct himself/herself consistent with all applicable WSU policies and procedures. Without limiting the foregoing, VOLUNTEER will comply with all applicable laws and facility rules related to personal health, security, environmental quality, safety, fire prevention, noise, smoking, parking and access restrictions.

9. **HIPAA Compliance.** VOLUNTEER agrees to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (codified at 45 C.F.R. Parts 160 and 164), as amended ("HIPAA"); privacy and security regulations promulgated by the United States Department of Health and Human Services ("DHHS"); title XIII, Subtitle D of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, as amended ("HITECH Act"); the Genetic Information Nondiscrimination Act of 2008 ("GINA"); provisions regarding Confidentiality of Alcohol and Drug Abuse Patient Records (codified at 42 C.F.R. Part 2), as amended (collectively referred to as "HIPAA"), to the extent that VOLUNTEER uses, discloses or has access to protected health information as defined by HIPAA. Under the final Omnibus Rule effective March 2013, VOLUNTEER may be required to enter into a Business Associate Agreement pursuant to HIPAA.
10. **Licenses, Registrations and Permits.** VOLUNTEER warrants, represents, and agrees that VOLUNTEER will obtain and maintain, at VOLUNTEER's own cost, any and all approvals, licenses, filings, registrations and permits required by Applicable Law for the performance of the Services. VOLUNTEER shall continuously be recognized/certified in basic life support procedures, including cardiopulmonary resuscitation, and provide documentation to WSU annually. VOLUNTEER will immediately notify WSU in the event that VOLUNTEER ceases to maintain any and all such approvals, licenses, certifications, filings, registrations and permits. WSU reserves the right to terminate this Agreement upon such notice, pursuant to Section 2 herein.
11. **Background Checks.** Prior to volunteer service, VOLUNTEER shall undergo and pass all background checks required by WSU including, but not limited to a search for state and federal felony convictions.
12. **Confidential Information.** VOLUNTEER acknowledges that while serving as a volunteer, he/she may be provided with or have access to confidential information and/or proprietary information of WSU. Such information may include but is not limited to research data, results, reports, analyses, student and student-related information, methods of operation, trade secrets, training materials, policies, protocols, and procedures (administrative, research, and clinical), budgeting, staffing needs, databases, marketing information, equipment capabilities, fee schedules, and other proprietary, business, financial and other information connected with or related to the University that is not generally known to the public (collectively, "Confidential Information"). VOLUNTEER agrees that he/she will take all necessary steps to protect any Confidential Information that he/she may receive. VOLUNTEER agrees that he/she will not permit the unauthorized access, use or disclosure of any Confidential Information to any third party except as required by applicable law. This provision shall survive the termination or expiration of this Agreement. VOLUNTEER agrees to promptly notify WSU upon discovery of any unauthorized use or disclosure of the Confidential Information.

13. **Care of, Use of and Access to WSU Property.** VOLUNTEER shall be responsible for the proper care and custody of any WSU property and real property furnished for VOLUNTEER's use in connection with the performance of this Agreement, and VOLUNTEER will reimburse WSU for such property's loss or damage caused by VOLUNTEER, normal wear and tear excepted.
14. **Prohibition of Gratuities.** Neither VOLUNTEER nor any person, firm or corporation employed by VOLUNTEER in the performance of this Agreement shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any WSU employee at any time.
15. **Retention of Records.** Unless WSU specifies in writing a shorter period of time, and/or unless otherwise required by applicable law, VOLUNTEER agrees to preserve and make available all of its books, documents, papers, records and other evidence involving transactions related to this Agreement for a period of five (5) years from the date of the expiration or termination of this Agreement. Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years. VOLUNTEER agrees that authorized federal and state representatives, including, but not limited to, WSU personnel, independent auditors acting on behalf of WSU, WSU and/or federal agencies shall have access to and the right to examine records during the Agreement period and during the five (5) year post-Agreement period. Delivery and access to the records shall be at no cost to WSU.
16. **Notices.** All notices, demands, requests, approvals, reports, instructions, consents or other communications (collectively "notices") which may be required or desired to be given by either party to the other shall be **IN WRITING** and sent by certified mail or overnight traceable delivery and addressed as follows, unless any other person or address may be designated by notice from one party to the other:

If to Wichita State University:

Attn: [NAME]
Wichita State University
1845 Fairmount Street
Wichita, Kansas 67260-0xxx

With a copy to:

Attn: General Counsel
Wichita State University
1845 Fairmount Street
Wichita, KS 67260-0205

If to VOLUNTEER:

Attn: [NAME]
[FULL NAME OF COMPANY]
[PRIMARY BUSINESS ADDRESS – NO PO BOX]

With a copy to:

[optional]

17. **Use of Marks, Logos and Marketing.** VOLUNTEER shall not use the name, logos, insignias or trademarks of WSU, WSU, any affiliates of WSU, or any project member, in any publicity, advertising, promotional materials, news release or websites except as set forth in this Agreement or as authorized in writing by WSU in each instance. VOLUNTEER may use the name of WSU in a document required to be filed with, or provided to, any governmental authority or regulatory agency to comply with applicable legal or regulatory requirements. VOLUNTEER may also refer to WSU by name and reprint the WSU logo in any internal or governmental report or summary report prepared by VOLUNTEER as it relates to the services provided by VOLUNTEER to WSU.

18. **Third Party Beneficiaries.** This Agreement shall not be construed as providing an enforceable right to any third party.
19. **Captions.** The captions and headings in this Agreement are for reference only and do not define, describe, extend or limit the scope or intent of this Agreement.
20. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, to any extent, the remainder of this Agreement shall not be affected and each provision of this Agreement shall be enforced to the fullest extent permitted by law.
21. **Waiver.** Any waiver shall be in writing and provided to all other parties. Failure to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights provided herein or by law, shall not be deemed a waiver of any rights of any party hereto.
22. **Assignment.** This Agreement may not be assigned by VOLUNTEER except upon the prior written consent of WSU, and which consent may be withheld or conditioned by WSU as necessary to prevent prejudice to its interests and entitlements hereunder. This Agreement and all rights, privileges and licenses granted hereunder may be assigned by WSU to WSU subsidiaries and WSU supporting organizations. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, legal representatives and assigns.
23. **State of Kansas Terms.** The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 06-12), which is attached hereto as ATTACHMENT A, are hereby incorporated in this Agreement and made a part thereof.
24. **Counterparts/Execution.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signature pages may be executed via “wet” signature, authorized signature stamp or electronic mark and the executed signature pages may be delivered using pdf or similar file type transmitted via electronic mail, cloud based server, e-signature technology or other similar electronic means.
25. **Electronic Signatures.** The Parties agree that this Agreement may be signed with electronic signatures. Whenever either Party executes an electronic signature on this Agreement, it has the same validity and meaning as a handwritten signature and shall be legally binding equivalent. The Parties agree that neither party will, at any time in the future, repudiate the meaning of an electronic signature or claim that an electronic signature is not legally binding.
26. **Entire Agreement.** This Agreement (including all documents attached or referenced) is intended by the parties as the final and binding expression of their agreement and as the complete and exclusive statement of its terms. This Agreement cancels, supersedes, and revokes all prior negotiations, representations, and agreements between the parties, whether oral or written, relating to the subject matter of this Agreement, notwithstanding, any non-disclosure or confidentiality agreements directly relating to the Services.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and/or authorized same to be executed by their duly authorized representatives as of the date shown below the respective signatures.

WICHITA STATE UNIVERSITY

VOLUNTEER

SIGNATURE

SIGNATURE

PRINTED NAME

PRINTED NAME

TITLE

TITLE

DATE

DATE

CONTACT INFORMATION (PHONE, E-MAIL)

CONTACT INFORMATION (PHONE, E-MAIL)

ATTACHMENT A
CONTRACTUAL PROVISIONS ATTACHMENT
State of Kansas, Department of Administration | DA-146a (Rev. 06-12)

The parties agree that the following provisions are hereby incorporated in the attached Professional Services Agreement and made a part thereof:

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Contractor agrees to comply with all applicable state and federal anti-discrimination laws.

The provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting State agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages and Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.