

CORPORATE INTEGRITY AGREEMENT
BETWEEN THE
OFFICE OF INSPECTOR GENERAL
OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
SHERMAN OAKS HEALTH SYSTEM

I. PREAMBLE

Sherman Oaks Health System (“Sherman Oaks”) hereby enters into this Corporate Integrity Agreement (“CIA”) with the Office of Inspector General (“OIG”) of the United States Department of Health and Human Services (“HHS”) to promote compliance with the statutes, regulations and written directives of Medicare, Medicaid and all other Federal health care programs (as defined in 42 U.S.C. § 1320a-7b(f)) (“Federal health care program requirements”). Contemporaneously with this CIA, Sherman Oaks is entering into a Settlement Agreement with the United States, and this CIA is incorporated by reference into the Settlement Agreement.

The scope of this CIA shall be governed by the following definitions and shall apply to the following individuals:

1. “Covered Persons”: includes all of Sherman Oaks’ officers, directors, and employees. This definition excludes maintenance, housekeeping, and delivery personnel.
2. “Covered Contractors”: includes all contractors, agents, and third parties engaged to bill/submit reimbursement claims, or responsible for the provision or documentation of items or services provided to beneficiaries reimbursable by Federal health care programs, or in the preparation of claims, reports, or other requests for reimbursement for such items or services. This definition excludes maintenance, housekeeping, and delivery personnel.
3. “Hospital Physicians”: includes all physicians that are employed by or contract with Sherman Oaks on a limited, part-time, or full-time basis.
4. “Temporary Staff”: includes any employee or contractor who would

otherwise be covered under I.1 or I.2, excluding Hospital Physicians, engaged to work at Sherman Oaks on a contractual basis or otherwise for 140 hours or less out of any consecutive 52-week period during the term of this CIA. Temporary employees or contractors who work greater than 140 hours are required to fulfill all obligations required of Covered Persons or Covered Contractors.

Sherman Oaks has represented to the OIG that it has a previously established a voluntary Compliance Program which was developed to: (1) prevent accidental and intentional noncompliance with applicable laws; (2) detect such noncompliance if it occurs; (3) discipline those involved in non-compliant behavior; and (4) prevent future noncompliance.

II. TERM OF THE CIA

The period of the compliance obligations assumed by Sherman Oaks under this CIA shall be three (3) years from the Effective Date of this CIA (unless otherwise specified). The "Effective Date" of this CIA shall be the date on which the final signatory of this CIA executes this CIA.

Sections VII, VIII, IX, X, and XI shall expire no later than 120 days from the OIG's receipt of: (1) Sherman Oaks' final annual report; or (2) any additional materials submitted by Sherman Oaks pursuant to the OIG's request, whichever is later.

III. CORPORATE INTEGRITY OBLIGATIONS

Sherman Oaks hereby agrees to maintain its Compliance Program, which shall include the following elements:

A. Compliance Officer and Committee.

1. *Compliance Officer.* To the extent not already accomplished, within 90 days after the Effective Date of this CIA, Sherman Oaks shall appoint an individual to serve as its Compliance Officer. The Compliance Officer shall be primarily responsible for ensuring compliance with the Federal health care program requirements and shall be responsible for developing and implementing any additional policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA and with Federal health care program requirements. The Compliance Officer shall be a

member of senior management of Sherman Oaks. The OIG recommends pursuant to its 1998 Compliance Program Guidance for Hospitals that an entity's Compliance Officer not be a hospital financial officer. The Compliance Officer shall make periodic (at least quarterly) reports regarding compliance matters directly to the Board of Directors of Sherman Oaks, and shall be authorized to report on such matters to the Board of Directors at any time. The Compliance Officer shall be responsible for monitoring the day-to-day compliance activities engaged in by Sherman Oaks as well as for any reporting obligations created under this CIA.

Sherman Oaks shall report to the OIG, in writing, any changes in the identity or position description of the Compliance Officer, or any actions or changes that would affect the Compliance Officer's ability to perform the duties necessary to meet the obligations in this CIA within 15 days of such a change.

2. *Compliance Committee.* Sherman Oaks represents that it has previously appointed a Compliance Committee which meets at least quarterly to promote compliance with the Federal health care program requirements. The Compliance Committee shall, at a minimum, include the Compliance Officer and other members of senior management necessary to meet the requirements of this CIA (e.g., senior executives of relevant departments, such as billing, clinical, human resources, audit, and operations). The Compliance Officer shall chair the Compliance Committee and the Committee shall support the Compliance Officer in fulfilling his/her responsibilities (e.g., shall assist in the analysis of the organization's risk areas and shall oversee monitoring of internal and external audits and investigations).

Sherman Oaks shall report to the OIG, in writing, any changes in the composition of the Compliance Committee, or any actions or changes that would affect the Compliance Committee's ability to perform the duties necessary to meet the obligations in this CIA within 15 days of such a change.

B. Written Standards.

1. *Standards of Conduct.* Sherman Oaks represents that it has developed written Standards of Conduct. Within 90 days of the Effective Date of this CIA, Sherman Oaks shall review its written Standards of Conduct to ensure they include the requirements of this Section. The Standards of Conduct shall be distributed to all Covered Persons within 120 days of the Effective Date of this CIA. Sherman Oaks shall

make the promotion of, and adherence to, the Standards of Conduct an element in evaluating the performance of all employees. The Standards of Conduct shall, at a minimum, set forth:

- a. Sherman Oaks' commitment to full compliance with all Federal health care program requirements, including its commitment to prepare and submit accurate claims consistent with such requirements;
- b. Sherman Oaks' requirement that all of its Covered Persons shall be expected to comply with all Federal health care program requirements and with Sherman Oaks' own Policies and Procedures as implemented pursuant to Section III.B (including the requirements of this CIA);
- c. the requirement that all of Sherman Oaks' Covered Persons shall be expected to report to the Compliance Officer or other appropriate individual designated by Sherman Oaks suspected violations of any Federal health care program requirements or of Sherman Oaks' own Policies and Procedures;
- d. the possible consequences to Sherman Oaks' Covered Persons of failure to comply with Federal health care program requirements and with Sherman Oaks' own Policies and Procedures and the failure to report such non-compliance; and
- e. the right of all individuals to use the Disclosure Program described in Section III.G, and Sherman Oaks' commitment to maintain confidentiality, as appropriate, and non-retaliation with respect to such disclosures.

Within 120 days of the Effective Date of the CIA, each Covered Person shall certify, in writing, that he or she has received, read, understood, and will abide by Sherman Oaks' Standards of Conduct. New Covered Persons shall receive the Standards of Conduct and shall complete the required certification within 30 days after becoming a Covered Person or within 90 days of the Effective Date of the CIA, whichever is later.

Sherman Oaks shall periodically review the Standards of Conduct to determine if revisions are appropriate and shall make any necessary revisions based on such a review. Any such revised Standards of Conduct shall be distributed within 30 days of finalizing such changes. Covered Persons shall certify that they have received, read, understood and will abide by the revised Standards of Conduct within 30 days of the distribution of such revisions.

2. *Policies and Procedures.* Sherman Oaks represents that it has developed written Policies and Procedures to promote compliance with the Federal health care program requirements. Sherman Oaks shall continue to maintain its written Policies and Procedures regarding the operation of Sherman Oaks' compliance program and its compliance with Federal health care program requirements. At a minimum, the Policies and Procedures shall address:

- a. the subjects relating to the Standards of Conduct identified in Section III.B.1;
- b. business or financial arrangements or contracts that induce the unlawful referral of Federal health care program beneficiaries, in violation of 42 U.S.C. 1320a-7b(b) (the Anti-Kickback Statute) or 42 U.S.C. § 1395nn (the Stark Law); and
- c. the requirements set forth in Section III.F.

Within 90 days of the Effective Date of the CIA, the relevant portions of the Policies and Procedures shall be distributed to all individuals whose job functions relate to those Policies and Procedures. Appropriate and knowledgeable staff should be available to explain the Policies and Procedures.

At least annually (and more frequently if appropriate), Sherman Oaks shall assess and update as necessary the Policies and Procedures. Within 30 days of the effective date of any revisions, the relevant portions of any such revised Policies and Procedures shall be distributed to all individuals whose job functions are related to those Policies and Procedures.

C. Temporary Staff and Covered Contractor Requirements.

Within 90 days of the Effective Date of this CIA, Sherman Oaks shall use its best efforts to obtain written documentation from each Temporary Staff person and each Covered Contractor showing:

1. *Code of Conduct.* That the Temporary Staff person or Covered Contractor has received and read Sherman Oaks's Code of Conduct and that the Temporary Staff person or Covered Contractor understands that Sherman Oaks' Code of Conduct applies to the Temporary Staff and Covered Contractors.

2. *Policies and Procedures.* That the Temporary Staff person or Covered Contractor has received and read Sherman Oaks' Policies and Procedures, applicable to the job functions for which the Temporary Staff person or Covered Contractor has been engaged.

3. *Confidential Disclosure Program.* That the Temporary Staff person or Covered Contractor has received notice of and education on the appropriate use of the Confidential Disclosure Program.

4. *General and Specific Training.* That the Temporary Staff person or Covered Contractor has received appropriate training for the services for which the Temporary Staff person or Covered Contractor has been engaged by Sherman Oaks. That Sherman Oaks has made General Training available to each Temporary Staff person or Covered Contractor. That Sherman Oaks has made Specific Training available to each Temporary Staff person or Covered Contractor who is involved in the procurement or negotiation of any contracts or arrangements with any contractors, subsidiaries, affiliates, physicians, or agents.

Sherman Oaks shall use its best efforts to obtain the written documentation requested in this Section III.C from each new Temporary Staff person and each new Covered Contractor within 30 days after commencing work for Sherman Oaks or within 90 days of the Effective Date of this CIA, whichever is later.

The Compliance Officer (or his or her designee) shall retain: (1) the written documentation from each Temporary Staff person and each Covered Contractor; (2) a list of each Temporary Staff person or Covered Contractor who receives General Training;

and (3) a list of each Temporary Staff person or Covered Contractor who receives Specific Training. These shall be made available to OIG, upon request.

D. Training and Education.

1. *General Training.* Within 90 days of the Effective Date of this CIA, Sherman Oaks shall provide appropriate General Training to each Covered Person. This training, at a minimum, shall explain Sherman Oaks’:

- a. CIA requirements; and
- b. Compliance Program (including the Standards of Conduct and the Policies and Procedures as they pertain to general compliance issues).

New Covered Persons shall receive the general training described above within 30 days of becoming a Covered Person or within 90 days after the Effective Date of this CIA, whichever is later. After receiving the initial training described above, each Covered Person shall receive appropriate General Training annually.

2. *Specific Training.* Within 90 days of the Effective Date of this CIA, each Covered Person who is involved in the procurement or negotiation of any contracts or arrangements with any contractors, subsidiaries, affiliates, physicians, or agents (hereinafter referred to as “Relevant Covered Persons”) shall receive appropriate Specific Training in addition to the General Training required above. This specific training shall include a discussion of:

- a. the Anti-Kickback Statute and the Stark Law, and the regulations and other guidance documents related to these statutes;
- b. policies, procedures, and other requirements applicable to the Federal health care programs;
- c. the personal obligation of each individual involved in the contracting process to know the legal requirements and policies of Sherman Oaks;

- d. applicable legal sanctions and consequences for improper contracting or financial arrangements;
- e. examples of violations of the Anti-Kickback Statute and the Stark Law that pertain to hospital relationships with outside entities; and
- f. a review of Sherman Oaks' contracting policies and procedures related to contracts with potential referral sources as developed pursuant to Section III.E.

Persons providing the training must be knowledgeable about the subject area.

Relevant Covered Persons shall receive this training within 30 days of the beginning of their employment or becoming Relevant Covered Persons or within 90 days of the Effective Date of this CIA, whichever is later. A Sherman Oaks employee or contractor who has completed the Specific Training shall review a new Relevant Covered Person's work, to the extent that the work relates to the delivery of patient care items or services and/or in the preparation or submission of claims for reimbursement from any Federal health care program, until such time as the new Relevant Covered Person completes his/her applicable training.

After receiving the initial training described in this Section, every Relevant Covered Person shall receive appropriate Specific Training annually.

3. *Certification.* Each individual who is required to attend training shall certify, in writing, that he or she has received the required training. The certification shall specify the type of training received and the date received. The Compliance Officer (or his or her designee) shall retain the certifications, along with all course materials. These shall be made available to OIG, upon request.

E. Contracts for Sales Related Services

Sherman Oaks shall create procedures reasonably designed to prevent contractual arrangements with referral sources and recipients of referrals from violating the Anti-Kickback Statute and the Stark Law, and shall implement procedures to evaluate all existing contractual relationships and other relationships involving remuneration with contractors, vendors, and agents to the extent not already so evaluated. At a minimum, Sherman Oaks

shall ensure that all new and/or renewed (i.e., at renewal date) independent contractor agreements: (1) related to the sales of items or services provided to beneficiaries reimbursable by the Federal health care programs, or (2) with parties in a position to refer or recommend Federal health care program beneficiaries to Sherman Oaks for the purchasing, leasing, or ordering of any items or services, or facility for which payment may be made in whole or in part from a Federal health care program, under which such parties are to provide sales related services to Sherman Oaks, meet the following requirements:

1. The agreement shall be in writing and signed by the parties;
2. The agreement shall specify the actual services to be provided by the independent contractor(s) to Sherman Oaks;
3. The payment or compensation to the contracting entity under the agreement may be based on hours worked or other service-based criteria. The payment or compensation to the contracting entity shall be set in advance, shall be consistent with fair market value in an arms length transaction, and shall not be determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under any Federal health care program;
4. The services performed under the agreement shall not involve the counseling or promotion of a business arrangement or other activity that violates state or federal law; and
5. The contract shall include a provision that all Covered Persons shall comply with Sherman Oaks' Corporate Compliance Program which includes training related to the Anti-Kickback Statute and the Stark Law. Additionally, Sherman Oaks will provide each contractor with a copy of its Standards of Conduct and Anti-Kickback policies and procedures.

F. Review Procedures.

1. *Legal Review.*

- a. The Legal Review shall consist of (1) a review of all applicable independent contractor agreements, employment agreements, or

other arrangements that fall within the scope of Section III.E to evaluate whether such agreements and relationships meet the applicable requirements and standards set forth in Section III.E and (2) an evaluation of any outside relationships, connections, or affiliations in which any Covered Persons are engaged to determine whether such relationships violate the Anti-Kickback Statute and/or the Stark Law. The Legal Review shall have the physician certify that any information, verbal or written, given to the Legal Reviewer shall be true and correct. Sherman Oaks shall retain an individual attorney or law firm with appropriate knowledge to analyze the sufficiency of Sherman Oaks' contracts ("Legal Reviewer") to conduct the Legal Review.

b. Legal Review Report. The Legal Reviewer shall certify that the Legal Review has occurred and the Legal Review Report shall include a summary of the findings of the Legal Review. Sherman Oaks shall retain all agreements and policies that have been reviewed as well as all written reports generated by the Legal Reviewer relating to the Legal Review, including the Legal Review Report.

c. Frequency of Legal Review. The Legal Review shall be performed annually and shall cover each of the one-year periods beginning with the Effective Date of this CIA.

d. Retention of Records.

(i) The Legal Reviewer and Sherman Oaks shall retain and make available to the OIG, upon request, copies of contracts subject to the Legal Review required pursuant to Section III.F.1 and all nonprivileged communications, including work papers, supporting documentation, correspondence, draft reports, and contracts.

(ii) Nothing in this CIA or any other communication or report made pursuant to this CIA, shall constitute a waiver by Sherman Oaks of Sherman Oaks' attorney-client, attorney work-product, or other applicable privileges.

Notwithstanding that fact, the existence of any such privilege shall not be used by Sherman Oaks to avoid its obligations to comply with the provisions of this CIA.

2. *Validation Review.* In the event the OIG has reason to believe that: (a) Sherman Oaks's Legal Review fails to conform to the requirements of this CIA; or (b) the Legal Reviewer's findings are inaccurate, the OIG may, at its sole discretion, conduct its own review to determine whether the Legal Review complied with the requirements of the CIA and/or the Legal Reviewer's findings are inaccurate. Sherman Oaks agrees to pay for the reasonable cost of any such review performed by the OIG or any of its designated agents so long as it is initiated before one year after Sherman Oaks' final submission (as described in Section II) is received by the OIG.

3. *Independence Certification.* Within 120 days from the Effective Date of this CIA, the Legal Reviewer shall provide to Sherman Oaks a certification or sworn affidavit that it has evaluated its professional independence with regard to the Legal Review and that it has concluded that it was, in fact, independent. Such certification shall be included in Sherman Oaks' Implementation Report submission.

G. Disclosure Program.

Sherman Oaks represents that it has developed a Disclosure Program, that includes a mechanism (e.g., a toll-free compliance telephone line) to enable individuals to disclose, to the Compliance Officer or some other person who is not in the disclosing individual's chain of command, any identified issues or questions associated with Sherman Oaks' policies, conduct, practices, or procedures with respect to a Federal health care program, believed by the individual to be a potential violation of criminal, civil or administrative law. Sherman Oaks shall appropriately publicize the existence of the disclosure mechanism (e.g., via periodic e-mails to employees or by posting the information in prominent common areas).

The Disclosure Program shall emphasize a non-retribution, non-retaliation policy, and shall include a reporting mechanism for anonymous communications for which appropriate confidentiality will be maintained. Upon receipt of a disclosure, the Compliance Officer (or designee) shall gather all relevant information from the disclosing individual. The Compliance Officer (or designee) shall make a preliminary, good faith inquiry into the allegations set forth in every disclosure to ensure that he or she has

obtained all of the information necessary to determine whether a further review should be conducted. For any disclosure that is sufficiently specific so that it reasonably: (1) permits a determination of the appropriateness of the alleged improper practice; and (2) provides an opportunity for taking corrective action, Sherman Oaks shall conduct an internal review of the allegations set forth in such a disclosure and ensure that proper follow-up is conducted.

The Compliance Officer (or his or her designee) shall maintain a disclosure log, which shall include a record and summary of each disclosure received (whether anonymous or not), the status of the respective internal reviews, and any corrective action taken in response to the internal reviews. The disclosure log shall be available to OIG, upon request.

H. Ineligible Persons.

1. *Definition.* For purposes of this CIA, an “Ineligible Person” shall be any individual or entity who: (a) is currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs or in Federal procurement or non-procurement programs; or (b) has been convicted of a criminal offense that falls under 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, or otherwise declared ineligible.

2. *Screening Requirements.* Sherman Oaks shall not hire as employees or engage as contractors or grant staff privileges to any Ineligible Person. To prevent hiring or contracting with any Ineligible Person, Sherman Oaks shall screen all prospective employees and prospective contractors prior to engaging their services and screen physicians prior to granting staff privileges by: (a) requiring applicants to disclose whether they are Ineligible Persons; and (b) appropriately querying the General Services Administration’s List of Parties Excluded from Federal Programs (available through the Internet at <http://epls.arnet.gov>) and the HHS/OIG List of Excluded Individuals/Entities (available through the Internet at <http://www.oig.hhs.gov>) (these lists will hereinafter be referred to as the “Exclusion Lists”). Nothing in this Section affects the responsibility of (or liability for) Sherman Oaks to refrain from billing Federal health care programs for services of the Ineligible Person.

3. *Review and Removal Requirement.* Within 90 days of the Effective Date of this CIA, Sherman Oaks shall review its list of current employees, contractors, and

physicians with staff privileges against the Exclusion Lists. Thereafter, Sherman Oaks shall review its list of current employees, contractors, and physicians with staff privileges against the Exclusion Lists annually. In addition, Sherman Oaks shall require employees and contractors to disclose immediately any debarment, exclusion, or other event that makes the employee an Ineligible Person.

If Sherman Oaks has actual notice that an employee or contractor and physician with staff privileges has become an Ineligible Person, Sherman Oaks shall remove such person from responsibility for, or involvement with, Sherman Oaks' business operations related to the Federal health care programs and shall remove such person from any position for which the person's salary or the items or services rendered, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds at least until such time as the person is reinstated into participation in the Federal health care programs.

4. *Pending Charges and Proposed Exclusions.* If Sherman Oaks has actual notice that an employee or contractor is charged with a criminal offense related to any Federal health care program, or is proposed for exclusion during his or her employment or contract term, Sherman Oaks shall take all appropriate actions to ensure that the responsibilities of that employee or contractor have not and shall not adversely affect the quality of care rendered to any beneficiary, patient or resident, or the accuracy of any claims submitted by Sherman Oaks or on behalf of Sherman Oaks to any Federal health care program.

I. Notification of Government Investigation or Legal Proceedings.

Within 30 days of discovery, Sherman Oaks shall notify OIG, in writing, of any ongoing investigation known to Sherman Oaks or legal proceeding conducted or brought by a governmental entity or its agents involving an allegation that Sherman Oaks has committed a crime or has engaged in fraudulent activities. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. Sherman Oaks shall also provide written notice to OIG within 30 days of the resolution of the matter, and shall provide OIG with a description of the findings and/or results of the proceedings, if any.

J. Reporting.

1. *Overpayments.*

a. Definition of Overpayments. For purposes of this CIA, an “Overpayment” shall mean the amount of money Sherman Oaks has received in excess of the amount due and payable under any Federal health care program requirements. Sherman Oaks may not subtract any underpayments for purposes of determining the amount of relevant “Overpayments” for CIA reports.

b. Reporting of Overpayments. If, at any time, Sherman Oaks identifies or learns of any Overpayments, Sherman Oaks shall notify the payor (e.g., Medicare fiscal intermediary or carrier) within 30 days of identification of the Overpayment and take remedial steps within 60 days of identification (or such additional time as may be agreed to by the payor) to correct the problem, including preventing the underlying problem and the Overpayments from recurring. Also, within 30 days of identification of the Overpayment, Sherman Oaks shall repay the Overpayment to the appropriate payor to the extent such Overpayment has been quantified. If not yet quantified, within 30 days of identification, Sherman Oaks shall notify the payor of its efforts to quantify the Overpayment amount along with a schedule of when such work is expected to be completed. Notification and repayment to the payor should be done in accordance with the payor’s policies, and for Medicare contractors, shall include the information contained on the Overpayment Refund Form, provided as Appendix A to this CIA. Notwithstanding the above, notification and repayment of any Overpayment amount that routinely is reconciled or adjusted pursuant to policies and procedures established by the payor should be handled in accordance with such policies and procedures.

2. *Material Deficiencies.*

a. Definition of Material Deficiency. For purposes of this CIA, a “Material Deficiency” means anything that involves:

(i) a substantial Overpayment; or

(ii) a matter that a reasonable person would consider a probable violation of criminal, civil, or administrative laws applicable to any Federal health care program for which penalties or exclusion may be authorized.

A Material Deficiency may be the result of an isolated event or a series of occurrences.

b. Reporting of Material Deficiencies. If Sherman Oaks determines through any means that there is a Material Deficiency, Sherman Oaks shall notify OIG, in writing, within 30 days of making the determination that the Material Deficiency exists. The report to the OIG shall include the following information:

(i) If the Material Deficiency results in an Overpayment, the report to the OIG shall be made at the same time as the notification to the payor required in Section III.J.1, and shall include all of the information on the Overpayment Refund Form, as well as:

(A) the payor's name, address, and contact person to whom the Overpayment was sent; and

(B) the date of the check and identification number (or electronic transaction number) by which the Overpayment was repaid/refunded;

(ii) a complete description of the Material Deficiency, including the relevant facts, persons involved, and legal and Federal health care program authorities implicated;

(iii) a description of Sherman Oaks' actions taken to correct the Material Deficiency; and

(iv) any further steps Sherman Oaks plans to take to address

the Material Deficiency and prevent it from recurring.

IV. NEW BUSINESS UNITS OR LOCATIONS

In the event that, after the Effective Date of this CIA, Sherman Oaks changes locations or sells, closes, purchases, or establishes new business units related to the furnishing of items or services that may be reimbursed by Federal health care programs, Sherman Oaks shall notify OIG of this fact as soon as possible, but no later than within 30 days of the date of change of location, sale, closure, purchase or establishment. This notification shall include the location of the new operation(s), phone number, fax number, Medicare provider number(s) (if any), and the corresponding contractor's name and address that has issued each Medicare provider number. All Covered Persons at such locations shall be subject to the applicable requirements in this CIA (e.g., completing certifications and undergoing training).

V. IMPLEMENTATION AND ANNUAL REPORTS

A. Implementation Report. Within 120 days after the Effective Date of this CIA, Sherman Oaks shall submit a written report to OIG summarizing the status of its implementation of the requirements of this CIA. This Implementation Report shall include:

1. the name, address, phone number, and position description of the Compliance Officer required by Section III.A, and a summary of other non-compliance job responsibilities the Compliance Officer may have;
2. the names and positions of the members of the Compliance Committee required by Section III.A;
3. a copy of Sherman Oaks' Standards of Conduct required by Section III.B.1;
4. a copy of all compliance-related Policies and Procedures required by Section III.B.2 and a summary of all other Policies and Procedures required by Section III.B.2;

5. a copy of all training materials used for the training required by Section III.C, a description of such training, including a description of the targeted audiences, length of sessions, which sessions were mandatory and for whom, percentage of attendance, and a schedule of when the training sessions were held;

6. a certification by the Compliance Officer that:

a. the Policies and Procedures required by Section III.B have been developed, are being implemented, and have been distributed to all appropriate Covered Persons;

b. all Covered Persons have completed the Standards of Conduct certification required by Section III.B.1; and

c. all Covered Persons have completed the applicable training and executed the certification(s) required by Section III.D.

The documentation supporting this certification shall be available to OIG, upon request.

7. a description of the Disclosure Program required by Section III.G;

8. the identity of the Legal Reviewer, a summary/description of the Legal Review between Sherman Oaks and the Legal Reviewer, as well as summaries of any outside financial audits, compliance program engagements, or reimbursement consulting, and the proposed start and completion dates of the first annual review;

9. a certification from the Legal Reviewer regarding its professional independence from Sherman Oaks;

10. a summary of personnel actions (other than hiring) taken pursuant to Section III.H;

11. a list of all of Sherman Oaks' locations (including locations and mailing addresses), the corresponding name under which each location is doing business, the corresponding phone numbers and fax numbers, each location's Medicare provider identification number(s) and the name and address of the Medicare contractor to which Sherman Oaks currently submits claims;

12. a description of Sherman Oaks' corporate structure, including identification of any parent and sister companies, subsidiaries and their respective lines of business; and

13. the certification required by Section V.C.

B. Annual Reports. Sherman Oaks shall submit to OIG Annual Reports with respect to the status of, and findings regarding, Sherman Oaks' compliance activities for each of the three (3) one-year periods beginning on the Effective Date of the CIA. (The one-year period covered by each Annual Report shall be referred to as "the Reporting Period").

Each Annual Report shall include:

1. any change in the identity, position description, or other non-compliance job responsibilities of the Compliance Officer and any change in the membership of the Compliance Committee described in Section III.A;

2. a certification by the Compliance Officer that:

a. all Covered Persons have completed any Standards of Conduct certifications required by Section III.B.1;

b. all Covered Persons have completed the applicable training and executed the certification(s) required by Section III.D;

c. Sherman Oaks has complied with its obligations under the Settlement Agreement: (i) not to resubmit to any Federal health care program payors any previously denied claims related to the Covered Conduct addressed in the Settlement Agreement, and not to appeal any such denials of claims; (ii) not to charge to or otherwise seek payment from Federal or State payors for unallowable costs (as defined in the Settlement Agreement); and (iii) to identify and adjust any past charges or claims for unallowable costs;

The documentation supporting this certification shall be available to OIG, upon request.

3. a summary of any significant changes or amendments to the Policies and Procedures required by Section III.B and the reasons for such changes (e.g., change in contractor policy) and copies of any compliance-related Policies and Procedures;

4. a copy of all training materials used for the training required by Section III.D (to the extent it has not already been provided as part of the Implementation Report), a description of such training conducted during the Reporting Period, including a description of the targeted audiences, length of sessions, which sessions were mandatory and for whom, percentage of attendance, and a schedule of when the training sessions were held;

5. a report of the percentage of Temporary Staff and Covered Contractors who: (1) returned written certifications in accordance with Section III.C, (2) received General Training; and (3) received Specific Training.

6. a complete copy of all reports prepared pursuant to the Legal Reviewer's Reviews, along with a copy of the Legal Reviewer's engagement letter;

7. Sherman Oaks' response and corrective action plan(s) related to any issues raised by the Legal Reviewer(s);

8. a revised summary/description of all engagements between Sherman Oaks and the Legal Reviewer as well as any outside financial audits, compliance program engagements, or reimbursement consulting, if different from what was submitted as part of the Implementation Report;

9. a certification from the Legal Reviewer regarding its professional independence from Sherman Oaks;

10. a summary of Material Deficiencies (as defined in Section III.J) identified during the Reporting Period and the status of any corrective and preventative action relating to all such Material Deficiencies;

11. a report of the aggregate Overpayments that have been returned to the Federal health care programs. Overpayment amounts should be broken down into the following categories: inpatient Medicare, outpatient Medicare, Medicaid (report each applicable state separately, if applicable) and other Federal health care programs.

Overpayment amounts that are routinely reconciled or adjusted pursuant to policies and procedures established by the payor do not need to be included in this aggregate Overpayment report;

12. a summary of the disclosures in the disclosure log required by Section III.F that: (a) relate to Federal health care programs; or (b) allege abuse or neglect of patients;

13. a description of any personnel actions (other than hiring) taken by Sherman Oaks as a result of the obligations in Section III.H, and the name, title, and responsibilities of any person that falls within the ambit of Section III.H.4, and the actions taken in response to the obligations set forth in that Section;

14. a summary describing any ongoing investigation or legal proceeding required to have been reported pursuant to Section III.I. The summary shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding;

15. a description of all changes to the most recently provided list (as updated) of Sherman Oaks' locations (including locations and mailing addresses) as required by Section V.A.11, the corresponding name under which each location is doing business, the corresponding phone numbers and fax numbers, each location's Federal health care program provider identification number(s), and the contractor name and address that issued each provider identification number; and

16. the certification required by Section V.C.

The first Annual Report shall be received by the OIG no later than 60 days after the end of the first Reporting Period. Subsequent Annual Reports shall be received by OIG no later than the anniversary date of the due date of the first Annual Report.

C. Certifications. The Implementation Report and Annual Reports shall include a certification by the Compliance Officer that: (1) except as otherwise described in the applicable report, Sherman Oaks is in compliance with all of the requirements of this CIA, to the best of his or her knowledge; and (2) the Compliance Officer has reviewed the Report and has made reasonable inquiry regarding its content and believes that the information is accurate and truthful.

D. Designation of Information: Sherman Oaks shall clearly identify any portions of its submissions that it believes are trade secrets, or information that is commercial or financial and privileged or confidential, and therefore potentially exempt from disclosure under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. Sherman Oaks shall refrain from identifying any information as exempt from disclosure if that information does not meet the criteria for exemption from disclosure under FOIA.

VI. NOTIFICATIONS AND SUBMISSION OF REPORTS

Unless otherwise stated in writing after the Effective Date of this CIA, all notifications and reports required under this CIA shall be submitted to the following entities:

OIG:

Civil Recoveries Branch - Compliance Unit
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
Cohen Building, Room 5527
330 Independence Avenue, SW
Washington, DC 20201
Phone 202.619.2078
Fax 202.205.0604

Sherman Oaks:

Kate O'Rourke
Sherman Oaks Health System
4929 Van Nuys Blvd.
Sherman Oaks, CA 91403
Phone 818.981.7111
Fax 818.907.4527

Unless otherwise specified, all notifications and reports required by this CIA may be made by certified mail, overnight mail, hand delivery or other means, provided that there is proof that such notification was received. For purposes of this requirement, internal facsimile confirmation sheets do not constitute proof of receipt.

VII. OIG INSPECTION, AUDIT AND REVIEW RIGHTS

In addition to any other rights OIG may have by statute, regulation, or contract, OIG or its duly authorized representative(s) may examine or request copies of Sherman Oaks' books, records, and other documents and supporting materials and/or conduct on-site reviews of any of Sherman Oaks' locations for the purpose of verifying and evaluating: (a) Sherman Oaks' compliance with the terms of this CIA; and (b) Sherman Oaks' compliance with the requirements of the Federal health care programs in which it participates. The documentation described above shall be made available by Sherman Oaks to OIG or its duly authorized representative(s) at all reasonable times for inspection, audit or reproduction. Furthermore, for purposes of this provision, OIG or its duly authorized representative(s) may interview any of Sherman Oaks' employees, contractors, or agents who consent to be interviewed at the individual's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the individual and OIG. Sherman Oaks agrees to assist OIG or its duly authorized representative(s) in contacting and arranging interviews with such individuals upon OIG's request. Sherman Oaks' employees may elect to be interviewed with or without a representative of Sherman Oaks present.

VIII. DOCUMENT AND RECORD RETENTION

Sherman Oaks shall maintain for inspection all documents and records relating to reimbursement from the Federal health care programs, or to compliance with this CIA, for four years (or longer if otherwise required by law).

IX. DISCLOSURES

Consistent with HHS's FOIA procedures, set forth in 45 C.F.R. Part 5, the OIG shall make a reasonable effort to notify Sherman Oaks prior to any release by OIG of information submitted by Sherman Oaks pursuant to its obligations under this CIA and identified upon submission by Sherman Oaks as trade secrets, or information that is commercial or financial and privileged or confidential, under the FOIA rules. With respect to such releases, Sherman Oaks shall have the rights set forth at 45 C.F.R. § 5.65(d). Sherman Oaks shall refrain from identifying any information as exempt from release if that information does not meet the criteria for exemption from disclosure under FOIA.

X. BREACH AND DEFAULT PROVISIONS

Sherman Oaks is expected to fully and timely comply with all of its CIA obligations.

A. Stipulated Penalties for Failure to Comply with Certain Obligations. As a contractual remedy, Sherman Oaks and OIG hereby agree that failure to comply with certain obligations set forth in this CIA may lead to the imposition of the following monetary penalties (hereinafter referred to as “Stipulated Penalties”) in accordance with the following provisions.

1. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Sherman Oaks fails to have in place any of the obligations described in Section III:

- a. a Compliance Officer;
- b. a Compliance Committee;
- c. written Standards of Conduct;
- d. written Policies and Procedures;
- e. a requirement that Covered Persons be trained; and
- f. a Disclosure Program.

2. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Sherman Oaks fails to retain a Legal Reviewer, as required in Section III.F.

3. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day Sherman Oaks fails to meet any of the deadlines for the submission of the Implementation Report or the Annual Reports to OIG.

4. A Stipulated Penalty of \$2,000 (which shall begin to accrue on the date

the failure to comply began) for each day Sherman Oaks employs, contracts with, or grants staff privileges to an Ineligible Person and that person: (i) has responsibility for, or involvement with, Sherman Oaks' business operations related to the Federal health care programs; or (ii) is in a position for which the person's salary or the items or services rendered, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds (the Stipulated Penalty described in this paragraph shall not be demanded for any time period during which Sherman Oaks can demonstrate that it did not discover the person's exclusion or other ineligibility after making a reasonable inquiry (as described in Section III.H) as to the status of the person).

5. A Stipulated Penalty of \$1,500 for each day Sherman Oaks fails to grant access to the information or documentation as required in Section VII. (This Stipulated Penalty shall begin to accrue on the date Sherman Oaks fails to grant access.)

6. A Stipulated Penalty of \$1,000 for each day Sherman Oaks fails to comply fully and adequately with any obligation of this CIA. In its notice to Sherman Oaks, OIG shall state the specific grounds for its determination that Sherman Oaks has failed to comply fully and adequately with the CIA obligation(s) at issue and steps Sherman Oaks must take to comply with the CIA. (This Stipulated Penalty shall begin to accrue 10 days after the Sherman Oaks receives notice from the OIG of the failure to comply.) A Stipulated Penalty as described in this paragraph shall not be demanded for any violation for which the OIG has sought a Stipulated Penalty under Paragraphs 1-5 of this Section.

B. Timely Written Requests for Extensions. Sherman Oaks may, in advance of the due date, submit a timely written request for an extension of time to perform any act or file any notification or report required by this CIA. Notwithstanding any other provision in this Section, if OIG grants the timely written request with respect to an act, notification, or report, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until one day after Sherman Oaks fails to meet the revised deadline set by OIG. Notwithstanding any other provision in this Section, if OIG denies such a timely written request, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until three business days after Sherman Oaks receives OIG's written denial of such request or the original due date, whichever is later. A "timely written request" is defined as a request in writing received by OIG at least five business days prior to the date by which any act is

due to be performed or any notification or report is due to be filed.

C. Payment of Stipulated Penalties.

1. *Demand Letter.* Upon a finding that Sherman Oaks has failed to comply with any of the obligations described in Section X.A and after determining that Stipulated Penalties are appropriate, OIG shall notify Sherman Oaks of: (a) Sherman Oaks' failure to comply; and (b) the OIG's exercise of its contractual right to demand payment of the Stipulated Penalties (this notification is hereinafter referred to as the "Demand Letter").

2. *Response to Demand Letter.* Within 10 days of the receipt of the Demand Letter, Sherman Oaks shall either: (a) cure the breach to OIG's satisfaction and pay the applicable Stipulated Penalties; or (b) request a hearing before an HHS administrative law judge ("ALJ") to dispute OIG's determination of noncompliance, pursuant to the agreed upon provisions set forth below in Section X.E. In the event Sherman Oaks elects to request an ALJ hearing, the Stipulated Penalties shall continue to accrue until Sherman Oaks cures, to OIG's satisfaction, the alleged breach in dispute. Failure to respond to the Demand Letter in one of these two manners within the allowed time period shall be considered a material breach of this CIA and shall be grounds for exclusion under Section X.D.

3. *Form of Payment.* Payment of the Stipulated Penalties shall be made by certified or cashier's check, payable to: "Secretary of the Department of Health and Human Services," and submitted to OIG at the address set forth in Section VI.

4. *Independence from Material Breach Determination.* Except as set forth in Section X.D.1.c, these provisions for payment of Stipulated Penalties shall not affect or otherwise set a standard for OIG's decision that Sherman Oaks has materially breached this CIA, which decision shall be made at OIG's discretion and shall be governed by the provisions in Section X.D, below.

D. Exclusion for Material Breach of this CIA

1. *Definition of Material Breach.* A material breach of this CIA means:

a. a failure by Sherman Oaks to report a Material Deficiency, take corrective action and make the appropriate refunds, as required in

Section III.J;

b. a repeated or flagrant violation of the obligations under this CIA, including, but not limited to, the obligations addressed in Section X.A;

c. a failure to respond to a Demand Letter concerning the payment of Stipulated Penalties in accordance with Section X.C; or

d. a failure to retain and use a Legal Reviewer in accordance with Section III.F.

2. *Notice of Material Breach and Intent to Exclude.* The parties agree that a material breach of this CIA by Sherman Oaks constitutes an independent basis for Sherman Oaks' exclusion from participation in the Federal health care programs. Upon a determination by OIG that Sherman Oaks has materially breached this CIA and that exclusion should be imposed, OIG shall notify Sherman Oaks of: (a) Sherman Oaks' material breach; and (b) OIG's intent to exercise its contractual right to impose exclusion (this notification is hereinafter referred to as the "Notice of Material Breach and Intent to Exclude").

3. *Opportunity to Cure.* Sherman Oaks shall have 30 days from the date of receipt of the Notice of Material Breach and Intent to Exclude to demonstrate to OIG's satisfaction that:

a. Sherman Oaks is in compliance with the obligations of the CIA cited by the OIG as being the basis for the material breach;

b. the alleged material breach has been cured; or

c. the alleged material breach cannot be cured within the 30-day period, but that: (i) Sherman Oaks has begun to take action to cure the material breach; (ii) Sherman Oaks is pursuing such action with due diligence; and (iii) Sherman Oaks has provided to OIG a reasonable timetable for curing the material breach.

4. *Exclusion Letter.* If at the conclusion of the 30-day period, Sherman

Oaks fails to satisfy the requirements of Section X.D.3, OIG may exclude Sherman Oaks from participation in the Federal health care programs. OIG will notify Sherman Oaks in writing of its determination to exclude Sherman Oaks (this letter shall be referred to hereinafter as the "Exclusion Letter"). Subject to the Dispute Resolution provisions in Section X.E, below, the exclusion shall go into effect 30 days after the date of the Exclusion Letter. The exclusion shall have national effect and shall also apply to all other Federal procurement and non-procurement programs. Reinstatement to program participation is not automatic. If at the end of the period of exclusion, Sherman Oaks wishes to apply for reinstatement, Sherman Oaks must submit a written request for reinstatement in accordance with the provisions at 42 C.F.R. §§ 1001.3001-.3004.

E. Dispute Resolution

1. *Review Rights.* Upon OIG's delivery to Sherman Oaks of its Demand Letter or of its Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under this CIA, Sherman Oaks shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. § 1320a-7(f) and 42 C.F.R. Part 1005 as if they applied to the Stipulated Penalties or exclusion sought pursuant to this CIA. Specifically, OIG's determination to demand payment of Stipulated Penalties or to seek exclusion shall be subject to review by an HHS ALJ and, in the event of an appeal, the HHS Departmental Appeals Board ("DAB"), in a manner consistent with the provisions in 42 C.F.R. §§ 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), the request for a hearing involving Stipulated Penalties shall be made within 10 days of the receipt of the Demand Letter and the request for a hearing involving exclusion shall be made within 25 days of receipt of the Exclusion Letter.

2. *Stipulated Penalties Review.* Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for Stipulated Penalties under this CIA shall be: (a) whether Sherman Oaks was in full and timely compliance with the obligations of this CIA for which the OIG demands payment; and (b) the period of noncompliance. Sherman Oaks shall have the burden of proving its full and timely compliance and the steps taken to cure the noncompliance, if any. The OIG shall not have the right to appeal to the DAB an adverse ALJ decision related to stipulated penalties. If the ALJ agrees with OIG with regard to a finding of a breach of this CIA and orders Sherman Oaks to pay Stipulated Penalties, such Stipulated Penalties shall become due and payable 20 days after the ALJ issues such a decision unless Sherman Oaks requests review of the ALJ decision by the

DAB. If the ALJ decision is properly appealed to the DAB and the DAB upholds the determination of OIG, the Stipulated Penalties shall become due and payable 20 days after the DAB issues its decision.

3. *Exclusion Review.* Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this CIA shall be:

- a. whether Sherman Oaks was in material breach of this CIA;
- b. whether such breach was continuing on the date of the Exclusion Letter; and
- c. whether the alleged material breach could not have been cured within the 30-day period, but that:
 - (i) Sherman Oaks had begun to take action to cure the material breach within that period;
 - (ii) Sherman Oaks has pursued and is pursuing such action with due diligence; and
 - (iii) Sherman Oaks provided to OIG within that period a reasonable timetable for curing the material breach and Sherman Oaks has followed the timetable.

For purposes of the exclusion herein, exclusion shall take effect only after an ALJ decision favorable to OIG, or, if the ALJ rules for Sherman Oaks, only after a DAB decision in favor of OIG. Sherman Oaks' election of its contractual right to appeal to the DAB shall not abrogate the OIG's authority to exclude Sherman Oaks upon the issuance of an ALJ's decision in favor of the OIG. If the ALJ sustains the determination of the OIG and determines that exclusion is authorized, such exclusion shall take effect 20 days after the ALJ issues such a decision, notwithstanding that Sherman Oaks may request review of the ALJ decision by the DAB. If the DAB finds in favor of OIG after an ALJ decision adverse to OIG, the exclusion shall take effect 20 days after the DAB decision. Sherman Oaks agrees to waive its right to any notice of such an exclusion if a decision upholding the exclusion is rendered by the ALJ or DAB. If the DAB finds in favor of

Sherman Oaks, Sherman Oaks will be reinstated effective on the date of the original exclusion.

4. *Finality of Decision.* The review by an ALJ or DAB provided for above shall not be considered to be an appeal right arising under any statutes or regulations. Consequently, the parties to this CIA agree that the DAB's decision (or the ALJ's decision if not appealed) shall be considered final for all purposes under this CIA.

XI. EFFECTIVE AND BINDING AGREEMENT

Consistent with the provisions in the Settlement Agreement pursuant to which this CIA is entered, and into which this CIA is incorporated, Sherman Oaks and OIG agree as follows:

A. This CIA shall be binding on the successors, assigns, and transferees of Sherman Oaks;

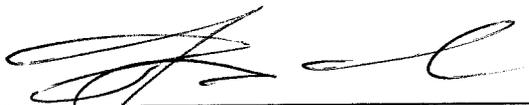
B. This CIA shall become final and binding on the date the final signature is obtained on the CIA;

C. Any modifications to this CIA shall be made with the prior written consent of the parties to this CIA;

D. OIG may agree to a suspension of Sherman Oaks' obligations under the CIA in the event of Sherman Oaks' cessation of participation in Federal health care programs. If Sherman Oaks withdraws from participation in Federal health care programs and is relieved from its CIA obligations by the OIG, Sherman Oaks agrees to notify OIG 30 days in advance of Sherman Oaks' intent to reapply as a participating provider or supplier with the Federal health care programs. Upon receipt of such notification, OIG will evaluate whether the CIA should be reactivated or modified.

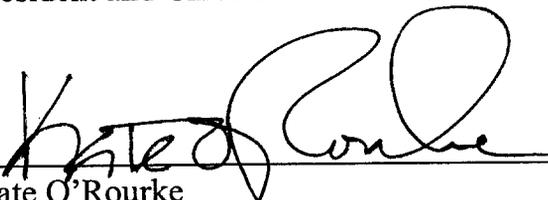
E. The undersigned Sherman Oaks signatories represent and warrant that they are authorized to execute this CIA. The undersigned OIG signatory represents that he is signing this CIA in his official capacity and that he is authorized to execute this CIA.

ON BEHALF OF SHERMAN OAKS



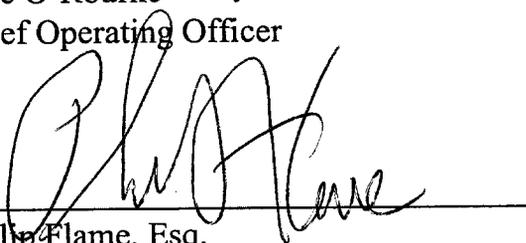
David A. Levinsohn
President and Chief Executive Officer

9/05/02
DATE



Kate O'Rourke
Chief Operating Officer

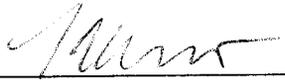
9/09/02
DATE



Philip Flame, Esq.
Counsel for Sherman Oaks

9-04-02
DATE

**ON BEHALF OF THE OFFICE OF INSPECTOR GENERAL
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**



LEWIS MORRIS

Assistant Inspector General for Legal Affairs
Office of Inspector General
U. S. Department of Health and Human Services

12/17/02

DATE