

CLINICAL EDUCATION AGREEMENT

THIS CLINICAL EDUCATION AGREEMENT (“Agreement”) is entered into and effective as of the 4th day of May, 2021 (the “Effective Date”) by and between Board of Regents of the University System of Georgia by and on behalf of Georgia State University (“Institution”) and Kindred Healthcare Operating, LLC (“Kindred”).

RECITALS:

WHEREAS, Institution has established and maintains academic programs dedicated to educating students in healthcare disciplines (“Program”) and as part of the Institution’s academic programs, seeks to provide its students (individually referred to herein as “Student” and collectively “Students”) with a clinical education experience at an operating healthcare institution;

WHEREAS, Kindred provides clinical services and/or management services at inpatient rehabilitation facility hospitals and units, long term acute care hospitals, outpatient clinics, rehabilitation centers, and other clinical settings across the country at which Students may receive clinical experience (“Clinical Education Setting”); and

WHEREAS, the Institution and Kindred desire to foster the education of students to promote the availability of qualified clinicians to serve the region and the country and have determined that the training of qualified students may best be accomplished by mutual assistance.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants set forth herein, the parties agree as follows:

1. Institution’s Responsibilities.

a. Supervision and Control. Institution shall maintain primary responsibility for the instruction and supervision of Students through its appropriately licensed and/or credentialed faculty members and associated personnel (“Supervisors”). Patient care services will remain under the management and control of the Clinical Education Setting. The Supervisors shall attend periodic staff meetings as requested by Kindred to become familiar with Kindred’s policies and procedures as well as those of the Clinical Education Setting and shall support the Clinical Education Setting and Kindred’s quality assurance initiatives.

b. Preparation of Students for Clinical Placement. The Institution shall assure, through qualified faculty that each Student assigned to Kindred is prepared to act in an acceptable and professional manner in the Clinical Education Setting and in a manner that comports with the Students’ selected practice discipline. A Student’s preparedness will be measured by: (i) academic performance indicating an ability to understand what the Student will observe and/or perform during the clinical placement; and (ii) demonstrating an appreciation of the nature and seriousness of the work the Student will observe and/or perform.

c. Assigning Students to Kindred. After receiving from Kindred the number of placements available for Students, the Institution shall select Students to be assigned to the applicable Clinical Education Setting. The Institution shall notify Kindred of the Students assigned to Kindred, and each Student’s availability for participation in the Program at the designated Clinical Education Setting.

d. Program Coordinator. The Institution shall appoint a faculty member to serve as the Program’s coordinator (“Program Coordinator”). The Institution shall communicate the Program Coordinator’s name, title and telephone number to Kindred.

e. Accreditation and Licensure. The Institution shall maintain, at all times during the term of this Agreement: (i) accreditation as an educational institution; (ii) all licensures and approvals necessary to the applicable Program;

and (iii) full and unrestricted accreditation of the Program(s) from the accrediting organization specified in the applicable Program Memorandum. The Institution shall promptly notify Kindred of any change in its accreditation or licensure status.

f. Compliance with Policies and Procedures. The Institution shall notify Students (as a condition of successful completion) of the obligation to and require its employees and agents comply with the policies and procedures of Kindred and the applicable policies and procedures of the Clinical Education Setting. This requirement will include compliance with the policies and procedures that govern the confidentiality of patients' protected health information and that of the Clinical Education Setting and Kindred business operations.

g. Compliance Program. Institution and its Students acknowledge awareness of Kindred's Code of Conduct and Compliance Program. The Code of Conduct is available at Kindred's web site, which is located at www.kindredstudents.com. Students shall be notified of Kindred's requirement that they comply with the Code of Conduct and shall comply with all federal, state and local regulations applicable to this Agreement. Each party represents that it, its employees and Institution's Students to the best of Institution's knowledge are not currently excluded from, and have not been convicted of, any conduct in violation of any federal health care program or any other state or federal government payment program. If the Office of the Inspector General ("OIG") or General Services Administration ("GSA") excludes a party, its employees or any of Institution's Students, the excluded/affected party shall notify the other party within ten (10) days of such exclusion or upon notice of same, whichever is sooner. In the event of such notice, the representatives for each party agree to timely meet to determine any necessary action to be taken.

h. Criminal Background Checks and Drug Screens. Kindred requires criminal background checks and drug screens on all Students in advance of placing Students in a Clinical Education Setting. Institution shall notify students of their obligation to furnish written documentation of compliance to Kindred. Kindred may refuse placement or continuation in the Clinical Education Setting of any Student Kindred believes, in its sole discretion, may place patients, employees, and/or visitors at risk or would be barred from employment with Kindred or the Clinical Education Setting.

i. Students' Communicable Disease Certification. Institution shall notify Students selected for placement in the Clinical Education Setting that they must certify that they are enrolled at the Institution and must submit to Kindred a completed certification attesting that he or she does not presently have a communicable disease or communicable health problem that has the potential to jeopardize the health of patients or employees who receive treatment in, reside at, and work in the Clinical Education Setting. The Institution shall inform student of their obligation to notify Kindred if he or she contracts or becomes aware that he or she has a communicable disease or communicable health problem that has the potential to jeopardize the health and safety of patients and/or individuals who work in the Clinical Education Setting. Students will be required to complete the same health screening procedures that Kindred requires of its own staff, in a manner consistent with which it conducts such procedures for its own staff and at no charge or cost to Kindred.

j. Students' Bloodborne Pathogens Education Verification. The Institution shall provide to Kindred written verification that each Student participating in the Program has completed OSHA Bloodborne pathogens and HIV/AIDS education as required by the Federal Register 1910.1030 of December 1991.

2. Kindred Responsibilities.

a. Designation of Representative. Kindred shall designate an individual to whom Institution and Students may refer for needed direction and approvals.

b. Number of Student Placements. Kindred shall obtain the necessary authorizations and approvals from the management of the Clinical Education Setting for the purpose of determining the number of Students it may accept for clinical placement under this Agreement. Kindred shall communicate such capacity to the Institution before Students may be assigned to the Clinical Education Setting.

c. Orientation. Kindred shall provide the Institution's Program Coordinator and Students with an orientation to the Clinical Education Setting to include applicable policies and procedures of the Clinical Education Setting and Kindred.

d. Student Access to Kindred and Patients. The Clinical Education Setting will afford access by Students to patients and their medical records as reasonably required to support the Students' clinical development and as permitted under applicable law. Kindred reserves the right to refuse patient access to any Student who does not meet, in Kindred's reasonable determination, professional standards that govern safety, health and proper conduct.

e. Qualifications and Approvals. Kindred shall maintain, at all times during the term of this Agreement, the qualifications and approvals necessary to meet the terms of this Agreement.

f. No Remuneration. Students shall not receive remuneration or bill for any services involving the Program or clinical education experience.

3. Joint Responsibilities. In addition to the responsibilities described elsewhere in this Agreement, the Institution and Kindred shall have the following joint responsibilities:

a. Supervision and Evaluation of Students. The Institution and Kindred shall work cooperatively, in good faith, in an effort to provide the necessary supervision of Students participating in the clinical education experience. Both parties shall reinforce to Students: (i) the seriousness of the clinical education experience, including the Students' impact on patients' wellbeing; (ii) the importance of abiding by Kindred rules, policies and procedures and the rules and applicable policies and procedures of the Clinical Education Setting; and (iii) the confidentiality of and requirement to protect patients' identities and health information. The Institution shall, if Kindred so desires, assure prompt feedback to Kindred regarding the evaluations of the Students' participating in the Program. Upon request, Kindred shall timely provide feedback to the Institution regarding Students' performance.

b. Review and Evaluation of Affiliation. The Institution and Kindred shall review its affiliation at periodic intervals and shall work cooperatively to establish and maintain clinical experiences that meet the goals of the Program.

4. Student Responsibilities.

a. Conduct. While participating in the Program and when in the Clinical Education Setting, the Student at all times shall conduct him or herself in a professional manner and shall refrain from loud, boisterous, offensive or otherwise inappropriate conduct. Students shall refrain from the use of alcohol and illicit drugs that have the potential to impair the Student's ability to participate in the Program and shall not under any circumstances bring a firearm or other weapon on to the premises of the Clinical Education Setting.

b. Attendance and Timeliness. Student shall report promptly to Kindred's designated representative at the assigned place and time. Student shall immediately inform Kindred's designated representative and the Institution of Student's inability to report to the Clinical Education Setting as assigned.

c. Students' Physical Examination. Students shall satisfy the same physical examination requirements as are applied to Kindred employees and furnish written documentation of compliance.

d. Dress and Identification. Students shall conform to the dress code as directed by Kindred and display proper identification at all times.

e. Personal Expenses. While participating in the Program, Students shall be responsible for all personal expenses such as meals, travel, medical care and incidentals.

5. Status of the Institution, Kindred, and Students. Students are participants in an educational program and will not be considered as or a replacement for the staff of Kindred or the Clinical Education Setting. No Student nor any employee, agent or representative of the Institution is or shall be considered an agent, employee, a borrowed servant, partner of or party to a joint venture with Kindred. The Institution is not a partner or agent of Kindred, its parent or any of its affiliates. Kindred and its parent or affiliated companies are not partners or agents of the Institution. Neither Kindred nor the Institution will act or hold itself out to third parties as a partner, employee, or agent of Kindred in the provision of services under this Agreement. Institution and Kindred shall not incur any financial obligation on behalf of each other.

6. Term and Termination.

a. Term. This Agreement will be effective as of the Effective Date for a term of one (1) year (the "Initial Term"). At the end of the Initial Term, the term of this Agreement will automatically renew for up to three (3) successive one (1) year periods (each a "Renewal Term"), unless earlier terminated as provided in this Agreement. The Initial Term and any Renewal Term will be collectively referred to herein as "Term".

b. Termination. Notwithstanding Paragraph 6(a) above, this Agreement may be terminated as follows:

i. By Mutual Agreement. The Institution and Kindred may terminate this Agreement at any time upon written mutual agreement.

ii. Immediate Termination.

(a) The Institution may immediately terminate this Agreement if the Clinical Education Setting at which the Program is provided fails to maintain the necessary accreditations and/or licenses as required herein.

(b) Kindred may terminate this Agreement immediately upon written notice to the Institution if the Institution fails to maintain the necessary accreditations and licensure; violates any regulatory requirements as set forth below in Paragraph 10; or in the event representatives of the Clinical Education Setting at which the Program is located request or direct the termination of the Program.

iii. Without Cause Termination. Either party may terminate this Agreement without cause upon 30 days' prior written notice to the other party.

7. Additional Provisions.

a. Liability. To the extent permitted by law, each party shall be liable for the acts and omissions of its officers and employees engaged in the scope of their employment arising under this Agreement.

b. Survival. This Paragraph 7 will continue beyond the expiration, non-renewal or termination of this Agreement.

8. Insurance.

a. Institution. Institution is a self-insured entity of the State of Georgia covered by the Georgia Tort Claims Act and the State of Georgia Broad Form Insurance. Institution faculty members will be provided professional liability coverage pursuant to the terms and conditions of the Georgia Tort Claims Act (O.C.G.A. 50-21-20 et seq.).

Institution will inform participating students of Kindred's requirement that they must procure and maintain throughout the clinical learning experience professional liability insurance in amounts no less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate, and covering their activities at Kindred and to provide evidence of such insurance to Kindred prior to participation in the clinical learning experience. This covenant shall include the obligation to acquire "tail" coverage for any "claims made" policy as necessary until any applicable statute of limitation shall have expired. Institution shall advise Kindred in writing at least thirty (30) days in advance of the cancellation or non-renewal of any insurance policy referred to above.

b. Kindred. Kindred shall at all times throughout the Term and any Renewal Term maintain liability insurance for services provided under this Agreement. During the Term or any Renewal Term of the Agreement, Kindred shall provide maintain, at its sole cost and expense, comprehensive general public and professional liability and property damage insurance in an amount adequate to cover any associated risks.

9. Notices; Consents. All notices, consents or other communications that either party is required or may desire to give to the other under this Agreement shall be in writing and shall be given by facsimile, personal delivery, or by deposit, postage prepaid, in the United States mail, certified or registered mail, return receipt requested, addressed to the parties at their respective address set forth below:

If to the Institution:

Wanda Little
Office of Academic Assistance
Byrdine F Lewis College of Nursing
and Health Professions
PO Box 3995
Atlanta GA 30303

With a copy to:

University Attorney
Office of Legal Affairs
P.O. Box 3987
Atlanta, Georgia 30302-3987

Fax: (404)413-1001

If to Kindred:

Barbara Wallace
Kindred Healthcare
680 South Fourth Street
Louisville, KY 40202
Fax: (502) 596-4871

Any notice sent in compliance with this provision shall be deemed to have been given upon the earlier of receipt or three (3) days after mail deposit, except that notice of change of address shall not be deemed effective until actual receipt by the intended recipient.

10. Regulatory Requirements. Kindred and the Institution shall perform the services contemplated by this Agreement at all times in compliance with federal, state, and local law, rules, and regulations, the policies, rules, and regulations of Kindred and the Clinical Education Setting, the applicable standards of the Joint Commission (if applicable), and all currently accepted and approved methods and practices. Nothing contained in this Agreement will require the Institution to refer any patients to Kindred or the healthcare facility of the Clinical Education Setting.

Notwithstanding any unanticipated effect of any provisions of this Agreement, neither party shall intentionally conduct itself in such a manner as to violate the prohibition against fraud and abuse in connection with the Medicare and Medicaid programs or other Federal programs.

11. Non-Exclusive. The Institution may enter into similar agreements with other facilities and providers, and Kindred may enter into similar agreements with other educational institutions.

12. Non-Discrimination. The Institution and Kindred shall not unlawfully discriminate against any individual on the basis of race, creed, color, sex, religion, age, disability, veteran's status, sexual orientation or national origin, or any other basis protected by federal, state or local law in any actions taken as a result of this Agreement.

13. Confidential and Proprietary Information. Except as otherwise provided herein, the parties shall not disclose confidential or proprietary information of the other party, or the other party's affiliates, to any third-party without the written consent of the other party; provided, that a party may disclose confidential information: (i) to its, and its affiliates' officers, directors, employees and legal counsel, in each case to the extent the same have a need to know such confidential information; (ii) as necessary in connection with the enforcement of this Agreement or any agreement to be entered into hereunder, or otherwise in connection with legal proceedings, regulatory requirements or as otherwise required under applicable law, except that a party shall seek to limit disclosure and maintain confidential treatment to the extent practicable in connection with any legal proceeding (e.g., by seeking to file pleadings under seal or by allowing the other party to seek a protective order); and (iii) as required under the rules and regulations of the Securities and Exchange Commission or of any securities exchange on which securities of such party are traded, provided that the other party shall have been furnished a copy of the text of the proposed disclosure in advance of such disclosure and been given an opportunity to comment on such disclosure which is reasonable under the circumstances, and the disclosing party shall have made any reasonable modifications to such disclosure as requested by such party. In addition, neither party shall make use of the other's name(s) nor logo(s) in print without the prior written approval of the party's authorized representative. Notwithstanding the above, Kindred and its employees or agents may disclose to a patient that the patient will be seen or treated by a Student of the Institution and Kindred or Institution may at any time disclose affiliation with the other for informational purposes.

14. [RESERVED]

15. Headings. The headings of this Agreement are inserted for convenience only and are not to be considered in the interpretation of this Agreement.

16. No Violation. No party to this Agreement shall be liable for failure to perform any duty or obligation that said party may have under the Agreement where such failure has been occasioned by any act of God, fire, strike, inevitable accident, war, epidemic, pandemic or any cause outside the reasonable control of the party who had the duty to perform.

17. Assignability. Neither party may assign its rights or obligations hereunder without the prior written approval of the other.

18. No Waiver. No waiver of a breach of any provision of this Agreement will be construed to be a waiver of any other breach of this Agreement, whether of a similar or dissimilar nature. By executing this Agreement, neither the Institution nor Kindred waives any constitutional, statutory or common law defenses, nor will the provisions of this Agreement create any rights in any third-party.

19. Survival. Any provisions of this Agreement creating obligations extending beyond the term of this Agreement will survive the expiration or termination of this Agreement, regardless of the reason for such termination.

20. HIPAA. Kindred is subject to certain requirements contained in the Health Insurance Portability and Accountability Act of 1996, amendments thereto and implementing regulations ("HIPAA"), and must comply with the terms of any HIPAA Business Associate agreements between Kindred and facility health care providers to whom Kindred provides services. Accordingly, and consistent with applicable provisions herein, the Institution shall specifically inform its Students of their obligation to comply with the HIPAA policies and procedures of Kindred and the HIPAA policies and procedures of the Clinical Education Setting. Kindred may in its sole discretion terminate the participation of any Student who violates such HIPAA policies.

21. Entire Agreement; Amendment. This Agreement constitutes the complete and entire agreement of the parties hereto and supersedes, as of the Effective Date, all prior or contemporaneous representations or agreements or undertakings and understandings of the parties, whether expressed or implied, in connection with the subject matter hereof. No promise or inducement has been offered by either party in exchange for a party's consent to the terms of this Agreement, except as set forth herein. This Agreement may be modified or amended only in writing duly signed by both Parties.

22. Due Execution. This Agreement has been duly authorized, executed and delivered by each party and constitutes a valid and binding obligation, enforceable in accordance with its terms.

23. Electronic Storage of Agreement. The original of this Agreement, including the signature page, may be scanned and stored in a computer database or similar device, and any printout or other output readable by sight, the reproduction of which is shown to accurately reproduce the original of this document, may be used for any purpose just as if it were the original, including proof of the content of the original writing.

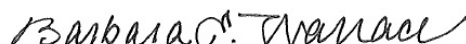
24. Counterparts; Faxed Signatures. This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which, when taken together, will constitute one and the same agreement. Any facsimile or photocopy of a signature to this Agreement will be deemed an original signature to this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the parties hereto have executed this Agreement as of the Effective Date.

INSTITUTION

KINDRED

By: 

By: 

Title: Wendy F. Hensel
Provost & Senior Vice President
for Academic Affairs

Title: Sr. Director, University Relations