

An Agreement effective the 1st day of January 2020.

**BETWEEN**:

# MANITOBA PHYSIOTHERAPY ASSOCIATION

(called the “**MPA**”)

- and -

**THE MANITOBA PUBLIC INSURANCE CORPORATION,**

(called “**Manitoba Public Insurance**”)

**WHEREAS**:

(a) MPA is a volunteer non-profit professional organization mandated to advocate on behalf of the profession of physiotherapy in the Province of Manitoba;

(b) Manitoba Public Insurance is a corporation created pursuant to the provisions of *The Manitoba Public Insurance Corporation Act*, C.C.S.M. c. P215 (the “**Act**”); and,

(c) MPA and Manitoba Public Insurance wish to enter into an understanding with respect to consulting on the provision of physiotherapy services (the “**Agreement**”).

**NOW THEREFORE**, in consideration of the foregoing recitals, terms, conditions and covenants contained herein, it is hereby agreed as follows:

**1.00 TERM OF AGREEMENT**

1.01 The term of this Agreement shall commence as of January 1, 2020, and shall continue until terminated by either party in accordance with this Agreement (the “**Term**”).

**2.00 SCOPE**

2.01 This Agreement outlines the consultations between the parties regarding the Services provided by physiotherapists to persons insured pursuant to the Act and entitled to Personal Injury Protection Plan benefits thereunder. Physiotherapy services provided under this Agreement shall be referred to as the “**Services**”.

2.02 Throughout the Term of this Agreement, Manitoba Public Insurance and MPA shall maintain a Joint Advisory Committee (the “**Committee**”) in accordance with the terms and conditions established by the Committee. The purpose of the Committee is to facilitate consultation by Manitoba Public Insurance with the MPA regarding concerns that may arise from time to time, for either party, and to provide an avenue of communications between the organizations including, but not necessarily limited to, resolving disputes, maintaining open lines of communication, standards of service delivery and various educational matters regarding the Services.

2.03 Manitoba Public Insurance may consult the MPA on various issues, however Manitoba Public Insurance reserves the right to establish its own polices, rates, strategic direction, and legal terms applying to the Services generally. While Manitoba Public Insurance may consult with the MPA on these matters, nothing in this Agreement is intended to restrict or prevent Manitoba Public Insurance from exercising its legislated rights and obligations.

**3.00 RELATIONSHIP**

3.01 For the purposes of this Agreement, “**Representatives**” shall mean the directors, officers, shareholders, employees, subcontractors, partners, volunteers, affiliates, agents, delegates, and other representatives of a party. MPA is an independent contractor, and this Agreement does not create the relationship of employer and employee, of principal and agent, of joint venture, or of partnership between Manitoba Public Insurance and MPA or between Manitoba Public Insurance and any Representatives of MPA. The Representatives of one party shall not be deemed or construed to be the Representatives of the other party for any purpose whatsoever.

**4.00 CONFIDENTIALITY AND INFORMATION SECURITY**

4.01 The MPA acknowledges that *The Freedom of Information and Protection of Privacy Act* (“**FIPPA**”) and *The Personal Health Information Act* (“**PHIA**”) each impose obligations on Manitoba Public Insurance to collect, use or disclose “personal information” and “personal health information”, as those terms are defined in FIPPA and PHIA (collectively called “**Personal Information**”), in the strictest of confidence, and in accordance with those Acts. Under this Agreement, the MPA acknowledges that the Manitoba Public Insurance may provide the MPA with access to Personal Information in preparation for or in the course of the Joint Advisory Committee meetings provided for by this Agreement.

4.02 While this Agreement is in effect, and at all times thereafter, the MPA agree to treat as confidential all information and materials acquired by the MPA from Manitoba Public Insurance, or to which the MPA have been given access by Manitoba Public Insurance, in the course of the performance of this Agreement (collectively called “**Confidential Information**”), excluding information that is in the public domain (for greater certainty, this does not include information in the public domain which was made public as a result of an unauthorized disclosure by a third party). For the purposes of this Agreement, Personal Information shall be considered to be Confidential Information.

4.03 The MPA agrees that during the Term of this Agreement and at all times thereafter:

(a) the Personal Information disclosed to the MPA by Manitoba Public Insurance may only be used by the MPA in a manner expressly permitted by FIPPA or PHIA (as the case may be);

(b) the MPA shall not disclose or permit the disclosure of Confidential Information, or any copies of it, in any format, to any third party without the express prior written consent of Manitoba Public Insurance;

(c) the MPA shall comply with all directives given to the MPA by Manitoba Public Insurance with respect to safeguarding, or otherwise ensuring the confidentiality, of any Confidential Information disclosed to the MPA by Manitoba Public Insurance;

(d) the MPA shall ensure that access to the Confidential Information by the its Representatives is on a “need-to-know” basis, and that access, when given, shall be to the minimum amount of Confidential Information necessary to accomplish the task;

(e) the MPA shall use the Confidential Information only for those purposes that have been expressly permitted by Manitoba Public Insurance;

(f) the MPA shall not reproduce Confidential Information, in any format, without the express prior written consent of Manitoba Public Insurance, provided that the MPA shall be able to reasonably reproduce the Confidential Information for internal use only in the normal performance of this Agreement;

(g) the MPA shall ensure that the MPA and its Representatives do not transport or store any Confidential Information outside of Canada without the express prior written consent of Manitoba Public Insurance; and,

(h) upon termination of this Agreement, or after the Confidential Information has been used for its authorized purpose, or where destruction of the Confidential Information is requested by Manitoba Public Insurance or is required by this Agreement, the MPA shall destroy the Confidential Information (and all copies of the Confidential Information in any form) in a manner which adequately protects the confidentiality of the Confidential Information. The MPA shall ensure that the Confidential Information that is destroyed cannot be reconstructed (whether physical or electronic, or any other form).

4.04 The MPA represents and warrants that the MPA has established an information security management practice that follows industry standards and best practices. During the Term of this Agreement and at all times thereafter, the MPA shall take reasonable precautions to prevent any unauthorized disclosure of the Confidential Information. The standard of such precautions taken by the MPA shall be the greater of:

(a) the standards the MPA has in place to protect its own confidential information; or,

(b) the standards imposed on the MPA by Manitoba Public Insurance.

4.05 The MPA shall immediately notify Manitoba Public Insurance in writing upon becoming aware of any actual or suspected unauthorized use, disclosure, or destruction of, or any unauthorized access to, Confidential Information (a “**Confidentiality Breach**”). The written notification must include full details of the Confidentiality Breach. The MPA shall immediately take all reasonable steps to prevent the recurrence of any such Confidentiality Breach and shall notify Manitoba Public Insurance in writing of the steps taken. In the event of a Confidentiality Breach, Manitoba Public Insurance may do any combination of the following (i) impose increased standards on the MPA related to the MPA’s treatment of the Confidential Information and the MPA shall comply with such increased standards, and/or (ii) if applicable, limit the MPA’s access to the Manitoba Public Insurance’s systems, and/or (iii) enforce or use any other applicable section of this Agreement.

4.06 The MPA shall inform its Representatives of the obligations imposed upon the MPA in this Agreement with respect to Confidential Information, and the MPA shall take whatever steps are necessary to ensure that all of the MPA’s applicable Representatives comply with those obligations.

4.07 The MPA acknowledges that monetary damages may not be a sufficient remedy for a Confidentiality Breach, and that Manitoba Public Insurance may, without waiving any other rights or remedies, seek appropriate injunctive or equitable relief from a court of competent jurisdiction.

4.08 If the MPA receives a subpoena, or other validly issued administrative or judicial order seeking Confidential Information, the MPA shall provide prompt notice to Manitoba Public Insurance and deliver to Manitoba Public Insurance a copy of the MPA’s proposed response to the demand. Unless the demand has been time-limited, quashed or extended, the MPA shall thereafter be entitled to comply with the demand to the extent permitted or required by law. If so requested by Manitoba Public Insurance, the MPA shall cooperate with Manitoba Public Insurance in the defence of the demand, at Manitoba Public Insurance’s expense.

4.09 The MPA undertakes not to publish any public statement or advertisement with respect to this Agreement and further undertakes not to seek publicity of this Agreement without the express prior written consent of Manitoba Public Insurance, except as otherwise required by law, by this Agreement, or to communicate the obligations of this Agreement to the physiotherapists and claimants.

4.10 The MPA shall cooperate with Manitoba Public Insurance so that Manitoba Public Insurance can verify that the MPA has complied, and is complying with the provisions of this Article 4.00.

**5.00 TERMINATION**

5.01 Either party may terminate this Agreement by providing thirty (30) days prior written notice to the other party.

**6.00 GENERAL TERMS**

6.01 The terms and conditions contained in the Agreement that by their sense and context are intended to survive the performance of the Agreement by the parties shall so survive the completion and performance or termination of the Agreement.

6.02 Neither party shall assign or transfer this Agreement or any of the rights or obligations under this Agreement without first obtaining written permission from the other. No assignment or transfer of this Agreement shall relieve either party of any obligations under this Agreement, except to the extent they are properly performed by such party’s permitted assigns. This Agreement shall be binding upon the successors and any permitted assigns of the parties.

6.03 This Agreement contains the entire agreement between the parties with respect to the subject matter hereof. There are no undertakings, representations, or promises, express or implied, other than those contained in this Agreement and none have been relied on.

6.04 No amendment or change to, or modification of, this Agreement shall be valid unless it is in writing and signed by all parties.

6.05 This Agreement shall be interpreted, performed, and enforced in accordance with the laws of Manitoba and the laws of Canada applicable therein. The parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the Province of Manitoba and all courts competent to hear appeals therefrom.

6.06 Any failure or delay by either party to exercise or partially exercise any right hereunder shall not be deemed a waiver of any of the rights under this Agreement. The waiver by either party of a breach of any provision of this Agreement shall not operate as, or be construed as, a waiver of any subsequent breach thereof. The election of any one or more remedies by either party shall not constitute a waiver of that party’s right to pursue other available remedies.

6.07 The parties each agree to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of the Agreement.

6.08 Any notice or other communication under this Agreement shall be delivered:

To the MPA:

Attention: Executive Director

Manitoba Physiotherapy Association

145 Pacific Avenue, Suite 207 R3B 2Z6

Email: executivedirector@mbphysio.org

To Manitoba Public Insurance:

Attention: Director, Injury Claims Management

Manitoba Public Insurance

P.O. Box 6300

234 Donald Street

Winnipeg MB R3C 4A4

Email: ICMAgreements@mpi.mb.ca

 6.09 Any notice or communication:

(a) sent by registered mail shall be deemed to have been received on the third business day following the date of mailing;

(b) sent by facsimile or other electronic transmission (including email) shall be deemed to have been received on the day of transmission; and,

(c) sent by courier or personal delivery shall be deemed to have been received on the day that it was delivered.

This Agreement has been executed on behalf of each party by their duly authorized representatives on the dates noted below.

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| for **THE MANITOBA PUBLIC INSURANCE CORPORATION**Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Benjamin GrahamPresident and CEODate:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Curtis WennbergVice President, Customer Service And Chief Operating Officer Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | for **MANITOBA PHYSIOTHERAPY ASSOCIATION** Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Nancy GoodallPresidentDate:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |