

## **Transfer/Transport Agreements**

### **Introduction**

Interhospital transport of pregnant women and infants is an essential component of regional perinatal care. The goal is to care for high-risk women and infants in facilities that provide the required level of specialized care. Interhospital transport of a pregnant woman is recommended if appropriate services and staff are not available for either the woman or her newborn at the referring facility. Both the facilities and the professionals providing health care to pregnant women need to understand their obligations under the law for patient transfer/transport.

There are three types of perinatal patient transport:

1. Maternal/fetal transport – A pregnant woman is transferred during the antepartum or intrapartum period for special care of the woman, fetus and/or neonate.
2. Neonatal transport:
  - A team is sent from the receiving hospital to the referring hospital to evaluate and stabilize the neonate at the referring hospital and then transfer the neonate back to the receiving hospital.
  - A team is sent from the referring hospital with a neonate who is being transferred to another hospital for specialized or intensive care.
  - A team is sent from one hospital to the referring hospital to evaluate and stabilize the neonate and then transfer the neonate to a third hospital (re: bed constraints or availability of specialized care)
3. Return transport (AKA back transport) – A woman or her neonate, after receiving intensive or specialized care at a referral center, is returned to the original referring hospital or to a local hospital for continuing care after the problems that required the transfer have been resolved.

An interhospital transfer/transport program should provide 24-hour service. It should include a receiving or program center responsible for ensuring that high-risk patients receive the appropriate level of care, a dispatching unit to coordinate the transport of patients between facilities, an appropriately equipped transport vehicle, and a specialized transport team. The program also should have a system for providing a continuum of care by various providers, including the personnel and equipment required for the level of care needed, as well as outreach education and program evaluation.

### **Transfer/Transport Agreements:**

To ensure optimal care of high-risk patients, the following components must be part of a regional referral program:

1. Formal transfer/transport agreements between participating hospitals
2. Risk identification and assessment of problems that are expected to benefit from consultation and transport

3. Assessment of the perinatal capabilities and determination of conditions necessitating consultation, referral, or transfer by the medical staff of each participating hospital
4. Resource management
5. Adequate financial and personnel support
6. A reliable, accurate and comprehensive communication system between participating hospitals
7. Determination of responsibility for each of these functions.

Formal transfer/transport agreements between hospitals are developed to outline procedures for transport and responsibilities for patient care. Specific responsibilities of both the referring and the receiving hospitals must be clearly delineated, especially with regard to which institution assumes responsibility for the care of the patient(s) at which point in the transfer process. Sample Transfer/Transport Agreements are included in this section.

There are regulations and standards that govern the development and implementation of Transport Agreements in the State of California. Each transport system must comply with the standards and regulations set forth by local, state and federal agencies. For example – Title 22: Licensing and Certification of Health Facilities, Home Health Agencies, Clinics, and Referral Agencies states, “A perinatal unit shall provide formal arrangements for consultation and/or transfer of an infant to an intensive care newborn nursery, or a mother to a hospital with the necessary services, for problems beyond the capability of the perinatal unit” [Title 22, 70547 (a)(4)]

### **Transfer/Transport Agreements are not the same thing as Regional Cooperation Agreements (RCA)**

Transfer/Transport Agreements delineate the specific responsibilities for transferring patients from one hospital to another hospital. While there is some reference in the *AAP/ACOG Guidelines for Perinatal Care, 5<sup>th</sup> Edition* to the need for outreach education and program evaluation as part of an interhospital transfer/transport program, the major focus of a Transfer/Transport Agreement is to safely, efficiently and legally facilitate the movement of the patient from a referring facility to a receiving facility.

A Regional Cooperation Agreement (RCA) is defined by California Children’s Services (CCS) as a written agreement, approved by the CCS program, with an affiliated CCS-approved Regional or Community NICU, which specifies mutual responsibility for at least the following:

1. Joint education and training of perinatal health professionals; and
2. Joint development of guidelines for consultation by perinatal, neonatal and other specialty disciplines, as indicated; and
3. Joint development of guidelines for maternal and neonatal patient referral and transport to and from each facility/NICU; and
4. Joint identification, development and review of protocols, policies and procedures related to the care of the high-risk obstetric and neonatal patient, at least every two years; and
5. Joint review of outcome data, according to CCS requirements, at least annually.

# SAMPLE

## NEONATAL, PEDIATRIC AND/OR MATERNAL TRANSFER & TRANSPORT SUB-AGREEMENT

### **I. General Responsibilities of the Center.**

A. The Center will provide care for patients, when transfer is accepted by a neonatologist, perinatologist or pediatric intensivist on the Center staff. It is understood that availability of beds and other factors place limitations on transfers and that this Agreement in no way guarantees acceptance of such transfer at all times.

B. The criteria for transferring patients shall be based on diagnosis, acuity and/or need for specific medical or surgical therapies available at the Center. It shall be the responsibility of the physician to whom the patient is to be transferred:

- (1) to determine the method to be used;
- (2) to provide transport team and ambulance, if such is necessary, and to arrange for the admission of the patient to the Center contingent on bed availability.

C. When the patient's physician at the Center determines that the patient is medically fit to return to the Affiliate Hospital, this physician shall contact the patient's physician at the Affiliate Hospital and arrange for the return transfer, subject to the parents/patient agreement to the return transfer. Arrangements for the return are subject to any payor requirements regarding authorization for transfer of the patient to affiliate hospital. At the time of transfer, the Center shall send the patient, the necessary documents and forms containing the medical-social and/or other information necessary to ensure continuity of care to the patient. The Center shall be responsible for informing the patient, patient's parents or other relatives or guardian of the transfer process and for obtaining any releases necessary for the transfer or the appropriate disposition of any personal effects of the patient. The Center will be responsible for arranging patient transport to Affiliate Hospital.

D. A copy of the patient's discharge summary will be provided to the referring hospital and the referring physician.

### **II. Responsibilities of the Affiliate Hospital.**

A. The Affiliate Hospital shall meet the criteria for hospital participation in the CCS standards of pediatric and neonatal care to assure that the highest quality of health care is provided to children with special health care needs. In the event services of a Tertiary Hospital are needed, appropriate referrals shall be made in accordance with the CCS standards.

# SAMPLE

B. The referring Affiliate Hospital staff will provide basic life support to the patient as necessary, and according to the patient's medical condition prior to the transfer. The referring Affiliate Hospital staff shall arrange for the orderly transfer of patient with specialized needs and provide interim stabilization of the patient while awaiting transfer. Mutually agreed upon stabilization protocol(s) may be employed.

C. When it appears that a patient at a referring Affiliate Hospital may require transportation to the Center, the patient's physician shall contact by telephone or in person an appropriate physician, as indicated, at the Center to obtain consultation. The referring physician, in conjunction with the Center consultant, shall be responsible for determining the need for admission to the Center.

D. The Affiliate Hospital shall send with the patient at the time of transfer, the necessary documents and completed forms, including but not limited to the medical, social, and other records necessary to ensure continuity of care to the patient.

E. The Affiliate Hospital shall be responsible for informing the patient, patient's parents or other relatives or guardian of the transfer process, and for obtaining any release to effect the transfer.

F. The Affiliate Hospital shall be responsible for the transfer and/or other appropriate disposition of any effects of the patient.

G. The referring Affiliate Hospital shall arrange for and supply necessary transport staff for the transfer of **maternal** patients to the Center.

### **III. Mutual Responsibilities.**

A. **Billing.** Billing for services performed by either institution shall be made and collected by the institution in accordance with its regular policies and procedures. Unless special arrangements have been made to the contrary, the transfer of a patient from one institution to the other shall not be construed as imposing any financial liability by one institution on the other. The parties shall cooperate with each other in the services rendered by them to the patients who are transferred to the Center.

B. **Governance.** The governing body of each institution shall have exclusive control of its policies, management, assets and affairs, and neither shall incur any responsibility by virtue of this Sub-Agreement for any debts or other financial obligations incurred by the other. Further, nothing in this Affiliation Agreement shall be construed as limiting the rights of either institution to contract with any other facility on a limited or general basis.

C. **Legal Requirements.** This Sub-Agreement is entered into and shall be performed by both parties in compliance with applicable local, state and federal laws, rules, regulations and guidelines including, but not limited to, Joint Commission on

# SAMPLE

Accreditation of Healthcare Organizations, State of California Title 22 Standards and California Children Services Standards (CCS).

D. **Return Transport.** In the event that the transferred patient no longer requires specialized tertiary care services of the Center in the judgment of the Center neonatologist, and in accord with any relevant CCS standards for neonates and children to be in a facility closer to the home of the parent or primary caretaker, the patient shall be returned to Affiliate Hospital when deemed medically stable for transfer. Affiliate Hospital agrees that upon request of the Center it will accept the patient back for continued care within its functional capability. The Center will evaluate the patient for repatriation on a continual basis and upon Affiliate Hospital physician's request.

#### IV. **Term of this Transfer and Transport Sub-Agreement**

The term of this Transfer & Transport Sub-Agreement shall commence and expire in accordance with the Master Affiliation Agreement under which this Sub-Agreement is dependent. Notwithstanding the foregoing, this Transfer & Transport Sub-Agreement will be updated and signed annually, in accordance with CCS Standards. Should either institution fail to maintain its license or certification, however, the Master Affiliation Agreement and Sub-Agreement shall automatically terminate as of the date of the termination of the license or certification.

# SAMPLE

## TRANSFER AGREEMENT

### X (REFERRING) HOSPITAL and Y (RECEIVING) HOSPITAL

THIS TRANSFER AGREEMENT ("Agreement") is made as of this first day of (Month) (Year), by and between X Referring Hospital (X) and Y Receiving Hospital (Y) and are sometimes individually referred to herein as "facility" and collectively as "facilities."

#### WITNESSETH:

WHEREAS, the parties hereto desire to enter into this Agreement governing the transfer of patients between the two facilities located in California ("State"); and

WHEREAS, the parties hereto desire to enter into this Agreement in order to specify the rights and duties of each of the parties and to specify the procedure for ensuring the timely transfer of patients between the facilities;

NOW, THEREFORE, to facilitate the continuity of care and the timely transfer of patients and records between the facilities, the parties hereto agree as follows:

**1. TRANSFER OF PATIENTS.** In the event any patient of either facility is deemed by that facility ("Referring Facility") as requiring the services of the other facility ("Receiving Facility") as requiring the services of the other facility deems appropriate, the Referring Facility or the patient's attending physician will contact the dispatch center at (XXX) XXX-XXXX to arrange for appropriate treatment as contemplated herein. All transfers between the facilities shall be made in accordance with applicable federal and state laws and regulations, the standards of the Joint Commission on the Accreditation of Healthcare Organizations ("JCAHO") and any other applicable accrediting bodies, and reasonable policies and procedures of the facilities. Neither the decision to transfer a patient nor the decision to not accept a request to transfer a patient shall be predicated upon arbitrary, capricious, or unreasonable discrimination or based upon the patient's inability to pay for services rendered by either facility. The Receiving Facility's responsibility for the patient's care shall begin when the patient is admitted to the Receiving Facility.

**2. RESPONSIBILITIES OF THE REFERRING FACILITY.** The Referring Facility shall be responsible for performing or ensuring performance of the following:

- a. Provide, within its capabilities, for the medical screening and stabilizing treatment of the patient prior to transport.
- b. Arrange for appropriate and safe transportation and care of the patient during transfer, in accordance with applicable federal and state laws and regulations.
- c. Designate a person who has authority to represent the Referring Facility and coordinate the transfer of the patient from the facility.
- d. Notify the Receiving Facility's designated representative prior to transfer to receive confirmation as to availability of appropriate facilities, services, and staff necessary to provide care to the patient.
- e. Prior to patient transfer, the transferring physician shall contact and secure a receiving physician at the Receiving Facility who shall attend to the medical needs of the patient and who will accept responsibility for the patient's medical treatment and hospital care.
- f. Provide, within its capabilities, appropriate personnel, equipment, and services to assist the transferring physician with the coordination and transfer of the patient.

# SAMPLE

- g. Provide, within its capabilities, personnel, equipment, and life support measures determined appropriate for the transfer of the patient by the transferring physician.
- h. Forward to the receiving physician and the Receiving Facility a copy of those portions of the patient's medical record that are available and relevant to the transfer and continued care of the patient, including records related to the patient's condition, observations of signs of patient's condition, preliminary diagnosis, treatment provided, results of any tests, and with respect to a patient with an emergency medical condition that has not been stabilized, a copy of the patient's informed consent to the transfer or physician certification that the medical benefits of the transfer outweigh the risks of transfer. If all necessary and relevant medical records are not available, then the records will be forwarded by the Transferring Facility as soon as possible.
- i. Transfer of patient's personal effects, including, but not limited to, money and valuables, and information related to those items.
- j. Provide the Receiving Facility any information that is available concerning the patient's coverage or eligibility under a third party coverage plan, Medicare or Medicaid, or a health care assistance program established by a county, public hospital, or hospital district.
- k. Notify the Receiving Facility of the estimated time of arrival of the patient.
- l. Provide for the completion of a certification statement, summarizing the risk and benefits of the transfer of a patient with an emergency condition that has not been stabilized, by the transferring physician if not physically present at the facility at the time of transfer.
- m. Acknowledge any contractual obligations and comply with any statutory or regulatory obligations that might exist between a patient and a designated provider.
- n. Recognize the right of a patient to refuse consent to treatment or transfer.
- o. Complete, execute, and forward a memorandum of transfer form to the Receiving Facility for every patient who is transferred.
- p. Establish a policy and/or protocols (i) for maintaining the confidentiality of the patient's medical records in accordance with applicable state and federal law and (ii) for the inventory and safekeeping of any patient valuables sent with patient to the Receiving Facility.

**3. RESPONSIBILITIES OF THE RECEIVING FACILITY.** The Receiving Facility shall be responsible for performing or ensuring performance of the following:

- a. Provide, as promptly as possible, confirmation to the Referring Facility regarding the availability of bed(s), appropriate facilities, services, and staff necessary to treat the patient and confirmation that the Receiving Facility has agreed to accept transfer of the patient. The Receiving Facility shall respond within 10 minutes after receipt of the request to transfer a patient with an emergency medical condition.
- b. Provide, within its capabilities, appropriate personnel, equipment, and services to assist the receiving physician with the receipt and treatment of the patient at the Receiving Facility and provide, on request, the names of on-call physicians to the Referring Facility.
- c. Reserve beds, facilities, and services as appropriate for patients being transferred from the Referring Facility who have been accepted by the Receiving Facility and a receiving physician, if deemed necessary by a transferring physician unless such are needed by the Receiving Facility for an emergency.

# SAMPLE

- d. Designate a person who has authority to represent and coordinate the transfer and receipt of patients into a facility.
- e. When appropriate and within its capabilities, assist with the transportation of the patient as determined appropriate by the transferring or receiving physician.
- f. Provide the Referring Facility with a copy of the medical records of the patient that were generated at the Receiving Facility, if the patient is returned to the Referring Facility by the Receiving Facility.
- g. Maintain the confidentiality of the patient's medical records in accordance with applicable state and federal law.
- h. Establish a policy and/or protocols (i) for maintaining the confidentiality of the patient's medical records in accordance with applicable state and federal law, (ii) for the receipt of the patient into the facility, and (iii) for the acknowledgment and inventory of any patient valuables transported with the patient.
- i. Upon request, provide current information concerning its eligibility standards and payment practices to the Referring Facility and patient.
- j. Acknowledge any contractual obligations and comply with statutory or regulatory obligations that might exist between a patient and a designated provider.
- k. Complete, execute, and return the memorandum of transfer form to the Referring Facility.
- l. Ensure a procedure is in place to provide medical information to the referring physician on a regular and periodic basis.

**4. BILLING.** All charges incurred with respect to any services performed by facility or patients received from the other facility pursuant to this Agreement shall be billed and collected by the facility providing such services directly from the patient, third party coverage, Medicare or Medicaid, or other sources normally billed by the facility. In addition, it is understood that professional fees will be billed by the physicians or other professional providers that may participate in the care and treatment of the patient information in its possession to the other facility and such physicians/providers sufficient to enable them to bill the patient, responsible party, or appropriate third party payers.

**5. RETRANSFER; DISCHARGE.** At such time as the patient is ready for transfer back to the Referring Facility or another health care facility or discharge from the Receiving Facility, in accordance with the direction from the Referring Facility and with the proper notification of the patient's family or guardian, the patient will be transferred to the agreed upon location. If the patient is to be transferred back to the Referring Facility, the Receiving Facility will be responsible for the care of the patient up until the time the patient is re-admitted to the Referring Facility.

**6. COMPLIANCE WITH LAW.** Both facilities shall comply with all applicable federal and state laws, rules and regulations, including, without limitation, those laws and regulations governing the maintenance of medical records and confidentiality of patient information as well as with all standards promulgated by a relevant accrediting agency.

**7. RESPONSIBILITY; INSURANCE.** The facilities shall each be responsible for their own acts and omissions in the performance of their duties hereunder, and the acts and omissions of their own employees and agents. In addition, each party shall maintain, throughout the term of this Agreement, comprehensive general and professional liability insurance and property damage insurance coverage in amounts reasonably acceptable to the other party, and shall provide evidence of such coverage upon request.

# SAMPLE

**8. TERM; TERMINATION.**

- a. The initial term of this Agreement (“Initial Term”) shall be for a period of one year unless sooner terminated as provided herein. At the end of the Initial Term and each Renewal Term (as hereinafter defined), if any, this Agreement may be renewed for an additional term of one (1) year (“Renewal Term”), but only upon mutual written agreement upon request.
- b. In the event the parties continue to abide by the terms of this Agreement after the expiration of the Initial Term or any Renewal Term, this Agreement shall continue on a month-to-month basis thereafter.
- c. Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other party. Either party may terminate this Agreement upon breach by the other party of any material provision of this Agreement, provided such breach continues for five (5) days after receipt by the breaching party of written notice of such breach from the non-breaching party. This Agreement may be terminated immediately upon the occurrence of any of the following events:
  - (1) Either facility closes or discontinues operations to such an extent that patient care cannot be carried out adequately.
  - (2) Either facility loses its license, or Medicare certification.

This Agreement may be renewed for subsequent one (1) year terms upon the mutual written consent of the parties.

**9. ARBITRATION.** Any dispute or controversy arising under, out of or in connection with, or in relation to this Agreement, or any amendment hereof, or the breach hereof shall be determined and settled by arbitration in \_\_\_\_\_, in accordance with the rules of the American Arbitration Association and applying the laws of the State. Any award rendered by the arbitrator shall be final and binding upon each of the parties, and judgment thereof may be entered in any court having jurisdiction thereof. The costs shall be borne equally by both parties. During the pendency of any such arbitration and until final judgment thereon has been entered, this Agreement shall remain in full force and effect unless otherwise terminated provided hereunder.

**10. ENTIRE AGREEMENT; MODIFICATION.** This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the parties relating to such subject matter. This Agreement may not be amended or modified except by mutual written agreement.

**11. GOVERNING LAW.** This Agreement shall be construed in accordance with the laws of the State.

**12. PARTIAL INVALIDITY.** If any provision of this Agreement is prohibited by law or court decree of any jurisdiction, said prohibition shall not invalidate or affect the remaining provisions of this Agreement.

**13. NOTICES.** All notices hereunder by either party to the other shall be in writing, delivered personally, by certified or registered mail return receipt requested, or by overnight courier, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, addressed as follows:

If to   X   :           X Hospital  
                                  1XXX X Avenue  
                                  X, CA 9XXXX  
                                  Attn: Alice X

Copy to: X Hospital  
                                  1XXX X Avenue

# SAMPLE

X, CA 9XXXX  
Attn: Joseph X

If to Y: Y Hospital  
1YYY Y Avenue  
Y, CA 9YYYY  
Attn: John Y

or to such other persons or places as either party may from time to time designate by written notice to the other.

**14. WAIVER.** A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure.

**15. ASSIGNMENT; BINDING EFFECT.** Facilities shall not assign or transfer, in whole or part, this Agreement or any of Facilities' rights, duties or obligations under this Agreement without the prior written consent of the other Facility, and any assignment or transfer by either facility without such consent be null and void. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs representatives, successors and permitted assigns.

**16. CHANGES IN LAW.**

- a. Legal Event; Consequences. Notwithstanding any other provision of this Agreement, if, subsequent to the effective date hereof, the governmental agencies that administer the Medicare, Medicaid, or other federal programs (or their representative or agents), or any other federal, state, or local governmental or non-governmental agency, or any court of administrative tribunal passes, issues or promulgates any law, rule, regulation, standard, interpretation, order, decision or judgment, including but not limited to those relating to any Safe Harbor regulations pursuant to 42 U.S.C. s1320-7b (anti-kickback statute) or any self-referral regulations pursuant to 42 U.S.C. s1395nn ("Stark II") (collectively or individually, "Legal Event"), which, in the good faith judgment of one party (the "Noticing Party"), materially and adversely affects either party's licensure, accreditation, certification, or ability to refer, to accept any referral, to bill, to claim, to present a bill or claim, or to receive payment or reimbursement from any federal, state, or local governmental or non-governmental payor, or which subjects the Noticing Party to a risk of prosecution or civil monetary penalty, or which, in the good faith judgment of the Noticing Party, indicates a Safe Harbor rule or regulation with which the Noticing Party desires further compliance, then the Noticing Party may give the other party notice of intent to amend or terminate this Agreement in accordance with the next paragraph.
- b. Notice Requirements. The Noticing Party shall give notice to the other party together with an opinion of counsel setting forth the following information:
- (1) The Legal Event(s) giving to the notice;
  - (2) The consequences of the Legal Events(s) as to the Noticing Party;
  - (3) The Noticing Party's intention to either:
    - (a) Terminate this Agreement due to unacceptable risk of prosecution or civil monetary penalty; or
    - (b) Amend this Agreement, together with a statement that the purpose thereof is one of more of the following:
      - (i) to further comply with any Safe Harbor rules or regulations created or affected by the Legal Event(s); and/or
      - (ii) to satisfy any licensure, accreditation or certification requirements created or affected by the Legal Event(s); and/or
      - (iii) to preserve the Noticing Party's ability to refer, accept referrals, or present bills or claims to or from the other party or any other person or entity; and/or

# SAMPLE

- (iv) to eliminate or minimize the risk of prosecution or civil monetary penalty;
  - (4) The Noticing Party's proposed amendment(s); and
  - (5) The Noticing Party's request for commencement of the Renegotiation Period (as defined below).
- c. Renegotiating Period; Termination. In the event of notice under either subparagraph b. (3) (a) or b. (3) (b) above, the parties shall have ten (10) days from the giving of such notice ("Renegotiating Period") within which to attempt to amend this Agreement in accordance with the Noticing Party's proposal (if any) or otherwise as the parties may agree. If this Agreement is not amended within the Renegotiation Period, this Agreement shall terminate as of midnight on the 10th day after said notice was given. Except as otherwise required by applicable law, any amounts owing to either party hereunder shall be paid, on a pro rata basis, up to the date of such termination, and any obligation hereunder that is to continue beyond expiration or termination shall so continue pursuant to its terms. All opinions of counsel presented by the Noticing Party hereunder, and any corresponding opinions given by the other party in response, shall be deemed confidential and given solely for purposes of renegotiating and settlement of a potential dispute, and shall not be deemed disclosed so as to waive any privileges otherwise applicable to said opinions.

# SAMPLE

17. **EXECUTION OF AGREEMENT.** This Agreement shall not become effective or in force until all of the required signatories below have executed this Agreement.

THE PARTIES HERETO have executed this Agreement as of the day and year first above written.

**HOSPITAL X: (Referring Hospital)**

**HOSPITAL Y: (Receiving Hospital)**

\_\_\_\_\_  
Hospital Administrator

\_\_\_\_\_  
Hospital Administrator

\_\_\_\_\_  
Medical Director, NICU

\_\_\_\_\_  
Medical Director, NICU

\_\_\_\_\_  
Medical Director, OB/Perinatal

\_\_\_\_\_  
Medical Director, OB/Perinatal

\_\_\_\_\_  
Medical Director, Pediatrics

\_\_\_\_\_  
Medical Director, Pediatrics

\_\_\_\_\_  
Nursing Administrator

\_\_\_\_\_  
Chief Nurse Executive

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Address: \_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_