NETWORK PARTICIPATION AGREEMENT
for Ambulatory and Long Term Care Pharmacy Providers

THIS AGREEMENT effective October 1, 2008, is between SXC Health Solutions, Inc. (hereinafter referred to as SXC and _____ _____ (hereafter referred to as Pharmacy).

WHEREAS, SXC is contracted with TENNCARE to be responsible for the financial, clinical and managerial aspects of the TennCare pharmacy program for TennCare/Medicare enrollees and behavioral health pharmacy services and the total pharmacy benefit for all TennCare enrollees after ------ ; and

WHEREAS, the Pharmacy is desirous to participate in contractual prescription filling activities under this TennCare program; and

WHEREAS, SXC provides drug benefit programs to TennCare enrollees through arrangements with regional and statewide pharmacy networks; and

WHEREAS, participating pharmacies are members of SXC's network, contractually bound to meet TennCare standards, including but not limited to, emergency services, maintenance and review of patient profiles, patient consultation and medication information and utilization review; and,

WHEREAS, the Pharmacy and SXC desire to promote high standards of pharmaceutical care on a cost effective basis through drug utilization review activities.

SECTION 1
DEFINITIONS

Section 1.1: Definitions. The following terms shall have the following meaning:

Ambulatory Pharmacy: A chain drug store or independent pharmacy or any other entity licensed by the Tennessee Board of Pharmacy, or an entity duly licensed by any State Pharmacy Board, to dispense prescriptions directly to outpatient TennCare Enrollees (other than by mail order) in any ambulatory setting.

Average Wholesale Price: The average wholesale price (A.W.P.) is a reference amount established by industry-standard drug data compendia such as the Medi-Span Master Drug Database by Wolters Kluwer Health or another nationally recognized price source. The price file will be updated weekly.

Clean Claim: A claim received by SXC for adjudication, which requires no further information, adjustment, or alteration by the pharmacy in order to be processed and paid.

Co-payment: The amount certain TennCare enrollees should pay for certain Pharmaceutical Services in accordance with the TennCare waiver.

Covered Services: A medication or service authorized under TennCare Rules 1200-13-13-04 or 1200-13-14-04 which has been prescribed for an eligible TennCare enrollee by an authorized prescriber. A link to the TennCare PDL and TennCare Pharmacy Manual can be found at the website http://tennessee.gov/tenncare/pro-pharmacy.html.

Maximum Allowable Cost Limit List (MAC): The list of certain prescription drugs and their respective 'MAC' prices for which reimbursement will be made to the Pharmacy. MAC Lists are subject to periodic review by TennCare and/or SXC and may be modified from time to time at TennCare and/or SXC discretion. A link to current MAC rates can be found at the website http://tennessee.gov/tenncare/pro-pharmacy.html.

Network: The group of contracted pharmacies participating in the TennCare program

Lock-In Pharmacy: Shall mean the pharmacy that will be the exclusive provider for certain covered pharmacy services for enrollees chosen and assigned by TennCare.

Lock-In: Shall mean the restriction of an enrollee to a specified and limited number of pharmacy providers as assigned by TennCare.

Long Term Care Facility: Long Term Care Facility shall mean, for the purposes of this agreement, institutional services of a nursing facility or an intermediate care facility for the mentally retarded.

Long Term Care Pharmacy Provider: Any entity licensed by the Tennessee Board of Pharmacy or duly licensed by any State Pharmacy board to dispense prescriptions to or for residents of long term care facilities (nursing home or an intermediate care facility for the mentally retarded).

Participating Pharmacy Provider Number: Each Pharmacy which signs this agreement and all other necessary participating pharmacy provider application forms will always use their assigned NPI number when submitting pharmacy claims to SXC. This number must accompany all claims for reimbursement and all correspondence or communication with SXC.

Pharmaceutical Product or Service: A medication or service authorized under TennCare Rules 1200-13-13-04 or 1200-13-14-04 which has been prescribed for an eligible TennCare enrollee by an authorized prescriber. The TennCare PDL and TennCare Pharmacy Manual can be found at the website http://tennessee.gov/tenncare/pro-pharmacy.html.

Preferred Drug List (PDL): TennCare uses a PDL, listing therapeutic categories reviewed by the TennCare Pharmacy Advisory Committee (TPAC). The PDL will be updated quarterly, at a minimum. Changes to the PDL will be communicated to prescribers and pharmacists via electronic mail, professional societies and website postings. The current TennCare PDL can be found at the website http://tennessee.gov/tenncare/pro-pharmacy.html Coverage and reimbursement for legend and OTC drugs by the TennCare program is contingent upon a prescription written by a licensed prescriber. OTC drugs that are required to be floor stock items in a long term care facility will not be covered for nursing home residents.

Prescriber: Prescriber means an individual authorized by law to prescribe drugs.

Prescription Order or Refill: The authorization for the dispensing of a pharmaceutical product communicated through written, verbal or electronic means by a physician, certified physician

assistant certified nurse practitioner authorized, who is rendering service under the supervision, control and responsibility of a licensed physician, or other authorized practitioner of the healing arts. . A registered nurse or physician assistant may verbally communicate a direct order for a prescription from a physician to a pharmacist.

Specialty Medication: A medication or a pharmaceutical product or device which has been prescribed for an eligible TennCare enrollee by an authorized prescriber that meet at least two (2) of the following:

a. The cost of the medication equals or exceeds $500 for a 30 day supply;
b. The medication is only approved to treat limited patient populations, indications, or conditions;
c. The medication is typically injected, infused, or requires close monitoring by a physician or clinically trained individual;
d. The medication has limited availability, special dispensing, and delivery requirements, and/or requires additional patient support – any or all of which make such drugs difficult to obtain through traditional pharmacies

Specialty Pharmacy: A pharmacy that is licensed by the Tennessee Board of Pharmacy to dispense prescriptions that is also staffed and equipped to dispense high-cost complex medications and provide therapy management or coordination programs tailored for patients with chronic conditions.

TennCare Enrollees: A person who has been determined eligible for TennCare and who has been enrolled in the TennCare program.

Usual and Customary Charge: The reasonable, usual and customary fees charged by the Pharmacy which do not exceed the fees Pharmacy would charge any other person regardless of whether the person is a TennCare enrollee, inclusive of any special marketing or prescription drug programs offered by the Pharmacy.

SECTION 2
PROVISION OF PHARMACEUTICAL SERVICES

Section 2.1: Provision of Pharmaceutical Services and Quality of Services. Pharmacy shall provide Pharmaceutical Services to all TennCare enrollees in accordance with the standard of practice and in a manner so as to assure the quality of those services. SXC will monitor the quality of services delivered under the Agreement and initiate corrective action where necessary to improve quality of care. Pharmacy shall provide Pharmaceutical Services without regard to race, religion, sex, color, national origin, age, or physical or mental health status. Pharmacy may not refuse to provide medically necessary or covered preventive services to a TennCare patient based upon non-medical reasons.

Section 2.2: Compliance with the TennCare PDL and TennCare Pharmacy Manual. In providing any pharmaceutical service to a TennCare enrollee, the Pharmacy shall comply with the TennCare PDL. PHARMACY will assist SXC in gaining PDL compliance from prescribers. The Pharmacy agrees further that it shall at all time comply with TennCare Pharmacy Manual in providing Pharmaceutical Services to TennCare enrollees. Provide that THE PHARMACY shall assist TENNCARE enrollees to comply with the following: TENNCARE PDL, step-therapy, and prior authorization requirements, resolving point-of-sale (POS) edits and other activities to allow the enrollees to optimize the benefit.

Section 2.3: Compliance With Policy on Drug Distribution: In providing pharmaceutical services to a covered enrollee in a long term care facility (nursing home), pharmacy agrees to comply with TennCare program standards which include a delivery system which allows the pharmacy to credit SXC TennCare for unused, creditable doses on a monthly basis.

Section 2.4: Collection of Co-Payments. The Pharmacy shall collect any Co-payments for Pharmaceutical Services provided by the Pharmacy to TennCare enrollees, as determined by POS claim system. However, the pharmacy may not refuse to provide pharmacy services to TennCare members solely because the member is unable to pay a pharmacy co-payment, as required by federal law. Refusal of services due to lack of co-payment shall be grounds for dismissal of the pharmacy provider. If the recipient has another primary insurance and the Pharmacy is aware of other insurance, then the Pharmacy must process the transaction in such a manner that TennCare is the "payer of last resort". In situations of recipient enrollment in TennCare with a retroactive eligibility date, claims may be submitted to SXC up to ninety (90) days from the date that SXC receives notification from TennCare of the enrollee's retro-eligibility.

Section 2.5: Utilization Management and Quality Assurance. Pharmacy shall cooperate with all utilization review management, quality assurance, peer review, and other similar programs established by SXC, including those performed by Pharmacies working for SXC.

Section 2.6: Payment for Zero Balance Claims. SXC requires that Pharmacy submit all claims for Pharmaceutical Services, even zero balance claims. This information is necessary for SXC's Drug Utilization Review (DUR) activities and will be audited by SXC periodically.

Section 2.7: Submission of Claims. Pharmacists should verify TennCare coverage for all prescriptions presented by TennCare enrollees. The Pharmacy shall submit all claims for Pharmaceutical Services provided under this Agreement via the SXC POS on-line pharmacy claims processing system to SXC for adjudication of such claims. All pharmacy claims must be submitted via the online point-of-sale (POS) pharmacy claims processing system. Pharmacy claims may be submitted to SXC up to ninety (90) days from the original date of service, unless otherwise approved by SXC.

Section 2.8: Non-Exclusivity. This Agreement shall not prohibit any participating pharmacy from participating with any other third party payers.

Section 2.9: **Prior Authorization and Emergency supply**. In circumstances in which prior authorization is required, the pharmacist must attempt to contact the prescriber to advise him/her that the patient will be unable to fill the full prescription unless: 1) the prescriber changes the prescription to a drug that does not require PA, or 2) seeks and obtains a prior authorization for the original prescription. If the pharmacist is able to reach the prescriber and resolve the matter, the pharmacist is not required to provide the enrollee with the "Prior Authorization Required" form. In that circumstance, the pharmacist will either:

1. Dispense a drug to the enrollee (because the prescriber obtained a PA or made a therapy change to a drug for which no PA was required), or
2. Inform the enrollee that the prescriber has withdrawn the original medication order

If the pharmacist is unsuccessful in reaching the prescriber and/or resolving the matter, the pharmacist must provide the enrollee with the "Prior Authorization Required" form. If the pharmacist does reach the prescriber and he/she indicates that he/she will seek PA (but it hasn't been obtained yet), the pharmacist must still give the enrollee the "Prior Authorization Required" form, but may advise the enrollee that a PA request is pending.

An emergency supply is one that is dispensed in an emergency situation. An emergency situation is a situation that, in the judgment of the dispensing pharmacist, involves an immediate threat of severe adverse consequences to the enrollee, or the continuation of immediate and severe adverse consequences to the enrollee, if an outpatient drug is not dispensed when a prescription is submitted. Pharmacists will have the discretion to dispense an emergency supply (72 hours, 3 days) in the event that medication prescribed requires a prior authorization. Within those three (3) days the prescriber must either make a therapy change to a drug that does not require prior authorization or contact the Pharmacy Benefit Manager (PBM) to obtain a prior authorization. If the prescriber does not obtain PA, TennCare will not cover the remainder of the prescription for the enrollee.

There are certain exceptions in which a 3-day emergency supply would not be dispensed:

a) Adult TennCare recipients (>21 years old)
   a. Medications used for anorexia or weight loss (Meridia®, Xenical®, etc.)
   b. Medications used to promote fertility (Clomid®, Chorionic Gonadotropin, etc.)
   c. Medications used for cosmetic purposes or hair growth (Rogaine®, etc.)
   d. Medications used for the symptomatic relief of cough and colds (combination decongestant/antihistamine, etc.)
   e. Medications used to promote smoking cessation (Zyban®, Nicorette®, etc.)
   f. Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations. (Berocca Plus®, etc.)
   g. Non-prescription medications (not covered on the approved OTC list)
   h. Barbiturates
   i. Benzodiazepines
   j. Prescriptions over the monthly limit (for recipients subject to benefit limits).

b) All TennCare recipients:
   a. Medications classified as DESI (Drug Efficacy Study and Implementation), LTE (Less than effective), or IRS (Identically related or similar)

Section 2.10: Enrollee Lock-In. The Pharmacy may be asked By TennCare to be the exclusive pharmacy for certain enrollees exhibiting overutilization of services as described in rule 1200-13-13-.13. Should the enrollee attempt to fill a restricted prescription at another pharmacy, SXC will deny coverage because the pharmacy is not the enrollee's "lock-in" pharmacy. In this case SXC will provide appropriate notice to the enrollee, informing him/her of the right to appeal the denial. The pharmacy provider shall not be required to continue providing services to an enrollee with whom the provider feels he/she cannot establish and/or maintain a professional relationship.

Section 2.11: Credentialing/Required for Reimbursement. Pharmacy shall be obligated to participate in any and all TennCare pharmacy credentialing programs. Failure to participate in or successfully complete this program may result in termination of this agreement.

Section 2.12: Professional or Technical Expertise. Pharmacy shall be licensed in the jurisdictions in which it practices and shall employ only licensed pharmacists and shall satisfy the credentialing requirements of SXC. Further, by agreeing to be bound by the Participation Agreement, Pharmacy assures that the functions and/or services it provides are within the scope of its pharmacists' professional/technical practice.

Section 2.13: Fee Reduction as a Result of Maximum Liability .SXC shall give the pharmacy prior written notice of a determination that a reduction in the provider fee schedule is necessary to remain with the maximum liability of this Contract. In such as case SXC shall give pharmacy thirty (30) days prior written notice of said reductions and the pharmacy provider shall agree to the adjusted rates.

Section 2.14: Reassignment of Processor. Specify that in the event that TENNCARE deems SXC unable to timely process and reimburse claims and requires SXC to submit provider claims for reimbursement to an alternate claims processor to ensure timely reimbursement, the Pharmacy shall agree to accept reimbursement at SXC's contracted reimbursement rate or the rate established by TENNCARE, whichever is greater.

SECTION 3
PAYMENT FOR PHARMACEUTICAL SERVICES

Section 3.1: Payment for Pharmaceutical Services. Pharmacy reimbursement will be based on rates listed in Exhibit A less any co-payment (all as calculated via the electronic Claim submission system).
If the pharmacy provider is a PHS (340B) provider then the pharmacy provider must bill TennCare its PHS (340B) acquisition price for TennCare recipients served through the PHS (340B) program (see 59 FR 25112, or Federal Register, Vol. 59, No. 92, Friday, May 13, 1994, page 25112).

Section 3.2: Obligation for Payment. Obligation for payment under this Agreement for any Pharmaceutical Services rendered to a TennCare enrollee is solely that of SXC. In no event shall SXC be obligated to pay any claim from Pharmacy unless and until sufficient funds have been made available to SXC.

Section 3.3: Payment in Full.

Pharmacy shall accept as payment in full for Pharmaceutical Services rendered to TennCare enrollees such amounts as are established by this Agreement. In no event shall The Pharmacy bill a TennCare enrollee for the difference between the Pharmacy's Usual and Customary Charge and the amount SXC has agreed to reimburse the pharmacy. The Pharmacy may collect from a TennCare enrollee Co-payments or other charges for services not covered under the TennCare waiver. In no event, including, but not limited to, non-payment by SXC for Pharmaceutical Services rendered to TennCare enrollees by Pharmacy , insolvency of SXC, or breach by SXC of any term or condition of this Agreement, shall the Pharmacy bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against any TennCare enrollee or persons acting on behalf of the TennCare enrollee for Pharmaceutical Services eligible for reimbursement under this Agreement;. The Pharmacy may collect from the TennCare enrollee Co-payment or other charges for services not covered under the TennCare waiver. The provisions of this Section shall (a) apply to all Pharmaceutical Services rendered while this Agreement is in force; (b) with respect to Pharmaceutical Services rendered while this Agreement is in force, survive the termination of this Agreement regardless of the cause of termination; (c) be construed to be for the benefit of TennCare enrollees; and (d) supersede any oral or written agreement, existing or subsequently entered into, between the Pharmacy and a TennCare enrollee or person acting on a TennCare enrollee's behalf, that required TennCare enrollee to pay for Pharmaceutical Services.

Section 3.4: TennCare enrollee Hold Harmless.

This section shall apply only to such TennCare enrollees as may be afforded the protection of this Section by applicable statutes or regulations. To the extent this Section conflicts with any other provisions of this Agreement, including, without limitation, Section 3.3, the terms and conditions of this Section shall apply. Pharmacy shall accept as payment in full for Pharmaceutical Services rendered to TennCare enrollees such amounts as are paid by SXC pursuant to this Agreement. In no event, including, but not limited to, non-payment by SXC for Pharmaceutical Services rendered to TennCare enrollees by Pharmacy, insolvency of SXC, or breach by SXC of any term or condition of this Agreement, shall Pharmacy bill, charge, collect a deposit from, seek compensation, remuneration or reimbursement from, or have any recourse against any TennCare enrollee or persons acting on behalf of the TennCare enrollee for Pharmaceutical Services eligible for reimbursement under this Agreement; provided, however, that Pharmacy may collect from the TennCare enrollee Co-payment, Co-insurance Charges, Deductibles or other charges for services not covered under the TennCare waiver. The provisions of this Section shall (a) apply to all Pharmaceutical Services rendered while this Agreement is in force; (b) with respect to Pharmaceutical Services rendered while this Agreement is in force, survive the termination of this Agreement regardless of the cause of termination; (c) be construed to be for the benefit of TennCare enrollees; and (d) supersede any oral or written agreement, existing or subsequently entered into, between Pharmacy and a TennCare enrollee or person acting on a TennCare enrollee's behalf, that required TennCare enrollee to pay for Pharmaceutical Services.

Section 3.5: Prompt Payment:

A pharmacy shall have no more than ninety (90) calendar days from the date of rendering the service to file an initial claim with SXC except in situations regarding coordination of benefits or subrogation case that the pharmacy is pursuing payment from a third party or if an enrollee is enrolled in the plan with a retroactive eligibility date.

Section 3.6: Time Period for Payment:

Upon receipt of a clean claim (into the POS pharmacy claims processing system) properly submitted by Pharmacy, SXC shall pay Pharmacy within thirty (30) calendar days.

Section 3.7: Acceptance of Surety and TennCare enrollees:

Pharmacy shall accept payment or appropriate denial made by SXC as payment in full for covered services provided and shall not solicit or accept any surety or guarantee of payment from TennCare enrollees. TennCare enrollees shall include the patient, parent(s), guardian, spouse or any other legally responsible person of the patient being served.

Section 3.8: TennCare Reimbursement:

Pharmacy shall be required to accept TennCare reimbursement amounts for services provided under the Participation Agreement between Pharmacy and TennCare to TennCare enrollees, and shall not be required to accept TennCare reimbursement amounts for services provided to persons who are covered by another health plan.

Section 3.9: Non-covered therapeutic Drugs:

Under this Agreement, Pharmacy will be reimbursed for covered services if such services are medically necessary and on the TennCare PDL; provided, however, that non-covered therapeutic classes, (e.g., Appetite suppressants, drugs to treat infertility), DESI, LTE and IRS drugs shall be explicitly excluded. For these purposes, (a) "DESI" means Drug Efficacy Study and Implementation whereby drugs may be found to be LTE or IRS, (b) "LTE" means less than effective as determined by the Food and Drug Administration and (c) "IRS" means identical,

related or similar to DESI or LTE. A partial listing of these DESI, LTE and IRS drugs may be found on the CMS website: http://www.cms.hhs.gov/medicaid/drugs/desi.pdf.

Covered services under the Agreement shall include Early and Periodic Screening, Diagnosis and Treatment ("EPSDT") services as medically necessary in accordance with 42 CFR Part 441 Subpart B and the Omnibus Budget Reconciliation Act of 1989 for children under the age of 21. Such screening shall be done in accordance with the periodicity schedule set forth in, and all components of this program shall be consistent with, the latest "American Academy of Pediatrics Recommendations for Preventative Pediatric Health Care." Pharmacy shall make all treatment decisions under the Agreement with respect to children under the age of 21 based upon medical necessity in light of such child's individual medical and behavioral health needs.

Section 3.10: Generic Drugs:

The TennCare pharmacy program described in this agreement uses a maximum allowable cost (MAC) pricing system for multisource generic drugs (as defined in Medispan). MAC prices for generic drugs will be published and available on the http://tennessee.gov/tenncare/pro-pharmacy.html. If the brand name drug has a MAC (maximum allowable cost) and is medically necessity, the prescriber will be required to contact the clinical call center and obtain a prior authorization.

SECTION 4
RELATIONSHIP BETWEEN PARTIES

Section 4.1: Relationship between SXC and Pharmacy.

The relationship between SXC and Pharmacy is that of independent entities and nothing in this Agreement or otherwise shall be construed or deemed to create any other relationship, including one of employment, partnership, agency, joint venture or associates of one another.

Section 4.2: Relationship between Pharmacy and TennCare Enrollees.

The relationship between Pharmacy and TennCare enrollees is that of pharmaceutical provider and patient. Nothing in this agreement shall be construed to require Pharmacy to provide any Pharmaceutical Service if in the Pharmacy's professional judgment such Pharmaceutical Service should not be provided.

Section 4.3: Relationship between Pharmacy and Long Term Care Facility.

The relationship between the pharmacy and the covered facility is that of the Pharmacy. Nothing in this agreement or otherwise shall be considered or deemed to create a relationship between the TennCare and the long-term care facility.

Section 4.4: Restrictions on Change in Relationship between SXC and Pharmacy:

To the extent required by SXC, Pharmacy shall not enter into any subsequent agreements or subcontracts for any of the work contemplated under the Provider Agreement without approval of SXC and TennCare.

SECTION 5
LIABILITY INSURANCE AND INDEMNIFICATION

Section 5.1: Pharmacy Liability Insurance.

Participating pharmacies shall procure and maintain, at Pharmacy's sole expense, professional liability and malpractice insurance with limits of no less than One Million Dollars ($1,000.000) for each claim and of no less than Three Million Dollars ($3,000,000) aggregate, as well as comprehensive general liability insurance. Pharmacy shall also assure that all pharmacists and other health care professionals employed or under contract with Pharmacy to render Pharmaceutical Services to TennCare enrollees procure and maintain such insurance, unless they are covered under Pharmacy's insurance policies. Pharmacy's, pharmacists', and other health care professionals' professional liability insurance shall be either occurrence or claims made with an extended period reporting option under such terms and conditions as may be reasonably required by SXC . Pharmacy shall submit to SXC in writing evidence of insurance coverage. Pharmacy shall notify SXC in writing, to the attention of the SXC Project Director, fifteen (15) days prior to any denial of, restriction on, or termination of Pharmacy's general or professional liability insurance, except where such insurance is immediately replaced by equivalent insurance not subject to such denial, restriction, or termination. Pharmacy shall also notify SXC, to the attention of the SXC Project Director, within fifteen (15) days of any settlement or judgment that the Pharmacy is aware of adverse to Pharmacy which resulted from a malpractice complaint against Pharmacy.

If the Pharmacy is a Tennessee governmental entity, it is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101 et seq., for causes of action sounding in tort. However, as a condition of entering into this Agreement with the State, the Pharmacy agrees to carry and produce proof thereof, adequate professional malpractice liability insurance on the Pharmacy's professional employees who perform any professional services under this Agreement.

Section 5.2: Indemnification.

Pharmacy and SXC each agree to indemnify and hold harmless the other party from any and all claims, liabilities, damages, or judgments imposed upon, incurred by or asserted against the other party which arise solely out of or derive solely from the negligence or fault of the first party.

If the Pharmacy is a Tennessee governmental entity, it is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101 et seq., for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.

SECTION 6
LAWS, REGULATIONS, AND LICENSES

Section 6.1: Laws, Regulations and Licenses.

Participating pharmacies shall maintain all federal, state, and local licenses, certifications, and permits, without restriction, required to provide Pharmaceutical Services to TennCare enrollees. Further, the pharmacy shall comply fully with all applicable laws and regulations including by not limited to that a pharmacist shall not fill a written prescription from a Tennessee practitioner unless issued on tamper-resistant prescription paper, except that the pharmacist may provide emergency supplies in accordance with TennCare or other insurance contract requirements. Failure of the pharmacy to follow this law shall be grounds for dismissal from the network.

Pharmacy shall notify SXC in writing, to the attention of the SXC Project Director, within ten (10) days of any suspension, revocation, condition, limitation, qualification, or other restriction of Pharmacy's license by any state in which Pharmacy is authorized to provide Pharmaceutical Services which would prohibit Pharmacy from performing any of its obligations under this Agreement. If requested by SXC, the pharmacy will comply with a corrective action plans or be subject to recoupment of funds, termination or other penalties determined by SXC.

Section 6.2: Exclusion from Participation in Government Health Care Programs.

The pharmacy shall immediately notify the SXC Project Director, should any pharmacist employed by the Pharmacy be sanction by the Federal Office of Inspector General (OIG), the Department of Health and Human Services (HHS) or CMS. No pharmacists who have been excluded from participation in any government health care programs (Medicare, Medicaid, or other state or federal government health care programs) shall be permitted to participate in the TennCare program unless they can document that Federal OIG, CMS or HHS has fully reinstated them as a participating provider. Pharmacy shall immediately notify SXC if it has been excluded from participation in the Medicare and/or Medicaid programs pursuant to Sections 11.28 or 11.56 of the Social Security Act or is otherwise not in good standing with the TennCare Program. Failure to so notify SXC shall constitute a material breach of the Agreement. Failure to provide SXC with this information may also be cause for termination of the Pharmacy from participation in the TennCare program and recoupment of any and all reimbursements made to Pharmacy during the time period such excluded provider was providing Pharmaceutical Services to TennCare enrollees.

Section 6.3: Compliance with Legal Regulations:

Both SXC and Pharmacy agree to recognize and abide by all state and federal laws, regulations and guidelines applicable to the scope of services provided or anticipated to be provided by this Agreement, including the Tennessee state plan, 42 CFR 431.107, 42 CFR 455 subpart B, and Section 1200-13-1-.05(1)(a).

Section 6.4: Incorporation by Reference of Federal and State Law/Regulation:

By reference, this agreement incorporates all applicable federal and state laws and regulations and any applicable court orders or consent decrees, and any and all revisions of such laws or regulations court orders or consent decrees shall automatically be incorporated into the Participation Agreement as they become effective.

The Pharmacy shall be compliant with Section 6032 of the Deficit Reduction Act of 2005 (DRA) with regard to policy development, employee training and whistle blower protection related to The False Claims Act, 31 USCA 3729-3733, et seq.

Section 6.5: Non-Discrimination:

Pharmacy provider agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this contract or in the employment practices of the pharmacy provider on the grounds of disability, age, race, color, religion, sex, national origin, economic status, payment source, or any other classification protected by federal,
Tennessee State constitutional or statutory law.

Section 6.5.1.: Complaints of Discrimination:

All complaints of discrimination applicable to the mandatory federal and state statutory law, as listed in Section 6.5., related to the performance of this Agreement will be investigated by SXC.

The resolution of all discrimination complaint will be the responsibility of SXC, and could be be grounds for dismissal from the network.

Section 6.6: HIPAA Compliance

Section 6.6.1: In accordance with HIPAA regulations, the Pharmacy shall, at a minimum, comply with the following requirements:

a) As a party to this Agreement, the Pharmacy hereby acknowledges its designation as a covered entity under the HIPAA regulations;

b) The Pharmacy shall comply with the transactions and code set, privacy, and security regulations, once finalized, of the Health Insurance Portability and Accountability Act of 1996 by their designated compliance dates. Compliance includes meeting all required transaction formats and code sets with the specified data partner situations required under the regulations.

c) The Pharmacy shall transmit/receive from/to its provider, subcontractors, clearinghouses and TennCare all transactions and code sets required by the HIPAA regulations in the appropriate standard formats as specified under the law and as directed by TennCare so long as TennCare direction does not conflict with the law;

d) The Pharmacy shall agree that if it is not in compliance with all applicable standards defined within the transactions and code sets, privacy, security and all subsequent HIPAA standards, that it will be in breach of this Agreement and will then take all reasonable steps to cure the breach or end the violation as applicable. Since inability to meet the transactions and code sets requirements, as well as the privacy and security requirements can bring basic business practices between TennCare and the Pharmacy and between the Pharmacy and its providers and/or subcontractors to a halt, if for any reason the Pharmacy cannot meet the requirements of this Section, TennCare may terminate this Agreement in accordance with Section 4-2;

e) Protected Health Information (PHI) data exchanged between the Pharmacy and TennCare is intended to be used only for the purposes of health care operations, payment and oversight and its related functions. All PHI data not transmitted for the purposes of health care operations and its related functions, or for purposes allowed under the federal HIPAA regulations will be de-identified to protect the individual enrollee's PHI under the privacy act;

f) Disclosures of Protected Health Information from the Pharmacy to TennCare shall be restricted as specified in the HIPAA regulations and will be permitted for the purposes of: health care operation, payment and oversight, obtaining premium bids for providing health coverage, modifying, amending or terminating the group health plan. Disclosures to TennCare from the Pharmacy shall be as permitted and/or required under the law.

g) The Pharmacy shall report to TennCare within five (5) days of becoming aware of any use or disclosure of Protected Health Information in violation of this Agreement by the Pharmacy, its officers, directors, employees, subcontractors or agents or by a third party to which the Pharmacy disclosed Protected Health Information;

h) The Pharmacy shall specify in its agreements with any agent or subcontractor of the Pharmacy that will have access to Protected Health Information that such agent or subcontractor agrees to be bound by the same restrictions, terms and conditions that apply to the Pharmacy pursuant to this Section;

i) The Pharmacy shall make available to TennCare enrollees the right to amend their Protected Health Information data in accordance with the federal HIPAA

regulations. The Pharmacy shall also send information to enrollees educating them of their rights and necessary steps in this regard;

j) The Pharmacy shall make an enrollee's PHI data accessible to TennCare immediately upon request by TennCare;

k) The Pharmacy shall make available to SXC within ten (10) days of notice by TennCare to the Pharmacy such information as in the Pharmacy's possession and is required for TennCare to make the accounting of disclosures required by 45 CFR § 164.528. At a minimum, the Pharmacy shall provide TennCare with the following information:

1) the date of disclosure,
2) the name of the entity or person who received the HIPAA protected information, and if known, the address of such entity or person,
3) a brief description of the Protected Health Information disclosed, and
4) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure.

In the event that the request for an accounting of disclosures is submitted directly to the Pharmacy, the Pharmacy shall within two (2) days forward such request to TennCare. It shall be TennCare's responsibility to prepare and deliver any such accounting requested. Additionally, the Pharmacy shall institute an appropriate record keeping process and procedures and policies to enable the Pharmacy to comply with the requirements of this Section;

l) The Pharmacy shall make its internal policies and procedures, records and other documentation related to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services for the purposes of determining compliance with the HIPAA regulations upon request;

m) The Pharmacy shall create and adopt policies and procedures to periodically audit adherence to all HIPAA regulations, and for which Pharmacy acknowledges and promises to perform, including but not limited to, the following obligations and actions:

1) Safeguards. Pharmacy agrees to use administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that the Pharmacy creates, receives, maintains, or transmits on behalf of TennCare.
2) Pharmacy's Agents. Pharmacy agrees to ensure that any agent, including a subcontractor, to whom it provides EPHI that was created, received, maintained, or transmitted on behalf of TennCare agrees to use reasonable and appropriate safeguards to protect the EPHI.
3) Notification of Security Incident. Pharmacy agrees to report to TennCare any use or disclosure of TennCare enrollee PHI or of any security incident of which Pharmacy becomes aware.

n) Upon termination, cancellation, expiration or other conclusion of the Agreement, and in accordance with Sections 2-11 and 2-13 of this Agreement, the Pharmacy will, if feasible, return or destroy all PHI, in whatever form or medium (including any electronic medium) and all copies of an any data or compilations derived from and allowing identification of any individual who is a subject of that PHI. The Pharmacy will complete such return or destruction as promptly as possible, but not later than 30 days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement. The Pharmacy will identify any PHI that cannot feasibly be returned to or destroyed. Within such 30 days after the effective date of the termination, cancellation, expiration or other conclusion of the Agreement, the Pharmacy will: (1) certify on oath in writing that such return

or destruction has been completed; (2) identify any PHI which can not feasibly be returned or destroyed; and (3) certify that it will only use or disclose such PHI for those purposes that make its return or destruction infeasible;

o) The Pharmacy shall implement all appropriate administrative, technical and physical safeguards to prevent the use or disclosure of PHI other than pursuant to the terms and conditions of this Agreement, including but not limited to, confidentiality requirements in 45 CFR parts 160 and 164;

p) The Pharmacy shall set up appropriate mechanisms to ensure minimum necessary access of their staff to Protected Health Information;

q) The Pharmacy shall create and implement policies and procedures to address present and future HIPAA regulation requirements as needed to include: use and disclosure of data; de-identification of data; minimum necessity access; accounting of disclosures; patients rights to amend, access, request restrictions, and right to file a complaint;

r) The Pharmacy shall provide an appropriate level of training to its staff and enrollees regarding HIPAA related policies, procedures, enrollee rights and penalties prior to the HIPAA implementation deadlines and at appropriate intervals thereafter;

s) The Pharmacy shall be allowed to use and receive information from TennCare where necessary for the management and administration of this Agreement and to carry out business operations;

t) The Pharmacy shall be permitted to use and disclose PHI for the Pharmacy's own legal responsibilities;

u) The Pharmacy will adopt the appropriate procedures and access safeguards to restrict and regulate access to and use by Pharmacy employees and other persons performing work for said Pharmacy to have only minimum necessary access to personally identifiable data within their organization;

v) The Pharmacy will continue to protect personally identifiable information relating to individuals who are deceased;

w) The Pharmacy will be responsible for informing its enrollees of their privacy rights in the manner specified under the regulations;

x) The Pharmacy must make available protected health information in accordance with 45 CFR § 164.524;

y) The Pharmacy must make available protected health information for amendment and incorporate any amendments to protected health information in accordance with 45 CFR §164.526; and

z) The Pharmacy shall obtain a third (3rd) party certification of their HIPAA transaction compliance before July 1, 2003.

Section 6.2: In accordance with HIPAA regulations, SXC shall, at a minimum, adhere to the following guidelines:

a) SXC shall make its individually identifiable health information available to enrollees for amendment and access as specified and restricted under the federal HIPAA regulations;

b) SXC shall set up policies and procedures for minimum necessary access to individually identifiable health information with its staff regarding plan administration and oversight;

c) SXC shall adopt a mechanism for resolving any issues of non-compliance as required by law; and

d) SXC shall establish similar HIPAA data partner agreements with its subcontractors and other business associates.

SECTION 7
SYMBOLS AND TRADEMARKS

Section 7.1: Use by Pharmacy.

Participating pharmacies shall have the right to designate and make oral or published reference to Pharmacy as a Participating Pharmacy; provided, however, that Pharmacy shall not otherwise use SXC's or TennCare's name or its trademark for any advertising unless first approved in writing in advance by SXC or TennCare.

Section 7.2: Use by TennCare.

SXC and TennCare shall have the right to designate and make oral or published reference to Pharmacy as a Participating Pharmacy; provided, however, that SXC and TennCare shall not otherwise use Pharmacy's name or its trademark for any advertising unless first approved in advance by Pharmacy.

SECTION 8
BOOKS AND RECORDS

Section 8.1: Maintenance of Medical Records-Enrollee Access:

The Pharmacy shall maintain an adequate record system for recording services, servicing the Pharmacy charges, dates and all other commonly accepted information elements for services rendered to TennCare enrollees pursuant to the participation agreement (including but not limited to such records as are necessary for the evaluation of the quality, appropriateness, and timeliness of services performed under the Pharmacy Agreement). This includes the maintenance of a signature log which will list the recipient's name, date the prescription(s) is/are picked up, and the prescription number(s). TennCare enrollees and their representatives shall be given access to their medical or pharmacy records, to the extent and in the manner provided by Tennessee Code Annotated §§63-2-101 and 63-2-102, and, be given copies thereof upon request.

Section 8.2: Maintenance of Medical Records – Duration:

The Pharmacy shall maintain any and all records for a period not less than five (5) years from the termination of the Participation Agreement and shall retain the records further if they are under review or audit until the review or audit is complete. Said records shall be made available for fiscal audit, medical audit, medical review, utilization review, and other periodic monitoring upon request of an authorized representative of TennCare.

Section 8.3: Access To and Release of Books and Records.

Subject to applicable confidentiality laws and regulations, during regular business hours and with or without notice and demand, SXC shall have access to all information and records or copies of records maintained by the Pharmacy related to Pharmaceutical Services provided by the Pharmacy under this Agreement or related to analysis of the efficiency of healthcare management techniques by SXC.

As a condition of participation in TennCare, enrollees shall give TENNCARE, the Office of the Comptroller of the Treasury, and any health oversight agency, such as OIG, TBI MFCU, DHHS Office of Inspector General (DHHS OIG), and DOJ, and any other authorized state or federal agency, access to their records. Said records shall be made available and furnished immediately upon request by the provider for fiscal audit, medical audit, medical review, utilization review, and other periodic monitoring as well as for administrative, civil and criminal investigations or prosecutions upon the request of an authorized representative of the CONTRACTOR,

TENNCARE or authorized federal, state and Office of the Comptroller of the Treasury personnel, including, but not limited to, the OIG, the TBI MFCU, the DHHS OIG and the DOJ; The Pharmacy shall provide records or copies of records requested by TennCare or their duly authorized agents within thirty (30) days from the date such request is made, or within shorter time [not less than fourteen (14) days] as may be required by applicable laws or regulations.

Section 8.4: Compliance With Laws and Regulations.

The federal, state, and local governments and any of their authorized representatives shall have access to, and SXC and the Pharmacy the Pharmacy are authorized to release, in accordance with applicable laws and regulations, all information and records, or copies of such, within the possession of SXC or the Pharmacy, which are pertinent to and involve transactions related to this Agreement and access to which is necessary to comply with laws and regulations applicable to TennCare.

Section 8.5: Privacy of TennCare Enrollee's Records.

SXC and the Pharmacy shall maintain the confidentiality of all information regarding TennCare enrollees in accordance with any applicable state and federal laws and regulations, including the standards and requirements of HIPAA.

Section 8.6: Confidential Business Information.

SXC and the Pharmacy shall take all necessary steps to provide maximum protection to the other party's trade secrets and other confidential business information, to the extent possible under state and federal law.

Section 8.7: Confidentiality of Utilization Review Information.

Any records, data or other information imparted to the Pharmacy or any of its employees in connection with utilization review panels established by SXC shall be maintained as strictly confidential. Such information shall be used solely in the exercise of the proper functions of said panel(s). The Pharmacy and its employees shall not disclose said information to any person, firm or entity, and shall notify SXC immediately of any demand or request for any such information from any third party.

Section 8.8: Right to Inspection by Government Entities:

Provide that TENNCARE, DHHS OIG, Office of the Comptroller of the Treasury, OIG, TBI MFCU, and DOJ, as well as any authorized state or federal agency or entity shall have the right to evaluate through inspection, evaluation, review or request, whether announced or unannounced, or other means any records pertinent to this Agreement including, but not limited to medical records, billing records, financial records, and/or any records related to services rendered, quality, appropriateness and timeliness of services and/or any records relevant to an administrative, civil and/or criminal investigation and/or prosecution and such evaluation, inspection, review or request, and when performed or requested, shall be performed with the immediate cooperation of the provider. Upon request, the provider shall assist in such reviews including the provision of complete copies of medical records. Include a statement that HIPAA does not bar disclosure of protected health information (PHI) to health oversight agencies, including, but not limited to, OIG, TBI MFCU, DHHS OIG and DOJ. Provide that any authorized state or federal agency or entity, including, but not limited to TENNCARE, OIG, TBI MFCU, DHHS OIG, DOJ, Office of the Comptroller of the Treasury, may use these records and information for administrative, civil or criminal investigations and prosecutions.

Section 8.9: Report Submission:

The Pharmacy will submit all reports and clinical information required by SXC.

Section 8.10: Safeguarding Information:

Strict standards of confidentiality of records including, but not limited to, patient medical/pharmacy records and other similar records shall be maintained in accordance with all applicable state and federal laws and regulations.

Section 8.11: Monitoring of Services Rendered:

Whether announced or unannounced, SXC may monitor the services rendered to TennCare enrollees.

Section 8.12: External Review:

Whether announced or unannounced, the Pharmacy shall participate and cooperate in any internal and external quality review, audit, utilization review, peer review, SXC/TENNCARE The Pharmacy Advisory Committee, SXC/TennCare DUR board, and appeal procedures established by TennCare.

SECTION 9
TERM AND TERMINATION

Section 9.1: Term.

Unless earlier terminated in the manner provided below, this Agreement shall begin on the contract start dated listed on the first page of this Agreement and shall continue thereafter for successive periods of twelve (12) months until terminated by either party upon written notice to the other party not less than sixty (60) days prior to the initial or any subsequent expiration date.

Section 9.2: Termination by Pharmacy.

This Agreement may be terminated at any time by Pharmacy upon sixty (60) days written notice to SXC.

Section 9.3: Termination by SXC.

This agreement may be terminated at any time by SXC upon written notice to Pharmacy. Such breach of contract includes, but is not limited to, the following:

a) following written notice from SXC that Pharmacy is in material breach of its obligations under this Agreement or any applicable agreement and the expiration, without cure of such material breach, of thirty (30) days after Pharmacy's receipt of such notice; or
b) in the event Pharmacy willfully refuses to provide Pharmaceutical Services to a TennCare enrollee, except as provided in Section 4.2; or
c) In the event Pharmacy's loss or suspension of licensure of loss of liability insurance required under this Agreement; or
d) following SXC's receipt from Pharmacy of an objection to a proposed amendment to this Agreement pursuant to Section 10.1(b); or
e) the Pharmacy has been excluded from participation in the TennCare program by TennCare: or

f) the Pharmacy has knowingly allowed a pharmacist who has been excluded from participation in the TennCare program by TennCare to provide pharmaceutical services to TennCare enrollees; or

g) the Pharmacy has not complied with all of the emergency supply provisions and any subsequent agreement amendments or revisions to court order or consent decrees that pertain to the supply of emergency supply dispensing; or

f) the Pharmacy refuses to provide pharmacy services to a TennCare member solely because the member is unable to pay any or all pharmacy co-payments; or

g) failure to maintain medical records and access as specified; or

h) failure to display notice of appeal as specified.

Section 9.4:

In the event of termination, Pharmacy shall immediately make available, to SXC, or its designated representative, in a format specified by SXC any or all records, whether medical, pharmacy , or financial, related to the provider's activities undertaken pursuant to the Agreement. The provision of such records shall be at no expense to SXC.

Section 9.5:

Continuation Provisions. Pharmacy shall continue as a Participating Pharmacy under this Agreement during the notice period specified in Sections 9.2 and 9.3 unless otherwise notified by SXC in writing of the suspension of all or part of its rights and obligations as a Participating Pharmacy. Upon termination of this Agreement, Pharmacy shall continue to perform the obligations of Participating Pharmacy under the Agreement in effect between SXC and the Pharmacy at the time of termination which provide for continuation of such obligations, including those relating to continued provision of Pharmaceutical Services to TennCare enrollees, at the rates and for the period specified in such agreement, unless otherwise agreed by SXC.

Section 9.6:

Application of Pharmacy. It is the understanding of the parties that this Agreement shall be executed first by Pharmacy and upon such execution shall be an application by Pharmacy to become a party to this Agreement. As part of such application, Pharmacy shall complete the information in Exhibit A (Pharmacy Application). This signing of this Agreement by Pharmacy shall constitute an offer only, unless and until it is approved by SXC. This application by Pharmacy shall be accepted by SXC only if Pharmacy meets all participation criteria established by SXC.

SECTION 10
MISCELLANEOUS

Section 10.1:

Amendment by SXC. This Agreement may be amended by SXC, upon thirty (30) days written notice to Pharmacy. The signed Amendment will be attached to the original Agreement. If Pharmacy rejects the Amendment, and the parties cannot agree to a modification, the termination procedures listed above will be utilized. SXC may amend this Agreement (a) to comply with applicable court orders, consent decrees, laws or regulations or (b) to affect any necessary policy

Section 10.2:

Amendment by TENNCARE. TennCare reserves the right to direct SXC to terminate or modify the provider agreement when TENNCARE determines it to be in the best interest of the State, upon thirty (30) days notice to SCX from TENNCARE.

Section 10.3: Assignment.

SXC may assign all or any of its rights or responsibilities under this Agreement to any entity controlling, controlled by, or under common control with SXC. Pharmacy acknowledges that persons and entities under contract with SXC may perform certain administrative services under this Agreement. Pharmacy may not assign any of its rights or responsibilities under this Agreement to any person or entity without the prior written consent of SXC, which consent shall not be unreasonably withheld.

Section 10.4: Dispute Resolution.

Any controversy or claim arising out of or relating to this Contract, or breach thereof, shall be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award may be entered in any Court having jurisdiction thereof. The parties are free to customize and refine the basic arbitration procedures to meet their particular needs. The parties agree that should any dispute or controversy arise, the following steps toward resolution will be immediately taken: either party may initiate dispute resolution procedures by sending a certified or registered letter to the other party setting forth the particulars of the dispute, the terms of the contract involved, and a suggested resolutions of the problem; the recipient of the letter must respond within thirty (30) days with an explanation and response to the proposed solution; if the correspondence does not resolve the dispute, then the parties shall meet on at least one occasion and attempt to resolve the matter. The meeting should be in the county of the pharmacy; if this step does not produce a resolution then the parties agree to mediate or arbitrate the dispute. In addition, the Provider Independent Review of Disputed Claims process shall be available to providers to resolve claims denied in whole or in part by the CONTRACTOR as provided at TCA 56-32-226(b).

Section 10.5: Entire Agreement.

This Agreement and the TennCare Pharmacy Manual constitute the entire Agreement between the parties with respect to its subject matter.

Section 10.6: Severability.

Require that if any requirement in the provider agreement is determined by TENNCARE to conflict with the Agreement between TENNCARE and SXC, such requirement shall be null and void and all other provisions shall remain in full force and effect.

Section 10.7: Notices.

Any notice or other communication required or permitted under this Agreement shall be in writing. The notice or communication shall be deemed to have been given when delivered in person; or if delivered by United States mail, on the date mailed, proper postage prepaid and properly addressed to the address set forth next to the appropriate party's name at the end of this Agreement or to another more recent address of which the sending party has received written notice. Notices may also be sent via facsimile and through a web-based bulletin board process and e-mail and posted on SXC's website.

Section 10.8: Notice to TENNCARE of Actions Against SXC.

SXC shall give TENNCARE and the Tennessee Department of Commerce and Insurance, TennCare Division, immediate notification in writing by Certified Mail of any administrative or legal action or complaint filed regarding any claims made against the SXC by a pharmacy provider or enrollee that is related to SXC's responsibilities under this Agreement, including, but not limited to, notice of any arbitration proceedings instituted between a pharmacy provider and SXC. SXC shall ensure that all tasks related to the pharmacy provider agreement are performed in accordance with the terms of this Agreement and the PBM Contract.

Section 10.9: Governing Law.

This Agreement shall be construed in accordance with all applicable laws of the State of Tennessee.

Section 10.10: Indemnification – State of Tennessee:

Pharmacy agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation or other entity which may be injured or damaged as a result of acts, omissions, bad faith, negligence, or willful misconduct on the part of the Pharmacy, its employees, or any other person acting for or on its or their behalf relating to this contract. Pharmacy further agrees that it shall be liable for the reasonable costs of attorneys for the State in the event such service is necessitated to enforce the terms of this contract or otherwise enforce the obligations of Pharmacy to the State. In the event of any such suit or claim, Pharmacy shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give Pharmacy written notice of any such claim or suit and Pharmacy shall have the full right and obligation to conduct Pharmacy's own defense thereof. Nothing contained herein shall be deemed to accord to Pharmacy, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by Tenn. Code. Ann. § 8-6-106.

However, if the Pharmacy is a Tennessee governmental entity, it is governed by the provisions of the Tennessee Government Tort Liability Act, Tennessee Code Annotated, Sections 29-20-101 et seq., for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the State beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly. In the event of any lawsuit or claim arising out of this Agreement, if the Pharmacy is a governmental entity, the Pharmacy shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. In addition, in the situation where the Pharmacy is a governmental entity, the State shall give Pharmacy written notice of any such claim or suit and Pharmacy shall have the full right and obligation to conduct Pharmacy's own defense thereof. Nothing contained herein shall be deemed to accord to Pharmacy, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by Tenn. Code. Ann. § 8-6-106.

Section 10.11: Compliance with Appeals Process:

Pharmacy agrees to comply with the appeal process specified in the Grier Revised Consent Decree, including but not limited to assisting a TennCare enrollee by providing appeal rights, appeal forms and contact information including the appropriate address and fax number for submitting appeals for state level review.

Section 10.12: Displaying Notice of Appeal:

Pharmacy agrees to display notices of TennCare enrollee's right to appeal adverse decisions affecting services and other applicable notices in public areas of their facility(ies) in accordance with TennCare rules, including TennCare Rules 1200-13-13-.11 and 1200-13-14-.12.

Section 10.13. Emergency Drug Supply:

The PHARMACY shall inform recipients of their options when a prior authorization has not been obtained and submit an emergency 72 hour claim when requested.

Section 10.14: Fraud Investigations:

Pharmacy shall immediately report to the SXC Project Director or the Tennessee Bureau of Investigation Medicaid Fraud Control Unit ("TBI MFCU") any suspicion or knowledge of fraud and/or abuse, including but not limited to the false or fraudulent filings of claims and/or the acceptance or failure to return monies allowed or paid on claims known to be false, incorrect, inaccurate or fraudulent. The reporting entity shall not attempt to investigate or resolve the reported suspicion, knowledge or action without informing the SXC Project Director or the TBI MFCU and must cooperate fully in any investigation by the SXC Project Director or the TBI MFCU or subsequent legal action that may result from such an investigation. Pharmacy, shall, upon request, make available to the SXC Project Director or the TBI MFCU any and all administrative, financial and medical records relating to the delivery of items or services for which TennCare monies are expended. Additionally, the SXC Project Director or the TBI MFCU shall be allowed access to place of business and to all records of the Pharmacy, during normal business hours, except under special circumstances when after-hour admission shall be allowed. Special circumstances shall be determined by the SXC Project Director or the TBI MFCU.

Section 10.15: Debarment and Suspension:

To the best of its knowledge and belief, the entities by their signatures on this Agreement certify that the Pharmacy and its principals:

a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or State department or Pharmacy;

b) have not within a three (3) year period preceding this Agreement been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, State, or Local) transaction or grant under a public transaction; violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property; and

c) are not presently indicted for or otherwise criminally or civilly charged by a government entity (federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and (d) have not within a three (3) year period preceding this Agreement had one or more public transactions (federal, State, or Local) terminated for cause or default.

The Pharmacy's signature on the Agreement shall serve as certification of compliance with this policy. If any doubt exists, officials may check a list maintained by the General Services Administration which lists persons who have been debarred, suspended or proposed for debarment under 45 CRF Part 76 or 48 CFR Part 9, Subpart 9.4. The list can be found at: http://epls.arnet.gov/

If a person is debarred, suspended or proposed for debarment during the term of the Agreement or if the State determines that an agency has misrepresented its status, a decision as to the type of termination action, if any, will be made after a thorough review to ensure the propriety of the proposed action. In this event, the Agreement will not be renewed or extended (other than no-cost time extensions).

IN WITNESS WHEREOF, authorized representatives for PHARMACY and SXC HEALTH SOLUTIONS have executed Agreement intending to be bound by the terms set forth herein.

PARTICIPATING PHARMACY	SXC HEALTH SOLUTIONS
_____ Signature	_____ Signature
_____ Print Name	Russell Annunziata Print Name
_____ Title	SVP, Industry Relations Title
_____ NCPDP # / CHAIN CODE(S)	August 15, 2008 Date
_____ Pharmacy Name	
_____ Pharmacy Address	
_____ City, State, Zip Code	
_____ Phone	
_____ FAX	
_____ E-Mail Address	
_____ Date	

Return this fully completed Agreement and all required application forms to:

TennCare Pharmacy Program
SXC Health Solutions
Provider Relations Department
2441 Warrenville Road
Suite 610
Lisle, IL 60532
FAX: 866-278-2881

Exhibit A

Network Pharmacy Fee Schedule

A. A participating network pharmacy will be reimbursed for dispensing pharmaceutical products to TennCare Enrollees as follows unless the covered pharmaceutical product is included in item B of this section:

Ambulatory pharmacy claims will be reimbursed the lesser of:

a. the pharmacy's usual and customary charge to the general public;
b. A.W.P. minus 13% plus a $2.50 dispensing fee (brand);
c. A.W.P. minus 13% plus a $3.00 dispensing fee (non MAC generic); or
d. MAC plus a $3.00 dispensing fee
e. Federal Upper Limit plus a $3.00 dispensing fee.

Long term care pharmacy claims with a days supply less than 28 will be reimbursed the lesser of:

f. the pharmacy's usual and customary charge;
g. A.W.P. minus 13% plus a $2.50 dispensing fee (brand);
h. A.W.P. minus 13% plus a $3.00 dispensing fee (non MAC generic);
i. MAC plus a $3.00 dispensing fee;
j. Federal Upper Limit plus a $3.00 dispensing fee.

Long term care pharmacy claims with a days supply equal to or greater than 28 will be reimbursed the lesser of:

k. the pharmacy's usual and customary charge;
l. A.W.P. minus 13% plus a $5.00 dispensing fee (brand);
m. A.W.P. minus 13% plus a $6.00 dispensing fee (non MAC generic);
n. MAC plus a $6.00 dispensing fee;
o. Federal Upper Limit plus a $6.00 dispensing fee.

Multi- ingredient compounds will be reimbursed based on the sum of calculated amounts for each individual ingredient using the lesser of algorithm as above plus up to a $25.00 dispensing fee or the pharmacy's usual and customary charge. Antibiotics are not subject to the compound dispensing fee and will pay the standard dispense fee.

If the pharmacy provider is a PHS (340B) provider then the pharmacy provider must bill TennCare its PHS (340B) acquisition price for TennCare recipients served through the PHS (340B) program (see 59 FR 25112, or Federal Register, Vol. 59, No. 92, Friday, May 13, 1994, page 25112).

B. For those covered pharmaceutical products included on the Specialty Pharmaceutical Pricing List below, a participating network pharmacy shall receive the reimbursement listed less any applicable discount and less any Co-Payment (all as calculated via the POS claim system).

TENNCARE SPECIALTY PHARMACEUTICAL PRICING LIST				
DISEASE	BRAND NAME	GENERIC NAME	AWP DISC	DISP FEE
ASTHMA/PULMONARY				
	Aralast	Alpha 1-Proteinase Inhibitor	16.0%	$0.00
	Prolastin	Alpha-1 Proteinase Inhibitor	16.0%	$0.00
	Xolair	Omalizumab	17.0%	$0.00
	Zemaira	Alpha 1-Proteinase Inhibitor	16.0%	$0.00
BLOOD DISORDERS				
	Desferal	Deferasirox	17.0%	$0.00
	Lovenox	Enoxaparin	17.0%	$0.00
	Revlimid	Lenalidomide	16.0%	$0.00
CROHN'S				
	Remicade	Infliximab Recombinant	17.0%	$0.00
	Humira	Adalimumab	18.0%	$0.00
CYSTIC FIBROSIS				
	Pulmozyme	Deoxyribonuclease Alfa	17.0%	$0.00
	TOBI	Tobramycin/NaCl 0.2%	17.0%	$0.00
FABRY DISEASE				
	Fabrazyme	Agalsidase beta	16.0%	$0.00
GROWTH HORMONE				
	Genotropin	Somatropin	18.0%	$0.00
	Humatrope	Somatropin	18.0%	$0.00
	Increlex	Mecasermin	16.0%	$0.00
	Norditropin	Somatropin	18.0%	$0.00
	Nutropin	Somatropin	18.0%	$0.00
	Omnitrope	Somatropin	18.0%	$0.00
	Saizen	Somatropin	18.0%	$0.00
	Somavert	Pegvisomant	16.0%	$0.00
	Tev-Tropin	Somatropin	18.0%	$0.00
	Zorbtive	Somatropin	18.0%	$0.00
HEMOPHILIA				
	Advate	Factor 8	24.0%	$0.00
	Alphanate	Factor 8	19.0%	$0.00
	AlphaNine	Factor 9	19.0%	$0.00
	Bebulin	Factor 9 - Complex Human	17.0%	$0.00

	Benefix	Factor 9 - Recombinant	13.0%	$0.00
	FEIBA VH	Anti-Inhibitor Coagulant Complex	24.0%	$0.00
	Helixate	Factor 8	25.0%	$0.00
	Hemofil-M	Factor 8	24.0%	$0.00
	Humate-P	Factor 8/Vrcof	24.0%	$0.00
	Hyate-C	Factor 8 - Porcine	19.0%	$0.00
	Koate DVI	Factor 8	19.0%	$0.00
	Koate HP	Factor 8	19.0%	$0.00
	Kogenate-FS	Factor 8	19.0%	$0.00
	Konyne	Factor 9	19.0%	$0.00
	Monarc-M	Factor 9	24.0%	$0.00
	Monoclate-P	Factor 8	19.0%	$0.00
	Mononine	Factor 9	24.0%	$0.00
	NovoSeven	Factor 7a Recombinant	19.0%	$0.00
	Profilnine	Factor 9	24.0%	$0.00
	Proplex	Factor 9	17.0%	$0.00
	Recombinate	Factor 8	24.0%	$0.00
	Refacto	Factor	17.0%	$0.00
HEPATITIS				
	Copegus	Ribavirin	18.0%	$0.00
	Infergen	Interferon Alfacon-1	17.0%	$0.00
	Peg-Intron	Interferon Alfa 2B	18.0%	$0.00
	Pegasys	Peginterferon Alfa 2A	18.0%	$0.00
	Rebetol	Ribavirin	18.0%	$0.00
	Rebetron	Ribavirin	18.0%	$0.00
	Ribasphere	Ribavirin	40.0%	$0.00
	Ribapak	Ribavirin	40.0%	$0.00
	Ribatab	Ribavirin	40.0%	$0.00
	Ribavirin	Ribavirin	40.0%	$0.00
HIV				
	Fuzeon	Enfuvirtide	17.0%	$0.00
	Serostim	Somatropin	17.0%	$0.00
IMMUNE SYSTEM / IVIG				
	Carimune	Immune Globulin	17.0%	$0.00
	Flebogamma	Immune Globulin	17.0%	$0.00
	Gammagard	Immune Globulin	17.0%	$0.00
	Gammagard	Immune Globulin	17.0%	$0.00
	Gamunex	Immune Globulin	17.0%	$0.00
	Octagam	Immune Globulin	17.0%	$0.00
	Panglobulin	Immune Globulin	17.0%	$0.00
	Vivaglobin	Immune Globulin	17.0%	$0.00

MACULAR DEGENERATION				
	Lucentis	Ranbizvmab	16.0%	$0.00
	Macugen	Pegaptanib	16.0%	$0.00
	Visudyne	Verteporfin	16.0%	$0.00
MISCELLANEOUS				
	Arcalyst	Rilonacept	16.0%	$0.00
	Apokyn	Apomorphine	16.0%	$0.00
	Kuvan	Sapropterin	16.0%	$0.00
	Tikosyn	Dofetilide	17.0%	$0.00
	Xyrem	Sodium Oxybate	16.0%	$0.00
MUCOPOLYSACCHARIDOSIS (MPS)				
	Aldurazyme	Laronidase	16.0%	$0.00
	Elaprase	Idursulfase	16.0%	$0.00
	Naglazyme	Galsulfase	16.0%	$0.00
MULTIPLE SCLEROSIS				
	Avonex	Interferon Beta 1A	18.0%	$0.00
	Betaseron	Interferon Alpha 2b	18.0%	$0.00
	Copaxone	Glatiramer Acetate	18.0%	$0.00
	Rebif	Interferon, Beta-1a	18.0%	$0.00
	Tysabri	Natalizumab	16.0%	$0.00
NEUROMUSCULAR				
	Botox	Botulinum Toxin Type A	17.0%	$0.00
	Myobloc	Botulinum Toxin Type B	17.0%	$0.00
ONCOLOGY Oral/SQ (Self Administered)				
	Etopiside	Etoposide	18.0%	$0.00
	Gleevec	Imatinib Mesylate	17.0%	$0.00
	Intron-A	Interferon Alfa-2 B	17.0%	$0.00
	Leuprolide	Leuprolide Acetate	18.0%	$0.00
	Lupron	Leuprolide Acetate	17.0%	$0.00
	Matulane	Procarbazine	17.0%	$0.00
	Nexavar	Sorafenib	17.0%	$0.00
	Roferon	Interferon Alfa	17.0%	$0.00
	Sprycel	Dasatinib	17.0%	$0.00
	Sutent	Sunitinib	17.0%	$0.00
	Tarceva	Erlotinib	17.0%	$0.00
	Targretin	Bexarotene	17.0%	$0.00
	Temodar	Temozolomide	17.0%	$0.00
	Thalomid	Thalidomide	17.0%	$0.00
	Tykerb	Lapatinib Ditosylate	16.0%	$0.00
	Vantas	Histrelin	16.0%	$0.00

	Vepesid	Etoposide	17.0%	$0.00
	Viadur	Leuprolide	17.0%	$0.00
	Vidaza	Azacitidine	16.0%	$0.00
	Xeloda	Capecitabine	17.0%	$0.00
	Zoladex	Goserelin	17.0%	$0.00
	Zolinza	Vorinostat	17.0%	$0.00
ONCOLOGY IV/IM (Non-Self Administered)				
	Abraxane	Paclitaxel	17.0%	$0.00
	Actimmune	Interferon Gamma-1B	16.0%	$0.00
	Alferon	Interferon Alpha-N3/Intron A	17.0%	$0.00
	Alimta	Pemetrexed	17.0%	$0.00
	Alkeran	Melphalan	17.0%	$0.00
	Aredia	Pamidronate	17.0%	$0.00
	Arranon	Nelarabine	17.0%	$0.00
	Avastin	Bevacizumab	17.0%	$0.00
	Bulsulfex	Busulfan	17.0%	$0.00
	Campath	Alemtuzumab	17.0%	$0.00
	Camptosar	Ironotecan	17.0%	$0.00
	Carboplatin	Carboplatin	17.0%	$0.00
	Cerubidine	Daunorubicin	17.0%	$0.00
	Cladribine	Cladribine	17.0%	$0.00
	Dacogen	Decitabine	17.0%	$0.00
	Daunorubicin	Daunorubicin	17.0%	$0.00
	Doxil	Doxirubicin HCl Lipo	17.0%	$0.00
	Eligard	Leuprolide	17.0%	$0.00
	Elitek	Rasburicase	17.0%	$0.00
	Ellence	Epirubicin	17.0%	$0.00
	Eloxatin	Oxaliplatin	17.0%	$0.00
	Epirubicin	Epirubicin	17.0%	$0.00
	Erbitux	Cetuximab	17.0%	$0.00
	Ethyol	Amifostine	17.0%	$0.00
	Faslodex	Fulvestran	17.0%	$0.00
	Fludara	Fludarbine	17.0%	$0.00
	Fludarabine	Fludarbine	17.0%	$0.00
	Gemzar	gemcitabine	17.0%	$0.00
	Herceptin	Trastuzumab	17.0%	$0.00
	Hycamtin	Topotecan	17.0%	$0.00
	Iressa	Gefitinib	16.0%	$0.00
	Ixempra	Ixabepilone	17.0%	$0.00
	Leustatun	Cladribine	17.0%	$0.00

	Lupron	Leuprolide Acetate Susp	17.0%	$0.00
	Mitoxantrone	Mitoxantrone	16.0%	$0.00
	Mylotarg	Gemtuzumab	17.0%	$0.00
	Navelbine	Vinorelbine	17.0%	$0.00
	Nipent	Pentostatin	17.0%	$0.00
	Novantrone	Mitoxantrone	17.0%	$0.00
	ONTAK	Denileukin	17.0%	$0.00
	Onxol	Paclitaxel	17.0%	$0.00
	Paclitaxel	Paclitaxel	17.0%	$0.00
	Paraplatin	Paraplatin	17.0%	$0.00
	Pentostatin	Pentostatin	17.0%	$0.00
	Proleukine	Interleukin-2	17.0%	$0.00
	Rituxan	Rituximab	16.0%	$0.00
	Taxol	Paclitaxel	17.0%	$0.00
	Taxotere	Docetaxel	18.0%	$0.00
	Totect	Dexrazoxane	16.0%	$0.00
	Torisel	Temsirolimus	17.0%	$0.00
	Vectibix	Panitumumab	17.0%	$0.00
	Velcade	Bortezomib	17.0%	$0.00
	Zometa	Zoledronic Acid	17.0%	$0.00
ONCOLOGY ADJUNCT				
	Aranesp	Darepoetin Alfo-Albumin	17.0%	$0.00
	Epogen	Epoetin Alpha	17.0%	$0.00
	Leukine	Sargramostim	17.0%	$0.00
	Neulasta	Pegfilgrastim	17.0%	$0.00
	Neumega	Oprelvekin	17.0%	$0.00
	Neupogen	Filgrastim/G-CSF	17.0%	$0.00
	Octreotide	Octreotide Acetate	17.0%	$0.00
	Procrit	Epoetin Alpha	17.0%	$0.00
	Sandostatin	Octreotide Acetate	17.0%	$0.00
	Sensipar	Cinacalcet	17.0%	$0.00
OSTEOPOROSIS				
	Forteo	Teriparatide	17.0%	$0.00
	Reclast	Zoledronic Acid	17.0%	$0.00
POMPE'S				
	Myozyme 50mg Vial	Alglucosidase	16.0%	$0.00
PSORIASIS				
	Amevive	Alefacept	17.0%	$0.00
	Enbrel	Etanercept	18.0%	$0.00
	Humira	Adalimumab	18.0%	$0.00

	Raptiva	Efalizumab	17.0%	$0.00
PULMONARY ARTERIAL HYPERTENSION				
	Flolan	Epoprostenol	16.0%	$0.00
	Letairis	Ambrisentan	16.0%	$0.00
	Remodulin	Treprostinil	16.0%	$0.00
	Tracleer	Bostentan	16.0%	$0.00
	Ventavis	Iloprost	16.0%	$0.00
RESPIRATORY SYNCYTIAL VIRUS				
	Synagis	Palivizumab	18.0%	$0.00
RHEUMATOID ARTHRITIS				
	Enbrel	Etanercept	18.0%	$0.00
	Humira	Adalimumab	18.0%	$0.00
	Kineret	Anakinra	17.0%	$0.00
	Orencia	Abatacept	17.0%	$0.00
	Remicade	Infliximab Recombinant	17.0%	$0.00
	Rituxan	Rituximab	17.0%	$0.00
TRANSPLANT				
	Cellcept	Mycophenolate Mof.	17.0%	$0.00
	Cyclosporine	Cyclosporine Modified	30.0%	$0.00
	Gengraf	Cyclosporine Modified	30.0%	$0.00
	Myfortic	Mycophenolate Acid	17.0%	$0.00
	Neoral	Cyclosporine Modified	17.0%	$0.00
	Prograf	Tacrolimus	17.0%	$0.00
	Rapamune	Sirolimus	17.0%	$0.00
	Sandimmune	Cyclosporine	17.0%	$0.00