



**TEXAS DEPARTMENT OF STATE HEALTH SERVICES  
MEMORANDUM OF AGREEMENT  
Last Updated: September 2016**

THMP # \_\_\_\_\_ - Initial MOA  
Date Completed: \_\_\_\_\_

This legally binding Memorandum of Agreement (MOA) is entered into between the Texas Department of State Health Services (DSHS) and \_\_\_\_\_ hereinafter referred to as "Pharmacy," with the terms and conditions of the MOA as follows:

**I. PURPOSE**

The federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (P.L. 101-381) awarded funds to States to help offset the cost of medications approved by the Food and Drug Administration for the treatment of HIV infection. The Texas HIV Medication Program (THMP), which is operated by DSHS, is available to eligible indigent persons with HIV infection not covered under another third-party payor or whose State Medicaid allocated monthly medication slots have been filled. Title 42, Section 300ff-26 of the United States Code, authorizes this program.

**II. ASSURANCES**

The Pharmacy agrees to provide program medications to THMP recipients. The Pharmacy will order approved program medications directly from the THMP, and the THMP will ship approved medications to the Pharmacy in accordance with the procedures outlined in the "Pharmacy Guidelines for the Texas HIV Medication Program" (the Guidelines) (see <http://www.dshs.texas.gov/hivstd/meds/files/guidphar.pdf>). The Guidelines are hereby incorporated by reference into this MOA.

The Pharmacy agrees to dispense medications received from the THMP to the recipients unopened, without re-packaging and in full-bottle increments. Prescriptions for recipients under this program shall be written in amounts as close to 30-day increments as a full bottle will allow. The medications currently approved for coverage by the program are listed in the Guidelines. Medications received by the Pharmacy from the THMP may only be dispensed by the Pharmacy as described in this MOA. Pharmacy shall adhere to all of the applicable Texas pharmacy rules and statutes pertaining to patient confidentiality and dispensation of prescription medications, including but not limited to:

- Texas Occupations Code, Subtitle J, Pharmacy and Pharmacists, Chapters 551-568; and
- Texas Administrative Code, Title 22, Part 9, Chapter 293, Part 15, Texas State Board of Pharmacy.

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The THMP program is considered the payor of last resort. Program recipients must utilize all third-party payor sources before accessing medications from the THMP. The Pharmacy must immediately notify the THMP if they become aware of a program recipient having a third party payor source that covers prescriptions.

The THMP is only authorized to serve recipients residing in the state of Texas. The Pharmacy must immediately notify the THMP if they become aware of a program recipient residing outside the state of Texas.

The Pharmacy acknowledges receipt of the Guidelines by affixing an authorized signature below. The Pharmacy has a duty to become familiar with the contents and procedures contained in the Guidelines. Pharmacy agrees to comply with all of the requirements of the Guidelines, as well as all state and federal laws regulating pharmacy operations. Pharmacy is responsible for ensuring that employees or agents acting on behalf of the Pharmacy comply with all of the requirements of this MOA.

Pharmacy agrees to keep its application for participation in the THMP current by informing THMP staff in writing of any changes to the information contained in its program application at least ten (10) days prior to any such change. Changes that trigger this requirement include, but are not limited to, changes in: ownership or control; federal tax identification number; and/or pharmacy business address. Pharmacy also agrees to immediately notify THMP staff of any restriction placed on, or suspension or revocation of, the Pharmacy's license and/or certificate to provide medical services. Upon request, the Pharmacy must provide THMP staff, within ten (10) days of such a request, copies of documents associated with the adverse action on the license and/or certificate.

**III. REIMBURSEMENT**

DSHS will not bill the Pharmacy or the approved recipient for medications under the THMP. DSHS will ship medications directly to the Pharmacy for dispensation to approved THMP recipients.

The Pharmacy may collect a dispensing fee not to exceed \$5.00 for each prescription dispensed to an eligible recipient under this program who is not eligible for dispensing fee assistance. However, the Pharmacy may not refuse to dispense medications to an approved THMP recipient because of inability to pay.

The THMP may provide assistance with dispensing fees for special populations including but not limited to Medicaid Enrollees and recently incarcerated persons. If the THMP is providing dispensing fee assistance to an enrollee the pharmacy may not collect a dispensing fee from that enrollee. The program will notify the pharmacy if the enrollee is receiving this assistance. The THMP will automatically reimburse the \$5.00 dispensing fee for these recipients via a periodic lump sum payment.

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**IV. AUDIT OF RECORDS**

The Pharmacy shall maintain recipient and statistical records and any supporting documents applicable to performance under this MOA. This includes, but is not limited to, all records pertaining to receipt and delivery of THMP medications to approved THMP recipients. These documents shall be retained for a period of three (3) years after the termination of this MOA.

The Pharmacy agrees that DSHS, the Texas Health and Human Services Commission, the Comptroller General of the United States, and/or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the Pharmacy for the purpose of making audit, examination, excerpts, and transcriptions of transactions related to this MOA.

**V. CONFIDENTIALITY**

The Pharmacy must comply with the provisions of Texas Health and Safety Code Sections 85.112 (Workplace Guidelines) and 85.113 (Workplace Guidelines for State Contractors), and DSHS rules on confidentiality relating to HIV and AIDS. The Pharmacy must also comply with DSHS "HIV/AIDS Model Workplace Guidelines for Businesses, State Agencies and State Contractors" (see <http://www.dshs.texas.gov/hivstd/policy/policies/090-021.shtm>). The Pharmacy shall have a system in effect to protect against inappropriate disclosure of patient records, or any other documents deemed confidential by law, which are maintained in connection with the activities authorized under this MOA. Any disclosure of confidential patient information by the Pharmacy required by this MOA, including, without limitation, information required by the Audit of Records section above, shall be in accordance with applicable law.

**VI. DISCRIMINATION PROHIBITED**

No person in the United States shall, on the grounds of race, creed, color, handicap, age, ability to pay, sex or national origin, be excluded from participation in, be denied the proceeds of, or be subject to discrimination in the Pharmacy's performance under this MOA. The Pharmacy must provide services to THMP recipients in the same manner, by the same methods, and at the same level and quality as provided to the general public, subject to the requirements of the THMP program under this MOA. The parties will comply with federal regulations at 45 CFR Parts 80, 81, 84 and 90.

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**VII. CLIENT RIGHTS**

The Pharmacy must maintain the recipient's privacy and confidentiality regarding the recipient's medical and personal information contained in the Pharmacy's records, as required by state and federal law. The recipient has the right to choose which participating pharmacy is used unless that right has been restricted by DSHS for any reason. The recipient's acceptance of any service must be voluntary.

**VIII. TERMINATION**

This MOA shall become effective once signed by both parties and will be valid for three (3) years. However, it is hereby agreed that either party may terminate the MOA prior to this date upon giving thirty (30) days written notice to the respective party. DSHS may immediately terminate the MOA if the Pharmacy is excluded from state or federal programs (eg. Medicaid) for any reason, loses its licenses or certificate (as referenced above), becomes ineligible for participation in the THMP, fails to comply with the provisions of this MOA, and/or if the Pharmacy is or may be placing the health and safety of clients at risk.

This MOA may be terminated if funds allocated should become reduced, depleted, or unavailable during this MOA period and the THMP is unable to obtain additional funds. The THMP shall timely provide written notification to the Pharmacy of such fact, and such MOA is terminated upon receipt of that notification.

This MOA may be terminated in the event that federal or state law should be amended or judicially interpreted so as to render continued fulfillment of this MOA, on the part of either party, unreasonable or impossible.

This MOA contains the entire understanding of the parties and supersedes any and all previous discussions, proposals, or agreements, if any, between the parties with respect to the subject matter hereof. This MOA may not be amended, modified, or changed except by instrument in writing signed by an authorized representative of each of the parties. This MOA shall be construed pursuant to the laws of the State of Texas.

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**APPROVED BY:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**PHARMACY REPRESENTATIVE INFORMATION**

Pharmacist-in-Charge \_\_\_\_\_ PIC  
(PIC): \_\_\_\_\_ License #: \_\_\_\_\_

Other Staff Pharmacist(s): \_\_\_\_\_  
\_\_\_\_\_

Pharmacy Name: \_\_\_\_\_  
Pharmacy Physical Address: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_  
Pharmacy Mailing Address: \_\_\_\_\_  
(if different from above)

City, State, ZIP: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Pharmacy License #: \_\_\_\_\_ N.A.B.P.#: \_\_\_\_\_

Pharmacy Classification: \_\_\_\_\_ Medicaid  
Vendor #: \_\_\_\_\_

Federal Employer ID Number (FEIN): \_\_\_\_\_

**PIC/Authorized Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_