

This Agreement is made as of the 7<sup>th</sup> day of July, 2010

## PHARMACY SERVICES AGREEMENT

Between

**Her Majesty the Queen in Right of the Province of British Columbia,  
as represented by the Minister of Health Services**

(the “Province”)

And

**British Columbia Pharmacy Association**

(“BCPhA”)

And

**Canadian Association of Chain Drug Stores**

(“CACDS”)

(BCPhA and CACDS referred to jointly as the “Associations”)

(collectively referred to as the “Parties”)

WHEREAS the Province provides assistance to British Columbia residents with the purchase of designated drugs, medical supplies and pharmacy services through its PharmaCare program;

AND WHEREAS the Associations represent community pharmacies conducting business in British Columbia;

AND WHEREAS the Province is seeking to manage the cost of drugs, supplies and services reimbursed by the PharmaCare program and to ensure reasonable access to pharmacy services that contribute to positive health outcomes for British Columbians;

AND WHEREAS the Associations are seeking to ensure fair and reasonable compensation for dispensing and other professional services;

AND WHEREAS the Parties hereby endorse the changes set out in this Agreement as a framework for delivering reasonable savings to the Province on generic drug expenditures while recognizing the need for the commercial viability of the community pharmacy sector in British Columbia and creating opportunities for expanded delivery of professional services to support residents in maintaining and improving their health;

AND WHEREAS the Parties are seeking to maintain their ongoing collaboration on matters pertaining to the relationship between the Province and community pharmacies;

The Parties hereby agree as follows:

## 1.0 Definitions

### 1.1 New Generic Drug

A new generic drug shall be defined on the basis of the criteria set out in the *Interim Policy – Pricing for New Multi-Source Generic Drugs*, as implemented by the Province on January 1, 2009.

### 1.2 Existing Generic Drug

An existing generic drug shall be defined as a generic drug that does not meet the criteria for designation as a new generic drug pursuant to Section 1.1 above and includes a new vendor of an existing generic drug.

### 1.3 Manufacturer List Price

The list price of a drug is the published price at which the drug is available for purchase from the manufacturer by a wholesaler in British Columbia.

### 1.4 Usual and Customary Fee and Drug Price

A pharmacy's usual and customary fee and drug price, commonly known as cash price, for a prescription shall be defined as the fee and drug price independently determined to be charged by the pharmacy to an individual paying for the prescription without any direct contribution from a third party at the point of sale.

### 1.5 Drug Cost

For the purpose of this Agreement, the amount reimbursed by PharmaCare for the drug supplied to a beneficiary, as distinct from any service fee, shall be defined as the drug cost. The maximum reimbursed drug cost is based on the manufacturer's list price for the drug plus mark-up as set out in Section 4.2.

## 2.0 Purpose and Scope

2.1 This Agreement sets out changes to the Province's existing policy and practice respecting payment provided by the Province through its PharmaCare program for the provision of drugs, supplies and services to British Columbia residents. Except as specifically set out herein, the manner of implementation shall be at the discretion of the Province and may include changes to existing Pharmacy Participation Agreements signed between the Province and individual pharmacies.

2.2 Notwithstanding 2.1 above, the Province will consult with the BCPhA regarding the Province's proposed elements of a new Participation Agreement and/or revisions to the Participation Agreement that may be required from time to time.

2.3 The Parties commit to work collaboratively to communicate their respective and collective endorsement of this Agreement to community pharmacies, supply chain partners, other stakeholders and the public generally.

- 2.4 The Parties acknowledge that:
- i) the Associations cannot bind their members by agreement with the Province; and
  - ii) the Province contracts directly with individual pharmacies; and
  - iii) while the Associations will take no action to monitor or otherwise seek to secure the compliance of their members with this Agreement, the Associations will use their reasonable best efforts to encourage members to provide drugs and services to British Columbia residents under the terms and conditions established by the Province for participation in the PharmaCare program
- 2.5 It is the independent decision of each pharmacy conducting business in British Columbia to participate in the PharmaCare program. A pharmacy may charge a price and/or fee for dispensing drugs or supplies, or for providing another service, that is less than any maximum price or fee offered by the Province.
- 2.6 Notwithstanding this Agreement, the Province may individually negotiate prices and/or other terms with any pharmacy, wholesaler, distributor, manufacturer or other party conducting business in British Columbia.
- 2.7 Notwithstanding any other provision of this Agreement, the Province's obligation to pay money to any pharmacy is subject to the *Financial Administration Act* which makes that obligation subject to an appropriation being available in the fiscal year of the Province during which payment becomes due, and to the Treasury Board, not having controlled or limited expenditure under any appropriation.

### **3.0 Generic Drug Pricing**

- 3.1 The *Interim Policy - Pricing for New Multi-Source Generic Drugs* implemented by the Province on January 1, 2009 will remain in effect until July 27, 2010. On July 28, 2010, the Province's policy will be amended for the period from July 28, 2010 until October 14, 2010 such that the cost reduction factor applicable to each new generic drug will be equivalent to the differential between:
- a. The new generic drug manufacturer's list price for the new generic drug; and
  - b. Forty-two (42) percent of the branded drug name manufacturer's list price for the equivalent branded drug.
- 3.2 Beginning on October 15, 2010 until April 2, 2012, the Province will establish a maximum accepted list price for all generic drugs subject to the Province's Lowest Cost Alternative ("LCA") policy.

3.3 Except only as provided in Section 3.5, a manufacturer seeking to obtain or maintain PharmaCare coverage for a generic drug will be required to make the drug available for sale in British Columbia at or below the maximum accepted list price for the applicable LCA category as determined by the Province. Subject to other criteria as may be established by the Province for PharmaCare coverage of generic drugs, a generic drug will be considered eligible for PharmaCare coverage so long as the list price does not exceed the maximum accepted list price for the applicable LCA category determined based on the percentages defined in Table 1 below.

Notwithstanding the foregoing provision, the Province will not accept an increased price for a generic drug presently covered by PharmaCare at a list price that is lesser than price calculated on the basis of Table 1 below. In such instance, the maximum accepted list price for the applicable LCA category will be equivalent to the list price as of the effective date of this Agreement.

3.4 The maximum accepted list price, as provided for in 3.2, for each LCA category will be established by the Province on the basis of the percentages set out in Table 1 below; such percentages being expressed as a proportion of the manufacturer list price for the branded drug included in the LCA category. The branded drug list price considered by the Province in calculating the price threshold for a given LCA category will be the price in effect on January 1, 2010.

Table 1

<b>Generic List Price Relative to Branded List Price</b>	<b>October 15, 2010</b>	<b>July 4, 2011</b>	<b>April 2, 2012</b>
<b>Existing Generic Drugs</b>	50%	40%	35%
<b>New Generic Drugs</b>	42%	40%	35%

3.5 The Province may establish additional policy as required for effective implementation of the above pricing requirements. Subsequent to the implementation of this Agreement, the Province agrees to consult with the Agreement Management Committee established pursuant to Section 7.1 in advance of implementation of any proposed policy changes.

3.6 At its discretion, the Province may grant exceptions to the maximum accepted list price as calculated pursuant to Section 3.4 above for any LCA category. For any LCA category, where no manufacturer commits to make a generic drug available for sale at the maximum accepted list price or where the generic drugs available for sale at such price are not available in sufficient supply to meet the needs of PharmaCare beneficiaries, the Province may undertake any process it deems appropriate to obtain a sufficient supply of generic drugs at the lowest available price.

- 3.6 Where a manufacturer reduces the price of a generic drug in order to satisfy the requirements set out above, the Province will maintain the existing PharmaCare reimbursement price for the drug for at least thirty (30) days following the date on which the drug is available in British Columbia at the reduced price.
- 3.7 From time to time, the Province will publish the maximum reimbursed drug cost that it has determined for drugs eligible for PharmaCare coverage.
- 3.8 The Province's pricing policy for generic drugs applicable on April 2, 2012 as set out in Section 3.3 will be subject to further negotiation at the request of any Party in the case that the prevailing prices for generic drugs in the market varies from thirty-five percent of brand drug prices. A Party intending to initiate negotiations will provide notice to the other Parties no later than October 1, 2011. Where notice is issued, the Parties will negotiate in good faith for a period of sixty (60) days or as agreed between the Parties.
- 3.9 Where the Province's pricing policy as defined in Section 3.4 is revised through negotiation to reflect market conditions in effect at that time, this Agreement will be amended to incorporate any agreed revisions to terms respecting the Province's policy for generic drug pricing, fees and/or mark-up.
- 3.10 Where the Parties are unable to reach agreement within sixty (60) days, either Party can issue notice to terminate this Agreement, effective April 1, 2012.

#### 4.0 Fees and Drug Mark-up

##### 4.1 Maximum Dispensing Fee

The maximum dispensing fee established by the Province to be reimbursed by PharmaCare will be revised as outlined below (see Table 2). The payment of the increased dispensing fees to any pharmacy on or after October 15, 2010 is subject to such pharmacy's execution of the revised Pharmacy Participation Agreement.

Table 2

Dispensing Fee	July 28, 2010	October 15, 2010	July 4, 2011	April 2, 2012
<b>Maximum Dispensing Fee Reimbursed by PharmaCare</b>	\$9.10	\$9.60	\$10.00	\$10.50

#### 4.2 Drug Mark-up

- i. Commencing on October 15, 2010, the Province will reimburse brand and generic drugs eligible for PharmaCare coverage to a maximum cost based on the manufacturer list price plus an eight percent (8%) mark-up. The mark-up is intended to cover any and all costs incurred by a pharmacy in procuring and stocking the drug.
- ii. As a condition of participation in the PharmaCare program, pharmacies will be required to procure prescription drugs only from parties duly licensed by Health Canada or otherwise authorized by the College of Pharmacists of British Columbia to distribute such products.
- iii. Prior to October 15, 2010, for effect by April 1, 2011, the Province will consult with the Associations, as well as with wholesaler and manufacturer representatives, to establish a limitation on the maximum value of the mark-up reimbursed on any claim.
- iv. Where PharmaCare reimbursement for a brand or generic drug is presently subject to a Maximum Allowable Cost, the Reference Drug Program, another PharmaCare reimbursement policy or exception, or where PharmaCare reimbursement is based on the retail cost of the product, the Province shall determine the continued application of such conditions at its discretion.

#### 4.3 Plan B Capitation Rate

- i. Commencing on October 15, 2010, the capitation rate paid to pharmacies providing service to long-term care facilities will be increased to a maximum of \$43.75 per serviced bed for PharmaCare recipients. Other conditions respecting payment of the capitation rate will remain in effect. Payment of the increased rate will be subject to execution of the revised Pharmacy Participation Agreement.
- ii. The increase to the capitation rate determined by the Province is intended in recognition of clinical services provided by pharmacies for the benefit of patients residing in long-term care facilities. Following the Effective Date of this Agreement, the Parties commit to examine the current compensation model for Plan B and explore the implications of alternate models, with the intent to ensure that the compensation model is appropriate and sustainable for pharmacies and the Province. Funding for these alternative models will be accessed through the Clinical Pharmacy Services commitment (see Section 6.2).

#### 4.4 Full Payment

- i. Commencing on October 15, 2010, pharmacies choosing to participate in the Province's PharmaCare program will not charge beneficiaries receiving full PharmaCare coverage any additional co-payment for full benefit medications. Specifically a pharmacy will accept as full payment for prescription drug purchases the lesser of that pharmacy's usual and customary fee and drug price or the PharmaCare maximum allowable fee and drug cost reimbursement for PharmaCare beneficiaries. This maximum full payment will apply to those beneficiaries covered under Plans B, C, D, F, G and P.
- ii. The foregoing condition will also apply similarly to PharmaCare beneficiaries covered under Plan I, provided the beneficiary has reached the family maximum payable as established under the Plan. For clarity, this limitation precludes charges paid directly by the beneficiary.
- iii. To achieve greater transparency regarding charges to PharmaCare beneficiaries, the Province will publish the maximum reimbursed fees and drug costs in a manner that is accessible to the public.

#### **5.0 Rural Incentive Program**

- 5.1 In addressing patient access throughout British Columbia, the current Rural Incentive Program will be enhanced and expanded by the Province. Enrollment in the program will be made available for those single pharmacies outside a 30KM radius of another pharmacy in rural British Columbia that dispense up to seventeen hundred British Columbia PharmaCare prescription claims per month. Any changes to the Rural Incentive Program will involve consultation with pharmacy through the Agreement Management Committee.
- 5.2 Funds for the enhanced Rural Incentive Program will be provided through those funds allocated to address Clinical Pharmacy Services reinvestment.
- 5.3 Commencing November 1, 2010 eligible rural pharmacies will be permitted to enroll in the revised Rural Incentive Program. Re-enrollment will be a requirement for those rural pharmacies currently enrolled in the Rural Incentive Program prior to November 1, 2010.

## 6.0 Clinical Pharmacy Services

- 6.1 The Parties support the transformation of the current pharmacy services model to optimize therapeutic patient care and outcomes. The new pharmacy services model, with a focus on patient centered services, will expand and enhance the capacity to build a broader scope of practice for pharmacy.
- 6.2 The Parties will prepare a plan and implementation strategy for the range and rates of programs and services to be compensated in each year as follows:
- i. by December 1, 2010, a plan for programs and services with a total expected cost of \$10 million in fiscal year 2011-12;
  - ii. by December 1, 2011, a plan for programs and services with a total expected cost of \$25 million in fiscal 2012-13;
  - iii. by December 1, 2012, a plan for programs and services with a total expected cost of the full \$35 million in reinvestment funding that will support the continuation of clinical and enhanced services.
- 6.3 A preliminary list of services that may be considered for qualification as enhanced pharmacy services under this agreement are provided as follows. This list is not exhaustive as additional services may be considered for inclusion.
- i. Prescription Adaptation
  - ii. Medication Therapy Review
  - iii. Medication Therapy Management
  - iv. Injection Authority
  - v. Sentinel Program
  - vi. Device Training
  - vii. Palliative Care
- 6.4 Where the expected cost of programs and services as agreed by the Parties for a given fiscal year is less than the available funding for that year as set out in Section 6.2, the differential between the available funding and the expected cost of the agreed programs and services will be added to the available funding for the following fiscal year.
- 6.5 At any time, either the Province or the Associations can refer a dispute arising under this Section to the Joint Escalation Committee for resolution. If the Parties are unable to reach agreement on programs and services for a given fiscal year by the date indicated in Section 6.2, the dispute will be immediately referred to the Joint Escalation Committee.
- 6.6 The Parties agree to continuous monitoring and transparent reporting of the status of clinical services transition and implementation.

## 7.0 Committees

### 7.1 Agreement Management Committee

- i. The mandate of the Agreement Management Committee (AMC) will be to oversee the implementation and ongoing administration of this Agreement.
- ii. The Province and the BCPhA will each have equal senior representation on the AMC. A joint Terms of Reference will be established and costs will be the responsibility of each respective Party.
- iii. The AMC may establish sub-committees to address specific projects or issues. These subcommittees will report to the AMC and will operate within the parameters of a jointly established Terms of Reference.
- iv. A Clinical Services Committee will be created as a subcommittee of AMC with terms of reference as established by AMC. The mandate of the Clinical Services Committee will be the preparation of plans and implementation strategies for new programs and services pursuant to Section 6 above.

### 7.2 Joint Agreement Committee

- i. From time to time, issues may arise that require additional dialogue between the Province and the CACDS/BCPhA jointly. Issues may include, but are not limited to, disagreements regarding interpretation of the Agreement, allocations of funds pursuant to Section 6, strategic direction, including potential notice of termination.
- ii. Membership on JAC will be senior/executive representation of each of BCPhA, CACDS and the Province. For purposes of decision making by JAC, voting rights will be distributed equally between the Province and the Associations jointly.
- iii. Terms of reference for JAC will be developed by the Parties and costs will be the responsibility of each respective Party.
- iv. AMC will call to action the JAC to attempt to bring resolution and certainty to any such issues that may be referred.
- v. If the JAC is unable to reach joint resolution on any issue, they will refer the matter to the PEC, as described in 7.3.

### 7.3 Pharmacy Escalation Committee

- i. The PEC mandate is to provide final and full resolution to outstanding issues as referred by the JAC.
- ii. The Province and the Associations jointly, will each have three executive representatives, inclusive of the Deputy Minister of Health Services, or designate, who will Chair the PEC.
- iii. The PEC will meet as required, on an expeditious basis, and will provide decisions to the JAC and AMC for implementation.

## 8.0 Term

8.1 This Agreement will come into effect on July 28, 2010 (the “Effective Date”).

8.2 This Agreement will remain in effect until March 31, 2013 unless a Party issues notice of termination to take effect April 1, 2012 in accordance with Section 3.10 or unless as extended pursuant to Section 8.3 below.

8.3 The Parties agree to commence negotiations to renew this Agreement no later than October 1, 2012. If such negotiations do not result in conclusion of a renewed agreement between the Parties on or before January 31, 2013, the terms and conditions of this Agreement will extend for twelve months to March 31, 2014.

## 9.0 Headings

The headings used in this Agreement are for convenience only and are not a part of this Agreement nor shall they affect the interpretation of any of its provisions.

## 11.0 No Partnership

This Agreement shall not be deemed to create any partnership, joint venture, amalgamation or agency relationship between the Parties.

## 12.0 Applicable Law

This Agreement shall be governed by and construed under the laws of the Province of British Columbia and the Parties agree to the exclusive jurisdiction of the courts of the Province of British Columbia.

**13.0 Legislative Prerogative**

Parties acknowledge that nothing contained within this Agreement prevents the Government of British Columbia from enacting legislation respecting any matter contained in this Agreement.

**IN WITNESS WHEREOF**, the Parties have each caused this Agreement to be duly executed as of the day and year first written above.

**Agreed to for and on behalf of Her Majesty the Queen in Right of the of British Columbia by a duly authorized representative of the Minister of Health Services** )  
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**Agreed to for and on behalf of British Columbia Pharmacy Association**

**By:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Agreed to for and on behalf of Canadian Association of Chain Drug Stores**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

