

Eclectic Health

NETWORK PRACTITIONER - TERMS & CONDITIONS

V11-03.28.08

ECLECTIC HEALTH IS FOUNDED ON PRINCIPLES OF COLLABORATION. WHILE THIS AGREEMENT PROVIDES SOME BOILER PLATE CONDITIONS THAT ARE NECESSARY FOR DOING BUSINESS, WE INVITE YOUR NEGOTIATION OF ITS TERMS, AND WILL CONSIDER ANY SUGGESTED REVISIONS OR IMPROVEMENTS TO ITS FORM TO BETTER ACCOMMODATE OUR UNIQUE WORKING RELATIONSHIP.

1. INTRODUCTION

- 1.1. This document is a legal agreement between you the practitioner and Eclectic Health, a wholly owned subsidiary of Perennial Partners, Inc. based in Petaluma, California.
- 1.2. This agreement explains our mutual obligations in relation to the Eclectic Health practitioner network. By joining the network as an independent service provider, you agree to provide services to Eclectic Health subscribers at an agreed upon rate/discount.
- 1.3. This agreement becomes active once you, the practitioner, setup your billing account. This is an online process and requires a credit card or alternative billing arrangement.
- 1.4. By listing your services with Eclectic Health, you acknowledge that you have read and agree to all the terms and conditions of this agreement.

2. DEFINITIONS

- 2.1. **“Subscriber”** shall refer to any individual or employer group with a current subscription to the *Eclectic Health Discount Card™*.
- 2.2. **“Network Practitioner”** or simply **“Practitioner”** shall refer to the service provider.
- 2.3. **“Services”** shall refer to the specific therapies, treatments, counseling, consulting, or training provided by Eclectic Health practitioners.
- 2.4. **“Service Packages”** or simply **“Packages”** shall refer to bundled services and/or products that are purchased on the Eclectic Health website, distinct from services and/or products purchased at the point of service.
- 2.5. **“Health Navigator”** shall refer to the Eclectic Health staff member who provides subscribers with phone support and referrals, and who collaborates with network practitioners to develop integrative treatment teams and service packages.
- 2.6. **“Web Profile”** shall refer to a personalized web page created for each practitioner and hosted on the Eclectic Health website.
- 2.7. **“Website”** if not otherwise specified shall refer to www.EclecticHealth.net.

3. PRACTITIONER OBLIGATIONS

3.1. Initial Requirements. The practitioner is initially responsible for:

- 3.1.1.** Assuring Eclectic Health that all information provided in your application is true and correct, including but not limited to your credential(s), license(s), malpractice insurance, specializations, and standard rates;
- 3.1.2.** Paying a start-up fee and providing a credit card or alternative billing arrangement for monthly dues;
- 3.1.3.** Taking your professional portrait with an approved photographer;
- 3.1.4.** Submitting information for your Web Profile (an online process) and reviewing your profile in a timely manner for any necessary changes and/or final approval.

3.2. Ongoing Requirements. The practitioner is routinely responsible for:

- 3.2.1.** Following the ethical guidelines of your profession and keeping a malpractice insurance policy in full force for as long as you are with the network;
- 3.2.2.** Accepting appointment requests by phone AND email, and responding to all such requests by phone within 36 hours, unless subscribers are otherwise informed of your absence by an appropriate outgoing voicemail message, live receptionist, or automated email response;
- 3.2.3.** Providing services to all Eclectic Health subscribers at a 20% discount, without discrimination or delay, and without compromising quality;
- 3.2.4.** Ensuring there is no discrepancy between the standard rates promoted on the Eclectic Health website and those published independently;
- 3.2.5.** Verifying with new clients the validity of their discount card, specifically ensuring that the card is in their name and is not expired;
- 3.2.6.** Being as timely as possible, with respect to beginning the appointment at the agreed upon time and to providing services for the full length of the session;
- 3.2.7.** Notifying Eclectic Health by phone or written declaration of any subscriber who violates professional boundaries or otherwise causes harm to the professional relationship;
- 3.2.8.** Notifying Eclectic Health by phone or written declaration of any substantial changes to your credential(s), license(s), malpractice insurance, specializations or standard rates;
- 3.2.9.** Ensuring prompt and consistent payment of your practitioner dues (see Fees and Payment Terms below).

4. ECLECTIC HEALTH OBLIGATIONS

4.1. Initial Requirements. Eclectic Health shall be responsible for:

- 4.1.1.** Providing the practitioner a fair opportunity to amend this agreement;

- 4.1.2. Providing you a new practitioner “welcome package” with supporting administrative documents and guidelines for making the most of your participation with Eclectic Health;
- 4.1.3. Providing you a complimentary subscription to the Eclectic Health discount card, plus five additional subscriptions to be sold or gifted to family, friends, or clients;
- 4.1.4. Providing you a series of professional quality headshots and giving you the choice of which portrait you’d like to use on your Web Profile;
- 4.1.5. Providing you a personalized and complete Web Profile consistent with all other network practitioners; offering editorial feedback when necessary or requested, and soliciting your final approval;
- 4.1.6. Offering you support to develop Service Packages that integrate services and/or products that you offer, or that collaborate with other practitioners in the network;
- 4.1.7. Outreaching to you by phone by a representative of our Health Navigator referral service, to learn more about your orientation and specialties, and to provide if necessary an orientation to the website, details about our networking evenings, etc.

4.2. Ongoing Requirements. Eclectic Health shall be routinely responsible for:

- 4.2.1. Maintaining visibility in the marketplace through a well funded marketing campaign, including search engine optimization, and discount card distribution through retailers, doctors offices, insurance agencies, and nonprofit organizations throughout the region;
- 4.2.2. Reimbursing you within 10 business days for all Service Packages purchased on the Eclectic Health website (see Fees and Payment Terms below);
- 4.2.3. Taking immediate action on your behalf to address the inappropriate conduct of any subscriber, by contacting the subscriber by phone or posted letter;
- 4.2.4. Being available to respond to practitioner inquiries Monday through Friday, between the hours of 9:30AM and 4:30PM (except holidays).

5. PROPERTY RIGHTS

- 5.1. **Eclectic Health.** All rights and title to all registered and unregistered trademarks and copyrights, service marks and logos, patents, proprietary information, any forms, any images including but not limited to practitioner headshots, audio/visual displays, text, software, and all other intellectual property found on the Eclectic Health website or printed collateral shall be exclusively that of Eclectic Health and its parent, Perennial Partners, Inc. Any duplication or private use of such property requires the explicit consent of Eclectic Health.
- 5.2. **Practitioner.** An exception to the above is any copy authored by you, the practitioner, for use on your Web profile, for which the copyright belongs to you. All rights and title to all properties found on your own website or printed collateral shall also be yours exclusively.

6. PRIVACY

- 6.1. **Client Privilege.** All matters concerning the subscriber’s health condition, therapeutic process, or any personal information that arises in the setting of the practitioner-subscriber relationship shall be protected and kept private by the practitioner. Written notes, charts, artwork, or any by-products of sessions with the subscriber shall not be shared with anyone without the subscriber’s explicit consent.

- 6.2. Subscriber Information.** Eclectic Health shall be collecting personal information from subscribers, including billing information when they purchase the discount card or any product or treatment package on the Eclectic Health website. This information will be kept strictly confidential, and may not be used by practitioners for any kind of marketing or other communication without the subscriber's explicit consent.
- 6.3. Complaints.** In the event of a formal complaint against the practitioner, whether or not by an Eclectic Health subscriber, and whether through the Better Business Bureau, professional association, state or other regulatory agency, Eclectic Health shall not make any attempt to reveal such information publicly, and the proceedings of any related investigation shall also remain confidential to protect the practitioner's presumed innocence. However, the negative outcome of a formal complaint may lead to the termination of this agreement at the discretion of Eclectic Health (see Term and Termination section below).

7. FEES AND PAYMENT TERMS

- 7.1. Initiation fee.** The standard startup fee for joining Eclectic Health as of January 2008 shall be the sum of one hundred fifty (\$150.00) U.S. dollars and is non-refundable. This is a one-time fee and serves to off-set initial expenses such as headshots and development of your Web Profile.
- 7.2. Practitioner dues.** The monthly fee for all practitioners participating in the network as of January 2008 is the sum of twenty (\$20.00) U.S. dollars. Payment is collected automatically using a credit card, on or around the first day of each calendar month. A written receipt shall be provided once a year to the practitioner at the practitioner's request.
- 7.3. Discount on standard rates.** Practitioners shall promote their services at a standard rate, from which a 20% discount is given to new clients who are Eclectic Health subscribers. Practitioners reserve the right to adjust their standard rates at any time. New clients who are not subscribers to the discount card (or who have an expired discount card) are not entitled to a discount.
- 7.4. Point of service payments.** A majority of services will be paid by subscribers at the point of service. Sliding scale rate adjustments may be offered to both subscribers and non-subscribers at the sole discretion of the practitioner. Eclectic Health encourages practitioners to sell or give away a subscription to the discount card as your sliding scale method.
- 7.5. Discount vs. insurance claim.** Cases in which Eclectic Health practitioners process an insurance claim are NOT required to also give a discount. Subscribers shall understand by their card agreement that they may pay for services using *either* insurance *or* their discount card. However, if subscribers pay their bill in full at the point of service, they may request a super bill to pursue reimbursement from their insurance carrier.
- 7.6. Reimbursements.** Service Packages purchased on the Eclectic Health website shall be reimbursed by Eclectic Health within 10 business days of the purchase, less a ten percent (10%) administrative fee. Since reimbursements are technically classified as fee-for-service, a 1099 will be issued by Eclectic Health to participating practitioners at the end of each calendar year.
- 7.7. Referral.** Practitioners who promote the Eclectic Health practitioner network to colleagues earn a one hundred (\$100) dollar referral fee for every three applications received *and* accepted by Eclectic Health. Referral payments are made monthly.
- 7.8. Increased dues.** Eclectic Health reserves the right to increase monthly practitioner dues, but shall not issue increases more frequently than once a year, nor will increases be for more than fifteen percent (15%) of the basis. Written notification of all such increases will be provided in advance. Practitioners are guaranteed at least 12 months of fixed dues without increase, and will have the option to discontinue membership at any time thereafter.

8. TERM AND TERMINATION

- 8.1. Initial Term.** By setting up a billing account, you agree to the terms and conditions of this agreement for an initial term of twelve (12) months.
- 8.2. Renewal.** Following the initial term, you can either terminate or renew this agreement. Renewal is assumed and shall be automatic in the absence of a written declaration which expressly states your intentions to terminate your participation in the network. Such declaration is required at least thirty (30) days prior to the end of the initial term.
- 8.3. Termination.** Within the initial term, Eclectic Health reserves the right to terminate this agreement if the practitioner directly or indirectly violates the terms and obligations of this agreement. Following this period, either Eclectic Health or the practitioner may terminate this agreement for any reason with at least thirty (30) days prior notice.
- 8.4. Effect of Termination.** If this agreement is terminated within the initial term, Eclectic Health reserves the right to invoice and automatically collect any practitioner dues that would otherwise have been collected during this initial term.
- 8.5. Suspension.** In the case of severe illness or injury, you may expressly request to suspend this agreement and the collection of dues for a period of time. If that period shall foreseeably extend beyond three (3) months, Eclectic Health has the right to terminate this agreement.
- 8.6. Force Majeure (Events Beyond the Parties' Control).** Neither party shall be deemed in default of this agreement, nor shall it hold the other party responsible for any cessation, interruption or delay in the performance of its obligations hereunder, due to earthquake, flood, fire, storm, natural disaster, act of God, war, terrorism, armed conflict, labor strike, lockout, or boycott, provided that the party relying upon this Section shall promptly give the other party written notice thereof and, in any event, within five (5) days of discovery thereof, shall take all steps reasonably necessary under the circumstances to mitigate the effects of the force majeure event upon which such notice is based. If the force majeure event extends for a period in excess of thirty (30) days, either party may immediately terminate this agreement.

9. WARRANTY, DISCLAIMER, INDEMNIFICATION, LIMITATIONS TO LIABILITY

- 9.1. Warranty.** To the extent permitted by applicable law, Eclectic Health makes no warranty of any kind, express, implied or statutory, regarding the services offered by you or any other practitioner in its network. You ensure all your services are performed diligently at a standard quality acceptable to your professional association or licensing body, and you shall be independently responsible for resolving reasonable unmet expectations of Eclectic Health subscribers.
- 9.2. Disclaimer.** Similarly Eclectic Health makes no warranty to practitioners regarding the referral outcomes related to participation in its network. While exposure to potential clientele shall be relatively equal for all practitioners, the number of new appointments generated will vary widely. Factors that determine success include but are not limited to your modality, training, specialties, experience, orientation, availability, location, office environment, personal presentation, etc.
- 9.3. Indemnification.** Both Eclectic Health and the practitioner will defend, indemnify, save and hold harmless the other (and their officers, directors, agents, affiliates, distributors, franchisees and employees) from any and all third party claims, demands, liabilities, costs or expenses, including reasonable attorney's fees, resulting from the indemnifying party's material breach of any duty, representation or warranty of this agreement. Indemnification is conditioned upon the prompt written notice of any claim, action or demand for which indemnity is sought. Also the indemnifying party shall not, without prior written consent of the indemnified party, settle,

compromise or consent to the entry of any judgment that makes any admissions in the indemnified party's name or imposes any liability upon the indemnified party.

- 9.4. Limit to Liability.** In no event shall Eclectic Health (nor its officers, directors, agents, affiliates, distributors, franchisees and employees) or the practitioner have any liability to the other or any third party for any lost opportunity or profits, costs of procurement of substitute services, or for any indirect, incidental, consequential, punitive or special damages arising out of this agreement, under any cause of action or theory of liability (including negligence), and whether or not either party has been advised of the possibility of such damage. These limitations shall be enforceable to the maximum extent allowed by applicable law.

10. MISCELLANEOUS TERMS

- 10.1. Entire agreement and modification.** The terms of this agreement constitute the entire agreement between you and Eclectic Health. Its terms shall supersede any prior or simultaneous agreement, terms, negotiations, whether written or oral. Except as otherwise provided herein, any waiver, modification, or amendment of any provision of this agreement will be effective only if in writing and signed by both parties. Verbal modifications, even if allowed by law, will not be considered binding.
- 10.2. Assignment.** The practitioner may not assign this agreement under any circumstances.
- 10.3. Governing Law and Jurisdiction.** This agreement will be governed by and construed in accordance with the laws of the State of California. Each party consents to the exclusive venue and jurisdiction of the appropriate state or Federal courts in Sonoma County for any disputes arising out of or related to this agreement. The parties acknowledge and agree that this agreement is made and performed in Petaluma, California.
- 10.4. Notice.** All legal notices to Eclectic Health shall be in writing and delivered, via courier or postal mail, to Eclectic Health, P.O. Box 2206, Petaluma, CA 94953 or any other address provided by Eclectic Health.
- 10.5. Independent Contractors.** Consultants, contractors, or agents of Eclectic Health do not have any authority to bind the other party by contract or any other legal obligation. Only Eclectic Health staff, namely the President, has the right to initiate legal agreements.
- 10.6. Non-Disparagement.** During the term of the agreement, neither party will disparage the other party or the other party's trademarks, websites, products or services, or display any such items in a derogatory or negative manner on any website or other public forum or press release.
- 10.7. Costs.** Except as expressly stated herein, each party shall be solely responsible for the costs and expenses of performing its obligations hereunder.

Please keep a copy of this agreement for your records. By setting up a billing account with Eclectic Health, you agree to the terms and conditions of this agreement.