CORPORATE INTEGRITY AGREEMENT
BADRUDIN KURWA
BADRUDIN KURWA, INC.

This Corporate Integrity Agreement (the "Agreement") is entered into between Badrudin Kurwa, M.D., and Badrudin Kurwa, Inc. d/b/a Kurwa Eye Center (collectively "Kurwa") and the Office of Inspector General of the United States Department of Health and Human Services ("HHS/OIG").

I. Preamble

Kurwa agrees to implement, at their own cost, the following corporate integrity program to ensure full and accurate compliance with all Medicare and Medicaid regulations and program requirements by Kurwa, and Kurwa employees and independent contractors working in Kurwa's offices or who have responsibility for the management, administration or billing for Kurwa.

II. Corporate Integrity Program

The period of future compliance obligations assumed by Kurwa under this Agreement shall be five (5) years from the date of full execution of this Agreement. All documents, reports, and certifications, required under this Agreement shall be sent to the following address: Office of Counsel to the Inspector General, Civil Recoveries Branch - Compliance Unit, Office of Inspector General, United States Department of Health and Human Services, Cohen Building, Room 5527, 330 Independence Avenue, S.W., Washington, D.C., 20201, (202) 619-2078.

Kurwa agrees to implement the following measures within 45 days of the date of full execution of this Agreement:

A. Corporate Compliance Officer

Dr. Kurwa agrees to assume the duties of corporate compliance officer to ensure that this Agreement is implemented and adhered to as required herein. Dr. Kurwa will have the responsibility of ensuring that all reporting requirements have been met and will personally sign any and all certifications under the penalty of perjury.

B. Annual Audits

Kurwa agrees to implement and assume the cost of an annual review of all billing practices. Such review shall include: (1) an audit of the claims submitted or caused to be submitted by Kurwa to the Medicare, Medicaid, and Federal

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health care programs[1] to determine that they correctly reflect the items and services as rendered; (2) an audit to ensure that the documentation exists to support the claims submitted to Medicare, Medicaid, and Federal health care programs to determine that they correctly reflect the items and services as rendered; (3) a review of all Kurwa's policies and procedures that relate to Medicare and Medicaid to ensure that they are accurate; and (4) compliance with other requirements of this Agreement. This review shall be conducted by an appropriately trained individual or individuals, such as a law firm or accounting firm, with expertise in Medicare and Medicaid billing policies, including expertise regarding the required documentation for claims. A certified copy of the report stating the results of the review will be sent on an annual basis to the United States at the address set forth above. The certification shall be executed by both the compliance officer and the firm that undertook the review. The first report will be due one year from the effective date of this Agreement.

If there are any material violation(s) of Federal or State law or regulations concerning billing practices, Kurwa will promptly report such material violation(s) to the address set forth above. A material violation is one where there is more than an isolated billing error on a single claim. The report to HHS/OIG shall include: (1) the findings concerning such material violation(s); (2) the actions taken to correct such violation(s); (3) other further steps to prevent such violation(s) from recurring; and (4) proof that any overpayment has been refunded to the relevant program (with interest, as required by the program). A corrective action plan to remedy the material violation(s) shall be in place within 30 days. Failure to submit a certified report notifying HHS/OIG of the material violation will be considered a breach of this Agreement. If a review is not completed or done in accordance with the terms of this Agreement, HHS/OIG may conduct its own audit at the expense of Kurwa.

C. **Policies and Procedures**

Policies and Procedures shall be drafted and implemented to ensure compliance with all Medicare and Medicaid laws, regulations, and policies relevant to Kurwa's practice. Such policies and procedures shall include, but not be limited to:

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[1] This term as used herein is defined at 42 U.S.C. §1320a-7b(f).

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(1) a policy that will ensure compliance with all Medicare and Medicaid laws, regulations, and policies, including a procedure to obtain guidance from the carrier in writing should a question arise about a billing practice;

(2) a policy that requires each patient record to be completed the day each patient is seen, with all relevant documentation of patient complaints, examinations given, procedures performed, medical advice given, and any other information that is required in a medical record to support the medical necessity of the procedure(s) and the appropriateness of the procedure codes and diagnosis codes included in the claims; in addition, there will be procedures drafted and followed that will set forth how this will be accomplished; and

(3) a policy that sets forth the correct usage of CPT Code 92286, including a statement that this code shall not be used unless and until a specular microscope is obtained, is medically necessary for the treatment or diagnosis of an illness, ~~and is~~ actually used for that treatment or diagnosis.

These policies and procedures shall be distributed to each employee and any contractor that has responsibility for the management, administration, or billing for Kurwa. They shall also be submitted to the address set forth above within 60 days of the date of full execution of this Agreement.

D. **Information and Education**

Kurwa shall institute and maintain an information and education program designed to ensure that each employee and contractor is aware of all applicable Medicare and Medicaid laws, regulations, and policies. It will be communicated that failure to comply with the policies and procedures of Kurwa, especially those requiring accurate recordkeeping and billing may result in disciplinary action, including termination of employment or the contract. Each employee and contractor shall receive at least one hour of training annually in ethics and compliance. Any new employee or contractor shall receive the training within seven days of being contracted with or employed. A schedule and topic outline of the training shall be submitted to HHS/OIG within 60 days following full execution of this Agreement. A certification that each employee and contractor has received such training shall be included in the annual report.

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Kurwa shall also post in a conspicuous place in each of his offices a sign that states that should an employee or contractor become aware of any practices or billing procedures deemed by the employee or contractor to be inappropriate that the employee or contractor should call a specified individual employed or associated or affiliated with the firm or entity that prepared Kurwa's Corporate Integrity Program (hereinafter the "Monitoring Agent"). Such sign shall further state that any such call will remain confidential. Kurwa will retain the Monitoring Agent, who will be neither employed by nor related to him, to receive calls or information under this provision. The retainer will be of an amount sufficient to ensure that the Monitoring Agent remains autonomous and is compensated for the performance of the Monitoring Agent's duties pursuant to this provision, to wit: Once the Monitoring Agent receives a call or compliant, the Monitoring Agent shall investigate and, if possible, resolve the complaint; Kurwa shall make adequate resources available to ensure that the investigations are properly completed within thirty days; and Kurwa shall ensure that the Monitoring Agent submits an annual report to HHS/OIG which shall contain summary information regarding the general nature of the complaints received and the actions taken to verify and, if applicable, resolve, the complaints. If there is a material violation, as defined in this Agreement, the provisions contained herein applicable to discovering such a violation shall be followed. Kurwa will provide the Office of Inspector General the name of this Monitoring Agent within one month following retention of the Monitoring Agent, but in no event later than 60 days from full execution of this Agreement. The Monitoring Agent shall treat as confidential the identity of any employee or contractor placing such a call. Specifically, Dr. Kurwa will not be informed of the identity of any such employee or contractor placing such a call.

E. **Dealing with Excluded or Convicted Persons or Entities**

Kurwa will not employ, with or without pay, or enter into a contract or business relationship with any individual or business entity who: (1) Kurwa knows or should have known has been convicted of a criminal offense which would trigger an exclusion pursuant to 42 U.S.C. § 1320a-7(a) or 42 U.S.C § 1320a-7(b), unless that individual or entity has since been reinstated; or (2) is listed by a federal agency as currently suspended, debarred, excluded or otherwise ineligible for federal program participation. This policy will be communicated to all employees of Kurwa and any other entity or individual who has responsibility for the billing. In order to carry out this requirement, Dr. Kurwa agrees to make reasonable inquiry into the status of any potential employee, agent, or contractor, including review of HHS/OIG Cumulative Sanctions Report and the General Services Administrative (GSA)

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List of Parties Excluded from Federal Procurement and Non-Procurement Programs (accessible on the Internet at: HTTP://WWW.ARNET.GOV/EPLS or on the OIG's website at HTTP://WWW.DHHS.GOV/PROGORG/OIG/OEC.HTML).

III. **OIG Inspection, Audit and Review Rights**

In addition to any other right that HHS/OIG may have by statute, regulation, contract or pursuant to this paragraph, HHS/OIG or its duly authorized representative(s), may examine Kurwa's books, records, and other documents and supporting materials for the purpose of verifying and evaluating (i) Kurwa's compliance with the terms of this Agreement; (ii) Kurwa's business conduct in its dealing with the United States government, or any agencies or agents thereof; and (iii) Kurwa's compliance with the requirements of the Medicare and Medicaid programs and other Federal health care programs. The documentation described above shall be made available by Kurwa at all reasonable times for inspection, audit or reproduction. Furthermore, for purposes of this provision, HHS/OIG or its authorized representative(s) may interview any employee who consents to be interviewed at the employee's place of business during normal business hours, with appropriate notice, or at such other place and time as may be mutually agreed upon between the employee and HHS/OIG.

IV. **Document and Record Retention**

For a period of six (6) years following execution of this Agreement, Kurwa shall maintain for inspection, all documents and records relating to Medicare and Medicaid reimbursement and other Federal health care programs.

V. **Breach & Default Provisions**

Kurwa's compliance with the terms and conditions of this Agreement shall constitute an element of Kurwa's present responsibility with regard to participation in Medicare, Medicaid and Federal health care programs. Kurwa's failure to meet any of its obligations pursuant to the terms and conditions of this Agreement constitutes a separate cause for exclusion.

In the event that HHS/OIG believes that Kurwa has breached one or more of its obligations under the Agreement, HHS/OIG shall notify Kurwa of the alleged breach by certified mail, specifying the nature and extent of the alleged breach. Kurwa will have thirty (30) days from receipt of the notice to: (a) cure said breach; or (b) otherwise satisfy HHS/OIG that it is (1) in full compliance with this Agreement, or (2) that the breach cannot be reasonably cured within 30 days, but that Kurwa has taken action to cure the breach and is pursuing such action with diligence.

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If, at the end of the thirty day period described above, HHS/OIG determines that Kurwa continues to be in breach of one or more of its obligations under this Agreement, HHS/OIG may, in writing and by certified mail, declare Kurwa to be in default and initiate proceedings to suspend or exclude Kurwa from participation in the Title XVIII (Medicare) program, the Title XIX (Medicaid) program and other Federal health care programs until such time as the breach is cured. The document by which HHS/OIG may declare Kurwa to be in default and notify Kurwa of HHS/OIG's intention to exclude shall be hereafter referred to as the "Notice of Intention to Exclude Letter." In the event Kurwa fully cures the material breach or otherwise satisfies HHS/OIG, there will be a prompt reinstatement, retroactive to the date of cure.

Upon receipt by Kurwa of HHS/OIG's Notice of Intention to Exclude Letter, Kurwa shall be entitled to the due process afforded a provider under 42 U.S.C. Section 1320a-7(f). Notwithstanding any provision of Title 42 of the United States Code or Chapter 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a breach of this Agreement shall be: (1) whether Kurwa was in material breach of one or more of its obligations under this Agreement, at the time of and as specified in the Notice of Intention to Exclude Letter; (2) whether such breach was continuing on the date on which HHS/OIG notified Kurwa of its proposal to exclude; and (3) whether Kurwa failed to cure the material breach or otherwise satisfy HHS/OIG within 30 days after receiving notice thereof from HHS/OIG. Once there has been a decision by an administrative law judge to exclude Kurwa, any reinstatement must be done in accordance with 42 C.F.R. § 1001.3001.

VI. Modifications

This Agreement may be modified by written consent between the parties to this Agreement.

VII. Applicability

The corporate integrity requirements set forth in this Agreement shall apply to any successor corporation, including a new company formed by an asset purchase, regardless of whether a new provider number is sought.

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IN WITNESS WHEREOF, the parties hereto affix their signatures.

FOR THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

11/14/97
Date

Lewis Morris
Assistant Inspector General
for Legal Affairs
Office of Counsel to the
Inspector General
Office of Inspector General

FOR KURWA

Date

Badrudin Kurwa, M.D. 11/17/97
301 West Huntington Drive
Suite 107
Arcadia, CA 91006
(818) 447-2966

Date

Badrudin Kurwa, Inc. d/b/a
Kurwa Eye Center 11/17/97

7/97
Date

Counsel: Brian J. Hennigan
Irell & Manella LLP
333 S. Hope St., Suite 3300
Los Angeles, CA 90071-3042

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