

**LICENSE AGREEMENT FOR USE OF THE  
AMERICAN MEDICAL ASSOCIATION ETHICAL FORCE PROGRAM  
ORGANIZATIONAL ASSESSMENT TOOLKIT**

**THIS AGREEMENT** is made by and between the American Medical Association (“Licensor”) located at 515 North State Street, Chicago, Illinois 60610 and those organizations that purchase and implement the AMA Ethical Force Program Organizational Assessment Toolkit (“Licensee,” and collectively, the “Parties”).

**WHEREAS**, Licensor is the copyright holder and owner of all proprietary interest in the “Organizational Assessment Toolkit,” which utilizes a series of self evaluation instruments including patient surveys (2), staff surveys (3), an executive survey, and (4) an organizational policy evaluation to help health care entities (i) evaluate whether their policies, practices, and organizational culture are consistent with ensuring effective, patient-centered communication; and (ii) ascertain whether having standard policies and procedures to encourage appropriate, respectful communication results in communication quality being taken seriously in the organization, staff members feeling they have the skills and training to communicate effectively with all the populations they serve, and patients feeling that staff members make an effort to communicate in ways that are clear and understandable (the “Materials”);

**WHEREAS**, Licensor wishes to permit Licensee to use the Materials to assess their policies and practices for ensuring effective communication, identify performance gaps, evaluate organizational culture, and develop a procedure for quality improvement of patient centered communication standards;

**NOW, THEREFORE**, in consideration of mutual promises, covenants, warranties and other good and valuable consideration set forth herein, the Parties agree as follows:

**1. GRANT OF LICENSE.** Licensor hereby grants to Licensee a non-assignable, non-exclusive, royalty free right to use the Materials, and reproduce and distribute the surveys to patients and staff members, for the sole purpose of evaluating whether Licensee’s policies, practices and organizational culture are consistent with ensuring effective, patient centered communication. The Materials will include a user’s manual and a CD-ROM that contains electronic copies of the surveys.

A licensee that is using the toolkit within a single site or location is not limited to the number of patient care areas, units, or departments in which they can disseminate survey.

A licensee that is using the toolkit across sites/locations that are part of a system are restricted to dissemination of the surveys within up to four sites/locations, pending purchase of additional licenses for use of the toolkit with further sites/locations.

**2. PROPRIETARY INFORMATION.** Licensee acknowledges Licensor’s copyright in the Materials. All Materials shall be treated as proprietary information, owned by the Licensor. Licensee shall take such precautions as may be necessary to preserve the proprietary information from loss, destruction or unauthorized distribution or use. Proprietary information may not be copied, duplicated, distributed or otherwise published or disclosed, except in connection with Licensee’s authorized use hereunder, without the written consent of Licensor. Materials shall be used for quality improvement purposes only, and shall not be used for any commercial purpose. Any reproduction of the Materials shall include a readily apparent credit line reading as follows:

**“©2008 American Medical Association. All rights reserved”** together with all additional copyright/attribution notices appearing within the text of the Materials. The Materials may not be sold, licensed or used as a supplement to advertising or promotion, or used in any way to imply directly or indirectly AMA endorsement of any of the Licensee’s products or services. Nothing in this Agreement shall be construed to grant Licensee any rights with respect to the use of the Licensor’s name, logo and trademarks, except as they may appear on any Materials provided to Licensee pursuant to this Agreement, or as otherwise approved in writing by Licensor.

**3. REPRESENTATIONS AND WARRANTIES.** The Licensor represents and warrants that it is the sole and exclusive owner of the copyright in the Materials, and owns all right, title and interest in the Materials. Licensor further represents and warrants that it has the legal authority to grant Licensee the license, and that no other person or entity is required to give its consent for the license to be valid. The Materials are provided to Licensee “AS IS” without any other warranty of any kind, either express or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. The entire risk as to the quality and performance of the Materials is with Licensee. Licensor disclaims responsibility and any liability for any consequences, decisions, judgments or results attributable to or related to any uses, non-uses, or interpretations of information or data resulting from use, of the Materials.

In no event will the Licensor be liable to Licensee for any damages, including any lost profits, lost savings or other incidental or consequential damages arising out of the use or inability to use the Materials, even if the Licensor has been advised of the possibility of such damages, or for any claim by any other party.

The Licensor does not warrant that the Materials will meet Licensee’s requirements. Licensee acknowledges that the Materials have not been developed according to its specifications or have not been custom-made. The Licensor warrants the CD-ROM on which the Materials are furnished, to be free from defects in materials and workmanship under normal use for a period of 30 days from the date of delivery to Licensee. No warranties exist for any misuse. The Licensor’s entire liability and Licensee’s exclusive remedy shall be the replacement of any Materials not meeting the Licensor’s limited warranty hereunder.

Licensee represents and warrants that it will comply with all local, state and federal laws, including, but not limited to the Health Insurance Portability and Accountability Act (HIPAA).

**4. Release of Data.** Organizations may not release any data from their organizational assessment to the public (such as for advertising) without prior specific written permission from the Licensor.

**5. INDEMNIFICATION.** Licensor and Licensee shall each indemnify the other from any claims, liabilities, costs, fines and penalties, proceeding or actions, including settlements, arising out of any material breach of any warranty or other provisions of this Agreement. Either party may participate in the defense or prosecution of any claim with counsel of its choice at its own expense.

**6. TERM.** The term of this Agreement begins upon purchase of the Organizational Assessment Toolkit, and the license to use the Materials described in this Agreement is perpetual and is effective until terminated.

**7. TERMINATION.** Licensor may terminate the Agreement due to Licensee’s breach of any representations or covenants contained herein. Upon termination, Licensee shall promptly

return to Licensor all of the Materials, as set forth above. Licensee may terminate this Agreement at any time by destroying all of the Materials, along with any copies, modifications or merged portions in any and all forms.

**8. PAYMENTS.** Licensee shall pay the Licensor a fee based on the package selected by Licensee. The License fee shall be for distribution of up to 1500 survey packets. Additional survey packets will cost \$1.00 per survey. The licensee selects one of the following packages:

- Toolkit Self Assessment Stand Alone
- Technical Assistance: Basic Package—the AMA customizes your surveys with your organization’s name or logo, provides PDFs of the surveys for you to copy and distribute to patients and staff, and provides up to 2 hours of technical assistance over the telephone.
- Technical Assistance: Intermediate Package—all basic features, plus the AMA assembles your survey packets, including postage-paid envelopes so that surveys can be mailed directly to the AMA for third-party data entry; tracks survey responses and response rates; manages data entry; and provides you with a cleaned data set in Excel or other data file format.
- Technical Assistance & Consulting: Complete Package—all of the above, plus the AMA provides data analysis and a detailed report of the results, including specific recommendations for areas where your organization might best focus quality improvement efforts.

**9. NOTICES.** Any notices which must or may be given hereunder shall be in writing and shall be deemed delivered when personally delivered, delivered by an overnight express courier service, delivered by a confirmed facsimile transmission followed by a hard copy placed in the United States Mail certified mail, return receipt requested, and properly addressed as set forth below:

If to the AMA:                    American Medical Association  
515 North State Street  
Chicago, Illinois 60610  
Attn: Mathew K. Wynia, MD, MPH  
Facsimile: (312) 464-4613

With copy sent to:            Office of General Counsel  
American Medical Association  
515 North State Street  
Chicago, Illinois 60610  
Facsimile: (312) 464-4073

**10. ASSIGNMENT.** This Agreement may not be assigned by Licensee, without the prior written approval of the Licensor.

**11. ENTIRE AGREEMENT.** The Agreement, together with any exhibits or attachments hereto, constitutes the entire agreement between the parties and supersedes all prior oral or written representations, agreements or understandings of the parties with respect to the subject matter of the Agreement. The Agreement may be amended or altered only by a writing signed by an authorized representative of each party.

**12. SURVIVAL.** Any rights or obligations contained herein that by their nature should survive termination of the Agreement shall survive, including, but not limited to intellectual property rights, indemnity obligations and confidentiality obligations.

**13. SEVERABILITY.** In the event any provision of the Agreement is determined to be invalid or unenforceable in any jurisdiction, the remaining provisions herein shall remain in full force and effect in such jurisdiction and shall be liberally construed so as to effectuate the purpose and intent of the parties.

**14. ARBITRATION.** Except with respect to threat or violation of Licensor's intellectual property rights, including the proprietary rights set forth in paragraph 2 of this Agreement, where Licensor may seek any legal or equitable relief including injunctions and damages pursuant to paragraph 14 of this Agreement, any controversy or claim arising out of or relating to this Agreement shall be settled by a single impartial arbitrator pursuant to proceedings administered by the American Arbitration Association (AAA) under its rules for resolution of commercial disputes. If the parties are unable to agree upon an impartial arbitrator within 30 days of either party requesting arbitration, either party may apply to the AAA to make the appointment. The impartial arbitrator shall be an attorney or a retired judge and admitted to practice in Illinois. The arbitration shall be held in Chicago, Illinois. All submissions to the arbitrator, the proceedings and the award shall be confidential. The parties express their desire that the arbitration be conducted on an expedited basis with minimal discovery. The award shall be in writing and set forth the factual and legal basis for the award. The parties renounce recourse to litigation, to the extent provided by law, and intend the award to be final and binding except that judgment with respect to the award may be entered in the courts of the State of Illinois and/or the United States District Court for the Northern District of Illinois.

**15. GOVERNING LAW; JURISDICTION.** This Agreement shall be governed by the laws of the State of Illinois, without regard to choice of law principles. The courts of the State of Illinois and/or the United States District Court for the Northern District of Illinois shall have exclusive jurisdiction over any action arising hereunder or related to the subject matter hereof, and the parties hereto agree to submit to the jurisdiction of the courts of the State of Illinois and the United States District Court for the Northern District of Illinois.

**16. NON-WAIVER.** Either party's failure at any time to enforce any of the provisions of this Agreement or any right or remedy available hereunder or at law or equity, or to exercise any option herein provided will in no way be construed to be a waiver of such provisions, rights, remedies or options or in any way to affect the validity of this Agreement.