

# **EXHIBIT C**

## ESCROW AGREEMENT

**THIS ESCROW AGREEMENT**, dated as of \_\_\_\_\_, 2001 ("Escrow Agreement"), is by and between Charter Behavioral Health Systems, LLC, a Delaware limited liability company ("Depositor"); and **FIRST UNION NATIONAL BANK** a national banking association, as Escrow Agent hereunder ("Escrow Agent").

### BACKGROUND

A. Depositor has entered into that certain stipulation of settlement of even date herewith (the "Stipulation"), and pursuant to Section II(PPP)(2)(c), Depositor has agreed to deposit Eight Hundred Thousand Dollars (\$800,000) into a "Magellan Proceeds Escrow Account" pending the "Approval Date". Capitalized terms not otherwise defined herein shall have the meaning assigned to them in the Stipulation.

B. Escrow Agent has agreed to accept, hold, and disburse the funds deposited with it and the earnings thereon in accordance with the terms of this Escrow Agreement.

C. Depositor has appointed the Depositor Representative (as defined below) to represent it for all purposes in connection with the funds to be deposited with Escrow Agent, and this Escrow Agreement.

D. In order to establish the escrow of funds, the parties hereto have entered into this Escrow Agreement.

### STATEMENT OF AGREEMENT

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. Definitions. The following terms shall have the following meanings when used herein:

"Depositor Representative" shall mean Marsha Correia or any other person designated in a writing signed by Depositor and delivered to Escrow Agent in accordance with the notice provisions of this Escrow Agreement, to act as its representative under this Escrow Agreement.

"Depositor Written Direction" shall mean a written direction executed by the Depositor Representative and directing the Escrow Agent to disburse all or a portion of the Escrow Funds.

"Escrow Funds" shall mean the funds deposited with Escrow Agent pursuant to this Agreement, together with any interest and other income thereon, which funds shall include, without limitation, the initial sum of Eight Hundred Thousand Dollars (\$800,000.00).

"Escrow Period" shall mean the period commencing on the date hereof and ending on \_\_\_\_\_, 2002.

2. Appointment of and Acceptance by Escrow Agent. Depositor hereby appoints Escrow Agent to serve as escrow agent hereunder. Escrow Agent hereby accepts such appointment and, upon receipt by wire transfer of the Escrow Funds in accordance with Section 3 below, agrees to hold, invest and disburse the Escrow Funds in accordance with this Escrow Agreement.

3. Creation of Escrow Funds. On \_\_\_\_\_, 2001, Depositor will transfer the sum of Eight Hundred Thousand Dollars (\$800,000.00) to Escrow Agent, by wire transfer of immediately available funds, tot he following account:

First Union National Bank  
Atlanta, Georgia  
ABA#053000219  
Attn: CT/#897  
Account #5000000016439  
Re: Charter Behavioral Health Systems

4. Disbursements of Escrow Funds.

a. Depositor Written Direction. Escrow Agent shall disburse Escrow Funds, at any time and from time to time, in accordance with a Depositor Written Direction. Upon termination of the Stipulation, the Depositor shall provide Escrow Agent with a Depositor Written Direction directing the Escrow Agent to release the Escrow Funds to the Depositor, and the Escrow Agent shall do so. Within five (5) business days of the Approval Date, the Depositor shall provide Escrow Agent with a Depositor Written Direction directing the Escrow Agent to release the Escrow Funds to the WARN Escrow Account, and the Escrow Agent shall do so.

- b. Expiration of Escrow Period. Upon the expiration of the Escrow Period, Escrow Agent shall distribute, as promptly as practicable, the Escrow Funds to Depositor without any further instruction or direction from the Representative.

All disbursements of funds from the Escrow Funds shall be subject to the claims of Escrow Agent and the Indemnified Parties (as defined below) pursuant to Section 9 below.

5. Investment of Funds. Escrow Agent shall invest and reinvest the funds held in the Escrow Funds as the Representative shall direct (subject to applicable minimum investment requirements) by the furnishing of a Depositor Written Direction; *provided, however,* that no investment or reinvestment may be made except in the following:

- a. direct obligations of the United States of America or obligations the principal of and the interest on which are unconditionally guaranteed by the United States of America;
- b. certificates of deposit issued by any bank, bank and trust company, or national banking association (including Escrow Agent and its affiliates), which certificates of deposit are insured by the Federal Deposit Insurance Corporation or a similar governmental agency;
- c. repurchase agreements with any bank, trust company, or national banking association (including Escrow Agent and its affiliates); or
- d. any institutional money market fund offered by the Escrow Agent, including any money market fund managed by Escrow Agent and any of its affiliates.

The Escrow Agent is herein directed and instructed to automatically invest and reinvest the Escrow Funds in Evergreen Select Institutional Money Market-Resource #797. Simultaneously with the execution of this document, Depositor acknowledges receipt of prospectuses and/or disclosure materials associated with the investment vehicle. If Escrow Agent has not received a Depositor Written Direction at any time that an investment decision must be made, Escrow Agent shall invest the Escrow Funds, or such portion thereof as to which no Depositor Written Direction has been received, in investments described in clause (d) above. Each of the foregoing investments shall be made in the name of Escrow Agent. No investment shall be made in any instrument or security that has a maturity of greater than six (6) months. Notwithstanding anything to the contrary contained herein, Escrow Agent may, without notice to the Representative, sell or liquidate any of the foregoing investments at any time if the proceeds thereof are required for any release of funds permitted or required hereunder, and Escrow Agent shall not be liable or responsible for any loss, cost or penalty resulting from any such sale or liquidation. With respect to any funds received by Escrow

Agent for deposit into the Escrow Funds or any Depositor Written Direction received by Escrow Agent with respect to investment of any funds in the Escrow Funds after ten o'clock, a.m., Atlanta, Georgia, time, Escrow Agent shall not be required to invest such funds or to effect such investment instruction until the next day upon which banks in Atlanta, Georgia are open for business.

6. Disbursement of Funds. If the Escrow Agent disburses the Escrow Funds pursuant to Section 4(a) of this Agreement, the Escrow Agent shall disburse the Escrow Funds in accordance with the instructions contained in the applicable Depositor Written Direction. If the Escrow Agent disburses the Escrow Funds pursuant to Section 4(b) of this Agreement, the Escrow Agent shall disburse the Escrow Funds to the Depositor by wire transfer of immediately available funds to the following account:

First Union National Bank, Atlanta  
ABA # 061209756  
Account # 2080000685139  
Account Name: CBHS Concentration Account

7. Resignation and Removal of Escrow Agent. Escrow Agent may resign from the performance of its duties hereunder at any time by giving ten (10) days prior written notice to the Representative or may be removed, with or without cause, by the Representative, by furnishing a Depositor Written Direction to Escrow Agent, at any time by the giving of ten (10) days prior written notice to Escrow Agent. Such resignation or removal shall take effect upon the appointment of a successor Escrow Agent as provided hereinbelow. Upon any such notice of resignation or removal, the Representative shall appoint a successor Escrow Agent hereunder. Upon the acceptance in writing of any appointment as Escrow Agent hereunder by a successor Escrow Agent, such successor Escrow Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Escrow Agent, and the retiring Escrow Agent shall be discharged from its duties and obligations under this Escrow Agreement, but shall not be discharged from any liability for actions taken as Escrow Agent hereunder prior to such succession. After any retiring Escrow Agent's resignation or removal, the provisions of this Escrow Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Escrow Agent under this Escrow Agreement. The retiring Escrow Agent shall transmit all records pertaining to the Escrow Funds and shall pay all funds held by it in the Escrow Funds to the successor Escrow Agent, after making copies of such records as the retiring Escrow Agent deems advisable and after deduction and payment to the retiring Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by the retiring Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder.

8. Liability of Escrow Agent.

(a) Escrow Agent shall have no liability or obligation with respect to the Escrow Funds except for Escrow Agent's willful misconduct or gross negligence. Escrow Agent's sole responsibility shall be for the safekeeping, investment, and disbursement of the Escrow Funds in accordance with the terms of this Escrow Agreement. Escrow Agent shall have no implied duties or obligations and shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein. Escrow Agent may rely upon any instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall in good faith believe to be genuine, to have been signed or presented by the person or parties purporting to sign the same and to conform to the provisions of this Escrow Agreement. In no event shall Escrow Agent be liable for incidental, indirect, special, consequential or punitive damages. Escrow Agent shall not be obligated to take any legal action or commence any proceeding in connection with the Escrow Funds, any account in which Escrow Funds are deposited, this Escrow Agreement or the Stipulation, or to appear in, prosecute or defend any such legal action or proceeding.

(b) The Escrow Agent is authorized, in its sole discretion, to comply with orders issued or process entered by any court with respect to the Escrow Funds, without determination by the Escrow Agent of such court's jurisdiction in the matter. If any portion of the Escrow Funds is at any time attached, garnished or levied upon under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then and in any such event, the Escrow Agent is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel selected by it is binding upon it without the need for appeal or other action; and if the Escrow Agent complies with any such order, writ, judgment or decree, it shall not be liable to any of the parties hereto or to any other person or entity by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

9. Indemnification of Escrow Agent. From and at all times after the date of this Escrow Agreement, Depositor shall, to the fullest extent permitted by law and to the extent provided herein, indemnify and hold harmless Escrow Agent and each director, officer, employee, attorney, agent and affiliate of Escrow Agent (collectively, the "Indemnified Parties") against any and all actions, claims (whether or not valid), losses, damages, liabilities, costs and expenses of any kind or nature whatsoever (including without limitation reasonable attorneys' fees, costs and expenses) incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect or consequential, as a result of or arising from or in any way relating to any claim, demand, suit, action or proceeding (including any inquiry or investigation) by any person, including without limitation Depositor,

whether threatened or initiated, asserting a claim for any legal or equitable remedy against any person under any statute or regulation, including, but not limited to, any federal or state securities laws, or under any common law or equitable cause or otherwise, arising from or in connection with the negotiation, preparation, execution, performance or failure of performance of this Escrow Agreement or any transactions contemplated herein, whether or not any such Indemnified Party is a party to any such action, proceeding, suit or the target of any such inquiry or investigation; *provided, however*, that no Indemnified Party shall have the right to be indemnified hereunder for any liability finally determined by a court of competent jurisdiction, subject to no further appeal, to have resulted solely from the gross negligence or willful misconduct of such Indemnified Party. If any such action or claim shall be brought or asserted against any Indemnified Party, such Indemnified Party shall promptly notify Depositor in writing, and Depositor shall assume the defense thereof, including the employment of counsel and the payment of all expenses. Such Indemnified Party shall, in its sole discretion, have the right to employ separate counsel (who may be selected by such Indemnified Party in its sole discretion) in any such action and to participate in the defense thereof, and the fees and expenses of such counsel shall be paid by such Indemnified Party, except that Depositor shall be required to pay such fees and expenses if (a) Depositor agree to pay such fees and expenses, or (b) Depositor shall fail to assume the defense of such action or proceeding or shall fail, in the sole discretion of such Indemnified Party, to employ counsel satisfactory to the Indemnified Party in any such action or proceeding, (c) Depositor is the plaintiff in any such action or proceeding or (d) the named or potential parties to any such action or proceeding (including any potentially impleaded parties) include both Indemnified Party and Depositor, and Indemnified Party shall have been advised by counsel that there may be one or more legal defenses available to it which are different from or additional to those available to Depositor. All such fees and expenses payable by Depositor pursuant to the foregoing sentence shall be paid from time to time as incurred, both in advance of and after the final disposition of such action or claim. All of the foregoing losses, damages, costs and expenses of the Indemnified Parties shall be payable by Depositor to the extent of the Escrow Funds upon demand by such Indemnified Party. Upon exhaustion of the Escrow Funds, the indemnification obligations of Depositor hereunder shall be borne solely by Depositor. The obligations of Depositor under this Section 9 shall survive any termination of this Escrow Agreement, and the resignation or removal of Escrow Agent shall be independent of any obligation of the Escrow Agent.

10. Fees and Expenses of Escrow Agent. Escrow Agent shall be reimbursed for its services hereunder, in accordance with Schedule A attached hereto, and for all of its reasonable out-of-pocket expenses, including attorneys' fees, travel expenses, telephone and facsimile transmission costs, postage (including express mail and overnight delivery charges), copying charges and the like, first from the Escrow Funds and then from Depositor. The obligations of Depositor under this Section 10 shall survive any termination of this Escrow Agreement and the resignation or removal of Escrow Agent.

Escrow Agent is authorized to, and may, disburse to itself from the Escrow Funds, from time to time, the amount of any compensation and reimbursement of out-of-pocket expenses due and payable hereunder (including any amount to which Escrow Agent or any Indemnified Party is entitled to seek indemnification pursuant to Section 9 hereof.) Escrow Agent shall notify the Representative of any disbursement from the Escrow Funds to itself or any Indemnified Party in respect of any compensation or reimbursement hereunder and shall furnish to the Representative copies of all related invoices and other statements. Depositor hereby grants to Escrow Agent and the Indemnified Parties a security interest in and lien upon the Escrow Funds and all funds therein to secure all obligations hereunder to Escrow Agent and the Indemnified Parties, and Escrow Agent and Indemnified Parties shall have the right to offset the amount of any compensation or reimbursement due any of them hereunder (including any claim for indemnification pursuant to Section 9 hereof) against the Escrow Funds. If for any reason funds in the Escrow Funds are insufficient to cover such compensation and reimbursement, Depositor shall promptly pay such amounts to Escrow Agent or any Indemnified Party upon receipt of an itemized invoice.

11. Representations and Warranties; Legal Opinions.

a. Depositor makes the following representations and warranties to Escrow Agent:

(i) Depositor is a limited liability company duly organized, validly existing, and in good standing under the laws of the State of Delaware, and has full power and authority to execute and deliver this Escrow Agreement and to perform its obligations hereunder;

(ii) This Escrow Agreement has been duly approved by all necessary corporate action of Depositor, including any necessary shareholder approval, has been executed by duly authorized officers of Depositor, and constitutes a valid and binding agreement of Depositor, enforceable in accordance with its terms.

(iii) The execution, delivery, and performance by Depositor of this Escrow Agreement is in accordance with the Stipulation and will not violate, conflict with, or cause a default under the articles of incorporation or bylaws of Depositor, any applicable law or regulation, any court order or administrative ruling or decree to which Depositor is a party or any of its property is subject, or any agreement, contract, indenture, or other binding arrangement, including without limitation the Stipulation, to which Depositor is a party or any of its property is subject.



(iv) Marsha Correia has been duly appointed to act as the representative of Depositor hereunder and has full power and authority to execute, deliver, and perform this Escrow Agreement, to execute and deliver any Depositor Written Direction, to amend, modify or waive any provision of this Agreement and to take any and all other actions as the Depositor Representative under this Agreement, all without further consent or direction from, or notice to, Depositor or any other party.

(v) No party other than the parties hereto have, or shall have, any lien, claim or security interest in the Escrow Funds or any part thereof. No financing statement under the Uniform Commercial Code is on file in any jurisdiction claiming a security interest in or describing (whether specifically or generally) the Escrow Funds or any part thereof.

(vi) All of the representations and warranties of Depositor contained herein are true and complete as of the date hereof and will be true and complete at the time of any disbursement from the Escrow Funds.

12. Notice. All notices and other communications hereunder shall be in writing and shall be deemed to have been validly served, given or delivered five (5) days after deposit in the United States mails, by certified mail with return receipt requested and postage prepaid, when delivered personally, one (1) day after delivery to any overnight courier, or when transmitted by facsimile transmission facilities, and addressed to the party to be notified as follows:

If to Depositor or Depositor Representative at:

Doug Ernst  
c/o Charter Behavioral Health Systems, LLC  
600 Peachtree Street, NE, Suite 5200  
Atlanta, GA 30308  
ATTENTION: Marsha Correia  
Facsimile Number: \_\_\_\_\_

If to the Escrow  
Agent at:

First Union National Bank  
as Escrow Agent  
ATTENTION: Corporate Trust Group,  
Paul Henderson, Trust Officer  
999 Peachtree Street - 11th Floor  
Atlanta, Georgia 30309  
Facsimile Number: (404) 827-7305

Telephone Number: (404) 827-7431

or to such other address as each party may designate for itself by like notice.

13. Amendment or Waiver. This Escrow Agreement may be changed, waived, discharged or terminated only by a writing signed by the Representative and Escrow Agent. No delay or omission by any party in exercising any right with respect hereto shall operate as a waiver. A waiver on any one occasion shall not be construed as a bar to, or waiver of, any right or remedy on any future occasion.

14. Severability. To the extent any provision of this Escrow Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Escrow Agreement.

15. Governing Law. This Escrow Agreement shall be construed and interpreted in accordance with the internal laws of the State of Georgia without giving effect to the conflict of laws principles thereof.

16. Entire Agreement. This Escrow Agreement constitutes the entire agreement between the parties relating to the holding, investment and disbursement of the Escrow Funds and sets forth in their entirety the obligations and duties of Escrow Agent with respect to the Escrow Funds.

17. Binding Effect. All of the terms of this Escrow Agreement, as amended from time to time, shall be binding upon, inure to the benefit of and be enforceable by the respective heirs, successors and assigns of Depositor, the Representative and Escrow Agent.

18. Duties and Obligations Limited. The duties and obligations of the Escrow Agent shall be determined solely by this Agreement, and the Escrow Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement. The Escrow Agent shall neither be responsible for or under, nor chargeable with knowledge of the terms and conditions of, any other agreement, instrument or document in connection herewith, including but not limited to the Stipulation.

19. Execution in Counterparts. This Escrow Agreement may be executed in two or more counterparts, which when so executed shall constitute one and the same agreement or direction.

20. Termination. Upon the first to occur of the disbursement of all amounts in the Escrow Funds pursuant to Depositor Written Directions, this Escrow Agreement shall

terminate and Escrow Agent shall have no further obligation or liability whatsoever with respect to this Escrow Agreement or the Escrow Funds.

21. Dealings. The Escrow Agent and any stockholder, director, officer or employee of the Escrow Agent may buy, sell, and deal in any of the securities of the Depositor and become pecuniarily interested in any transaction in which the Depositor may be interested, and contract and lend money to the Depositor and otherwise act as fully and freely as though it were not Escrow Agent under this Agreement. Nothing herein shall preclude the Escrow Agent from acting in any other capacity for the Depositor or for any other entity.

22. Tax Reporting. The Depositor agrees that the Escrow Agent will not be responsible for the preparation and mailing of IRS Form 1099 or any other tax reporting, if necessary.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be executed under seal as of the date first above written.

**Depositor**

[CORPORATE SEAL]

By: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary

**DEPOSITOR REPRESENTATIVE**

WITNESS

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

**ESCROW AGENT**

WITNESS

\_\_\_\_\_  
First Union National Bank  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

**SCHEDULE A**

**FEES PAYABLE TO ESCROW AGENT**

Acceptance Fee:	\$500.00
Annual Escrow Agent Fee:	\$2,000.00
Out of Pocket Expenses:	Billed Separately

Acceptance of the Appointment is subject to terms of the transaction and document provisions being satisfactory to First Union National Bank.

The Acceptance Fee and the Annual Escrow Fee are payable upon execution of the escrow documents. In the event the escrow is not funded, the Acceptance Fee and all related expenses will not be refunded. Annual fees cover a full year in advance, or any part thereof, and thus are not pro-rated in the year of termination.

All out-of-pocket expenses, including, but not limited to, attorney fees and expenses, accountant fees and expenses, legal notice publication, environmental surveys, travel expenses, postage, registered mail and insurance costs, courier charges, will be billed separately.

The fees quoted in this schedule apply to services ordinarily rendered in the administration of an Escrow Account and are subject to reasonable adjustment based on final review of documents, or when the Agent is called upon to undertake unusual duties or responsibilities, or as changes in law, procedures, or the cost of doing business demand. Services in addition to and not contemplated in this Agreement, including, but not limited to, document amendments and revisions, non-standard cash and/or investment transactions, calculations, notices and reports, and legal fees, will be billed as extraordinary expenses.

Unless otherwise indicated, the above fees provide for the establishment of one account. Additional sub-accounts governed by the same Escrow Agreement may incur an additional charge.