

## PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT made and entered into this 1st day of July 1, 2013, by and between SEDGWICK COUNTY, KANSAS, hereinafter referred to as "COUNTY",

and

UNIVERSITY OF KANSAS SCHOOL OF MEDICINE-WICHITA MEDICAL PRACTICE ASSOCIATION, hereinafter referred to as "CORPORATION",

WITNESSETH:

WHEREAS, COUNTY maintains and operates the Sedgwick County Juvenile Detention Facility (JDF), at 700 S. Hydraulic, Wichita; Sedgwick County Juvenile Residential Facility (JRF), at 881 S. Minnesota, Wichita; Judge Riddel Boys Ranch (JRBR) at 25331 West Thirty-Ninth Street South, Goddard; and Sedgwick County Youth Aftercare Project ("SCYP"), at 622 E. Central, Wichita (hereinafter referred to collectively as "FACILITY"); and

WHEREAS, COUNTY intends to provide residents of FACILITY with professional medical services; and

WHEREAS, in order to provide such professional medical services, COUNTY intends to engage duly-qualified and licensed medical personnel as set forth in this Agreement; and

WHEREAS, CORPORATION is willing to provide personnel and professional services for residents of the FACILITY as set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

### I. BEGINNING AND ENDING DATES OF AGREEMENT, TERMINATION OF AGREEMENT

Subject to the other provisions of this Agreement, the term of this Agreement shall commence on **July 1, 2013, and terminate June 30, 2014**. This Agreement may be canceled by either party at any time, with or without cause, upon thirty (30) days prior written notice. When this contract expires, CORPORATION shall not incur new obligations for the terminated portion after the effective date of the termination and shall cancel as many outstanding obligations as possible. COUNTY shall allow full credit to CORPORATION for the non-cancelable obligations properly incurred by CORPORATION prior to notice of expiration."

### II. TREATMENT OF ASSETS

Title to all property furnished by COUNTY under this Agreement shall remain with the COUNTY. The parties shall implement a program for the protection and preservation of the COUNTY's property

used under this Agreement to assure its full availability and usefulness to CORPORATION for the performance of services under this Agreement.

CORPORATION shall cause health care services to be provided at FACILITY as set forth in this Agreement.

1. CORPORATION shall periodically review current medical policies and procedures of the FACILITY and recommend changes in such medical policies and procedures to the FACILITY, as CORPORATION deems appropriate.

2. The COUNTY shall not implement medical policies and procedures without prior approval of CORPORATION.

3. CORPORATION shall provide health care services at FACILITY in accordance with the following general schedule, subject to unexpected leave:

Monday: JDF 8 am to 3 pm; JRF 3 pm to 5 pm (less travel time between locations)  
Tuesday: JDF 8 am to 5 pm  
Wednesday: JDF 8 am to 11 am; JRBR 12:30 pm to 5 pm  
Thursday: JDF 8 am to 3 pm; SCYP 3 pm to 5 pm (less travel time between locations)  
Friday: 8 am to 5 pm; JRBR in AM as needed.

This schedule may be modified by the parties based on medical need at a different location.

4. The FACILITY shall present all residents with medical complaints to CORPORATION's healthcare professional for examination.

5. The healthcare professional shall, when indicated, present the FACILITY with medical orders for the resident.

### III. RESIDENT HEALTH ASSESSMENT AND MEDICATION DISTRIBUTION

A. The FACILITY shall present to CORPORATION a health history checklist of each resident. CORPORATION shall provide a physician or physician extender, hereinafter referred to as the "healthcare professional", to review said health history checklist within 72 hours of CORPORATION's receipt of a health history checklist following the resident's admission and provide the necessary screening and health assessment.

B. CORPORATION shall, at least once every seven (7) days, provide at the JDF, a physician for the purpose of conducting and reviewing health services of residents.

C. A healthcare professional is responsible for each health appraisal of each resident to include, at a minimum:

1. history and complete physical exam on all new admissions at JDF to be completed within ten (10) business days of admission; (Complete exam not required if done at

FACILITY within the past twelve (12) months. If greater than ninety (90) days since last complete exam, CORPORATION shall perform a brief history and physical exam.)

2. measurement of vital signs of height, weight, temperature, pulse respiration, and blood pressure;
3. review of immunization records;
4. performance of auditory screening;
5. performance of vision screening; and
6. administration of tuberculin test.

D. The healthcare professional conducting the appraisal shall record information obtained during the appraisal on the Medical Record for Children form in boarding homes and institutions or other forms provided by the FACILITY. CORPORATION is responsible to file Kan-Be-Healthy (KBH) screening with State of Kansas Medicaid Program within ten (10) days from date of service.

E. The healthcare professional conducting the appraisal shall record results of tuberculin tests on the Medical Record for Children form or other form provided by the FACILITY.

#### IV. STAFF AND VOLUNTEER HEALTH ASSESSMENTS

A. The FACILITY shall present its staff and volunteer staff members to the CORPORATION for tuberculin tests and completion of health assessment forms when these are required by the State of Kansas.

#### V. DETERMINING NEEDED MEDICAL ACTIONS AT TIMES OTHER THAN SICK CALL

A. The CORPORATION shall administer a program of determining and/or evaluating medical problems or complaints of residents of the FACILITY 24 hours a day, as these problems or complaints are communicated to CORPORATION by the FACILITY. It is understood that FACILITY staff are not trained in medical evaluation and their role is merely that of an observer. FACILITY staff observations and medical complaints of detainees shall be communicated to CORPORATION consistent with the protocols established by CORPORATION in consultation with FACILITY.

B. A physician shall work cooperatively with FACILITY administrator to control risk associated with a critical exposure incident (i.e. contagious exposure).

## VI. REFERRAL SOURCES OF RESIDENT CARE

CORPORATION shall notify the FACILITY of specialists who have agreed to treat residents when referred by CORPORATION. Treatment by such specialists is outside the scope and coverage of this Agreement.

## VII. SECURITY AND CONTROL

CORPORATION's personnel shall abide by security and control procedures that are established by the FACILITY. FACILITY shall provide adequate security to protect the healthcare professionals providing health care services under this Agreement.

## VIII. LEGAL CONSIDERATION

A. It is the intent hereof that the parties are entering into a contract for professional services to patients at the FACILITY, to be rendered by employees of CORPORATION. CORPORATION and its employees are independent contractors of the FACILITY. Such professional services shall be the sole and independent responsibility of the duly-licensed physicians and physician extenders who are employees of CORPORATION and shall be performed in accordance with the terms hereof, in an effort to effectively manage the programs and provide appropriate care to patients.

B. This Agreement shall not be deemed to interfere with the independent physician-patient relationship between the physician employees of CORPORATION and patients they serve for COUNTY all in accordance with K.S.A. 17-2715. Physician employees of CORPORATION shall not be under the employment or the direction of COUNTY, and COUNTY shall not be liable for any act determined to be the act of the CORPORATION. Physician employees of CORPORATION shall remain employees of CORPORATION for purposes of this Agreement (i.e., the physicians shall not be treated as employees of the FACILITY as a consequence of this Agreement). If and to the extent provided by law, CORPORATION shall be liable in damages for claims arising from the performance of professional services by its physician employees. The FACILITY shall have no responsibility hereunder for CORPORATION's costs, counsel fees, expenses and other liabilities incurred by CORPORATION in or about any such claim or any action or proceeding thereon.

C. For purposes of securing the risk of liability for rendering or failing to render professional services to patients, each healthcare professional whose services are provided by CORPORATION shall either (a) be covered by professional liability insurance with limits not less than \$1,000,000 per occurrence and \$3,000,000 annual aggregate, or (b) be covered by the provisions of the Health Care Provider Insurance Act (K.S.A. 2008 Supp. 40-3401 et seq.) and specifically the provisions of K.S.A. 2008 Supp. 40-3403.

D. CORPORATION agrees to maintain records of services provided under this Agreement and to maintain such records at the FACILITY for all services rendered thereat and for services rendered to a resident of the FACILITY at a hospital, clinic or private physician office. CORPORATION further agrees to provide consultation and/or narrative written description of health care services provided upon written request of the County Counselor or designee. Both parties

furthermore agree to maintain any and all federal and state guidelines as to confidentiality of said records. Both parties specifically agree that the ownership of the records rests solely with FACILITY.

E. HIPAA Compliance; Protected Health Information. Each party agrees that to the extent that the law is applicable to this Agreement, the interpretation of this Agreement and all actions and undertakings of the parties under this Agreement shall conform to the requirements of the Health Information Portability and Accountability Act of 1996, Public Law 104--191 [HIPAA], together with all applicable regulations arising in conjunction with HIPAA. To the extent that any term or condition of this Agreement conflicts with any requirement of HIPAA, this Agreement shall be deemed amended by HIPAA to the extent necessary to enable the parties to fully comply with all administrative and regulatory requirements of HIPAA.

Both parties are committed to complying with the Standards for Privacy of Individually Identifiable Health Information ("Privacy Regulation") and HIPAA. All data and information that under HIPAA is considered to be protected health information ("PHI") that is furnished by either party to the other shall be regarded as confidential and shall be held in confidence and safekeeping by the party to whom it is furnished for the sole use of the parties and the patients to be served under the terms of this Agreement.

The parties may use and disclose legally-protected PHI only for medical care of patients, evaluating the quality of patient care pursuant to a party's quality management program, and as required by law. Corporation, in the performance of its duties under this Agreement may use the PHI to fulfill its duties under this Agreement, including disclosure of PHI in its possession to third parties if required to fulfill the duties of this Agreement, to fulfill any present or future legal responsibilities of this Agreement and as permitted under state and federal confidentiality laws and regulations, as such may be amended from time to time.

Both parties will use reasonable efforts and appropriate safeguards to maintain the security of the PHI and to prevent unauthorized use and/or disclosure of such PHI. In addition, each party will report in writing to the other within three (3) business days any use and/or disclosure of the PHI of which such party becomes aware that is not permitted or required by this Agreement. Only those employees of the parties with a "need to know" shall be provided access to individually identifiable health care information obtained or provided under this Agreement.

Each party will make its internal practices, books, and records relating to the use and disclosure of PHI received from the other available to the Secretary of the United States Health and Human Services (DHHS) for purposes of determining compliance with applicable law. Each party will immediately notify the other upon receipt of any such requests by DHHS and will provide the other party with copies of any such materials.

Each party will provide a procedure under which individuals who are the subject of the PHI may inspect and copy their information in the possession of such party and which will provide for the correction and amendment of information upon notice from the other party to this Agreement and/or the patient.

## IX. NON-DISCRIMINATION

A. CORPORATION shall comply with the provisions of the Kansas Act Against Discrimination and shall not discriminate against any person in the performance of work under this Agreement because of race, religion, color, sex, physical handicap, national origin, or ancestry unrelated to such person's ability to engage in the particular work.

B. In all solicitations or advertisements for employees, CORPORATION shall include the phrase "equal opportunity employer" or a similar phrase to be approved by the Kansas Commission on Civil Rights.

C. If CORPORATION fails to comply with the manner in which CORPORATION reports to the Kansas Commission on Civil Rights in accordance with the provisions of K.S.A. 44-1031, CORPORATION shall be deemed to have breached the Agreement and it may be canceled, terminated or suspended, in whole or in part, by COUNTY.

D. If CORPORATION is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Kansas Commission on Civil Rights which has become final and nonappealable, CORPORATION shall be deemed to have breached the Agreement and it may be canceled, terminated or suspended, in whole or in part, by COUNTY.

E. CORPORATION shall include the provision of Paragraphs A through D, inclusively, of this section in every subcontract for the performance of services under this Agreement, so that such provisions will be binding upon such subcontractor.

## X. PAYMENT FOR SERVICES

A. CORPORATION shall submit in writing a monthly billing to the COUNTY for services rendered the previous month. The total amount of compensation to be paid by COUNTY to CORPORATION under this agreement shall not exceed **\$208,160 for the 12-month term ending on June 30, 2014**, itemized as follows:

B. The COUNTY shall reimburse the CORPORATION for the services of a physician as noted herein, **\$45,696** for the one-year term of this Agreement, payable in equal monthly installments.

C. The COUNTY shall reimburse the CORPORATION for the services of a full-time physician extender who will be assigned to the FACILITY, **\$81,566** for the one-year term of this Agreement, payable in equal monthly installments.

D. The COUNTY shall reimburse the CORPORATION for the services of one full-time medical assistant who will work with the physician extender at the FACILITY, **\$42,642** for the one-year term of this Agreement, payable in equal monthly installments.

E. The FACILITY shall allow CORPORATION to seek additional revenue through payments from Medicaid and other third-party payors for medical services provided under this Agreement or any diagnostic work performed by the CORPORATION for residents of the FACILITY. In recognition of the fact that many residents have no insurance coverage, and, as a

consequence, CORPORATION will have significant uncollectible billings, the COUNTY will make an additional payment to CORPORATION in the sum of **\$38,256** for the one-year term of this Agreement, payable in equal monthly installments. (This amount is intended to cover **\$12,570 administration cost, \$9,837 billing cost, \$6,559 institutional fee, and \$9,290 in ancillary costs.**) Financial information shall be provided to COUNTY on an annual basis following the close of business each calendar year to include total third-party payments received by CORPORATION for medical services provided to residents. FACILITY and CORPORATION will negotiate payment amounts for any future term, based on calendar year data.

CORPORATION shall not seek additional payment from individual residents or their parents or guardians for medical services provided under this Agreement.

XI. NOTICE.

Any notice required or desired to be given in respect to this Agreement shall be deemed to be given upon the earlier of (i) actual delivery to the intended recipient or its agent; or (ii) upon the third business day following deposit in the United States mail, postage prepaid, certified or registered mail, returned receipt requested. Any such notice shall be delivered to the respective addresses set out below, or to such other address as a party shall specify in the manner required by this Section. The respective addresses are:

If to COUNTY:

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\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to CORPORATION:

University of Kansas School of Medicine – Wichita Medical Practice Association  
1010 N. Kansas, Ste. 3049  
Wichita, KS 67214-3199  
Attn: Lorene Valentine

With Copy To:

Lathrop & Gage LLP  
2345 Grand Blvd., Suite 2800  
Kansas City, MO 64108  
Attn: Thomas J. McMahon, Esq.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

SEDGWICK COUNTY, KANSAS:

UNIVERSITY OF KANSAS SCHOOL OF MEDICINE – WICHITA MEDICAL PRACTICE ASSOCIATION

\_\_\_\_\_  
James B. Skelton, Chairman  
Sedgwick County  
Board of County Commissioners

*Jon Schrage*  
\_\_\_\_\_  
Jon Schrage, M.D., President

Date: 06/04/2013

ATTESTED TO:  
  
WICHITA

ACKNOWLEDGED FOR UNIVERSITY OF KANSAS SCHOOL OF MEDICINE

\_\_\_\_\_  
Kelly B. Arnold, County Clerk

*Garold Minns*  
\_\_\_\_\_  
Garold Minns, M.D., Dean

Date: June 6, 2013

APPROVED AS TO FORM:

*Jennifer Magaña*  
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Jennifer Magaña  
Deputy County Counselor

*Garold Minns*  
\_\_\_\_\_  
~~Barry Bloom, M.D.~~ *Garold Minns, MD*  
Chair of Department of Pediatrics

Date: June 6, 2013