



TRINITY COUNTY

Behavioral Health Services

MENTAL HEALTH · ALCOHOL & OTHER DRUGS · PERINATAL · PREVENTION

P.O. BOX 1640
1450 MAIN STREET
WEAVERVILLE, CA 96093
TEL: (530) 623-1362
FAX: (530) 623-1447

P.O. BOX 91
TULE CREEK ROAD
HAYFORK, CA 96041
TEL: (530) 628-4111
FAX: (530) 628-1982

REQUEST FOR PROPOSAL FOR PATIENTS' RIGHTS ADVOCATE FOR BEHAVIORAL HEALTH SERVICES CONSUMERS

INTRODUCTION

NOTICE IS HEREBY GIVEN THAT Trinity County Behavioral Health Services (TCBHS), a governmental entity within the County of Trinity, State of California, will receive up to and no later than 5:00 P.M. on March 19, 2019, sealed bids for the award and contract for a qualified individual to serve as the Patients' Rights Advocate for the Trinity County Behavioral Health Services Agency.

Scope of Service

See Attachment A

Payment

TCBHS has identified a maximum annual amount of \$15,000 for this effort. County shall pay contractor equal monthly payments 60 days from receipt of an approved invoice covering the service(s) rendered for that month.

RFP General Process Information

To make inquiries regarding this RFP, contact:

Rebecca Trujillo, Deputy Director of Quality Assurance
530-623-1820 / rtrujillo@trinitycounty-ca.gov

Submission of Proposals

Proposals must be submitted marked "RFP—Patients' Rights Advocate" to:

Trinity County Behavioral Health Services
Attn: Rebecca Trujillo
P.O. Box 1640
1450 Main Street
Weaverville, CA 96093-1640



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Proposal envelopes must contain the name, contact information, and return address of the bidder. Proposals must be signed, dated and submitted no later than 5:00 p.m. on March 19, 2019. Proposals received after this date and time will not be considered. Postmark by the deadline shall **not** constitute receipt. FAX or electronically transmitted proposals will **not** be accepted.

All proposals received are final. All proposals submitted become the property of TCBHS.

Proposals Format and Content

Proposals should provide a straightforward and concise delineation of the bidder's experience and ability to satisfy requirements of the RFP. The evaluation process will not provide credit for capabilities or advantages which are not clearly demonstrated in the written proposal. The following documents and information are **REQUIRED** as part of the RFP.

- A. Complete and sign "PROPOSAL COVER PAGE" (Attachment B)
- B. On no more than two pages, single-spaced, in a legible font, describe the manner in which the proposal will provide the services requested in this RFP.
 1. A demonstrated understanding of the needs of TCBHS and the services to be provided, as outlined in Attachment A.
 2. Describe in appropriate detail how the service shall be provided. Include a description of major tasks and subtasks, if applicable.
- C. A signed Statement of Assurances (Attachment C).
- D. Proof of ability to provide/obtain insurance, meeting the requirements set forth in Paragraph VIII of Attachment D, "Sample Contract".
- E. Indicate, if applicable, any exceptions to the general terms and conditions of the RFP, to insurance, and any other requirements listed.

Proposal Confidentiality

Proposals shall be maintained as confidential until recommendation is submitted to the Trinity County Board of Supervisors regarding the award of the contract. At that time, all proposals will become public record.



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Bidder's Qualifications

This RFP is open to any qualified service providers. Bidders will be required before the award of any contract to show, to the complete satisfaction of TCBHS, the necessary facilities, appropriate locations of facilities, ability and financial resources to provide the services specified in a satisfactory manner.

TCBHS may make reasonable investigations deemed necessary and proper to determine the ability of the bidder to perform the work, and the bidder shall furnish to TCBHS all information for this purpose that may be requested.

TCBHS reserves the right to reject any proposal if the evidence submitted by, or investigation of the bidder fails to satisfy TCBHS that said bidder is properly qualified to carry out the obligations of the contract and to complete the work.

RFP Selection Method

The Principles of competitive negotiation will be followed by TCBHS during the selection process, i.e., the terms, service delivery method and standards of performance are negotiable. Negotiated contracts will be awarded to the bidder(s), if any, who best meet the needs of TCBHS.

An evaluation team will be established to evaluate and rate the proposals. The evaluation team will screen the proposals, reserving the right to interview the top bidders, and submit a recommendation to the Trinity County Board of Supervisors. Criteria for evaluation proposals will include, but not be limited to the following:

- A. Costs of services and cost-effective methodology in performing assignment. Bids with lower costs will receive higher scores.
- B. Reputation and experience of contractor in the type of work required.
- C. Capability or potential of the contractor to accomplish work responsibility in the required time.
- D. Performance of the consultant/contractor on prior contracts.
- E. Extent to which proposal addresses the scope of work outlined in the RFP.

Rejection of Proposals

Issuance of the RFP in no way constitutes a commitment by TCBHS to award a contract. TCBHS reserves the right to reject any or all proposals received in response to this RFP, or to cancel this RFP, if it is deemed to be in the best interest of the public to do so. Failure to furnish all information requested in this RFP or to follow the proposal format requested may disqualify a bidder's proposal.

RFP Award Appeal Procedure



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Recommendations or decisions may be appealed by writing a letter to the Trinity County Board of Supervisors detailing the basis of appeal. Appeals must be filled within 72 hours of receiving written notification of the recommendation for award of the contract.

GENERAL CONTRACT INFORMATION

Sample contract

A sample contract for the provision of these services has been attached hereto as Attachment D. While contract(s) resulting from this RFP are subject to negotiation by and between the parties, this sample is intended to provide potential contractors with an overview of TCBHS standard contracting requirements.

Award of Contract and Commencement of Work

Award of a contract is contingent upon successful negotiation of a contract and successful resolution of any appeals. Successful bidders must agree to all terms and conditions of any resultant contractual or other obligation to a bidder under any successfully negotiated contract until the contract has been approved and signed by both parties. All bidders shall be notified of the decisions as well as the date and time of any public hearing on the proposed contract.

Non-Appropriation

All funds for payment by TCBHS under any contract entered into as a result of this proposal are subject to the availability of an annual appropriation for mental health services by the State of California and the County of Trinity. In the event of non-appropriation of funds for the services provided under resulting contracts, TCBHS will terminate said contract, without termination charge or other liability, on the last day of the then-current fiscal year or when the appropriation made for the then-current year for the services covered by this contract is spent, whichever event occurs first. If, at any time, funds are not appropriated for the continuance of resulting contract, cancellation shall be accepted by contractors on thirty days prior written notice, but failure to give such notice shall be of no effect and TCBHS shall not be obligated under the contract beyond the date of termination of funding.

Use of Sub-Contractors

The selected bidder(s), as prime contractor(s), will be responsible for contract performance whether or not sub-contractors are used. Sub-contractors, if used, must be contractually bound to adhere to the same standards required of the prime contractor. The prime contractor shall be responsible for all sub-contractor performance. The contractor must agree not to sub-contract or assign all or any part of the services to be provided under the contract to any third party without the express written consent of TCBHS.



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Attachment A

ANTICIPATED SCOPE OF SERVICE

Description:

Trinity County Behavioral Health Services (TCBHS) will award a multi-year contract, with an option to renew, for a Patients' Rights Advocate, in accordance with Welfare & Institutions Code, Section 5500. TCBHS is seeking a proposal of a flat monthly fee to perform the work as outlined in the following section. TCBHS has budgeted a maximum amount of \$15,000.00 per fiscal year, to be paid in 12 equal monthly payments, which is intended to cover the contracted PRA's costs for all advocacy time, training, travel, insurance, and any other materials required to perform the work outlined below.

The initial contract term will begin as soon as administratively possible, and end June 30, 2021, with the option to extend the term for one year, each year thereafter.

Intended Project:

The Patients' Rights Advocate (PRA) for Trinity County Behavioral Health Services (TCBHS) shall report directly to the Deputy Director of Quality Assurance. There are no set hours which the PRA will work in a given week or month, though they will generally work approximately forty (40) hours per month. The PRA will invoice the county at a flat monthly rate equal to 1/12 of the maximum annual amount, to cover the cost of time and materials.

The PRA shall:

- Keep a written log of activities that will be reviewed by the Deputy Director of Quality Assurance.
- Receive and return calls to consumers. Listen to consumers and attempt to help them solve problems or link them up with someone who can help them.
- Assist consumers with the Grievance process, if appropriate. A Release of Information (ROI) from the consumer must be obtained which will give the PRA the authorization to speak to TCBHS regarding consumer issues.
- When a consumer, from any location in the County, has filed a complaint, the PRA will perform an incident/problem assessment, provide an investigation, interview as necessary all individuals involved, and produce findings and recommendations, which will be

forwarded to the TCBHS Deputy Director of Quality Assurance, or their designee. Following the review of the complaint, the PRA may participate in a resolution process with the client and TCBHS' Quality Assurance Department.

- Attend TCBHS Quality Improvement Committee (QIC) Meetings six (6) times per year. (schedule to be provided)
- Attend TCBHS Board meetings six (6) times per year. (schedule to be provided)
- Provide periodic training and education at the Milestones wellness center, and at Alpine House and Cedar Home residential facilities, informing consumers about their rights and the TCBHS Grievance and Complaint process.
- Upon request, meet or talk by phone with clients who are having their conservatorships renewed.
- Attend specific trainings on behalf of TCBHS for Patients' Rights Advocates. All travel and training costs shall be covered by the PRA and not reimbursed by TCBHS.
- Attend Program Improvement Project committee phone conferences, webinars or in person sessions on occasion, representing the consumer/family voice.
- Meet with the Deputy Director of Quality Assurance regularly and with the TCBHS Director occasionally to report findings and observations.
- Participate in DHCS Medi-Cal reviews and annual External Quality Reviews upon request.
- Meet with consumers in whatever location is deemed appropriate by both the PRA and the consumer. The PRA will have the ability to use conference rooms at 1450 Main Street, Weaverville to meet with consumers during regular business hours (Monday - Friday, 8:00am – 5:00pm).
- Supply a cellular phone and a laptop computer from which to conduct business. TCBHS can provide free Wi-Fi internet access at the main office in Weaverville.
- Furnish commercial general liability and personal automobile liability insurances, in accordance with the sample contract provided as Attachment D.
- TCBHS will provide a mailbox in the reception area for mail that staff or consumers want to leave for the PRA.
- Contractor shall be familiar with and abide by the parameters of the role of the PRA set forth in the Welfare and Institutions Code, as outlined below.

Welfare and Institution Codes that Provides for the Parameters of the Role of the Patients' Right Advocate

WELFARE AND INSTITUTIONS CODE SECTION 5500

5500. As used in this chapter:

(a) "Advocacy" means those activities undertaken on behalf of persons who are receiving or have received mental health services to protect their rights or to secure or upgrade treatment or other services to which they are entitled.

(b) "Mental health client" or "client" means a person who is receiving or has received services from a mental health facility, service, or program and who has personally or through a guardian ad litem, entered into an agreement with a county patients' rights advocate for the provision of advocacy services.

(c) "Mental health facilities, services, or programs" means a publicly operated or supported mental health facility or program; a private facility or program licensed or operated for health purposes providing services to persons with mental health disorders; and publicly supported agencies providing other than mental health services to clients with mental health disorders.

(d) "Independent of providers of service" means that the advocate has no direct or indirect clinical or administrative responsibility for any recipient of mental health services in any mental health facility, program, or service for which he or she performs advocacy activities.

(e) "County patients' rights advocate" means an advocate appointed, or whose services are contracted for, by a local mental health director.

WELFARE AND INSTITUTIONS CODE SECTION 5510 – 5514

5510. (a) The Legislature finds and declares as follows:

(1) The State of California accepts its responsibility to ensure and uphold the right of persons with mental disabilities and an obligation, to be executed by the State Department of State Hospitals and the State Department of Health Care Services, to ensure that mental health laws, regulations and policies on the rights of recipients of mental health services are observed and protected in state hospitals and in licensed health and community care facilities.

(2) Persons with mental illness are vulnerable to abuse, neglect, and unreasonable and unlawful deprivations of their rights.

(3) Patients' rights advocacy and investigative services concerning patient abuse and neglect previously provided by the State Department of Mental Health, including the Office of Human Rights and investigator, and state hospitals' patients' rights advocates and state hospital investigators and transferred to the State Department of Health Care Services and the State Department of State Hospitals, may have had or have conflicts of interest or the appearance of a conflict of interest.

(4) The services provided to patients and their families are of such a special and unique nature that they must be contracted out pursuant to paragraph (3) of subdivision (b) of Section 19130 of the Government Code.

(b) Therefore, to avoid the potential for a conflict of interest or the appearance of a conflict of interest, it is the intent of the Legislature that the patients' rights advocacy and investigative services described in this article be provided by a single contractor specified in Section 5370.2 that meets both of the following criteria:

(1) The contractor can demonstrate the capability to provide statewide advocacy services for persons with mental disabilities.

(2) The contractor has no direct or indirect responsibility for providing services to persons with mental disabilities, except advocacy services.

(c) For the purposes of this article, the Legislature further finds and declares, because of a potential conflict of interest or the appearance of a conflict of interest, that the goals and purposes of the state patients' rights advocacy and investigative services cannot be accomplished through the utilization of persons selected pursuant to the regular state civil service system. Accordingly, the contracts into which the department enters pursuant to this section are permitted and authorized by paragraphs (3) and (5) of subdivision (b) of Section 19130 of the Government Code.

(d) The State Department of State Hospitals and the State Department of Health Care Services shall contract with a single nonprofit entity to provide for the protection and advocacy services to persons with mental disabilities, as specified in Section 5370.2. The State Department of Health Care Services and the State Department of State Hospitals shall enter into a memorandum of understanding to ensure the effective management of the contract and the required activities affecting county patients' rights programs. The entity shall be responsible for ensuring that mental health laws, regulations, and policies on the rights of recipients of mental health services are observed in state hospitals and in licensed health and community care facilities.

(e) The findings and declarations of potential conflict of interest provided in this section shall not apply to advocacy services provided under Article 3 (commencing with Section 5520).

5511. The Director of State Hospitals or the executive director of each state hospital may contract with independent persons or agencies to perform patients' rights advocacy services in state hospitals.

5512. Training of county patients' rights advocates shall be provided by the contractor specified in Section 5510 responsible for the provision of protection and advocacy services to persons with mental disabilities. Training shall be directed at ensuring that all county patients' rights advocates possess:

(a) Knowledge of the service system, financial entitlements, and service rights of persons receiving mental health services. This knowledge shall include, but need not be limited to, knowledge of available treatment and service resources in order to ensure timely access to treatment and services.

(b) Knowledge of patients' rights in institutional and community facilities.

(c) Knowledge of civil commitment statutes and procedures.

(d) Knowledge of state and federal laws and regulations affecting recipients of mental health services.

(e) Ability to work effectively and respectfully with service recipients and providers, public administrators, community groups, and the judicial system.

(f) Skill in interviewing and counseling service recipients, including giving information and appropriate referrals.

(g) Ability to investigate and assess complaints and screen for legal problems.

(h) Knowledge of administrative and judicial due process proceedings in order to provide representation at administrative hearings and to assist in judicial hearings when necessary to carry out the intent of Section 5522 regarding cooperation between advocates and legal representatives.

(i) Knowledge of, and commitment to, advocacy ethics and principles.

(j) This section shall become operative on January 1, 1996.

5513. The patients' rights program shall serve as a liaison between county patients' rights advocates and the State Department of Health Care Services.

5514. There shall be a five-person Patients' Rights Committee formed through the California Mental Health Planning Council. This committee, supplemented by two ad hoc members appointed by the chairperson of the committee, shall advise the Director of Health Care Services and the Director of State Hospitals regarding department policies and practices that affect patients' rights. The committee shall also review the advocacy and patients' rights components of each county mental health plan or performance contract and advise the Director of Health Care Services and the Director of State Hospitals concerning the adequacy of each plan or performance contract in protecting patients' rights. The ad hoc members of the committee shall be persons with substantial experience in establishing and providing independent advocacy services to recipients of mental health services.

WELFARE AND INSTITUTIONS CODE SECTION 5520-5524

5520. Each local mental health director shall appoint, or contract for the services of, one or more county patients' rights advocates. The duties of these advocates shall include, but not be limited to, the following:

(a) To receive and investigate complaints from or concerning recipients of mental health services residing in licensed health or community care facilities regarding abuse, unreasonable denial or punitive withholding of rights guaranteed under the provisions of Division 5 (commencing with Section 5000).

(b) To monitor mental health facilities, services and programs for compliance with statutory and regulatory patients' rights provisions.

(c) To provide training and education about mental health law and patients' rights to mental health providers.

(d) To ensure that recipients of mental health services in all licensed health and community care facilities are notified of their rights.

(e) To exchange information and cooperate with the patients' rights program.

This section does not constitute a change in, but is declarative of the existing law.

5521. It is the intent of the Legislature that legal representation regarding changes in client legal status or conditions and other areas covered by statute providing for local public defender or court-appointed attorney representation, shall remain the responsibility of local agencies, in particular the county public defender. County patients' rights advocates shall not duplicate, replace, or conflict with these existing or mandated local legal representations. This section shall not be construed to prevent maximum cooperation between legal representatives and providers of advocacy services.

5522. County patients' rights advocates may conduct investigations if there is probable cause to believe that the rights of a past or present recipient of mental health services have been, may have been, or may be violated.

5523. (a) Notwithstanding any other provision of law, and without regard to the existence of a guardianship or conservatorship, a recipient of mental health services is presumed competent for the purpose of entering into an agreement with county patients' rights advocates for the provision of

advocacy services unless found by the superior court to be incompetent to enter into an agreement with an advocate and a guardian ad litem is appointed for such purposes.

(b) In conducting investigations in cases in which an advocate has not received a request for advocacy services from a recipient of mental health services or from another person on behalf of a recipient of mental health services, the advocate shall notify the treating professional responsible for the care of any recipient of services whom the advocate wishes to interview, and the facility, service, or program administrator, of his or her intention to conduct such an interview. Whenever the treating professional is reasonably available for consultation, the advocate shall consult with the professional concerning the appropriate time to conduct the interview.

(c) Any agreement with any county patients' rights advocate entered into by a mental health client shall be made knowingly and voluntarily or by a guardian ad litem. It shall be in a language or modality which the client understands. Any such agreement may, at any time, be revoked by the client or by the guardian ad litem, whoever has entered into the agreement, either in writing or by oral declaration to the advocate.

(d) Nothing in this chapter shall be construed to prohibit a recipient of mental health services from being represented by public or private legal counsel of his or her choice.

(e) The remedies provided by this chapter shall be in addition to any other remedies which may be available to any person, and the failure to pursue or exhaust the remedies or engage in the procedures provided by this chapter shall not preclude the invocation of any other remedy.

(f) Investigations concerning violations of a past recipients' rights shall be limited to cases involving discrimination, cases indicating the need for education or training, or cases having a direct bearing on violations of the right of a current recipient.

This subdivision is not intended to constrain the routine monitoring for compliance with patients' rights provisions described in subdivision (b) of Section 5520.

5524. (a) Subject to subdivision (b), a county shall verify that county patients' rights advocates review the patients' rights advocacy training materials provided online as described in paragraph (5) of subdivision (a) of Section 5370.2 within 90 days of employment. The county shall keep a record of this verification and send a copy electronically to the Patients' Rights Committee of the California Behavioral Health Planning Council established pursuant to Section 5514.

(b) A county patients' rights advocate who has been employed for at least one year on or after January 1, 2019, shall not be required to review the materials described in paragraph (5) of subdivision (a) of Section 5370.2.

(c) The requirements of this section do not replace the ongoing training required to be provided by the contractor to county patients' rights advocates as described in Section 5512.

WELFARE AND INSTITUTIONS CODE SECTION 5530

5530. (a) County patients' rights advocates shall have access to all clients and other recipients of mental health services in any mental health facility, program, or service at all times as are necessary to investigate or resolve specific complaints and in accord with subdivision (b) of Section 5523.

County patients' rights advocates shall have access to mental health facilities, programs, and services, and recipients of services therein during normal working hours and visiting hours for other advocacy purposes. Advocates may appeal any denial of access directly to the head of any facility, the director of a county mental health program, or the State Department of Health Care Services, or may seek appropriate relief in the courts. If a petition to a court sets forth prima facie evidence for

relief, a hearing on the merits of the petition shall be held within two judicial days of the filing of the petition. The superior court for the county in which the facility is located shall have jurisdiction to review petitions filed pursuant to this chapter.

(b) County patients' rights advocates shall have the right to interview all persons providing the client with diagnostic or treatment services.

(c) Upon request, all mental health facilities shall, when available, provide reasonable space for county patients' rights advocates to interview clients in privacy and shall make appropriate staff persons available for interview with the advocates in connection with pending matters.

(d) Individual patients shall have a right to privacy which shall include the right to terminate any visit by persons who have access pursuant to this chapter and the right to refuse to see any patient advocate.

(e) Notice of the availability of advocacy services and information about patients' rights may be provided by county patients' rights advocates by means of distribution of educational materials and discussions in groups and with individual patients.

WELFARE AND INSTITUTIONS CODE

SECTION 5540-5546

5540. Except as otherwise provided in this chapter or in other provisions of law, information about and records of recipients of mental health services shall be confidential in accordance with the provisions of Section 5328.

5541. (a) A specific authorization by the client or by the guardian ad litem is necessary for a county patients' rights advocate to have access to, copy or otherwise use confidential records or information pertaining to the client. Such an authorization shall be given knowingly and voluntarily by a client or guardian ad litem and shall be in writing or be reduced to writing. The client or the guardian ad litem, whoever has entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to the advocate.

(b) When specifically authorized by the client or the guardian ad litem, the county patients' rights advocate may inspect and copy confidential client information and records.

5542. County patients' rights advocates shall have the right to inspect or copy, or both, any records or other materials not subject to confidentiality under Section 5328 or other provisions of law in the possession of any mental health program, services, or facilities, or city, county or state agencies relating to an investigation on behalf of a client or which indicate compliance or lack of compliance with laws and regulations governing patients' rights, including, but not limited to, reports on the use of restraints or seclusion, and autopsy reports.

5543. (a) Notwithstanding any other provision of law, with the authorization of the client, a county patients' rights advocate may, to the extent necessary for effective advocacy, communicate to the client information contained in client records. The facility program, or agency, shall be allowed to remove from the records any information provided in confidence by members of a client's family.

5544. Any written client information obtained by county patients' rights advocates may be used and disseminated in court or administrative proceedings, and to any public agencies, or authorized officials thereof, to the extent required in the providing of advocacy services defined in this chapter, and to the extent that authority to so disclose is obtained from the advocate's clients.

5545. Nothing in this chapter shall be construed to limit access to recipients of mental health services in any mental health facility, program, or service or to information or records of recipients of mental health services for the purposes of subdivision (b) of Section 5520 or when otherwise authorized by law to county patients' rights advocates or other individuals who are not county patients' rights advocates.

5546. The actual cost of copying any records or other materials authorized under this chapter, plus any additional reasonable clerical costs, incurred in locating and making the records and materials available, shall be borne by the advocate. The additional clerical costs shall be based on a computation of the time spent locating and making the records available multiplied by the employee's hourly wage.

WELFARE AND INSTITUTIONS CODE SECTION 5550

5550. (a) Any person participating in filing a complaint or providing information pursuant to this chapter or participating in a judicial proceeding resulting therefrom shall be presumed to be acting in good faith and unless the presumption is rebutted shall be immune from any liability, civil or criminal, and shall be immune from any penalty, sanction, or restriction that otherwise might be incurred or imposed.

(b) No person shall knowingly obstruct any county patients' rights advocate in the performance of duties as described in this chapter, including, but not limited to, access to clients or potential clients, or to their records, whether financial, medical, or otherwise, or to other information, materials, or records, or otherwise violate the provisions of this chapter.

(c) No facility to which the provisions of Section 5325 are applicable shall discriminate or retaliate in any manner against a patient or employee on the basis that such patient or employee has initiated or participated in any proceeding specified in this chapter. Any attempt by a facility to expel a patient, or any discriminatory treatment of a patient, who, or upon whose behalf, a complaint has been submitted to a county patients' rights advocate within 120 days of the filing of the complaint shall raise a rebuttable presumption that such action was taken by the facility in retaliation for the filing of the complaint.

(d) No county patients' rights advocate shall knowingly violate any provision of this chapter concerning client privacy and the confidentiality of personally identifiable information.

(e) Any person or facility found in violation of subdivision (b) or (d) shall pay a civil penalty, as determined by a court, of not less than one hundred dollars (\$100), or more than one thousand dollars (\$1,000) which shall be deposited in the county general funds.

The successful bidder shall commence to work within ten (10) working days after the successful bidder has been noticed to prepare a contract generated by Behavioral Health that will go to the Board of Supervisors for Trinity County in September 2017. The project shall have a substantial completion date of November 30, 2017.

Trinity County Behavioral Health Services reserves the right to reject any and all bids and waive any informalities or irregularities in the bidding. Trinity County Behavioral Health Services reserves the right to contract with the most qualified bidder, which may not be the lowest bidder, for this project.

Attachment B
Patients' Rights Advocate —TCBHS 2019
APPLICATION COVER PAGE

Amount of bid: \$ _____ per month

Name: _____

Name of Organization (if applicable): _____

Business Status: _____
(e.g. Corporation, sole proprietorship, etc)

Address:

Phone Number: _____ Fax Number: _____

Contact Person: _____ Title: _____

Phone: _____ Email: _____

Applicant certificate:

- I declare under penalty of perjury that the data provided in this application are true and accurate.
- **I have the authority to enter into a contract with Trinity County.**

Signature: _____ Date: _____

Printed Name and Title: _____

Attachment C
RFP: For Patients' Rights Advocate
Trinity County Behavioral Health Services
STATEMENT OF ASSURANCES

By signing this document, the bidder hereby agrees to the following terms and conditions:

1. The bidder agrees to provide TCBHS with any other information that TCBHS determines is necessary for an accurate determination of the prospective contractor's qualifications to perform services.
2. Confirm that all statements contained in the proposal are true and correct. This shall constitute a warranty, the falsity of which shall entitle TCBHS to pursue any remedy authorized by law, which shall include the right, at the option of TCBHS, of declaring any contract made as a result thereof to be void.
3. Comply with all applicable federal, State and local laws and all regulations issued by the California State Department of Health Services or other responsible federal or state agencies regarding the provision of funds and services under this project.
4. Abide by the Federal Civil Rights Act of 1964, the Federal Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990, and all other Federal and State laws, regulations, rules, or orders which prohibit discrimination or harassment against any employee or applicant for employment because of race, color, religious, creed, gender, national origin, ancestry, age, marital status, sexual orientation, political affiliation, physical or mental disability.
5. Comply with the minimum wage and maximum hour's provision of the Federal Fair Labor Standards Act.
6. Comply with the Executive Order 112546 entitled "Equal Employment Opportunity", as amended by Executive Order 111375 and as supplemented in Department of Labor regulations (41 CRF Part 60).
7. Comply with agency confidentiality requirements and will not use or disclose any information concerning eligible individuals who receive services through this program for any purpose not connected with the administration of the contractor(s) or County responsibilities under this project except with the informed, written consent of the eligible individual.
8. Assume all responsibility for complying with the requirements of the Drug-Free-Workplace Act of 1990 (government Section 8350 et seq.) and will provide a drug-free workplace. It will comply with the State Energy Conservation plan by recognizing the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan, title 23, California Code of Regulations, as required by the U.S. Energy, Policy and Conservation Act (P.L. 94-165).
9. Comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 U.S. Code 1368, Executive Order 1738) and The Environmental Protection Agency (EPA) Regulations (40 CFR, Part 15).
10. Comply with the Labor Code and Worker's Compensation or to undertake self- insurance in accordance with the provisions, and contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700).

Signature: _____ Date: _____

Printed Name and Title: _____

Attachment D

**STANDARD FORM PERSONAL SERVICES CONTRACT
COUNTY OF TRINITY
AND**

THIS AGREEMENT is made and entered into this _____ day of _____ 20____, by and between the COUNTY OF TRINITY, hereinafter referred to as "County," and _____ hereinafter referred to as "Contractor".

RECITALS:

WHEREAS, County desires to retain a person or firm to provide Patients' Rights Advocacy Services as outlined in Exhibit A; and

WHEREAS, Contractor warrants that it is qualified and agreeable to render the aforesaid services.

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by County, the parties agree to the following:

I. **SCOPE OF SERVICES:** Contractor agrees to provide all of the services described in Exhibit "A" attached hereto and by this reference made a part hereof.

II. **ADDITIONAL SERVICES:** The County may desire services to be performed which are relevant to this contract or services but have not been included in the scope of the services listed in Paragraph I above and Contractor agrees to perform said services upon the written request of County. These additional services could include, but are not limited to, any of the following:

A. Serving as an expert witness for the County in any litigation or other proceedings involving the project or services.

B. Services of the same nature as provided herein which are required as a result of events unforeseen on the date of this contract.

III. **COUNTY FURNISHED SERVICES:** The County agrees to:

A. Facilitate access to and make provisions for the Contractor to enter upon public and private lands as required to perform their work.

B. Make available to Contractor those services, supplies, equipment and staff that are normally provided for the services required by the type of services rendered by Contractor and as set forth in Exhibit "A".

C. Make available all pertinent data and records for review.

IV. FEES: The fees for furnishing services under this Contract shall be based on the rate schedule which is attached hereto as Exhibit "B" and by this reference incorporated herein. Said fees shall remain in effect for the entire term of this contract.

V. MAXIMUM COST TO COUNTY: Notwithstanding any other provision of this contract, in no event will the cost to County for the services to be provided herein exceed the maximum sum of \$_____, including direct non-salary expenses.

VI. PAYMENT: The fees for services under this Contract shall be due within 60 calendar days after receipt by County of an invoice covering the service(s) rendered to date.

For any services involving a public works or construction project the County shall retain 10 percent of each monthly progress payment, which shall be due upon completion and acceptance by County of the work or termination of this Contract.

With respect to any additional services provided under this Contract as specified in paragraph II hereof, Contractor shall not be paid unless Contractor has received written authorization from County for the additional services prior to incurring the costs associated therewith. Said additional services shall be charged at the rates set forth on Exhibit "B".

Invoices or applications for payment to the County shall be detailed and shall contain full documentation of all work performed and all reimbursable expenses incurred. Where the scope of work on the contract is divided into various tasks, invoices shall detail the related expenditures accordingly. Labor expenditures need documentation to support time, subsistence, travel and field expenses. No expense will be reimbursed without adequate documentation. This documentation will include, but not be limited to, receipts for material purchases, rental equipment and subcontractor work.

Notwithstanding any other provision herein, payment may be delayed, without penalty for any period in which the State or Federal Government has delayed distribution of funds that are intended to be used by the County for funding payment to contractor.

VII. CONTRACT PERFORMANCE TIME: All the work required by this contract shall be completed and ready for acceptance no later than _____. Time is of the essence with respect to this Contract.

VIII. INSURANCE: Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which

may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

Minimum Scope and Limit of Insurance

1. The Contractor shall maintain a commercial general liability (CGL) insurance policy [Insurance Services Office Form CG 00 01] covering CGL on an occurrence basis, including products and completed operations, property damage bodily injury and personal & advertising injury with limits in the amount of \$1,000,000, and a general aggregate limit of \$2,000,000.

The County, its officers, officials, employees, and volunteers are to be covered as additional insureds on the General Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. Additional insured should read as follows:

Trinity County
PO Box 1613
Weaverville, CA 96093

2. Where the services to be provided under this contract involve or require the use of any type of vehicle by Contractor in order to perform said services, Contractor shall also provide comprehensive business, commercial, or personal automobile liability coverage including non-owned and hired automobile liability in the amount of \$300,000 per accident for bodily injury and property damage.

The insurer shall supply a Certificate of Insurance and endorsements signed by the insurer evidencing such insurance to County prior to commencement of work. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Any deductibles or self-insured retentions must be declared to and approved by the County. The County may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the County, its

officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Contractor hereby grants to County a waiver of any right to subrogation which any insurer of said Contractor may acquire against the County by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

IX. **WORKER'S COMPENSATION:** The Contractor acknowledges that it is aware of the provisions of the Labor Code of the State of California which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code and it certifies that it will comply with such provisions before commencing the performance of the work of this Contract. A copy of the certificates evidencing such insurance with policy limits of at least \$1,000,000 per accident for bodily injury or disease, shall be provided to County prior to commencement of work, or a signed County Workers' Compensation Exemption form.

X. **NONDISCRIMINATORY EMPLOYMENT:** In connection with the execution of this Contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

XI. **INTEREST OF PUBLIC OFFICIALS:** No officer, agent or employee of the County during their tenure or for one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

XII. **SUBCONTRACTING AND ASSIGNMENT:** The rights, responsibilities and duties under this Contract are personal to the Contractor and may not be subcontracted, transferred or assigned without the express prior written consent of the County.

XIII. **LICENSING AND PERMITS:** The Contractor shall maintain the appropriate licenses throughout the life of this Contract. Contractor shall also obtain any and all permits which might be required by the work to be performed herein.

XIV. **BOOKS OF RECORD AND AUDIT PROVISION:** Contractor shall maintain on a current basis complete books and records relating to this contract. Such records shall include, but not be limited to, documents supporting all bids and all expenditures for which any reimbursement is sought. The books and records shall be original entry books. In addition, Contractor shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for

all items for which any reimbursement is sought. These documents and records shall be retained for at least five years from the completion of this contract. Contractor will permit County to audit all books, accounts or records relating to this contract or all books, accounts or records of any business entities controlled by Contractor who participated in this contract in any way. Any audit may be conducted on Contractor's premises or, at County's option, Contractor shall provide all books and records within a maximum of 15 days upon receipt of written notice from County. Contractor shall refund any moneys erroneously charged. If County ascertains that it has been billed erroneously by Contractor for an amount equaling 5% or more of the original bid, Contractor shall be liable for the costs of the audit in addition to any other penalty to be imposed. This paragraph applies to any contract which provides for reimbursement of expenses.

XV. TERM OF AGREEMENT: This Agreement shall commence on _____ and shall terminate on _____.

XVI. CONFIDENTIALITY: All information and records obtained in the course of providing services under this agreement shall be confidential and shall not be open to examination for any purpose not directly connected to the administration of this program. Both parties shall comply with State and Federal requirements regarding confidential information.

XVII. TITLE: It is understood that any and all documents, information, computer disk, and reports concerning this project prepared by and/or submitted to the Contractor, shall be the property of the County. The Contractor may retain reproducible copies of drawings and copies of other documents. In the event of the termination of this Contract, for any reason whatever, Contractor shall promptly turn over all information, writing, computer disk, and documents to County without exception or reservation. Contractor shall transfer from computer hard drive to disk any information or documents stored on hard drive and provide County with said disk.

XVIII. TERMINATION:

A. If the Contractor fails to provide in any manner the services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law which applies to its performance herein, the County may terminate this Contract by giving five calendar days written notice to the party involved.

B. The Contractor shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Contractor has no control.

C. Either party hereto may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of Termination shall be by written notice to the other parties and be sent by registered mail.

D. In the event of termination not the fault of the Contractor, the Contractor shall be paid for services performed to the date of termination in accordance with the terms of this Contract.

XIX. RELATIONSHIP BETWEEN THE PARTIES: It is expressly understood that in the performances of the services herein, the Contractor, and the agents and employees thereof, shall act in an independent capacity and as an independent contractor and not as officers, employees or agents of the County.

XX. AMENDMENT: This Contract may be amended or modified only by written agreement of all parties.

XXI. ASSIGNMENT OF PERSONNEL: The Contractor shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to County, as evidenced in writing.

XXII. JURISDICTION AND VENUE: This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Trinity County, California.

XXIII. INDEMNIFICATION: Contractor agrees to indemnify, defend at its own expense, and hold County harmless from any and all liabilities, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions to act of Contractor or its officers, agents, or employees in rendering services under this contract; excluding, however, such liabilities, claims, losses, damages, or expenses arising from County's sole negligence or willful acts.

XXIV. COMPLIANCE WITH APPLICABLE LAWS: The Contractor shall comply with any and all federal, state and local laws affecting the services covered by this Contract, including the Health Insurance Portability and Accountability Act. Contractor shall execute the Health Insurance Portability and Accountability Act Supplement attached to this contract as Exhibit "C", which is hereby incorporated by reference.

XXV. ATTORNEY'S FEES: If any party hereto employs an attorney for the purpose of enforcing or construing this Agreement, or any judgment based on this Agreement, in any legal proceeding whatsoever, including insolvency, bankruptcy, arbitration, declaratory relief or other litigation, including appeals or rehearing, the prevailing party shall be entitled to receive from the other party or parties thereto reimbursement for all attorneys' fees and all costs, including but not limited to service of process, filing fees, court and court reporter costs, investigative costs, expert witness fees, and the cost of any bonds, whether taxable or not. If any judgment or final order be issued in that proceeding, said reimbursement shall be specified therein.

XXVI. NOTICES: Notices to terminate, change or otherwise provide notice as provided in the contract shall be given to County at the following location:

**Trinity County Behavioral Health Services
P.O. Box 1640
Weaverville, CA 96093**

Notices shall be given to Contractor at the following address:

**(CONTACT NAME)
(NAME OF BUSINESS/CONTRACTOR)
(ADDRESS)
(ADDRESS)**

XXVII. COST DISCLOSURE: In accordance with Government Code Section 7550, Contractor agrees to state in a separate section of its filed report the dollar amount of this contract and any related contracts and subcontracts relating to the preparation of the report resulting from this contract.

IN WITNESS WHEREOF, the parties hereunto have executed this Contract on the date first above written.

COUNTY OF TRINITY:

CONTRACTOR:

By _____
_____, Chairman
Trinity County Board of Supervisors

By _____
Name: _____
Title.: _____

Date: _____

Date: _____

Approved as to form:

RISK MANAGEMENT APPROVAL

MARGARET E LONG
County Counsel

By: _____
Shelly Nelson
Human Resources/Risk Management Director

EXHIBIT "A"

SERVICES TO BE PROVIDED BY CONTRACTOR

The Patients' Rights Advocate (PRA) for Trinity County Behavioral Health Services (TCBHS) shall report directly to the Quality Assurance Coordinator. There are no set hours which the PRA will work in a given week or month, though they will generally work approximately forty (40) hours per month.

The PRA shall:

- Keep a written log of activities that will be reviewed by the Deputy Director of Quality Assurance.
- Receive and return calls to consumers. Listen to consumers and attempt to help them solve problems or link them up with someone who can help them.
- Assist consumers with the Grievance process, if appropriate. A Release of Information (ROI) from the consumer must be obtained which will give the PRA the authorization to speak to TCBHS regarding consumer issues.
- When a consumer, from any location in the County, has filed a complaint, the PRA will perform an incident/problem assessment, provide an investigation, interview as necessary all individuals involved, and produce findings and recommendations, which will be forwarded to the TCBHS Deputy Director of Quality Assurance, or their designee. Following the review of the complaint, the PRA may participate in a resolution process with the client and the Quality Assurance Department.
- Attend TCBHS Quality Improvement Committee (QIC) Meetings six (6) times per year. (schedule to be provided)
- Attend TCBHS Board meetings six (6) times per year. (schedule to be provided)
- Provide periodic training and education at the Milestones wellness center, and at Alpine House and Cedar Home residential facilities, informing consumers about their rights and the TCBHS Grievance and Complaint process.
- Upon request, meet or talk by phone with clients who are having their conservatorships renewed.
- Attend specific trainings on behalf of TCBHS for Patients' Rights Advocates. All travel and training costs shall be covered by the PRA and not reimbursed by TCBHS.

- Attend Program Improvement Project committee phone conferences, webinars or in person sessions on occasion, representing the consumer/family voice.
- Meet with the Deputy Director of Quality Assurance regularly and with the TCBHS Director occasionally to report findings and observations.
- Participate in DHCS Medi-Cal reviews and annual External Quality Reviews upon request.
- Meet with consumers in whatever location is deemed appropriate by both the PRA and the consumer. The PRA will have the ability to use conference rooms at 1450 Main Street, Weaverville to meet with consumers during regular business hours (Monday - Friday, 8:00am – 5:00pm).
- Supply a cellular phone and a laptop computer from which to conduct business. TCBHS can provide free Wi-Fi internet access at the main office in Weaverville
- Furnish commercial general liability and personal automobile liability insurances, in accordance with the sample contract provided as Attachment D.
- TCBHS will provide a mailbox in the reception area for mail that staff or consumers want to leave for the PRA.
- Contractor shall be familiar with and abide by the parameters of the role of the PRA set forth in the Welfare and Institutions Code, Section 5500.

EXHIBIT "B"

COMPENSATION OR FEES TO BE PAID TO CONTRACTOR

- This contract is a flat fee agreement between the contractor and Trinity County Behavioral Health Services (TCBHS), hereafter referred to as the "County".
- The monthly payment shall cover all equipment, registration, travel and per diem costs; no additional funding is available for equipment, registration or travel expenses.
- Contractor shall invoice the County monthly for services provided. The monthly log will always accompany the monthly invoice, and this log shall be reviewed and signed by the Deputy Director of Quality Assurance or their designee.
- This contract shall not exceed \$_____.

$$\text{\$X/mo. x Y mos.} = \text{\$ X(Y)}$$

EXHIBIT "C"
HEALTH INSURANCE PORTABILITY
AND ACCOUNTABILITY ACT SUPPLEMENT

Definitions:

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Privacy Rule.

- a. Business Associate. "Business Associate" shall mean the Contractor named in the first paragraph of this agreement.
- b. Covered Entity. "Covered Entity" shall mean the County of Trinity.
- c. Designated Record Set. "Designated Record Set" shall mean:
 - (1) A group of records maintained by or for a covered entity that is:
 - a. The medical records and billing records about individuals maintained by or for a covered health care provider;
 - b. The enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or
 - c. Used, in whole or in part, by or for the covered entity to make decisions about individuals.
 - (2) For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes protected health information and is maintained, collected, used, or disseminated by or for a covered entity.
- d. Individual. "Individual" shall have the same meaning as the term "individual" in 45 CFR § 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
- e. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, Subparts A and E.
- f. Protected Health Information. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR § 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- g. Required By Law. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.
- h. Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.
- i. Electronic Protected Health Information. "Electronic Protected Health Information" ("EPHI") means individually identifiable health information that is transmitted or maintained in electronic media, limited to the information created, received, maintained or transmitted by Business Associate from or on behalf of Covered Entity.
- j. Security Incident. "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with systems operations in an information system, but does not include minor incidents that occur on a daily basis, such as scans, "pings", or unsuccessful random attempts to penetrate computer networks or servers maintained by Business Associate.

- k. Security Rule. “Security Rule” shall mean the Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 160 and Part 164, Subparts A and C.

Obligations of Business Associate

Business Associate shall:

- a. Not use or disclose Protected Health Information other than as permitted or required by the Agreement or as Required By Law.
- b. Use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- c. Mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement
- d. Report to Covered Entity any use or disclosure of the Protected Health Information in violation of the requirements of this Agreement of which it becomes aware.
- e. Ensure that any agent, including a subcontractor, to whom it provides or receives Protected Health Information agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- f. Document disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- g. Provide to Covered Entity or an Individual, in time and manner agreed to between the parties, information collected pursuant to this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528.
- h. Provide access, at the request of Covered Entity, and in the time and manner agreed to by the parties, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR §164.524.
- i. Make any amendment(s) to Protected Health Information in a Designated Record set that the Covered Entity directs or agrees to pursuant to 45 CFR §164.526 at the request of Covered Entity or an Individual, and in the time and manner agreed to between the parties.
- j. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity.
- k. Business Associate shall conform to generally accepted system security principles and the requirements of the final HIPAA rule pertaining to the security of health information.
- l. Business Associate shall ensure that any agent to whom it provides EPHI, including a subcontractor, agrees to implement reasonable and appropriate safeguards to protect such EPHI.

- m. Business Associate shall report to Covered Entity any Security Incident within 5 business days of becoming aware of such incident.
- n. Business Associate shall make its policies, procedures, and documentation relating to the security and privacy of protected health information, including EPHI, available to the Secretary of the U.S. Department of Health and Human Services and, at Covered Entity's request, to the Covered Entity for purposes of the Secretary determining Covered Entity's compliance with the HIPAA privacy and security regulations.

Permitted Uses and Disclosures by Business Associate

Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in this Services Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

Obligations of Covered Entity

Covered Entity shall notify Business Associate of any:

- a. Limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- b. Changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- c. Restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.

Term and Termination

- a. Term. The Term of these provisions shall be concurrent with the term of the Services Agreement, and shall terminate when all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- b. Termination for Cause. Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- a. Provide an opportunity for Business Associate to cure the breach or end the violation and terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity;
 - b. Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and cure is not possible; or
 - c. If neither termination nor cure are feasible, Covered Entity shall report the violation to the Secretary.
- c. Effect of Termination.
- a. Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - b. In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon determination that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

Reservation of Right to Monitor Activities.

Covered Entity reserves the right to monitor the security policies and procedures of Business Associate.

Specific Provisions for Use and Disclosures by Business Associate of PHI Subject to 42 CFR Part 2.

- (a) Covered Entity operates a program for treatment of alcohol or drug abuse, receives federal financial assistance in the operation of that program, and is required to comply with 42 CFR Part 2 pertaining to use and disclosure of patient information and patient records.
- (b) Business Associate is a “Qualified Service Organization” as that term is defined at 42 CFR 2.11.
- (c) Business Associate acknowledges that it will have access to records that are covered by 42 CFR Part 2. Business Associate agrees that it is fully bound by the provisions of 42 CFR Part 2, and will only use and disclose protected health information as permitted by those regulations. Business Associate will, if necessary, resist in judicial proceedings any effort to obtain access to patient records not permitted by 42 CFR Part 2.

Miscellaneous

- a. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- b. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- c. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.