

MOBILE ASSESSMENT SERVICES AGREEMENT

This Agreement is entered into to be effective as of the 27th day of September, 2017, by and between TBD Acquisition, LLC, a Delaware limited liability company doing business as Brook Hospital - Dupont ("Provider") and the Jefferson County Board of Education, a Kentucky public school district doing business as the Jefferson County Public Schools ("JCPS").

WITNESSETH:

WHEREAS, Provider owns and operates a psychiatric hospital, Brook Hospital - Dupont, in Louisville, Jefferson County, Kentucky.

WHEREAS, JCPS operates the Jefferson County public school district in Jefferson County, Kentucky.

WHEREAS, Provider has certified staff available to provide mobile psychological needs and substance abuse assessments.

WHEREAS, JCPS wishes to have Provider provide such mobile psychological needs and substance abuse assessments on an as-needed basis (24 hours per day, 7 days a week, including holidays) to JCPS's students and Provider desires to provide same.

WHEREAS, it is the intent of the parties to reduce their understanding and contractual relationship in connection with the furnishing of these services in writing.

NOW THEREFORE, in consideration of the mutual covenants and agreements of the parties set forth, the receipt and sufficiency of such consideration being hereby acknowledged, JCPS and Provider agree as follows:

I. SERVICES PROVIDED BY PROVIDER

A. Provider shall provide appropriately qualified individuals ("Clinicians") to perform remote psychological needs and substance abuse assessments via telemedicine for JCPS's students in response to a written order and/or a phone call from a JCPS Clinical Team member to Provider. Such individuals shall be available according to a schedule developed by Provider. Provider shall provide JCPS with appropriate call-in, meeting room number, and other pertinent information necessary to conduct assessments.

B. Clinicians shall be employees or independent contractors of Provider. Provider agrees that Clinicians providing services hereunder have and shall maintain in good standing all professional licenses as appropriate for the provision of services hereunder and agrees to comply with all laws, regulations, professional standards and The Joint Commission requirements applicable to Provider for the performance of services hereunder, including without limitation the Health Insurance Portability and Accountability Act of 1996 and the Family Educational Rights and Privacy Act of 1974 ("FERPA").

C. Clinicians shall respond to notification from the JCPS of an order for psychological needs assessment in compliance with Provider's existing policies and procedures. Additionally, should further treatment be deemed necessary by the JCPS Clinical Team member, the Clinician will assist in locating

available community resources for the student if requested by JCPS. It shall be the responsibility of the JCPS Clinical Team member to present options or make recommendations directly to the student.

D. While performing services under this Agreement, Provider and its employees and contractors shall follow all applicable policies, guidelines, and protocols as established by JCPS Health Services as such may be updated from time to time by JCPS Health Services, which shall be provided to Provider.

E. Provider agrees that services will be provided hereunder in a non-discriminatory manner. Without limitation of the preceding sentence, Provider agrees that during the term of this Agreement Provider shall not discriminate against any JCPS employee or student because of race, color, national origin, age, religion, marital or parental status, political affiliation or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, or disability.

F. If Provider is provided with or has access to any JCPS student records, Provider shall at all times (a) comply with FERPA, and (b) limit the access to those records by Provider's employees and other personnel assigned to this project to those persons for whom access is essential to perform this Agreement. Without limitation of the preceding sentence, Provider agrees to:

(i) In all respects comply with the provisions of FERPA. For purposes of this Agreement, "FERPA" includes the requirements of Chapter 99 of Title 34 of the Code of Federal Regulations.

(ii) Use any such data for no purpose other than to fulfill the purposes of this Agreement, and not share any such data with any person or entity other than Provider and its employees, Providers and agents, without the approval of the Board.

(iii) Require all employees, Providers and agents of Provider to comply with all applicable provisions of FERPA with respect to any such data.

(iv) Maintain any such data in a secure computer environment, and not copy, reproduce or transmit any such data except as necessary to fulfill the purposes of this Agreement.

(v) Conduct services in a manner that does not permit the identification of an individual student by anyone other than employees, Providers or agents of Provider having a legitimate interest in knowing such personal identification, and not disclose any such data in a manner that would permit the identification of an individual student in any published results of studies.

(vi) Destroy or return to the Board any such data obtained under this Agreement within thirty days after the date when it is no longer needed by Provider for the purposes of this Agreement.

II. FACILITY RESPONSIBILITIES

A. There shall be no charge for services rendered by Provider pursuant to this Agreement.

B. JCPS will ensure that JCPS's Clinical Team members will enter a written order for a needs assessment in the student's medical record.

C. [Intentionally Omitted]

D. JCPS personnel shall cooperate with Clinician to ensure privacy for performance of the psychological needs assessment.

E. [Intentionally Omitted]

F. JCPS shall have the responsibility for transferring the student, if necessary.

G. JCPS will obtain any necessary written permissions from parents and/or guardians of JCPS students to approve their receiving services under this Agreement. JCPS will share such authorizations/permissions with Provider upon request.

III. TERM

A. The initial term of this Agreement shall commence on September 27, 2017, and shall continue in effect for a period of one (1) year ("Initial Term"). Unless either party gives written notice of non-renewal to the other at least thirty (30) days prior to the expiration of the then current Term, then upon conclusion of the Initial Term, the Agreement shall be automatically renewed for successive one (1) year renewal terms (each a "Renewal Term") unless the Agreement is sooner terminated in accordance with the provisions herein. The Initial Term and each Renewal Term, as applicable, shall be referred to herein collectively as the "Term".

B. This Agreement may be terminated by either party, without cause, with thirty (30) days' written notice to the other party, or immediately upon breach of any obligation under this Agreement.

IV. RELATIONSHIP OF THE PARTIES

The relationship between the Provider and JCPS shall be that of independent contractors, and shall not be represented as being that of partners, joint ventures, co-ventures, or agent and principal. Further, the parties expressly agree that JCPS shall not withhold or in any way be responsible for the payment of any federal, state or local income or occupational taxes, FICA taxes, unemployment compensation or workers' compensation for any Clinicians provided by Provider under this Agreement.

V. INSURANCE

A. JCPS Insurance. JCPS shall maintain through the terms of this appropriate comprehensive general liability and professional insurance, which may include coverages provided through the JCPS self-insurance program.

B. Provider Insurance. Provider shall ensure that Clinicians providing services hereunder obtain and maintain professional liability insurance with minimum amounts of One Million Dollars/ Three Million Dollars (\$1,000,000/\$3,000,000). Additionally, Provider shall obtain and maintain professional liability insurance with minimum amounts of One Million Dollars (\$1,000,000) and Three Million Dollars (\$3,000,000). The above coverage amounts shall be the actual indemnity coverage limit and shall not be reduced by any expenses or costs of litigation, including any attorney's fees.

VI. INDEMNIFICATION

A. Indemnification by JCPS. To the extent permitted by Kentucky law, JCPS (an "Indemnitor") agrees to indemnify and hold harmless Provider, its Affiliates, and each of their shareholders, directors, officers, employees, and agents ("Provider Indemnified Party" or "Indemnified Party") from and against any and all losses, claims, damages, actions, liabilities, costs and expenses

(including reasonable attorney's fees and expenses related to the defense of any claim), which arise due to the acts or omissions of JCPS's employees or agents.

B. Indemnification by Provider. The Provider (an "Indemnitor") agrees to indemnify and hold harmless JCPS, its Affiliates, and each of their shareholders, directors, officers, employees and agents ("JCPS Indemnified Party" or "Indemnified Party") from and against any and all losses, claims, damages, actions, liabilities, costs and expenses (including reasonable attorney's fees and expenses related to the defense of any claim), which arise due to the acts or omissions of Provider's employees or agents.

C. Notice of Defense Claims. JCPS and Provider agree to notify each other promptly of commencement of or indication that any claim may be asserted against any Indemnified Party or of any litigation or proceeding against it or any of its officers, directors, or trustees, as appropriate, of which if may be advised which could give rise to a claim by an Indemnified Party.

VII. NOTICES

All notices permitted or required by this Agreement shall be deemed given when in writing and delivered personally or deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the other party at the address; set forth or such address as the party may designate in writing:

To Provider: Brook Hospital - Dupont
1405 Browns Lane
Louisville, KY 40207
Attn: CEO/Managing Director

To JCPS: Jefferson County Board of Education
VanHoose Education Center
3332 Newburg Rd.
Louisville, KY 40218
Attn: Chief Financial
Officer

VIII. Arbitration

A. Agreement to Arbitrate. To the extent permitted by Kentucky law, any controversy or claim arising out of or relating to this Agreement, or the breach, termination or validity thereof, shall be determined by arbitration in Jefferson County, Kentucky, in accordance with the provisions of this Section VIII and the arbitration rules of the American Health Lawyers Association Dispute Resolution Service ("AHLADRS") in effect on the date of this Agreement by a single arbitrator who is selected as provided in Section VIII.B. below. The arbitrator shall base the award on this Agreement and applicable law and judicial precedent and shall accompany the award with a written explanation of the reasons for the award. The arbitration shall be governed by the substantive and procedural laws of the Commonwealth of Kentucky applicable to contracts made and to be performed therein. The decision of the Arbitrator shall be binding upon the parties and enforceable in the courts of the Commonwealth of Kentucky.

B. Selection of Arbitrator. The arbitrator shall be mutually selected by the parties hereto

and in the event the parties cannot agree on an arbitrator, then the arbitrator will be selected in accordance with the rules of the AHLADRS in effect on the date of this Agreement.

C. Authority of Arbitrator. The arbitrator shall have the exclusive authority to decide the scope of issues to be arbitrated. Any challenge to the arbitrability of any issue related in any way to the matters or claims in dispute between the parties shall be determined solely by the arbitrator. Also, any challenge to the validity of this arbitration provision or any subpart thereof shall be determined and decided exclusively by the arbitrator.

D. Discovery; Arbitration Hearing. Rule 4.02 of the arbitration rules of the AHLADRS is hereby modified to provide that discovery shall be limited to (1) the production, by all parties to the arbitration, to the other parties thereto of all documents and electronic or computer records relevant or pertaining to any of the matters at issue; and (2) to allow each party to the arbitration to take five depositions, none of which may last more than four hours (exclusive of breaks and adjournments). These limits may be relaxed only upon the express agreement of each of the parties to the arbitration and the arbitrator. Rule 4.04 of the AHLADRS arbitration rules is modified to provide that once the evidentiary hearing commences, it shall continue day-to-day until completed, with the exception of Saturdays, Sundays and legal holidays. Otherwise, the evidentiary hearing can only be adjourned by agreement of all of the parties and of the arbitrator for a period of time agreed upon by all of them.

IX. MISCELLANEOUS

A. Headings. Section headings are for convenience of reference only and shall not be used to construe the meaning of any provision of this Agreement.

B. Law. This Agreement shall be governed by and construed in accordance with the laws in the Commonwealth of Kentucky.

C. Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto and supersedes all prior agreements and representations with respect to the subject matter hereof.

D. Representations and Warranties. Each party represents and warrants to the other that the party (i) is not currently excluded, debarred, or otherwise ineligible to participate in the Federal health care programs, including but not limited to Medicare, Medicaid or TRICARE, as defined in 42 USC § 1320a-7b(f) (the "Federal health care programs"); (ii) is not convicted of a criminal offense related to the provision of health care items or services and has not yet been excluded, debarred, or otherwise declared ineligible to participate in the Federal health care programs; and (iii) is not under investigation or otherwise aware of any circumstances which may result in the party being excluded from participation in the Federal health care programs. This representation and warranty by Provider shall also apply to all independent contractors of Provider. This shall be an ongoing representation and warranty during the term of this Agreement and either party shall immediately notify the other of any change in the status of the representation and warranty set forth in this Section. Any breach of this Section shall give the non-breaching party the right to terminate this Agreement immediately for cause.

E. Severability. If any provision of this Agreement is held to be unenforceable, such provision shall be modified to the extent required to make it enforceable, consistent with the spirit and intent of this Agreement. If such a provision cannot be so modified, the provision shall be deemed

separable from the remaining provisions of this Agreement and shall not affect any other provisions of this Agreement.

F. Compliance with Laws and Regulations/No Referrals. The parties expressly acknowledge that it has been and continues to be their intent to comply with all federal, state, and local laws, rules and regulations in the development of this Agreement. Any benefits which the parties receive hereunder in no way require, are in no way contingent upon, and are in no way intended to induce the referral of students by one party to the other party.

G. Handwritten Changes. Any manual or handwritten changes made to this Agreement by any party hereto will be considered null and void.

H. Authority. Signature below for Provider's CEO/Managing Director and Group Director and Divisional Vice President may be done via electronic signature. Pursuant to the *Electronic Signatures in Global and National Commerce Act (E-SIGN)*, S. 761 (106th Congress, 2000) a federal law, effective October 1, 2000, this document is deemed to have the same legal integrity as documents bearing an ink or "wet" signature. All parties to this Agreement acknowledge and represent that the affixed electronic signature carries the same legal weight and authority as the written signature, and Provider represents that the electronic signature has been executed by the individual named below.

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

**TBD Acquisition, LLC d/b/a
BROOK HOSPITAL - DUPONT**

JEFFERSON COUNTY BOARD OF EDUCATION




By: Paul Andrews
Its: CEO/Managing Director

Dated: 8/11/17

By: Acting Superintendent Martin A. Pollio

Dated: _____



By: John Hollinsworth
Its: Divisional Vice President

Dated: 8/17/17