

FLOYD COUNTY BOARD OF EDUCATION
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Eastern, KY 41622
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William Newsome, Jr., Vice-Chair - District 3
Dr. Chandra Varia, Member- District 2
Keith Smallwood, Member - District 4
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Date: 08/23/2021

Action/Discussion Item: Telehealth Partnership with APPLACHIAN REGIONAL HEALTHCARE, INC. and ARH TUG VALLEY HEALTH SERVICES, INC.,

- Prestonsburg High School
- Betsy Layne High School
- JM Stumbo Elementary
- May Valley Elementary
- Adams Middle School
- Renaissance Learning Center/Innovation Academy

Applicable Statutes or Regulation:

- KRS 158.838
- KRS 156.502
- 702 KAR 1:160
- Board Policy 1.1 Powers and Duties of Local Board

Background and Rationale:

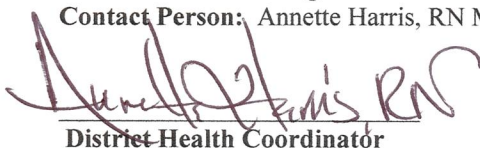
The return of students to in person learning during the COVID-19 pandemic will require constant monitoring of symptoms that may indicate student illness. The district has a large number of students that do not have easy access to healthcare, due to a shortage of resources, parent work schedule, lack of transportation and lack of funds. Providing access to professional health care inside the school will bridge the gap and assist parents in insuring healthcare for their child. Telehealth is the distribution of health-related services and information via electronic information and telecommunication technologies. It allows long-distance patient and clinician contact, care, advice, reminders, education, intervention, monitoring, and access to prescriptions as needed. Telemedicine is sometimes used as a synonym, or is used in a more limited sense to describe remote clinical services, such as diagnosis and monitoring. Telehealth in Floyd County Schools will include assessment and facilitation by health office personnel to practitioners on staff at ARH. At the direction of the practitioner the health office staff member will use the Tyto Clinic Device which includes an exam camera, basal thermometer, otoscope, stethoscope (with volume, bell and diaphragm filters), and tongue depressor adaptors as needed to assess the student for illness. The Tyto system will also include pre-loaded software, stand and headphones. The practitioner and the trained health office staff member will discuss student illness by video conference on a HIPPA-secure network.

Budget/Financial Issues: Service is being provided by APPLALACHIAN REGIONAL HEALTHCARE, INC and ARH TUG VALLEY HEALTHCARE SERVICES INC., at no cost to the district.

Recommended Action: Approval of Contractual Agreement between Floyd County Board of Education and Service is being provided by APPLALACHIAN REGIONAL HEALTHCARE, INC and ARH TUG VALLEY HEALTHCARE SERVICES INC.,

Date of Board Meeting: 8/23/2021

Contact Person: Annette Harris, RN M.S. Ed. District Health Coordinator


District Health Coordinator


Superintendent

TELEMEDICINE SERVICES AGREEMENT

This Telemedicine Services Agreement ("AGREEMENT") is made and entered into by and between **APPALACHIAN REGIONAL HEALTHCARE, INC. and ARH TUG VALLEY HEALTH SERVICES, INC.**, each a Kentucky non-profit corporation with offices at 2260 Executive Drive, Lexington, Kentucky 40505 (each individually and collectively hereinafter a "ARH")) and **BOARD OF EDUCATION OF FLOYD COUNTY, KENTUCKY**, a body politic whose mailing address is 442 KY RT 550, Eastern, Kentucky 41622 (hereinafter "School District").

WHEREAS, ARH is a health system with hospital and clinic facilities in Kentucky and Southern West Virginia which provides a variety of health related services to patients in those service areas, including those services which may be rendered via a telehealth arrangement; and

WHEREAS, School District has requested ARH provide telemedicine services to School District, which ARH is willing to do under the terms and conditions of this AGREEMENT;

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties do hereby agree as follows:

1. TELEHEALTH SERVICES. School District hereby engages ARH to provide professional medical services via telemedicine ("Services") in a school-based health clinic (SBHC), as more fully described in Exhibit A attached hereto and incorporated herein by this reference, during the term of this AGREEMENT, and School District hereby accepts such engagement, on the terms and conditions set forth herein.

A. Appointments. There are no limits on the number of telehealth appointments provided under this AGREEMENT, provided that School District understands and agrees that ARH is not responsible for unavailability of the Services due to errors, delays, or failures in communication systems or equipment or unexpected volume beyond its reasonable control.

B. Protocol. To support proper administration of the Services, ARH and School District shall develop and agree upon a telemedicine protocol ("Protocol") for the parties to follow to ensure all prior authorizations and work have been performed to support the Services. In the event a party has failed to complete their required portion of the Protocol, the other party may cancel or otherwise postpone the telemedicine appointment until such time as the other party finishes the necessary obligations under the Protocol.

C. Consents and Releases. Both parties acknowledge that the ARH's ability and obligation to perform under this AGREEMENT require the receipt of appropriate consents to treatment and appropriate consents and releases related to disclosure, use, and transmission of medical information. School District will timely take such action as may be necessary to properly obtain such consents and releases for any patient desiring ARH's services. Additionally, School District shall be responsible for obtaining all consents, releases, and/or other forms ARH may provide to School District, as may be amended or modified at any time in ARH's sole and absolute discretion.

D. Equipment. ARH shall provide its own telemedicine equipment, software, supplies, and support services to provide the Services to School District. If requested by ARH School District shall use its best efforts to provide letters of support to ARH in applying for any grants for equipment related to the Services.

E. Standards. Each party shall, all times, render all services in a competent, professional, and ethical manner and in accordance with; all prevailing industry or professional standards applicable to the services; all applicable statutes, regulations, rules, orders, and directives of any and all governmental and regulatory bodies; the policies and procedures of the applicable party.

2. RESPONSIBILITIES OF THE PARTIES.

The Parties understand that each should be able to fulfill its responsibilities under this AGREEMENT in accordance with the provisions of law and regulation that govern their individual activities. Nothing in this AGREEMENT is intended to negate or otherwise render ineffective any such provisions or the operating procedures of either Party. If at any time either Party is unable to perform its functions under this AGREEMENT consistent with such Party's statutory and regulatory mandates, the affected Party shall immediately provide written notice to the other seeking a mutually agreed upon resolution. The responsibilities below are in anticipation of the future provision of health care services contemplated through the AGREEMENT.

1) ARH will:

- a) Assist in the development of such policies and procedures necessary to operate the SBHC in a manner that promotes quality, efficiency, and compliance.
- b) Contribute to the preparation of an annual health services report for School District.
- c) Develop and maintain a quality assurance program and cooperate with School District regarding any on-site surveys of the SBHC, including production of materials for review.
- d) Provide materials, supplies, equipment and other items for the telehealth services.
- e) Be responsible for the maintenance of all medical equipment.
- f) Provide administration and oversight to the SBHC in accordance with this AGREEMENT and offer such assistance as necessary to School District so that School District may comply with Medicaid program participation requirements from the Kentucky Department of Education (KDE) the Kentucky Department for Medicaid Services (DMS), including cooperating with reviews and surveys.
- g) Bill for all services provided under this AGREEMENT.

2) School District will:

- a) ~~Provide for and comply with all requirements necessary for School District to maintain good standing as a school-based Medicaid provider, including obtaining annual certification from the KDE and the Department for Medicaid Services (DMS).~~ School District agrees to immediately notify ARH in the event School District is notified by KDE, DMS or any Medicaid managed care organization that School District's participation in

the Medicaid program or in a Medicaid managed care network is under investigation, suspended, or terminated.

- b) Provide for the safe and secure placement of such equipment and technology that ARH may locate at a School District facility. Equipment and technology subject to this provision may include telehealth equipment used to communicate audio and video of a patient encounter, basic diagnostic supplies (e.g., blood pressure cuffs, otoscopes, etc.), and basic medical supplies for primary care encounters (e.g., tongue depressors, swabs, bandages, etc.). District will also provide ARH with usage of existing support services, including but not limited to fax, copy, printing, internet services, and telephone.
- c) Share student information with ARH as necessary for the anticipated provision and administration of services contemplated by the Parties to the extent allowable and in accordance with governing state and federal laws and regulations.
- d) Services provided do not require the expenditure of additional school funds.
- e) Immediately notify ARH in the event School District becomes aware of any claim or receives notice of any claim alleging professional negligence, malpractice, or any legal liability of ARH, its employees, agents, or contractors.
- f) Immediately notify ARH of any event that would have a material adverse affect on ARH's ability to provide the services hereunder.

3. TERM. This AGREEMENT shall commence on August 2021 and shall continue in effect thereafter for a period of twelve months (12) months (the "Initial Term"), subject to earlier termination in accordance with the terms hereof. Thereafter this AGREEMENT shall automatically renew for successive one (1) year periods until terminated by the parties as provided below.

4. TERMINATION. Notwithstanding the foregoing, this AGREEMENT may be terminated upon mutual agreement of the parties or as follows:

A. Either party may terminate this AGREEMENT by giving the other party at least thirty (30) days' advance written notice, which notice shall set forth the effective date of termination.

B. If either Party believes the other Party has breached any term or condition of this AGREEMENT, the alleging Party shall provide reasonable notice of the allegation of breach to the other Party and shall allow an opportunity to cure the breach within fifteen (15) days of receiving notice of the breach or violation. The alleging Party may terminate this AGREEMENT immediately if the other Party does not cure the breach or end the violation within the time specified within this Paragraph.

C. Either Party may immediately terminate this AGREEMENT if the other Party breaches a material term of this AGREEMENT and cure is not possible or if the breach creates a risk of violating federal or state laws and regulations.

5. RELATIONSHIP OF THE PARTIES. The parties hereto expressly acknowledge that the School District and ARH are "independent contractors," and that nothing in this

AGREEMENT shall be construed to create an employment, partnership, or agency relationship between ARH and School District. In performance of any and all obligations hereunder, each Party shall be acting on its own behalf and not as an employee, partner or associate of the other Party. No Party shall hold itself out in any capacity as an agent or representative of any other Party.

6. INSURANCE: Provider shall maintain and keep in full force and effect during the entire term of this AGREEMENT, at its own expense and cost, professional and general commercial liability insurance with minimum coverage in the amount of \$1,000,000 per occurrence, \$3,000,000 annual aggregate, which insurance may be provided through a program or programs of self-insurance. District shall maintain and keep in full force and effect during the entire term of this AGREEMENT, at its own expense and cost, professional and general commercial liability insurance with minimum coverage in the amount of \$1,000,000 per occurrence, \$3,000,000 annual aggregate.

7. COMPLIANCE WITH APPLICABLE LAWS. Each Party shall comply with all applicable federal, state and local laws, regulations, ordinances and codes, and federal and state rules and guidance that may pertain to the services contemplated by this AGREEMENT, including the procurement of permits and licenses when required, in the performance of this AGREEMENT. Each Party shall comply with the other Party regarding all reasonable requests for audits or accountings.

8. TERMINATION OR MODIFICATION DUE TO INCONSISTENCY WITH APPLICABLE LAW.

a) The Parties recognize that this AGREEMENT at all times is subject to applicable local, state and federal law, including but not limited to, the Social Security Act, the rules, regulations, policies, and interpretations of the United States Department of Justice and the Department of Health and Human Services, all public health and safety provisions of state law and regulations, and rules and regulations of the KDE and the DMS. The Parties further recognize that the AGREEMENT shall be subject to amendments in such laws and regulations and to new legislation such as a new federal or state economic stabilization program or health insurance program. Any provisions of law, whether new in fact, newly discovered, newly interpreted, or now relevant, that invalidate, or otherwise are inconsistent with the terms of this AGREEMENT or that would cause one or both of the Parties to be in violation of any law, shall be deemed to have superseded the terms of this AGREEMENT, provided that the Parties shall exercise their best efforts to accommodate the terms and intent of this AGREEMENT to the greatest extent possible consistent with the requirements of law and negotiate an amendment to this AGREEMENT to achieve such an accommodation. In the event that within a period of sixty (60) days following the date notice is first given by either Party to negotiate an amendment to this AGREEMENT due to a change in law or an interpretation of an existing law, the parties are unable to agree on an amendment to this AGREEMENT following good faith negotiations, either Party may terminate this AGREEMENT on at least sixty (60) days written notice to the other Party.

b) In the event of any change in the laws, regulations, general instructions, or in the application thereof, that impacts the compensation arrangement of this AGREEMENT, ARH may

by written notice propose a new AGREEMENT between the Parties in substitution of this AGREEMENT. If such notice of a new proposed AGREEMENT is given and if the Parties are unable within ninety (90) days thereafter to come to a new AGREEMENT, ARH may terminate this AGREEMENT by giving School District not less than ninety (90) days prior written notice.

9. ASSIGNMENT. In no event shall any Party assign any of its rights, powers, duties, or obligations under this AGREEMENT without the prior written consent of the other Party, and any attempt to do so shall be void.

10. GOVERNING LAW. This AGREEMENT shall be construed and enforced in accordance with, and governed by, the laws of the Commonwealth of Kentucky, without regard to its provisions concerning conflicts of laws.

11. NO RIGHTS TO THIRD-PARTIES. This AGREEMENT shall be enforceable only by ARH and School District. In all other respects this AGREEMENT is not intended and cannot be construed to create any rights to third-parties.

12. CONSTRUCTION. If any language is stricken or deleted from this AGREEMENT, such language shall be deemed never to have appeared herein and no other connotation shall be drawn there from. The paragraph headings used herein are for convenience only and shall not be used in the construction or interpretation of this AGREEMENT.

13. NOTICE. A Party shall provide notice to the other Party in the manner set forth in this Section. Delivery of any notice shall be first by electronic delivery via the email address of a Party's designated contact person as set forth below. A Party providing notice via email delivery shall maintain evidence of delivery and receipt of the email by the other Party. If receipt of email delivery cannot be confirmed, then a Party may deliver notice to the other Party at the physical address noted herein via a nationally-recognized courier by overnight delivery, charges prepaid, and receipt signature required. Notice provided to the designated contact person and contact information stated herein shall be presumed valid unless a Party provides notice to the other Party of a change to the designated contact person or contact information.

To ARH:

Appalachian Regional Healthcare, Inc.
Attention: Vice President of Legal Affairs
101 Airport Gardens Road, Suite 301
Hazard, Kentucky 41701

To School District

Floyd County Board of Education
Attention: Superintendent
442 KY RT 550
Easter, Kentucky 41622

14. ENTIRE AGREEMENT. This AGREEMENT, including any attachments, constitutes the sole and entire arrangement between ARH and School District and may be modified only by a written amendment executed by both Parties. Any prior agreement, promises, negotiations or representations, either oral or written, relating to the subject matter of this AGREEMENT not expressly set forth in this AGREEMENT are of no force or effect.

15. NO WAIVER. No waiver of any of the terms of this AGREEMENT shall be valid unless it is in writing and signed by all Parties to this AGREEMENT.

16. VENUE. Any legal or administrative action, whether in a judicial forum, for the enforcement of this AGREEMENT or any provision of this AGREEMENT shall be filed only in Floyd Circuit Court in Prestonsburg, Floyd County, Kentucky.

17. AMENDMENTS. This AGREEMENT cannot be changed, modified or discharged orally, but only by the mutual written agreement of the Parties.

18. SEVERABILITY. If a court of competent jurisdiction or arbitrator, upon exhaustion of due process, determines that any section or language within this AGREEMENT is invalid, illegal, or unenforceable for any reason, then the offending section or language shall be severed from the AGREEMENT and the remainder of the AGREEMENT shall remain in full force and effect as if the offending section or phrase was never part of the AGREEMENT.

[Signature Page to Follow]

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IN WITNESS WHEREOF, the parties hereby affix their signatures on the date first above written.

Reviewed and recommended by:

Tim Hatfield, Community CEO
Highlands ARH Regional Medical Center
Date: _____

ARH

**APPALACHIAN REGIONAL HEALTHCARE, INC.
ARH TUG VALLEY HEALTH SERVICES, INC.**

Joseph L. Grossman,
President & CEO
Date: _____

SCHOOL DISTRICT

BOARD OF EDUCATION OF FLOYD COUNTY, KENTUCKY

Linda Gearheart
Chairman, Floyd County Board of Education
Date: _____

Exhibit A
Telehealth Services Description

Scope of services:

- I. ARH agrees to provide telemedicine services Monday through Friday, 8:00 A.M. to 4:00 P.M., on an as needed basis and as available at the time of the request. Section II below outlines the services that ARH will cover.
- II. Services include:
 - a. Family Medicine
 - b. Internal Medicine
- III. Services can be performed by a Doctor of Medicine (MD), Doctor of Osteopathy (DO), Advanced practice registered nurse (APRN), or Physician Assistant-Certified (PA-C), or other qualified/ licensed provider.