

PROFESSIONAL SERVICES AGREEMENT
(Consultation Psychiatric Services)
SHIRLEY ROFFE, M.D.

THIS AGREEMENT ("Agreement") is between Yamhill County, a political subdivision of the State of Oregon, acting by and through its Board of Commissioners and Department of Health and Human Services Department ("County"), and Shirley Roffe, [REDACTED] ("Physician").

RECITALS:

A. County operates a Community Mental Health and Developmental Disabilities Program through its Health and Human Services Department. In order to provide adequate services for its Behavioral Health and Developmental Disabilities Program clients it is necessary for County to contract with a qualified physician.

B. Physician is a qualified psychiatric mental health physician licensed by appropriate authorities and is qualified to perform the duties imposed by this Agreement. County is authorized to enter into this Agreement under ORS 203.010(3). NOW, THEREFORE

AGREEMENT:

In exchange for the promises and other consideration set forth below, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

SECTION 1. OBLIGATIONS OF PHYSICIAN.

Physician agrees to perform the following obligations:

1. Physician shall provide professional psychiatric consulting services to County. The manner and means of providing the services under this Agreement shall be in the sole discretion and professional judgment of Physician, subject to the direction of the treating physician, if any, and the laws, rules and regulations relating to the provision of services by County. Services under this Agreement shall be provided in places determined to be appropriate by Physician. Services shall include, but not be limited to: case reviews for medical necessity of residential treatment and/or hospitalizations for both children and adults; case reviews for patient requests for treatment not covered by Yamhill Community Care Organization (Yamhill CCO) or other insurance coverage; signing the Certificate of Need for Services (CONS) as necessary for residential treatment for children enrolled in Yamhill County HHS Family and Youth services; and consult with Yamhill County HHS psychiatric licensed medical providers (LMPs) and lead clinician for complex cases and care.

2. Physician shall provide appropriate credentials of professional qualifications, including written verification of current professional Oregon licensure with the Oregon Medical Board and Drug Enforcement Administration upon execution of this Agreement. In the event Physician is unable to maintain professional licensure, Physician will notify County immediately and the Agreement will be terminated. Physician shall satisfactorily pass a criminal

history check. Physician shall not be listed as an excluded party on the Excluded Parties List System (EPLS) and Office of Inspector General's (OIG) exclusion list. Physician shall take immediate steps, upon execution of this Agreement, to become an approved provider of Medicaid, Medicare and contracted private insurance services for County in the State of Oregon.

3. Physician shall provide County with a single invoice by County's last working day of the month in which services were provided to either or both programs. The invoice will reflect hours worked and services provided.

4. Physician shall maintain medical malpractice insurance in the amount of \$1,000,000 (one million dollars). Yamhill County Health and Human Services is to be identified as a practice site. Physician shall, at Physician's expense, ensure that such medical malpractice insurance shall also cover any independent practice and liabilities outside Physician's duties under this Agreement, and that such insurance is written by a responsible insurance company licensed to do business in Oregon, and will not hold County responsible for any liability arising from such independent practice. Physician shall provide County with a copy of such insurance policy upon execution of this Agreement and County, at any time during the term of this Agreement, shall be entitled and have authority to obtain information concerning the status of said policy.

5. Physician shall provide up to ten (10) hours of service per month, unless otherwise approved by the HHS Director or designee, dependent upon County needs for services and available funding. No minimum number of hours is guaranteed by this Agreement.

6. Physician shall provide County with reasonable advance notice in any instance when Physician will be completely unavailable, will be temporarily unavailable, or will need to change the usual services schedule.

7. Physician shall perform other duties as requested by County's HHS Director or designee.

SECTION 2. OBLIGATIONS OF COUNTY.

The county agrees to perform the following obligations:

1. Provide Physician with pertinent client records including physician data and orders necessary for Physician's performance under this Agreement, provided that Physician shall be subject to the rules and regulations of County relating to the confidentiality of client records.

2. Pay Physician for the services provided under this Agreement at the rate of \$175.00 per hour for services provided to the Behavioral Health Program for up to 10 hours per month. Services shall be provided each month while this Agreement is in effect, unless otherwise approved by the HHS Director or designee, dependent upon County needs for services and funding available. However, no minimum number of hours is guaranteed by this Agreement.

3. Make payment to Physician on the 15th day of the month following receipt of an itemized statement as provided for above for services provided the preceding month.

4. County shall be responsible for the billing and collection of third-party funds for services provided. County will provide materials such as computer and forms for documentation of services by Physician.

SECTION 3. MUTUAL OBLIGATIONS.

County and Physician mutually agree as follows:

1. County and Physician agree to comply with the rules and regulations of County, applicable federal regulations and all provisions of federal and state law relating to Physician's performance of services under this Agreement. The requirements of ORS 279B.200 through 279B.240 and Article XI, Section 10, of the Oregon Constitution are incorporated into this Agreement by reference.

2. Physician is engaged hereby as an independent contractor, and will be so deemed for purposes of the following:

a. Physician will be solely responsible for payment of any federal or state taxes required as a result of this Agreement.

b. This Agreement is not intended to entitle Physician to any benefits typically granted to County employees. Without limitation, but by way of illustration, the benefits which are not intended to be extended by this Agreement to Physician are vacation, holiday and sick leave, other leaves with pay, tenure, medical, and dental coverage, life and disability insurance, overtime, Social Security, Workers' Compensation, unemployment compensation, or retirement benefits (except as required by law).

c. Physician is an independent contractor for purposes of the Oregon Workers' Compensation law (ORS Chapter 656). Physician, her subcontractors, if any, and all employers working under this Agreement are subject employers under the Oregon Workers' Compensation Law and shall comply with ORS 656.017, which requires them to provide workers' compensation coverage for all their subject workers.

3. Physician will provide services to County clients without regard for race, color, creed, religion or national origin in compliance with Title IV, Civil Rights Act, 1954.

4. County may subcontract for similar services with other parties as the need for such services arises.

5. PHYSICIAN SHALL INDEMNIFY, DEFEND AND HOLD COUNTY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS RELATING TO OR ARISING OUT OF PHYSICIAN'S PERFORMANCE OF THIS AGREEMENT, SO LONG AS THE CLAIMS DO NOT ARISE FROM COUNTY'S MALFEASANCE OR WILLFUL OR WANTON MISCONDUCT. TO THE MAXIMUM EXTENT PERMITTED BY ARTICLE XI,

SECTION 10 OF THE OREGON CONSTITUTION AND THE OREGON TORT CLAIMS ACT, ORS 30.260 THROUGH 30.400, COUNTY SHALL INDEMNIFY, DEFEND AND HOLD PHYSICIAN HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS RELATING TO OR ARISING FROM COUNTY'S PERFORMANCE OF THIS AGREEMENT, SO LONG AS THE CLAIMS DO NOT ARISE FROM PHYSICIAN'S MALFEASANCE OR WILLFUL OR WANTON MISCONDUCT.

6. This Agreement shall not be assigned by Physician without the prior written consent of County.

SECTION 4. ADMINISTRATION AND PROFESSIONAL SUPERVISION.

1. Physician will be subject to the general administrative supervision of the HHS Director or designee.

2. Professional supervision and resolution of complaints lodged against Physician's professional performance shall be the responsibility of Physician and/or the Oregon Medical Board.

SECTION 5. TERM AND TERMINATION.

1. Term. Unless terminated in accordance with subsection (2), the term of this Agreement is from July 1, 2019 through June 30, 2020, and supercedes any prior agreements between the parties. Thereafter, this Agreement shall be automatically renewed for successive one-year terms beginning July 1, 2020 unless terminated in accordance with subsection (2), below.

2. Termination. Either party may terminate this Agreement on 30 days written notice to the other party. Termination shall not excuse liabilities incurred prior to the termination date.

SECTION 6. COST AND ATTORNEYS FEES. In the event that either party to this Agreement shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Agreement, each party shall be wholly responsible for its own expenses which it may reasonably incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any nonjudicial action.

SECTION 7. HIPAA COMPLIANCE. Physician acknowledges that County is subject to the Privacy Rule of the Health Insurance Portability and Accountability Act of 1996, (HIPAA), Pub. Law No. 104-191, as amended. Physician hereby agrees to the obligations imposed on "CONTRACTOR" under the Business Associate Amendment attached to this Agreement as Exhibit A.

SECTION 8. CONFIDENTIALITY. Physician acknowledges that she or her agents may, in the course of their performance under this Agreement, be exposed to or acquire information that is the confidential information of County or County's clients. Any and all (i) client information, (ii) information provided by County and marked confidential, (iii) Protected

Health Information or EPHI as described or defined in Exhibit A, or (iv) information identified as confidential in a separate writing, that becomes available to Physician or its agents in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items, including software, that result from Physician's use of the Confidential Information are also deemed Confidential Information. Physician agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Physician uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give or disclose Confidential Information for any purposes whatsoever, except as may be provided elsewhere under this Agreement or in conformance with Exhibit A. Physician agrees that, upon termination of this Agreement or at County's request, Physician will return to County all documents, papers and other matter in Physician's possession that embody Confidential Information and Physician will certify that all such Confidential Information has either been returned or destroyed.

SECTION 9. ENTIRE AGREEMENT. This Agreement is the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained in this written Agreement shall be valid or binding. No alterations, changes, or additions to this Agreement shall be made except in a written document signed by both parties.

SECTION 10. GOVERNING LAW; JURISDICTION; VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of law. Any claim, action, suit or proceeding, (collectively "Claim") between County and Physician that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Yamhill County for the State of Oregon. PHYSICIAN, BY EXECUTION OF THIS AGREEMENT HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 11. WAIVER; SEVERABILITY. The failure of County to enforce any provision of this Agreement shall not constitute a waiver by County of that or any other provision. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 12. NOTICE. Any notices to be given hereunder shall be given in writing by personal delivery, facsimile or mail, postage prepaid, to County or Physician at the address or number set forth at the start of this Agreement, or to such other address or number as either party may provide pursuant to this "Notice" section. Any notice delivered by mail shall be deemed to be given five (5) calendar days after the date of mailing. Any notice delivered by facsimile shall be deemed to be given when the transmitting machine generates a receipt of the transmission. To be effective against County, any facsimile communication or notice must be confirmed by telephone notice to HHS Director or designee and shall not be deemed to be given until such confirmation is completed. Any notice by personal delivery shall be deemed to be given when actually delivered. Regular day-to-day communication between the parties may be transmitted

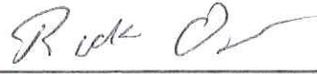
through one of the methods set forth above, in person, by telephone, by e-mail, or by other similar electronic transmission.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth adjacent to their signatures below.

PHYSICIAN

**YAMHILL COUNTY
BOARD OF COMMISSIONERS**


SHIRLEY ROFFE, MD
Date: 7/25/19


RICHARD L. "RICK" OLSON, Chair
Date: 8/8/19

Tax ID # 54-68-3556

APPROVED AS TO FORM

DEPT. OF HEALTH AND HUMAN SERVICES

By: 
CHRISTIAN BOENISCH
County Counsel

By: 
SILAS HALLORAN-STEINER, Director
Date: 7/30/19

Accepted by Yamhill County
Board of Commissioners on
8-8-19 by Board Order
19-281

EXHIBIT A
BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT

RECITALS

- A. The CONTRACTOR may use and disclose Protected Health Information and Electronic Protected Health Information (“EPHI”) in the performance of its obligations under the Agreement; and
- B. County operates a drug and alcohol treatment program subject to the Federal Confidentiality of Alcohol and Drug Abuse Patient Records law and regulations, 42 USC §290dd-2 and 42 CFR Part 2 (collectively, “Part 2”); if CONTRACTOR is a Qualified Service Organization (QSO) under Part 2 it also must agree to certain mandatory provisions regarding the use and disclosure of substance abuse treatment information with respect to the performance of its obligations under the Agreement; and
- C. The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (“HIPAA”) and its implementing Privacy Rule and Security Rule, 45 CFR Parts 160 and 164, require that COUNTY, as a Covered Entity, obtain satisfactory assurances from its Business Associates, as that term is defined in the Privacy Rule and Security Rule, that they will comply with the Business Associate requirements set forth in 45 CFR 164.502(e) and 164.504(e) and as amended by the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (“ARRA”); CONTRACTOR is a Business Associate of COUNTY and desires to provide such assurances with respect to the performance of its obligations under the Agreement pursuant to this Business Associate/Qualified Service Organization Agreement (“BAA”); and
- D. Both COUNTY and CONTRACTOR are committed to compliance with the standards set forth in Part 2, the Privacy Rule and Security Rule as amended by the HITECH Act, and as they may be amended further from time to time, in the performance of their obligations under the Agreement.

NOW, THEREFORE, in consideration of mutual and valuable consideration which the parties hereby acknowledge as received, the parties agree as follows:

AGREEMENT. The parties agree that the following terms and conditions shall apply to the performance of their obligations under the Agreement, effective upon execution of this BAA. Capitalized terms used, but not otherwise defined in this BAA, shall have the same meaning as those terms in Part 2, the Privacy Rule and Security Rule.

1. SERVICES. Pursuant to the Agreement, CONTRACTOR provides certain services for or on behalf of COUNTY, as described in the Agreement, which may involve the use and disclosure of Protected Health Information and EPHI. CONTRACTOR may make use of Protected Health Information and EPHI to perform those services if authorized in the Agreement and not otherwise limited or prohibited by this BAA, Part 2, the Privacy Rule, the Security Rule and other applicable federal or state laws or regulations. All other uses of Protected Health Information and EPHI are prohibited.

2. OBLIGATIONS AND ACTIVITIES OF CONTRACTOR.

(a) CONTRACTOR agrees to not use or disclose Protected Health Information or EPHI other than as permitted or required by the Agreement (as amended by this BAA), and as permitted by Part 2, the Privacy Rule, the Security Rule or as required by Law. Notwithstanding any other language in this BAA, CONTRACTOR acknowledges and agrees that any patient information it receives from COUNTY that is protected by Part 2 regulations is subject to protections that prohibit CONTRACTOR from disclosing such information to agents or subcontractors without the specific written consent of the subject individual.

(b) CONTRACTOR agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information and EPHI other than as provided for by the Agreement as amended by this BAA, and if necessary will resist in judicial proceedings any efforts to obtain access to patient records except as permitted by the Part 2 regulations.

Exhibit "A" pg 1 of 6
B.O. 19-281

(c) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR of a use or disclosure of Protected Health Information or EPHI by CONTRACTOR in violation of the requirements of the Agreement, as amended by this BAA.

(d) CONTRACTOR agrees to report to COUNTY, as promptly as possible, any use or disclosure of the Protected Health Information or EPHI not provided for by the Agreement, as amended by this BAA, of which it becomes aware.

(e) CONTRACTOR agrees to ensure that any agent, including a contract hearing officer or other subcontractor, to whom it provides Protected Health Information or EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, agrees to the same restrictions and conditions that apply through the Agreement, as amended by this BAA, to CONTRACTOR with respect to such information.

(f) CONTRACTOR agrees to provide access, at the request of COUNTY, and in the time and manner designated by COUNTY, to Protected Health Information and EPHI in a Designated Record Set (the hearing file), to COUNTY or, as directed by COUNTY, to an Individual in order to meet the requirements under 45 CFR 164.524.

(g) CONTRACTOR agrees to make any amendment(s) to Protected Health Information and EPHI in a Designated Record Set that the COUNTY directs or agrees to pursuant to 45 CFR 164.526 at the request of COUNTY or an Individual, and in the time and manner designated by COUNTY.

(h) CONTRACTOR agrees to make internal practices, books, and records, including policies and procedures and any Protected Health Information or EPHI, relating to the use and disclosure of Protected Health Information and EPHI received from, or created or received by CONTRACTOR on behalf of COUNTY, available to COUNTY or to the Secretary, within the time and in the manner designated by COUNTY or the Secretary, for purposes of the Secretary determining COUNTY's compliance with Part 2, the Privacy Rule or Security Rule.

(i) CONTRACTOR agrees to refer requests for disclosures of Protected Health Information and EPHI to the COUNTY for response, except for requests related to conducting the contested case hearing. To the extent CONTRACTOR discloses Protected Health Information or EPHI for purposes not related to conducting the contested case hearing, CONTRACTOR agrees to document such disclosures to the extent such documentation is required for COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(j) CONTRACTOR agrees to provide to COUNTY or an Individual, in time and manner to be designated by COUNTY, information collected in accordance with Section 2(i) of this BAA, to permit COUNTY to respond to a request by an Individual for an accounting of disclosures of Protected Health Information and EPHI in accordance with 45 CFR 164.528.

(k) CONTRACTOR agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of the COUNTY.

(l) In the event of Discovery of a Breach of Unsecured Protected Health Information, CONTRACTOR shall:

(i) Notify the COUNTY of such Breach. Notification shall include identification of each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been accessed, acquired or disclosed during such Breach and any other information as may be reasonably required by the COUNTY necessary for the COUNTY to meet its notification obligations;

(ii) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to each individual whose Unsecured Protected Health Information has been, or is reasonably believed by CONTRACTOR to have been accessed, acquired or disclosed as a result of such Breach;

(iii) Where the Breach involves more than 500 individuals, confer with the COUNTY as to the preparation and issuance of an appropriate notice to prominent media outlets within the State or as appropriate, local

jurisdictions; and,

(iv) Confer with the COUNTY as to the preparation and issuance of an appropriate notice to the Secretary of DHHS of Unsecured Protected Health Information that has been acquired or disclosed in a Breach. CONTRACTOR understands that if the Breach was with respect to 500 or more individuals, such notice to the Secretary must be provided immediately, and therefore, time is of the essence in the obligation to confer with the COUNTY. If the Breach was with respect to less than 500 individuals, a log may be maintained of any such Breach and the log shall be provided to the Secretary annually documenting such Breaches occurring during the year involved.

(v) Except as set forth in (vi) below, notifications required by this section are required to be made without unreasonable delay and in no case later than 60 calendar days after the Discovery of a Breach. Therefore, the notification of a Breach to the COUNTY shall be made as soon as possible and CONTRACTOR shall confer with the COUNTY as soon as practicable thereafter, but in no event, shall notification to the COUNTY be later than 30 calendar days after the Discovery of a Breach. Any notice shall be provided in the manner required by the HITECH Act, sec 13402(e) and (f), Public Law 111-5, 45 CFR 164.404 through 164.410 and as agreed upon by the COUNTY.

(vi) Any notification required by this section may be delayed by a law enforcement official in accordance with the HITECH Act, sec 13402(g), Public Law 111-5.

(vii) For purposes of this section, the terms "Unsecured Protected Health Information" and "Breach" shall have the meaning set forth in 45 CFR § 164.402. A Breach will be considered as "Discovered" in accordance with the HITECH Act, sec 13402(c), Public Law 111-5, 45 CFR 164.404(a)(2).

(m) CONTRACTOR shall comply with 45 C.F.R. 164.308, 164.310, 164.312 and 164.316 and all requirements of the HITECH Act, Public Law 111-5, that relate to security and that are made applicable to Covered Entities, as if CONTRACTOR were a Covered Entity.

(n) CONTRACTOR shall be liable to the COUNTY, and shall indemnify the COUNTY for any and all direct costs incurred by the COUNTY, including, but not limited to, costs of issuing any notices required by HITECH or any other applicable law, as a result of CONTRACTOR's Breach of Unsecured Protected Health Information.

3. PERMITTED USES AND DISCLOSURES BY CONTRACTOR.

(a) General Use and Disclosure Provisions.

(1) Except as otherwise limited or prohibited by this BAA, CONTRACTOR may use or disclose Protected Health Information and EPHI to perform functions, activities, or services for, or on behalf of, COUNTY as specified in the Agreement and this BAA, provided that such use or disclosure would not violate Part 2, the Privacy Rule or Security Rule if done by COUNTY or the minimum necessary policies and procedures of COUNTY.

(2) COUNTY has determined that disclosures to CONTRACTOR under the Agreement are necessary and appropriate for COUNTY's Treatment, Services, Payment and/or Health Care Operations under Part 2, the HIPAA Privacy Rule and Security Rule and Required By Law under Or Laws 1999, ch. 849 (HB 2525).

(3) All applicable federal and state confidentiality or privacy statutes or regulations, and related procedures, continue to apply to the uses and disclosures of information under this BAA, except to the extent preempted by Part 2 or the HIPAA Privacy Rule and Security Rule.

(b) Specific Use and Disclosure Provisions.

(1) Except as otherwise limited in this BAA, CONTRACTOR may use Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR or to carry out the legal responsibilities of the CONTRACTOR.

(2) Except as otherwise limited in this BAA, CONTRACTOR may disclose Protected Health Information and EPHI for the proper management and administration of the CONTRACTOR, provided that disclosures are Required By Law, or CONTRACTOR obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.

(3) CONTRACTOR may use Protected Health Information and EPHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).

(4) CONTRACTOR may not aggregate or compile COUNTY's Protected Health Information or EPHI with the Protected Health Information or EPHI of other Covered Entities unless the Agreement permits CONTRACTOR to perform Data Aggregation services. If the Agreement permits CONTRACTOR to provide Data Aggregation services, CONTRACTOR may use Protected Health Information and EPHI to provide the Data Aggregation services requested by COUNTY as permitted by 45 CFR 164.504(e)(2)(i)(B), subject to any limitations contained in this BAA. If Data Aggregation services are requested by COUNTY, CONTRACTOR is authorized to aggregate COUNTY's Protected Health Information and EPHI with Protected Health Information or EPHI of other Covered Entities that the CONTRACTOR has in its possession through its capacity as a CONTRACTOR to such other Covered Entities provided that the purpose of such aggregation is to provide COUNTY with data analysis relating to the Health Care Operations of COUNTY. Under no circumstances may CONTRACTOR disclose Protected Health Information or EPHI of COUNTY to another Covered Entity absent the express authorization of COUNTY.

4. OBLIGATIONS OF COUNTY.

(a) COUNTY shall notify CONTRACTOR of any limitation(s) in its notice of privacy practices of COUNTY in accordance with 45 CFR 164.520, to the extent that such limitation may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI. COUNTY may satisfy this obligation by providing CONTRACTOR with COUNTY's most current Notice of Privacy Practices.

(b) COUNTY shall notify CONTRACTOR of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information or EPHI, to the extent that such changes may affect CONTRACTOR's use or disclosure of Protected Health Information and EPHI.

(c) COUNTY shall notify CONTRACTOR of any restriction to the use or disclosure of Protected Health Information or EPHI that COUNTY has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect CONTRACTOR's use or disclosure of Protected Health Information or EPHI.

5. PERMISSIBLE REQUESTS BY COUNTY.

(a) COUNTY shall not request CONTRACTOR to use or disclose Protected Health Information or EPHI in any manner that would not be permissible under Part 2, the Privacy Rule or Security Rule if done by COUNTY, except as permitted by Section 3(b) above.

(b) COUNTY may conduct a survey of CONTRACTOR with respect to CONTRACTOR's compliance with the terms of this BAA and applicable law for the establishment of policies and procedures for the safeguarding of any Protected Health Information and EPHI provided to CONTRACTOR by COUNTY. CONTRACTOR shall implement any recommendations of COUNTY resulting from such surveys as may be reasonably necessary to ensure compliance with the terms of this BAA and applicable law for the safeguarding of any Protected Health Information and EPHI provided to CONTRACTOR by COUNTY.

6. TERM AND TERMINATION.

(a) Effective Date; Term. This BAA shall be effective on the date on which all parties have executed it and all necessary approvals, if any, have been granted. This BAA shall terminate on the earlier of (i) the date of termination of the Agreement, or (ii) the date on which termination of the BAA is effective under Section 6(b).

(b) Termination for Cause. In addition to any other rights or remedies provided in this BAA, upon either the COUNTY's or CONTRACTOR's knowledge of a material breach by the other party of that party's obligations under this BAA, the party not in breach shall either:

(1) Notify the other party of the breach and specify a reasonable opportunity in the Notice of Breach to the party in breach to cure the breach or end the violation, and terminate the Agreement and this BAA if the party in breach does not cure the breach of the terms of this BAA or end the violation within the time specified;

(2) Immediately terminate the Agreement and this BAA if the party in breach has breached a material term of this BAA and cure is not possible in the reasonable judgment of the party not in breach; or

(3) If neither termination nor cure is feasible, the party not in breach shall report the violation to the Secretary.

(4) The rights and remedies provided in this BAA are in addition to any rights and remedies provided in the Agreement.

(c) Effect of Termination.

(1) Except as provided in paragraph (2) of this Section 6(c), upon termination of the Agreement and this BAA, for any reason, the party in breach shall, at the other party's option, return or destroy all Protected Health Information and EPHI received from the other party, or created or received by CONTRACTOR on behalf of COUNTY. This provision shall apply to Protected Health Information and EPHI that is in the possession of CONTRACTOR or agents of CONTRACTOR. CONTRACTOR shall retain no copies of the Protected Health Information or EPHI.

(2) In the event that CONTRACTOR determines that returning or destroying the Protected Health Information or EPHI is infeasible, CONTRACTOR shall provide to COUNTY notification of the conditions that make return or destruction infeasible. Upon COUNTY's written acknowledgement that return or destruction of Protected Health Information or EPHI is infeasible, CONTRACTOR shall extend the protections of this BAA to such Protected Health Information and EPHI and limit further uses and disclosures of such Protected Health Information and EPHI to those purposes that make the return or destruction infeasible, for so long as CONTRACTOR maintains such Protected Health Information or EPHI.

7. MISCELLANEOUS.

(a) Regulatory References. A reference in this BAA to a section in Part 2, the Privacy Rule, or Security Rule, or the HITECH Act means the section in effect as of the effective date of this BAA or as the Rules may be subsequently amended from time to time.

(b) Amendment; Waiver. The Parties agree to take such action as is necessary to amend the Agreement and this BAA from time to time as is necessary for COUNTY to comply with the requirements of Part 2, the Privacy Rule, Security Rule, HIPAA and the HITECH Act. No provision hereof shall be deemed waived unless in writing, duly signed by authorized representatives of the parties. A waiver with respect to one event shall not be construed as continuing, or as a bar to or waiver of any other right or remedy under this BAA.

(c) Survival. The respective rights and obligations of CONTRACTOR under Section 6(c), this Section 7(c), and Section 7(e) of this BAA shall survive the termination of the Agreement and this BAA.

(d) Interpretation; Order of Precedence. Any ambiguity in this BAA or the Agreement shall be resolved to permit COUNTY to comply with Part 2, the Privacy Rule, Security Rule and the HITECH Act. The terms of this BAA amend and supplement the terms of the Agreement, and whenever possible, all terms and conditions in this BAA and the Agreement are to be harmonized. In the event of a conflict between the terms of this BAA and the terms of the Agreement, the terms of this BAA shall control; provided, however, that this BAA shall not supersede any other federal or state law or regulation governing the legal relationship of the parties, or the confidentiality of records or information, except to the extent that HIPAA preempts those laws or regulations. In the event of any conflict between the provisions of the Agreement (as amended by this BAA) and Part 2, the Privacy Rule or the Security Rule, the more stringent rule shall apply.

(e) No Third-Party Beneficiaries. COUNTY and CONTRACTOR are the only parties to this BAA and are the only parties entitled to enforce its terms. Nothing in this BAA gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this BAA.

(f) Successors and Assigns. The provisions of this BAA and the Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns, if any.

(g) Except As Amended. Except as amended by this BAA, all terms and conditions of the Agreement shall remain in full force and effect.

8. SIGNATURES.

By signing this BAA, the parties certify that they have read and understood this BAA, that they agree to be bound by the terms of this BAA and the Agreement, as amended, and that they have the authority to sign this BAA.

COUNTY:

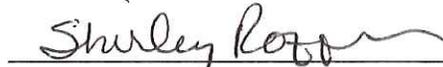


By: Silas Halloran-Steiner

Title: Director, Yamhill County Health and Human Services Department

Date: 7/30/19

CONTRACTOR:



By: SHIRLEY ROFFE, MD

Date: 7/25/2019

60.19-281
Exhibit 'A' pg 6 of 6