

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made this 2nd day of July, 2012, by and between the Charleston Dorchester Mental Health Center (CDMHC), an outpatient division of the South Carolina Department of Mental Health (SCDMH), and Franklin C. Fetter Family Health Center, Inc. (Contractor)

PURPOSE: The purpose of this agreement is to obtain the services of CDMHC to provide physician services at two of Contractor's locations.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1.0 Services

- 1.1 CDMHC will assign one physician up to two days per week, less leave time and holidays, to provide on-site consultation and coordination of care to the Contractor at the following two contractor locations: 1) 51 Nassau Street, Charleston, South Carolina, 29403, and 2) 700-B North Pine Street, Summerville, South Carolina, 29483.

2.0 Compensation

- 2.1 Contractor will compensate CDMHC for professional services during the term of the contract in the amount of \$ 70,000 annually. Payment will be made in monthly installments of \$5,833.33 contingent upon satisfactory completion of required services and submission of a detailed invoice listing services rendered.

3.0 Independent Contractor

- 3.1 Nothing in this agreement shall be interpreted as creating any employment, agency, partnership, joint venture, or any relationship between the parties other than that of independent contractor. Neither party shall make any representation or statement (oral or written) to any person or entity inconsistent with this agreement.

4.0 Confidentiality

- 4.1 The parties agree that the disclosure and re-disclosure of client information under this contract only is authorized by written consent signed by the client; a specific court order; or as otherwise allowed by applicable state or federal law or regulations.

SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (DMH) COVENANTS AND CONDITIONS (1 page)

This is made a part of the attached Contract with DMH and/or DMH component. If any Contract term or obligation is in conflict with this document, this document will control. The parties to the Contract will comply with all applicable law. If the Contract involves federal or other grant funds (including any applicable grant subcontractor or sub grantee obligations), the parties will comply with the applicable grant terms and obligations. As may be applicable to the attached Contract, the party contracting with DMH also agrees:

1. To comply with all applicable law including: Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d & 2000e); 45 CFR Part 80; § 504 of the Rehabilitation Act of 1973; 45 CFR Part 84; Age Discrimination Act of 1975; 42 U.S.C. 6101 et seq.; Omnibus Budget Reconciliation Act of 1981; Americans with Disabilities Act; 42 CFR Parts 35 & 36; Federal Drug Free Workplace Act of 1988 & §44-107-10 et seq. S.C. Code; 45 CFR Part 160 et seq. (HIPAA); 42 CFR Part 2 (Alcohol and Drug Confidentiality); and §44-22-100, SC Code (DMH Patient/Client/Person Subject to Commitment Confidentiality).
2. Unless specific Contract/applicable grant terms require otherwise, DMH has ownership, title, copyright or other right to property purchased or developed with Contract funds. The party contracting with DMH will not publish or use reports, data or other material or information related to Contract services for its own purpose or financial benefit without prior DMH written permission.
3. Execution and performance of any Contract provision, or continued payment, will not affect DMH's right to enforce the Contract. No DMH waiver of any Contract breach will be considered as waiver of any succeeding breach, or applicable provision.
4. The Contract is governed by applicable Federal and South Carolina law and any legal action, suit, proceeding or other dispute resolution activity arising from the Contract will be instituted and maintained in the applicable court in South Carolina.
5. No sub-contract or assignment of the Contract, Contract obligations or Contract rights is valid without written DMH consent. Regardless, the party contracting with DMH will be solely responsible for its Contract performance and obligations.
6. DMH and other public agency having audit authority over the Contract or Contract services may audit books, records and other documents of the party contracting with DMH as they pertain to the Contract, independent of and pursuant to, §11-35-2220, S.C. Code. Such documents will be maintained for a period of at least three (3) years from the date of final payment under the Contract.
7. To conform to DMH and other applicable credentialing, privileging and Corporate Compliance requirements, including those issued by the OIG USDHHS. The party contracting with DMH will not employ persons listed on the OIG's Cumulative Sanctions Report or Excluded Parties List System (<http://exclusions.oig.hhs.gov/> <https://www.epls.gov/>) and will adopt DMH policies regarding §6032 of the Deficit Reduction Act of 2005 as stated in DMH S&P No.1. (http://www.state.sc.us/dmh/policies/corp_comply/6032.pdf).
8. If the party contracting with DMH seeks and obtains third party payment including from federal sources such as Medicare or Medicaid, the party contracting with DMH will offset any amounts due from DMH with the receipts or submit the funds to DMH and be solely responsible for the legitimacy of the request for and payment of funds and any recoupments sought by the third party payor. If payments to DMH from the party contracting with DMH are not full compensation for all DMH Contract services, DMH may bill and accept payment for such uncompensated services from any other available payor or source of payment, and any such payment will not reduce any payment due to DMH by the party contracting with DMH.
9. If Contract services involve the review or use of DMH plans, reports, financial information, attorney work product, personal, patient and/or other proprietary or confidential information, the party contracting with DMH will use or disclose such information only as necessary to perform Contract services or otherwise with applicable DMH written permission, or as required or permitted by law.
10. No Contract funds, materials, property, or services will be used for any partisan, political activity, or to further the election or defeat of any candidate for public office or any activity in violation of the "Hatch Act" or other applicable law. No attorney may be engaged through the use of Contract funds. Subject to §15-77-300, SC Code, DMH will not be obligated to pay attorney's fees or the cost of legal action arising from this Contract.
11. No employee of either party to this Contract will be deemed as an employee of the other party. Nothing in the Contract will be interpreted as creating any employment, agency, partnership, joint venture, or any other similar relationship between the parties. Neither party will make any representation or statement to any person or entity inconsistent with the Contract.
12. The following Contract terms or obligations are of no effect if they require (and the Contract will not be interpreted as requiring) that DMH: submit to the jurisdiction of another state's laws and/or courts; indemnify the party contracting with DMH or any other party; or waive any interest, right, immunity or defense that DMH may have in law or in equity.

**SOUTH CAROLINA DEPARTMENT OF MENTAL HEALTH (SCDMH)
BUSINESS ASSOCIATE/QUALIFIED SERVICE ORGANIZATION AGREEMENT**

SCDMH/its inpatient/outpatient facility/component (SCDMH) and Franklin C. Fetter Family Health Center, Inc., SCDMH contractor (Contractor) will comply with applicable law including privacy of Protected Health Information identifying a SCDMH patient or client or a person subject to commitment (PHI). Contractor (and if applicable, also on behalf of its subcontractor(s)) in providing services to SCDMH and in receiving, transmitting, processing, storing, disclosing or otherwise using PHI, agrees to:

- 1) Comply with all applicable law protecting PHI including HIPAA, 45 CFR Part 160 et seq. and HIPAA HITECH §44-22-100 Code of Laws of South Carolina (SCDMH patients/clients/persons subject to commitment); and if also applicable, 42 CFR Part 2 (alcohol & drug program patients); collectively: Applicable Law.
- 2) Comply (including its applicable subcontractors) with HIPAA HITECH Standards, including: (i) minimum necessary disclosures (ii) requests for use or disclosure restrictions (iii) prohibition of PHI sale or other remuneration for certain communications (v) electronic access to PHI (vi) Administrative, Physical and Technical Safeguards; Policies and Procedures, Documentation Requirements and accounting of certain PHI disclosures.
- 3) Resist all efforts in judicial and other proceedings to obtain access to PHI except as specifically provided for by Applicable Law (including specific applicable provisions of 42 CFR Part 2).
- 4) Use appropriate safeguards to prevent unauthorized PHI use or disclosure.
- 5) Report known un-permitted PHI use or disclosure to SCDMH and take reasonable action to mitigate related damage.
- 6) Ensure that its employees, officials, agents or subcontractors, to whom it provides PHI, agree to the same terms, restrictions and conditions contained in this Agreement.
- 7) Provide PHI access to SCDMH or as directed by SCDMH, to meet the requirements of Applicable Law, including patient right to access and copy their PHI and as may be related to Breach Investigation and Notification.
- 8) Amend PHI as directed by SCDMH in accord with Applicable Law.
- 9) Make available its internal practices/policies/procedures and records relating to use and disclosure of PHI received from SCDMH or created/received by Contractor for SCDMH, to SCDMH, DHHS or otherwise as required by Applicable Law.
- 10) Document and provide copies of all PHI disclosures needed for Contractor and/or SCDMH to respond to a request by an individual for an accounting of disclosure in accord with Applicable Law.
- 11) Provide Contractor's annual IT security audit results to SCDMH upon request.
- 12) Acknowledge that SCDMH may terminate this Agreement upon Contractor breach.
- 13) Upon termination of this Agreement, return or destroy all PHI received or created pursuant to this Agreement, including PHI in the possession of its employees, officials, agents and/or subcontractors and retain no copies of the PHI.
- 14) If applicable upon termination, notify SCDMH of conditions that make return or destruction infeasible, and as long as it maintains the PHI, extend the protections in this Agreement to the PHI and limit its further use and disclosure to purposes that make the return or destruction infeasible.

		<i>Debra S. Block</i>	08/03/12
For Contractor	Date	For SCDMH	Date