



Mental Health Center of Denver

MEMORANDUM OF UNDERSTANDING

This **MEMORANDUM OF UNDERSTANDING** (“MOU”) is made by and between the Mental Health Center of Denver (“MHCD”), a Colorado non-profit corporation, located at 4141 E. Dickenson Place, Denver, CO, 80222 and Colorado Office of Public Guardianship (“COPG”), a state agency, located at 3900 East Mexico Avenue, Suite 300, Denver, Colorado 80210. MHCD and COPG are hereinafter individually referred to as the “Party” and collectively as the “Parties”.

RECITALS:

WHEREAS, MHCD is the Community Mental Health Center for the City and County of Denver, Colorado and provides behavioral health services;

WHEREAS, COPG is the public provider of guardianship services for indigent and incapacitated adults in the City and County of Denver; and

WHEREAS, the parties wish to coordinate services and cooperate in joint efforts as mutually agreed upon to serve clients of COPG and MHCD.

AGREEMENT:

NOW THEREFORE, in consideration of the mutual agreements herein contained and subject to the terms and considerations herein stated, the Parties agree as follows:

SECTION ONE
GENERAL TERMS

- 1.00 Standards/Rules/Regulations:** At all times during the term of this MOU, MHCD and COPG will abide by all applicable standards, rules, regulations, policies and procedures as they currently exist, and may hereinafter be amended, of the Colorado Department of Human Services, Office of Behavioral Health (“OBH”) and any other applicable licensing authorities. The Parties further agree to abide by all state and federal laws and pertinent state and federal regulations, as amended.
- 1.01 Confidentiality:** COPG agrees to hold in confidence all information and materials, pertaining to persons which COPG may have access to in performing its services pursuant to this MOU, as required by confidentiality policies and procedures prescribed by OBH, Health Insurance Portability and Accountability Act (HIPAA) Administrative

Simplification Regulations found at 45 CFR 160, 162, and 164 and MHCD, including, without limitation, lists, charts and records, individual treatment plans, service plans and any other related information and materials regarding the identity, address, medical history and all other relevant information regarding persons receiving services from COPG and/or MHCD. COPG agrees not to (i) disclose such information or materials to any such person or entity not a party to this MOU, or (ii) use such information for purposes other than fulfilling its obligations hereunder, except in accordance with MHCD policies and procedures, the COPG's authority as public guardian, any applicable court order, or as required by applicable law.

- 1.02 Maintenance of Records:** COPG shall maintain a complete and confidential file of all records and other written materials which pertain to the services provided pursuant to this Agreement and shall maintain such records for a period of three (3) years after the date of termination of this Agreement or for such further period as may be necessary to resolve any matters which may be pending.
- 1.03 Marketing/Public Relations:** COPG agrees to obtain prior approval from MHCD's Marketing Director prior to the release of any information concerning the subject matter of this Agreement or use of the MHCD name or logo. MHCD agrees to obtain prior approval from the COPG Executive Director prior to the release of any information concerning the subject matter of this Agreement.

SECTION TWO WARRANTIES

- 2.00 Representations and Warranties:** The Parties hereby represent and warrant that:
- All state and federal laws, rules and regulations which may be applicable for the performance of the obligations hereunder, have been complied with;
 - The Parties are free and have full right to enter into this Agreement and perform all obligations hereunder;
 - The Parties possesses the expertise and skill to perform the services required by this Agreement; and
 - The Parties and their employees or agents shall not participate in the selection, or the award or administration of a contract or subcontract supported by federal funds if a conflict of interest, real or apparent, would be involved.
- 2.01 Exclusion from Federal and State Health Programs:** COPG understands that MHCD is a recipient of funds from the United States Department of Health and Human Services (HHS) and, therefore, cannot contract with individuals or entities that are excluded from federal or state health programs. COPG is not excluded or the subject of a proposed exclusion from any state or federal health program. If COPG becomes excluded from federal or state health programs, COPG shall immediately notify MHCD, and MHCD may immediately terminate this Agreement.
- 2.02 Restrictions on Lobbying:** COPG certifies, to the best of its knowledge and belief that:

- No federal appropriated funds have been paid or will be paid by or on behalf of COPG, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any contract, and the extension, continuation, renewal, amendment, or modification of any contract, grant, loan or cooperative agreement that utilizes federal funds.
- If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress in connection with this federal contract, grant, loan, or cooperative agreement, COPG shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- COPG shall require that the language of this certification be included in the award documents for sub awards at all tiers (including subcontracts, sub grants and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

2.03 **Licenses/Approvals/Insurance:** COPG certifies that, at the time of entering into this Agreement, COPG currently has in effect all necessary licenses, certifications, approvals, insurance, etc. required to properly provide the services and/or supplies covered by this Agreement. Additionally, all employees of COPG performing services under this Agreement shall hold the required license or certification, if any, to perform their responsibilities. COPG shall provide proof of such licenses, approvals, insurance for subcontractors and employees of COPG within three (3) business days if requested by MHCD. Any revocation, withdrawal or nonrenewal of necessary license, certification, approval, insurance, etc. required for the COPG to properly perform this contract shall be grounds for termination of this contract by MHCD.

2.04 **Liability Insurance: Liability Insurance:** COPG is a “public entity” within the meaning of the Colorado Governmental Immunity Act, 24-10-101, et. seq., C.R.S. as amended (the “Act”), COPG shall maintain such insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. Proof of such insurance shall be provided upon request by MHCD.

SECTION THREE **DUTIES OF THE PARTIES**

3.00 **Duties:** Communication and coordination of services will be performed in accordance with Exhibit A, attached and incorporated herein to this MOU.

SECTION FOUR **TERM AND TERMINATION**

4.00 **Term:** The term of this Agreement shall commence on the date that all parties have executed this Agreement and shall continue unless otherwise terminated as provided hereunder.

4.01 Termination Provisions: This Agreement may be terminated as follows:

(A) Upon thirty (30) calendar days prior written notice by MHCD to COPG, effective on the last day of such 30-day period.

(B) Upon thirty (30) calendar days prior written notice by COPG to MHCD, effective on the last day of such 30-day period.

(C) Immediately by either Party for “cause” upon written notice to the other Party. For purposes of this Agreement, “cause” can include, but is not limited to the following:

- MHCD receives a reduction in funds;
- Immediately, in the event either Party violates confidentiality policies and procedures or jeopardizes the health, safety or welfare of any persons receiving services pursuant to this Agreement;
- Immediately, with respect to a Party, upon the commencement of any proceeding under any bankruptcy or insolvency laws by or against such Party; or
- Immediately, with respect to all Parties, if either Party ceases to do business, or upon the commencement of any proceeding under any bankruptcy or insolvency laws by or against either Party.

(D) This Agreement may be terminated by a Party in the event of non-compliance with any obligation in this Agreement and failure to achieve full compliance or submit a plan of corrective action within thirty (30) calendar days after giving written notice to the other Party of non-compliance. If full compliance is not achieved or a plan of corrective action is not submitted within the thirty (30) calendar days after notification, the Agreement may be terminated immediately.

(E) Termination of this Agreement does not terminate any of the duties, obligations, and authorities of a COPG employee pursuant to any applicable court order appointing the COPG employee as guardian for any MHCD client.

SECTION FIVE
MISCELLANEOUS PROVISIONS

5.00 Entire Agreement: This Agreement, together with any exhibits, appendices or addenda, constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes any prior or contemporaneous negotiations, understandings, and agreements between the Parties, whether written or oral.

5.01 Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

- 5.02 Modification of Contract:** This Agreement may be amended, supplemented or changed only by written agreement signed by both Parties.
- 5.03 Waiver:** If a Party to this Agreement waives any provision of this Agreement, the waiver shall apply only to that provision, and not to any other provision(s) of this Agreement. No waiver shall be effective unless it is in writing and signed by the Party waiving the provision. Failure of a Party to enforce compliance with the terms and conditions of this Agreement shall not be construed as a waiver of the right to exercise the same at any time.
- 5.04 Severability:** In the event any term or condition of this Agreement is determined through legal process or change in applicable law to be invalid or unenforceable, such term or condition shall be severed from this Agreement and the remaining terms and conditions shall be given their full force and effect.
- 5.05 Headings:** The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning thereof.
- 5.06 Notices:** Any notice required or permitted under this Agreement shall be in writing and delivered to the other Party, by hand, by overnight carrier, or sent via Certified Mail, Return Receipt Requested, postage prepaid, addressed as shown below. Notice shall be deemed given on the date delivered by hand or, if mailed, on the earlier of the date the Return Receipt is signed or three (3) days after such notice is deposited in the U.S. Mail. In addition to, but not in lieu of hand-delivery, overnight carrier, or U.S. Mail, notice may be sent by email to the email address provided below, or such other address as either Party shall designate in writing to the other in accordance with the above.

IF TO MHCD:

Mental Health Center of Denver
4141 East Dickenson Place
Denver, CO 80222
Attn.: Director of Payer Strategies
Phone: 303-504-6630
Email: Contracting@MHCD.org

IF TO COPG:

Colorado Office of Public Guardianship
3900 East Mexico Avenue, Suite 300
Denver, Colorado 80210
Attn: Sophia M. Alvarez J.D., M.S., Director
Phone: 720-552-5215
Email: Sophia.Alvarez@colorado-opg.org

- 5.07** **Assignment:** This Agreement shall inure to the benefit of and be binding upon MHCD, its successors and assigns. The rights and benefits of COPG under this Agreement are personal to COPG and no such right or benefit shall be subject to voluntary or involuntary alienation, assignment or transfer without the prior written consent of MHCD which consent may be withheld for any reason.
- 5.08** **Smoke, Tobacco, Weapon & Drug Free Campus:** MCHD maintains an environment that is free of weapons, smoking, tobacco, illegal drugs, and alcohol. The following are prohibited at/on MHCD premises (that is, indoor and outdoor property owned, leased, operated, or otherwise under the control of MHCD): (1) weapons or any item that can be construed as a weapon (a weapon is defined as any item designed, used, or threatened to be used for inflicting bodily harm or physical damage), with the exception of law enforcement; (2) smoking, e-cigarettes, vaping, and the use of tobacco in an form or by any method; (3) consumption of alcohol or possession of an open container of alcohol (except for individuals or entities who possess a valid liquor license and are catering an event for MHCD); (4) use, possession, sale, or distribution of marijuana (which remains illegal under federal law); and (5) use, possession, manufacture, distribution, sale, solicitation, or purchase of controlled substances not prescribed to the individual or other illegal drugs. COPG, COPG employees, and COPG subcontractors shall not engage in any prohibited activities while at/on MHCD premises.
- 5.09** **Background Checks:** COPG shall ensure that all their employees performing work for or providing services to any client of MHCD are subjected to a criminal history background check. Such checks shall be conducted on all names, including alias names, and include county, state, and federal checks based on residence for the preceding seven (7) years. All checks must include both misdemeanors and felonies. Checks must be completed before any employee of COPG begins work or services under this Agreement, whether brought on at the outset of the Agreement or an any other point during the term of the Agreement. In determining whether an employee of COPG is suitable to work for or provide services to any client of MHCD, COPG shall consider the number of convictions; nature, seriousness, and date of occurrence of each offense; relevance of the crime committed in relationship to the work or services to be performed; the potential risk to MHCD assets, property, employees, persons served, and visitors; and the nature of MHCD's business as a provider of mental health services to adults and children.
- 5.10** **Relationship of the Parties:** The relationship of the Parties is that of independent Parties to a contract and not employees. Nothing in this Agreement shall be construed to give rise to a partnership or joint venture between the Parties.
- 5.11** **No Liability for Taxes:** COPG acknowledges and agrees that MHCD shall not have any obligation or liability whatsoever to COPG, its successors, assigns or creditors for federal or state income or employment tax withholding, payment of employment or unemployment insurance contributions, minimum wage requirements, workers' compensation coverage, or other similar taxes or liabilities, by reason of COPG's status as an independent contractor. **SPECIFICALLY, COPG ACKNOWLEDGES THAT COPG IS NOT ENTITLED TO WORKERS' COMPENSATION OR UNEMPLOYMENT**

INSURANCE BENEFITS UNLESS WORKERS' COMPENSATION OR UNEMPLOYMENT COMPENSATION COVERAGE IS PROVIDED BY COPG OR BY SOME ENTITY OTHER THAN MHCD, AND THAT COPG IS OBLIGATED TO PAY ALL FEDERAL AND STATE INCOME TAX ON ANY MONEYS PAID TO COPG PURSUANT TO THIS AGREEMENT. COPG will be required to sign a worker's compensation release form, if requested by MHCD.

- 5.12 Indemnification:** MHCD shall be liable for any and all claims, costs, and expenses arising from or out of any alleged negligent act or omission of MHCD, its agents or employees, in the performance of its obligations under this Agreement. To the extent allowed under the Colorado Governmental Immunity Act, COPG shall be liable for any and all claims, costs and expenses arising from or out of any alleged negligent act or omission of COPG, its agents, subcontractors or employees, in the performance of its obligations under this Agreement.
- 5.13 Waiver of Subrogation:** COPG and COPG's subcontractor agree to waive all rights of subrogation against MHCD under COPG's General Liability, Workers Compensation (Employers Liability) and Auto Liability policies.
- 5.14 Governing Law and Venue:** This Agreement and the Party's actions under the Agreement shall be governed and construed under the law of the state of Colorado, without reference to conflict of law principles, and agree to adjudicate any actions or proceeds in Denver County, Colorado. The Parties hereby expressly consent to the jurisdiction and venue of the federal state courts within the state of Colorado.
- 5.15 Disputes:** Except as herein specifically provided otherwise, disputes concerning performance of this Agreement which cannot be resolved by the designated contract representatives of each Party shall be referred in writing to a senior management staff member designated by COPG and the appropriate Program Director of MHCD. Failing resolution at that level, disputes shall be presented in writing to the Executive Director of COPG and the Chief Operating Officer of MHCD for resolution. This process is not intended to supersede any other process for the resolution of controversies provided by law.
- 5.16 Anti-Discrimination Policy:** MHCD recognizes the diversity and worth of all individuals and groups in our society. It is the policy of MHCD that there will be no discrimination or harassment of individuals or groups based on race, color, religion, age, sex, disability, national origin, military service, pregnancy, sexual orientation, gender identity or expression, genetic information, or marital status in any programs, events, activities, or employment.

The Parties hereto have executed this Agreement effective on the date first above written but it is not considered a fully executed contract until executed and dated by the Parties hereto.

MENTAL HEALTH CENTER OF DENVER

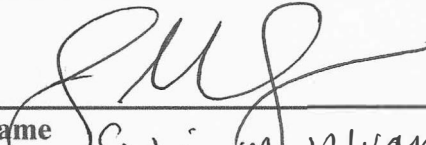
By: 

Carl Clark, M.D.
President and Chief Executive Officer

4/20/2021

Date

COLORADO OFFICE OF PUBLIC GUARDIANSHIP

By: 

Name Sophia M. Alvarez
Title Executive Director

4.21.2021

Date

EXHIBIT A

Duties of the Parties under the MOU between COPG and MHCD

1. **Duties of the COPG.** For each client mutually served by the COPG and MHCD, the appropriate staff member of the COPG will:
 - a. Have the authority to sign all intake documents, including, but not limited to, the Consent to Treat for people coming into the Mental Health Center of Denver (MHCD).
 - b. Sign a Release of Information, as needed, for any other provider and MHCD to discuss and consult regarding the client;
 - c. Attend appointments with the client and their psychiatrist or nurse practitioner, which will be the opportunity for COPG to ask questions and be provided with information about medications and treatment.

2. **Duties of MHCD.** For each client mutually served by the COPG and MHCD, the appropriate staff member of MHCD will:
 - a. Contact the COPG guardian within 24-48 after any minor medication change between provider appointments to inform the guardian of the change;
 - b. Except in the case of an emergency, contact the COPG guardian prior to any major medication change to request consent of the guardian, with no major medication changes to be made without the consent of the guardian.

3. **Access to Records.** COPG staff can obtain medication lists and treatment notes from MHCD's medical records on a monthly basis or more frequently if clinically necessary, by:
 - a. Calling 303-504-6510; or
 - b. Emailing the record request to medrecords@mhcd.org, using the form available at <https://mhcd.org/wp-content/uploads/2020/06/Request-for-Records-Frequently-Asked-Questions-and-Request-Form-3-2020-English.pdf>.

COPG email requests for records will be sent from the email address, Info@Colorado-OPG.org, and sent electronically by MHCD to COPG at the same email address.

4. **Fee for Records.** COPG will not be charged for requests for records under Paragraph 3, from the effective date through end of fiscal year 2022. During this time period, MHCD will provide COPG with a monthly invoice marked "No Charge." COPG will use the "No Charge" invoices to determine estimated budget needs for fiscal year 2022. The parties agree that COPG will begin paying fees for records in July 2022, with amount to be determined at that time.