

**MEMORANDUM OF AGREEMENT BETWEEN
THE BILLINGS CLINIC AND YELLOWSTONE COUNTY REGARDING
TELEMEDICINE MENTAL HEALTH CONSULTATIONS**

1. PARTIES. The parties to this Agreement are Billings Clinic, a Montana non-profit corporation (the “Clinic”) and Yellowstone County, Montana, a political subdivision of the State of Montana (the “County”).

2. PURPOSE. To outline the administrative and clinical procedures for generating and reviewing mental health telemedicine consultations using a mutually agreeable telemedicine network for mental health consultation for inmates at the County Detention Facility. This is a chargeable agreement. Reimbursement for this service provided by the Clinic to the County is at a rate of Two Hundred Fifty Dollars (\$250.00) per hour of consultation.

3. BACKGROUND. The County is charged by law with obtaining and providing reasonable and necessary mental health care for inmates at the County Detention Facility (“Facility”). Telemedicine enables a health care provider to provide services remotely using real time audio and video communication. Using telemedicine can eliminate the need for an inmate patient to travel to the consultant site and improve access to such services. Both parties understand the need to treat all information generated from, or in conjunction with, a mental health telemedicine consult as a traditional face-to-face consultation and comply with current applicable federal and state privacy and security rules. Additional services and requirements are described in the following paragraphs.

4. RESPONSIBILITIES:

The Facility

- a. Designate a medical services provider or County staff member as the Facility mental telehealth coordinator.

- b. Provide Clinic with a current contact list for key Facility personnel to include Facility Commander, Shift Lieutenants, and Facility Mental Health coordinators. The contact list will include phone numbers, fax number and email addresses for key personnel.
- c. Identify and provide inmates identified as requiring mental health services for telemedicine consults.
- d. Insure private Health Information is HIPAA protected with adequate security and privacy rules.
- e. Complete necessary health care forms as required by current regulations and directives.
- f. Insure inmate patient mental health care information is complete and transmitted with each case.
- g. Insure staff or provider generating and/or handling mental health telemedicine consults receives initial user training on the proper use of cart peripherals.
- h. Notify the Clinic by telephone of any urgent cases to be scheduled at the next identified scheduled time.
- i. The County agrees to pay the Clinic for services on a monthly basis.
- j. Maintain, at the County's expense, equipment located at the Facility to connect to Clinic via the Eastern Montana Telemedicine Network, Vision Net, or such other method of connectivity as is mutually agreeable. Facility is solely responsible for maintaining its equipment in good working order and for all costs of equipment and connectivity to Clinic's network and equipment. Facility will provide Facility personnel with the requisite technological knowledge to facilitate the Facility's use, interface, and connectivity with the Clinic.

The Clinic

- a. Provide a licensed mental health provider with prescriptive authority for mental health telemedicine consultation on a scheduled basis not to exceed three (3) hours per week.
- b. Diagnose mental health issues, recommend and prescribe mental health medications, develop mental health treatment plan for inmate patient, to be carried out by Facility staff.
- c. Maintain a patient record in the Billings Clinic electronic medical record. The record shall be a Billings Clinic record and will not be a record of the County or the Facility. Billings Clinic will provide to the County information related to inmate patients as required and permitted by state and federal law, including without limitation the Health Information Portability and Accountability Act and its regulations and guidance (“HIPAA”). The Clinic is a “Covered Entity” and the Facility is a “Correctional Institution” as defined by HIPAA, and as such Clinic is permitted to disclose to the Facility protected health information about the inmate as is necessary for (i) the provision of healthcare to the inmate; (ii) the health and safety of the inmate or other inmates; (iii) the health and safety of the officers or employees or of others at the Facility; (iv) law enforcement on the premises of the Facility; (v) the administration and maintenance of the safety, security, and good order of the Facility; and (vi) otherwise as specifically authorized by the inmate.
- d. Provide consultation report to the Facility within 48 hours of request.
- e. Complete additional documentation as requested Facility, using mutually agreed-upon forms and formats, including profile status information. Consultation reports

and additional documentation will be submitted to Facility via secure means, including telephone, fax, and encrypted email.

- f. Maintain equipment located at the Clinic to connect to the Facility via the Eastern Montana Telemedicine Network, Vision Net, or such other method of connectivity as is mutually agreeable. Clinic is solely responsible for maintaining its equipment in good working order and for all costs of the Clinic's equipment. Clinic will provide Clinic personnel with the requisite technological knowledge to facilitate the Clinic's use, interface, and connectivity with the Facility.
- g. Provide monthly billing of services as follows:

Yellowstone County Detention Facility
3165 King Avenue East
Billings, Montana 59101

- h. Provide the Facility with necessary credentialing documentation as required.

5. POINTS OF CONTACT:

- a. Point of Contact for Facility
Sam Bofto, Barbara Mettler
Yellowstone County Detention Facility
sbofto@co.yellowstone.mt.gov
(406) 256-6881
- b. Point of Contact for Clinic
Lyle M Seavy, PhD
Billings Clinic
LSeavy@BillingsClinic.org
(406) 435-3992

6. OTHER PROVISIONS:

- a. Clinic shall not be responsible for the inoperability, downtime or failure of the equipment or the network. Clinic shall not be responsible for any upgrades, upkeep or maintenance of the network other than that which it already performs in the

ordinary course of business. Facility acknowledges that Clinic shall not be liable for any consequences resulting from human, computing, network, transmission or machine errors. In no event shall Clinic be responsible or liable for inaccurate, failed or incomplete data or material transmitted or attempted to be transmitted through the network.

- b. Nothing in this agreement is intended to conflict with current law or regulation. If a term of this agreement is inconsistent with such authority, then that term shall be invalid, but remaining terms and conditions of this agreement shall remain in full force and effect.
- c. Clinic and its agents and employees shall at all times act and perform as independent contractors regarding the County and the Facility. Nothing in this Agreement shall be construed to create a relationship of employer/employee, master/servant, principal/agent, or partners/co-venturers between Clinic and the County or the Facility. Clinic employees are engaged in an independently established trade, and the County and Facility shall have no right to control or direct the details, manner, or means by which the telepsychiatry services are performed. The County and Facility shall have no control over or management authority with respect to Billings Clinic or its operations and services provided under this Agreement.

7. EFFECTIVE DATE. The terms of this agreement will become effective on the date of the last signature below.

8. MODIFICATION. This agreement may be modified upon the mutual written consent of the parties.

9. INSURANCE/INDEMNIFICATION/DEFENSE/NON-DELEGABLE DUTY.

Each party to this agreement shall maintain insurance coverage for their respective scope of services under the terms of this agreement. Each party shall indemnify, defend and hold harmless the other party from any and all losses, claims, causes of action, costs and expenses, including reasonable attorneys' fees, or damage suffered by the other party or a third party as a result of the alleged negligence or intentional acts of the other party or its agents, affiliates, officers, directors, or employees. The indemnification and defense obligations of the County under this paragraph of the agreement shall not be limited by any assertions or finding that Yellowstone County is liable for any damages by reason of a non-delegable duty.

10. LIMITATION ON LIABILITY. In relation to this Agreement, Facility acknowledges and agrees that Clinic and any of its officers, directors, employees, shall not be liable to County or Facility under any circumstances (even if this Agreement is terminated) for any consequential, special, incidental, punitive or indirect damages (including without limitation loss of profit, revenue, business opportunity or business advantage), whether based upon a claim or action of tort, indemnity or any other legal theory or cause of action, even if advised of the possibility of such damages.

11. NONDISCRIMINATION. Pursuant to Section 49-2-203, 49-3-207, the Federal Civil Rights Act, and other applicable law, no part of this agreement shall be performed in a manner which illegally discriminates against any person on the basis of race, color, religion, creed, political ideas, marital status, physical or mental disability or national origin.

12. TERMINATION. The terms of this agreement, as modified with the consent of both parties, will remain in effect for a period of two (2) years from the effective date. The

agreement may be extended by mutual agreement of the parties. Either party upon 90 day written notice to the other party may terminate this agreement.

APPROVED BY:

Signed: _____ Date: _____
Bill Kennedy
Yellowstone County Commissioner

Signed: _____ Date: _____
(Name)
(Title)