

Memorandum of Agreement
between
Texas Department of State Health Services
and
Hidalgo County Health and Human Services Department

THIS MEMORANDUM OF AGREEMENT (the “**Agreement**”) is made by and between the Hidalgo County Health and Human Services Department (“**County**”) and the Department of State Health Services (“**DSHS**”), for and on behalf of its Preventive Medicine Residency Program, who are collectively referred to herein as the “**Parties**,” pursuant to the provisions of the “Local Public Health Reorganization Act,” *Texas Health and Safety Code* § 121.005, and the “Interlocal Cooperation Act,” *Texas Government Code* Chapter 791, as follows:

WITNESSETH:

Whereas, DSHS is a state agency of Texas created by House Bill 2292 of the 78th Texas Legislature and is headquartered in Austin, Texas;

Whereas, County is a local health department in the State of Texas, affiliated with DSHS;

Whereas, County has clinical facilities which provide essential public health services and will serve to provide clinical education for medical residents or fellows (collectively, the “**Residents**”) employed by DSHS for their graduate medical education;

Whereas, County will assist in the advancement of medical education and in serving the public purpose of advancing health and safety of the Hidalgo County community as the DSHS graduate medical education Residents are offering medical services at the County-based clinics and benefit the community’s growing medical services field.

Now, therefore, the Parties in consideration of the mutual covenants expressed hereinafter, agree as follows:

1. DSHS will provide appropriate supervision by designating an on-site instructor for Residents to provide guidance in patient care activities and maintain a learning environment conducive to educating the Residents in the Accreditation Council for Graduate Medical Education (“**ACGME**”) competency areas. The DSHS instructor must evaluate Resident performance in a timely manner during each rotation or similar educational assignment and document this evaluation at completion of the program.
2. County shall maintain its affiliation with DSHS as a local health department, including annually providing DSHS information relating to services provided; staffing patterns; and funding sources and budget.
3. DSHS instructor(s) and Residents shall maintain County clinical appointments and privileges in good standing.
4. DSHS Residents shall cooperate in the prompt preparation of documentation of all examinations, procedures, and other clinical services performed by them at County clinics,

if any, as instructed by DSHS in accordance with local regulations and bylaws. The ownership and right of control of all reports, records and supporting documents prepared in connection with this belong to County.

5. *Texas Health and Safety Code* Chapter 181 (“**Chapter 181**”) and the Health Insurance Portability and Accountability Act (“**HIPAA**”) set rules and limitations on who can view, receive, and use an individual’s personal information, whether it is verbal, electronic, or written. The requirements established by Chapter 181 and HIPAA will be enforced at all times and both Parties, including Residents, will be subject to compliance at all times.
6. In the event of injury, DSHS is self-insured with respect to Residents compensable injury, pursuant to *Texas Labor Code* Chapter 501. Any worker’s compensation claim by a Resident must be filed with the Texas State Office of Risk Management. In the event of a needle-stick or other exposure to potential blood-borne pathogens, the Resident will have access to medical evaluation and post-exposure prophylaxis in accordance with DSHS’s policies.
7. The source of funds for the Resident’s salary shall be specified in his or her agreement with DSHS. DSHS shall provide professional liability indemnity coverage under the “Texas Tort Claims Act,” *Texas Government Code* Chapter 101, for its salaried Residents rendering services under this Agreement.
8. County shall provide adequate parking and work space and shall take reasonable steps to ensure the safety of the Residents during assignment.
9. The provisions of the Mass Medical Readiness portion of this Agreement shall go into effect upon declaration of an emergency, and only if the Chief Administrative Officer of the County Public Health Department or the Commissioner of the Texas Department of State Health Services declares that a large-scale immunization or treatment is necessary as a control measure for an outbreak of a communicable disease.
10. County agrees to supply all materials provided by Strategic National Stockpile (“**SNS**”) (vaccines, antibiotics, antitoxins, antivirals, syringes, etc.) and forms necessary to administer during an emergency.
11. County shall be responsible for the disposal of medical waste.
12. County agrees to provide preparedness and response training at no cost to DSHS.
13. DSHS agrees to participate in exercises, drills, and emergencies.
14. In a non-emergency declaration DSHS may provide medical services (injections, administer prophylaxis, provide medical care instructions) or non-medical services (assist with administrative duties such as registering patients, data entry, etc.). Just-In-Time training will be provided to DSHS by County.
15. DSHS agrees to assist County with no expectancy of fiscal exchange.
16. The Parties understand and agree that in the event of a mass medical response, this

Interlocal Cooperation Agreement will refer to Homeland Security, as it is defined in Local Government Code Section 421.001, and DSHS with any or all related administrators, instructors, professors, residents and/or fellows (Residents) and students shall be immune from civil liability for any act or omission resulting in death, damage or injury while acting in good faith and in the course and scope of its function to provide a service related to a Homeland Security Activity as defined in accordance with *Texas Government Code* Section 421.062.

17. For purposes of this Agreement and in accordance with *Texas Government Code* Section 421.062, "Homeland Security Activity" means any activity related to the prevention or discovery of, response to, or recovery from a terrorist attack, natural or man-made disaster, hostile military or paramilitary action, or extraordinary law enforcement emergency.
18. **Records Retention.** County shall grant access to all books and records pertinent to this Agreement to DSHS, the Health and Human Services Commission, the Texas Workforce Commission, the State Auditor of Texas, the U.S. Department of Health and Human Services, the U.S. Department of Labor, and the Comptroller General of the United States.
19. **Term.** This Agreement becomes effective on the last date signed below for a period of five (5) years, and may be renewed for a period of two (2) additional one (1) year terms by written amendment signed by both Parties. Either party may cancel the Agreement by giving thirty (30) days' notice to the other Party. Any notice or communication required or permitted shall be given in writing.
20. **Conflict of Applicable Law.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provision of this Agreement and any present or future law, ordinance, or administrative, executive or judicial regulation, order or decree, or amendment thereof, contrary to which the parties have legal right to contract, the latter shall prevail, but in such event the affected provision or provisions of this Agreement shall be modified only to the extent necessary to bring them within the legal requirements and only during the time such conflict exists.
21. **No Waiver.** No waiver by any Party hereto of any breach of any provision of the Agreement shall be deemed to be a waiver of any preceding or succeeding breach of the same or any other provision hereof.
22. **Non-Discrimination.** The Program and all related activities shall be conducted in a manner that does not discriminate against any person on a basis prohibited by applicable law or DSHS and/or County policy, including without limitation race, color, national origin, religion, sex, age, veteran status, or disability.
23. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto and each party acknowledges that neither has made (either directly or through any agent or representative) any representation or agreement in connection with this Agreement not specifically set forth herein. This Agreement may be modified or amended only by agreement in writing executed by DSHS and County, and not otherwise.
24. **Authorized Representatives.** The following will act as the Representative authorized to administer activities and receive all non-legal notices, requests, or communications, under

this Agreement on behalf of their respective Party:

DSHS

Otto Boneta, MD, MPH
601 W. Sesame Drive, MC 1907
Harlingen, Texas 78550
(956) 423-0130
otto.boneta@dshs.texas.gov

County

Richard F. Cortez, CPA
100 East Cano Street, 2nd Floor
Edinburg, Texas 78539
(956) 318-2600 Ext. 5000

Either Party may change its designated Representative by providing written notice to the other Party.

25. **Legal Notice.** All legal notices, demands, requests, or communication required or permitted hereunder shall be in writing and shall either be (i) personally delivered against a written receipt, or (ii) sent by registered or certified mail, return receipt requested, postage prepaid and addressed to the Parties at the addresses set forth below, or at such other addresses as may have been specified by written notice delivered in accordance herewith:

DSHS

Department of State Health Services
Attn: Office of General Counsel
1100 West 49th Street; MC 1919
Austin, Texas 78756

County

Hidalgo County, Texas
Attn: Richard F. Cortez, CPA County Judge
100 East Cano St. 2nd Floor
Edinburg, Texas 78539

Each legal notice, demand, request, or communication which shall be delivered or mailed in the manner described above shall be deemed sufficiently given for all purposes at such time as it is personally delivered to the addressee or, if mailed, at such time as it is deposited in the United States mail. Either Party may change its address for receiving legal notice by notifying the other Party in writing.

26. **Indemnification.** To the extent authorized by the Constitution and the laws of the State of Texas, DSHS shall indemnify and hold harmless County, its elected officials, employees and agents from any and all claims, damages, losses, and expenses including attorney's fees for the defense of any action against County arising out of, resulting from, or connected with acts or omissions by DSHS, its agents or employees, under this Agreement.
27. **Immunities.** Neither County nor DSHS, via this Agreement, waive governmental immunity from suit, or from liability, except as expressly set forth by the Texas Legislature in the Texas Government Code. The fact that County and DSHS have entered into this Agreement shall not in any way constitute a deliberate waiver of sovereign or official immunity by either Party, which immunities are expressly reserved by both Parties.
28. **Successors.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representatives, successors, and assigns where permitted by the Agreement.
29. **Amendment and Assignment.** This Agreement may be amended as needed to address changes in statute, rules, or other mitigating circumstances by written amendment signed by both Parties. This Agreement cannot be assigned to another Party without the express

written consent of the other Party, except assignment to a successor-in-interest state agency is automatic.

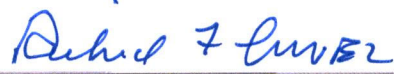
- 30. **Authority to Execute.** The execution and performance of this Agreement by DSHS and County have been duly authorized by all necessary laws, resolutions, or corporate action, and this Agreement constitutes the valid and enforceable obligations of DSHS and County in accordance with its terms.
- 31. **Performance of Governmental Function.** Each Party hereto is entering into this Agreement for the purpose of providing for governmental services or functions and will pay for such services out of current revenues available to the paying Party as herein provided.
- 32. **Commitment of Current Revenues.** In the event that during any term hereof, the governing body of any Party does not appropriate or receive sufficient funds to meet the obligations of such Party under this Agreement, then any Party may terminate this Agreement upon thirty (30) days written notice to the other party. Each of the Parties hereto agrees, however, to use its best efforts to secure funds necessary for the continued performance of this Agreement.
- 33. **Additional Documents.** The Parties agree that they will use reasonable good faith efforts to execute such other and further instruments and documents as are or may become necessary or convenient to effectuate and carry out the terms of this Agreement.

Witness the hands of the Parties effective as of the last date signed below.

Department of State Health Services

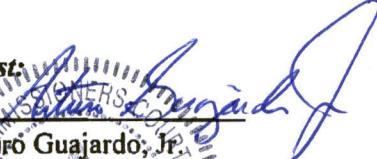
Hidalgo County, Texas

By: 
 Lara Lamprecht, Dr.PH.
 Assistant Deputy Commissioner

By: 
 Richard F. Cortez, ~~CPA~~
 County Judge


Date: 2/25/19

Date: _____

Attest: 
 Arturo Guajardo, Jr.
 County Clerk



APPROVED AS TO FORM:
Office of Criminal District Attorney
Ricardo Rodriguez, Jr.

By: 
 Victor M. Garza, Assistant District Attorney

APPROVED BY
 COMMISSIONERS' COURT
 ON: 2/26/19 