2020-2024 Prism Point of Entry (POE) MOU

Briefing Date: Mar 3 2020
Funding Source: N/A
Originating Department: Health and Human Services
Prepared by: Yamonica Sadberry,
Recommended by: Philip Huang, MD, MPH, HHS Director

BACKGROUND INFORMATION:
AIDS Arms, Inc., d/b/a Prism Health North Texas (PHNTX), seeks to enter a Memorandum of Understanding (MOU) with Dallas County on behalf of Dallas County Health and Human Services (DCHHS). The purpose of this MOU is to develop a mutual understanding and create a collaboration for referral of People Living with AIDS (PLWA), between the two parties.

OPERATIONAL IMPACT:
There is no operational impact to Dallas County. This collaboration aspires to promote cooperation for the linkage to care of People Living with HIV (PLWH) presenting for care at either DCHHS or PHNTX. Each party will serve as a “Point of Entry” for PLWH in the Dallas Eligible Metropolitan Area (EMA). The parties share the common goal of ensuring access and services through referral of PLWH entering the HIV System of Care, to either agency. The referrals are based on better service due to location, transportation issues, or other circumstances, which would prevent access of care, or place them at risk for being lost to care. Additional responsibilities of each party are detailed in the attached MOU.

FINANCIAL IMPACT:
There is no financial impact to Dallas County. Each party is responsible for its respective share of the costs associated with its performance of this Agreement.

LEGAL IMPACT:
The Civil Division of the District Attorney’s Office has reviewed and approved the MOU between PHNTX and Dallas County. The Commissioners Court must approve the MOU and authorize the County Judge to sign the MOU on behalf of Dallas County.

PROJECT SCHEDULE:
This MOU is effective for four (4) years, commencing on January 24, 2020 through September 30, 2024.

SBE PARTICIPATION:
N/A
ADMINISTRATIVE PLAN COMPLIANCE:
Recommendations included herein are consistent with the Dallas County Administrative Plan, Vision 2: Dallas County is a healthy community.

RECOMMENDATION:
Approve the MOU between Dallas County Health and Human Services and Prism Health North Texas, as described herein and as reflected in the attached MOU, and authorize the County Judge to sign the MOU on behalf of Dallas County.

MOTION:
On a motion made by TBD, and seconded by TBD, the following order will be voted on by the Commissioners Court of Dallas County, State of Texas:

Be it resolved and ordered that the Dallas County Commissioners Court does hereby approve the MOU between Dallas County Health and Human Services and Prism Health North Texas, as described herein and as reflected in the attached MOU, and authorize the County Judge to sign the MOU on behalf of Dallas County.

ATTACHMENTS:
DCHHS SHC PHNTX POE MOU 2020-2024
COUNTY OF DALLAS §
STATE OF TEXAS  §

Memorandum of Understanding
AIDS Arms, Inc. d/b/a Prism Health North Texas
And Dallas County Health & Human Services HIV/AIDS Sexual Health Clinic

This Memorandum of Understanding ("Agreement") dated is made and entered into as of the date fully executed by and between AIDS Arms, Inc. d/b/a Prism Health North Texas ("PHNTX"), located at 351 West Jefferson Boulevard, Suite 300, Dallas, TX 75208 and Dallas County Health & Human Services HIV/AIDS Sexual Health Clinic ("Organization" or "County"), located at 2377 N. Stemmons Freeway, Suite 748, LB 16, Dallas TX 75207-2710. The Organization or PHNTX may hereinafter be referred to as a "Party," or collectively, as the "Parties."

Section 1: Purpose

The purpose of this Agreement is to develop a mutual understanding and create a collaboration between PHNTX and Organization, specifically the Sexual Health Clinic, related to the desire to establish and maintain collaboration in the linkage to care of People Living with HIV (PLWH) presenting for care at either organization. This agreement does not constitute a legal contract but establishes parameters for the cooperative referral of PLWH and provision of services.

WHEREAS, PHNTX and Organization are each designated as a "Point of Entry" for PLWH in the Dallas Eligible Metropolitan Area (EMA) and share common goals of ensuring access and services to all eligible individuals to increase and maintain their optimal health and decrease disparities in health outcomes,

NOW, THEREFORE, PHNTX and Organization agree as follows:

A. PHNTX agrees to

1. Refer PLWH entering the HIV System of Care at PHNTX to Organization when those individuals would better be served due to individual patient choice, location, transportation issues or other extenuating circumstances that would prevent them from accessing PHNTX’s care system or place them at risk for being lost to care.

2. Maintain documentation of referrals made by Organization subject to review by DCHHS/HGD.

B. Organization agrees to:

1. Refer PLWH entering the HIV System of Care at Organization to PHNTX when those individuals would better be served due to individual patient choice, location, transportation issues, or other extenuating circumstances that would prevent them from accessing Organization’s care system or place them at risk for being lost to care;

2. Refer an estimated 25 newly diagnosed or not-in-care PLWH for outpatient medical care services.
C. PHNTX and Organization mutually agree to:

1. Ensure newly diagnosed HIV-positive and/or those PLWH defined as “out-of-care” are linked with and provided appropriate outpatient medical care. For purposes of this agreement, out-of-care shall be defined as those HIV-positive individuals who have not had an outpatient primary medical care encounter within the previous six (6) months, including individuals who have recently been released from jail or prison and need to establish outpatient medical care in the community.

2. Monitor the delivery of services in order to provide coordination of services, avoid duplication of services and address service concerns and resolutions to identified concerns.

3. Maintain open and collaborative communication with Organization’s staff, if such communication is permissible under the Health Insurance Portability and Accountability Act of 1996, P.L. 104-191 (“HIPAA”) and any other applicable federal and state laws related to the sharing of protected health information, so that PHNTX clients receive seamless programs or services.

Section 3: Confidentiality of Client Information

A. Both parties fully understand and agree to maintain the strict confidentiality of all client referrals and information provided by those clients, including but not limited to, the client’s identity, diagnosis including but not limited to HIV status, prognosis, treatment, individually identifiable protected health information (“PHI” as defined under HIPAA) and other personal and medical information (“Client Information”). Client Information will be shared with the other Party with the written consent of the client and on a need to know basis in an effort to secure needed resources on behalf of the affected individual. If sharing of information is necessary, the client must first sign an Authorization for Release of Information form to provide consent for the sharing of information.

B. Open Records or Public Information Act. The parties acknowledge and agree that County is subject, as a matter of law, to Texas Government Code, Chapter 552, also known as the “Texas Open Records Act” or the “Texas Public Information Act” (“Public Information Act”). Notwithstanding any other provision, including exemptions or exceptions to the Public Information Act, the parties agree that in the event that any provision of this Agreement, or other documents related to this Agreement, including, but not limited to, any exhibit, attachment, amendment, addendum, or other incorporated document, is in conflict with the Public Information Act, such provision shall be of no force or effect. Furthermore, it is expressly acknowledged and agreed that the County, County Commissioners Court, County Judge, Elected County Officials, County Department Heads and County Employees (hereinafter “County Requestors”) may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any software, hardware, firmware, or any part thereof, or other equipment or item, data or information furnished to or in the possession or knowledge of County. It is further acknowledged and agreed that the County Requestors have the right and obligation by law to rely on the advice, decisions and opinions of the Texas Attorney General. The County will give notification to PHNTX as required by Section 552.305(d) of the Texas Government Code. PHNTX hereby releases the County Requestors from any and all liability or obligation of any type, kind or nature regarding any disclosure of any software, hardware, firmware, or any part thereof, or other equipment or item, data or information furnished by PHNTX or in the possession or
knowledge of the County that is determined by County or in reliance on any advice, decision or opinion of the Texas Attorney General to be available to the public or any persons.

C. HIPAA Compliance.

a. Each Party, agrees to adhere to and comply with the requirements of: (i) the Health Insurance Portability and Accountability Act of 1996 as amended and the regulations promulgated thereunder, including the Standards for Privacy of Individually Identifiable Health Information (the “Privacy Standards”), at 45 C.F.R. Parts 160 and 164, requiring certain individuals and entities subject to the Privacy Standards to protect the privacy of PHI and the Security Standards (the “Security Standards”), at 45 C.F.R. Parts 160, 162 and 164, for the protection of electronic protected health information (“EPHI”) (collectively, referred to in this Agreement as “HIPAA”); (ii) the Health Information Technology for Economic and Clinical Health Act, enacted as Title XIII of the American Recovery and Reinvestment Act of 2009 (the “HITECH Act”); (iii) the Texas Medical Records Privacy Act, chapter 131 of the Texas Health & Safety Code Chapter; (iv) the Identity Theft Enforcement and Protection Act, chapter 521 of the Texas Business and Commerce Code; and (v) the federal substance abuse confidentiality laws including federal regulations governing the Confidentiality of Alcohol and Drug Abuse Patient Records, 42 U.S.C. §290dd-2 and 42 C.F.R. Part 2. All references to PHI herein shall be construed to include EPHI.

b. All Parties take notice and agree to follow the exceptions regarding correctional situations. All Parties agree to use and disclose PHI only as required to perform the Services outlined herein, which may include the proper management and administration of each entity. The Parties agree to implement and maintain appropriate safeguards that are necessary to ensure that the PHI disclosed to it by PHN TX or Organization and the public health partners to PHN TX, as applicable, is not used or disclosed (orally, in writing, electronically or otherwise) except as is provided in this Agreement. Following HIPAA de-identification procedures, the Parties may provide data aggregation services to the health care operations of the other Party. The Parties will not use or further disclose PHI other than as provided by this Agreement. The Parties agree to promptly notify each other of any use or disclosure of PHI not provided for in this Agreement. The Parties agree to notify each other of their corrective actions to cure any breaches as soon as possible. The Parties understand that the other Party may terminate this Agreement immediately if another Party’s actions are not successful in remedying the breach and any Party may report the problem to the Secretary of Health and Human Services. The Parties shall require any agents or subcontractors who receive PHI to be bound by the same restrictions and conditions as stated herein. The Parties agree to make their internal practices, books, and records relating to the use and disclosure of PHI received from, created, or received by the Party available to the Secretary of Health and Human Services or each other for purposes of determining each Party’s compliance with HIPAA or HITECH. After each Party has completed working with or using PHI provided by any other Party, it agrees to return and destroy all PHI if feasible, and if not feasible, to continue to protect the PHI from wrongful use and disclosure. If a Party decides to destroy PHI provided by another Party under this Agreement, then that Party will keep a record of the proper destruction or provide all parties with notice and certification of proper destruction of PHI.

Section 4: Cost
Each Party is responsible for its respective share of the costs associated with its performance of this Agreement. PHNTX shall have no right of action against County in the event County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for any item or obligation from any source utilized to fund this Agreement or failure to budget or authorize funding for this Agreement during the current or future fiscal years.

**Section 5: Indemnification**

A. PHNTX, INCLUDING ITS ASSIGNES, SUBCONTRACTORS, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND REPRESENTATIVES (COLLECTIVELY, "PHNTX") HEREBY FOREVER WAIVES AND RELEASES THE COUNTY, ITS COMMISSIONERS, COUNTY JUDGE, ELECTED OFFICIALS AND ITS OFFICERS, AGENTS, EMPLOYEES, AND REPRESENTATIVES (REFERRED TO COLLECTIVELY AS "COUNTY") FROM ANY AND ALL CLAIMS FOR DAMAGES, KNOWN OR UNKNOWN, WHICH MAY ARISE AS A RESULT, DIRECTLY OR INDIRECTLY, OF PHNTX'S INVOLVEMENT IN THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING: ANY PREMISES OR SPECIAL DEFECTS KNOWN OR UNKNOWN TO THE COUNTY; ANY INJURY TO A PERSON AND/OR STAFF OF THE COUNTY; AND ANY INJURY TO OTHER INDIVIDUALS RELATING TO PHNTX'S INVOLVEMENT UNDER THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING WILLFUL ACTS.

AND FURTHER,

B. TO THE FULLEST EXTENT ALLOWED BY LAW PHNTX, AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS THE COUNTY AGAINST ALL CLAIMS, DEMANDS, ACTIONS, SUITS, BROUGHT BY OR ON BEHALF OF THIRD PARTIES AGAINST THE COUNTY, AND ALL RESULTING LOSSES, DAMAGES, LIABILITIES, COSTS AND/OR EXPENSES OF EVERY KIND AND NATURE (INCLUDING, BUT NOT LIMITED TO COURT COSTS, LITIGATION EXPENSES AND ATTORNEYS' FEES) INCURRED BY OR SOUGHT TO BE IMPOSED ON THE COUNTY (COLLECTIVELY "CLAIMS") BECAUSE OF INJURY (INCLUDING DEATH) BY ANY MANNER OR METHOD WHATSOEVER, OR DAMAGE TO PROPERTY (WHETHER REAL, PERSONAL OR INCHOATE), TO THE EXTENT ARISING OUT OF OR IN ANY WAY RELATED TO PHNTX'S ACTS AND OMISSIONS IN CONNECTION WITH THIS AGREEMENT. THIS INDEMNIFICATION SHALL APPLY, WHETHER OR NOT ANY SUCH INJURY OR DAMAGE HAS BEEN BROUGHT ON ANY THEORY OF LIABILITY, INCLUDING INTENTIONAL WRONGDOING, STRICT PRODUCT LIABILITY OR BREACH OF NON-DELEGABLE DUTY. PHNTX FURTHER AGREES TO DEFEND (AT THE ELECTION OF THE COUNTY) AT ITS SOLE COST AND EXPENSE AGAINST ANY CLAIM, DEMAND, ACTION OR SUIT FOR WHICH INDEMNIFICATION IS PROVIDED UNDER THIS PARAGRAPH.

C. APPROVAL AND ACCEPTANCE OF PHNTX'S OBLIGATIONS UNDER THIS AGREEMENT BY THE COUNTY SHALL NOT CONSTITUTE NOR BE DEEMED A RELEASE OF RESPONSIBILITY AND LIABILITY OF PHNTX, ITS EMPLOYEES, SUBCONTRACTORS, AGENTS AND FOR THE ACCURACY AND COMPETENCY OF THEIR OBLIGATIONS UNDER THIS AGREEMENT; NOR SHALL SUCH APPROVAL AND ACCEPTANCE BE DEEMED TO BE AN ASSUMPTION OF SUCH RESPONSIBILITY BY THE COUNTY FOR ANY DEFECT, ERROR OR OMISSION IN THE OBLIGATIONS PERFORMED BY PHNTX, ITS EMPLOYEES, SUBCONTRACTORS, OR AGENTS. IN THIS REGARD, PHNTX SHALL DEFEND, HOLD HARMLESS AND INDEMNIFY THE COUNTY FOR ANY CLAIMS TO THE EXTENT DIRECTLY RESULTING FROM AND ATTRIBUTABLE TO MATERIAL DEFECTS, ERRORS OR OMISSIONS IN THE OBLIGATIONS PERFORMED BY PHNTX, ITS EMPLOYEES, AGENTS, OR SUBCONTRACTORS.
D. THE PARTIES ACKNOWLEDGE AND AGREE THAT COUNTY DOES NOT HAVE THE ABILITY UNDER ARTICLE XI, SECTION 7 AND ARTICLE III, SECTION 49 OF THE TEXAS CONSTITUTION TO INDEMNIFY PHNTX OR ANY OTHER THIRD PARTY FOR DAMAGES ARISING UNDER THIS AGREEMENT.

E. SURVIVAL. THESE PROVISIONS SHALL SURVIVE TERMINATION, EXPIRATION OR CANCELLATION OF THIS AGREEMENT OR ANY DETERMINATION THAT THIS AGREEMENT OR ANY PORTION HEREOF IS VOID, VOIDABLE, INVALID OR UNENFORCEABLE.

Section 6: Term of the Agreement

The initial term of this Agreement shall commence on January 24, 2020 (“Effective Date”) and continue until September 30, 2024, unless terminated earlier under any provision hereof (the “Term”). This Agreement may be terminated by either Party upon ten (10) days prior written notice thereof to the other of its intention to terminate upon the date specified in such notice.

Section 7: Miscellaneous

A. ENTIRE AGREEMENT. This Agreement supersedes all prior agreements, written or oral, between PHNTX and County and will constitute the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement. This Agreement and each of its provisions will be binding upon the Parties and may not be waived, modified, amended, or altered except by a writing signed by both PHNTX and County with formal approval by the Dallas County Commissioners Court.

B. GOVERNING LAW/VENUE. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. This Agreement is performable and enforceable in Dallas County, Texas where the principal office of PHNTX is located. Venue shall be proper in any court of competent jurisdiction located within Dallas County, Texas.

C. NOTICES. All notices under this Agreement shall be in writing and shall be sent via facsimile and first-class mail, postage prepaid, to the addresses below. Either Party may update its address by providing written notice to the other Party pursuant to the terms of this provision.

TO PHNTX:

Prism Health North Texas
351 W. Jefferson Blvd., Suite 300
Dallas, TX 75208
Fax Number: 214-528-5879
Attn: Manisha H. Maskay, PhD

TO ORGANIZATION:

Dallas County
2377 Stemmons Freeway, Suite 200 LB-16
Dallas, TX 75207
Attn: Philip Huang, MD, MPH, Director

D. SOVEREIGN IMMUNITY. This Agreement is expressly made subject to County’s Sovereign Immunity, Title 5 of the Texas Civil Practices and Remedies Code, and all applicable federal and state law. The Parties expressly agree that no provision of this Agreement is in any way
intended to constitute a waiver of any immunities from suit or from liability that County has by operation of law. Nothing in this Agreement is intended to benefit any third party beneficiary.

E. RELATIONSHIP OF PARTIES. Organization and PHNTX agree that the terms and conditions of this Contract do not constitute the creation of a separate legal entity or the creation of legal responsibilities of either Party other than under the terms of this Agreement. Organization and PHNTX are and shall be acting as independent contractors under this Agreement; accordingly, nothing contained in this Agreement shall be construed as establishing a master/servant, employer/employee, partnership, joint venture, or joint enterprise relationship between Organization and PHNTX.

F. AMENDMENTS. No modification, amendment, novation, renewal, or other alteration of this Agreement shall be effective unless mutually agreed upon in writing and executed by the parties hereto. Any alteration, addition or deletion to the terms of this Agreement which are required by changes in federal or State law are automatically incorporated herein without written amendment to this Agreement and shall be effective on the date designated by said law.

G. ASSIGNMENT. Parties shall not transfer or assign their interest in, or any activity under, this Agreement without the prior written consent of the other Party.

H. NON-EXCLUSIVITY. This Agreement is non-exclusive and shall not in any way preclude County from entering into similar agreements or arrangements with other vendors, contractors, or from acquiring similar, equal or like goods or services from other entities or sources.

I. AUTHORITY AND BINDING EFFECT. Each Party hereby represents and warrants that the person signing this Agreement on its behalf as the authority to bind such Party. This Agreement and the respective rights and obligations of the parties hereto shall inure to the benefit and be binding upon the successors and assigns of the parties hereto, as well as the parties themselves; except that PHNTX, its successors and assigns shall not be obligated to perform beyond the Term of this Agreement.

Signatures on following page.
IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of January 24, 2020 ("Effective Date") intending to be bound thereby.

AIDS Arms, Inc. d/b/a Prism Health North Texas

By: John T. Garlo, MD
Title: Chief Executive Officer
Date: 1/14/20

Dallas County

By: _________________________________
Name: Clay Lewis Jenkins
Title: County Judge
Date: _______________________________

Approved as to Form*:

John Creuzot
District Attorney

BY: Lacey B. Lucas
Assistant District Attorney, Civil Division

*By law, the District Attorney's Office may only advise or approve contracts or agreements or legal documents on behalf of its clients. It may not advise or approve a contract or agreement or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval by their own respective attorney(s).