

RESOLUTION #19-0128-01

Amending the Contract Approved in Resolution #19-0122-20 to Clarify that the Medical Director is to Coordinate and Report to the Liberty Township Fire Department Fire Chief and Minor Clarifications to Section 5 and 7.2(ii)

WHEREAS, Liberty Township Board of Trustees approved Resolution #19-0122-20 to enter into a contract with The Ohio State University for Medical Director services, and

WHEREAS, upon further review of the contract attached to Resolution #19-0122-20, corrections and clarifications were necessary, including:

- The addition of the first "whereas" statement under "Recitals", page 1
- The addition of "the Township's Fire Department's EMS organization" in the fifth "whereas" statement under "Recitals", page 1
- Clarifications of Medical Director reporting structure to the Fire Chief in Section 1.1
- Clarifications to wording in Section 5.
- Clarifications to Section 7.2(ii)

WHEREAS, while the Board of Trustees has approved, with Resolution #19-0122-20, entering into a contract with The Ohio State University for Medical Director services, the attached amended contract shall supersede the contract approved with Resolution #19-0122-20.

NOW, THEREFORE BE IT RESOLVED, by the Liberty Township Board of Trustees, Delaware County, Ohio, to enter into the attached contract for Medical Director Services with the Ohio State University.

Motion made by Melanie Leneghan and seconded by Mike Gemperline.

Vote: No Mrs. Eichhorn Yes Mrs. Leneghan Yes Mr. Gemperline

This Resolution shall be in force and become effective immediately upon its execution.

Jan. 28, 2018

Date

CERTIFIED BY:

Nancy Denutte
Nancy Denutte, Fiscal Officer

Melanie Leneghan
Melanie Leneghan, Trustee

Mike Gemperline
Mike Gemperline, Trustee

Shyra Eichhorn, Trustee

AMENDED MEDICAL DIRECTOR AGREEMENT
Between
THE OHIO STATE UNIVERSITY
and the Liberty Township Board of Trustees

This AMENDED MEDICAL DIRECTOR AGREEMENT (“Agreement”) is entered into on this 1st day of February, 2019 (“Effective Date”) by and between the Liberty Township Board of Trustees, on behalf of Liberty Township (the “Township”) and The Ohio State University on behalf of its Wexner Medical Center Department of Emergency Medicine (“OSU”).

RECITALS

WHEREAS, the Township and OSU wish to amend the Medical Director Agreement authorized by Resolution #19-0122-20 to clarify the relationship between the Medical Director and the Township’s Fire Department and clarify and modify section 5 and 7.2(ii), respectfully.

WHEREAS, the Township’s Fire Department operates an Emergency Medical Services organization, offering emergency medical services to its community; and

WHEREAS, the Township desires to retain physicians with experience and expertise in managing Emergency Medical Services; and

WHEREAS, OSU is uniquely qualified to provide certain Medical Director Services (as defined in this Agreement and its Exhibits) through its physician employee who has also been appointed to the faculty of the College of Medicine; and

WHEREAS, the Township desires to engage OSU to provide Medical Director Services to the Township’s Fire Department EMS organization, and OSU desires to accept such engagement upon the terms and conditions set forth in the Agreement.

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

1. Services.

1.1 Medical Director Services. Subject to the Township’s approval, OSU shall designate one of its Physicians to act as the Medical Director of the Township (“Medical Director”), including performing the duties set forth in **Exhibit A**, as may be amended by the Township from time to time, (the “Medical Director Services”) or as otherwise specified in this Agreement, and the Township hereby accepts such engagement. OSU shall designate **Ashish Panchal, MD**, to act as Medical Director of the Township in such a manner as to conform to all regulatory requirements. The Medical Director shall coordinate with and report his activities under this Agreement to the Township’s Fire Department’s Chief or respective designee (“Management”). The Medical Director will meet with the Management on a regular basis which shall include an annual performance review. OSU shall cause the Medical Director to devote a minimum of six percent (6%) and a maximum of nine percent (9%) of his effort to providing the Medical Director Services, not to exceed one hundred and forty-four (144) hours on an annual basis.

1.2 Compliance with Laws and Standards. OSU shall cause its Physician to provide the Services in a competent and qualified manner in accordance with the applicable standard of care. Physician shall comply with: (i) all federal, state and local laws applicable to the Services; and (ii) the policies and procedures of the Township. Medical Director's performance of the Services in accordance with this Agreement shall be evaluated on an ongoing basis by the Township.

1.3 Administrative Decisions. OSU and Medical Director acknowledge that all final decisions as to funds, staffing, operations, budgets, and other administrative matters at the Township shall be within the sole authority of the Township.

1.4 Medical and Business Records. OSU shall cause its Physician to maintain full and complete documentation in the Township's records in a manner consistent with the policies and procedures of the Township and applicable state and federal laws.

1.5 Replacement of Physician. Physician supplied by OSU hereunder shall be satisfactory to the Township, in their reasonable discretion. If, at the request of the Township, or due to the death, permanent disability, resignation or loss of any professional license of a Physician, or if a Physician ceases to be an employee or independent contractor of OSU or has Medical Staff privileges terminated or suspended, OSU shall make all reasonable efforts to replace the Physician within a reasonable time, mutually agreed upon by the Township and OSU, with another physician employed or contracted with OSU as long as the replacement Physician meets all the representations and warranties stated in §2 of this Agreement. Prior to such replacement, however, OSU shall seek approval from the Township for the replacement physician who thereafter shall perform the Services noted in this Agreement and be referred to as the Physician hereunder.

2. Duties of OSU

During the term of this Agreement, OSU shall ensure that Physician providing Services under this Agreement continuously satisfies the following requirements:

2.1 Maintain a valid license to practice Medicine in the State of Ohio and registration with the Drug Enforcement Agency; and

2.2 Be Board certified or Board eligible in Emergency Medicine.

3. Duties of the Township – Patient Records, Space, Equipment, Personnel.

3.1 Space, Equipment, Personnel. The Township will make available for the use of Physician such space, equipment, utilities and personnel as are reasonably necessary to enable Physician to perform Physician's duties pursuant to this Agreement.

3.2 Patient and Financial Records. All medical, administrative and financial records pertaining to Township business or patients treated within the scope of services provided hereunder, including but not limited to charts, x-rays, medical reports, fees, billings and payment of fees, shall at all times be the property of the Township or its designee.

4. Compensation.

In consideration for providing the Services, the Township shall compensate OSU as follows:

4.1 Medical Director Services. In consideration for performance of the Medical Director Services, the Township shall pay OSU \$239.89 per hour with an annual rate not to exceed thirty-four thousand five hundred and forty four dollars (\$34,544.00) on an annual basis. All time must be documented with a description of the Medical Director Services provided in the form attached as **Exhibit B**, as may be amended from time to time ("Time Record"). No compensation shall be paid to OSU for Medical Director Services until the Medical Director completes and submits the Time Record. All amounts under this Agreement will be payable on a monthly basis, within thirty (30) days of receipt of a completed Time Record from the Medical Director.

5. Professional Services.

OSU and its Medical Director understand and agree that this Agreement is intended to provide the services of Medical Director over the Township's Fire Department's EMS, which are administrative duties and responsibilities only. The Township is not contracting or compensating OSU or its Medical Director to provide professional health care services on behalf of the Township. If OSU's Medical Director does provide professional health care services to patients, then such service shall be separate and apart from this Agreement and the Medical Director or OSU Physician shall be responsible to separately bill the applicable patient's payors for such services, consistent with Payor and Federal health care program requirements.

6. Insurance and Acknowledgement of Own Acts.

6.1 Liability Insurance. During the term of this Agreement, OSU agrees to maintain insurance or self-insurance for Professional Liability. The amount and terms of such coverage shall be determined by OSU in its sole discretion. Each party shall provide the other party with prompt written notice of any material events, patient or parent complaint that expressly names a Physician employed by OSU, and any threatened or actual notice of a legal action that arises out of or is related to the Medical Director Services and shall cooperate in the investigation and defense of same.

6.2 Party's Responsibility. Both OSU and the Township are liable for their own acts and omissions, regardless of insurance coverage or lack of insurance coverage.

7. Term and Termination.

7.1 Term. This Agreement shall commence on the Effective Date or the date upon which both parties have executed this Agreement (the "Commencement Date"), unless earlier terminated pursuant to §7.2. The term of the Agreement shall be three (3) years (the "Term").

7.2 Termination of Agreement. This Agreement shall be terminated:

- (i) Immediately upon mutual agreement of the parties;
- (ii) Immediately upon the death or permanent disability of Medical Director, OSU shall replace Physician with another physician who is employed by OSU. The Township, if not satisfied with the replacement, shall have ninety (90) days to request a different physician to serve as Medical Director or terminate the Agreement. For the purposes of this Agreement, permanent disability

will be deemed to be the inability to perform the Services hereunder for any period of ninety (90) days out of any one hundred twenty (120) day period;

- (iii) By either party upon written notice to the other upon any breach by the other party of any term or condition of this Agreement; provided, however, the other party shall have thirty (30) days to cure such breach; or
- (iv) By Township, in the event Township is dissatisfied with Physician's performance of Services; provided, however, that OSU has first been afforded the right to replace the Physician according to Section 1.5 of this Agreement;
- (v) Notwithstanding anything to the contrary in this Agreement, either party shall have the right to terminate this Agreement at any time without cause upon thirty (30) days written notice to the other party.

The parties agree and acknowledge if this Agreement is terminated within the first year of the Commencement Date pursuant to this §7.2, the parties shall not enter into another agreement with each other for the Services prior to first anniversary of the Commencement Date of the Agreement. Further, the parties agree and acknowledge compensation for the Services may not be increased prior to the first anniversary of the Commencement Date of this Agreement.

8. Access to Books, Documents and Records.

If applicable, the parties shall comply with the provisions of Section 1861(v)(1)(i) of the Social Security Act (as amended) and any regulations promulgated there under, and shall make available, upon written request of the Comptroller General of the United States or the Secretary of The Department of Health and Human Services or any of their duly authorized representatives, any books, documents, and records that are necessary to verify the nature and extent of costs incurred by either party under this Agreement.

9. Notices.

Notices or communications required or permitted to be given under this Agreement shall be given by, and be deemed given when, (i) delivered by personal delivery; (ii) deposited in U.S. first class mail, postage prepaid; or (iii) sent by telecopy or electronic mail with confirmation of receipt, addressed to the address set forth below or to such other address as either party may designate in writing to the other party from time to time:

To the Township:

Liberty Township Fire Department EMS
Attn: Fire Chief
10104 Brewster Lane
Powell, Ohio 43065

To OSU:

OSU Wexner Medical Center
Department of Emergency Medicine

Greg Archual, MBA

Administrator – Department of Emergency Medicine
COO – OSU Emergency Medicine
795 Prior Hall
Columbus, Ohio 43210

With a copy to:

Office of Legal Services
650 Ackerman Rd. Suite 200
Columbus, OH 43202
Attn: Associate General Counsel

Delaware County Prosecuting Attorney
140 North Sandusky Street, 3rd Floor
P.O. Box 8006
Delaware, Ohio 43015

10. Relationship of Parties.

OSU and Physician are retained only for the purposes and to the extent set forth in the Agreement and it is expressly understood and agreed by the parties hereto that OSU and Physician are engaged hereunder as independent contractors. As an independent contractor, neither the Physician, OSU, nor any physician with OSU shall be entitled to any pension, health or similar benefits that the Township may make available to its employees from time to time. Nothing contained herein shall be construed as making Physician an employee of the Township. OSU shall be responsible for the filing and payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security and income tax laws.

11. Entire Agreement and Amendments.

The parties agree that this Agreement constitutes the entire agreement among them with respect to the subject matter hereof, and that any and all prior discussions, negotiations, commitments, and understandings relating thereto are hereby superseded and merged herein. The terms and provisions of this Agreement shall not be changed, amended, waived, modified, or terminated in any respect whatsoever except by a written instrument executed by the parties hereto.

Either party may request a modification of this Agreement by written notice in the event of a change in or interpretation of a law, regulation or administrative policy by any governmental entity that materially affects the terms of this Agreement, or that may adversely affect the Medicare/Medicaid provider status of either party. Any requested modification shall be drafted to reasonably accommodate the change in law.

12. Miscellaneous.

This Agreement may not be assigned by either party without the prior written consent of the other party. This Agreement shall be binding upon and inure to the benefit of the parties and their successors and assigns. The failure of either party to exercise any right, or to insist upon strict compliance with the terms by the other party, shall not constitute a waiver of the terms and conditions of this Agreement with respect to any other or

subsequent breach thereof, nor a waiver by such party of its rights at any time thereafter to require exact and strict compliance with all of the terms of this Agreement. Should any provision or portion of this Agreement be held unenforceable or invalid for any reason, the remaining provisions or portion of this Agreement shall continue in full force and effect. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

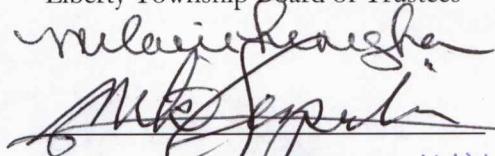
13. Confidentiality and Proprietary Information.

Documents made or compiled by the Township or made available to the Medical Director during the term of this Agreement concerning the business of the Township shall be the property of the Township and such documents shall be delivered to the Township on the termination of this Agreement or at any other time upon specific request by the Township. The Physician shall not use for his own benefit or for the benefit of others, or divulge to others, any information, knowledge or data of a confidential or proprietary nature or otherwise not readily available to members of the general public including, without limitation, business practices, charge or fee schedules, budgets, expenses, purchasing agreements, third-party plans and payor agreements, except with the specific prior written consent of the Township.

The parties hereto have executed this Agreement as of the Commencement Date, and by signing hereby agree to the terms and conditions as outlined above:

ON BEHALF OF LIBERTY TOWNSHIP

Liberty Township Board of Trustees



By: Melanie Lenehan / Mike Gemperline
Its: Board Chair and Vice-Chair
Pursuant to Resolution No. 19-0128-01
And Resolution No. 16-_____

Date: January 28, 2019

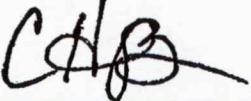
ON BEHALF OF OSU

OSU Wexner Medical Center

By: David McQuaid
Its: CEO, OSU Health System
CFO, OSU Wexner Medical Center

Date: _____

Approved as to Form:

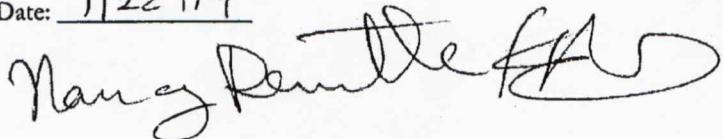
 / 1/22/19

Prosecuting Attorney, Delaware County

FISCAL OFFICER CERTIFICATION:

The Delaware County Auditor hereby certifies that the funds required to meet the obligations set forth in this Agreement have been lawfully appropriated for such purpose and are in the Township treasury or in the process of collection, free from any other encumbrances. The Delaware County Auditor also certifies that it has been confirmed with the Ohio Auditor of State that the OSU Wexner Medical Center has no unresolved findings for recovery issued against it by the State of Ohio.

Date: 1/22/19



Nancy Denutte
Liberty Township Fiscal Officer

Approved as to Form:

Prosecuting Attorney, Delaware County

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Date: 1/22/19



Nancy Denutte
Liberty Township Fiscal Officer

EXHIBIT A

MEDICAL DIRECTOR DUTIES AND RESPONSIBILITIES

DCEMS Physician Medical Director:

1. Physician shall be qualified to practice medicine in the State of Ohio. This Agreement is expressly subject to successful maintenance of licensure, and such membership and privileges, as may be applicable to Physician providing service hereunder.
2. Physician shall evaluate and see to improve the quality of prehospital care.
3. Physician shall review patient records and discuss with prehospital and hospital personnel as needed.
4. Physician shall assure that a mechanism exists to evaluate skills competency of prehospital personnel to Liberty Township EMS.
5. Physician shall report deficiencies or opportunities to improve prehospital patient care to the Command Staff of DCEMS.
6. Physician shall assure that a mechanism exists for prompt medical director review of cases involving radio delay/failure or potential patient care deficiencies.
7. Physician shall assure that a mechanism exists to educate and remediate prehospital personnel who are found to need improvement in their patient care skills.
8. Physician shall review draft DCEMS standard operating guidelines and patient care guidelines, and provide feedback in a timely manner.
9. Physician shall participate in continuing education opportunities with the prehospital personnel.
10. Other medical duties as mutually agreed upon with the Director of EMS.

EXHIBIT B

Physician Activity Log

Physician Name: _____

Date:	Activity Description:	Hours: