



**LOS ANGELES COUNTY
DEPARTMENT OF MENTAL HEALTH**

JONATHAN E. SHERIN, M.D., Ph.D., Director
ROBIN KAY, Ph.D., Chief Deputy Director
RODERICK SHANER, M.D., Medical Director



ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

26 July 18, 2017

July 18, 2017

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

LORI GLASGOW
EXECUTIVE OFFICER

Dear Supervisors:

AUTHORIZATION TO CONTRACT WITH LA CARE HEALTH PLAN FOR PROVISION OF AND REIMBURSEMENT FOR MENTAL HEALTH CONSULTATION SERVICES PROVIDED BY THE DEPARTMENT OF MENTAL HEALTH UTILIZING THE E-CONSULT PLATFORM

**(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

Authorization for Department of Mental Health to enter into an agreement with LA Care Health Plan (LA Care) to allow the Department of Mental Health to provide specialty mental health consultation services to LA Care's primary care providers utilizing an e-Consult platform.

IT IS RECOMMENDED THAT THE BOARD:

1. Approve and authorize the Director of Mental Health (Director) to negotiate, sign, and execute an agreement (Agreement), substantially similar to Attachment I, with LA Care to allow the Department of Mental Health (DMH) to provide specialty mental health consultation services to LA Care's primary care providers utilizing an e-Consult platform provided by LA Care in exchange for payment of \$326,400 (or \$27,200 monthly). The term of the Agreement is for a period of twelve months from August 1, 2017, to July 31, 2018.
2. Delegate authority to the Director, or his designee, to negotiate, sign, and execute future amendments to the Agreement, including extending the term of the Agreement for an additional twelve months, from August 1, 2018, to July 31, 2019, provided that: 1) the changes are necessary to improve care coordination and operational efficiencies, or increase the Maximum Amount of Compensation due to salary and employee benefit changes or an increase in service demand; 2)

approval of County Counsel is obtained prior to any such amendments; and, 3) the Director, or his designee, notifies your Board and the Chief Executive Office (CEO) in writing within 30 days of execution of each amendment.

3. Authorize DMH to add and fill one Full-Time Equivalent (FTE) ordinance only position in excess of what is provided in the Department's staffing ordinance, subject to allocation by the CEO. This action will be taken pursuant to Section 6.06.020 of the County Code.

4. Authorize DMH to add and fill additional ordinance only position(s), as needed, to the extent that there is an increase in service demand and additional funding is available from LA Care. The position(s) is/are subject to allocation by the Chief Executive Office, pursuant to Section 6.06.020 of the County Code.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Board approval of the recommended actions will authorize DMH to enter into an agreement with LA Care and provide DMH the hiring authority for one FTE position in order to enable DMH to provide psychiatric consultation to LA Care's primary care providers and their patients through an electronic platform.

Since January 1, 2014, LA Care has been responsible for the delivery of certain mental health services through their provider networks to beneficiaries with mild to moderate impairment of mental, emotional, or behavioral functioning resulting from a mental health disorder as defined by the Diagnostic and Statistical Manual of Mental Disorders (DSM).

The prevalence of common mental health disorders in those seen in primary care settings is approximately 20 - 25 percent. Unfortunately, primary care providers face a number of barriers when attempting to access mental health services for their clients. These factors include onerous paper-based referral systems, lack of feedback from mental health specialists, long wait lists for appointments, mental health carve-outs limiting integration efforts, and a lack of psychiatric specialists. Clients with mental health disorders receiving treatment in the primary care setting often go undiagnosed and/or under-treated. In these cases, the underlying mental illness may worsen, requiring more costly care in the future and possibly even psychiatric hospitalization.

DMH is seeking your Board's approval to enter into an agreement with LA Care for DMH to provide mental health consultation services to LA Care's primary care providers using an electronic consultation (or e-Consult) platform. e-Consult is a mechanism that enables primary care providers and specialists to communicate, share clinical documentation, and consult electronically to manage patient care. e-Consult improves quality of service and therefore overall client health outcomes as clients with mental health disorders who are seen in primary care are identified more rapidly, more appropriately, and more promptly referred to specialty mental health services. Research demonstrates that facilitating communication between providers through e-Consultation is an effective strategy for improving clinical outcomes and lowering health care costs.

Implementation of Strategic Plan Goals

The recommended Board actions support the County's Strategy I.2 – Enhance Our Delivery of Comprehensive Interventions, Objective I.2.2. Streamline Access to Integrated Health Services.

FISCAL IMPACT/FINANCING

The total cost of the one requested ordinance positions is \$326,400 which will be fully covered by the sums due from LA Care through the agreement. Funding for the additional position authorized by this action will be requested through DMH's Fiscal Year 2017-18 Supplemental Budget.

There is no net County cost associated with the recommended actions.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Agreement establishes the parties' mutual understandings, commitments, and protocols with respect to the e-Consult communications between participating LA Care's primary care providers and DMH psychiatric reviewers who are designated to participate. In addition to providing Consultations and referrals to specialty mental health providers when appropriate, DMH will collaborate with LA Care with respect to training to be provided to specific network provider groups on the basic tenets of psychiatry and various clinical/practice improvement topics. The Agreement (Attachment I) with LA Care was developed by LA Care and does not contain the County's standard terms and conditions. The Agreement also provides for mutual indemnification, which has been approved by the CEO, Risk Management Division. County Counsel has reviewed and approved the attached agreement as to form.

Pursuant to Section 6.06.020 of the County Code, DMH is asking your Board's approval to fill one FTE ordinance only position. To the extent that service demands are higher than expected and additional funds are available from LA Care, DMH will fill additional FTEs as appropriate.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Board approval of the proposed actions will enable DMH to provide Consultation to LA Care's primary care providers which will result in expanded specialty mental health services to the greater Los Angeles County area.

The Honorable Board of Supervisors

7/18/2017

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'JES', is centered on the page.

Jonathan E. Sherin, M.D., Ph.D.

Director

JES:RK:MM:SLD:

mi

Enclosures

c: Executive Office, Board of Supervisors
Chief Executive Office
County Counsel
Director of Health Services
Chairperson, Mental Health Commission



SERVICES AGREEMENT

This Services Agreement ("**Agreement**") is made and entered into effective August 1, 2017 ("**Effective Date**"), by and between the Local Initiative Health Authority for Los Angeles County, a local public agency operating as L.A. Care Health Plan ("**L.A. Care**"), and **Los Angeles County Department of Mental Health** ("**DMH**" or "**County**") (each a "**Party**," or collectively the "**Parties**").

WHEREAS, L.A. Care finds it necessary to secure services for Behavioral Health clinical consultation services, as more particularly described and set out in Section 1 of this Agreement ("**Services**"); and

WHEREAS, DMH is skilled at providing the Services; and

WHEREAS, L.A. Care is authorized to enter into this Agreement pursuant to Section 14087.9605 of the Welfare and Institutions Code, as well as applicable L.A. Care by-laws, policies and procedures, including without limitation L.A. Care Policy and Procedure No. AFS-006.

NOW, THEREFORE, for good and valuable consideration, the Parties agree as follows:

1. SERVICES AND LICENSE.

1.1 Subject to the terms and conditions of this Agreement, DMH shall provide the Services described in Exhibit A (Statement of Work ("SOW")).

1.2 L.A. Care understands and agrees that in providing the Services herein, the DMH psychiatric staff ("**Specialty Reviewers**") will not provide hands-on medical treatment nor will they perform the services recommended in the eConsult consultation. L.A. Care Primary Care Physicians ("**PCPs**") shall be responsible for providing medical services and shall have the ultimate authority and responsibility for the care of each patient.

1.3 Subject to the terms and conditions of this Agreement, L.A. Care grants to County a fully-paid, worldwide, non-exclusive license for the term of this Agreement to use the L.A. Care eConsult platform and any related software or system, including, but not limited to the L.A. Care eManagement Portal (collectively, the "**Platform**") and any related documentation to provide the Services. The term "**use**" as it applies to Platform means to copy, install, access, execute, operate, distribute, archive and run unlimited copies of the Platform and by an unlimited number of users for installation, production, support, archival, emergency restart, and disaster recovery purposes, all in the provision of the Services. L.A. Care shall provide, implement and support the Platform and there shall be no obligation on the part of the County with respect to the Platform. L.A. Care acknowledges and agrees that: (a) any failure to provide and support the Platform may limit the County's ability to provide the Services; (b) the County shall be fully excused from any obligation to provide Services where the provision of Services is prevented due to the unavailability of the Platform; and (c) the County's foregoing inability to provide Services shall not excuse L.A. Care's payment obligations.

2. CHANGES.

2.1 Amendments.

(a) The Parties may agree to make changes to this Agreement, including changes in scope, schedule, and pricing or compensation, through a written

amendment signed by an individual authorized to bind each Party ("**Amendment**").

- (b) Notwithstanding the foregoing, and upon reasonable notice to the other Party, either Party may request changes to this Agreement to comply with any applicable rule or regulation, including without limitation, State or federal laws, rules, or regulations; requirements mandated by regulatory agencies; requirements of accreditation agencies; or changes required to comply with requirements of the California Department of Healthcare Services ("**DHCS**") or the Center for Medicare & Medicaid Services ("**CMS**"). For an Amendment pursuant to this Paragraph 2.1(b), the other party's consent shall be required; however, such consent may not be unreasonably withheld. An Amendment pursuant to this Paragraph 2.1(b) shall be effective as of the date that permits both Parties to comply with all applicable rules and regulations and the terms of this Agreement, but not sooner than the effective date of the new requirement, unless otherwise agreed to by the Parties in the Amendment implementing the change. Notwithstanding this Paragraph 2.1(b) and Subsections 4.2 and 4.3, both Parties reserve the right to terminate this Agreement in the event that this Agreement cannot be amended to comply enable the Parties to comply with applicable rule or regulation.

2.2 Change Management Process.

- (i) Either Party may request a change to the Agreement. Any requests for an Amendment, except for Amendments under Paragraph 2.1(b), shall be submitted in accordance with L.A. Care's change management process, as follows.
- (ii) DMH shall submit a proposal for any change requests, whether requested by L.A. Care or initiated by DMH. The proposal will:
- A. Describe the change in sufficient detail to avoid any ambiguity;
 - B. Describe the impact on any requirement of the SOW;
 - C. Provide a cost estimate, including the effort required by hours, skill requirements (e.g., software developer, project manager, etc.), expenses, if any, and associated costs;
 - D. Identify any impact (increase or decrease) on the project budget; and
 - E. Identify the impact on the project timeline.
- (iii) L.A. Care will prepare the final Amendment in consultation with DMH.
- (iv) Once the Parties agree on the change, the Agreement shall be amended in writing. The change shall not be effective until the Amendment is agreed upon and signed by both Parties. No verbal changes to this Agreement are authorized.

3. **COMPENSATION.**

3.1 L.A. Care agrees to pay DMH the sum of \$326,400.00 for the Services provided during the term of this Agreement.

3.2 L.A. Care will not reimburse DMH for any expenses incurred in connection with its performance of the Services.

3.3 DMH will bill L.A. Care on a monthly basis, one-twelfth of \$326,400.00, or \$27,200.00. DMH will submit invoices to L.A. Care, to the attention of Accounts Payable, accountspayable@lacare.org, at the conclusion of every month for the Services performed

during the prior thirty (30) days. L.A. Care will remit invoices to DMH at either of the following addresses:

Payment by check: County of Los Angeles
Department of Mental Health
P. O. Box 514780
Los Angeles, CA 90051-4780

Payment by EFT: **[tbd]**

3.4 L.A. Care will pay DMH within forty-five (45) days following receipt of the invoice from DMH.

3.5 In no event, absent written amendment of this Agreement, shall the total annual compensation payable to DMH for the Services exceed the amount \$326,400.00 ("**Maximum Amount of Compensation.**"). L.A. CARE SHALL NOT BE LIABLE FOR ANY FEES, EXPENSES OR COMPENSATION IN EXCESS OF THE MAXIMUM AMOUNT OF COMPENSATION, NOR SHALL DMH BE OBLIGATED TO PROVIDE SERVICES IN EXCESS OF THE MAXIMUM AMOUNT OF COMPENSATION.

3.6 DMH shall maintain accurate and complete financial records related to the Services provided under this Agreement in accordance with generally accepted accounting principles and procedures. DMH shall also maintain accurate and complete records relating to performance of all Services. DMH shall retain all such records for minimum period of six (6) years following the expiration or termination of this Agreement, or for such longer period as may be required by law. L.A. Care shall have the right to access and examine or audit such records, without charge, during normal business hours and upon reasonable notice. In addition, DMH shall make all books and records pertaining to the provision of the Services available for inspection and audit by State and Federal regulatory agencies, including the California Department of Managed Health Care, during normal business hours and upon reasonable notice, or as may be required by law. To the extent feasible, all such books and records pertaining to the Services shall be located in California. At the request of the California Department of Managed Health Care and upon reasonable notice, DMH agrees that any such books and records located outside of California or a true and accurate copy will be made available for inspection in California.

4. TERM; TERMINATION.

4.1 Term. The term of this Agreement will be from August 1, 2017, to July 31, 2018, , unless terminated earlier by agreement of the Parties or as provided in this Section 4. The term of this Agreement may be extended by the Parties by written amendment.

4.2 Termination. Either party may terminate this Agreement for convenience and without any breach by the a party upon ninety (90) days prior written notice to the other party without any liability to either party other than payment of amounts due for Services provided as of the effective date of termination.

4.3 Termination for Breach. Either Party may terminate this Agreement upon thirty (30) days prior written notice of breach by the non-breaching party to the other Party in the event the other Party breaches a material term of this Agreement, and fails to cure such breach within such thirty (30) day period. Either Party may terminate this Agreement immediately upon the breach of Sections 6 (Confidentiality), 7 (Health Insurance Portability and Affordability Act of 1996 (HIPAA) and other Patient Privacy Protections), or 11 (Conflicts of Interest) or upon the other Party's' Breach of any representation or warranty made herein.

4.4 Remedies upon Breach by DMH. In addition to other remedies available to the Parties under this Agreement or under the law, if DMH materially breaches any of the terms of this Agreement and fails to cure the breach as provided in Subsection 4.3, L.A. Care's remedies may include retaining of the data, materials, reports and any other work product prepared by DMH pursuant to this Agreement, if any.

4.5 Survival. Sections 3, 4, 5, 6, 7, 8, 9, 10, 13 and 15 shall survive the expiration or earlier termination of this Agreement.

5. REPRESENTATIONS AND WARRANTIES:

5.1 DMH represents and warrants to L.A. Care that:

- (a) DMH will perform the Services commensurate with standards generally applicable to its industry.
- (b) The Services shall not violate: (i) any applicable law, rule, or regulation ("**Laws**"); (ii) any contracts with third parties; or (iii) any third-party rights in any patent, trademark, copyright, trade secret, or any other proprietary or intellectual property right.
- (c) DMH will identify, obtain and keep current all necessary licenses, approvals, permits and authorizations relating to the Services provided as may be required from time to time under applicable Laws.
- (d) DMH and its principals or affiliates or any employee or subcontractor utilized under this Agreement, are not debarred or suspended from federal financial assistance programs and activities nor proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any federal department or agency. DMH also certifies that it or any of its subcontractors are not listed either on the Excluded Parties listing System (<https://www.sam.gov/portal/public/SAM/>) or the List of Excluded Individuals/Entities (<http://exclusions.oig.hhs.gov/>).

5.2 L.A. Care represents and warrants to DMH that:

- (a) During eConsultations, L.A. Care PCPs shall provide the relevant information to DMH.
- (b) L.A. Care will identify, obtain and keep current all necessary licenses (including the medical licenses of its PCPs), approvals, permits and authorizations relating to the Services providers as may be required from time to time under applicable Laws.
- (c) L.A. Care shall not request any Service or use any information provided by DMH in a manner that violates: (i) any Laws; (ii) any contracts with third parties; or (iii) any third-party rights in any patent, trademark, copyright, trade secret, or any other proprietary or intellectual property right.
- (d) L.A. Care is the owner of or is validly licensed to use and license the Platform and the software and other intellectual property or proprietary rights in the Platform. DMH's use of the Platform does not and will not infringe or misappropriate any copyright, patent, trade secret, trademark or any other proprietary right of any third party.
- (e) The Platform is password protected and at all times compliant with the security and confidentiality requirement of HIPAA and its implementing regulations as well as other laws and regulations pertaining to confidentiality of protected health information, including without limitation, the Health

Information Technology for Economic and Clinical Health Act (the "HITECH Act"), the California Confidentiality of Medical Information Act (the "CMIA") and California Health and Safety Code §130203.

6. CONFIDENTIALITY

6.1 During the term of this Agreement, either Party (the "**Receiving Party**") may have access to confidential material or information ("**Confidential Information**") belonging to the other Party (the "**Disclosing Party**") or the Disclosing Party's customers, patients, vendors, subcontractors or partners. "**Confidential Information**" shall include without limitation the Disclosing Party's proprietary information, computer programs and codes, business plans, customer/member lists and information, financial records, partnership arrangements and licensing plans or other information, materials, records, writings or data that is marked confidential or that due to its character and nature, a reasonable person under like circumstances would treat as confidential. Confidential Information will be used only for the purposes of this Agreement and related internal administrative purposes. Each Party agrees to protect the other's Confidential Information at all times and in the same manner as each protects the confidentiality of its own confidential materials, but in no event with less than a reasonable standard of care.

6.2 Confidential Information does not include information which: (i) is already known to the other Party at the time of disclosure; (ii) is or becomes publicly known through no wrongful act or failure of the Receiving Party; (iii) is independently developed without use or benefit of the other's Confidential Information; (iv) is received from a third party which is not under and does not thereby breach an obligation of confidentiality; or (v) is a public record, not exempt from disclosure pursuant to California Public Records Act, Government Code Section 6250 *et seq.*, applicable provisions of California Welfare and Institutions Code or other State or Federal laws, regardless of whether such information is marked as confidential or proprietary.

6.3 Disclosure of the Confidential Information will be restricted to the Receiving Party's employees, Specialty Reviewers, consultants, PCPs, suppliers or agents on a "need to know" basis in connection with the Services, who are bound by confidentiality obligations no less stringent than these prior to any disclosure. The Receiving Party may disclose Confidential Information pursuant to legal, judicial, or administrative proceeding or otherwise as required by law; provided that the Receiving Party shall give reasonable prior notice, if not prohibited by applicable law, to the Disclosing Party and shall assist the Disclosing Party, at the Disclosing Party's expense, to obtain protective or other appropriate confidentiality orders, and further provided that a required disclosure of Confidential Information to an agency or Court does not relieve the Receiving Party of its confidentiality obligations with respect to any other party.

6.4 Except as to the confidentiality of trade secrets, these confidentiality restrictions and obligations will terminate three (3) years after the expiration or termination of the Agreement, unless the law requires a longer period. Upon termination or expiration of the Agreement or upon written request of the Disclosing Party, the Receiving Party shall promptly return to the Disclosing Party or destroy all documents, notes and other tangible materials representing the Disclosing Party's Confidential Information and all copies thereof, including electronic copies, unless retention is otherwise permitted under the Agreement. This obligation to return materials or copies thereof does not extend to automatically generated computer back-up or archival copies generated in the ordinary course of the Receiving Party's information systems procedures, provided that the Receiving Party shall make no further use of such copies.

7. HEALTH INSURANCE PORTABILITY AND AFFORDABILITY ACT OF 1996 (HIPAA) AND OTHER PATIENT PRIVACY PROTECTIONS

7.1 The Parties acknowledge the existence of HIPAA and its implementing regulations. Each Party understands and agrees that it is a "covered entity" under HIPAA and, as such, has obligations with respect to the confidentiality, privacy, and security of patient medical information, and must take certain steps to preserve the confidentiality of this information, both internally and externally, including the training its staff and the establishment of proper procedures for the release of such information, including the use of appropriate consents and authorizations specified under HIPAA.

7.2 The Parties acknowledge their separate and independent obligations with respect to HIPAA, and that such obligations relate to transactions and code sets, privacy, and security, except that LA Care is responsible for ensuring that the Platform is password protected and at all times complies with the security and confidentiality requirement of HIPAA and its implementing regulations. Except as specifically set forth in this Agreement, neither party has not relied, and will not in any way rely, on the other for legal advice or other representations with respect to their obligations under HIPAA, but will independently seek its own counsel and take the necessary measures to comply with the law and its implementing regulations.

7.3 The Parties understand and agree that, except as specifically set forth in this Agreement, each is independently responsible for HIPAA compliance and agrees to take all necessary and reasonable actions to comply with the requirements of the HIPAA laws and implementing regulations related to transactions and code sets, privacy, and security.

7.4 Should L.A. Care learn that the security of the Platform has been compromised, it will immediately notify DMH in writing and take appropriate measures to ensure the security of the platform. To the extent that HIPAA may require a Business Associate Agreement now or in the future between the County and a third-party associated with the operation, transmittal or disclosure of HIPAA protected information communicated or stored on the eConsult platform, LA Care shall so notify the County before such transmittal or disclosure and assist in the obtaining of any Business Associate Agreement, which agreement which shall be a condition to the County's continued obligations under the Agreement between the County and L.A. Care.

7.5 Each Party and their respective Specialty Reviewers and PCPs, shall maintain the confidentiality of data transmitted during an eConsultation. Only those authorized to use the Platform shall be given access to the Platform.

8. MEDICAL RECORDS.

L.A. Care agrees to maintain medical records concerning the Services furnished during the term of this Agreement and for seven (7) years thereafter and to provide the other Party with reasonable access thereto as permitted by applicable laws and regulations.

9. INDEMNIFICATION.

9.1 Pursuant to the provisions of Section 895.4 of the California Government Code, each of the Parties agrees to indemnify and hold the other harmless from all liability for damage, actual or alleged, to person or property arising out of or result from the indemnifying party's acts or omissions (or the acts or omissions of the indemnifying party's officers, directors, employees, primary care physicians, subcontractors, or agents) in the performance of this Agreement. In the event of third-party loss caused by negligence, wrongful act or omission of both Parties, each Party shall bear financial responsibility in proportion to its percentage of fault as may be mutually agreed or judicially determined. The provisions of California

Civil Code Section 2778 regarding interpretation of indemnity agreements are hereby incorporated.

9.2 The indemnified Party ("**Indemnitee**") shall promptly notify indemnifying Party ("**Indemnitor**") of any third party claim and Indemnitor shall conduct the defense in any such third party action arising as described herein at Indemnitor's sole expense using counsel selected by the Indemnitor and approved by the Indemnitee. Notwithstanding the preceding sentence, the County shall have the right to participate in any such defense at its sole cost and expense, except that in the event L.A. Care fails to provide the County with a full and adequate defense, as determined by the County in its sole judgment, the County shall be entitled to retain its own counsel, including, without limitation, County Counsel, and reimbursement from the Contractor for all such costs and expenses incurred by the County in doing so. L.A. Care shall not have the right to enter into any settlement, agree to any injunction, or make any admission, in each case, on behalf of the County without the County's prior written approval. Each Party shall cooperate in the defense of the third-party claim.

9.3 Acceptance by one Party of insurance certificates required under this Agreement does not relieve the other Party from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, the Parties acknowledge and agree to the provisions of this Section 7 and that it is a material element of consideration exchanged by the Parties.

9.4 L.A. Care shall have the right to offset against the amount of any compensation due to DMH under this Agreement any amount due to L.A. Care from DMH as a result of DMH's failure to promptly pay to L.A. Care any indemnification arising under this Section 9 or related to DMH's failure to comply with applicable workers' compensation laws.

9.5 The obligations of the Parties under this Section 9 will not be limited by the provisions of any workers' compensation act or similar act, except as required by applicable law.

10. INSURANCE.

10.1 Each Party shall maintain sufficient general liability, auto liability, professional liability and workers' compensation liability coverage for insurance for any claims that may arise with respect to acts or omissions arising from the delivery of health services described herein. Such coverage shall be maintained throughout the term of this Agreement and, if claims based, for three years thereafter, and each Party's coverage shall be primary and not contributing with any other insurance or self-insurance programs maintained by the other. Each party, at the request of the other, agrees to provide a certificate of insurance or other acceptable evidence of its coverage to the requesting party.

10.2 Any party, at its sole option, may satisfy this requirement through a program of self-insurance, commercial insurance, or any combination thereof. The limits of such coverage shall be not less than those listed in Subsection 10.3 below.

10.3 Each party shall maintain general liability insurance (with limits of not less than \$1 million each occurrence), auto liability insurance (with limits of not less than \$1 million each accident), and workers' compensation insurance (including Employers Liability with limits of not less than \$1 million). If the Party, including the Party's Specialty Reviewers or PCPs, renders medical, mental health or similar professional services, the Party also shall maintain Professional Liability (Errors and Omissions) insurance (with limits of not less than \$1 million each claim) throughout the term of this Agreement and for three years thereafter, if claims based. The Parties also agree to maintain any other insurance which

may be required to comply with all applicable Federal, State, and local laws, rules, regulations, ordinances and directives.

11. CONFLICTS OF INTEREST.

Each Party represents that it is not now aware of any facts that create a conflict of interest with respect to this Agreement, including offering or providing any incentive, directly or indirectly, to any member of L.A. Care's Board of Governors, officer, director, employee or consultant in order to obtain this Agreement. If either Party hereafter becomes aware of any facts that might reasonably be expected to create a conflict of interest, it shall immediately make full written disclosure of such facts to the other Party. Full written disclosure shall include identification of all persons implicated and a complete description of all relevant circumstances.

12. MATERIAL CHANGES TO OPERATIONS

12.1 Each Party shall notify the other prior to making any change that would result in a material modification of their operations but only to the extent that such material modification may impact the Services. Such changes may include altering the nature of the Services or location of performance of any L.A. Care functions being performed by DMH (e.g. off-shoring).

12.2 L.A. Care will promptly notify DMH in writing once approval of the change has been obtained from DMHC or if DMHC does not approve the change. DMH shall not make any material changes described in Subsection 12.1 absent such approval. Subject to the rights of termination in Subsections 4.2 and 4.3, DMH will continue to provide the Services until such time as DMHC may disapprove the changes. Should DMHC disapprove the changes, DMH may terminate this Agreement upon 30-days written notice, and such termination will be deemed a termination in accordance with Subsection 4.2.

13. MEDICARE COMPLIANCE REQUIREMENTS

13.1 Exclusion Monitoring.

- (a) DMH must review the Excluded Parties listing System (<https://www.sam.gov/portal/public/SAM/>) and the List of Excluded Individuals/Entities (<http://exclusions.oig.hhs.gov/>) prior to the hiring or contracting of any new employee, temporary employee, volunteer, consultant, governing body member or first tier, downstream or related entity ("**FDR**") providing services under this Agreement, and monthly thereafter, to verify that none of these persons or entities are excluded or become excluded from participation in federal programs ("**Excluded Individual**").
- (b) If DMH or an FDR fails to comply with the requirements of this Section, L.A. Care reserves the right to require DMH to:
 - (i) Make repayment associated with use of the Excluded Individual, pay L.A. Care immediately for any sanctions that may be imposed on L.A. Care for violation of this requirement.
 - (ii) DMH agrees that L.A. Care shall not be obligated to make payment under the Agreement to the extent any such payment is prohibited by law, including where Health Services are provided to L.A. Care's Cal MediConnect Members, in whole or in part, by an Excluded Individual."
- (c) Non-compliance with this requirement is considered to be a material breach of the Agreement.

13.2 Compliance Training. DMH and FDR personnel providing services under this Agreement must take the Centers for Medicare & Medicaid Services (“**CMS**”) Fraud, Waste, and Abuse training and accept the certificate of completion of the CMS training as satisfaction of this requirement. DMH may not substitute its own training program to fulfill this requirement. If DMH or FDR is enrolled in the Medicare program, it is deemed to have met this requirement.

14. GOVERNING LAW, DISPUTE RESOLUTION.

14.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflict of laws provisions. The Parties agree and consents to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this Agreement and further agree and consent that venue of any action brought hereunder shall be exclusively in the County of Los Angeles.

14.2 Dispute Escalation. In the event of a dispute, the Parties shall first try to resolve the dispute internally by escalating it to higher levels of management. If the Parties are still unable to resolve the dispute, the parties may agree to submit the dispute to non-binding mediation. Neither party waives any right it may have to a jury trial.

14.3 Interim Relief. Either Party may, without waiving any remedy under this Agreement, seek from any court of competent jurisdiction within the State of California, Los Angeles County, any interim or provisional equitable or injunctive relief (excluding monetary or other damages) that such Party deems necessary to protect its Confidential Information, Protected Health Information or property rights (including intellectual property).

15. GENERAL.

15.1 Filing of Agreement. Each Party understands and agrees that the other Party may be required to file this Agreement with one or more government agencies or standards organizations pursuant to law or regulation.

15.2 Excusable Delay. Neither Party will be liable for any delays resulting from circumstances beyond its reasonable control. In the event of any force majeure event, each Party shall promptly notify the other Party of the event that may cause a delay and take all reasonable actions to mitigate the impact of the delay. In no event will a force majeure event excuse delays in performance not directly attributable to the event.

15.3 Independent Contractor.

- (a) DMH’s relationship with L.A. Care is that of an independent contractor and nothing in this Agreement shall be construed as creating a partnership, joint venture or employer-employee relationship between DMH and L.A. Care or its PCPs. Nothing in this Agreement shall be deemed to constitute DMH or L.A. Care to be the agent of the other or their respective Consultants or PCPs. Neither DMH nor L.A. Care shall be or become liable or bound by any representation, act, or omission, whatsoever, of the other.
- (b) Each Party shall be solely responsible for complying with all applicable local, state and federal laws governing self-employed individuals or employees of partnerships and corporations, including, but not limited to, obligations such as payment of wages to employees and contractors, federal, state and local taxes, employment taxes, social security, disability and other contributions attributable to performing the Services.

15.4 Anti-Discrimination. In the performance of this Agreement, the Parties shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, disability,

medical condition, sexual orientation or protected veteran status. DMH will take affirmative action to ensure that employees, subcontractors and applicants for employment are treated without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, disability, medical condition, sexual orientation or protected veteran status.

15.5 Other Firms Providing Services. DMH acknowledges that it is not necessarily the exclusive provider to L.A. Care of services and that L.A. Care has, or may enter into, contracts with other DMHs. L.A. Care acknowledges that DMH may enter into contracts with other entities to provide similar services.

15.6 Notices. Any notices required or permitted to be given hereunder by any Party to the other shall be in writing and shall be deemed delivered upon personal delivery; twenty-four (24) hours following deposit with a courier for overnight delivery; or seventy-two (72) hours following deposit in the U.S. Mail, registered or certified mail, postage prepaid, return-receipt requested, addressed to the Parties at the following addresses or to such other addresses as the Parties may specify in writing:

To L.A. Care:

L.A. Care Health Plan
1055 West Seventh Street, 10th Floor
Los Angeles, California 90017
Attention: Chief Medical Officer

To DMH

Los Angeles County Department of
Mental Health
550 South Vermont Avenue
Los Angeles, CA 90020
Attention: Roderick Shaner, MD
Medical Director LAC DMH

15.7 Nonassignability. Neither Party may assign this Agreement or any interest therein without the prior written approval of the other Party, and any such assignment shall be considered *void ab initio*. DMH shall not subcontract any portion of the Services, other than to the subcontractors noted in a proposal, if applicable, without L.A. Care's prior written approval.

15.8 Severability. In the event that any term or provision of this Agreement shall be held to be invalid, void or unenforceable, then the remainder of this Agreement shall not be affected, impaired or invalidated, and each such term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

15.9 Waiver. The delay or waiver by either Party of a breach or non-compliance with any provision of this Agreement shall not operate nor be construed as a waiver of any subsequent breach or non-compliance.

15.10 No Third Parties. Nothing in this Agreement shall confer upon any person other than the Parties any rights or remedies whatsoever.

15.11 Headings. The section headings used in this Agreement are for convenience and reference purposes only and shall not enter into the interpretation of this Agreement.

15.12 Exhibits. All exhibits attached hereto and referred to herein are hereby incorporated herein as though fully set forth at length.

15.13 Integration. This Agreement, with its exhibits and attachments, constitutes the entire agreement of the Parties and supersedes all prior and contemporaneous representations, proposals, discussions, and communications, whether oral or in writing. In the event of a conflict between this Agreement and the SOW, the terms and conditions of this Agreement shall prevail, unless the SOW expressly provides otherwise. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by each of the Parties hereto.

15.14 Counterparts. This Agreement may be executed in one or more counterparts by the parties hereto. All counterparts shall be construed together and shall constitute one agreement.

15.15 Authority. Each Party represents and warrants that the person executing this Agreement on its behalf is an authorized agent who has actual authority to bind the Party to each and every term, condition, and obligation of this Agreement and that all requirements have been fulfilled to provide such actual authority

IN WITNESS WHEREOF, the Parties have caused this Agreement to be subscribed as of the Effective Date.

**Local Initiative Health Authority
for Los Angeles County, operating as
L.A. Care Health Plan ("L.A. Care")**

**Los Angeles County Department of
Mental Health
("DMH")**

By: _____

Name:

Title:

Date: _____

By: _____

Name:

Title:

Date: _____

**EXHIBIT A
STATEMENT OF WORK**

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1.0 SCOPE OF WORK

1.1 Purpose of Project

L.A. Care will implement a program called L.A. Care eManagement with the goal to improve care delivery to L.A. Care members by enhancing collaboration between primary care providers and behavioral health specialists.

L.A. Care eManagement will serve up to 200 practitioners in varied practice settings to support up to 300,000 members. It will improve co-management of complicated patients, reduce unnecessary office visits, improve medication management, and optimize the specialist visit when one is needed. If this phase proves successful, it could be expanded in future years.

L.A. Care eManagement will utilize L.A. Care eConsult platform, referred to in Paragraph 1 of the Services Agreement, as its communication platform. L.A. Care's eConsult platform was originally developed to improve the access to quality specialty care for Los Angeles County residents focusing on low-income and vulnerable populations by allowing secure conversations between primary care providers and specialists using a Health Information Technology software platform. L.A. Care expanded the platform (now called L.A. Care eManagement portal) to include support for the Medi-Cal behavioral health expansion population. Medi-Cal expansion brings new responsibilities to L.A. Care, including the delivery of behavioral health services to members with mild to moderate levels of mental health and/or substance use disorders through the L.A. Care provider network, thereby extending the scope of the primary care provider's practice.

DMH will respond to eConsultation requests made as part of the L.A. Care eManagement program, through the eManagement portal.

1.2 Target Population

The Specialty Reviewers ("**SR**") shall provide eConsultation services to L.A. Care identified Primary Care Providers ("**PCPs**") with respect to those persons whom:

- (a) the PCP identifies as L.A. Care primary care patients manifesting mild to moderate levels of depression and anxiety;
- (b) the SR verifies that the patient has not received a service from a DMH directly operated or contracted clinic within the last year and are not currently active in the DMH directly-operated or contracted clinic system.

1.3 Services to be Provided

DMH shall provide psychiatric staff who will function as SRs. In this role, the SRs will be available to the L.A. Care PCP network via electronic means and will engage the PCP in consultative dialogues or cross-talks. The purpose of the iterative dialog is to support the PCP in the management of patients whom the PCPs have identified as suffering with comorbid mild to moderate mental health problems utilizing their clinical judgment in conjunction with the use of approved mental health screening instruments. This support will include assistance in arriving at the diagnosis, offering recommendations for care (both psychopharmacological and psychotherapeutic) and offering recommendations to the most appropriate level of care when deemed necessary.

If at any time during the course of the cross-talk process between the PCP and SR, the SR obtains sufficient data that would indicate the patient's needs would best be served in a specialty mental health or substance use setting, the SR will consult with the PCP and recommend that the Referral Process described in Subsection 1.5 be initiated.

1.4 Training

DMH will collaborate with the L.A. Care eManagement project team to utilize the data contained in the L.A. Care eManagement platform in order to permit L. A. Care to better target specific network provider groups for more formal education on the basic tenets of psychiatry and various clinical/practice improvement topics.

- (a) The Parties may consider the following factors in prioritizing training efforts:
 - (i) L.A. Care: Number of eConsultation requiring more than four cross-talks or more than four months before successful disposition and eConsultation close out.
 - (ii) L.A. Care and DMH: Pattern of poor framing of the consultation request by a particular PCP or PCP group.
- (b) The education efforts that L. A Care may offer may include, but not be limited to, didactic presentations at medical staff meetings and more organized Continuing Medical Education (“**CME**”) presentations, either on-site or via L.A. Care hosted webinar.

1.5 Referral Process

If the PCP accepts the SR's recommendation made pursuant to Subsection 1.3, the SR will make referrals for treatment services as appropriate:

- (a) To Beacon for evidence-based psychotherapy.
- (b) To both DMH directly operated and legal entity clinics via the DMH ACCESS Urgent Appointment Line for patients requiring specialty mental health services.

To Los Angeles County Department of Public Health intake phone line for patients with substance use disorders and/or co-occurring diagnosis problems.

2.0 QUALITY ASSURANCE PLAN

L.A. Care and DMH will meet as needed to conduct spot audits of clinical dialogue and consult closing times to ensure quality performance, troubleshoot issues, and participate in status updates. L.A. Care eManagement project team will work with DMH to establish mutually agreed upon quality measures , to track the effectiveness of the eManagement program provided under this agreement. L.A. Care and DMH will analyze these quality measures to address opportunities for continuous quality improvement.

3.0 TERMS AND DEFINITIONS

Terms not elsewhere defined are set forth in Appendix A-1 to this Exhibit A.

4.0 RESPONSIBILITIES WITH RESPECT TO ADMINISTRATION OF PROJECT

L.A. Care and DMH responsibilities are as follows:

4.1 L.A. Care's Responsibilities

- (a) Monitor DMH's performance of this Agreement.
- (b) Provide a Project Manager and a designated alternate.
- (c) Project Manager shall act as a central point of contact with DMH.

- (d) Provide DMH with access to the L. A. Care's Project Manager during normal working hours. Provide a telephone number where the L. A. Care Project Manager and the designated alternate may be reached during working hours. L.A. Care shall immediately notify DMH in writing of any changes to its Project Manager or designated alternative, or their respective telephone numbers.
- (e) Project Manager/alternate shall have full authority to act for DMH on all matters relating to the daily operation of the Contract.

4.2 DMH's Responsibilities

- (a) Provide a Project Manager and a designated alternate.
- (b) Provide L. A. Care with access to the DMH Project Manager during normal working hours. Provide a telephone number where the DMH Project Manager may be reached during working hours. DMH shall immediately notify L.A. Care in writing of any changes to its Project Manager or designated alternate , or their respective telephone numbers.
- (c) Project Manager shall act as a central point of contact with L.A. Care.
- (d) Project Manager/alternate shall have full authority to act for DMH on all matters relating to the daily operation of the Contract. However, the Project Manager is not authorized to make any changes in any of the terms and conditions of this Agreement and is not authorized to further obligate the County in any respect whatsoever.
- (e) DMH shall assign sufficient qualified personnel to perform the Services.

5.0 HOURS/DAY OF WORK

"Normal Working Hours" are defined as 8:00 am to 5:00 pm, Monday through Friday, excluding County and L.A. Care holidays.

6.0 PERFORMANCE REQUIREMENTS SUMMARY FOR ECONSULTATIONS

L.A. CARE THROUGH ITS PCPS	DMH SR
Electronically generate and send a request for consultation to the SR containing relevant patient information. The PCP will consult with SR as provided by Section 1.3.	Reply to the PCP requesting consultation in 48 hours or less during Normal Working Hours. Determine from the nature of the information obtained from the PCP if the member being consulted upon requires specialty mental health services. Begin the referral process, if necessary as provided by Subsections 1.3 and 1.5.
Utilize screening instruments to aid in diagnostic assessments and to measure symptom improvement over time	Educate the PCP during the eConsultation on the criteria used to diagnose mental health disorders.
Engage in cross-talk or consultative dialogues with the SR	Engage in cross-talk or consultative dialogues with the PCP
Implement the treatment recommendations made by the SR as the PCP deems appropriate for the proper care and management of the L.A. Care member.	Based on information provided by the PCP, provide information on psychopharmacotherapy that will assist the PCP to manage members with: <ul style="list-style-type: none"> • Mild to moderate depression and

L.A. CARE THROUGH ITS PCPS	DMH SR
	anxiety; <ul style="list-style-type: none"> • Psychological trauma; or • Possible psychotic features (as long as the latter have limited functional impairment, do not meet medical necessity criteria for specialty mental health services and are stable on their psychotropic medication regimens).
Collaborate with the SR to close out the eConsultation request in six months or less.	Collaborate with the PCP to close out the eConsultation request in six months or less.

APPENDIX A-1 TERMS AND DEFINITIONS

Cross-Talk – an electronic consultative exchange between a PCP and a SR.

L.A. Care eConsult – a web-based, password-protected, HIPAA secure software platform owned, developed, and maintained by L.A. Care to enhance the ability of primary care physicians to access specialty care.

eConsultation – a request, electronically generated by a PCP, that is made to a psychiatric Specialty Reviewer to discuss the appropriate management of patient’s case.

L.A. Care eManagement – a program, underpinned by the eConsult software platform, developed by L.A. Care to, among other things, enhance communication between PCPs in the L.A. Care Network and DMH Specialty Reviewers.

L.A. Care eManagement Portal – the electronic gateway and mental health resource center in the eConsult software platform that is to be accessed by the PCP network to initiate consult requests and to engage in subsequent cross-talks with DMH SRs.

Primary Care Physician (“PCP”) – a licensed physician within the L.A. Care provider network, such as a general practitioner or internist, capable of handling a variety of health-related problems, of keeping a medical history and medical records on the individual, and of referring the person to specialists as needed. The PCP is responsible for providing medical services and has the ultimate authority and responsibility for the care of each patient

Specialty Reviewer (“SR”) – an independent consultant who is a licensed physician provided by DMH who has received specialized training in the field of psychiatry and is capable of assisting the PCP in diagnosing and treating mental, emotional, and behavioral disorders.