

## SETTLEMENT AGREEMENT

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## I. GENERAL PROVISIONS

1. This Settlement Agreement (the "Agreement") is entered into between the United States and the State of Connecticut; the Connecticut Department of Mental Health and Addiction Services ("DMHAS"); and the Connecticut Valley Hospital ("the State").
2. The Agreement resolves the investigation conducted by the United States Department of Justice ("United States") of the Connecticut Valley Hospital ("CVH") pursuant to the Civil Rights of Institutionalized Persons Act ("CRIPA"), 42 U.S.C. § 1997. The Agreement addresses the corrective measures set forth by the United States in its letter to the State dated August 6, 2007 ("Findings Letter"). This Agreement does not serve as an admission by the State that corrective measures are necessary to meet the constitutional and statutory rights of the residents of CVH.
3. In conformity with CRIPA, this Agreement represents a voluntary effort by the State to meet the concerns raised by the United States' investigation. See 42 U.S.C. § 1997b (a) (2) (B) and § 1997g.
4. Pursuant to 42 U.S.C. § 1997b (a) (2) (B) and § 1997g, the United States agrees to support the State's application for federal funding conditioned upon the State's proper implementation of the suggested remedial measures.
5. Nothing in this Agreement shall be construed as an acknowledgment, an admission, or evidence of liability of the State under CRIPA, the Constitution or federal or state law, and this Agreement, including any and all provisions within this agreement, may not be used as evidence of liability in this or any other civil or criminal proceeding.
6. The signatures below of officials representing the United States and the State signify that these parties have given their final approval to this Agreement.
7. This Agreement is enforceable only by the parties. This Agreement is binding upon the parties, by and through their officials, agents, employees, and successors. No person or entity is intended to be a third party beneficiary of the provisions of this Agreement for purposes of any civil, criminal, or administrative action, and, accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreement in any civil, criminal, or administrative action. Similarly, this Agreement does not authorize, nor shall it be construed to authorize, access to State documents by persons or entities not a party to this Agreement.

8. This Agreement shall constitute the entire integrated Agreement of the parties. No prior contemporaneous communications, oral or written, or prior drafts shall be relevant or admissible for purposes of determining the meaning of any provisions herein in any litigation or any other proceeding, except for the Findings Letter and the Commissioner's response to the DOJ Findings Letter. Any amendment to this Agreement shall be in writing, signed by both parties, as provided under provision 92.
9. Since the United States issued the August 2, 2007 Findings Letter, the State has made progress in addressing the issues the United States identified in the Findings Letter. As such, the parties agree that it is in their mutual interests to avoid contested litigation. The parties further agree that resolution of this matter pursuant to this Agreement is in the best interests of CVH residents. Therefore, pursuant to Fed. R. Civ. P. 41(a)(2), the parties hereby agree to file, in the United States District Court for the District of Connecticut, this Agreement, together with a notice Complaint and a joint motion to conditionally dismiss the Complaint. The parties further agree that this case will remain on the Court's inactive docket with the Court retaining jurisdiction only to resolve disputes between the parties, if any, until this Agreement terminates. Despite the Court's retention of jurisdiction, the United States agrees that it will not file for a finding of contempt against the State in the event of a dispute regarding compliance.
10. All parties shall bear their own costs, including attorneys' fees, in this and any subsequent proceeding.

## **II. DEFINITIONS**

11. "Effective Date" shall mean the date that it is filed with the United States District Court for the District of Connecticut ("Court"). Unless otherwise specified, each provision of this Agreement shall be implemented by 24 months from the Effective Date hereof.
12. "Consistent With Generally Accepted Professional Standards of Care" shall mean a decision by a qualified professional that is not such a substantial departure from contemporary, accepted professional judgment, practice, or standards as to demonstrate that the person responsible did not base the decision on such accepted professional judgment. "Consistent With Generally Accepted Professional Standards of Care" may also be guided by the scope of practice as defined by state statutes for professional disciplines.
13. "Incident" shall mean defined categories and definitions of incidents to be reported and investigated, and such categories and definitions shall include, but not be limited to, death, abuse, neglect, and serious injury. As required by

provisions 65-67 of this Agreement, CVH will identify such categories of reportable incidents.

### **III. INTRODUCTION**

14. Care and treatment provided by CVH shall be based on professional standards of practice and shall seek to:
  - A. ameliorate symptoms such that a less restrictive locus of treatment may safely be employed;
  - B. strengthen and support individuals' rehabilitation and recovery; and
  - C. enable individuals to grow and develop in ways benefiting their health and well-being.
15. Care and treatment shall be accomplished while maximizing individuals' safety, security, and freedom from undue bodily restraint. Relationships between CVH staff and individuals whom they serve shall be therapeutic and respectful.
16. Each individual served by CVH shall be encouraged to participate in identifying his or her treatment goals and in selecting appropriate treatment options. Care and treatment shall be designed to address each individual's psychiatric and/or substance use disorder needs and to assist individuals in meeting their specific treatment goals, consistent with generally accepted professional standards of care. CVH shall ensure clinical and administrative oversight of, education of, and support to, its staff in planning and providing care and treatment consistent with these standards.

### **IV. INTEGRATED TREATMENT PLANNING**

17. By 18 months from the Effective Date hereof, CVH shall provide safe integrated, individualized services, supports, and treatments (collectively "treatment") for the individuals it serves, consistent with generally accepted professional standards of care. In addition to implementing the discipline-specific treatment planning provisions set forth below, CVH shall establish and implement standards, policies, and procedures and/or practices to provide that treatment determinations are consistently coordinated by an interdisciplinary team through integrated treatment planning and embodied in a single, integrated plan.

## **Interdisciplinary Teams**

18. By 18 months from the Effective Date hereof, each interdisciplinary team's membership shall be informed by the particular needs, strengths, and preferences of the individual in the team's care, and, at a minimum, the interdisciplinary team for each individual shall:
  - A. have as its primary objective the provision of individualized, integrated treatment that optimizes the patient's opportunity for recovery and ability to sustain himself/herself in the most appropriate, least restrictive setting, and supports the patient's interests of self determination and independence;
  - B. be led by a treating psychiatrist who, at a minimum, shall:
    - 1.) assume primary responsibility for the individual's treatment;
    - 2.) require that each member of the team participates appropriately in assessing the individual on an ongoing basis and in developing, monitoring, and, as necessary, revising treatments;
    - 3.) require that the treatment team functions in an interdisciplinary fashion; and
    - 4.) require that the scheduling and coordination of assessments and team meetings, the drafting of integrated treatment plans, and the scheduling and coordination of necessary progress reviews occur in a timely fashion;
  - C. have its composition informed by the individual's particular needs, strengths, and preferences, but shall consist of a stable core of members, including the individual, the treating psychiatrist, psychologist (except where clearly not relevant, as in the situation of detoxification), rehabilitation therapist, nurse, the social worker, and unit staff who know the individual best. As appropriate, the individual's family, guardian, advocates, attorneys, the pharmacist and other clinical staff shall be invited to participate in treatment planning meetings.
  - D. complete training on the development and implementation of interdisciplinary treatment plans to the point that integrated treatment plans meet the requirements of provisions 19-22, infra.

## **Integrated Treatment Plans**

19. By 12 months from the Effective Date hereof, CVH shall develop and implement policies and/or procedures regarding the development of treatment plans consistent with generally accepted professional standards of care, to provide that:
  - A. individuals have substantive, identifiable input into their treatment plans;
  - B. treatment planning provides timely attention to the needs of each individual, in particular:
    - 1.) initial treatment plans are completed within 24 hours of admission;
    - 2.) master treatment plans are completed within seven days of admission; and
    - 3.) treatment team will meet to perform treatment plan reviews every 14 days during the first 60 days of hospitalization and every 30 days thereafter;
  - C. individuals are informed of the purposes and side effects of medication;
  - D. each treatment plan specifically identifies the therapeutic means by which the treatment goals for the particular individual shall be addressed and monitored, consistent with generally accepted professional standards of care;
  - E. treatment and medication regimens are modified, as appropriate, considering factors such as the individual's response to treatment, significant developments in the individual's condition, and the individual's changing needs;
  - F. an assessment of progress related to discharge is included in the review process; and
  - G. progress reviews and revision recommendations are based on data collected as specified in the treatment plan.
20. By 18 months from the Effective Date hereof, CVH shall use these policies and/or procedures to provide that treatment planning is based on a comprehensive case formulation for each individual that emanates from an integration of the discipline-specific assessments of the individual consistent with

generally accepted professional standards of care. Specifically, the case formulation shall:

- A. be derived from analyses of the information gathered from discipline-specific assessments, including diagnosis and differential diagnosis;
  - B. include a review of pertinent history, predisposing, precipitating, and perpetuating factors, present status, and previous treatment history;
  - C. consider biochemical and psychosocial factors for each category in provision 20.B, supra;
  - D. consider such factors as age, gender, culture, treatment adherence, and medication issues that may affect the outcomes of treatment interventions;
  - E. enable the treatment team to reach sound determinations about each individual's treatment and habilitation needs; and
  - F. make preliminary determinations as to the least restrictive setting to which the individual should be discharged, and the changes that will be necessary to achieve discharge.
21. By 18 months from the Effective Date hereof, CVH shall use these policies and/or procedures to provide that treatment planning is driven by individualized needs, is strengths-based (i.e., builds on an individual's current strengths), and that it provides an opportunity to improve each individual's health and well being, consistent with generally accepted professional standards of care. Specifically, the treatment team shall:
- A. develop and prioritize reasonable and attainable goals/objectives (i.e., relevant to each individual's level of functioning) that build on the individual's strengths and address the individual's identified needs and, if any identified needs are not to be addressed, provide a rationale for not addressing the need;
  - B. provide that the goals/objectives address treatment (e.g., for a disease or disorder) and rehabilitation (e.g., skills/supports/quality of life activities);
  - C. write the objectives in behavioral and measurable terms;

- D. provide that there are interventions that relate to each objective, specifying who will do what and within what time frame, to assist the individual to meet his/her goals as specified in the objective;
  - E. design a program of interventions that seeks to maximize participation in active treatment and rehabilitation throughout the individual's day that are under the direction of a physician, and which are specific to the patient's strengths, disabilities, and problems identified in the treatment plan; and
  - F. provide that each treatment plan integrates and coordinates all selected services, supports, and treatments provided by or through CVH for the individual in a manner specifically responsive to the plan's treatment and rehabilitative goals.
22. By 18 months from the Effective Date hereof, CVH shall revise existing treatment plans, as appropriate, in accordance with the policies outlined in provision 19, supra, to provide that planning is outcome-driven and based on the individual's progress, or lack thereof, as determined by the scheduled monitoring of identified treatment objectives, consistent with generally accepted professional standards of care.

## **V. MENTAL HEALTH ASSESSMENTS**

23. By 12 months from the Effective Date hereof, CVH shall ensure that, consistent with generally accepted professional standards of care, each individual shall receive, promptly after admission to CVH, an assessment of the conditions responsible for the individual's admission, and provide that it is accurate and complete to the degree possible given the available information at the time of admission. To the degree possible given the available information, the individual's interdisciplinary team shall be responsible for investigating the past and present medical, nursing, psychiatric, substance abuse and psychosocial factors bearing on the patient's condition, and, when necessary, for revising assessments and treatment plans in accordance with new information that comes to light. Thereafter, each individual shall receive a reassessment whenever there has been a significant change in the individual's status, a lack of expected improvement resulting from treatment clinically indicated, or twelve months since the previous reassessment.

### **Psychiatric Assessments and Diagnoses**

24. By 12 months from the Effective Date hereof, CVH shall use the diagnostic protocols in the most current Diagnostics and Statistics Manual ("DSM") for reaching the most accurate psychiatric diagnoses.

25. By 12 months from the Effective Date hereof, CVH shall ensure that all clinicians responsible for performing or reviewing psychiatric assessments are verifiably competent in performing psychiatric assessments consistent with CVH's standard diagnostic protocols.
26. By 12 months from the Effective Date hereof, CVH shall ensure that, within 24 hours of an individual's admission to CVH, the individual receives an initial psychiatric assessment, consistent with CVH's procedures.
27. By 18 months from the Effective Date hereof, CVH shall ensure that:
  - A. clinically justifiable, current assessments and diagnoses are provided for each individual;
  - B. the documented justification of the diagnoses are in accord with the criteria contained in the most current DSM;
  - C. differential diagnoses, "rule-out" diagnoses, and diagnoses listed as "NOS" ("Not Otherwise Specified") are timely addressed, through clinically appropriate assessments, and resolved in a clinically justifiable manner; and
  - D. each individual's psychiatric assessments, diagnoses, and medications are clinically justified consistent with generally accepted professional standards of care.
28. By 12 months from the Effective Date hereof, CVH shall develop policies and procedures consistent with generally accepted professional standards of care to ensure an ongoing and timely reassessment of the psychiatric causes of the individual's continued hospitalization.

### **Psychological Assessments**

29. By 18 months from the Effective Date hereof, CVH shall develop policies and procedures to ensure that patients referred by the treatment team for psychological assessment receive assessments, consistent with generally accepted professional standards of care, in a timely manner. These assessments may include diagnostic neuropsychological assessments, rehabilitative assessments, cognitive assessments, and I.Q./achievement assessments to guide psychoeducational (e.g., instruction regarding the illness or disorder, and the purpose or objectives of treatments for the same, including medications), rehabilitation and habilitation interventions, behavioral

assessments (including functional analysis of behavior in all settings), and personality assessments.

30. By 18 months from the Effective Date hereof, all psychological assessments, consistent with generally accepted professional standards of care, shall:
  - A. expressly state the purpose(s) for which they are performed;
  - B. be based on current, accurate, and complete data;
  - C. include an accurate, complete, and up-to-date summary focused on the referral question of the individual's relevant, clinical, and functional history and response to previous treatment;
  - D. where relevant to the consultation, include sufficient elements of behavioral assessments to determine whether behavioral supports or interventions are warranted or whether a comprehensive applied behavioral analysis and plan are required;
  - E. identify the individual's observed and, separately, expressed interests, activities, life skills, and functional strengths and weaknesses;
  - F. where relevant to the referral question, identify the individual's social history, including factual inconsistencies among sources, resolving or attempting to resolve inconsistencies, explaining the rationale for the resolution offered, and reliably informing the individual's treatment team about the individual's relevant social factors;
  - G. where relevant to the assessment provide specific strategies to engage the individual in appropriate activities that he or she views as personally meaningful and productive;
  - H. include determinations specifically addressing the purpose(s) of the assessment;
  - I. include a summary of the empirical basis for all conclusions, where possible; and
  - J. identify any unresolved issues encompassed by the assessment and, where appropriate, specify further observations, records, or re-evaluations that should be undertaken in endeavoring to resolve such issues.
31. By 18 months from the Effective Date hereof, previously completed psychological assessments of individuals currently at CVH shall be reviewed by qualified

clinicians and, as indicated, additional psychological assessments will be completed.

32. By 18 months from the Effective Date hereof, appropriate psychological assessments shall be provided in a timely manner, whenever clinically indicated, consistent with generally accepted professional standards of care, including whenever there has been a significant change in condition, a lack of expected improvement resulting from treatment, an individual's behavior poses a significant barrier to treatment or therapeutic programming, clinical information is otherwise insufficient, and to address unresolved clinical or diagnostic questions, including "rule-out" and deferred diagnoses.
33. If behavioral interventions are indicated, a functional behavioral assessment shall be performed, consistent with generally accepted professional standards of applied behavioral analysis, by a professional having demonstrated competency in applied behavioral analysis.
34. By 18 months from the Effective Date hereof, when an assessment is completed, CVH shall ensure that treating psychologists communicate and interpret psychological assessment results to the treatment teams, along with the implications of those results for diagnosis and treatment.
35. By 18 months from the Effective Date hereof, CVH shall ensure that all clinicians responsible for performing or reviewing psychological assessments are verifiably competent in performing the assessments for which they are responsible.

## **VI. DISCHARGE PLANNING AND COMMUNITY INTEGRATION**

36. Taking into account the limitations of court-imposed confinement, the State shall actively pursue the appropriate discharge of individuals under the State's care at CVH and the provision of services in the most integrated, appropriate setting that is consistent with each person's needs and to which they can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities.
37. By 12 months from the Effective Date hereof, CVH shall identify at admission and address in treatment planning the particular considerations for each individual bearing on discharge, including:
  - A. those factors that likely would foster successful discharge, including the individual's strengths, preferences, and personal goals;
  - B. the individual's symptoms of mental illness or psychiatric distress;

- C. barriers preventing the specific individual from being discharged to a more integrated environment, especially difficulties raised in previously unsuccessful placements, to the extent that they are known; and
  - D. the skills necessary to live in a setting in which the individual may be placed.
38. By six months from the Effective Date hereof, CVH shall provide the opportunity, beginning at the time of admission and continuously throughout the individual's stay, for the individual to be an active participant in the discharge planning process, as appropriate.
39. By 12 months from the Effective Date hereof, CVH shall ensure that, consistent with generally accepted professional standards of care, each individual has a professionally developed discharge plan that is a fundamental component of the individual's treatment plan that addresses his or her particular discharge considerations, and that includes:
- A. measurable interventions regarding his or her particular discharge considerations;
  - B. the persons responsible for accomplishing the interventions; and
  - C. the time frames for completion of the interventions.
40. By 24 months from the Effective Date hereof, CVH shall transition individuals to the community consistent with generally accepted professional standards of care. In particular, CVH shall ensure that:
- A. individuals who have met discharge criteria are discharged **as** expeditiously as reasonably possible taking into account the resources available to the State and the needs of others with mental disabilities; and
  - B. individuals receive adequate assistance in transitioning to the new setting.
41. Prior to discharge, the State shall ensure that the supports and services that discharge planning indicates are necessary are in place.
42. By 12 months from the Effective Date hereof, the State shall develop and implement a quality assurance/improvement system to oversee the discharge process.

## **VII. PSYCHIATRIC AND PSYCHOLOGICAL TREATMENT SERVICES**

### **Psychiatric Care**

43. By 12 months from the Effective Date hereof, CVH shall provide all of the individuals it serves with adequate and appropriate routine and emergency psychiatric and mental health services consistent with generally accepted professional standards of care.
44. By 18 months from the Effective Date hereof, CVH shall develop and implement policies and/or procedures regarding the provision of psychiatric care consistent with generally accepted professional standards of care. In particular, policies and/or procedures shall address physician practices regarding:
  - A. documentation of psychiatric assessments and ongoing reassessments as per provision 27, supra;
  - B. documentation of significant developments in the individual's clinical status and of appropriate psychiatric follow up;
  - C. timely and justifiable updates of diagnosis and treatment, as clinically appropriate;
  - D. documentation of analyses of risks and benefits of chosen treatment interventions;
  - E. assessment of, and attention to, high-risk behaviors (e.g., assaults, self-harm, falls) including appropriate and timely monitoring of individuals and interventions to reduce risks;
  - F. documentation of, and responses to, side effects of prescribed medications, with particular attention to special risks associated with the use of benzodiazepines, anticholinergic medications, polypharmacy (use of multiple drugs to address the same condition), and conventional and atypical antipsychotic medications;
  - G. timely review of the use of "pro re nata" or "as-needed" ("PRN") medications and adjustment of regular treatment, as indicated, based on such use; and
  - H. verification, in a clinically justifiable manner, that psychiatric and behavioral treatments are properly integrated.

45. By 18 months from the Effective Date hereof, CVH shall develop and implement policies and/or guidelines to ensure system-wide monitoring of the safety, effectiveness, and appropriateness of all psychotropic medication use, consistent with generally accepted professional standards of care. In particular, policies and/or guidelines shall address:
- A. monitoring of the use of psychotropic medications to ensure that they are:
    - 1.) specifically matched to current, clinically justified diagnoses;
    - 2.) prescribed in therapeutic amounts, as dictated by the needs of the individual patient;
    - 3.) tailored to each individual's clinical needs;
    - 4.) monitored for effectiveness against the objectives of the individual's treatment plan;
    - 5.) monitored appropriately for side effects; and
    - 6.) properly documented;
  - B. monitoring of the use of PRN medications to ensure that these medications are clinically justified and administered on a time-limited basis, and not used as a substitute for adequate treatment of the underlying cause of the individual's condition;
  - C. monitoring of the use of benzodiazepines, anticholinergics, and polypharmacy to ensure clinical justification and attention to associated risks;
  - D. appropriate use of psychotropic medications with attention to side effects;
  - E. timely identification, reporting, data analyses, and follow up remedial action regarding adverse drug reactions reporting ("ADR");
  - F. drug utilization evaluation ("DUE") in accord with established, up-to-date medication guidelines;
  - G. documentation, reporting, data analyses, and follow up remedial action regarding actual and potential medication variances ("MVR");

- H. tracking of individual and group practitioner trends, including data derived from monitoring of the use of PRNs, benzodiazepines, anticholinergics, and polypharmacy, and of ADRs, DUE, and MVR;
  - I. feedback to the practitioner and educational/corrective actions in response to identified trends, when indicated; and
  - J. use of information derived from ADRs, DUE, MVR, and providing such information to the Pharmacy & Therapeutics, Therapeutics Review, and Mortality and Morbidity Committees.
46. By 18 months from the Effective Date hereof, CVH shall ensure that all physicians and clinicians are performing in a manner consistent with generally accepted professional standards of care, to include appropriate medication management, treatment team functioning, and the integration of behavioral and pharmacological treatments.
47. By 18 months from the Effective Date hereof, CVH shall review and ensure the appropriateness of the medication treatment, consistent with generally accepted professional standards of care, for:
- A. all individuals prescribed continuous anticholinergic treatment for more than six months;
  - B. all individuals with cognitive impairments who are prescribed continuous anticholinergic treatment regardless of duration of treatment;
  - C. all individuals prescribed benzodiazepines as a scheduled modality for more than six months;
  - D. all individuals prescribed benzodiazepines with diagnoses of substance abuse or cognitive impairments, regardless of duration of treatment except for individuals undergoing detoxification; and
  - E. all individuals with a diagnosis or evidencing symptoms of tardive dyskinesia.
48. By 18 months from the Effective Date hereof, CVH shall ensure that individuals are screened and evaluated for substance abuse. For those individuals identified with a substance abuse disorder, CVH shall provide them with appropriate inpatient services consistent with their need for treatment.
49. By 18 months from the Effective Date hereof, CVH shall develop and implement a cognitive remediation program for individuals with cognitive impairment, when clinically indicated.

## **Psychological Care**

50. By 18 months from the Effective Date hereof, CVH shall provide adequate and appropriate psychological supports and services, consistent with generally accepted professional standards of care, to individuals who require such services. CVH shall integrate psychiatric and behavioral treatments in those cases where behaviors and psychiatric symptoms overlap.
51. By 18 months from the Effective Date hereof, CVH shall ensure, consistent with generally accepted professional standards of care, that all psychologists have a demonstrated competence in the following areas:
  - A. behavioral treatment;
  - B. group therapy;
  - C. psychological testing; and
  - D. individual therapy.
52. By 18 months from the Effective Date hereof, CVH shall provide adequate clinical oversight to therapy groups to ensure that individuals are assigned to groups that are appropriate to their individual needs, that groups are provided consistently and with appropriate frequency, and that issues particularly relevant for this population, including the use of psychotropic medications and substance abuse, are appropriately addressed consistent with generally accepted professional standards of care.
53. By 18 months from the Effective Date hereof, CVH shall provide adequate active psychosocial rehabilitation, consistent with generally accepted professional standards of care, that:
  - A. is based on individualized assessment of patients' needs and is directed toward increasing patient ability to engage in more independent life functions;
  - B. addresses those needs in a manner building on the individual's strengths, preferences, and interests;
  - C. focuses on the individual's vulnerabilities to mental illness, substance abuse, and readmission due to relapse, where appropriate;

- D. is provided in a manner consistent with each individual's cognitive strengths and limitations;
  - E. is provided as prescribed on each individual's comprehensive treatment plan;
  - F. routinely takes place as scheduled;
  - G. includes, in the evenings and weekends, additional activities that enhance the individual's quality of life;
  - H. designates a role for the staff on the living units; and
  - I. is documented in the individual's treatment plan.
54. By 18 months from the Effective Date hereof, CVH shall ensure that:
- A. behavioral interventions are based on positive reinforcements rather than the use of aversive contingencies, to the extent possible;
  - B. programs are consistent for each patient within each setting at CVH;
  - C. triggers for instituting individualized behavior treatment support plans will be specific as to the individual and utilized for those individuals experiencing triggers including recurrent use of seclusion, restraint, and emergency involuntary medication;
  - D. psychotherapy, is goal-directed, individualized, and informed by a knowledge of the individual's psychiatric, substance abuse, medical, and psychosocial history and previous response to psychotherapy;
  - E. psychosocial, rehabilitative, and behavioral interventions are monitored and revised as appropriate in light of significant developments, and the individual's progress, or the lack thereof;
  - F. clinically relevant information remains readily accessible; and
  - G. all staff who have a role in implementing individual behavioral programs have received competency-based training on implementing the specific behavioral programs for which they are responsible, and quality assurance measures are in place for monitoring behavioral treatment interventions.

## **Pharmacy Services**

55. By 18 months from the Effective Date hereof, CVH shall provide adequate and appropriate pharmacy services consistent with generally accepted professional standards of care. By 18 months from the Effective Date hereof, CVH shall develop and implement policies and/or procedures that require:
- A. pharmacists to complete reviews of each individual's medication regimen regularly, on at least a monthly basis, and, as appropriate, make recommendations to treatment teams about possible drug-to-drug interactions, side effects, medication changes, and needs for laboratory work and testing; and
  - B. physicians to consider pharmacists' recommendations, clearly document their responses and actions taken and, for any recommendations not followed, provide an adequate clinical justification.

## **VIII. DOCUMENTATION**

56. By 24 months from the Effective Date hereof, CVH shall ensure that an individual's records accurately reflect the individual's progress as to all treatment identified in the individual's treatment plan, consistent with generally accepted professional standards of care. By 24 months from the Effective Date hereof, CVH shall develop and implement policies and/or procedures setting forth clear standards regarding the content and timeliness of progress notes, transfer notes, and discharge notes, including, but not limited to, an expectation that such records include meaningful, accurate assessments of the individual's progress relating to treatment plans and treatment goals.

## **IX. SECLUSION AND RESTRAINTS**

57. By 12 months from the Effective Date hereof, CVH shall ensure that restraints and seclusion are used consistent with generally accepted professional standards of care.
58. By six months from the Effective Date hereof, CVH shall revise, as appropriate, and implement policies and/or procedures regarding the use of seclusion and restraints, consistent with generally accepted professional standards of care and list the types of restraint that are acceptable for use. In particular, the CVH policies and/or procedures shall promote acceptable standards of practice which seek to prevent or minimize the use of restraints, to the degree possible, including the use of four-point restraint to the bed, and the use of posey net restraints. Current policies and/or procedures expressly prohibit the use of mechanical restraints in a prone position.

59. By 12 months from the Effective Date hereof, and absent exigent circumstances CVH shall ensure that restraints and seclusion are restricted to use only in emergency situations (i.e., when a patient poses an imminent risk of injury to himself and/or others), CVH shall ensure that restraints and seclusion:
  - A. are used in a reliably documented manner and after a hierarchy of less restrictive measures has been considered in a clinically justifiable manner or exhausted;
  - B. are not used in the absence of, or as an alternative to, active treatment, as punishment, or for the convenience of staff;
  - C. are not used as part of a behavioral intervention; and
  - D. are terminated as soon as the individual is no longer an imminent danger to himself/herself or others, unless otherwise clinically indicated.
60. By six months from the Effective Date hereof, CVH shall comply with 42 C.F.R. § 483.360 (f), requiring assessments by a physician or licensed medical professional of any individual placed in seclusion or restraints. CVH shall also ensure that any individual placed in seclusion or restraints is continuously monitored by a staff person who has successfully completed competency-based training on the monitoring of seclusion and restraints.
61. By 12 months from the Effective Date hereof, CVH shall ensure the accuracy of data regarding the use of restraints or seclusion.
62. By 12 months from the Effective Date hereof, CVH shall revise, as appropriate, and implement policies and/or procedures to require the review within three business days of individuals' treatment plans for any individuals placed in seclusion or restraints more than three times in any four-week period, and modification of treatment plans, as appropriate.
63. By 12 months from the Effective Date hereof, CVH shall ensure that all staff whose responsibilities include the implementation or assessment of seclusion, restraints, or emergency involuntary psychotropic medications successfully complete competency-based training regarding implementation of all such policies and the use of less restrictive interventions.

## **X. PROTECTION FROM HARM**

64. By six months from the Effective Date hereof, CVH shall provide the individuals it serves with a safe and humane environment and seek to minimize the risk of harm.

### **Incident Management**

65. By 12 months from the Effective Date hereof, CVH shall review, revise, as appropriate, and implement incident management policies, procedures and practices that are consistent with generally accepted professional standards of care. Such policies, procedures and practices shall require:
- A. a commitment that CVH shall not tolerate abuse or neglect of individuals and that staff are required to report abuse or neglect of individuals;
  - B. identification of the categories and definitions of incidents to be reported, and investigated; immediate reporting by staff to supervisory personnel who reports to CVH's Chief Executive Officer (or that official's designee) of serious incidents, including but not limited to, death, abuse, neglect, and serious injury, and the prompt reporting by staff of all other incidents, using standardized reporting across all settings;
  - C. mechanisms to ensure that, when serious incidents such as allegations of abuse, neglect, and/or serious injury occur, staff take immediate and appropriate action to protect the individuals involved, including removing alleged staff perpetrators from direct contact with individuals pending the investigation's outcome; when clinically indicated, alleged patient perpetrators may also be relocated to another unit;
  - D. adequate competency-based training for all staff on recognizing and reporting potential signs and symptoms of abuse or neglect, including the precursors that may lead to abuse, as well as training on the reporting requirements required under this Agreement;
  - E. notification of all staff when commencing employment and adequate training thereafter of their obligation to report abuse or neglect to CVH and State officials as required by law. Additionally, continue to require that all CVH employees, upon employment sign receipt of the DMHAS Work Rules, which state that, "physical violence, verbal abuse, inappropriate or indecent conduct and behavior that endangers the safety and welfare of persons or property is prohibited," and that all "employees shall immediately report alleged violations of existing work rules, policies, procedures or regulations to a supervisor";

- F. mechanisms to educate and support individuals, relatives, and personal or health representatives to identify and report incidents, including allegations of abuse or neglect;
  - G. posting in each living unit and day program site a brief and easily understood statement of individuals' rights, including information about how to exercise such rights and how to report violations of such rights;
  - H. procedures for referring, as appropriate, allegations of abuse or neglect to law enforcement; and
  - I. mechanisms to ensure that any staff person, individual, family member or visitor who in good faith reports an allegation of abuse or neglect is not subject to retaliatory action by the State, including but not limited to reprimands, discipline, harassment, threats or censure, except for appropriate counseling, reprimands or discipline because of an employee's failure to report an incident in an appropriate or timely manner.
66. By 12 months from the Effective Date hereof, CVH shall review, revise, as appropriate, and implement policies and procedures to ensure the timely and thorough performance of investigations, consistent with generally accepted professional standards of care. Such policies and procedures shall ensure the review of all deaths, as well as allegations of abuse, neglect, suicide attempts, and serious injury.
67. By 12 months from the Effective Date hereof, CVH shall have a system to allow the tracking and trending of all deaths, as well as allegations or indications of abuse and neglect, suicide attempts, and serious injury and review results. Trends shall be tracked by at least the following categories:
- A. type of incident;
  - B. staff involved;
  - C. other individuals involved;
  - D. location of incident;
  - E. date and time of incident;
  - F. cause(s) of incident; and
  - G. outcome of review.

### **Quality Improvement**

68. By 24 months from the Effective Date hereof, CVH shall develop, revise as appropriate, and implement quality improvement mechanisms that enable it to ~~comply~~ fully support this Agreement, to detect timely and adequately problems with the provision of treatment, services and supports, and to ensure that appropriate corrective steps are implemented. The quality improvement mechanisms shall be otherwise consistent with generally accepted professional standards of care and shall:
- A. Track data with sufficient particularity to identify trends by programs, units, work shifts, individual staff and/or patients in regard to protection from harm, provision of care and services, and outcomes being achieved.
  - B. Analyze data regularly and, whenever appropriate, require the development and implementation of corrective action plans to address problems identified through the quality improvement process. Such plans shall identify:
    - 1.) the action steps that need to be taken to remedy and/or prevent the reoccurrence of problems;
    - 2.) the anticipated outcome of each action step; and
    - 3.) the person(s) responsible, and the time frame in which each action step must occur.
  - C. Disseminate corrective action plans to all entities responsible for their implementation, and:
    - 1. monitor and document corrective action plans to ensure that they are implemented fully and in a timely manner, and that they have the desired outcome of remedying or reducing the problems originally identified; and
    - 2. modify corrective action plans, as necessary, to ensure their effectiveness.
  - D. Utilize, on an ongoing basis, appropriate performance improvement mechanisms to assess and address the facility's progress with its identified service goals.

## **Environmental Conditions**

69. By 12 months from the Effective Date hereof, CVH shall continue to implement its system to regularly review all units and areas of the hospital to which individuals being served have access to, in order to identify any potential environmental safety hazards and to develop and implement a plan to remedy any identified issues, consistent with generally accepted professional standards of care. Potential suicide hazards shall be identified and prioritized for corrective action. Interim safety measures shall be instituted until corrective measures are taken. Furthermore, CVH shall review and revise as indicated, policies and procedures consistent with generally accepted professional standards of care to ensure appropriate screening for non-permissible items.

## **XI. SUICIDE PREVENTION**

70. The State shall take reasonable measures to assure that all aspects of its suicide prevention policy are implemented. "Suicide Precautions" means any level of watch, observation or measures to prevent self-harm.
71. Timely suicide risk assessments, using reliable assessment instruments, shall be conducted at CVH:
- A. for all patients exhibiting behavior that may indicate suicidal ideation and who are not already on suicide precautions, and
  - B. when determining whether to place a patient on suicide precautions or change the level of suicide precautions. Suicide risks assessment shall be conducted by a licensed mental health professional. Patients shall not be removed from suicide precautions by anyone other than a licensed mental health professional.
72. Patients who demonstrate suicidal ideation or attempt self-harm shall receive timely and appropriate mental health care by qualified mental health professionals. This care shall include helping patients develop skills to reduce their suicidal ideations or behaviors, and providing patients removed from suicide precautions with adequate follow-up treatment.
73. The State shall assess newly-arrived patients, and other patients at heightened risk of self-harm for the need for an increased level of supervision to maintain their safety.
74. The State shall continue to take reasonable measures to assure that all housing for patients at heightened risk of self-harm, including restraint rooms, seclusion rooms, and housing for patients on suicide precautions, is free of

identifiable hazards that would allow patients to hang themselves or commit other acts of self-harm.

75. CVH patients on suicide precautions shall not be restricted in their access to programs and services more than safety and security needs dictate.
76. The following information shall be thoroughly and correctly documented, and provided to all staff at CVH who need to know such information:
  - A. the times patients are placed on and removed from precautions;
  - B. the levels of precautions on which patients are maintained;
  - C. the housing location of patients on precautions;
  - D. the conditions of the precautions; and
  - E. the times and circumstances of all observations by staff monitoring the patients.
77. CVH staff shall continue to have immediate access to appropriate equipment to intervene in the event of an attempted suicide by hanging.
78. Appropriate staff shall continue to review all completed suicides and serious suicide attempts for policy and training implications.
79. All CVH staff shall attend annual training on suicide prevention.

## **XII. TERMS AND CONDITIONS**

80. The State represents that it will periodically refine and revise the policies and/or procedures outlined in this Agreement to ensure compliance with the letter and intent of this Agreement. Upon request, the Designated Consultant shall be provided with copies and an opportunity to provide substantive comment upon any policies and/or protocols revised pursuant to this Agreement. The Designated Consultant shall provide comments on revisions to policies and procedures to the State no later than within 30 business days following receipt of the draft policies or procedures.
81. The State represents that it has educated, or will educate, all employees at CVH with respect to the policies and/or procedures outlined in this Agreement.
82. The State shall maintain records to document its compliance with all terms and conditions of this Agreement. The State shall also maintain any and all records required by, or developed pursuant to, this Agreement.

83. Until this Agreement terminates, the United States shall have unrestricted access to, and shall, upon request, receive copies of any documents, patient records, and information relating to the implementation of this Agreement, except where covered by attorney work product protections, or attorney-client privilege. The United States' personnel and consultants shall be deemed "qualified personnel" for the purpose of conducting program evaluations or audits of CVH pursuant to 42 U.S.C. § 290dd-2 (b) (2) (B) and 42 C.F.R. § 2.53 (a) (2). CVH shall provide any requested non-privileged documents, records, and information to the United States as soon as possible, but no later than within 30 business days of the request.
84. The United States shall have reasonable access to all of CVH's buildings and facilities; staff and residents, including private interviews with staff with the consent of staff and permission of the State, and where clinically appropriate, and with the consent of the residents, private interviews with residents; and resident records, documentation, and information relating to the issues addressed in this Agreement, except where covered by attorney work product protections, or attorney-client privilege. CVH shall make all employees available so that they may choose to cooperate fully with the United States. The United States agrees to provide CVH with reasonable notice of any visit or inspection, although the United States and CVH agree that no notice shall be required in an emergency situation where the life, immediate health, or immediate safety of resident(s) is at issue. Nothing in this Agreement shall abridge the whistleblower rights of State employees or contractors under law.
85. The parties agree to the appointment of Nirbhay N. Singh, Ph.D. to review the State's implementation of this Agreement (the "Designated Consultant"). The Designated Consultant shall have full authority to independently assess, review, and report semi-annually on the State's implementation of and compliance with the provisions of this Agreement. The Designated Consultant may provide the State with technical assistance upon request. All reasonable costs and expenses of the Designated Consultant, as set forth in the Proposed 12-month Budget for CVH Preliminary Draft Proposal attached hereto as Exhibit A, shall be borne by the State.
86. The overall duties of the Designated Consultant shall be to observe, review, report findings, and make recommendations to the parties with regard to the implementation of the Agreement. The Designated Consultant shall regularly review the services provided to the residents at CVH to determine the State's implementation of, and compliance with, this Agreement. The Designated Consultant shall give the State reasonable notice prior to all visits. The State shall develop a project management plan that will be used to guide the work to be performed by the Designated Consultant and will facilitate the State's self-assessment of its progress in achieving substantial compliance with the provisions of this Agreement in a timely manner.

87. Every six months, the Designated Consultant shall provide the State and the United States with a written report regarding the State's implementation efforts and its compliance with the terms of this Agreement. The State will take timely action to remedy any deficiencies cited in the report.
88. If CVH closes and residents are moved to another facility or facilities, the United States reserves the right to evaluate the appropriateness of such placement. If the State contracts for any of the services to be delivered at CVH which are covered under this Agreement, the Agreement shall be fully applicable to, and binding upon, any contracted services.
89. If the United States maintains that the State has failed to carry out any requirement of this Agreement, the United States shall notify the State of any instance(s) in which it maintains that the State has failed to carry out the requirements of this Agreement.
90. With the exception of conditions or practices that pose an immediate and serious threat to the life, health, or safety of CVH patient(s), the State shall take substantial steps within 90 days of notice of non-compliance. The State shall correct non-compliance with any requirement of this Agreement within a reasonable time. During this period, the United States and the State shall coordinate and discuss areas of disagreement and attempt to resolve outstanding differences. If the United States and the State fail to reach an agreement, the United States is not limited in any fashion in pursuing its law enforcement obligations without further notice, including any adverse litigation against the State and/or seeking appropriate enforcement of any provision of this Agreement.
91. The State shall notify the United States immediately upon the unanticipated death of any resident and shall forward to the United States copies of any completed incident reports related to unanticipated death, autopsies and/or death summaries of residents, as well as all final reports of investigations that involve residents' deaths.
92. If, at any time, any party to this Agreement desires to modify it for any reason, that party will notify the other party in writing of the proposed modification and the reasons therefore. No modification will occur unless there is written agreement by the United States and the State.
93. This Agreement will terminate four years after its Effective Date. If the parties agree that the State is in substantial compliance with each of the provisions earlier than the termination date specified above, and has maintained substantial compliance for at least one year, then the Agreement may terminate at an earlier date. The burden will be on the State and CVH officials to demonstrate such substantial compliance.

Dated this \_\_\_\_20th\_\_\_\_ day of \_\_\_\_January\_\_\_\_, 2009.

AGREED TO BY THE UNDERSIGNED:

FOR THE UNITED STATES:

*/s/ Grace Chung Becker*

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GRACE CHUNG BECKER  
Acting Assistant Attorney General  
Civil Rights Division

*/s/ Shanetta Y. Cutlar*

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SHANETTA Y. CUTLAR  
Chief  
Special Litigation Section

*/s/ Judy Preston*

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JUDY PRESTON  
Deputy Chief  
Special Litigation Section

*/s/ Kerry Krentler Dean*

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950 Pennsylvania Ave, NW  
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(202) 514-1841  
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FOR THE STATE:

*/s/ Thomas A. Kirk, Jr.*

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Thomas A. Kirk, Jr., Ph.D.  
Commissioner  
Connecticut Department of Mental Health  
and Addiction Services  
410 Capitol Avenue  
P.O. Box 341431  
Hartford, CT 06134

*/s/ Thomas J. Ring*

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Ex. A

**PROPOSED 12-month BUDGET for CVH PRELIMINARY DRAFT PROPOSAL**

	FTE Days	Rate/day	Rate/yr	Trips/Yr	Travel/trip	Travel Cost
Court Monitor: on-site and off-site evaluation						
Psychiatry Expert (10 days on site; 10 days report prep)	64	\$2,500.00	\$160,000.00	4	\$1,500.00	\$6,000.00
Psychology Expert (10 days on site; 10 days report prep)	20	\$2,000.00	\$40,000.00	2	\$1,500.00	\$3,000.00
Active Treatment Expert (14 days on site; 10 days report prep)	20	\$1,500.00	\$30,000.00	2	\$1,500.00	\$3,000.00
Administrative & Clerical Assistant	24	\$1,500.00	\$36,000.00	4	\$1,500.00	\$6,000.00
Office Supplies, Computer hardware/software, Postage, Telephone, etc	60	\$500.00	\$30,000.00			\$18,000.00
<b>SUBTOTAL for Consultation and expenses</b>			<b>\$316,000.00</b>			
<b>SUBTOTAL for Travel Expenses</b>			<b>\$18,000.00</b>			
Administration of Contract (10% of costs [\$367,400.00])			\$33,400.00			
<b>TOTAL</b>			<b>\$367,400.00</b>			
Year 1			\$367,400.00			
Year 2			\$367,400.00			
Year 3			\$367,400.00			
Year 4			\$367,400.00			
			<b>\$1,469,600.00</b>			

The Monitor reserves the right to make internal adjustments to the budget within the total amount specified, as deemed necessary. The contract will be with Woodlake Institute for Human Services, 7401 Sparkleberry Lane, Chesterfield, VA 23832-8000