

**FIRST AMENDMENT TO AGREEMENT  
FOR BEHAVIORAL HEALTH SERVICES  
TRILLIUM FAMILY SERVICES**

THIS FIRST AMENDMENT TO AGREEMENT (“Amendment #1”) is made effective January 1, 2019 between Yamhill County, a political subdivision of the State of Oregon acting by and through its Board of Commissioners and its Health and Human Services Department, Behavioral Health Programs (“County”) and Trillium Family Services, Inc. (“Contractor”), an Oregon nonprofit corporation, 3415 SE Powell Blvd. Portland, OR 97202.

**RECITALS:**

A. County and Contractor are parties to that certain agreement dated as of July 1, 2016 (the “Underlying Agreement”), pursuant to which Contractor provides Trillium Family Services. The Underlying Agreement is memorialized in Yamhill County records as Board Order 16-513.

B. County and Contractor now desire to further amend the Underlying Agreement upon the terms and conditions as more particularly set forth herein below.

C. Capitalized terms not defined herein shall have the meanings attributed to such terms in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein below and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, County and Contractor, intending legally to be bound, hereby agree as follows:

1. “Recitals” of the Underlying Agreement is hereby mended to the following:

“2. Contractor is qualified to perform the duties required by County and imposed by this Agreement. County and Contractor desire to enter into this Agreement and County is authorized to enter into this Agreement under Oregon Revised Statutes (ORS) 203.010 (3).”

2. The balance of “Recitals” of the Underlying Agreement remains unchanged.

3. “Agreement” of the Underlying Agreement is hereby mended to the following:

“NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein below and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto, County and Contractor, intending legally to be bound, hereby agree as follows:”

4. The balance of “Agreement” of the Underlying Agreement remains unchanged.
5. Section 2 “Contractor’s Services” of the Underlying Agreement is hereby amended to include the following:

“In the event issues/challenges arise between the parties regarding any element of service (i.e. Access to care, Authorization, Care coordination, Care Provision, Discharge from services, etc), direct, solution focused communication between department heads involved is encouraged.

In the event this is proving ineffective, inefficient, or the individuals are not available, an individual from both Trillium Family Services and Yamhill CCO has been identified to act as a point person for facilitating resolution:

Trillium Family Services:  
Jessie Eagan, Senior Vice President of Operations, 503-813-7730

Yamhill CCO:  
Utilization Management Supervisor, 503-474-6884, bhauthorizations@co.yamhill.or.us”
6. The balance of Section 2 of the Underlying Agreement remains unchanged.
7. Section 3 “Regulations and Duties; Compliance with Laws” of the Underlying Agreement is hereby amended to the following:
  - A. “County and Contractor shall comply with the rules and regulations of County, applicable state and federal regulations, executive orders and ordinances and all provisions of federal and state law relating to Contractor’s performance of Services under this Agreement as they may be adopted, amended or repealed from time to time, including but not limited to the following: (i) ORS Chapter 659A.142, 659A.145, 659A.400 to 659A.409 and all regulations and administrative rules established pursuant to those laws in the construction, remodeling, maintenance and operation of any structures and facilities and in the conduct of all programs, services and training associated with the delivery of Services under this Agreement; (ii) all state laws related to client rights, OAR 943-005-000 through 943-005-0070, prohibiting discrimination against Individuals with disabilities, including compliance with Section 1557 of the Patient Protection and Affordable Care Act of 2010 prohibiting discrimination in the delivery of services in health care programs or activities based on race, color, national origin, sex, sex stereotypes, gender identity, age or disability; (iii) Oregon Health Authority (OHA) rules pertaining to the provision of integrated and coordinated care and services, OAR Chapter 410, Division 141; (iv) all other OHA Rules in OAR Chapter 410; (v) rules in OAR Chapter 309 Divisions 012, 014, 015, 018, 019, 022, 032 and 040, pertaining to the provisions of mental health services; (vi) state law establishing requirements for Declaration for Mental Health Treatment in ORS 127.700 through 127.737; (viii) 42

CFR 438.6 and 42 CFR 438 E; (ix) ORS 279B.200 through 279B.270; (x) Article XI, Section 10, of the Oregon Constitution; (xi) all state laws requiring reporting of client abuse; and (xii) all other applicable requirements of State civil rights and rehabilitation statutes, rules and regulations. These laws, regulations, executive orders and ordinances are incorporated by reference herein to the extent that they are applicable to this Agreement and required by law to be so incorporated. Contractor agrees that Contractor has complied with the tax laws of the state of Oregon or a political subdivision of the state of Oregon, including ORS 305.620, 305.380(4) and ORS Chapters 316, 317 and 318.

B. All employers, including Contractor, that employ subject workers who provide services in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126."

8. Section 5 "Records; County Monitoring" of the Underlying Agreement is hereby mended to the following:

B. "Contractor agrees that the following shall be open for inspection by County, Yamhill CCO, OHA and Government Agencies or their agents, at any reasonable time during business hours: a) Services provided under this Agreement by Contractor; b) facilities used in conjunction with such Services; c) client records; d) Contractor's policies, procedures and performance data; e) information privacy and security records; f) financial records and other similar documents and Records of Contractor that pertain, or may pertain, to Services under this Agreement for the purpose of making audits, examinations, excerpts, copies and transcriptions. In addition Contractor shall permit authorized representatives of County and the Oregon Health Authority to perform site reviews of all services delivered by Contractor hereunder. Contractor agrees to retain and keep accessible all Records for a period of seven years, or such longer period as may be required by applicable law including the retention schedules set forth in OAR Chapters 410 and 166 or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement. Contractor shall, upon request and without charge, provide a suitable work area and copying capabilities to facilitate such a review or audit. This right also includes timely and reasonable access to Contractor's personnel and Subcontractors for the purpose of interview and discussion related to such documents. The rights of access in this section are not limited to the required retention period, but shall last as long as the records are retained."

9. The balance of Section 5 of the Underlying Agreement remains unchanged.

10. Section 7 "Termination; No Encumbrance or Expenditure after Notice of Termination" of the Underlying Agreement is hereby mended to the following:

B. "In addition, in the event County no longer receives funds adequate to enable it to continue this Agreement; if Contractor engages in any act that would subject either County or Contractor to criminal liability; upon dissolution of County or Contractor;

if Oregon statutes or federal laws, regulations or guidelines are modified, changed or interpreted by the Oregon Legislative Assembly, the federal government or a court in such a way that County no longer has the authority to meet its obligations under this Agreement; or upon any of the following: (i) the insolvency of the Contractor, (ii) the filing of a voluntary or involuntary petition by or on behalf of Contractor under federal bankruptcy law, (iii) upon a party entering into an agreement with creditors for the liquidation of its assets, or (iv) upon the appointment of a receiver or trustee to take charge of all the assets of Contractor, County will provide written notice of termination of this Agreement to Contractor. Upon issuance of notice, this Agreement is immediately terminated. However, any obligations existing at the time of termination will survive termination.”

11. The balance of Section 7 of the Underlying Agreement remains unchanged.

12. Section 12 “Indemnification” of the Underlying Agreement is hereby amended to include the following:

“In addition, if Contractor is not a unit of local government as defined in ORS 190.003, then Contractor shall indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents (“Indemnitee”) from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys’ fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Contractor or any of the officers, agents, employees or subcontractors of the Contractor (“Claims”). It is the specific intention of the parties that the Indemnitee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnitee, be indemnified by the Contractor from and against any and all Claims.”

13. The balance of Section 12 of the Underlying Agreement remains unchanged.

14. Section 13 “Insurance” of the Underlying Agreement is hereby amended to the following:

“B. Commercial General Liability Insurance (including contractual liability and completed operations coverage, and coverage for liability resulting from hazardous substances), on an occurrence basis, with not less than \$2,000,000 per occurrence for bodily injury and property damage liability, with an annual aggregate limit of \$3,000,000;”

“D. Commercial Automobile Liability Insurance, with a combined single limit, or the equivalent of not less than \$1,000,000 per occurrence, for bodily injury and property damage with respect to Contractor’s vehicles, whether owned, hired, or non-owned, assigned to, or used by Contractor in connection with the Services provided under this Agreement;”

15. Section 13 “Insurance” of the Underlying Agreement is hereby amended to include the following:

E. “Tail” Coverage. If any of the required insurance policies is on a “claims made” basis, such as professional liability insurance, Contractor shall maintain either “tail” coverage or continuous “claims made” liability coverage, provided the effective date of the continuous “claims made” coverage is on or before the effective date of this Agreement, for a minimum of 24 months following the later of : (i) the Contractor’s completion and County ’s acceptance of all Services required under this Agreement; or (ii) the expiration of all warranty periods provided under this Agreement. Notwithstanding the foregoing 24-month requirement, if the Contractor elects to maintain “tail” coverage and if the maximum time period “tail” coverage reasonably available in the marketplace is less than the 24-month period described above, then the Contractor may request and County may grant approval of the maximum “tail” coverage period reasonably available in the marketplace. If County approval is granted, the Contractor shall maintain “tail” coverage for the maximum time period that “tail” coverage is reasonably available in the marketplace.”

16. The balance of Section 13 of the Underlying Agreement remains unchanged.

17. Section 18 “Insurance” of the Underlying Agreement is hereby mended to the following:

“Contractor will comply with County’s Fraud, Waste and Abuse policy attached as Exhibit D and which is incorporated herein by this reference.”

18. Exhibit C “Rate Schedule” of the Underlying Agreement is hereby mended to the following:

“Contractor will be reimbursed per the following rate schedule for direct services rendered to Yamhill CCO authorized OHP eligible youth admitted to the following levels of care on or after January 1, 2019:

H0019 Residential Treatment (PRTS)	\$715	per diem
H2013 Sub-Acute Psychiatric Services	\$810	per diem
H0037 Psychiatric Day Treatment-Full Day	\$420	per diem
H2012 Psychiatric Day Treatment-Hourly	\$70	per hour
90887 Explanation of Results to Family or Others	\$113	per hour
Psychological Testing	\$114	per hour
96130 and 96131		
96136 and 96137		

H0019, H2013, and H0037 are all inclusive per diem rates including professional fees, psychological testing where indicated, and all psychiatric clinical services, but excluding medicines and/or physical healthcare. No payment will be made without authorization

from Yamhill County Utilization Management Program. If Yamhill CCO member has any third-party resource, that resource is primary to payment under this Agreement and shall be billed prior to billing under this Agreement. Contractor shall note any funds or denials received from third party resource on appropriate billing form and attach remittance advice from primary payer source to billing form.”

19. Exhibit D “Prevention/Detection of Fraud and Abuse” to be included:

- A. “Fraud and Abuse Policies: Contractor shall have Fraud and Abuse policies and procedures, and a mandatory compliance plan, in accordance with OAR 410-120-1510, 42 CFR 433.116, 42 CFR 438.214, 438.600 to 438.610, 438.808, 42 CFR 455.20, 455.104 through 455.106 and 42 CFR 1002.3, which enable the Contractor or its Subcontractors to prevent and detect Fraud and Abuse activities as such activities relate to the OHP. These policies, at a minimum, must include:
1. Administrative and management requirements for Contractor’s employees and Subcontractors of written standards of conduct and articulate Contractor’s commitment to comply with all applicable federal and State laws;
  2. Risk evaluation to monitor compliance in identified problem areas such as claims, Prior Authorization, service verification, utilization management and quality review;
  3. Member Grievance and Appeal resolution processes protecting the anonymity of complaints and to protect callers from retaliation;
  4. Contractor shall report to the Department of Health and Human Services Office of the Inspector General, any providers, identified during the credentialing process, who are on the excluded lists to include List of Excluded Individuals (LEIE) and Excluded Parties List System (EPLS) also known as SAM(System for Award Management).
  5. Participating Provider credentialing and contracting staff education including provisions addressing the non-employment of sanctioned individuals by Contractor and its Subcontractors;
  6. Corrective Action Plans to prevent potential Fraud and Abuse activities, including systems to respond promptly to allegations of improper or illegal activities and enforcement of appropriate disciplinary actions against employees or Subcontractors who have violated internal Fraud and Abuse policies or applicable statutes, regulations, federal or State health care requirements;
  7. Designation of a chief compliance officer who reports directly to the CEO and the governing body, and submitting that information annually to the OHA Contract Administrator and other appropriate bodies charged with the responsibility of operating and monitoring the Fraud and Abuse program;
  8. Effective lines of communication between OHA’s compliance office and Contractor’s employees;
  9. Participating Providers and staff education: effective education and training programs will be provided to the compliance officer and all affected employees and Subcontractors;

10. Education and training will be supported by enforcement of standards through well publicized disciplinary guidelines and provisions for internal monitoring and auditing; and
11. The establishment of a Regulatory Compliance Committee on the Board of Directors or senior management level charged with overseeing the Contractor's compliance program and its compliance with the requirements under this Agreement.

Contractor shall include in the employee handbook for the Contractor's employees and in written policies for its Subcontractors, a specific discussion of the applicable Fraud and Abuse Federal and State laws, the rights of employees to be protected as whistleblowers, and the Contractor's policies and procedures for detecting and preventing Fraud, waste and Abuse.

- B. Review of Fraud and Abuse Policies. Contractor shall review its Fraud and Abuse policies annually and submit a written copy to OHA Contract Administration Unit as follows:
  1. To the OHA Contract Administration Unit annually, no later than January 31st. Or attest to no changes since last submission using the Attestation form located on the CCO forms page.
  2. To the OHA Contract Administration Unit upon any significant changes, prior to formal adoption of the policy. OHA will notify Contractor within 30 days of the compliance status of the policy.
  3. To the OHA Contract Administration Unit anytime upon OHA request. OHA will notify Contractor within 30 days of the compliance status of the policy.
- C. Referral Policy. Contractor shall promptly refer all suspected cases of Fraud and Abuse, including Fraud, in accordance with 42 CFR 455.23, by its employees and Subcontractors to the Medicaid Fraud Control Unit (MFCU) and OHA/DHS Provider Audit Unit (PAU). Contractor may also refer cases of suspected Fraud and Abuse to the MFCU or to the OHA/DHS Provider Audit Unit prior to verification. Contractor shall notify OHA/DHS Provider Audit Unit of all referrals to MFCU. Contractor shall ensure Member handbook reflects information on how to report fraud, waste and abuse.
  1. If Contractor is made aware of a credible allegation of Fraud for which an investigation by MFCU is pending against a Provider, Contractor shall, upon notification of an investigation by MFCU, suspend payments to the Provider unless MFCU determines there is good cause not to suspend payments or to suspend payments in part. If the act does not meet the good cause criteria, the Contractor shall work with the MFCU and OHA/DHS to determine if any Participating Provider contract should be terminated.
  2. Fraud and Abuse Referral Characteristics of a Case that should be referred.
    - Examples of Fraud and Abuse within Contractor's network:
      - a) Providers who consistently demonstrate a pattern of intentionally reporting encounters or services that did not occur. A pattern would be evident in any case where 20% or more of sampled or audited

services are not supported by documentation in the Clinical Records. This would include any suspected case where it appears that the Provider knowingly or intentionally did not deliver the service or goods billed;

- b) Providers who consistently demonstrate a pattern of intentionally reporting overstated or up coded levels of service. A pattern would be evident by 20% or more of sampled or audited services that are billed at a higher-level procedure code than is documented in the Clinical Records;
- c) Any suspected case where the Provider intentionally or recklessly billed Contractor more than the usual charge to non-Medicaid recipients or other insurance programs;
- d) Any suspected case where the Provider purposefully altered, falsified, or destroyed Clinical Record documentation for the purpose of artificially inflating or obscuring his or her compliance rating or collecting Medicaid payments otherwise not due. This includes any deliberate misrepresentation or omission of fact that is material to the determination of benefits payable or services which are covered or should be rendered, including dates of service, charges or reimbursements from other sources, or the identity of the patient or Provider;
- e) Providers who intentionally or recklessly make false statements about the credentials of persons rendering care to Members;
- f) Primary care physicians who intentionally misrepresent medical information to justify referrals to other networks or out-of-network Providers when they are obligated to provide the care themselves;
- g) Providers who intentionally fail to render Medically Appropriate Covered Services that they are obligated to provide to Members under their Subcontracts with the Contractor and under OHP regulations;
- h) Providers who knowingly charge Members for services that are Covered Services or intentionally balance-bill a Member the difference between the total fee-for-service charge and Contractor's payment to the Provider, in violation of OHA rules;
- i) Any suspected case where the Provider intentionally submitted a claim for payment that already has been paid by OHA or Contractor, or upon which payment has been made by another source without the amount paid by the other source clearly entered on the claim form, and receipt of payment is known to the Provider; and
- j) Any case of theft, embezzlement or misappropriation of Title XIX or Title XXI program money.

Examples of Fraud and Abuse in the administration of the OHP program:

- a) Evidence of corruption in the Enrollment and Disenrollment process, including efforts of State employees or Contractors to skew

the risk of unhealthy patients toward or away from one of the Contractors; and

- b) Attempts by any individual, including employees and elected officials of the State, to solicit kickbacks or bribes, such as a bribe or kickback in connection with placing a Member into a carved out program, or for performing any service that the agent or employee is required to provide under the terms of his employment.

D. When to Report Fraud and Abuse

- 1. Contractor shall report to the MFCU an incident with any of the referral characteristics listed in Subsection c, above. Contractor shall report to the MFCU and OHA/DHS PAU any other incident found to have characteristics which indicate Fraud or Abuse which Contractor has verified. Contractor shall comply with all patient abuse reporting requirements and fully cooperate with the State for purposes of ORS 124.060 et seq., ORS 419B.010 et seq., ORS 430.735 et seq., et seq., ORS 441.630 et seq., and all applicable Administrative Rules. Contractor shall ensure that all Subcontractors comply with this provision.
- 2. Contractor must report the following to the Authority:
  - a) Number of complaints of Fraud and Abuse made to the OHA/DHS PAU or the Medicaid Fraud Unit that warrant preliminary investigation; and
  - b) For each matter that warrants investigation, the following:
    - i. Name, and Member ID number
    - ii. Source of complaint
    - iii. Type of Provider
    - iv. Nature of complaint
    - v. Approximate dollars involved
    - vi. Legal and administrative disposition of the case

E. How to Refer a Case of Fraud or Abuse by a Provider. The Department of Justice Medicaid Fraud Control Unit (MFCU) phone number is (971) 673-1880, address 1515 SW 5th Avenue, Suite 410, Portland, Oregon 97201, and fax is (971)-673- 1890. The OHA/DHS Provider Audit Unit phone number is (888) 372-8301, address is PO Box 14152, 3406 Cherry Ave NE, Salem, Oregon 97309-9965, and fax is (503) 378-2577.

F. Obligations to Assist the MFCU and OHA.

- 1. Contractor shall permit the MFCU or OHA/DHS PAU or both to inspect, evaluate, or audit books, records, documents, files, accounts, and facilities maintained by or on behalf of Contractor or by or on behalf of any Subcontractor, as required to investigate an incident of Fraud and Abuse.
- 2. Contractor shall cooperate, and requires its Subcontractors to cooperate, with the MFCU and OHA/DHS PAU investigator during any investigation of Fraud or Abuse.

3. In the event that Contractor reports suspected Fraud or Abuse, or learns of an MFCU or OHA/DHS PAU investigation, Contractor should not notify or otherwise advise its Subcontractors of the investigation. Doing so may compromise the investigation.
4. Contractor shall provide copies of reports or other documentation, including those requested from the Subcontractors regarding the suspected Fraud or Abuse at no cost to MFCU or OHA/DHS PAU during an investigation.

G. How to Refer a Case of Fraud or Abuse by a Member. Contractor, if made aware of suspected Fraud or Abuse by a Member (e.g. a Provider reporting Member Fraud and Abuse) shall report the incident to the OHA/DHS PAU. Contractor shall address suspected Member Fraud and Abuse reports to OHA/DHS Fraud Investigation P.O. Box 14150 Salem, Oregon 97309-5027, phone number 1-888-FRAUD01 (888-372-8301), facsimile number 503-373-1525 ATTN: HOTLINE”

20. Ratification. Except as otherwise expressly modified by the terms of this Amendment #1, the Underlying Agreement shall remain unchanged and continue in full force and effect. All terms, covenants and conditions of the Underlying Agreement not expressly modified herein are hereby confirmed and ratified and remain in full force and effect, and, as further amended hereby, constitute valid and binding obligations of Contractor enforceable according to the terms thereof.

21. Authority. County and Contractor and each of the persons executing this Amendment #1 on behalf of County and Contractor hereby covenants and warrants that: (i) such party has full right and authority to enter into this Amendment #1 and has taken all action required to authorize such party (and each person executing this Amendment #1 on behalf of such party) to enter into this Amendment #1, and (ii) the person signing on behalf of such party is authorized to do so on behalf of such entity.

22. Binding Effect. All of the covenants contained in this Amendment #1 shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives and permitted successors and assigns.

23. Counterparts. This Amendment #1 may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one and the same Amendment #1.

24. Recitals. The foregoing recitals are intended to be a material part of this Amendment #4 and are incorporated herein by this reference.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed on the date indicated by their duly authorized officials, this Amendment #1 in duplicate, each of which shall be deemed an original on the date executed by all parties.

DONE the last date set forth adjacent to the signatures of the parties below.

**TRILLIUM FAMILY SERVICES**

By: [Signature]  
(signature)  
Date: 04/17/2019

Jamie Vandergon  
(printed name)

President  
(title)

Tax ID No.: 93-0386966

**YAMHILL COUNTY, OREGON**

[Signature]  
~~MARY STARRETT~~, Chair Richard L. "Rick" Olson  
Board of Commissioners  
Date: \_\_\_\_\_

[Signature]  
SILAS HALLORAN-STEINER, Director  
Department of Health & Human Services  
Date: 4/19/19

FORM APPROVED BY:  
[Signature]  
CHRISTIAN BOENISCH  
County Counsel  
Date: 4/26/19