

INTERLOCAL AGREEMENT
(Forensic Nursing Services)

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Agreement is made and entered into by and between the Harris County Hospital District d/b/a Harris Health System (“Harris Health”), a political subdivision of the State of Texas, and the Fort Bend County Commissioners Court, a political subdivision of the State of Texas (“FBC”). Harris Health and FBC will be referred to individually as the “Party” and collectively as the “Parties.”

RECITALS:

FBC desires to obtain the professional services of Harris Health forensic nurses for purposes of conducting medical-forensic examinations for children who are potential victims of sexual assault to gather physical evidence and documentation of physical trauma of a child believed to be the victim of a sexual assault pursuant to TEX. CODE OF CRIM. PROC. ART. 56.06.

Harris Health represents that it has qualified individuals who possess the required licenses, permits, education, experience or rights to provide such services to FBC.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS:

**I.
QUALIFICATIONS**

The forensic nurse shall have, at a minimum, at least five (5) years of nursing experience; one (1) year of forensic nursing experience; current licensure or certification as a registered nurse issued by the State of Texas; attended and completed all requirements for the Sexual Assault Nurse Examiners (SANE) adult/adolescent training and pediatric training. The forensic nurse shall have completed a minimum of twenty (20) pediatric medical-forensic examinations prior to seeing a child for services provided pursuant to this Agreement.

**II.
SCOPE OF SERVICES**

- A. Upon request by FBC, by and through the Fort Bend County Sheriff’s Office, Harris Health shall provide a forensic nurse to personally conduct medical-forensic examinations for children who are potential victims of child abuse (the “Services”). Completion of laboratory studies will be at the discretion of the physician conducting the medical screening and/or the forensic nurse examiner as authorized by Harris Health’s policies and procedures.

B. Duties of Harris Health Forensic Nursing Services:

1. Accessibility.

- a. Forensic Nursing Services will conduct medical-forensic examinations on a scheduled basis at a Harris Health facility or at AccessHealth Richmond Center.
- b. Date, time and location will be determined by Forensic Nursing Services. When circumstances are such that the appointment needs to be cancelled or changed, the forensic nurse will provide adequate written notification to the applicable agency that scheduled the appointment.
- c. The forensic nursing department staff will be accessible to law enforcement and the Fort Bend County District Attorney's Office by telephone or in person to provide consultation regarding the Services provided.

2. Medical-Forensic Examination.

- a. The medical-forensic examination will consist of the following:
 - i. Obtaining consent for:
 - A. Forensic examination;
 - B. Photographs; and
 - C. Release of information to law enforcement, the Fort Bend County District Attorney's Office, and/or the Fort Bend County Attorney's Office;
 - ii. History of the event;
 - iii. A physical assessment; and
 - iv. Evidence collection
 - A. Nongenital and anogenital photographs;
 - B. Laboratory studies deemed appropriate (*i.e.*, testing for sexually transmitting infections); and
 - C. Sexual assault evidence collection kit, as needed.
- b. Forensic Nursing Services will schedule a non-acute medical-forensic examination after collaborating with staff of any of the following:
 - i. Investigating law enforcement agency;
 - ii. Child Advocates of Fort Bend staff;
 - iii. Fort Bend County District Attorney's Office; or
 - iv. Fort Bend County Attorney's Office.
- c. Referrals may be made through Child Advocates of Fort Bend at the request of the Fort Bend County Sheriff's Office, the Fort Bend County District Attorney's Office, or the Fort Bend County Attorney's Office. The Fort Bend County Sheriff's Office, the Fort Bend County District Attorney's Office, the Fort Bend County Attorney's Office or Child

Advocates of Fort Bend, as applicable, will contact Harris Health Forensic Nursing Services to schedule the appointment.

- d. Each child who is scheduled for a medical-forensic examination will be offered a medical screening examination that will be conducted by an appropriate healthcare professional. The parties understand and agree that for children seen at Access Health, Harris Health will not be responsible for providing the medical screening examination.
- e. The medical screening examination will be performed prior to the medical-forensic examination. Any emergent medical needs will require discharge and transfer to the nearest hospital for stabilization. Stabilization will occur prior to any medical-forensic examination.
- f. Upon completion of the medical-forensic examination, each child will be discharged and referred to the child's primary care physician for any follow-up needs. Completion of a medical-forensic examination alone does not establish the child as a Harris Health patient.
- g. FBC, by and through the Fort Bend County Sheriff's Office, will arrange for assuming care, custody and control of the evidence collected during the medical-forensic examination in a timely manner.

3. Records Management.

- a. The forensic nurse will obtain appropriate consent for release of information at the beginning of the medical-forensic examination using Harris Health's Authorization for Use, Request and Disclosure of Protected Health Information form.
- b. Upon written request and pursuant to written authorization, the medical-forensic examination record will be released to FBC after the medical director review is completed.
- c. Medical-forensic examination records will consist of the following:
 - i. Forensic nursing services chart;
 - ii. Body diagrams; and
 - iii. Photographs obtained during the examination, if any.
- d. The completed and signed Authorization for Use, Request and Disclosure of Protected Health Information form will be forwarded to Harris Health's Health Information Management ("HIM") department for release of any records medical-forensic examination records. If available, the HIM department will release medical screening examination records as requested by the law enforcement agency, Fort Bend County Attorney's Office, Fort Bend Department of Family and Protective Services, or Fort Bend County District Attorney's Office pursuant to a valid completed and signed Authorization for Use, Request and Disclosure of Protected Health

Information form specifically authorizing disclosure of the medical records to the aforementioned agencies.

- e. Records will be encrypted and released to the investigating law enforcement agency and/or Fort Bend County District Attorney's Office in accordance with Federal and State of Texas law and Harris Health policies and procedures and pursuant to a valid completed and signed Authorization for Use, Request and Disclosure of Protected Health Information form specifically authorizing disclosure of the medical records to the aforementioned agencies and will include the case number assigned by the Fort Bend County Sheriff's Office, provided the case number has been provided to Harris Health.
 - f. Medical-forensic examination records will be maintained in accordance with Federal and State of Texas law and Harris Health policies and procedures.
4. Case Review Team. Harris Health Forensic Nursing Services staff will participate in the Child Advocates of Fort Bend Case Review Team and provide any medical information needed pursuant to a completed and signed Harris Health Authorization for Use, Request and Disclosure of Protected Health Information form.
- C. All equipment and supplies necessary in the provision of the Services shall be supplied by Harris Health.

III. TERM DATES

This Agreement shall be effective on the later date it is executed by the Parties ("Effective Date") and shall continue thereafter for a term of one (1) year ("Initial Term"), unless sooner terminated by mutual consent of the Parties or in accordance with Article VII below. Thereafter, this Agreement shall automatically renew under the same terms and conditions for four (4) additional one (1) year terms (each, a "Renewal Term") unless either Party notifies the other Party in writing of its intent not to renew this Agreement not less than thirty (30) days prior to the expiration of any one (1) year term. The Initial Term and any Renewal Term shall be referred to collectively as the "Term." Any modifications, amendments and/or termination will require approval by Harris Health's Board of Trustees and the Harris County Commissioners' Court.

IV. COMPENSATION, PAYMENT METHOD, AND LIMITATIONS

- A. For and in consideration of the Services rendered by Harris Health hereunder, FBC agrees to pay Harris Health the State allowable reimbursable amount per exam, which is intended to compensate Harris Health for all Services related to the exam.

- B. To receive payment, Harris Health shall submit invoices to FBC, itemized as hereafter specified, for Services rendered during the preceding calendar month. FBC shall be invoiced as Services are provided. Invoices shall contain the name of the child, the date(s) Services were provided, and a brief description of Services. Invoices will be sent to:

Fort Bend County Sheriff's Office
Attn: CID
1410 Williams Way
Richmond, TX 77469

FBC shall pay invoices within thirty (30) days of receipt of an invoice. Payments shall be submitted to the Harris Health address provided on the invoice.

- C. Neither Party may assign, delegate, or subcontract this Agreement or the rights and obligations under the Agreement without the prior written consent of the other Parties.
- D. The Parties must comply with all applicable laws, regulations, rules, and standards of the United States, the State of Texas, Harris Health, and any municipality in which Services are performed, including, without limitation, those relating to medical-forensic examinations.

V. INDEPENDENT CONTRACTOR

Harris Health will perform the Services included in this Agreement as an independent contractor. It is expressly understood that the forensic nurses are not employees of FBC. FBC will not direct or supervise as to the manner, means, or method in which Harris Health or its forensic nursing staff perform services hereunder. FBC will have no right or obligation to control the details of the Services to be performed hereunder. None of the provisions hereof shall be construed to create any relationship between the Parties other than that of independent entities contracting with each other solely for the purpose of effecting the provisions of this Agreement.

VI. COMPLIANCE REQUIREMENTS

- A. Harris Health certifies by execution of this Agreement that neither it nor its personnel providing services hereunder is excluded, debarred, or suspended from any federal or state program, including Medicaid and Medicare. FBC certifies by execution of this Agreement that FBC, nor its officers, directors, Board of Managers, or employees is excluded, debarred, or suspended from any federal or state program, including Medicaid and Medicare.
- B. The Parties understand and agree that no Party will make any referrals in violation of state or federal law, specifically including the anti-kickback statutes, section 1128B of the Social Security Act, 42 U.S.C. § 1320a-7b and 42 U.S.C. § 1395nn, and any provision to the contrary is void *ab initio*.

**IX.
ENTIRE AGREEMENT; AMENDMENTS**

This instrument contains the entire agreement between the Parties hereto relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning the Agreement shall be of no force or effect except a subsequent modification in writing signed by the Parties. This Agreement may not be amended or modified in any manner nor may any change be made in the scope or nature of the services except by a written document signed by authorized representatives of all Parties that expressly amends this Agreement.

**X.
GOVERNING LAW AND VENUE**

This Agreement is governed in all respects by the laws and Constitution of the State of Texas. Exclusive venue is in Harris County, Texas. Each Party's liability for the wrongful acts, omissions, or negligence of its employees is governed by the Texas Tort Claims Act, TEX. CIV. PRAC. & REM. CODE ANN. *et seq.*, as amended. The Parties expressly agree that no provision of this Agreement extends any Party's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas. The Parties understand and agree that under the laws of the State of Texas, no Party may indemnify any other Party or enter into hold harmless agreements.

**XI.
PUBLIC INFORMATION**

The Parties expressly acknowledges that each Party is subject to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and notwithstanding any provision in this Agreement to the contrary, each Party will make any information related to this Agreement or otherwise available to third parties in accordance with the Public Information Act.

**XII.
SOVEREIGN IMMUNITY**

By entering into this Agreement, it is recognized that neither Party is waiving any sovereign or governmental immunity from suit or liability that may be available under applicable state laws.

**XIII.
WAIVER OF BREACH**

Waiver of a breach or violation of any provision of the Agreement is not a waiver of any subsequent breach.

**XIV.
NO PERSONAL LIABILITY**

Nothing in this Agreement may be construed as creating any personal liability on the part of any officer, director, employee, or agent of any public body that may be a party to this Agreement. Furthermore, by entering into this Agreement, neither Party waives or forfeits any immunity from liability or suit that either Party may have by operation of law.

XV.
ACCESS TO BOOKS AND RECORDS OF CONTRACTOR

Harris Health agrees to keep a separate record of all funds received and disbursed under this Agreement and agrees to allow the Comptroller General of the United States, the County Auditor, and their duly authorized representatives, access to contracts, books, documents, and records necessary to verify the nature and extent of the costs of the Services provided by Harris Health. Harris Health agrees to allow such access until the expiration of four (4) years after the Services are furnished under the contract or subcontract or until the completion of any audit or audit period, whichever is later. Such access will be provided in accordance with the regulations of the Centers for Medicare and Medicaid Services ("CMS") and 42 CFR 420.302, as amended. Harris Health agrees to allow similar access to books, records, and documents related to contracts between Harris Health and any FBC as defined by the regulations of CMS. No records shall be destroyed that are required to be kept by federal, state, or county statute, law, rule, ordinance, or order, or by application of conditions of Medicaid or Medicare provider agreements or by other applicable agreements.

XVI.
LIABILITY OF PARTIES

Each Party's liability for the wrongful acts, omissions, or negligence of its employees is limited by the Texas Tort Claims Act, TEX. CIV. PRAC. & REM. CODE ANN. §§ 101.001 *et seq.*, as amended. The Parties agree that no provision of this Agreement extends any Party's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas.

IN WITNESS WHEREOF, this instrument has been executed by a duly authorized representative of the Fort Bend County Commissioners Court and the Harris County Hospital District d/b/a Harris Health System.

**HARRIS COUNTY HOSPITAL DISTRICT
D/B/A HARRIS HEALTH SYSTEM**

**FORT BEND COUNTY
COMMISSIONERS COURT**

By: _____
George V. Masi
President and CEO
Date Signed: _____

By: _____
Name: _____
Title: _____
Date signed: _____

APPROVED AS TO LEGAL FORM ONLY:

**VINCE RYAN
HARRIS COUNTY ATTORNEY**

By: _____
L. Renée Lowe
Assistant County Attorney
C.A. File No. 18HSP0703
Date Signed: _____

ORDER OF COMMISSIONERS COURT

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on _____, 2019 with all members present except _____.

A quorum was present. Among other business, the following was transacted:

A QUORUM WAS PRESENT WHEN AMONG OTHER BUSINESS, THE FOLLOWING WAS TRANSACTED: ORDER APPROVING INTERLOCAL AGREEMENT BETWEEN THE HARRIS COUNTY HOSPITAL DISTRICT D/B/A HARRIS HEALTH SYSTEM, A POLITICAL SUBDIVISION OF THE STATE OF TEXAS, AND THE FORT BEND COUNTY COMMISSIONERS COURT, A POLITICAL SUBDIVISION OF THE STATE OF TEXAS, FOR THE PURPOSE OF PROVIDING FORENSIC NURSING SERVICES TO CHILDREN WHO ARE POTENTIAL VICTIMS OF CHILD ABUSE.

Commissioner _____ introduced an Order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the Order. The motion, carrying with it the adoption of the Order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Lina Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Rodney Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Adrian Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Steve Radack	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. R. Jack Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The Order adopted follows:

IT IS ORDERED that the Commissioners Court of Harris County approves the attached Interlocal Agreement between the Harris County Hospital District d/b/a Harris Health System, a political subdivision of the State of Texas, and the Fort Bend County Commissioners Court, a political subdivision of the State of Texas, for forensic nursing services to children who are potential victims of child abuse. The parties have a joint interest in providing quality medical and hospital care to Harris County residents, which is a legitimate public purpose.