

**COMMONWEALTH OF KENTUCKY
HARDIN COUNTY FISCAL COURT**

RESOLUTION NO. 2005-066

The Hardin County Fiscal Court, Commonwealth of Kentucky, hereby adopts the following Resolution on this the 28th day of June, 2005.

WHEREAS, Hardin County owns and operates the Hardin County Detention Center ("Detention Center") by and through the Hardin County Jailer, Louis Lawson; and

WHEREAS, the Detention Center requires pharmacy services in accordance with applicable local, state and federal laws and regulations for the benefit of the inmates at the facility; and

WHEREAS, Hardin County and the Hardin County Jailer through its elected representatives, staff and consultant has been reviewing and discussing the Detention Center's need for pharmacy services with representatives of Deom Home Care Pharmacy located at 1360 Rogersville Road, Radcliff, Kentucky 40160 ("Pharmacy"); and

WHEREAS, Hardin County and Pharmacy have now substantially completed the negotiation of a pharmacy services agreement (a copy of which is attached hereto and made a part hereof).

NOW, THEREFORE, BE IT RESOLVED, by the Hardin County Fiscal Court as follows:

1. The Pharmacy Services Agreement attached hereto is hereby approved as to substantial form and essential elements.
2. The Hardin County Judge/Executive, Harry L. Berry, is hereby authorized, directed and delegated the authority to negotiate and execute on behalf of the

Hardin County Fiscal Court a final Pharmacy Services Agreement for the benefit of the Detention Center that is substantial similar and consistent with the attached agreement upon consultation, advise and concurrence of the Hardin County Jailer, Louis Lawson as to substantive form and upon consultation, advise and concurrence of the Hardin County Attorney, Ken M. Howard, as to legal form.

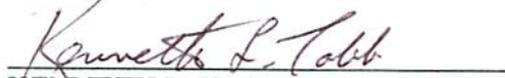
3. The Hardin County Judge/Executive, Harry L. Berry; Hardin County Project Consultant, Tim Davis & Associates, Inc.; Hardin County Jailer, Louis Lawson; and Hardin County Attorney, Ken M. Howard, or their designees, are hereby authorized and directed to perform any and all acts reasonably necessary to effectuate the purpose and intent of this Resolution.

Adopted by the Hardin County Fiscal Court on the date hereinabove stated.



HARRY L. BERRY
HARDIN COUNTY JUDGE/EXECUTIVE

Attested by:



KENNETH L. TABB
HARDIN COUNTY COURT CLERK

F:\05-022\JAILPHARMACYCONTRACT

PHARMACY SERVICES AGREEMENT

THIS PHARMACY SERVICES AGREEMENT ("Agreement"), dated as of July 1, 2005 is by and between Deom Homecare Pharmacy, located at 1360 Rogersville Road Radcliff, KY 40160 ("PHARMACY"), and Hardin County Detention Center, located at Elizabethtown, KY ("FACILITY").

RECITALS

- A. The FACILITY is engaged in the operation of a Detention Center, for which it requires pharmacy services in accordance with applicable local, state and federal laws and regulations.
- B. The PHARMACY is qualified, licensed and capable of providing drugs (prescription and non-prescription), biologicals, nursing, intravenous products, supplies and services, respiratory supplies, enteral and parenteral nutritional products, and pharmaceutical supplies (collectively, "Products"), as required by the occupants of the FACILITY upon order or prescription of physician and in accordance with accepted professional principles and applicable local, state and federal laws and regulations.
- C. The FACILITY desires to utilize the PHARMACY's services, and the PHARMACY is willing to furnish such services as provided herein.

AGREEMENT

In consideration of the mutual covenants contained herein and for the reliance of the parties hereto, the FACILITY and the PHARMACY agree as follows:

1. RESPONSIBILITIES OF THE PHARMACY

1.1 Services: For the benefit of the FACILITY, the PHARMACY will:

- (a) Supply Products in compliance with applicable local, state and federal laws and regulations.
- (b) Render all services in accordance with any applicable requirements of local, state and federal laws and regulations and the Standards and Guidelines Manuals. PHARMACY agrees to notify FACILITY in writing of any and all policy and procedure adjustments that may impact FACILITY's business thirty (30) days prior to planned implementation. The FACILITY maintains the right to disallow any PHARMACY policy or procedure that causes adverse impact on FACILITY's ability to conduct business;
- (c) Label all Products in accordance with local, state and federal laws, rules and regulations;
- (d) Provide Products in accordance with the Delivery Schedule outlined in Schedule 1.2;
- (e) Maintain and monitor accurate drug profiles, drug cost reports, and drug utilization reports consistent with the information provided to the PHARMACY,

on each FACILITY occupant served by PHARMACY, and provide FACILITY with monthly recommendations for cost-effective pharmaceutical interventions, within local, state and federal parameters;

- (f) Provide, maintain and replenish, in a prompt and timely manner, an emergency drug supply as required. Any emergency kits provided would be the property of the PHARMACY as prescribed by law;
- (g) Ensure that a representative from the PHARMACY is available for attendance at the FACILITY's Quality Assurance Committee, the Infection Control Committee, and any other committee meetings, with reasonable prior notice and during regularly scheduled visits to the FACILITY;
- (h) Conduct, when requested by the FACILITY Administrator, and as mutually agreed to by the PHARMACY and the FACILITY, programs for inservice education for subjects related to the pharmaceutical services rendered; said inservice education to be conducted by the pharmacist or his/her designee, during regularly scheduled visits to the FACILITY;
- (i) Triage all prescription requests by the FACILITY, and make therapeutic interchange recommendations in accordance with the Pharmacy Therapeutic Guidelines.
- (j) Provide generic (multi-source) medication for applicable prescriptions in accordance with PHARMACY's Therapeutic Guidelines.
- (k) Additionally, PHARMACY will require written authorization from a physician for all FACILITY requests specific to IV Nursing Services, IV Supplies, and House Stock medications in accordance with PHARMACY's/FACILITY's Standards;

1.2 Delivery Schedule: The PHARMACY agrees to deliver Products to the FACILITY daily, five (5) days per week, with additional deliveries if emergencies arise as mutually agreed by the FACILITY and PHARMACY at no additional cost to the FACILITY. In the event the PHARMACY supplier or manufacturer is unable to provide the requested item, PHARMACY will make arrangements with another pharmacy supplier in a community local to the FACILITY to provide such service to the FACILITY. Charges for said services and subsequent payments will be made by PHARMACY.

1.3 Emergency Drug Service: The PHARMACY will provide any Products needed on an emergency basis in a prompt and timely manner at no additional cost to the FACILITY. Additionally, the PHARMACY will furnish and replenish, on a regular basis, not less than every month, an emergency and interim medication supply, the composition of which will comply with federal and state regulations, and be mutually agreed upon by both parties.

1.4 Physician Order Sheets, Medication Administration Records and Treatment Records: The PHARMACY will promptly provide computerized Physician Order Sheets (POSS), Treatment Administration Records (TARs) and Medication Administration Records (MARs), and recommended changes of the aforementioned records, upon

request. The PHARMACY agrees to assist FACILITY to keep POS, TARS, and MARS compliant with mutually agreed upon policy and procedure.

2. RESPONSIBILITIES OF THE FACILITY

- 2.1 Operational:** The PHARMACY, with the FACILITY's assistance, will be responsible for the implementation of the PHARMACY's/FACILITY's Standards and Guidelines
- 2.2 Ordering:** The FACILITY will order exclusively from the PHARMACY all prescription drugs required for individual occupants. *This exclusive ordering shall not include nonprescription drugs or medical supplies provided to the FACILITY.*

3. BILLING

- 3.1 Billing:** The PHARMACY will perform billing for products provided to the facility and facility occupants.
- 3.2 Invoices:** The PHARMACY will submit a monthly invoice to Tim Davis and Associates for goods and services provided under this Agreement to occupants or to the FACILITY itself.

4. TERM AND TERMINATION

- 4.1 Initial and Renewal Terms:** The term of this Agreement shall commence as of July 1, 2005 and shall continue in effect until December 31, 2005, (the "Initial Term") unless sooner terminated as herein provided. Upon the expiration of the Initial Term, the term of this Agreement shall automatically be renewed for an additional term of two (2) years unless either party provides one hundred and twenty (120) days advance written notice of its intent not to so renew such term. Upon the expiration of such two (2) year renewal term, the term of this Agreement shall continue to automatically be renewed for a further term of one (1) year unless either party provides one hundred and twenty (120) days advance written notice of its intent not to so renew such term.
- 4.2 Termination:** Either party may terminate this Agreement if the other party defaults in the performance of its obligations under this Agreement, including the obligations of Section 5.5 hereof, and such default is not cured within sixty (60) days of the receipt of written notice (or thirty [30] days in the case of an obligation to pay money or allegations of actual immediate jeopardy or actual serious harm, specifying such default in reasonable detail); provided, that upon any breach of Section 5.5 of this Agreement, the non-defaulting party may terminate this Agreement upon giving written notice of termination to the defaulting party, and shall immediately be entitled to recover liquidated damages from the defaulting party in accordance with Section 4.4. Notwithstanding the foregoing,

5. MISCELLANEOUS

- 5.1 Status of Parties:** Neither the PHARMACY nor the FACILITY is for any purpose, an agent, partner or employee of the other. This Agreement does not constitute a joint venture between the parties. It is agreed that in performing pharmacy services pursuant to this Agreement, the PHARMACY and its employees will, at all times, be an independent contractor to the FACILITY and its residents.
- 5.2 Force Majeure:** If either party fails to perform its obligations hereunder (except for the obligation to pay money) because of strikes, accidents, acts of God, weather conditions, or action or inaction of any governmental or other proper authority or other causes beyond its control, including, but not limited to, acts of terrorism, then such failure to perform will not be deemed a default hereunder and will be excused without penalty until such time as said party is capable of performing.
- 5.3 Notices:** Except as otherwise provided in this Agreement, notices or communications to be given under this Agreement may be given to the respective parties in writing either by personal delivery or by registered or certified mail, postage prepaid, or by overnight delivery as follows:

To the FACILITY:

With Required Copy to:

**To PHARMACY: Deom Homecare Pharmacy
1360 Rogersville Road
Radcliff, KY 40160**

**With Required Copy to: Gerald Deom
75 Nature Trail
Radcliff, KY 40160**

or at such other addresses and to such other persons as either party may from time to time designate by notice given as herein provided. Such notices or communications will be deemed to have been given upon personal delivery, three (3) days after deposit in the United States mail or one (1) day after delivery to an overnight delivery service.

- 5.4 Successors and Assignment:** This Agreement will be binding upon and inure to the benefit of both parties and their successors and assigns. Nothing in this Agreement is intended nor will be deemed to confer any benefits on any third party. Except as otherwise provided in this Section 5.4, neither party may assign any of its respective rights, duties and/or obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing:

 - 5.4.1 PHARMACY** may assign its rights and delegate its duties and obligations under this Agreement to any other licensed pharmacy, which is owned, directly or indirectly, by Deom Health Enterprises, Inc., but no such assignment and delegation shall relieve PHARMACY of liability for any breach of this Agreement by such assignee.

- 5.4.2 PHARMACY shall assign this Agreement ~~with the consent of the FACILITY, which shall not be unreasonably withheld~~ to any person or entity which purchases or otherwise acquires the assets and operations of PHARMACY, in which event PHARMACY shall cause such person or entity to assume this Agreement, and PHARMACY shall be relieved from all future liability under this Agreement. Any sale of the assets or operations of PHARMACY without such an assumption, or the execution of any agreement contemplating the sale of such assets or operations without such an assumption, shall constitute a material breach of this Agreement.
- 5.5 **Indemnification:** Each party (the "Indemnitor") hereby agrees to indemnify and hold harmless the other party, its employees, officers, directors, shareholders, and agents (the "Indemnitees") from all charges, claims, causes of action, damages, expenses and liability, including reasonable attorneys' fees, asserted against, imposed upon or incurred by any such Indemnitee which are based upon or arise out of illness or injury, including, without limitation, death of any person, or property damage arising from or relating to any wrongful act or omission of such Indemnitor or such Indemnitor's employees or agents.
- 5.6 **Attorneys' Fees:** If either party brings an action against the other to enforce any condition or covenant of this Agreement, including the usage of agency fees, each party shall be responsible for its court costs and attorneys' fees incurred in such action.
- 5.7 **Governing Law:** This Agreement will be construed and governed according to the laws of the state in which the FACILITY is located, without giving effect to any choice of law or conflict of laws provision or rule that would cause the laws of any other jurisdiction to be applied.
- 5.8 **Waiver:** Waiver by either party of a breach or violation of any provision of this Agreement will not operate as, or be construed to be, a waiver of any prior, concurrent or subsequent breach. None of the provisions of this Agreement will be considered waived by either party except when such waiver is given in writing.
- 5.9 **Ownership and Retention of Records:** Except as otherwise provided in this Agreement (including exhibits), all documents considered to be part of occupants medical record will be and remain the property of FACILITY and upon termination of this agreement, any original items in PHARMACY possession will be delivered to FACILITY. The PHARMACY will be entitled to maintain a copy of the records unless otherwise prohibited by federal or state Law. PHARMACY and FACILITY agree to maintain all books and records in sufficient detail for such a period of time as required by federal and state regulation.
- 5.10 **Entire Agreement; Amendment:** This Agreement and any Amendments or Addenda hereto constitute the entire agreement between the parties regarding the subject matter hereof and supersede all prior or contemporaneous discussions, representations, correspondence and agreements, whether oral or written, pertaining thereto. This Agreement may be amended or modified only by a writing duly executed by both parties.

- 5.11 Severability:** If any term or provision of this Agreement is held invalid or unenforceable to any extent, the remainder of this Agreement will not be affected thereby and each term and provision of this Agreement will be valid and enforceable to the fullest extent permitted by law, unless doing so will materially alter the relative benefits and burdens the parties bargained for herein.
- 5.12 Confidentiality:** Except as otherwise provided herein or as required by applicable law or the rules of any applicable securities exchange, both parties agree to keep this Agreement and its contents confidential and not to disclose this Agreement or its contents to any third party without the written consent of the other party.
- 5.13 Privacy:** The FACILITY and the PHARMACY will, in order to fulfill their respective obligations under this Agreement, need to disclose to each other certain individual occupant related medical information that is individually identifiable health information under the provisions of the Health Insurance Portability and Accountability Act of 1996 and the Standards promulgated thereunder ("HIPAA") and that may also be protected information under applicable state privacy of medical information laws, and/or federal certification laws (collectively, the individual resident-related medical information is "Protected Health Information" and HIPAA and applicable state privacy of medical information laws, and/or federal certification laws are "Privacy Laws") in order that the parties can each conduct the treatment, payment and health care operations activities provided for under this Agreement and/or otherwise lawful under the Privacy Laws. Each party agrees to comply with the requirements of the Privacy Laws as to such disclosure or exchange of Protected Health Information. The parties intend that the services furnished by PHARMACY under this Agreement as described in Sections 1.1, 1.3, 1.4 and 1.6 constitute "treatment" (as that term is defined by the HIPAA privacy standards).

In addition, during the course of this Agreement, each party may gain access to information other than Protected Health Information that is confidential or proprietary information of the other party ("Confidential Information"). Following the termination of this Agreement, at the other party's written request, each party shall return to the other party all Confidential Information of the other party held by it, including copies thereof. Notwithstanding the foregoing sentence, each party may retain copies of its work papers and other information concerning the provision of Products or other performance under this Agreement to the extent necessary for that party to comply with applicable law or to document its performance of its obligations under this Agreement.

[Signature Page Follows]

The signatories hereto represent that they are duly authorized to execute this Agreement on behalf of the party for whom they sign and such party will be bound by this Agreement.

EXECUTED as of the date first written above.

By: 

Title: Pres.

Dated: 7-1-05

By: 

Title: Judicial Executive

Dated: 7-28-05

SCHEDULE 1.2

**DELIVERY SCHEDULE
AND DISPENSING METHODS**

[To be mutually agreed by FACILITY and PHARMACY; this schedule shall not specify specific times of day for deliveries]

Delivery of medications daily Monday through Friday. Holidays, Saturdays, and Sundays excluded except on demand due to real emergency.

Unused, individually sealed medication may be returned for full credit of cost of drug (does not include dispensing fee).

All prescriptions filled and delivered within 24 hours of receipt of order with the exception of Saturdays, Sundays, and Holidays.

IV medications will be compounded and dispensed day of order.

Infusion suites available for administration of IV medication if desired.

