



COMMUNITY CONSOLIDATED SCHOOL DISTRICT 15

Joseph M. Kiszka Educational Service Center
580 N. 1st Bank Drive
Palatine, IL 60067-8110
(847) 963-3000

MEMORANDUM

DATE: August 3, 2015
TO: Board of Education
FROM: Susan Gehring
RE: Nursing Contract, PSA Healthcare

Please review and approve the contract with PSA Healthcare for specialized nursing care for a new student for the 2015-16 school year. Specialized nursing care is necessary on the bus as well as during the early childhood special education program. The anticipated cost of this contract is \$31,500.

PEDIATRIC SERVICES OF AMERICA

PROVIDER AGREEMENT

This Provider Agreement, dated July 15, 2015, is between **John G. Conyers Learning Academy** ("SCHOOL") and **Pediatric Services of America, Inc., d/b/a PSA Healthcare**, a Georgia corporation ("PSA").

Background

SCHOOL has entered into an agreement with PSA to provide a variety of alternate site healthcare services to student(s) of the SCHOOL. Included in the services to be provided or arranged by PSA are **Nursing Services**. PSA is duly licensed to provide the services described on Schedule A attached hereto (the "Services"). SCHOOL requires a source of supply for the Services. SCHOOL and PSA desire that SCHOOL purchase the Services it requires from PSA.

Accordingly, the parties agree as follows:

1. Obligations of PSA.

a. **General.** PSA represents and warrants that it and all of its employees, agents and representatives hold and will continue to hold all federal, state and local licenses required by law in order to render the Services pursuant to this Agreement. PSA shall provide the Services described on Schedule A, on a non-exclusive basis, to SCHOOL during the term of this Agreement the Services, in such amounts as SCHOOL shall require in its sole discretion. There is no requirement imposed upon SCHOOL pursuant to this Agreement to purchase any quota of Services hereunder.

b. **Provision of Services.** PSA shall make the Services available 24 hours per day, including weekends and holidays. PSA shall comply with all of the standards set forth on Schedule A and all relevant policies and procedures of SCHOOL and PSA, including the preparation and submission of student records and other reports, emergency procedures and student complaints.

c. **Personnel.** PSA shall be responsible for providing qualified personnel to deliver the Services. PSA shall not subcontract any of the Services to be performed without the prior written consent of SCHOOL.

d. **Delivery.** The Services and any products provided by PSA under this Agreement shall be provided at the site of a student's treatment.

e. **Invoice.** PSA shall provide SCHOOL with an invoice within 90 days of service.

f. **Force Majeure.** PSA shall use its best efforts to provide the Services requested by SCHOOL, but PSA shall not be responsible for delays caused by an act of God or any other cause reasonably beyond PSA's control. SCHOOL agrees that in such event PSA, without liability, may allocate the Services covered by this Agreement among all of its customers.

g. **Waste Disposal.** PSA shall provide pick-up and dispose of all medical waste created in connection with the provision of Services to ensure that the medical waste is collected and disposed of in accordance with applicable law.

h. Incident Reports. PSA agrees to inform SCHOOL within 24 hours of any incident or circumstance which might affect the health or safety of a student. PSA also agrees to inform SCHOOL within 72 hours of any complaint received from a student, family member or medical professional. SCHOOL will provide copies of an incident report on which details of any incident are to be reported. SCHOOL may require a written plan of correction and evidence that the plan was implemented.

2. Obligations of SCHOOL.

a. General. SCHOOL shall purchase from PSA, on a non-exclusive basis, during the term of this Agreement the Services in such amounts as SCHOOL elects to purchase.

b. Purchase Price; Payment. SCHOOL shall pay to PSA the fees for the Services as set forth in Schedule B. SCHOOL shall not be obligated to pay for any Services delivered by PSA that were not requested by SCHOOL and were not in accordance with the physician's plan of care.

c. Payment Terms. All payments to be made by SCHOOL to PSA under this Agreement are due 30 days from SCHOOL's receipt of a related invoice. SCHOOL must pay PSA interest on all clean claims that are not paid within 30 days at a rate of 1.5% per month (18% annual) for each month the claim remains unadjudicated. PSA agrees to submit claims for services rendered to SCHOOL within 90 days from the date such services are rendered. SCHOOL's obligation for payment to PSA is independent of any reimbursement received by SCHOOL from any other source.

d. Non-Solicitation of PSA Nurses. SCHOOL hereby acknowledges that because PSA spends significant resources recruiting nurses with NICU/PICU experience and provides extensive pediatric training and in servicing to its nurse employees, the identity of PSA nurses staffing particular cases is confidential information. Accordingly, SCHOOL, on behalf of itself and its employees, agrees that neither SCHOOL nor its nurse employees shall hire or directly or indirectly solicit for hire any PSA nurse employees with whom SCHOOL or SCHOOL's nurse employee have contact as a result of this Agreement. In violation of the preceding sentence, it would be impractical and extremely difficult to anticipate or determine PSA's actual damages in the event of such a breach. Therefore, as PSA's exclusive monetary remedy for any such breach by SCHOOL, SCHOOL shall pay the amount of Five Thousand Dollars (\$5,000) to PSA as liquidated damages in the event of a breach, which amount the parties agree is not a penalty. The provisions of this paragraph may be waived by the mutual written agreement of PSA and SCHOOL.

f. Quality Assurance. SCHOOL and PSA shall cooperate as reasonably requested in all of each other's quality assurance utilization review and outcomes monitoring programs. Specifically, PSA agrees to participate in any meetings or quality assurance programs deemed reasonably appropriate by SCHOOL to ensure the consistency and high standard of Service being provided. PSA shall comply with Section 1910.1030 ("Bloodborne Pathogen Standard") of the Occupational Safety and Health Act (29 CFR Part 1920.1030) and shall:

- (i) train all personnel in accordance with the Bloodborne Pathogen Standard;
- (ii) provide SCHOOL, upon request, with a copy of PSA's Exposure

Assessment/Determination plan;

(iii) provide SCHOOL, upon request, with evidence of hepatitis B vaccination or a copy of a hepatitis B declination form for all personnel;

(iv) maintain all training and medical records in accordance with the Bloodborne Pathogen Standard;

(v) be responsible for providing personal protective equipment, at no charge, to each person as required; and

(vi) be responsible for providing any and all post-exposure care, at no charge, to any personnel in the event of exposure to a bloodborne pathogen and all post-exposure care shall be in accordance with the Bloodborne Pathogen Standard.

3. Term/Termination/Events of Default/Remedies Upon Default.

a. This Agreement shall have an initial term of one (1) School year commencing August 25, 2015 through June 30, 2016. Either party may terminate this Agreement upon the happening of an Event of Default (as defined below) or pursuant to Section 3(b) below. In addition, either party, at its option may terminate this Agreement at any time upon ninety (90) days written notice to the other party.

Upon termination, PSA shall be obligated to reasonably cooperate with SCHOOL to ensure no student is left without medically necessary care. SCHOOL shall use its best efforts to locate another Provider of the Services; however, if SCHOOL is unable to locate a qualified replacement Provider, PSA shall, at SCHOOL's request, continue to provide the Services to any student currently receiving the Services for no more than thirty (30) days following termination.

b. The occurrence of any of the following shall constitute an "Event of Default" hereunder;

(i) Any warranty, representation or covenant contained herein is untrue as of the date hereof or is breached during the term hereof, and any such breach which is capable of remediation is not remedied within 15 days after the written notice thereof from the non-breaching party; or

(ii) Either party shall cease doing business as a going concern, or make an assignment for the benefit of creditors, or admit in writing its inability to pay its debts as they become due, or file a voluntary petition in bankruptcy, or be adjudicated a bankrupt or insolvent, or file a petition seeking for itself any reorganization, readjustment, liquidation, dissolution or similar arrangement under any present or future statute, law or regulation or file an answer admitting the material allegations of a petition filed against it in any such proceeding or fail to have such petition filed against it dismissed within 60 days after filing or consent to or acquiesce in the appointment of a trustee, receiver or liquidator of it or all or any substantial part of its assets or properties.

c. Upon the happening of an Event of Default, the aggrieved party shall be entitled to avail itself cumulatively of any and all remedies available at law or in equity, including the right of termination of this Agreement.

4. Miscellaneous.

a. Indemnification.

(i) SCHOOL shall defend, indemnify and hold harmless PSA and each of its officers, directors, employees, agents and stockholders (the "PSA Parties"), from and against any and all claims, liabilities, losses, damages, costs or expenses of any kind (including attorneys' fees and disbursements) ("Indemnified Amounts") incurred by the PSA Parties or any of them as a result of, or arising out of, or relating to SCHOOL's performance under this Agreement, but only to the extent that such Indemnified Amounts are caused by the negligence or willful misconduct of SCHOOL.

(ii) PSA shall defend, indemnify and hold harmless SCHOOL and each of its officers, directors, employees, agents and stockholders (the "SCHOOL Parties"), from and against any and all Indemnified Amounts incurred by the SCHOOL Parties or any of them as a result of, or arising out of, or relating to PSA's performance under this Agreement but only to the extent such Indemnified Amounts are caused by the negligence or willful misconduct of any of the PSA Parties.

(iii) The party seeking indemnification pursuant to this Section 4.a shall notify the other party in writing of the assertion of any claim, or the commencement of any suit, action or proceeding by any party in respect of which indemnity may be sought under this Agreement within ten (10) days of such assertion or commencement. Failure to notify the other party will result in the waiver of indemnity rights with respect to such claim, suit, action or proceeding. The parties shall cooperate with each other in the defense of any such claim, suit, action or proceeding.

(iv) In the event that SCHOOL requires PSA to transport student or to accompany student during transport to and from school, SCHOOL shall be solely liable for student from and during the time of pick up and drop off at student's home (the "Transportation/Accompaniment Period"). SCHOOL shall defend, indemnify and hold harmless PSA and each of its employees or agents, from and against any causes of action, claims and judgments incurred by PSA or any of them, as a result of, or arising out of, or relating to PSA's performance during the transportation/accompaniment period.

b. Insurance. As applicable and permissible by State Law, each party agrees to maintain the following insurance covering its activities performed pursuant to this Agreement;

(i) Comprehensive General Liability, including malpractice liability, product liability and contractual liability, in an amount not less than One Million Dollars (\$1,000,000) per occurrence combined single limit for bodily injury and property damage.

(ii) Worker's Compensation in accordance with applicable statutory requirements.

(iii) Employer's Liability Insurance in an amount not less than One Million Dollars (\$1,000,000).

(iv) Each party agrees to ensure that any licensed professional who performs any activity pursuant to this Agreement on its behalf and is not an employee of such party is covered by malpractice liability insurance in an amount not less than One Million Dollars

(\$1,000,000) per occurrence combined single limit for bodily injury and property damage.

(v) Each party shall make a good faith effort to assure that its insurance policy shall be endorsed to provide for written notification to the other party by the insurer not less than 30 days prior to cancellation, expiration or material change in insurance coverage. Certificates of insurance relevant to this Agreement shall be furnished upon reasonable request. PSA may maintain its insurance coverage through a combination of commercially-placed insurance and self-insurance.

c. **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party which shall not be unreasonably withheld, provided, however, either party may assign this Agreement to any of its wholly-owned affiliates at any time.

d. **Access to and Release of Books and Records.** During the term of this Agreement and for 3 years following termination of this Agreement, SCHOOL and its duly authorized agents, during regular business hours and upon reasonable notice and demand, shall have access to all information and records or copies of records, related to Services rendered by PSA under this Agreement and related to analysis of the efficiency of health care management techniques by SCHOOL. During the term of this Agreement, PSA agrees to provide SCHOOL with information related to the care of students pursuant to this Agreement and shall provide this information to SCHOOL on a monthly basis. Following the term of this Agreement PSA shall provide records or copies of records requested by SCHOOL within a reasonable period of time from the date such request is made.

e. **Non-competition.** During the term of this Agreement, PSA shall not compete directly or indirectly with SCHOOL provided, however, that SCHOOL agrees that PSA's existing arrangements to provide Services to other parties does not compete with SCHOOL.

f. **Compliance With Laws.** PSA shall comply with all federal, state, county and municipal laws, rules and regulations which apply to the performance of PSA's obligations under this Agreement. PSA represents and warrants that it and all of its employees, agents and representatives hold and will continue to hold all federal, state and local licenses required by law in order to render the Services pursuant to this Agreement.

(i) **Corporate Compliance Standard.** PSA represents and warrants that throughout the term of this Agreement (including any extension thereof), that neither PSA, nor any of its employees, agents, subsidiaries or affiliates who may perform any of the services or obligations under this Agreement, shall (1) have been convicted of a criminal offense that would require mandatory or permissive exclusion pursuant to 42 U.S.C. § 1320a-7(a) or (b) unless such entity or individual has been reinstated, or (2) be listed by a federal agency as currently suspended, excluded or otherwise ineligible for participation in any federal program. Any breach of this representation and warranty shall result in immediate termination of this Agreement with respect to the affected entity or individual, in addition to any other available remedies.

(ii) **Corporate Compliance Program.** PSA maintains a corporate compliance program to detect and prevent illegal and unethical activities. SCHOOL acknowledges that it has been informed of PSA's corporate compliance hotline number (1-800-408-4442) for reporting suspected fraud and abuse or other illegal and unethical activities. SCHOOL will assure that all of its employees or agents who may perform any of the services or obligations under this Agreement are informed of the same and instructed to use it accordingly.

g. Use of Name. Neither party may use any trade name or service mark of the other party or any material protected by patents, trademarks or copyrights without the express written permission of the other party, provided, however, PSA agrees that SCHOOL may list PSA in any relevant directory of services and related marketing materials of SCHOOL or any Payor.

h. Disclosure Compliance with State and Federal Statutes and Regulations. The state and federal government and any of their authorized representatives shall have access to and PSA is authorized to release, in accordance with state and federal statutes and regulations, all information and records, or copies of such, within the possession of PSA, which are pertinent to and involve transactions related to this Agreement as are necessary to comply with federal and state statutes and regulations applicable to SCHOOL and PSA.

i. Confidentiality. PSA and SCHOOL shall maintain the confidentiality of all confidential information regarding students in accordance with any applicable state and federal statutes and regulations and shall maintain the confidentiality of any books, records or information shared by the Parties pursuant to this Agreement.

j. Licensure/Accreditation. PSA represents and warrants that it and all of its operations are accredited by the Community Health Accreditation Program (CHAP) or any other appropriate accreditation body reasonably acceptable to SCHOOL. PSA will notify SCHOOL within 72 hours if there is a change affecting PSA's licensure, accreditation or certification; it will also inform SCHOOL if a professional, regulatory or legal body serves formal notice that it may take any action due to deficiencies, poor performance or failure to comply with standards, rules or regulations imposed by such professional or regulatory body.

k. Ownership and Use of Data and Information. SCHOOL shall own all data, documents, software and other information generated in the performance of this Agreement, including all student information submitted by PSA pursuant to subsection (d) above. Subject to the confidentiality obligations under this Agreement and those imposed by law, SCHOOL shall have the right to use any such information, including all student information submitted by PSA to SCHOOL in accordance with subsection (d) above, in the general course of its business.

l. Jeopardy. In the event that the performance by either party hereto of any term, covenant, condition or provision of this Agreement should jeopardize the licensure of either party, its participation in Medicare, Medicaid or other governmental reimbursement or payment programs, or any applicable state or nationally recognized accreditation organization, or if for any other reason said performance should be in violation of any statute, ordinance, or be otherwise deemed illegal, or be deemed unethical by any recognized body, agency or association in the medical or student care fields, either party may at its option terminate this Agreement forthwith.

m. Amendment. No amendment, modification or discharge of this Agreement, and no waiver hereunder shall be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of the amendment, modification, discharge or waiver is sought.

n. Entire Agreement. This Agreement contains the entire agreement between the parties, supersedes all discussions and writings by and between the parties which may have occurred prior to entering into this Agreement and shall be binding upon and inure to the benefit of the parties and their successors and assigns.

o. Venue and Governing Law. The parties agree that any action or proceeding

arising out of or relating to this Agreement shall be commenced in the State of Illinois, and each party submits to the jurisdiction of the State of Illinois. This Agreement and the rights and obligations of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Illinois, without regard to its conflicts of law doctrine.

p. Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

q. Notices. Any notice, demand or other communication required or permitted hereunder shall be given in writing at the address set forth on the signature page and will become effective if mailed, by certified mail, postage prepaid and return receipt requested, five days after deposit in the US mail, one day after deposit with a nationally recognized overnight courier, freight prepaid, when confirmation of transmission is received or the date of personal delivery. Any address or name specified above may be changed by a notice given by the addressee to the other party in accordance with this Section. Any notice of demand or other communication shall be deemed given and effective as of the date of delivery in person or by courier or upon receipt as set forth on the return receipt. The inability to deliver because of changed address of which no notice was given, or the rejection or other refusal to accept any notice, demand or other communication, shall be deemed to be the receipt of notice, demand or other communication as of the date of such inability to deliver or the rejection or refusal to accept.

r. Captions. The captions in this Agreement are for convenience only and shall not be considered a part hereof or affect the construction or interpretation of any provisions of this Agreement.

s. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall constitute but one and the same instrument.

t. Waiver. Waiver by either party of an event of default hereunder or of any breach of the provisions of this Agreement, shall not constitute a waiver of any other event of default or breach or right, nor of the same event of default or breach or right on a future occasion.

u. Survival of Obligations. Termination of this Agreement for any cause shall not release either party from any liability which at the time of termination has already accrued to the other party or which thereafter may accrue in respect to any act or omission occurring prior to termination or from any obligation which is expressly stated herein to survive termination.

v. Notwithstanding any other provisions in this contract, PSA remains responsible for:

1. ensuring that any service provided pursuant to this contract complies with all pertinent provisions of Federal, State and local statutes, rules and regulations;
2. ensuring the quality of all services provided by the agency; and
3. ensuring adherence by agency staff to the agency plan of care established for students.

The authorized representatives of the parties have signed this Agreement.

JOHN G. CONYERS LEARNING ACADEMY
ATTN: Health Services
2800 Central Road
Rolling Meadows, IL 60008

By: _____

Print Name: _____

Title: _____

Date: _____

INVOICE/BILLING ADDRESS (if different from above):

BILLING FREQUENCY:

____ - Weekly

____ - Monthly

PSA HEALTHCARE
3720 Davinci Court, Suite 200
Norcross, GA 30092
Attn: Managed Care Department

By: _____

Print Name: _____

Title: _____

Date: _____

Tax ID # 58-1584862

PEDIATRIC SERVICES OF AMERICA, INC.

**Schedule "A"
Services/Description**

In addition to the terms and conditions identified in previous sections of the contract, PSA agrees to provide the services listed herein and to the provisions contained in this schedule.

Services to be Provided:

- Skilled Nursing Visits
- Private Duty Nursing (RN / LPN / LVN)**
- Enterostomal Nursing
- Paraprofessional Aide Services
- Physical Therapy
- Occupational Therapy
- Speech/Language Pathology
- Medical Social Work

General Requirements

Evidence of meeting the following qualifications will be presented:

- Valid State Operating License or Certificate as required
- Medicaid Home Health Agency Certification (may be waived in lieu of other credentials)
- Appropriate Federal & State Regulatory Certificates
- Accreditation by JCAHO or CHAP (may be waived in lieu of other credentialing criteria approved by the President)

Performance Standards

PSA agrees to adhere to the following standards of performance:

- Maintain ethical and professional practice.
- Schedule services as requested by SCHOOL.
- Participate in care conferences with SCHOOL Coordinator.
- Assure appropriate education, licensure and certification of professional staff providing services.
- Assure appropriate staff training and PSA orientation for staff according to student / client care / service needed.
- Provide staff with mechanism to communicate appropriately with SCHOOL.
- Provide SCHOOL written evaluations, progress notes and other required documentation.
- Participate in SCHOOL Quality Assurance / Quality Improvement activities as requested.
- Report to SCHOOL any complaint or incident affecting student care within 24 hours of receipt of complaint or incident.
- Participate in SCHOOL's Outcomes Monitoring activities.

SCHOOL agrees to:

- Provide student specific orientation
- Provide PSA staff orientation to SCHOOL policies and procedures
- Provide RN supervision as directed by State laws
- Maintain current MD orders
- Provide personal protective equipment, at no charge, to each person as required.

PEDIATRIC SERVICES OF AMERICA, INC.

**Schedule "B"
Pricing**

| | |
|---------------------|-------------------------|
| RN Services | \$50.00 per hour |
| LPN Services | \$46.00 per hour |

Billable hours include:

**Accompanying Student(s) during transport to/from school
and
hours that Student(s) is in school.**