

COUNTY OF LOS ANGELES – DEPARTMENT OF MENTAL HEALTH

FACT SHEET

APPROVAL TO SUPERSEDE FOUR EXISTING TEMPORARY PSYCHIATRIST SERVICES AGREEMENTS BETWEEN LOCUM TENENS CONTRACTORS AND THE DEPARTMENT OF MENTAL HEALTH (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

REQUEST

1. Approve and instruct the Director of Mental Health or his designee to sign and execute the supersession of four (4) existing Temporary Psychiatrist Services Agreements (Agreements), as listed in the Attachment. This will enable the Department of Mental Health (DMH) to ensure the revised and new provisions affected by the enactment of Senate Bill 279 (SB 279) that redefines Locum Tenens (LT) psychiatrists from employees to independent contractors/subcontractors of LT contractors are included in the Agreements. The term of these agreements will be effective upon Board approval through June 30, 2009.
2. Approve an increased contracted rate of \$950 per day (hourly rate of \$118.75) for general psychiatrists and \$1,050 per day (hourly rate of \$131.25) for child and adolescent psychiatrists and general psychiatrists assigned to difficult to recruit work sites for LT contractors as provided in Exhibit B (Billing, Payment and Schedule of Rates) of the Agreements. The increased contracted rate is consistent with the prevailing LT rate structure in other California counties. Funding for the increased contracted rate is derived from utilization of vacant budgeted psychiatrist positions which have been unfilled due to critical hiring shortages.
3. Delegate authority to the Director of Mental Health or his designee to sign and execute future agreements with other qualified LT contractors, and to sign and execute amendments to the agreements, provided that: 1) the Board of Supervisors has appropriated sufficient funds for all changes; 2) approval of County Counsel and the Chief Executive Officer (CEO) or their designees is obtained prior to any such amendment.

PURPOSE/JUSTIFICATION

Board approval is required to supersede the existing Temporary Psychiatrist Services Agreement with a revised format that redefines LT psychiatrists from employees to independent contractors/subcontractors, pursuant to the October 5, 2005, enactment of SB 279 as codified in Chapter 5 of Division 2 of the California Business and Professions

Code Section 2418. Therefore, LT contractors deem their LT psychiatrists as independent contractors/subcontractors and not employees, and do not pay for Social Security and workers' compensation/unemployment benefits. They also do not provide general liability (GL) or automobile liability insurance to their contracted LT psychiatrists.

Additionally, Board approval of a \$950 per day rate is justified for LT contractors who contract/subcontract with LT general psychiatrists and child and adolescent psychiatrists. This rate increase from \$900 per day to \$950 per day is consistent with the prevailing LT rate structure in other California counties, which utilize Board of Medical Examiners' eligible or certified general psychiatrists and child and adolescent psychiatrists. The \$1,050 per day rate is also requested to compensate LT contractors who locate and assign independent/subcontract psychiatrists willing to work in difficult-to-recruit work sites/conditions, such as the Jail Mental Health Services, Antelope Valley, and South Los Angeles.

BACKGROUND

Pursuant to SB 279, an LT contractor, for purposes of California law, is not considered an employment agency for psychiatrists, nor is it an employer of psychiatrists. Because of this change in State law, these LT contractors engage the services of individual psychiatrists as independent contractors/subcontractors. Thus, neither County nor LT contractors assume responsibility for Social Security payments and workers' compensation insurance/unemployment insurance for LT contractors' independent contracted/subcontracted psychiatrists placed at County's facilities on a temporary basis.

Since July 1, 2001, DMH has utilized the services of LT contractors to provide qualified psychiatrists, on a temporary and intermittent basis, to perform psychiatric evaluations, medication support, and crisis intervention to Seriously Mentally Ill (SMI) adults, Seriously Emotionally Disturbed (SED) children, adolescents, and their families as well as to provide consultation and training to mental health professionals. The use of these LT contractors' independent contracted/subcontracted psychiatrists, on an as needed basis, is necessary to meet emergent or unanticipated needs when existing County employees are unavailable, cannot be transferred from other locations, or vacant positions cannot be filled timely with permanent new hires.

Consistent with the change in California State law by the enactment of SB 279, a standard provision on Subcontracting and a revised provision on Independent Status of Contractor have been added to the Agreement.

Under the superseded Agreements, LT contractors will be paid an established daily rate increase from \$900 per day to \$950 per day (an hourly increase from \$112.50 to \$118.75 per hour) for the provision of LT general psychiatrists and from \$900 per day to \$1,050 per day (hourly rate of \$131.25) for LT child and adolescent psychiatrists and general psychiatrist assigned to difficult to recruit sites, as described in Exhibit B of the Agreement. The rate increase will correspond with the prevailing rates in other California counties, thereby allowing LT contractors to subcontract with psychiatrists and successfully place them at DMH locations. The ongoing shortage of psychiatrists seriously impairs the Department's ability to provide timely access to services and quality care within these communities.

The Department surveyed a total of 27 counties in California regarding utilization of LT contracts. Of the 27 counties, 13 have no current LT contracts, and 14 counties have existing LT contracts. Overall survey results reflect that nine (9) counties pay differential rates to general and child and adolescent psychiatrists, and 12 counties pay higher contracted rates than Los Angeles County for LT psychiatrists. Counties also vary substantially in their indemnification and insurance coverage requirements for LT contractors and their independent LT psychiatrists. In some cases, it appears that some counties are not requiring their LT contractors to indemnify or maintain professional liability/malpractice and GL insurance for their independent LT psychiatrists.

Four (4) of the County's existing LT contractors and five (5) prospective LT contractors have advised that the independent psychiatrists do not maintain their own GL coverage. The nine (9) existing and prospective contractors have agreed to carry GL insurance with limits of \$1 million each occurrence covering liability for bodily and personal injury arising from the activities of their own employees. However, all nine (9) firms indicate they are unable or unwilling to cover the independent psychiatrists under their own GL insurance policies. The nine (9) firms have agreed to provide professional liability (malpractice) insurance with limits of \$1 million per claim to cover the acts and/or omissions of the independent psychiatrists. DMH also has negotiated a requirement that all LT contractors and their independent psychiatrists will carry automobile liability insurance policy coverage with limits of \$300,000 per accident

The Department, after considerable discussion and negotiation with these parties, has made a business decision to agree to these terms, subject to approval by your Board, as professional liability/malpractice insurance should cover the most significant risk associated with the provision of psychiatrist services. The Department believes the additional financial risk posed by these deviations from the standard contract provisions is nominal in comparison with the critical need to obtain temporary psychiatrist services,

and as the independent LT psychiatrists will not transport clients and their use of vehicles is limited to driving to and from County facilities.

DMH Contact:

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Attachment
RB: Locum Tenens 10-09-07

COUNTY OF LOS ANGELES - DEPARTMENT OF MENTAL HEALTH
 Contracts Development and Administration Division

ATTACHMENT

TEMPORARY PSYCHIATRIST SERVICES AGREEMENTS (LOCUM TENENS)
 FOR FISCAL YEARS (FY) 2007-08 AND 2008-09

Item No.	CONTRACTOR	SUP. DIST.	Agreement Term	Daily Rates*
				FYs 2007-09
1	Interim Physicians, Inc. 1040 Crown Pointe Parkway, Suite 120 Atlanta, GA 30338	N/A	2 Yrs.	*\$950 per day **\$1,050 per day
2	Jackson & Coker, LLC 3000 Old Alabama Road, Suite 119-608 Alpharetta, GA 30022	N/A	2 Yrs.	*\$950 per day **\$1,050 per day
3	Medsorce Consultants 4437 Brookfield Corporate Drive, Suite 201 Charlottesville, VA 20151	N/A	2 Yrs.	*\$950 per day **\$1,050 per day
4	NMR Healthpros, Inc. 901 Calle Amanecer, Suite 300 San Clemente, CA 92673	N/A	2 Yrs.	*\$950 per day **\$1,050 per day

*The all-inclusive daily rate for general psychiatrists is \$950 per day.
 **The all-inclusive daily rate for child and adolescent psychiatrists and general psychiatrists assigned to difficult-to-recruit sites is \$1,050 per day.