

FORSYTH COUNTY BOARD OF COMMISSIONERS

MEETING DATE: SEPTEMBER 26, 2019

AGENDA ITEM NUMBER: _____

12

SUBJECT: RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN FORSYTH COUNTY AND WAKE FOREST UNIVERSITY HEALTH SCIENCES FOR MEDICAL DIRECTION SERVICES FOR EMERGENCY MEDICAL SERVICES (EMERGENCY SERVICES)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION:

North Carolina General Statute 143-517 requires counties to establish Emergency Medical Services (EMS) systems and ensure services for County residents. Each EMS system must have a medical director and credentialed EMS personnel. 10A North Carolina Administrative Code 13P.0401 outlines the criteria of medical directors for EMS systems. Forsyth County has contracted with Wake Forest University Health Sciences for Medical Direction Services for Emergency Medical Services for the past several years.

Emergency Services staff has worked with Wake Forest University Health Sciences to renew this contract for Fiscal Year 2020. Under the new agreement, Wake Forest University Health Sciences will provide EMS Medical Direction Services approximately 40 hours per month, training and instructional courses for ambulance and emergency medical personnel, and medical advice to ambulance and emergency personnel.

This agreement will be for two years at a cost of \$165,000 - \$76,000 in Fiscal Year 2020 and \$89,000 in Fiscal Year 2021.

ATTACHMENTS: YES NO

SIGNATURE: J. Dudley Watts, Jr. /AMS
COUNTY MANAGER

DATE: September 20, 2019

**RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN
FORSYTH COUNTY AND WAKE FOREST UNIVERSITY HEALTH SCIENCES FOR
MEDICAL DIRECTION SERVICES FOR EMERGENCY MEDICAL SERVICES
(EMERGENCY SERVICES)**

WHEREAS North Carolina General Statute 143-517 requires counties to establish Emergency Medical Services (EMS) systems and ensure services for county residents;

WHEREAS Title 10A, Chapter 13, Subchapter P of the North Carolina Administrative Code provides that each EMS system must have a Medical Director to assure medical oversight;

WHEREAS Emergency Services has contracted with Wake Forest University Health Sciences for this service in the past and received this service from Dr. Roy Alson;

WHEREAS Dr. Roy Alson has retired and Wake Forest University Health Sciences has worked with Emergency Services to identify a new Medical Director; and

WHEREAS a new agreement has been developed for Fiscal Year 2020 and Fiscal Year 2021 that outlines the Medical Direction Services Forsyth County's Emergency Services Department will receive from Wake Forest University Health Sciences;

NOW, THEREFORE, BE IT RESOLVED, by the Forsyth County Board of Commissioners that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the attached agreement between Forsyth County and Wake Forest University Health Sciences in an amount not to exceed \$76,000 for Medical Direction Services for the EMS system, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney. The original contract #2020-0048-00 is incorporated herein by reference; and

BE IT FURTHER RESOLVED, that the County Manager is hereby authorized to execute, on behalf of Forsyth County, subsequent contracts or contract amendments for these services within budgeted appropriations in current and future fiscal years, for a maximum of three years duration, if these services are necessary.

Adopted this the 26th day of September.

MEDICAL DIRECTOR AGREEMENT

THIS AGREEMENT is effective as of the 1st day of July, 2019, between **WAKE FOREST UNIVERSITY HEALTH SCIENCES**, on behalf of its Department of Emergency Medicine, (“WFUHS”) and **FORSYTH COUNTY, NORTH CAROLINA** (“Forsyth County”).

Background and Purpose

For the purpose and subject to the terms and conditions hereinafter set forth, Forsyth County hereby contracts with WFUHS for the services of Robert Darrell Nelson, M.D., hereinafter referred to as the “Medical Director,” a member of the faculty of WFUHS, and WFUHS agrees to provide the services of the Medical Director to Forsyth County in accordance with the terms of this Agreement. In the event Dr. Nelson ceases to be a faculty member of WFUHS, WFUHS will provide the services of an alternative faculty member acceptable to Forsyth County.

NOW, THEREFORE, WFUHS and Forsyth County agree as follows:

1. **Medical Director Responsibilities.** Medical Director will:
 - 1.1 Provide Emergency Medical Services (“EMS Services”) to Forsyth County for an approximate total of forty (40) hours per month.
 - 1.2 Provide training and instructional courses for ambulance and emergency medical personnel of the Forsyth County Emergency Medical Service at facilities within the County designated by the County.
 - 1.3 Provide medical advice to ambulance and emergency personnel of the Forsyth County Emergency Medical Service.
 - 1.4 The Medical Director shall have the authority, with approval of the EMS director, to appoint assistant medical directors to assist in the provision of medical oversight for the Forsyth County system. The assistant medical director shall meet all requirements set forth by the NC office of EMS for that position. They shall have the authority to act in all aspects of medical oversight in the absence of the system medical director or when requested to do so by the medical director. The Medical Director may assign an assistant medical director to oversee a particular sector aspect of medical oversight while still retaining full responsibility and accountability for the provision of said medical oversight.
2. **Term.**
 - 2.1 This Agreement will remain in full force and effect for a period of two (2) years from July 1, 2019 and shall be provided until June 30, 2021. If either party terminates this Agreement prior to June 30, 2020 (the “Initial Term”), the parties agree not to enter into a new agreement for the same or similar services less than one (1) year from the Initial Term.
 - 2.2 Forsyth County may terminate this Agreement immediately upon failure of the Medical Director to comply with the terms of this Agreement or for violation of professional standard of conduct or ethics as determined by a final judgment in a court of law.
 - 2.3 In the event this Agreement is terminated by either party, Forsyth County will permit

WFUHS and its personnel to satisfy all professional and ethical obligations to residents of Forsyth County under this Agreement.

3. Professional Fees.

3.1 As full compensation for Medical Director services, Forsyth County agrees to pay WFUHS the compensation outlined on Exhibit A. WFUHS shall bill Forsyth County for the services rendered during the preceding thirty (30) days. Forsyth County shall pay all bills to WFUHS within the following ten (10) days.

4. WFUHS Licensing and Insurance Requirements.

4.1 WFUHS will ensure that the physician providing services under this Agreement is duly licensed to practice medicine in North Carolina and will provide professional liability insurance coverage in an amount not less than One Million Dollars (\$1,000,000) per occurrence, Three Million Dollars (\$3,000,000) in the aggregate, and Workers' Compensation Insurance. Upon request, WFUHS will provide Forsyth County with evidence of such coverage.

4.2 WFUHS will immediately notify Forsyth County of any change in the status of any physician license rendering services under this Agreement and of any material adverse change in professional liability insurance coverage of such physician.

5. Forsyth County Licensing and Insurance Requirements.

5.1 Forsyth County will ensure that all of its health care professionals providing services under this Agreement are competent to perform their duties and are duly licensed to practice their respective professions in North Carolina. The Forsyth County will maintain general and professional liability insurance in an amount not less than One Million Dollars (\$1,000,000) per occurrence, and Three Million Dollars (\$3,000,000) in the aggregate.

5.2 Forsyth County will immediately notify WFUHS of any change in the status of the licenses of any health professional rendering services in connection with this Agreement and any material adverse changes in its insurance coverage.

5.3 Forsyth County represents and warrants that:

5.3.1 None of its health care professionals, including but not limited to nurses, physician assistants, and nurse practitioners, have been excluded from providing services through any State or Federal health care program, including but not limited to Medicare or Medicaid;

5.3.2 The Forsyth County reviews the exclusion list prior to hiring health care professionals and periodically reviews the exclusion list throughout the term of employment; and,

5.3.3 The Forsyth County will notify WFUHS immediately if any health care professional providing services under this Agreement is excluded from any State or Federal health care program or become subject to proceeding which may lead to exclusion.

6. Medical Records. Patient records acquired or produced by Medical Director related to patients' care under this agreement will belong to Forsyth County and Forsyth County will preserve all

such medical records in accordance with applicable laws and any contractual requirements of private insurance or managed care companies. WFUHS will have full and complete access to the medical record as well as the right to a copy of the record upon request. In the event the medical records are conveyed or placed in the custody or control of any third party, Forsyth County will ensure that such third party undertakes the obligation to preserve the medical records and recognizes WFUHS's right of access to these records.

7. **Maintenance of Records.** In order to comply with federal laws governing the provision of services to Medicare and Medicaid beneficiaries and the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the parties agree to retain and make available upon the request of the appropriate federal agencies or their duly authorized representatives, this Agreement and all books and records necessary to verify the costs incurred under this Agreement for a period of ten (10) years after such services are furnished. If either party requires the services of a subcontractor in complying with its obligations under this Agreement, then such subcontractor will also be subject to these provisions for records access and maintenance, and the parties agree to require written compliance with the same in any contract with such subcontractor.

8. **Regulatory Compliance.**

8.1 Forsyth County will be responsible for compliance with all employment requirements relating to its employees providing Clinic Support under this Agreement including without limitation Wage and Hour, Occupational Safety Health Administration (OSHA), Clinical Laboratory Improvement Amendments (CLIA), Workers' Compensation and Americans with Disabilities Act (ADA) requirements. Except as provided below, WFUHS will be responsible for compliance with all employment requirements relating to its employees providing services under this Agreement including without limitation Wage and Hour, OSHA, CLIA, Workers' Compensation and ADA requirements.

8.2 Both Forsyth County and WFUHS will comply with the OSHA's General Industry, Bloodborne Pathogens, and Tuberculosis Standards, the North Carolina General Statutes for Infection Control and Communicable Diseases, and if applicable, the Joint Commission accreditation guidelines regarding safety, hazardous materials handling, communicable disease control, occupational exposure prevention and management, and infection control. With respect to WFUHS physicians and employees provided under this Agreement, Forsyth County will provide (1) site-specific education on fire and hazardous chemical safety, communicable disease epidemiology and control, Bloodborne Pathogen Exposure Control and Tuberculosis Control Standards, pre-placement and annually; and (2) facilities, supplies and equipment, including personal protective equipment, protective clothing, supplies and materials in compliance with OSHA standards for the protection of health care workers; and (3) the initial evaluation, counseling, and treatment following an exposure in compliance with Centers for Disease Control (CDC) recommendations. WFUHS physicians and employees should follow-up with the WFUHS Employee Health Department as soon as possible following an exposure. Forsyth County will provide all documentation concerning the exposure to the WFUHS Employee Health Department.

8.3 Each party will comply with applicable laws and regulations pertaining to billing and will maintain billing compliance plans. Forsyth County agrees to post such compliance information, including a Compliance Hotline telephone number, where the WFUHS clinic is held and where it will be seen by employees.

8.4 Nothing in this Agreement will be construed to require or induce the referral of patients

or generate business between WFUHS and Forsyth County in such a manner that would constitute a violation of applicable federal or North Carolina laws. WFUHS and Forsyth County will be entitled to refer patients or business to any other health care provider or Forsyth County.

8.5 Notwithstanding any other provisions of this Agreement, if any law, or regulation or judicial or other official interpretation thereof becomes in effect at any time during the term of this Agreement which prohibits, restricts, limits, or in any way materially changes or affects either party's rights or obligations under this Agreement, either party may give the other party notice of intent to amend this Agreement to the satisfaction of the noticing party to achieve compliance. If this Agreement is not so amended in writing within twenty (20) days after such notice is given, this Agreement will terminate.

8.6 **HIPAA Compliance.**

8.6.1 The parties agree to execute a Business Associate Agreement, if such agreement is deemed necessary by the parties to comply with the HIPAA.

8.6.2 Forsyth County warrants that its employees providing Clinical Support under this Agreement have received adequate training pursuant to the requirements of HIPAA.

9. **Remedies.** If any party fails to observe, keep or perform any of the terms or conditions of this Agreement to be observed, kept or performed by it and such default continues for thirty (30) days after receipt of notice thereof, the non-defaulting party will be entitled to terminate this Agreement and exercise all of its available remedies.

10. ~~Indemnification. Each party (the "Indemnifying Party") agrees to defend, indemnify, and hold harmless the other party and its officers, directors, trustees, employees, and agents from and against all claims and liabilities for personal injury, death, property damage, and/or inappropriate use or disclosure of confidential patient information, to the extent arising out of the negligence or willful misconduct of the Indemnifying Party, its officers, directors, trustees, employees or agents. This Section shall survive the expiration or termination of this Agreement by either party for any reason.~~

CM
8/20/19

11. **Use of Name.** Any press release or other use of the WFUHS name, service mark, brand, or logo must, be (i) in accordance with the WFUBMC Brand Center located at www.wakehealth.edu/brand-center, and (ii) pre-approved in writing by the WFUBMC Communications Marketing & Media ("CM&M") Department. In addition, any press release regarding the services provided by WFUHS or the individual physician providing the services on behalf of WFUHS, must acknowledge WFUHS appropriately throughout the press release. If Forsyth County wishes to include information on the services provided by WFUHS or the individual physician in any press release or other use, this reference must be (i) in accordance with the WFUBMC Brand Center located at www.wakehealth.edu/brand-center, and (ii) pre-approved in writing by the WFUBMC Communications Marketing & Media ("CM&M") Department. The Parties may mutually agree upon a press release announcing this Agreement to be issued at a mutually agreed upon time. Either Party may refer to statements made in such press release in future marketing materials and advertisements, provided however, that upon receipt of a written request, both Parties agree to stop using any press release or references to a press release (a) immediately as to new uses, and (b) within a commercially reasonable time as to existing uses. Any additional statements regarding the relationship of the Parties hereunder shall require mutual written consent, except that either Party may refer to the existence of this

Agreement or the relationship of the Parties in connection with a press release related to regulatory filings. Each Party is authorized to use the name and logo of the other Party, as approved by the WFUBMC CM&M Department, on its website solely to identify such Party's relationship. Subject to WFUBMC's Use of Name Guidelines and prior approval by the WFUBMC CM&M Department, Forsyth County may include WFUHS's name in Forsyth County's customer list, and may identify WFUHS as its customer in its sales presentations, marketing materials, advertising, promotion and similar public disclosures.

12. Miscellaneous.

- 12.1 The relationship of the parties under this Agreement will be one of independent contractors. No other relationship between the parties exists under this Agreement.
- 12.2 In the event of any litigation against either party pertaining to any matter related to the other party's duties under this Agreement, both parties agree to fully cooperate with the other at all times during the pendency of the claim or lawsuit including, without limitation, providing the other with all available information, including medical records, concerning the claim or lawsuit and meeting with the other or its representatives prior to giving testimony in connection with such claim or lawsuit unless counseled by its attorney not to do so in order to preserve the attorney-client privilege.
- 12.3 Neither party to this Agreement will assign any of its rights or delegate any of its duties under this Agreement without the written consent of the other parties, except that WFUHS may assign its rights hereunder to North Carolina Baptist Hospital or Wake Forest University Baptist Medical Center, or to their jointly or wholly controlled affiliates.
- 11.5 This Agreement will be construed and enforced in accordance with the laws of the State of North Carolina, without giving effect to its conflicts or choice of law principles. Jurisdiction and venue for any dispute hereunder shall lie in Winston-Salem, Forsyth County, North Carolina.
- 12.4 This Agreement may be amended only by a written instrument signed by both parties.
- 12.5 Notice. Whenever any notice, demand or consent is required or permitted under this Agreement, such notice, demand or consent shall be sufficiently given if personally delivered or if mailed by registered or certified mail, postage prepaid to the following addresses:

If to WFUHS: Wake Forest University Baptist Medical Center
ATTN: Network and Business Development
10th Floor Janeway
Medical Center Boulevard
Winston-Salem, NC 27157

With copy to:

ATTN: Senior VP & General Counsel
WFUHS Legal Department
Medical Center Boulevard
Winston-Salem, NC 27157

If to Forsyth County: Forsyth County Emergency Services
Attn: Dan Ozimek, Director Emergency Services
911 East 5th Street
Winston-Salem, NC 27101

Any notice shall be deemed to have been delivered or received on the date delivered, if delivered personally, or on the third day following the date on which the same was deposited in a regularly maintained receptacle for the deposit of United States Mail, if addressed and sent as aforesaid. Either party may change its address for purposes of notice by providing notice of such change to the other party hereto, in writing, in the manner herein specified.

- 12.6 The invalidity or unenforceability of any provisions of this Agreement will not affect the validity or enforceability of any other provision.
- 12.7 No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision or of another breach of the same provision. No delay in acting with regard to any breach of any provision of this Agreement shall be construed to be a waiver of such breach.
- 12.8 All rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the parties, whether provided by law, equity, statute, in any other agreements between the parties or otherwise.
- 12.9 This Agreement, including facsimile or electronic (e.g., pdf) versions thereof, may be executed in one or more counterparts, each of which may be deemed an original and all of which constitute one and the same instrument.
- 12.10 This Agreement will be construed and enforced in accordance with the laws of the State of North Carolina, but without giving effect to its conflicts or choice of law principles. Jurisdiction and venue for any dispute hereunder shall lie in Forsyth County, Winston-Salem, North Carolina.
- 12.11 This Agreement constitutes the entire agreement between the parties hereto and contains all agreements between the parties hereto with respect to the subject matter hereof and superseded any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof. All rights and obligations under this Agreement are between and for the benefit of WFUHS and Forsyth County and are not intended for the benefit of any third party.

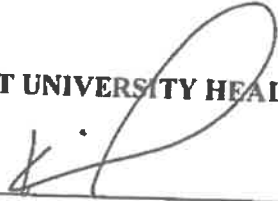
As evidence of this Agreement, Forsyth County and WFUHS have executed this Agreement as of the day and year first written above.

FORSYTH COUNTY

By: _____
Name:
Title:


Date: _____

WAKE FOREST UNIVERSITY HEALTH SCIENCES

By:  _____
Kevin P. High, MD, MS
President, Health System

Date: 5/8/19

DEPARTMENT of EMERGENCY MEDICINE

By:  _____
Chad Miller, MD
Chair, Emergency Medicine

Date: 5/6/19

EXHIBIT A
Compensation for EMS Services

<u>Year</u>	<u>Total Annual Compensation for EMS Services</u>
Year 1: July 1, 2019 – June 30, 2020	\$76,000
Year 2: July 1, 2020 – June 30, 2021	\$89,000

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

7/25/2019

Date


Director of Finance