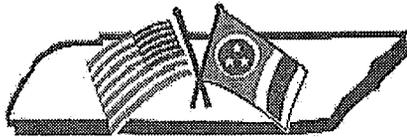


CONTRACT #1
RFS # 323.99-00111
FA # Pending

Tennessee State Veterans'
Homes Board

VENDOR:
Creative Healthcare, PLLC



TENNESSEE STATE VETERANS HOMES BOARD

PO Box 11328 • 345 Compton Road • Murfreesboro Tennessee 37129
P: (615) 898-1181 • F: (615) 898-1619

April 21, 2010

RECEIVED

APR 22 2010

FISCAL REVIEW

State of Tennessee
Fiscal Review Committee
8th Floor, Rachel Jackson Building
320 Sixth Avenue, North
Nashville, TN 37243

Distinguished Members of the Fiscal Review Committee:

Attached is a Request for Non Competitive Negotiation to secure the services of a Medical Director for the William D. Manning Tennessee State Veterans Home (Humboldt Facility), a proposed contract for this service, and a proposed Contract Summary Sheet along with Supplemental Documentation Required for the Fiscal Review Committee. These documents constitute our request of the Fiscal Review Committee to approve the Tennessee State Veterans' Homes Board (TSVHB) entering into a five (5) year contract with Dr. Jean Raines Lessly d/b/a Creative Healthcare, PLLC.

The proposed contract is for a five (5) year term, with remuneration at the rate of Ten Thousand Dollars (\$10,000) per month. Additional limited funds in the amount of Two Thousand Dollars (\$2,000) per year are available for travel at the specific request of the Executive Director, primarily for the purpose of performing peer reviews at other TSVHB facilities, although travel may be requested by the Executive Director for other purposes, for example, attendance at a meeting, etc. The services to be provided by the Medical Director in providing consultation to the facility and supervision of medical practices and procedures are wide-ranging, require regular on-site visits, involvement in the facility's Quality Improvement and Assurance efforts, staff education, and serving as an on-call physician for emergency situations. Implementation of recommendations from regulatory surveys is crucial to the successful operation of the facility, and the Medical Director is responsible for ensuring that such recommendations are successfully put into action as a new programs and procedures to provide the highest quality care to our residents.

As the Committee is aware, the Tennessee State Veterans Homes at Murfreesboro and Humboldt have been under the scrutiny of the United States Department of Justice and are subject to a Settlement Agreement and Memorandum of Agreement which requires that the homes comply with all state and federal standards for medical care. Dr. Lessly has been serving as Medical Director of the Humboldt facility since February 1, 2010

Fiscal Review Committee

April 21, 2010

Page 2

under a short term contract approved by the Division of Finance and Administration and the Comptroller after an unsuccessful RFP process was conducted. This short term agreement expires on July 31, 2010. In her capacity as Medical Director of the Humboldt facility, Dr. Lessly met with members of the Department of Justice survey team when they recently conducted a follow-up visit. Members of that team were extremely impressed with Dr. Lessly, her qualifications and experience (Curriculum Vitae attached to Non-Competitive Negotiation Request), and the improvements made at the facility under her direction. Dr. Lessly is willing to enter into a long term contract, and we strongly feel that her continued oversight of the Humboldt facility will not only result in continued improvement in the quality of care for our residents, but will reassure the Department of Justice that the processes and procedures put into place to remedy constitutional deficiencies will be continued so that they will feel comfortable exiting the lawsuit.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ed Harries', with a long horizontal line extending to the right.

Ed Harries
Executive Director

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Priscilla L. Campbell, Contract Officer	*Contact Phone:	731-784-8405
*Original Contract Number:	N/A	*Original RFS Number:	32399-00111 -H
Edison Contract Number: <i>(if applicable)</i>	N/A	Edison RFS Number: <i>(if applicable)</i>	N/A
*Original Contract Begin Date:	August 1, 2010	*Current End Date:	July 31, 2015
Current Request Amendment Number: <i>(if applicable)</i>	32399-00111 -H		
Proposed Amendment Effective Date: <i>(if applicable)</i>	N/A		
*Department Submitting:	Tennessee State Veterans' Homes Board		
*Division:			
*Date Submitted:	April 21, 2010		
*Submitted Within Sixty (60) days:	Yes		
<i>If not, explain:</i>			
*Contract Vendor Name:	Jean Raines Lessly, M.D., C.M.D., d/b/a Creative Healthcare, PLLC		
*Current Maximum Liability:	\$61,000		
*Current Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>			
FY:2010	FY:	FY:	FY:
\$61,000	\$	\$	\$
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from STARS or FDAS report)</i>			
FY:2010	FY:	FY:	FY:
\$20,000	Note: 2 months payment to date on a 6 mo. Contract \$10,000/mo.		
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:			
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:			
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:			

Supplemental Documentation Required for
Fiscal Review Committee

*Contract Funding Source/Amount:	State:		Federal:	
Interdepartmental:			Other:	\$610,000.00
If "other" please define:			Funding Source is revenues collected from Tennessee State Veterans Home – Humboldt resident payor sources, including Medicare, Medicaid, private insurance, Hospice, resident/family private pay.	
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
Method of Original Award: <i>(if applicable)</i>				
*What were the projected costs of the service for the entire term of the contract prior to contract award?				

Supplemental Documentation Required for Fiscal Review Committee

For all new non-competitive contracts and any contract amendment that changes Sections A or C.3. of the original or previously amended contract document, provide estimates based on information provided the Department by the vendor for determination of contract maximum liability. Add rows as necessary to provide all information requested.

If it is determined that the question is not applicable to your contract document attach detailed explanation as to why that determination was made.

Planned expenditures by fiscal year by deliverable. Add rows as necessary to indicate all estimated contract expenditures.

Deliverable description:	FY: 2010	FY: 2011	FY: 2012	FY: 2013	FY: 2014	FY: 2015
	\$112,000	\$122,000	\$122,000	\$122,000	\$122,000	\$10,000

Proposed savings to be realized per fiscal year by entering into this contract. If amendment to an existing contract, please indicate the proposed savings to be realized by the amendment. Add rows as necessary to define all potential savings per deliverable.

Deliverable description:	FY:	FY:	FY:	FY:	FY:

Comparison of cost per fiscal year of obtaining this service through the proposed contract or amendment vs. other options. List other options available (including other vendors), cost of other options, and source of information for comparison of other options (e.g. catalog, Web site). Add rows as necessary to indicate price differentials between contract deliverables.

Proposed Vendor Cost: Dr. Jean Raines Lessly, under short term contract – 6 mos.	FY: 2010	FY:	FY:	FY:	FY:	FY:
	\$61,000					
Other Vendor Cost: Dr. Jenifer Kurtz – Murfreesboro (contract not as comprehensive)	FY: 2008	FY: 2009	FY: 2010	FY: 2011	FY: 2012	FY: 2013
	\$66,375	\$82,050	\$84,515			

Supplemental Documentation Required for
Fiscal Review Committee

Other Vendor Cost: **various – preliminary research into finding a new Medical Director for Murfreesboro facility	FY: 2010 \$120,000 to \$140,000	FY: 2011	FY:	FY:	FY:	FY:

**Internet research and discussions with individuals in the long term care industry indicate that the average rate paid to a full time Medical Director is in the range of \$250,000 to \$278,000. Figures cited above are prorated to approximately a ½ time Medical Director to correspond to the anticipated needs of the facility.

REQUEST: NON-COMPETITIVE CONTRACT

APPROVED

Commissioner of Finance & Administration

Date:

Each of the request items below indicates specific information that must be individually detailed or addressed as required. A request can not be considered if information provided is incomplete, non-responsive, or does not clearly address each of the requirements individually as required.

1) RFS #	32399-00111 - H	
2) State Agency Name :	TENNESSEE STATE VETERANS' HOMES BOARD	
3) Service Caption :	Provision of the services of Jean Raines Lessly, M.D., C.M.D. as Medical Director, Tennessee State Veterans Home - Humboldt	
4) Proposed Contractor :	Creative Healthcare, PLLC, Jean Raines Lessly, M.D., C.M.D., Chief Executive Officer	
5) Contract Start Date : (attached explanation required if date is < 90 days after F&A receipt)	August 1, 2010	
6) Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	July 31, 2015	
7) Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$610,000.00	
8) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state	
	<input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
9) Description of Service to be Acquired :	Services of a physician licensed in the State of Tennessee who will serve as Medical Director to the Tennessee State Veterans Home - Humboldt, providing consultation to the facility and supervision of medical practices and procedures.	
10) Explanation of the Need for or Requirement Placed on the Procuring Agency to Acquire the Service :	State Health Department regulations, Centers for Medicare/Medicaid regulations and Federal VA regulations for nursing homes all mandate that nursing homes have a Medical Director at all times. The State is also subject to a Settlement Agreement and Memorandum of Agreement with the United States Department of Justice which require that the Tennessee State Veterans Home-Humboldt comply with these state and federal standards for medical care.	
11) Explanation of Whether the Procuring Agency Bought the Service in the Past, & if so, What Procurement Method it Used :	Yes, the TSVHB has purchased these services in the past. When the immediately prior physician who served as Medical Director for the Humboldt facility terminated her position, TSVH conducted an RFP process (RFP issued 11/3/09) to find a replacement. That RFP process was unsuccessful, and no proposals were received. When Dr. Lessly expressed an interest in providing the service, TSVH requested a short term non-competitive negotiation process in order to effect a 6 month contract. The Knoxville facility has a Medical Director who was the sole respondent to an RFP process conducted in 2006. RFP's have failed at both the Murfreesboro and Humboldt facilities in the past. As a result, TSVHB requested and was approved to conduct an Alternative Negotiation Process which provided that the Executive Director contact/meet with several physicians identified as having a preliminary interest in providing Medical Director Services. During these discussions, the Executive Director reviewed the services required, time commitment, approach to providing service, etc. A written bid was requested. Written references were requested, along with evidence of licensing and	

insurance, and a summary of qualifications and experience (curriculum vitae). The Executive Director presented a summary of this process, along with the written bids and documents to the Chairman of the TSVHB Audit Committee (this was prior to the establishment of the Executive Committee), and in consultation with the Administrator and DON, this group selected the proposer determined to be most suitable to the needs of the facility, taking into consideration not only cost, but background, experience, references, commitment to TSVHB goals, etc.

12) Name & Address of the Proposed Contractor's Principal Owner(s) :
(not required if proposed contractor is a state education institution)

Jean Raines Lessly, M.D., C.M.D., Chief Executive Officer, Creative Healthcare, 1836 Cromwell Drive, Nashville, TN 37215

13) Evidence of the Proposed Contractor's Experience and Length of Experience Providing the Service :

Dr. Lessly is an individual known by and recommended by the immediately prior Medical Director at Humboldt. She is a Geriatrician who has experience as a Medical Director for Long Term Care Facilities, and also has experience in the provision of Hospice services. Additionally, she has experience in assisting another nursing home facility address findings by the Department of Justice. (CV attached.)

14) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one: Documentation Not Applicable to this Request Documentation Attached to this Request

15) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one: Documentation Not Applicable to this Request Documentation Attached to this Request

16) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one: Documentation Not Applicable to this Request Documentation Attached to this Request

17) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

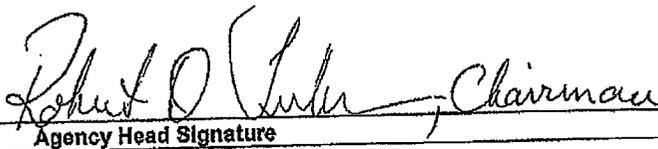
The RFP for Medical Director - Humboldt was issued on November 3, 2009, and sent to 23 West Tennessee area physicians, several of whom had expressed initial interest in the project. No proposals were submitted by the proposal deadline date of November 25, 2009. As noted above, numerous RFP's and Alternative Procurement bid processes have either failed to produce a suitable provider of services or have, after a lengthy interview and negotiation process, been minimally successful.

18) Justification of Why the State Should Use Non-Competitive Negotiation Rather Than a Competitive Process :
(Being the "only known" or "best" service provider to perform the service as desired will not be deemed adequate justification.)

It is mandatory that each facility have a Medical Director at all times. Securing this service from a suitable provider has been extremely difficult at the Humboldt facility, primarily because of its rural location and the resulting overall staffing difficulties this facility has encountered. In order to maintain and continue to improve the high quality level of care recently recognized by the Department of Justice, it is essential that the facility contract with a highly qualified physician, functioning in a leadership role at the facility. Dr. Lessly has served in this capacity for the past several months under a short term contract, therefore she has a relationship with and knowledge of the residents at the Humboldt TSVH as well as their families. She is interested in providing services on a long term basis, and her continued association with the Humboldt TSVH as medical director will be a major factor in reassuring the Department of Justice that the processes and procedures put in place to remedy the constitutional deficiencies will be continued so that the DOJ will feel comfortable exiting the lawsuit.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)


Agency Head Signature

Apr 20, 2010
Date



CONTRACT

(fee-for-service contract with an individual, business, non-profit, or governmental entity of another state)

Agency Tracking # 32399-00111 - H	Edison ID
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Contractor Creative Healthcare, PLLC	Contractor Federal Employer Identification or Social Security # <input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 26-3765688
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Service
Medical Director to the Tennessee State Veterans Home – Humboldt, providing consultation to the facility and supervision of medical practices and procedures

Contract Begin Date August 1, 2010	Contract End Date July 31, 2015	Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	CFDA #(s)
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FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2010				\$112,000.00	\$112,000.00
2011				\$122,000.00	\$122,000.00
2012				\$122,000.00	\$122,000.00
2013				\$122,000.00	\$122,000.00
2014				\$122,000.00	\$122,000.00
2015				\$10,000.00	\$10,000.00
TOTAL:				\$610,000.00	\$610,000.00

— OCR Use —	Agency Contact & Telephone #	
	Agency Budget Officer Approval (there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred)	
	<table border="1"> <tr> <td>Speed Code</td> <td>Account Code</td> </tr> </table>	Speed Code
Speed Code	Account Code	

Contractor Ownership/Control

African American
 Person w/ Disability
 Hispanic
 Small Business
 Government
 Asian
 Female
 Native American
 NOT Minority/Disadvantaged
 Other

Contractor Selection Method

RFP
 Competitive Negotiation *
 Alternative Competitive Method *
 Non-Competitive Negotiation *
 Other *

***Procurement Process Summary**

Initially, an RFP was issued in November, 2009 to secure the services of a physician to serve as Medical Director for the Humboldt facility. Although it was sent to 23 area physicians or clinics, some of whom had earlier expressed an interest in the project, the RFP was unsuccessful. Dr. Jean Raines Lessly is a physician who expressed a possible interest. She is known to and was recommended by the immediately prior Medical Director. The Executive Director (formerly Interim Director) contacted Dr. Lessly to verify her interest. He and the Administrator of the Humboldt facility held several meetings with Dr. Lessly, during which she toured the facility, and they discussed her qualifications, remuneration, and current concerns of the facility. Following these meetings, Dr. Lessly agreed to a short term contract. A request for a short term non-competitive negotiation was submitted to and approved by F & A and the Comptroller, and a six (6) month contract was effected on February 1, 2010. TSVH management and Dr. Lessly are both interested in pursuing a long term contract. We believe that her background and her familiarity with Department of Justice agreements make Dr. Lessly particularly suited to serve as a long term Medical Director for the Humboldt facility. She is experienced in geriatrics and hospice. The Department of Justice has acknowledged her expertise, and her continued association with the Humboldt facility as medical director will be a major factor in reassuring the Department of Justice that the processes and procedures put in place to remedy the constitutional deficiencies will be continued so that DOJ will feel comfortable exiting the lawsuit.

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
TENNESSEE STATE VETERANS' HOMES BOARD
AND
CREATIVE HEALTHCARE, PLLC**

This Contract, by and between the State of Tennessee, TENNESSEE STATE VETERANS' HOMES BOARD, hereinafter referred to as the "State" and Creative Healthcare, PLLC, hereinafter referred to as the "Contractor," is for the provision of the services of Dr. Jean Lessly, a physician licensed in the State of Tennessee, who will serve as Medical Director to the Tennessee State Veterans Home – Humboldt, providing consultation to the facility and supervision of medical practices and procedures, as further defined in the "SCOPE OF SERVICES."

The Contractor is A LIMITED LIABILITY COMPANY.

Contractor Federal Employer Identification or Social Security Number: 26-3765688

Contractor Place of Incorporation or Organization: Tennessee

BACKGROUND INFORMATION:

The Tennessee State Veterans' Homes Board (TSVHB) is an instrumentality of the State that receives no direct appropriations of funds and must operate its Homes in a manner to be financially self-sufficient. TCA Section 58-7-101(b) provides that "the primary purpose of the homes shall be to provide support and care for honorably discharged veterans who served in the United States armed forces." The Board operates the Homes through its Executive Staff. The address of the Executive Staff is:

P.O. Box 11328
(345 Compton Road)
Murfreesboro, TN 37129

The Executive Staff consists of an Executive Director and support staff, a Financial Director and support staff, and an Information Technology Director and support staff. The Board currently operates three facilities, one in Murfreesboro (opened 1991), one in Humboldt (opened in 1996), and one in Knox County (opened December 2006). The facilities currently each employ approximately 170 clinical, business office and support personnel. These facilities are all dually certified, 140 bed nursing homes. Each Home contracts with a Medical Director. While each Medical Director functions independently, the facilities do operate under the same general guidelines.

The Medical Director is expected to provide Clinical Leadership to the Home and to residents' attending physicians, participating in administrative decision making and the development of policies and procedures related to patient care. He/she shall uphold the ethics of the medical profession in all aspects of care rendered, and will promote a learning culture within the facility so as to provide a high quality level of compassionate care to the residents.

The Board shall designate a representative (hereinafter the "Executive Director") to oversee the performance of the Contractor relative to the Scope of Services as detailed in this Contract.

In any situation which, pursuant to the terms of this Contract, the Board shall be required or permitted to take any action, to give any approval or receive any report, the Contractor shall be entitled to rely upon the written Statement of the Board's Executive Director to the effect that any such action or approval has been taken or given, and delivery of any such report to the Board's Executive Director shall constitute delivery to the Board.

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.

A.2. RESPONSIBILITIES OF CONTRACTOR

A.2.1. Services As Needed/Requested. It is understood that in addition to his/her regularly scheduled services, the Contractor shall also provide services to the Home on an as needed or as requested basis, including

emergency consultation. Reasonable prudence and good judgment will be exercised by facility staff in making requests for service.

- A.2.2. Medical Administration. Contractor shall assume and discharge responsibility for medical administration and professional supervision of the patient care directed by the Home, consistent with the Home's policies and procedures, standards and criteria prescribed by the Board, the applicable standard of care for the Contractor within the medical profession and all applicable federal and state laws and regulations, and Veterans Administration standards. Contractor shall fully implement recommendations from surveys conducted at the Home.
- A.2.3. On Site Visits. In order to meet the needs of the facility, Contractor shall spend sufficient time on site, primarily between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday in order to accomplish the duties required by this contract. This shall include, but not be limited to, consulting with Nursing Management and Administration, reviewing resident charts, examining patients and providing supervisory services. Scheduling must be flexible in order to meet the needs of the facility.
- A.2.4. Nurse Practitioner. Contractor may employ or sub-contract with a Nurse Practitioner acceptable to the Board to work at the Home. Hours and duties for this employee will be scheduled by the Contractor, in consultation with the Administrator of the Home or his/her designee based on the needs of the Home. A copy of licensing and other credentials of the Nurse Practitioner shall be kept on file at the Home, and updated as necessary to ensure that credentialing file is kept current.
- A.2.5. Budgeting. Contractor shall participate with the Home in the budgetary process in minimizing costs.
- A.2.6. Accreditation. Contractor shall participate with the Home's administrative staff in preparing the Home for any applicable accreditation.
- A.2.7. Goals and Objectives. Contractor shall provide input as requested in establishing medical service goals and objectives for the Home in conjunction with appropriate Home personnel and Home's interdisciplinary group.
- A.2.8. Quality Improvement and Assurance. Contractor shall participate in the Home's quality improvement and quality assurance program, and shall attend meetings of those committees to which the Home assigns the Medical Director to be a member and requests the Medical Director's presence.
- A.2.9. Consultation. Contractor shall provide medical consultation in ethical decisions regarding patient care, advance directives and employee issues with the Administrator, Unit Manager and Director of Nursing.
- A.2.10. Specialty Programs and Meetings. Contractor shall assist the Home in the development of specialty programs and attend meetings when requested.
- A.2.11. Physician Education. Contractor shall promote the education of other physicians in the community regarding services provided by the Home, and shall assure a continuum of quality medical care for the patient.
- A.2.12. Staff In-Service Education. Contractor shall participate in appropriate planning and presentations of the Home's in-service education programs.
- A.2.13. Inpatient Alternatives. Contractor shall initiate and develop creative, innovative and cost effective alternatives to inpatient hospital services through services provided by the Home.
- A.2.14. Managed Care Contract. Contractor, in conjunction with Chief Executive Officer, shall provide medical leadership for the Home negotiating contracts with managed care companies and other health care organizations.
- A.2.15. Confidentiality. Contractor shall maintain the confidentiality of information supplied by the Home.
- A.2.16. Patient Care. Contractor shall assure the appropriateness of patient care, within applicable standards of practice, and shall provide a medical perspective on administrative decision-making. Contractor shall be

knowledgeable concerning policies and programs of public health agencies, which may affect resident care programs in the Home. Contractor shall be available for consultation with the Home's staff in evaluating the adequacy of the Home's staff to meet the psycho-social needs, as well as the medical and physical needs of the residents.

- A.2.17. Governing Board Meetings. Contractor shall attend and participate in meetings of the Homes governing board from time to time, as required by the Home.
- A.2.18. Consultation on Policies. Contractor shall consult with the Home and its staff, affiliated physicians, and residents' attending physicians on the development, revision, and implementation of the Home's policies, procedures, and protocols as requested by the Home, but at least annually.
- A.2.19. Attending Physician Services. This contract shall not preclude Contractor from serving as attending physician for residents of the Home, and in her capacity as attending physician, visiting residents in accordance with Medicare, Medicaid, or third party payor requirements and billing those entities directly for such services. If there is a separate attending physician, the Contractor shall provide medical care to the Home's residents in the event that the attending physician is unable to respond to the care needs of a patient or is unable to retain responsibility for a patient's care.
- A.2.20. Certification. Contractor shall review, certify and re-certify patient eligibility for the Home's services, in accordance with the Home's program policies and Medicare and Medicaid reimbursement guidelines.
- A.2.21. Home Committees and Groups. Contractor shall serve as a medical resource to and member of the Home Interdisciplinary Group, through personal attendance at Home Interdisciplinary Group conferences.
- A.2.22. Equipment and Supplies. Contractor shall make recommendations to the Home in conjunction with any pharmacists (consultant) that the Home may retain on the type and amount of equipment and pharmaceuticals that are necessary or advisable for the Home to provide appropriate patient care services.
- A.2.23. Other Services. Contractor shall provide other professional medical services related to the medical needs of the Home and its residents as the Home may request, from time to time.
- A.2.24. Orders. Contractor shall promptly and accurately record all physician orders and medical services provided pursuant to this contract in a format approved by the Home. Contractor shall provide a signed detailed and timely medical record entry for each medical service rendered to a Home resident whether a scheduled or emergency visit. Contractor shall prepare and maintain accurate and complete reports and other documentation in accordance with sound medical practice, state and federal laws and regulations, Home policies and procedures and other reasonable requirements of the Home. State/Federal regulations and Home policies and procedures will mandate frequency and details of reporting. Such records shall remain the property of the Home.
- A.2.25. Facility Staff. Contractor shall provide appropriate professional guidance and consultation directly to the Home's supervisory personnel. Contractor shall provide appropriate guidance and working relationships with attending physicians to insure effective medical care. Contractor shall provide appropriate professional guidance to the Home's supervisory personnel regarding written bylaws, rules and regulations applicable to each physician attending residents in the Home. Contractor shall consult and communicate on a regular basis with the Home's Administrator and Director of Nursing through his/her attendance at the monthly Quality Assurance Committee meeting.
- A.2.26. Incidents and Accidents. Contractor shall review incidents and accidents that occur on the premises of the Home to identify hazards to health and safety. Contractor shall advise the Home on employee health policies as requested by the Administrator and/or Board of Directors.
- A.2.27. Resident Emergencies. Contractor shall provide emergency resident coverage in the event the attending physician cannot be located. Contractor shall develop a working relationship with the resident's attending physician's staff in efforts to ensure effective medical care. Contractor shall assist Home in arranging for continuous physician coverage for medical emergencies and in developing procedures for emergency treatment of residents.

- A.2.28. Employee's Pre-Employment and Annual Physicals. Contractor shall provide pre-employment and annual physicals according to Board policy and State/Federal regulations.
- A.2.29. Non-discrimination. Contractor shall not discriminate in the treatment of the Home's residents because of race, color, creed, age, religion, handicap, sex or national origin.
- A.2.30. Peer Review. Contractor shall submit to quarterly peer review and shall participate in the periodic peer review of others, including Medical Directors of other TSVH facilities, currently located in Murfreesboro and Knoxville, as requested.

A.3 RESPONSIBILITIES OF THE HOME:

A.3.1. Professional Management. Home shall be responsible for the delivery of Home services, and for the professional management of all services provided to the Home's residents; provided, however, that the Contractor shall exercise independent medical judgment regarding the method of delivering Medical Director Services pursuant to this contract.

A.3.2. Tasks. Home shall be responsible for assuring the completion of the following tasks:

- I. Accepting residents for treatment in accordance with the Home's policies, and performing patient assessments on such patients;
- II. Developing a plan of care for each resident, in conjunction with the Contractor;
- III. Coordinating and evaluating the care provided to its residents;
- IV. Maintaining a complete and timely clinical record, including an assessment, plan of care, medical history, physician's orders and progress notes relating to all services provided;
- V. Establishing a discharge plan;
- VI. Orienting Contractor to the Home's policies and procedures;
- VII. Assuring adequate personnel support to implement and appropriate proposals and recommendations to the Contractor;
- VIII. Coordinating and scheduling interdepartmental or committee meetings or conferences and notifying the Contractor of any anticipated need for his/her involvement therein and;
- IX. Retaining written reports provided by the Contractor to the Home and coordinating follow-up action based on those reports.

A.3.3 Peer Review. The Home shall schedule and ensure completion of quarterly peer reviews of the Contractor.

A.4 AVAILABILITY OF THE HOME:

A.4.1. Access to Facility. The Home, including the services of a Registered Nurse, shall be available to the Contractor twenty-four (24) hours per day, seven (7) days per week.

A.4.2 Clinical Information. The Home shall provide the Contractor with access to, and appropriate training in, the use of the resident clinical information systems.

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on August 1, 2010, and ending on July 31, 2015. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Six Hundred Ten Thousand Dollars (\$610,000). The payment rates in Section C.3 and the Travel Compensation provided in Section C.4. shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.

b. The Contractor shall be compensated based upon the following payment rates:

Service Description	Amount (per month)
MEDICAL DIRECTOR SERVICES	\$ 10,000.00

c. The Contractor shall not be compensated for travel time to the primary location of service provision.

d. A "month" shall be defined as a full calendar month of service. The Contractor shall bill only for portions of a month, prorated on a daily basis, if the Contractor provided less than a full calendar month of service. The Contractor shall not bill more than the monthly rate regardless of the number of hours worked.

C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time. Such travel shall be at the specific request of the Executive Director, Tennessee State Veterans' Homes Board, primarily for the purpose of conducting Peer Review of Medical Directors at other TSVH facilities.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.

a. The Contractor shall submit invoices no more often than monthly, with all necessary supporting documentation, to:

TENNESSEE STATE VETERANS HOMES BOARD
P. O. Box 10748
Murfreesboro, TN 37129

- b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.
- (1) Invoice/Reference Number (assigned by the Contractor);
 - (2) Invoice Date;
 - (3) Invoice Period (period to which all invoiced charges are applicable);
 - (4) Contract Number (assigned by the State to this Contract);
 - (5) Account Name: Tennessee State Veterans Homes Board – Humboldt Facility;
 - (6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
 - (7) Contractor Name;
 - (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);
 - (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
 - (10) Contractor Remittance Address;
 - (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service Description for each service invoiced;
 - ii. Number of Units, Increments, or Milestones of each service invoiced;
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) for each service invoiced;
 - iv. Amount Due by Service;
 - v. Travel Compensation requested in accordance with and attaching to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations;" and
 - vi. Total Amount Due for the invoice period.
- c. The Contractor understands and agrees that an invoice to the State under this Contract shall:
- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) not include any future work but will only be submitted for completed service; and
 - (3) not include sales tax or shipping charges.
- d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.
- e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.
- C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The Contract may be terminated by either party by giving written notice to the other, at least Sixty (60) days before the effective date of termination. Should the State exercise this provision, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Should the Contractor exercise this provision, the State shall have no liability to the Contractor except for those units of service which can be effectively used by the State. The final decision as to what these units of service are, shall be determined by the State. In the event of disagreement, the Contractor may file a claim with the Tennessee Claims Commission in order to seek redress
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- a. Instances in which the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services shall include, but are not limited to the occurrence of any of the following:
- i. the Contractor fails at any time to satisfy all qualifications set forth in this contract
 - ii. the Contractor fails or is substantially unable to perform the duties and responsibilities described herein;
 - iii. the Contractor is convicted of any crime punishable as a felony;
 - iv. the State determines, at its sole discretion, that the safety of any of the residents may be jeopardized by continuing this contractual relationship with the Contractor;
 - v. the Contract becomes subject to expulsion, suspension, or other disciplinary action taken by any professional or scientific organization on serious grounds other than for non-payment of dues, or resignation by the Contractor from any professional or scientific organization under the threat of disciplinary action on serious grounds; or
 - vi. the Contractor is sanctioned, excluded or threatened with exclusion, from the Medicare or Medicaid program.
- b. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*

- D.11. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.14. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.15. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.16. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.17. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.19. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.20. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.21. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

ED HARRIES, EXECUTIVE DIRECTOR
TENNESSEE STATE VETERANS' HOMES BOARD
345 COMPTON ROAD (PO BOX 11328), MURFREESBORO, TN 37130
eharries@tsvh.org
Telephone # 615-225-1816
FAX # 615-898-1619

The Contractor:

JEAN RAINES LESSLY, M.D., C.M.D., CEO
CREATIVE HEALTHCARE, PLLC
1836 Cromwell Drive, Nashville, TN 37215
Doctorjeannie@Comcast.net
Telephone # 615-738-8943
FAX # 615-250-3938

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Authorized Individuals. Routine notices, requests, demands or other advise by the Contractor specific to the facility shall be submitted to the facility Administrator, or in his/her absence, the Director of Nursing.
- E.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.5. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.6. Voluntary Buyout Program. The Contractor acknowledges and understands that, for a period of two years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.

- a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.
- b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Contractor understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a VBP severance payment as an employee or an independent contractor of a State contractor would not be appropriate, and in such cases the State may refuse Contractor personnel. Inasmuch, it shall be the responsibility of the State to review Contractor personnel to identify any such issues.
- c. With reference to either subsection a. or b. above, a contractor may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the *VBP Contracting Restriction Waiver Request* format available from the State and the Internet at: www.state.tn.us/finance/rds/ocr/waiver.html. The determination on such a request shall be at the sole discretion of the head of the state agency that is a Party to this Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.

E.7. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance and shall maintain current information at the facility detailing the following:

- (a) Insurance Company
- (b) Contractor's Name and Address as the Insured
- (c) Policy Number
- (d) The following minimum insurance coverage:
 - (i) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million Dollars (\$1,000,000.00) per occurrence for employers' liability;
 - (ii) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million Dollars (\$1,000,000.00) per occurrence;
 - (iv) Professional Malpractice Liability with a limit of not less than one million Dollars (\$1,000,000.00) per claim.
- (e) The following information applicable to each type of insurance coverage:
 - (i) Coverage Description,
 - (ii) Exceptions and Exclusions,
 - (iii) Policy Effective Date,
 - (iv) Policy Expiration Date, and
 - (v) Limit(s) of Liability.

E.8. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering

the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.9. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.
- E.10. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.
- a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.
 - b. The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.
 - c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
 - d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.
- E.11. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear

thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.12. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.

E.13. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

E.14. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

- a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

E.15. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

- E.16. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.
- E.17 Fraud and Abuse. Contractor represents and warrants that Contractor has not been sanctioned under any applicable state or federal fraud and abuse statutes, including exclusion from a federal health care program or if, during the term of this Agreement, Contractor, any parent of Contractor, or any officer, director or owner of Contractor, receives such a sanction or notice of a proposed sanction, Contractor will immediately provide to the Tennessee State Veterans Homes Board a notice of and full explanation of such sanction or proposed sanction and the period of its duration. Tennessee State Veterans Homes Board reserves the right to terminate the Contract immediately upon receipt of notice that Contractor, any parent of Contractor, or any officer, director or owner of Contractor, has been sanctioned under federal or state fraud and abuse statutes and Contractor agrees to indemnify and hold harmless facility from any and all liability, loss or expenses incurred directly or indirectly by any TSVHB Facility because of any sanctions incurred by Contractor under any applicable state or federal fraud and abuse statutes, including any exclusion from a federal health care program.
- E.18. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by *Tennessee Code Annotated*, Section 8-6-106.

- E.19. Partial Takeover. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in Breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial

Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

IN WITNESS WHEREOF,

CREATIVE HEALTHCARE, PLLC:

CONTRACTOR SIGNATURE

DATE

JEAN RAINES LESSLY, M.D., C.M.D., CHIEF EXECUTIVE OFFICER

TENNESSEE STATE VETERANS' HOMES BOARD:

CHAIRMAN, TENNESSEE STATE VETERANS' HOMES BOARD

DATE

APPROVED:

COMMISSIONER OF VETERANS AFFAIRS

DATE

COMMISSIONER OF FINANCE & ADMINISTRATION

DATE

COMPTROLLER OF THE TREASURY

DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Creative Healthcare, PLLC
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	26-3765688

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

JEAN RAINES LESSLY, M.D., C.M.D.

DATE OF ATTESTATION



E-Health Pre-Approval Endorsement Request E-Mail Transmittal

TO : Lovel VanArsdale, Office of e-Health Initiatives
Department of Finance & Administration
E-Mail : Lovel.Vanarsdale@tn.gov

FROM : ED HARRIES, EXECUTIVE DIRECTOR
TENNESSEE STATE VETERANS' HOMES BOARD
E-Mail : eharries@tsvh.org

DATE : April 21, 2010

RE : Request for eHealth Pre-Approval Endorsement

APPLICABLE RFS # 32399-00111-H

OFFICE OF E-HEALTH INITIATIVES ENDORSEMENT SIGNATURE & DATE :

W. VanArsdale

4/21/2010

Office of e-Health Initiatives

Office of e-Health Initiatives (eHealth) pre-approval endorsement appears to be required pursuant to professional service contracting regulations pertaining to procurements with medical/mental health-related professional, pharmaceutical, laboratory, or imaging type services as a component of the scope of service. This request seeks to ensure that eHealth is aware of and has an opportunity to review the procurement detailed below and in the attached document(s).

Please indicate eHealth endorsement of the described procurement (with the appropriate signature above), and return this document via e-mail at your earliest convenience.

MEDICAL/MENTAL HEALTH-RELATED SERVICE DESCRIPTION :

Medical Director, Tennessee State Veterans Home – Humboldt, to provide consultation to the facility and supervision of medical practices and procedures.

CONTRACTING AGENCY CONTACT :

PRISCILLA L. CAMPBELL, CONTRACT OFFICER
731-784-8405
pcampbell@tsvh.org

REQUIRED ATTACHMENT(S) AS APPLICABLE (copies without signatures acceptable) :

- RFP, Competitive Negotiation Request, Alternative Procurement Method Request, or Non-Competitive Contract/Amendment Request
- proposed contract or amendment

Jean Raines Lessly, M.D., C.M.D.
1836 Cromwell Drive
Nashville, TN 37215
(615) 309-9982 (Home) (615) 738-8943 (Cell Phone)

Board Certified: Internal Medicine, Geriatrics, Hospice and Palliative Care

Additional certification: Certified Medical Director (C.M.D.)

Work Experience:

- November 2008 – present** **C.E.O. of Creative Healthcare, P.L.L.C.**
Innovative company providing healthcare to patients in long-term care and hospice using physician and nurse practitioner services
- February 2009 – present** **Medical Director for Odyssey Healthcare**
Developing a new Palliative Care Program
Overseeing hospice care for Nashville patients
- November 2008 – present** **Medical Director McKendree Health Facility**
Medical Director of 150 bed long-term care facility
- November 2008 – present** **Medical Director McKendree Manor Assisted Living**
Medical Director of 84 bed Assisted Living Facility
- May 2007 – Feb 2009** **Team Medical Director for Alive Hospice**
Medical director for North and East home teams
Medical director for Facilities team, covering 47 facilities
- Attending Physician Bordeaux Long-Term Care Facility**
Continued as Attending Physician for 60 people at Bordeaux,
On the secured dementia unit
- January 2005 – May 2007** **Medical Director Bordeaux Long-Term Care Facility**
Continued to serve as Medical Director at Bordeaux LTC
Facility under Mid-Atlantic Long-Term Care of
Tennessee
- Adjunct Professorship at Meharry Medical College**
Instructor of geriatric rotations and electives in long-term care
for medical students and internal medicine residents.

July 2002 – January 2005

Medical Director Bordeaux Long-Term Care Facility
Served as Medical Director under Meharry Medical College
Supervisor of 8 physicians and 5 nurse practitioners at a 420
bed long-term care facility

Founder of Palliative Care Program

Chairperson of the following committees: Long-Term Care
Division, Peer Review, Pharmacy & Therapeutics,
Nutrition, Medical Records and Utilization Review.

Member of the following committees: Medical Executive
Council, Quality Council, Internal Medicine Peer
Review, Risk Management and Ethics, Infection
Control, Information Systems Steering Committee,
GRECC, Medical Administrative, Departmental
Leadership Team, Pain Management Initiative, Internal
Medicine Operation, Geriatric Education Development

Chief of Geriatrics at Meharry Medical College
Director of geriatric rotations and electives in long-term care
for medical students and internal medicine residents.

November 2003 – March 2004

Medical Director, Kindred Hospital
Responsible for medical oversight of a 60 bed Long-Term
Acute Care Unit.

June 2001 – June 2002

Assistant Medical Director, Alive Hospice.

Supervised weekly team meetings for both inpatient residence
and home hospice patients. Covered 30 bed inpatient hospice
facility on multiple weekends and when full time medical
director was out of town.

Education:

2001 - 2002

Geriatrics Fellowship

Vanderbilt University Medical Center

Nashville, TN; Board Certified 2002-2012

Many electives in palliative care, hospice, and long term care.

1998 - 2001

Internal Medicine Residency

Vanderbilt University Medical Center

Nashville, TN; Board Certified IM 2001-2011

1994 - 1998

Medical School

Washington University School of Medicine

St. Louis, MO

1989 - 1993

Undergraduate

Vassar College, Political Science

Poughkeepsie, NY

(Including a year abroad in Russia at the Moscow Institute of International Relations).

Teaching Experience:

- 2002 – present **Assistant Professor, Internal Medicine/Geriatrics.** Instruct medical students, internal medicine residents, and geriatric fellows regarding geriatric evaluation and palliative care.
- 2001 – present **Distinguished speaker,** at multiple conferences including: The VUMC/VA GRECC Conference, Oncology Nursing Conference, Vanderbilt Medical Students Group Seminar, Palliative Care Committee, The EMS of Cheatham County, Tennessee Association of Homes & Services for the Aging Annual Conference, The University School, and Barton House Alzheimer's Unit on the following topics: Palliative Care in the Nursing Home, Pain Management in the Elderly, Non-pharmacologic Pain Management in the Elderly, Alzheimer's Disease - a Disease to Remember, Hospice – the Basics, Symptom Management at the End of Life
- 2001 – 2002 **Contributor to Web-PEP (Pain Educational Program).** Wrote 20+ page introduction to Web-PEP, web based instructional manual and exam for all internal medicine and anesthesia residents at Vanderbilt University Medical Center, 2002
- 1995 - 1996 **Teacher, Kaplan Test Preparation Center.** Taught 100+ students individually and in classes in preparation for the MCAT. Worked 25+ hours during the summer and 5-10 hours per week during 2nd year of medical school.
- 1993 - 1994 **Chemistry Teaching Assistant, University of Tennessee at Chattanooga.** Prepared and supervised lab experiments, as well as assisting students with general curriculum.
- 1993 – 1994 **Tutor, Self-employed.** Tutored 30+ college students in General and Organic Chemistry. Also tutored high school students in Pre-calculus and Algebra II.
- 1989 - 1993 **Supervisor, Academic Computer Center.** Responsible for computer support of Vassar College students and, by junior year supervised five other employees.

Professional Organizations:

Board Member Alzheimer's Association
American Medical Association
American Geriatrics Society
American Medical Directors Association
National Council of Hospice and Palliative Professionals

Licensure and Certification:

Tennessee Medical License: July 2001
Board Certified: Internal Medicine, November 2001
Board Certified: Geriatrics, July 2002
Board Certified: Hospice and Palliative Medicine, November 2005
Controlled Substance Registration (DEA certified): March 2002

Honors:

- Futures Program, AMDA 25th Anniversary Symposium, 2002
- Poster Presentation, "Hospice Volunteers: An Analysis of Commitment," The American Geriatrics Society Annual Scientific Meeting, 2002
- Clinical Medicine Class Supervisor, Washington University School of Medicine, 1996
- Co-director of Organ Donor Awareness Day, Washington University School of Medicine, 1996
- Edward E. Baumhardt Trust Medical Student Loan (merit based), 1996
- American College of Physicians Summer Externship Program, 1995
- Phi Beta Kappa, Vassar College, 1993
- General Honors, Vassar College, 1993
- Departmental Honors in Political Science, Vassar College, 1993
- Mark of Distinction for Senior Thesis: "Health Care in Japan," Vassar College, 1993