

**KINGSVIEW CORPORATION &
SAN BENITO COUNTY BEHAVIORAL HEALTH
TELEPSYCHIATRY SERVICES AGREEMENT**

This Telepsychiatry Services Agreement (the "Agreement") is made and entered into this 1st day of July 2018, by and between Kings View Corporation, a California not-for-profit corporation ("Kings View") and San Benito County Behavioral Health, ("County").

RECITALS:

A. San Benito County Behavioral Health is a political subdivision of the State of California and, as such, desires to increase access to behavioral health services for at risk populations within San Benito County via a teleconferencing modality.

B. San Benito County Behavioral Health recognizes that the provision of behavioral health services via a teleconferencing modality will allow the them to address cultural, socioeconomic, and geographic barriers to behavioral health services and information in underserved areas of San Benito County and will further allow San Benito County Behavioral Health to expand the range of resources and services available within the county.

C. San Benito County Behavioral Health recognizes its responsibility under the Bronzan-McCorquodale Act to report data related to client outcomes and cost effectiveness of its mental health programs to the Director of Mental Health for the California Department of Mental Health.

D. Kings View is a California not-for-profit corporation that employs persons licensed, trained, and experienced in providing behavioral health services via a teleconferencing modality.

E. San Benito County Behavioral Health desires to increase access to behavioral health services in an efficient and cost effective manner and, therefore, desires to contract with Kings View, and Kings View desires to provide such services, pursuant to the terms and subject to the conditions contained herein.

AGREEMENT:

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. **Purpose.** San Benito County Behavioral Health desires to expand and improve access to mental health services for clients of San Benito County, as well as to address identified psychiatric needs and improve the mental health of those individuals via a teleconferencing modality.

2. **Telepsychiatric Services.** Pursuant to the terms of this Agreement, Kings View shall employ, contract with, or otherwise arrange for the services of a Provider, as defined in paragraph 5 of this Agreement, to (i) deliver direct professional behavioral

health services to San Benito County Behavioral Health clients by means of video-conferencing, (ii) provide consultation or training to qualified health care professionals designated and scheduled by San Benito County Behavioral Health, and/or (iii) conduct on-site visits for the purpose of either delivering direct patient care services or conducting training or consultation as mutually agreed between the parties (the "Telepsychiatric Services").

a. **Professional Medical Services.** San Benito County Behavioral Health hereby grants the right to Kings View to employ, contract with, or otherwise arrange for the services of a Provider, and hereby grants the right to a Provider the right to provide professional medical services as San Benito County Behavioral Health may direct. The duties of the Provider in treating clients hereunder shall specifically not be performed under the direct control of San Benito County Behavioral Health or Kings View, but rather shall be performed by the Provider in accordance with the standards prevailing in the community.

b. **Scheduling of Services.** Kings View shall arrange for a Provider to be available to provide a minimum of four (4) consecutive hours per week of Telepsychiatric Services (the "Minimum Service Hours") and to be available to render such services on a day to be mutually agreed upon by the parties.

c. **Additional Service Hours.** The Minimum Service Hours may be increased or decreased in four (4) hour increments upon the mutual written agreement of the parties; provided, however, that in no event shall the Minimum Service Hours be fewer than four (4) hours per week. Any increase or decrease of the Minimum Service Hours shall be effective no fewer than sixty (60) days from the mutual written agreement of the parties, unless otherwise agreed upon between both parties.

d. **On-Site Visitation.** As part of the Telepsychiatric Services, Kings View shall require a Provider to annually conduct one (1) on-site visit for the purpose of providing direct patient care services, and/or consulting or training qualified health care professionals, as mutually agreed by the parties.

e. **Billing for Telepsychiatric Services.** Kings View shall provide San Benito County Behavioral Health with such information regarding the delivery of medical services to assist San Benito County Behavioral Health in charging the clients professional fees, which shall be consistent with and shall not exceed the usual, customary and reasonable community standards for medical services.

3. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue in full force and effect through June 30, 2019, subject to the termination as provided in this Agreement (the "Term").

4. **Compensation.** San Benito County Behavioral Health agrees to provide compensation to Kings View and Kings View agrees to accept as compensation two hundred sixty dollars (\$278.00) per hour in consideration for providing Telepsychiatric Services. San Benito County Behavioral Health guarantees payment for the Minimum Service Hours. Kings View will provide an invoice to San Benito County Behavioral

Health on a monthly basis. San Benito County Behavioral Health shall pay invoices within thirty (30) days of receipt.

5. **Minimum Professional Qualifications of Providers.** Each and every qualified health professional employed, contracted with, or otherwise engaged by Kings View to provide Telepsychiatric Services pursuant to this Agreement (the "Provider") shall possess the following minimum qualifications:

a. **Licensing.** Provider shall possess a valid, unrestricted license to practice medicine in the State of California issued by the Medical Board of California and shall specialize in psychiatry.

b. **Board Certification.** Provider shall be either certified by the American Board of Psychiatry or is eligible to be certified by the American Board of Psychiatry and will become so certified within twelve (12) months from the Effective Date.

c. **Federal DEA Number.** Provider shall have and maintain a valid, unrestricted Federal D.E.A. Controlled Substances Certificate.

d. **Professional Liability Insurance Coverage.** Provider shall maintain personal professional liability insurance of the minimum coverage amount of One Million Dollars (\$1,000,000) per occurrence, and Three Million Dollars (\$3,000,000) in the aggregate, written by a carrier acceptable to San Benito County Mental Health.

e. **No Governmental Health Program Sanctions.** Each Provider shall not have been sanctioned by or excluded from participation in federally or state funded medical reimbursement programs, including but not limited to, Medicare, Medicaid, Champus, Federal Employees Health Benefits Program and similar programs. Prior to any new Psychiatrist delivering Kings View Telepsychiatry services for San Benito County Behavioral Health, Kings View will check the Office of Inspector General's (OIG) Exclusion List and the Medi-Cal List of Suspended or Ineligible Providers lists to ensure the Psychiatrists are eligible to provide Medi-Cal billable services (Reference DMH Letter NO.: 10-05 issued on September 3, 2010). Kings View staff will check the OIG Exclusion List and Medi-Cal Suspended or Ineligible Providers lists at least twice per year for all Kings View Telepsychiatry M.D.s that provide services for San Benito County Behavioral Health.

6. **Duties of Kings View.** During the Term of this Agreement, Kings View shall have the obligation to:

a. **Cooperate with San Benito County Behavioral Health.** Kings View shall cooperate with San Benito County Behavioral Health to facilitate the provision of Telepsychiatric Services pursuant to this Agreement.

b. **Insurance.** Kings View shall maintain a commercial general liability insurance policy in the amount of one million dollars (\$1,000,000.00). Where

the services to be provided under this Agreement involve or require the use of any vehicle by Kings View in order to perform such services, Kings View shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of three hundred thousand dollars (\$300,000.00). These insurance policies shall remain in force through the Term of this Agreement and shall be payable on a "per occurrence" basis, unless San Benito County Behavioral Health specifically consents to a "claims made" basis. Kings View shall provide a certificate of insurance signed by the insurer evidencing such insurance to San Benito County Behavioral Health prior to commencement of work.

c. **Electronic Signature.** The Kings View Psychiatrists that provide services for San Benito County Behavioral Health will sign the electronic signature agreement, Appendix 1 (Reference SBCBH Policy and Procedure CLN: 06:03), before initiating use of San Benito County Behavioral Health's Anasazi electronic health record system. The original signed electronic signature agreements will be mailed to Quality Improvement Supervisor or MHP Designee.

7. **Duties of San Benito County Behavioral Health.** During the Term of this Agreement, San Benito County Behavioral Health shall have the obligation to:

a. **Cooperation with Kings View.** San Benito County Behavioral Health shall cooperate with Kings View to facilitate the provision of Telepsychiatric Services pursuant to this Agreement.

b. At its sole cost and expense, provide space and equipment for the delivery of services.

c. All equipment furnished by County under this contract shall remain the property of County and shall be used only for the purpose specified under this contract.

d. **Operational Guidelines.** San Benito County Behavioral Health shall adhere to the Operational Guidelines as specified in the Network Provider Manual, attached hereto as Exhibit "A" and incorporated herein by this reference. San Benito County Behavioral Health shall timely update and notify Kings View of any revisions to the Operational Guidelines and/or the Network Provider Manual.

e. **Patient Consent.** Except in an emergency situation in which the patient is unable to give informed consent, before any Telepsychiatric Services are provided to any patient pursuant to this Agreement, San Benito County Behavioral Health, or a qualified individual designated by San Benito County Behavioral Health, shall obtain the verbal and written informed consent of the patient or the patient's legal representative pursuant to section 2290.5 of the California Business & Professions Code. Such informed consent shall insure that at least all of the following information is given to the patient or the patient's legal representative verbally and in writing: (i) the patient has the option to withhold or withdraw consent at any time without affecting the patient's right to future health care or treatment, and without risking a loss or withdrawal of any program benefits to which the patient would otherwise be entitled; (ii) a description of the

potential risks, consequences, and benefits of telemedicine; (iii) all existing confidentiality protections apply; and (iv) dissemination of any patient-identifiable images or information from the telemedicine interaction to researchers or others will not occur without the patient's consent.

f. **Patient Record.** Prior to the rendering of professional services and in accordance with the Operational Guidelines, San Benito County Behavioral Health shall provide Kings View with the patient record of any patient to receive Telepsychiatric Services under this Agreement, including, without limitation, the patient referral form, psychological assessment, progress notes, and patient plan of care.

8. **Indemnification.** San Benito County Behavioral Health agrees to indemnify, defend, and hold harmless Kings View, its agents, officers, and employees from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with, San Benito County Behavioral Health's operations or its services hereunder, including any worker's compensation, suits, liability, or expense arising from or connected with services by any person pursuant to this Agreement. Kings View agrees to indemnify, defend and hold harmless San Benito County Behavioral Health, its agents, officers and employees from and against any and all liability, expense, including defense costs and legal fees, and claims for damages of any nature whatsoever, including but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with, Kings View's operations or its services hereunder, including any worker's compensation suits, liability, or expense arising from or connected with services by any person pursuant to this Agreement.

9. **Kings View's Representations, Warranties, and Covenants.**

a. **Worker's Compensation.** Kings View acknowledges that it is aware of the provisions of the Labor Code of the State of California which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of the Labor Code and it certifies that it will comply with such provisions before the Effective Date of this Agreement.

b. **Nondiscriminatory Employment.** In connection with the execution of this Agreement, Kings View shall not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, national origin, political affiliation, ancestry, marital status or disability. This policy does not require the employment of unqualified persons.

10. **San Benito County Behavioral Health's Representations, Warranties, and Covenants.** San Benito County Behavioral Health has full approval, power, and authority to enter into this Agreement. San Benito County Behavioral Health will make all payments required by this Agreement.

11. **Termination.** Either party may terminate this Agreement by giving the other party ninety (90) days prior written notice of its intention to terminate. Both parties

agree that if Kings View can place their provider in another service provider placement prior to the end of termination notice period, than the notice of termination period may be shortened to earlier than ninety (90) days with the termination date to then coincide with the Kings View psychiatrist date of new placement. Kings View agrees to dutifully pursue a new placement provider site for the provider assigned to serve the County immediately upon receipt of County written notice to terminate the agreement. Notwithstanding the foregoing, either party may terminate this Agreement upon written notice of a material breach, if such material breach remains uncured for a period of fifteen (15) days after the notice.

12. **Confidentiality.** Kings View shall adhere to the confidentiality of patient records as specified under section 5328 of the California Welfare and Institutions Code, the Code of Federal Regulations, Title 45, Parts 80 and 84, and Title VI of the Civil Rights Act of 1964. The California Department of Mental Health, or San Benito County Behavioral Health, and/or their designated auditors shall have the right to inspect during normal business hours and insofar as possible with advance notice such records as will aid in evaluation of the quality, appropriateness, and timeliness of services utilizing such methodologies as are disseminated by the California Department of Mental Health and the California Department of Drug and Alcohol Programs, such as but not limited to those promulgated pursuant to sections 4051, 4052, 4070, and 5612 of the California Welfare and Institutions Code.

13. **Medical Records.**

a. **Ownership and Access.** All records contained in the patient files maintained by San Benito County Behavioral Health shall be the property of San Benito County Behavioral Health, and Kings View shall not remove these records upon termination of this Agreement, except pursuant to a specific request in writing with respect to and from a patient or clients treated by a Provider during the Term, unless otherwise agreed to by San Benito County Behavioral Health. Any working copies of client records generated by Kings View will be maintained by Kings View throughout the term of the contract. Should the contract be terminated, all working copies of client records will be securely shipped back to the County at their expense. In the event of a claim or challenge by a patient or any regulatory authority, San Benito County Behavioral Health shall cooperate with Kings View by making the patient files in San Benito County Behavioral Health's possession available for copying or inspection (to the extent allowable by the rules regarding confidentiality of medical records). Kings View shall similarly cooperate with San Benito County Behavioral Health and make available working copies of client records in the event of such a claim or challenge.

b. **Maintenance of Medical Records.** San Benito County Behavioral Health shall maintain with respect to each patient, a single standard medical record in such form, containing such information, and preserved for such time periods as are required by state and federal law.

c. **Compliance with Medicare Rules.** To the extent required by law or regulation, San Benito County Behavioral Health shall make available, upon written request from Kings View, the Secretary of Health and Human Services, the Comptroller

General of the United States, or any other duly authorized agent or representative, this Agreement and San Benito County Behavioral Health's books, documents and records to the extent necessary to certify the nature and extent of the costs for services provided by the Kings View. San Benito County Behavioral Health shall preserve and make available such books, documents and records for a period of seven (7) years after the end of the Term. If San Benito County Behavioral Health is requested to disclose books, documents or records pursuant to this subparagraph for any purpose, San Benito County Behavioral Health shall notify Kings View of the nature and scope of such request, and San Benito County Behavioral Health shall make available, upon written request of Kings View, all such books, documents or records. San Benito County Behavioral Health shall defend, indemnify and hold free and harmless Kings View if any amount of reimbursement is denied or disallowed because of San Benito County Behavioral Health's failure to comply with the obligations set forth in this subparagraph. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties and reasonable legal fees and costs.

14. **Compliance.**

a. **Anti-Referral Laws.** In addition to the obligations of the parties to comply with applicable federal, state and local laws respecting the conduct of their profession, each acknowledges that they are subject to certain federal and state laws governing the referral of clients which are in effect or will become effective during the term of this Agreement. These laws include prohibitions on:

i. Payments for referral or to induce the referral of clients (Cal. Business and Professions Code § 650; Cal. Labor Code § 3215; and the Medicare/Medicaid Fraud and Abuse Law, §1128B of the Social Security Act); and

ii. The referral of clients by a physician for certain designated health care services to an entity with which the physician (or his/her immediate family) has a financial relationship (Cal. Labor Code §§139.3 and 139.31, applicable to referrals for workers' compensation services; Cal. Business and Professions Code § § 650.01 and 650.02, applicable to all other patient referrals within the State; and § 1877 of the Social Security Act, applicable to referrals of Medicare and MediCal clients).

b. **Compliance with Applicable Laws.** To the best of the each party's knowledge and belief, San Benito County Behavioral Health has operated in compliance with all federal, state, San Benito County Behavioral Health and municipal laws, ordinances and regulations applicable thereto and each party represents that it has not received payment or any remuneration whatsoever to induce or encourage the referral of clients or the purchase of goods and/or services as prohibited under 42 U.S.C. Section 1320a-7b(b), or otherwise perpetrated any Medicare or Medicaid fraud or abuse, nor has any fraud or abuse been alleged within the last five (5) years by any Governmental Authority, a carrier or a third party payor.

c. **Confidentiality of Identifiable Patient Information.** San Benito County Behavioral Health and Kings View acknowledge that, in the course of this Agreement, each shall become familiar with identifiable patient information, meaning

any information relating to the healthcare of an individual who is or has been a patient or client of San Benito County Behavioral Health that contains information that identifies, or can reasonably be linked to the identity of, such individual, and each shall comply with all applicable federal, state, and local laws, rules and regulations, including without limitation the requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and California laws regarding patient confidential information.

d. **Health Care Compliance.** San Benito County Behavioral Health is presently participating in or otherwise authorized to receive reimbursement from Medicare, Medicaid, and other third-party payor programs, and is not nor has ever been an excluded provider. Any and all necessary certifications and contracts required for participation in such programs are in full force and effect and have not been amended or otherwise modified, rescinded, revoked or assigned as the date hereof, and no condition exists or event has occurred which in itself or with the giving of notice or the lapse of time or both would result in the suspension, revocation, impairment, forfeiture or non-renewal of any such payor program.

e. **Fraud and Abuse.** Neither party shall engage in any activities which are prohibited by or are in violation of the rules, regulations, policies, contracts or laws pertaining to any third party and/or governmental payor program, or which are prohibited by rules of professional conduct ("Governmental Rules and Regulations"), including but not limited to the following: (a) knowingly and willfully making or causing to be made a false statement or representation of a material fact in any application for any benefit or payment; (b) knowingly and willfully making or causing to be made any false statement or representation of a material fact for use in determining rights to any benefit or payment; (c) failing to disclose knowledge by a claimant of the occurrence of any event affecting the initial or continued right to any benefit or payment on the Provider's own behalf or on behalf of another, with intent to fraudulently secure such benefit or payment; or (d) knowingly and willfully soliciting or receiving any remuneration (including any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in cash or in kind or offering to pay or receive such remuneration (i) in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part by Medicare or Medicaid, or (ii) in return for purchasing, leasing, or ordering or arranging for or recommending purchasing, leasing, or ordering any good, facility, service or item for which payment may be made in whole or in part by Medicare or Medicaid. Each party acknowledges that this list is not an exhaustive or complete list of all governmental requirements and each party represents and warrants to the other that the each will endeavor, to the best of their knowledge, to educate, to seek information, and/or to make themselves aware of these governmental requirements.

f. **Changes in the Law.** In the event of any changes in law or regulations implementing or interpreting any Federal or State law relating to the subject matter of fraud and abuse or to payment-for-patient referral, including the laws referenced above, the parties shall use all reasonable efforts to revise this Agreement to conform and comply with such changes. In the event that the parties cannot revise this Agreement in a manner which will conform and comply with such changes and preserve to the extent possible the intent of the parties in entering into this Agreement, then either

party may terminate those portions of the Agreement which cannot be revised to conform and comply with such changes and the intent of the parties.

15. **Books and Records.** For the purpose of Section 1861(v)(I)(1) of the Social Security Act, as amended, and any regulations promulgated pursuant thereto, San Benito County Behavioral Health agrees to comply with the following statutory requirements:

a. Until the expiration of four years after the furnishing of professional services pursuant to this Agreement, San Benito County Behavioral Health shall make available, upon written request to the Secretary of Health and Human Services or upon request to the Controller General, or any of their duly authorized representatives, this Agreement, and books, documents and records of the Physician that are necessary to certify the nature and extent of costs of professional services rendered pursuant to this Agreement; and

b. If Kings View carries out any of the duties of this Agreement through a subcontract with a value or cost of \$10,000 or more over a twelve (12) month period, with a related organization, such subcontract shall contain a clause to the effect that until the expiration of four years after the furnishing of professional services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary of Health and Human Services, or upon request to the Controller General, or any of their duly authorized representatives, the subcontract, and books, documents and records of such organization that are necessary to verify the nature and extent of costs of professional services rendered pursuant to such subcontract.

c. If San Benito County Behavioral Health is requested to disclose books, documents or records pursuant to this paragraph for purpose of an audit, the Physician shall notify the Corporation of the nature and scope of such request and the Physician shall make available, upon written request of Corporation, all such books, documents or records. This paragraph shall pertain solely to the maintenance and disclosure of specified records and shall have no effect on the right of the parties to this Agreement to make assignments or delegations.

16. **Independent Contractor.** Kings View and its officers and employees, in the performance of this contract, are independent contractors in relation to County and not officers or employees of County. Nothing in this contract shall create any of the rights, powers, privileges or immunities of any officer or employee of County. Kings View shall be solely liable for all applicable taxes or benefits, including, but not limited to, federal and state income taxes, Social Security taxes, or ERISA retirement benefits, which taxes or benefits arise out of the performance of this contract. Kings View further represents to County that Kings View has no expectation of receiving any benefits incidental to employment.

17. **Interest of Public Officials.** No officer, agent, or employee of San Benito County Behavioral Health during their tenure or for one (1) year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

18. **Waiver.** A waiver of any of the terms and conditions hereof shall not be construed as a general waiver by Kings View or San Benito County Behavioral Health.

19. **Entire Agreement.** This Agreement and its schedules and exhibits (which are expressly incorporated herein by this reference) constitute the complete understanding of the parties and supersede any and all other agreements, either oral or written, between the parties with respect to its subject matter, and no agreement, statement, or promise relating to the subject matter of this Agreement shall be valid or binding. In the event of any direct conflict between the body of this Agreement and its schedules or exhibits, the body of the Agreement shall control. This Agreement may not be modified, amended, or changed except by a writing or writings signed by the duly authorized representative of the parties.

20. **Attorneys' Fees.** If San Benito County Behavioral Health or Kings View brings any legal action or seeks arbitration regarding any provision of this Agreement or arising directly or indirectly from this Agreement, the prevailing party in the litigation or arbitration shall be entitled to recover reasonable attorneys' fees from the other party, in addition to any other relief that may be granted. This provision applies to the entire agreement.

21. **Partial Invalidity.** Should any portion of this Agreement be held unenforceable or inoperative for any reason, such invalidity shall not affect any other portion of this Agreement, but the remainder shall be as effective as though such ineffective portion had not been contained herein.

22. **Gender.** Words used in the masculine shall apply to the feminine where applicable, and vice versa. Any personal pronoun shall include any gender or number according to the context.

23. **Law Governing Agreement.** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

24. **Assignment.** This Agreement shall be binding upon San Benito County Behavioral Health and its successors and assigns and upon the heirs, representatives, executors, and administrators of the Physician; provided, however, that, except to the extent that this Agreement authorizes Kings View to employ, contract with, or otherwise arrange for the provision of the Telepsychiatric Services by a Provider, Kings View shall not assign this Agreement nor any of Kings View's rights, duties, or obligations hereunder without the prior written consent of San Benito County Behavioral Health .

25. **Notices.** All notices, offers, elections, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or within forty-four (48) hours after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage prepaid, and properly addressed to the party at the party's address below, or any other address that any party may designate by written notice to the other.

If to San Benito County Behavioral Health:

County Behavioral Health Director
1131 San Felipe Road
Hollister, Ca. 95023

If to Kings View:

Leon Hoover
Kings View Corporation
7170 North Financial Drive, Suite 110
Fresno, CA 93720

26. **Discrimination.** San Benito County Behavioral Health and Kings View agree not to differentiate or discriminate in the provision of medical services to clients due to race, color, national origin, ancestry, sex, marital status, disability, sexual orientation, age or due to a patient's status as a member of any other legally protected class.

27. **Interpretation.** The language in all parts of this Agreement shall be, in all cases, construed according to its fair meaning and not strictly for or against either party or any ambiguities shall not be strictly construed for or against either party.

SIGNATURES

Approved by County

Approved by Contractor

Chair,
San Benito County Board of Supervisors


Leon Hoover, Chief Executive Officer
Kings View Corporation

Date: _____

Date: 4/18/2018

APPROVED AS TO LEGAL FORM:

San Benito County Counsel

By  _____

Date: 7-11-2018