

Behavioral Health Community Crisis Stabilization Project Agreement

This Behavioral Health Community Crisis Stabilization Project Agreement (this "Agreement") is entered into and made effective the 1st day of February, 2020 ("Effective Date"), by and between Better Health for Northeast New York, Inc. ("BHNNY"), located at 1275 Broadway MC-216, Albany, New York 12204, and the Albany County Department of Mental Health ("ACDMH"), located at 175 Green Street, Albany, NY 12202. Each may be referred to as a "Party" or collectively as the "Parties."

Recitals

A. The New York State Department of Health ("DOH") has approved BHNNY to serve as the lead of a Performing Provider System ("PPS") under the New York State Delivery System Reform Incentive Payment Program ("DSRIP") to serve individuals enrolled in Medicaid and uninsured Medicaid eligible individuals in the counties of Albany, Columbia, Greene, Saratoga, and Warren.

B. Among other DSRIP projects, BHNNY has elected to undertake the behavioral health community crisis stabilization services project ("BH Stabilization Project"). ACDMH wishes to participate in the BH Stabilization Project and has agreed to collaborate with BHNNY and other providers in the BHNNY network ("BHNNY Network") in order to implement the BH Stabilization Project.

C. The goal of the BH Stabilization Project is to provide needed, readily accessible behavioral health services to Medicaid and uninsured Medicaid eligible individuals in a community setting during a crisis and prevent unnecessary hospitalization.

D. The Parties agree that the Crisis Stabilization services currently delivered by ACDMH to eligible individuals through a mobile crisis team to avert preventable emergency room visits in Albany County should be maintained through this Agreement to meet the community's needs and to fulfill DSRIP goals.

AGREEMENT

In consideration of the forgoing, the mutual covenants contained herein and for purposes of furthering immediate implementation of the BH Stabilization Project, the Parties agree as follows:

ARTICLE I DEFINITIONS

The terms used in this Agreement shall have the following meanings.

1. **"CMS"** means the Centers for Medicare and Medicaid Services.
2. **"Compliance Program"** means the program established by BHNNY to prevent, detect, and address compliance issues that arise with respect to PPS operations, projects or activities.

3. **"DSRIP Requirements"** means the requirements of DSRIP as set forth in DOH or CMS regulations, guidelines, and guidance statements, as amended from time to time.
4. **"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended by the Health Insurance Technology for Economic Clinical Health Act (HITECH) and any regulations, rules, and guidance issued pursuant to HIPAA and the HITECH Act.
5. **"Partner Organization Agreement"** means the agreement between BHNNY and participating Partner Organizations that sets forth the rights and obligations of the Parties in relation to implementation of the PPS Project Plan.
6. **"Partner Organizations"** means the organizations that execute an agreement to participate in the PPS as a Partner Organization.
7. **"PHI"** means Protected Health Information as defined under HIPAA.
8. **"PPS"** has the meaning set forth in Recital A and includes the network of health care providers, community-based organizations, vendors, and state or municipal agencies that participate in PPS projects, operations, or activities to implement the PPS Project Plan and meet DSRIP goals.
9. **"PPS Policies and Procedures"** means policies and procedures duly adopted by BHNNY.
10. **"Project Protocols"** means protocols adopted by BHNNY to implement the BH Stabilization Project.

ARTICLE II BHNNY OBLIGATIONS

Section 2.1. BHNNY Obligations. BHNNY shall plan and manage the BH Stabilization Project, including but not limited to developing or identifying Project Protocols and evidence-based practice guidelines required for project implementation, tracking project performance, and reporting as required by DSRIP to DOH.

Section 2.2. Payment. BHNNY shall pay ACDMH in accordance with the payment terms in Article IV below.

ARTICLE III ACDMH OBLIGATIONS

Section 3.1. Compliance with Project Requirements. ACDMH shall comply with BH Stabilization Project requirements, including but not limited to requirements set forth in: (i) this Agreement; and (ii) Project Protocols, as may be amended from time to time by BHNNY.

Section 3.2. Crisis Stabilization Services. ACDMH shall provide crisis stabilization services in accordance with this Agreement and with generally accepted standards of clinical practice for such services and applicable federal, state and local laws and regulations, to patients who are experiencing an acutely psychotic episode or who are otherwise behaviorally unstable

(e.g., danger to self or others), who may potentially be referred to a hospital emergency department ("Eligible Patients") and are therefore eligible to receive services in the BH Stabilization Project ("Crisis Stabilization Services"). Crisis Stabilization Services shall include services at community settings at the time of a crisis as well as follow-up services consistent with accepted standards of clinical practice. In accordance with this Agreement, ACDMH shall make Crisis Stabilization Services available on a 24/7 basis and maintain its current staffing level of the equivalent of three full-time employees ("Project Staff"), all of whom shall be master licensed social workers and/or master licensed mental health counselors.

Section 3.3. Crisis Support Services. ACDMH shall provide "recovery-oriented" and "peer-sensitive" crisis support services ("Crisis Support Services") consistent with accepted standards of clinical practice. All Project Staff will be trained in current recovery principles and use of natural supports in order to provide "recovery-oriented" and "peer-sensitive" crisis support, planning for psychiatric care ("Psychiatric Advance Directives"), wellness recovery plans and assistance to connect individuals with their natural supports in the community, and involve them in the planning process to the extent possible. Such services shall be delivered in accordance with generally accepted standards of clinical practice for such services and applicable federal, state and local laws and regulations to all Eligible Patients in Albany County.

Section 3.4. Outreach and Engagement. ACDMH shall meet the following obligations:

- a. Provide regular in-service presentations on the enhanced availability of Crisis Stabilization Services to community service providers that are in a position to identify and refer Eligible Patients in the midst of a crisis, including but not limited to police agencies, behavioral health providers, and substance use disorder providers;
- b. Develop and maintain close linkages with health homes, emergency room ("ER") and inpatient services in Albany County to develop and implement protocols for diversion of patients from ERs, as appropriate;
- c. Develop and maintain close linkages with community-based providers in Albany County that serve Eligible Patients and may refer such patients to ACDMH or have patients referred from ACDMH;
- d. Develop and implement arrangements for Eligible Patients to be referred to hospital special psychiatric services, and to an observation unit within a hospital outpatient facility or at an off-campus crisis residence for up to 48 hours of monitoring to attempt stabilization; and
- e. Develop and maintain arrangements, as feasible, with managed care organizations serving Eligible Patients to provide coverage for such services.

Section 3.5. Use of Health Information Technology. ACDMH shall:

- a. Utilize information from available data sources to assist with contacting Eligible Patients and other health care and community service providers, assessment and ongoing tracking;

- b. Maintain information system capacity, policies, procedures, and practices to create, document, implement, and update a record for each Eligible Patient;
- c. Utilize a systematic process to follow up on services and referrals; and
- d. Participate in secure messaging and information exchange with BHNNY and other providers in the BHNNY network and exchange data, as required to implement the BH Stabilization Project.

Section 3.6. Data Reporting. ACDMH shall report information to BHNNY as required by the Data Reporting Schedule set forth in Appendix A for Eligible Patients who received Crisis Stabilization or Crisis Support Services in the specified reporting time period on one or more occasions. ACDMH understands that BHNNY will rely on the information submitted by ACDMH in submitting reports to DOH and agrees that all data, reports and documentation submitted by ACDMH under this Agreement shall be accurate and complete.

Section 3.7. Compliance. ACDMH shall comply with all applicable laws and regulations for Crisis Stabilization Services, including but not limited to DOH regulations regarding the licensure of staff present to deliver Crisis Stabilization Services.

ARTICLE IV PAYMENT TERMS

Section 4.1. BHNNY shall pay ACDMH \$223,352 ("Total Payment Amount") for the services to be delivered under this Agreement as payment for both Crisis Stabilization Services and Crisis Support Services. Such amount shall be paid in four (4) equal installments of \$55,838.00, on March 1, 2020, June 1, 20120, September 1, 2020, and December 1, 2020, in each case after receipt of an invoice from ACDMH in the form, if any, as required by BHNNY.

Section 4.2. Notwithstanding anything to the contrary in this Agreement, if ACDMH does not meet the staffing requirements set forth in Article III during any period of the term of this Agreement, the compensation payable by BHNNY pursuant to Section 4.1 shall be reduced for such period on a pro rata basis. In such event, ACDMH will provide detailed documentation to substantiate the number of days the obligation was met during the applicable period, and BHNNY will reduce subsequent payments by the daily prorated amount of \$668.72 for each day the obligation was not met.

Section 4.3. Notwithstanding anything to the contrary in this Agreement, in the event that it becomes possible for ACDMH to be compensated for any of the services provided by ACDMH pursuant to this Agreement, by Medicaid or any other third-party payor, ACDMH and BHNNY agree to enter into a mutually acceptable amendment to this Agreement to reduce the compensation payable pursuant to Section 4.1 by the amount of such compensation that ACDMH is able to receive from Medicaid or any other third-party payor.

ARTICLE V PARTNER ORGANIZATION AGREEMENT

Section 5.1. Partner Organization Agreement. The Parties are bound by a Partner Organization Agreement and a reciprocal Business Associate Agreement ("BAA") that will govern

the sharing of PHI under this Agreement. This Agreement shall be interpreted and applied by the Parties as an addendum to the Partner Organization Agreement

ARTICLE VI TERM AND TERMINATION

Section 6.1. Term. This Agreement shall commence on Effective Date noted above and shall continue through December 31, 2020, unless the Agreement is terminated earlier in accordance with the provisions of this Article.

Section 6.2. Termination by BHNNY. BHNNY may terminate this Agreement in the event that:

- a. ACDMH breaches a material term of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice from BHNNY regarding the breach (or such other longer cure period as BHNNY deems reasonable under the circumstances);
- b. Upon thirty (30) days' written notice, if BHNNY fails to receive sufficient DSRIP Funds from DOH to meet its financial obligations, except that in the event this clause is triggered, the Parties may renegotiate the terms of this Agreement to provide for partial payment and partial delivery of services;
- c. Upon twenty-four (24) hours' written notice to ACDMH if any license, certification or government approval of ACDMH material to its performance under this Agreement is suspended, terminated, revoked, or surrendered.

Section 6.3. Termination by ACDMH. ACDMH may terminate this Agreement in the event that BHNNY breaches a material term of this Agreement and fails to cure such breach within thirty (30) days after receiving written notice from ACDMH regarding the breach (or such other longer cure period as ACDMH deems reasonable under the circumstances). In addition, ACDMH may terminate this Agreement upon twenty-four (24) hours' written notice to BHNNY, if BHNNY is suspended or excluded from DSRIP or the New York State Medicaid Program.

ARTICLE VII DATA USE AND CONFIDENTIALITY

Section 7.1. Business Associate Agreement. The Parties agree that in order to implement the BH Stabilization Project, they will need to exchange PHI, which shall be governed by the reciprocal BAA noted above.

Section 7.2. Duty to Protect Confidential Medical Information. The Parties agree that they will only use and share PHI with one another and, as necessary, other providers in the BHNNY Network in a manner consistent with: (i) HIPAA; (ii) Part 2 Substance Use Disorder Treatment requirements; (iii) all other applicable state and federal laws and regulations; (iv) DSRIP program guidance issued by DOH or CMS; (v) the Business Associate Agreement noted in Section 5.1; and (vi) applicable PPS Policies and Procedures. To the extent legally required, or required by PPS Policies and Procedures, ACDMH shall seek any necessary consent from Eligible Patients

in order to share data to provide the services pursuant to this Agreement and to meet DSRIP performance goals.

Section 7.3. Other Confidential Information. The exchange of all other information defined as confidential in accordance with the Partner Organization Agreement shall be governed by the terms of that agreement.

ARTICLE VIII RECORD RETENTION

Section 8.1. Obligation to Maintain Records. The Parties shall maintain and retain operational, financial, administrative, and medical records, and other documents related to the subject matter of this Agreement in accordance with applicable law and DSRIP Requirements and PPS Policies and Procedures.

ARTICLE IX REPRESENTATIONS AND WARRANTIES

Section 9.1. Representations and Warranties of BHNNY. BHNNY hereby represents and warrants to ACDMH that neither BHNNY, nor any of its employees, agents, or contractors who will perform services pursuant to this Agreement, are excluded from participation in Medicare or Medicaid or any other federal or state health insurance program.

Section 9.2. Representations and Warranties of ACDMH. ACDMH hereby represents and warrants to BHNNY that:

- (a) Neither ACDMH nor any of its subsidiaries, parent entities, employees, agents, or contractors are excluded from participation in the Medicare or Medicaid programs or any other federal or state health insurance program; and
- (b) ACDMH's ability to provide health care services in New York State or any other jurisdiction is not now revoked, limited, suspended, or otherwise restricted in any manner.

ARTICLE X INDEPENDENT CONTRACTORS

Section 10.1. Legal Relationship. BHNNY and ACDMH understand and agree that the Parties intend to act and perform their respective obligations under this Agreement and DSRIP as independent contractors and that neither BHNNY nor ACDMH is an employee, partner, or joint venturer of the other.

ARTICLE XI LEGAL COMPLIANCE

Section 11.1. Compliance with Laws and Policies. In carrying out the terms of this Agreement, both Parties shall comply with all applicable federal, state and local laws, regulations and rules, DSRIP Requirements, and the BHNNY Compliance Program.

ARTICLE XII INDEMNIFICATION AND LIMITATION OF LIABILITY

Section 12.1. Indemnification. Each Party agrees to indemnify the other Party and its officers, directors, employees, agents, and subsidiaries for any and all claims, losses, liabilities, costs and expenses, including reasonable attorneys' fees and costs asserted or incurred in connection with the indemnifying Party's (a) failure to perform its obligations under this Agreement; (b) negligent acts or omissions in carrying out services and obligations under this Agreement, or (c) violation of any law, statute, regulation, rule or standard of care. This indemnification obligation shall survive the termination of this Agreement. Neither Party shall indemnify the other Party for the negligent acts or omissions of any other Partner Organization or any other third party.

ARTICLE XIII NOTICE

Section 13.1. Delivery of Notice. Except as otherwise specified herein, all notices under this Agreement shall be in writing and shall be delivered personally, mailed by first-class, registered or certified mail, return receipt requested or via email:

If to BHNNY:

Attn: Louis Filhour
Chief Executive Officer
1275 Broadway
Albany, NY 12208-3478
Email: FilhouL@amc.edu

If to ACDMH:

Attn: _____
Title: _____
Address: _____

Email: _____

Section 13.2. Change of Notice Recipient. Each Party may designate in writing a new address to which any notice shall be delivered.

ARTICLE XIV GENERAL PROVISIONS

Section 14.1. Amendment. This Agreement may only be amended, altered, or modified by a written agreement executed by the Parties, except: (i) for the Reporting Schedule as set forth in Appendix A; and (ii) if changes to DSRIP Requirements mandated by CMS or DOH require amendment of this Agreement, BHNNY may amend this Agreement to the extent necessary to comply with such DSRIP Requirements and shall promptly notify ACDMH in writing of such amendments.

Section 14.2. Assignment. This Agreement may not be assigned by either Party without the prior written consent of the other Party.

Section 14.3. Entire Agreement. This Agreement supersedes all prior oral or written agreements, commitments, or understandings between the Parties with respect to the matters provided for herein, except for the Business Associate Agreement and the Partner Organization Agreement entered into by the Parties.

Section 14.4. Waivers. The rights and remedies of the Parties hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. This Agreement may be waived, only pursuant to an agreement or agreements in writing entered into by the Parties.

Section 14.5. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of New York without regard to its conflicts of law rules.

Section 14.6. Non-Discrimination. Access to services under this Agreement will be based solely on criteria of prognosis and need for care and not on the basis of race, age, sex, color, religion, national origin, marital status, sexual orientation, disability, sponsorship, source of payment or other similar criteria.

Section 14.7. Non-Exclusivity. Nothing in this Agreement shall prohibit either Party from affiliating or contracting with any other entity for any purpose whatsoever.

Section 14.8. Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

Section 14.9. Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts, each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging shall be effective as delivery of a manually executed counterpart of this Agreement.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the Effective Date.

**ALBANY COUNTY DEPARTMENT OF
MENTAL HEALTH**

By: _____

Name:

Title:

Date: _____

**BETTER HEALTH FOR NORTHEAST
NEW YORK, INC.**

By: _____

Louis Filhour

Chief Executive Officer

Date: _____

Appendix A Data Reporting to BHNNY

The reporting requirements set forth below apply to Crisis Stabilization and Crisis Support Services delivered by ACDMH to Eligible Patients in the BH Stabilization Project.

Data Elements

ACDMH shall report the following data elements (Data Elements) to BHNNY in a reporting platform or template, if any, provided by BHNNY:

- Aggregate number of patients engaged under this initiative in the time periods set forth below.
- Modality of Interaction: Face-to-Face or telephonic.
- Type of Interaction: Crisis service, non-crisis service, peer service.
- Number of encounters: Single encounter or two or more encounters.
- Number of patients diverted from Hospital/ED to Community Providers.
- Eligibility Status, *if available*: Medicaid or Uninsured.
- Patient Zip code, *if available*.
- Current PCP, *if available*.
- Current BH provider, *if available*.
- Referral Source: Law enforcement, Hospital/ED, Community Providers, Self, Patient Family/friend, Other Agency.
- Number of Community Education Activities provided.
- Type of agency provided community education: Law Enforcement, Hospital/ED, Community Provider, Other Agency.
- A signed attestation that the staffing obligations outlined in Section 3.2 and Section 3.3 were maintained throughout the prior month

Reporting Schedule

ACDMH shall report the following information to BHNNY in the timeframe as listed below:

<u>Reporting Date</u>	<u>Information to be Reported</u>
Monthly by 15 th day of the following month, starting with the first full month after the Effective Date.	The Data Elements for patients who received Crisis Stabilization Services from ACDMH at any time in the prior month.