

***MALPH Cross-Jurisdiction Sharing Medical Director Workgroup
Memorandum of Understanding (MOU) Templates***

The Memorandum of Understanding (MOU) templates are a resource for local health departments to use to formalize medical director back-up coverage. Input was provided by the Network for Public Health Law and legal review of the document was completed by Cohl, Stoker, & Toskey. The templates were developed as part of a Cross-Jurisdictional Sharing Project Grant funded by Michigan Department of Health and Human Services. The MALPH CJS Medical Director Workgroup provided guidance to the project. The template agreement is not required, it is an optional resource for local health departments to provide clear guidance in the area of medical director back-up coverage. It is recommended that LPHDs that use one or more of the templates have their legal counsel review. All three templates address liability coverage. This document includes the three templates, they are:

Short Term Medical Director Back-up Coverage: This template is between LPHD and LPHD and is reciprocal with no exchange of dollars. It does not address back-up billing authorization.

Medical Director Extended Term Back-up Coverage Services: This template is between LPHD and LPHD, includes billing authorization, and reimbursement for back-up services.

Independent Contractor Medical Director Back-up Coverage Services: This template is between a LPHD and Independent Contractor Medical Director it incorporates reciprocal coverage and also extended coverage that would include billing authorization and reimbursement for services.

Strategies to Strengthen MOU Implementation:

- When completing the agreement, discuss what happens if one of the medical directors is unexpectedly unavailable. Is the back-up medical director willing to assist with continuity of billing on a short-term basis? If so, for what timeframe?
- Include a provision in the medical director's employment agreement stating that the medical director will provide back-up coverage to other local health department(s) (or list specific department where back-up is mutually shared).
- Include a provision in the medical director's job description stating that the medical director will/may provide back-up to another department.
- Ensure required documentation needed for CAQH (Council for Affordable Quality Healthcare) is prepared and available to the health department for the back-up medical director. The document should be readily available if the department needs to make a sudden transition from the existing medical director to the back-up medical director for billing purposes.
- Review MOU with liability carrier and legal counsel.

This template Memorandum of Understanding (MOU) is a resource prepared by the Michigan Association for Local Public Health (MALPH) in consultation with the Network for Public Health Law [might add or substitute Cohl, Stoker, & Toskey]. The template may be useful to local health departments to formalize an arrangement for back-up medical coverage. This template is not intended to provide legal advice or representation. Local health departments should work with their legal counsel to develop an MOU to meet their specific needs.

Memorandum of Understanding (MOU) AGREEMENT Template

Local Public Health Department – Short Term Medical Director Back-up Coverage

Between _____ and _____

THIS AGREEMENT, made and entered into this ___ day of _____, 2016, by and between _____ LPHD and _____ LPHD (collectively, the “LPHDs”) is entered into pursuant to provisions of the Public Health Code, MCL 333.2435(c) and the Intergovernmental Contracts Act, MCL 124.1 *et seq.* to formalize an agreement for the provision of short term back-up medical director services meeting the requirements of MI. Adm. Code. R. 323.13001, et seq. Each LPHD agrees to provide short term back-up medical director services to the other LPHD when the other LPHD’s medical director is on vacation or sick leave, or is otherwise unavailable due to short term absences not expected to exceed ___ working days (“Short Term Absences”). This will assure consistent medical director access to address public health medical situations that arise during a Short Term Absences of the established medical director. Pursuant to Sections 2419 and 2435(c) of the Public Health Code [MCL 333.2419 and MCL 333.2435(c)], the LPHD’s agree that each shall provide the other LPHDs with temporary backup medical director services to provide coverage for Short Term Absences, subject to the approval of the Michigan Department of Health and Human Services (hereinafter referred to as the “MDHHS”) of this Agreement, if necessary, pursuant to MCL 333.2419.

1. Purpose and Scope of Work. This Agreement is entered into to formalize the undersigned LPHDs’ practice of providing temporary and short-duration back-up medical director coverage and services to the other when the medical director is not available due to a Short Term Absence. This Agreement is for coverage of Short Term Absences generally not to exceed ___ working days. However, the duration may be extended by mutual agreement of the LPHDs. It is the contemplation of the Parties that this Agreement would not be applicable to extended absences caused by circumstance including, but not limited to, the death, incapacity, long-term leave by, or departure of, a medical director. Such extended coverage, if any, would be the subject of a separate agreement between the applicable parties.

A. LPHD Providing Services Responsibilities:

1. The LPHD providing temporary backup medical director services (the LPHD Providing Services”) shall authorize and direct its medical director to provide such back-up coverage for Short Term Absences as is necessary and proper under the circumstances.

This will include, but is not limited to, such services and/or determinations as are necessary or appropriate to carry out the medical director functions of the LPHD which requires the temporary services of the medical director (the “LPHD Requiring Services”). The LPHD Providing Services and the LPHD Requiring Services shall seek, in advance to agree to nature of and structure of providing the temporary services. However, absent such other agreement, the decision of the LPHD Providing Services shall be final in determining nature and structure, including the necessity for on-site services. It is contemplated that medical director services will primarily be provided via telephone with limited or no on-site services provided. It will be the day-to-day responsibility of the medical director for the LPHD Providing Services to coordinate coverage with the Administration of each LPHD and other appropriate individuals.

2. If necessary during a Short Term Absence, the medical director for the LPHD Providing Services will undertake to support the billing functions of the LPHD Requiring Services which may include, but is not limited to, the provision of medical director’s NPI number and/or submission of necessary documentation for the medical director to temporarily become a credentialed provider for the LPHD Requiring Services in the Council for Affordable Healthcare (“CAQH”).
3. The LPHD Providing Services shall be responsible for the medical director’s continued coverage under any worker’s compensation insurance or unemployment compensation insurance plans. Each LPHD represents and warrants that it is covered by a worker’s compensation insurance policy procured and paid for by it which extends to coverage of its respective medical director. The LCPH Providing Services shall notify the LPHD Requiring Services immediately if the status of said coverage changes.

B. LPHD Requiring Services Responsibilities: If temporary backup medical director services are required to cover Short Term Absences, the medical director or health officer of the LPHD Requiring Services shall notify the health officer or medical director of the LPHD Providing Services as to the need for, expected duration, and scope of such backup services. The LPHD Requiring Services’ staff shall cooperate fully with the LPHD Providing Services’ medical director and staff regarding all aspects of providing substitute/backup services, including planning, scheduling services necessary to be performed and the performance of staff duties and functions.

C. Parties Mutual Responsibilities: It shall be the responsibility of both Parties to:

1. Work cooperatively to ensure appropriate, efficient communication in support of the intent of this Agreement.

2. LPHD Requiring Services agrees to be responsible for any act or omission of the medical director incurred in or arising out of the medical director's performance on behalf of the LPHD Requiring Services. The LPHD Providing Services agrees to remain responsible for any act or omission of the medical director incurred in or arising out of the medical director's performance on behalf of the LPHD Providing Services. Nothing contained herein shall be expressly or impliedly interpreted to trigger liability for LPHD Requiring Services or LPHD Providing Services for the other party's actions. Nothing in this Agreement shall be construed as a waiver by either the LPHC or the medical director of any governmental immunity they may have as provided by statute or court decisions.

Each LPHD shall maintain suitable comprehensive liability (including malpractice) coverages for their respective exposures. LPHD Requiring Services shall maintain liability (including malpractice) insurance covering the substitute medical director when acting in the capacity of LPHD Requiring Services' medical director. LPHD Providing Services shall maintain liability insurance (including malpractice) covering health department, including the medical director, when acting for the LPHD Providing Services. LPHD Requiring Services shall add LPHD Providing Services as an Additional Insured on LPHD Requiring Services' liability (including malpractice) insurance to the extent the liability incurred arises out of a medical director acting in the substitute capacity for LPHD Requiring Services. Nothing contained herein shall be construed to require either LPHD to purchase, maintain or provide such liability or malpractice coverage for the benefit of the other. However, it will be the responsibility of the LPHD Requiring Services to notify its carrier and provide such coverages prior to the medical director's provision of substitute services.

If a medical director individually or separately insures for malpractice coverage, it will be the responsibility of the medical director to assure such malpractice coverage extends to services provided under this Agreement to a LPHD Requiring Services.

2. Term. The term of this Agreement shall commence on _____ and shall expire on _____ unless earlier terminated. On or before _____ the parties shall review this relationship and jointly agree on whether the Agreement will be extended and on what terms beyond _____. Notwithstanding any provision regarding term, either LPHD may terminate its participation in this Agreement at any time with 30 days written notice to the other LPHD.

3. Reimbursement. The LPHDs agree that each contemplates general long term reciprocity and balance in the respective provision of back-up medical director services for Short Term Absences. As such, for back-up medical director services for Short Term Absences the LPHD Providing Services will not seek, nor be entitled to, reimbursement of any kind for such services. The consideration for this Agreement shall be the reciprocal promises to provide, and the provision of, back-up medical director services for coverage of Short Term Absences.

4. Patient Records. Each LPHD shall have sole and exclusive right to the retention of all records pertaining to its patients and services rendered pursuant to this Agreement. The assigned medical director shall have the right to access any LPHD Requiring Services records including patient records required for the performance of services to be provided pursuant to this Agreement. In receiving such access, the medical director shall comply with all applicable requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended, and its rules and regulations promulgated pursuant thereto, 45 CFR Parts 160 and 164, as amended. Access shall be limited to the minimum necessary to provide the applicable services. Breach of this section shall be a material breach of this Agreement.

5. Status of Medical Director. It is expressly understood and agreed that the employees, servants and agents of either of the LPHDs to this Agreement shall not be deemed to be and shall not hold themselves out as the employees, servants or agents of the other party. Each of the LPHDs to this Agreement shall be responsible for withholding and payment of all income and social security taxes to the proper Federal, State and local governments for their employees, including the medical director. The medical director and employees of each of the LPHDs shall not be entitled to any fringe benefits otherwise provided by the other party to its employees or medical director, such as, but not limited to, health and accident insurance, life insurance, paid vacation leave, paid sick leave, pension and longevity. Each of the parties shall carry workers' compensation insurance and unemployment compensation coverage for its employees, as required by law.

6. No Third Party Benefit. The provisions of this Agreement are for the benefit of the LPHDs, and not for the benefit of any other person or entity, including each LPHD's medical director.

7. Assignment. Neither party shall assign or transfer any of its rights or interests in or to this Agreement, nor delegate any of its obligations hereunder, without the prior written consent of the other.

8. Nondiscrimination. Each LPHD as required by law, shall not discriminate against a person to be served or an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, disability that is unrelated to the individuals ability to perform the duties of a particular job or position, height, weight, marital status, political affiliation or beliefs, or any other legally protected status under Elliott-Larsen Civil Rights Act, 1976 PA 453 amended; the Persons with Disabilities Civil Rights Act, 1976 PA 220 as amended; Section 504 of the Federal Rehabilitation Act of 1973 as amended, P.L. 93-112, 87 Stat 355 as amended, the Americans with Disabilities Act of 1990, P.L. 101-336, 104 Stat 327 (42 USCA §12101 et seq.), as amended, and regulations promulgated thereunder. Breach of this covenant may be regarded as a material breach of the Agreement.

9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, or if any such term is so held when applied to any particular

circumstance, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, or affect the application of such provision to any other circumstances, and the Agreement shall be construed and enforced as if such invalid, illegal or unenforceable provision were not contained herein.

10. Amendment. The Agreement may be amended only by a writing signed by both Parties.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the substantive law of the State of Michigan, without regard to the conflicts of laws provisions thereof.

12. Complete Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof, superseding all prior agreements and understandings. There are no other agreements or understandings between the parties concerning the subject matter hereof. Each party acknowledges that it has not relied on any representations by the other party or by anyone acting or purporting to act for the other party or for whose actions the other party is responsible, other than the express, written representations set forth herein.

13. Certification: The individuals or officers signing this Agreement certify by their signatures that they are authorized to sign this Agreement on behalf of their respective County Board of Commissioners or District Board of Health.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

_____ **Health Department**

Representative

Date

Title

_____ **Health Department**

Representative

Date

This template Memorandum of Understanding (MOU) is a resource prepared by the Michigan Association for Local Public Health (MALPH) in consultation with the Network for Public Health Law [might add or substitute Cohl, Stoker, & Toskey]. The template may be useful to local health departments to formalize an arrangement for back-up medical coverage. This template is not intended to provide legal advice or representation. Local health departments should work with their legal counsel to develop an MOU to meet their specific needs.

Memorandum of Understanding (MOU) AGREEMENT Template

Local Public Health Department – Medical Director Extended Term Back-up Coverage Services

Between _____ and _____

THIS AGREEMENT, made and entered into this ___ day of _____, 2016, by and between _____ LPHD and _____ LPHD (collectively, the “LPHDs”) is entered into pursuant to provisions of the Public Health Code, MCL 333.2435(c) and the Intergovernmental Contracts Act, MCL 124.1 *et seq.* to formalize an agreement for the provision of extended-term back-up medical director services meeting the requirements of MI. Adm. Code. R. 323.13001, *et seq.* Each LPHD agrees to provide extended term back-up medical director services to the other LPHD when it is contemplated the other LPHD’s medical director position will be vacant for an extended period of ___ or more working days caused by circumstance including, but not limited to, the death, incapacity, long-term leave by, retirement, or departure, of a medical director (“Extended Vacancy”). This will assure consistent medical director access to address public health medical situations that arise in an Extended Vacancy of the established medical director. Pursuant to Sections 2419 and 2435(c) of the Public Health Code [MCL 333.2419 and MCL 333.2435(c)], the LPHD’s agree that each shall provide the other LPHDs with backup medical director services during an Extended Vacancy, subject to the approval of the Michigan Department of Health and Human Services (hereinafter referred to as the “MDHHS”) of this Agreement, if necessary, pursuant to MCL 333.2419.

1. Purpose and Scope of Work. This Agreement is entered to provide for conditional back-up medical director coverage and services in the event of the Extended Vacancy of one of the LPHD’s medical directors. For a period not to exceed ___ months, the LPHD providing temporary backup medical director services (the “LPHD Providing Services”) shall authorize and direct its medical director to provide up to ___ hours of medical director services per week to the other LPHD (the “LPHD Requiring Services”) due to the Extended Vacancy of the LPHD Requiring Services’ medical director. When acting in the capacity of medical director for the LPHD Requiring Services the medical director shall perform the following functions/duties:

- a. Act as the medical director of LPHD Requiring Services during the term of the Extended Vacancy, or the duration of this Agreement, whichever period is the lesser. This will include, but is not limited to, the provision of medical director's NPI number and/or submission of necessary documentation for the medical director to temporarily become a credentialed provider for the LPHD Requiring Services in the Council for Affordable Quality Healthcare ("CAQH"); and,
- b. Take such actions and make determinations necessary or appropriate for a Medical Director to carry out the LPHD Requiring Services required or delegated functions under the Michigan Public Health Code (Act 368 of 1978) and to protect public health and prevent diseases.

C. LPHD Providing Services Responsibilities:

- 1. The LPHD Providing Services shall be responsible for the medical director's continued coverage under any worker's compensation insurance or unemployment compensation insurance plans. Each LPHD represents and warrants that it is covered by a worker's compensation insurance policy procured and paid for by it which extends to coverage of its respective medical director. The LPHD Providing Services shall notify the LPHD Requiring Services immediately if the status of said coverage changes.

D. LPHD Requiring Services Responsibilities:

- 1. If temporary backup medical director services are required due to a current or contemplated Extended Vacancy, the medical director or health officer of the LPHD Requiring Services shall notify the health officer or medical director of the LPHD Providing Services as to the need for, expected duration, and expected scope of such backup services. The LPHD Requiring Services' staff shall cooperate fully with the LPHD Providing Services' medical director and staff regarding all aspects of providing substitute/backup services, including planning, scheduling services necessary to be performed and the performance of staff duties and functions.
- 2. LPHD Requiring Services shall provide the medical director with all necessary materials, supplies, facilities and supporting personnel for the performance of the services for LPHD Requiring Services required under this Agreement.

C. Parties Mutual Responsibilities: It shall be the responsibility of both parties to:

- 1. Work cooperatively to ensure appropriate, efficient communication in support of the intent of this Agreement.

2. LPHD Requiring Services agrees to be responsible for any act or omission of the medical director incurred in or arising out of the medical director's performance on behalf of the LPHD Requiring Services. The LPHD Providing Services agrees to remain responsible for any act or omission of the medical director incurred in or arising out of the medical director's performance on behalf of the LPHD Providing Services. Nothing contained herein shall be expressly or impliedly interpreted to trigger liability for LPHD Requiring Services or LPHD Providing Services for the other party's actions. Nothing in this Agreement shall be construed as a waiver by either the LPHD or the medical director of any governmental immunity they may have as provided by statute or court decisions.

Each LPHD shall maintain suitable comprehensive liability (including malpractice) coverages for their respective exposures. LPHD Requiring Services shall maintain liability (including malpractice) insurance covering the substitute medical director when acting in the capacity of LPHD Requiring Services' medical director. LPHD Providing Services shall maintain liability insurance (including malpractice) covering health department, including the medical director, when acting for the LPHD Providing Services. LPHD Requiring Services shall add LPHD Providing Services as an Additional Insured on LPHD Requiring Services' liability (including malpractice) insurance to the extent the liability incurred arises out of a medical director acting in the substitute capacity for LPHD Requiring Services. Nothing contained herein shall be construed to require either LPHD to purchase, maintain or provide such liability or malpractice coverage for the benefit of the other. However, it will be the responsibility of the LPHD Requiring Services to notify its carrier and provide such coverages prior to the medical director's provision of substitute services.

If a medical director providing services to a LPHD Requiring Services under this Agreement individually or separately insures for malpractice coverage, it will be the responsibility of the medical director to assure such malpractice coverage extends to services provided to a LPHD Requiring Services.

2. Term. The term of this Agreement shall commence on _____ and shall expire on _____ unless earlier terminated. On or before _____ the parties shall review this relationship and jointly agree on whether the Agreement will be extended and on what terms beyond _____. Notwithstanding any provision regarding term, either LPHD may terminate its participation in this Agreement at any time with 60 days written notice to the other LPHD. Nothing herein shall require either LPHD to act as an LPHD Providing Services if, in the sole direction of the LPHD, acting as a LPHD Providing Service would have a detrimental impact on the LPHD's ability to function as required by law, policy or regulation.

3. Compensation. LPHD Requiring Services shall reimburse LPHD Providing Services up to _____ (____) hours per week for medical director services LPHD Requiring Services receives at the

hourly rate of \$_____ per hour. For the purposes of this Agreement LPHD Providing Services' medical director's personnel costs shall include salary, fringe benefit costs, payments toward any and all retirement programs, and any other costs paid to or on behalf of the LPHD Providing Services' medical director.

LPHD Providing Services shall quarterly invoice LPHD Requiring Services for LPHD Requiring Services' portion of the medical director's personnel costs. Each invoice, in addition to a statement of the total sum due, shall contain such cost break downs, details and information as LPHD Requiring Services and LPHD Providing Services may mutually agree upon. Upon LPHD Requiring Services' request LPHD Providing Services shall provide LPHD Requiring Services with such supportive documentation relating to the costs being invoiced as LPHD Requiring Services may reasonably require. All invoices complying with this Agreement shall be paid in full within thirty (30) days of LPHD Requiring Services' receipt of the invoice.

In addition to the personnel costs to be reimbursed to LPHD Providing Services, LPHD Requiring Services shall reimburse the LPHD Providing Services' medical director for miles he/she travels to and from LPHD Providing Services facilities as well as miles he/she travels in the performance of his/her duties under this Agreement. The mileage reimbursement rate shall be the same as LPHD Requiring Services pays LPHD Requiring Services medical director for miles he/she travels.

4. Patient Records. Each LPHD shall have sole and exclusive right to the retention of all records pertaining to its patients and services rendered pursuant to this Agreement. The assigned medical director shall have the right to access any LPHD Requiring Services records including patient records required for the performance of services to be provided pursuant to this Agreement. In receiving such access, the medical director shall comply with all applicable requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended, and its rules and regulations promulgated pursuant thereto, 45 CFR Parts 160 and 164, as amended. Access shall be limited to the minimum necessary to provide the applicable services. Breach of this section shall be a material breach of this Agreement.

5. Status of Medical Director. It is expressly understood and agreed that the employees, servants and agents of either of the LPHDs to this Agreement shall not be deemed to be and shall not hold themselves out as the employees, servants or agents of the other party. Each of the LPHDs to this Agreement shall be responsible for withholding and payment of all income and social security taxes to the proper Federal, State and local governments for their employees, including the medical director. The medical director and employees of each of the LPHDs shall not be entitled to any fringe benefits otherwise provided by the other party to its employees or medical director, such as, but not limited to, health and accident insurance, life insurance, paid vacation leave, paid sick leave, pension and longevity. Each of the parties shall carry workers' compensation insurance and unemployment compensation coverage for its employees, as required by law.

- 6. No Third Party Benefit.** The provisions of this Agreement are for the benefit of the LPHDs, and not for the benefit of any other person or entity, including each LPHD's medical director.
- 7. Assignment.** Neither party shall assign or transfer any of its rights or interests in or to this Agreement, nor delegate any of its obligations hereunder, without the prior written consent of the other.
- 8. Nondiscrimination.** Each LPHD as required by law, shall not discriminate against a person to be served or an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, disability that is unrelated to the individuals ability to perform the duties of a particular job or position, height, weight, marital status, political affiliation or beliefs, or any other legally protected status under Elliott-Larsen Civil Rights Act, 1976 PA 453 amended; the Persons with Disabilities Civil Rights Act, 1976 PA 220 as amended; Section 504 of the Federal Rehabilitation Act of 1973 as amended, P.L. 93-112, 87 Stat 355 as amended, the Americans with Disabilities Act of 1990, P.L. 101-336, 104 Stat 327 (42 USCA §12101 et seq.), as amended, and regulations promulgated thereunder. Breach of this covenant may be regarded as a material breach of the Agreement.
- 9. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, or if any such term is so held when applied to any particular circumstance, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, or affect the application of such provision to any other circumstances, and the Agreement shall be construed and enforced as if such invalid, illegal or unenforceable provision were not contained herein.
- 10. Amendment.** The Agreement may be amended only by a writing signed by both Parties.
- 11. Governing Law.** This Agreement shall be governed by and construed in accordance with the substantive law of the State of Michigan, without regard to the conflicts of laws provisions thereof.
- 12. Complete Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof, superseding all prior agreements and understandings. There are no other agreements or understandings between the parties concerning the subject matter hereof. Each party acknowledges that it has not relied on any representations by the other party or by anyone acting or purporting to act for the other party or for whose actions the other party is responsible, other than the express, written representations set forth herein.
- 13. Certification:** The individuals or officers signing this Agreement certify by their signatures that they are authorized to sign this Agreement on behalf of their respective County Board of Commissioners or District Board of Health.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

_____ **Health Department**

Representative

Date

Title

_____ **Health Department**

Representative

Date

Title

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Memorandum of Understanding (MOU) AGREEMENT Template

**Local Public Health Department –Contractor Medical Director
Back-up Coverage Services**

Between _____ and _____

THIS AGREEMENT made and entered into this ___ day of _____, 2016, by and between _____ LPHD (“LPHD”) and _____, M.D. (“Contractor”) is entered into to formalize an agreement for the provision of short-term and/or extended term back-up medical director services meeting the requirements of MI. Adm. Code. R. 323.13001, et seq.

WHEREAS, LPHD is a Michigan local public health department which employs or contracts with a licensed physician approved by the Michigan Department of Public Health who acts as the medical director for LPHD;

WHEREAS, Contractor is a licensed physician in the State of Michigan who currently contracts another local public health department to act as its medical director, and Contractor is currently qualified to perform services of medical director;

WHEREAS, the purpose of this Agreement is to assure consistent medical director access to address public health medical situations that arise due to the short-term absences or extended vacancy of the LPHD’s established medical director; and,

WHEREAS, this Agreement is subject to the approval of the Michigan Department of Health and Human Services (hereinafter referred to as the “MDHHS”) of this Agreement, if necessary, pursuant to MCL 333.2419.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, IT IS AGREED as follows:

1. Purpose and Scope of Work.

- a. Contractor will provide to LBHD such temporary back-up medical director coverage services as are necessary and proper under the circumstances. This will include, but is not limited to, such services and/or determinations as are necessary or appropriate to carry out the medical director functions of the LPHD during the absence of the LPHD's medical director. Contractor agrees to provide short-term term back-up medical director services to and on behalf of the LPHD when and if the LPHD's medical director is on vacation or sick leave, or is otherwise unavailable due to short term absences not expected to exceed ___ working days ("Short Term Absences"); and/or to provide extended terms services when and if the LPHD's medical director position is or will be vacant for an extended period of ___ or more working days caused by circumstance including, but not limited to, the death, incapacity, long-term leave by, retirement, or departure, of a medical director ("Extended Vacancy"). It is expressly understood and agreed that the Contractor shall be expected to utilize his/her professional judgment in the performance of the services to be provided under this Agreement consistent with the LPHD's policies, the laws, and the standards of his/her profession.
- b. LPHD will make available to Contractor reciprocal services of LPHD's medical director to provide coverage of Contractor's Short Term Absences of medical director services provided by the Contractor to _____ Health Department. Contractor and LPHD's medical director shall seek, in advance to agree to nature of and structure of providing the temporary services necessary to provide coverage for Short Term Absences. However, absent such other agreement, the decision of each respective medical director shall be final in determining nature and structure, including the necessity for on-site services. It is contemplated that in the event of Short Term Absences, medical director services will primarily be provided via telephone with limited or no on-site services provided. It will be the day-to-day responsibility of the Contractor or medical director for the LPHD to coordinate coverage, with the Administration of each LPHD and other appropriate individuals.
- c. Where coverage is for an Extended Vacancy, the Parties agree that the Contractor will undertake to support the billing functions of the LPHD as the medical director of LPHD. This will include, but is not limited to, the provision of Contractor's NPI number and/or submission of necessary documentation for the Contractor to temporarily become a credentialed provider for the LPHD Requiring Services in the Council for Affordable Quality Healthcare ("CAQH").

2. **Term.** The term of this Agreement shall commence on _____ and shall expire on _____ unless earlier terminated. On or before _____ the parties shall review this

relationship and jointly agree on whether the Agreement will be extended and on what terms beyond_____. Notwithstanding any provision regarding term, either LPHD or Contractor may terminate its participation in this Agreement at any time with 60 days written notice to the other.

3. Compensation.

a. Short-Term Absences- LPHD and Contractor agree that each contemplates general long term reciprocity and balance in the respective provision of short term back-up medical director services. As such, for back-up medical director services of less than or equal to _____ (consecutive/cumulative) (option 1: calendar; option 2: working) days the neither LPHD nor Contractor will not seek, nor be entitled to, reimbursement of any kind for such services.

b. Extended Vacancy -- LPHD shall compensate Contractor up to _____ (____) hours per week for medical director services LPHD receives by Contractor cue to an Extended Vacancy at the gross hourly rate of \$_____ per hour. On a monthly basis, Contractor shall invoice LPHD for the hours of medical director services performed on behalf of LPHD. Upon request, Contractor will provide LPHD with such supportive documentation relating to the hours and services being invoiced as LPHD may reasonably require. All invoices complying with this Agreement shall be paid in full within thirty (30) days of LPHD's receipt of the invoice.

In addition to the personnel costs to be reimbursed to LPHD Providing Services, LPHD Requiring Services shall reimburse the LPHD Providing Services' medical director for miles he/she travels to and from LPHD Providing Services facilities as well as miles he/she travels in the performance of his/her duties under this Agreement. The mileage reimbursement rate shall be the same as LPHD Requiring Services pays LPHD Requiring Services medical director for miles he/she travels.

4. Records and Patient Records. LPHD shall have sole and exclusive right to the retention of all records pertaining to its patients and services rendered pursuant to this Agreement. The assigned medical director shall have the right to access any LPHD records including patient records required for the performance of services to be provided pursuant to this Agreement. In receiving such access, the Contractor shall comply with all applicable requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended, and its rules and regulations promulgated pursuant thereto, 45 CFR Parts 160 and 164, as amended. Access shall be limited to the minimum necessary to provide the applicable services. Breach of this section shall be a material breach of this Agreement.

The LPHD shall have sole and exclusive right to the retention of all records pertaining to patients and the services rendered by Contractor pursuant to this Agreement.

5. Independent Contractor. It is expressly understood and agreed that the Contractor is an independent private practitioner who has other clients both corporate and individual. The employees, servants and agents of the Contractor shall in no way be deemed to be and shall not hold themselves out as the employees, servants or agents of the County or LPHD. The Contractor's employees, servants or agents shall not be entitled to any fringe benefits of the County or LPHD such as, but not limited to, health and accident insurance, life insurance, paid vacation leave, paid sick leave, and longevity or retirement benefits. The Contractor shall be responsible for the withholding and payment of all applicable taxes, including but not limited to, income and Social Security taxes to the proper Federal, State and local governments. The Contractor shall carry workers compensation coverage for Contractor and/or its employees, as required by law.

6. Professional Liability Insurance.

a. Contractor shall provide Professional Liability Insurance Coverage (malpractice) necessary and appropriate for the professional activities being carried out pursuant to the terms of this Agreement for back-up medical coverage. The Contractor shall submit timely to the Health Officer a copy of the policy and terms of coverage. If the Contractor's Insurer charges an additional sum or surcharge for the services to be performed by the Contractor under this Agreement, LPHD may reimburse Contractor for such incremental additional costs.

b. The LPHD shall include the Contractor as an insured on its liability policy as to the administrative services rendered to the LPHD under this Contract.

c. Nothing contained herein shall be expressly or impliedly interpreted to trigger liability for Contractor or LPHD for the other party's actions. Nothing in this Agreement shall be construed as a waiver by either the LPHC or the Contractor of any governmental immunity they may have as provided by statute or court decisions.

7. Subcontracting. The Contractor may subcontract the duties and/or obligations under this Agreement only when approved by the LPHD Health Officer.

8. Nondiscrimination. Each LPHD as required by law, shall not discriminate against a person to be served or an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, disability that is unrelated to the individuals ability to perform the duties of a particular job or position, height, weight, marital status, political affiliation or beliefs, or any other legally protected status under Elliott-Larsen Civil Rights Act, 1976 PA 453 amended; the Persons with Disabilities Civil Rights Act, 1976 PA 220 as amended; Section 504 of the Federal Rehabilitation Act of 1973 as amended, P.L. 93-112, 87 Stat 355 as amended, the Americans with Disabilities Act of 1990, P.L. 101-336, 104 Stat 327 (42 USCA §12101 et seq.), as amended, and

regulations promulgated thereunder. Breach of this covenant may be regarded as a material breach of the Agreement.

9. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal or unenforceable, or if any such term is so held when applied to any particular circumstance, such invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, or affect the application of such provision to any other circumstances, and the Agreement shall be construed and enforced as if such invalid, illegal or unenforceable provision were not contained herein.

10. Amendment. The Agreement may be amended only by a writing signed by both Parties.

11. Governing Law. This Agreement shall be governed by and construed in accordance with the substantive law of the State of Michigan, without regard to the conflicts of laws provisions thereof.

12. Complete Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof, superseding all prior agreements and understandings. There are no other agreements or understandings between the parties concerning the subject matter hereof. Each party acknowledges that it has not relied on any representations by the other party or by anyone acting or purporting to act for the other party or for whose actions the other party is responsible, other than the express, written representations set forth herein.

13. Certification: The persons signing on behalf of the Contractor certify by said signatures that they are duly authorized to sign this Agreement on behalf of the Contractor and that this Agreement has been authorized by the Contractor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

_____ **Health Department**

Representative

Date

Title

_____ **Contractor**

Date

Title

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This template Memorandum of Understanding (MOU) is a resource prepared by the Michigan Association for Local Public Health (MALPH) in consultation with the Network for Public Health. The template may be useful to local health departments to formalize an arrangement for back-up medical coverage. This template is not intended to provide legal advice or representation. Local health departments should work with their legal counsel to develop an MOU to meet their specific needs.

Memorandum of Understanding (MOU) AGREEMENT Template

**Local Public Health Department –Contractor Medical Director
Back-up Coverage Services**

Between _____ and _____

THIS AGREEMENT made and entered into this ___ day of _____, 2016, by and between _____ LPHD (“LPHD”) and _____, M.D. (“Contractor”) is entered into to formalize an agreement for the provision of short-term and/or extended term back-up medical director services meeting the requirements of MI. Adm. Code. R. 323.13001, et seq.

WHEREAS, LPHD is a Michigan local public health department which employs or contracts with a licensed physician approved by the Michigan Department of Public Health who acts as the medical director for LPHD;

WHEREAS, Contractor is a licensed physician in the State of Michigan who currently contracts another local public health department to act as its medical director, and Contractor is currently qualified to perform services of medical director;

WHEREAS, the purpose of this Agreement is to assure consistent medical director access to address public health medical situations that arise due to the short-term absences or extended vacancy of the LPHD’s established medical director; and,

WHEREAS, this Agreement is subject to the approval of the Michigan Department of Health and Human Services (hereinafter referred to as the “MDHHS”) of this Agreement, if necessary, pursuant to MCL 333.2419.

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, IT IS AGREED as follows:

2. Purpose and Scope of Work.

- b. Contractor will provide to LBHD such temporary back-up medical director coverage services as are necessary and proper under the circumstances. This will include, but is not limited to, such services and/or determinations as are necessary or appropriate to carry out the medical director functions of the LPHD during the absence of the LPHD's medical director. Contractor agrees to provide short-term term back-up medical director services to and on behalf of the LPHD when and if the LPHD's medical director is on vacation or sick leave, or is otherwise unavailable due to short term absences not expected to exceed ___ working days ("Short Term Absences"); and/or to provide extended terms services when and if the LPHD's medical director position is or will be vacant for an extended period of ___ or more working days caused by circumstance including, but not limited to, the death, incapacity, long-term leave by, retirement, or departure, of a medical director ("Extended Vacancy"). It is expressly understood and agreed that the Contractor shall be expected to utilize his/her professional judgment in the performance of the services to be provided under this Agreement consistent with the LPHD's policies, the laws, and the standards of his/her profession.

- d. LPHD will make available to Contractor reciprocal services of LPHD's medical director to provide coverage of Contractor's Short Term Absences of medical director services provided by the Contractor to _____ Health Department. Contractor and LPHD's medical director shall seek, in advance to agree to nature of and structure of providing the temporary services necessary to provide coverage for Short Term Absences. However, absent such other agreement, the decision of each respective medical director shall be final in determining nature and structure, including the necessity for on-site services. It is contemplated that in the event of Short Term Absences, medical director services will primarily be provided via telephone with limited or no on-site services provided. It will be the day-to-day responsibility of the Contractor or medical director for the LPHD to coordinate coverage, with the Administration of each LPHD and other appropriate individuals.

- e. Where coverage is for an Extended Vacancy, the Parties agree that the Contractor will undertake to support the billing functions of the LPHD as the medical director of LPHD. This will include, but is not limited to, the provision of Contractor's NPI number and/or submission of necessary documentation for the Contractor to temporarily become a credentialed provider for the LPHD Requiring Services in the Council for Affordable Quality Healthcare ("CAQH").

2. **Term.** The term of this Agreement shall commence on _____ and shall expire on _____ unless earlier terminated. On or before _____ the parties shall review this

relationship and jointly agree on whether the Agreement will be extended and on what terms beyond_____. Notwithstanding any provision regarding term, either LPHD or Contractor may terminate its participation in this Agreement at any time with 60 days written notice to the other.

3. Compensation.

a. Short-Term Absences- LPHD and Contractor agree that each contemplates general long term reciprocity and balance in the respective provision of short term back-up medical director services. As such, for back-up medical director services of less than or equal to _____ (consecutive/cumulative) (option 1: calendar; option 2: working) days the neither LPHD nor Contractor will not seek, nor be entitled to, reimbursement of any kind for such services.

b. Extended Vacancy -- LPHD shall compensate Contractor up to _____ (____) hours per week for medical director services LPHD receives by Contractor cue to an Extended Vacancy at the gross hourly rate of \$_____ per hour. On a monthly basis, Contractor shall invoice LPHD for the hours of medical director services performed on behalf of LPHD. Upon request, Contractor will provide LPHD with such supportive documentation relating to the hours and services being invoiced as LPHD may reasonably require. All invoices complying with this Agreement shall be paid in full within thirty (30) days of LPHD's receipt of the invoice.

In addition to the personnel costs to be reimbursed to LPHD Providing Services, LPHD Requiring Services shall reimburse the LPHD Providing Services' medical director for miles he/she travels to and from LPHD Providing Services facilities as well as miles he/she travels in the performance of his/her duties under this Agreement. The mileage reimbursement rate shall be the same as LPHD Requiring Services pays LPHD Requiring Services medical director for miles he/she travels.

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