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STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
OFFICE OF THE EXECUTIVE DIRECTOR

Deanna E. Jurius
Executive Director

Heather A. Kelley
Director

7 EAGLE SQUARE, CONCORD, NH 03301-4980
 Telephone: 603-271-2152
 TDD Access: Relay NH 1-800-735-2964
 www.oplc.nh.gov

December 11, 2024

Her Excellency, Governor Kelly A. Ayotte
 and the Honorable Council
 State House
 Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Office of Professional Licensure and Certification (OPLC) to exercise **Retroactive** contract renewal options with the Contractors listed below for the provision of Expert Physician Consultant Services, by extending the completion date from December 31, 2024, to December 31, 2025, with no change to the shared price limitation. The original contracts were approved by the Governor and Executive Council on May 1, 2024 (item# 54). 100% Agency Funds.

Contractor Name	Vendor Code
Michael Sochat, MD (Raleigh, NC)	486898
Sarah Zachos, MD (Exeter, NH)	486996
Timothy Desmond Brown, MD (Lunenburg, VT)	488262
Rober Feder, MH (Hollis, NH)	169210
Alred A. Pirro, MD (Hampstead, NC)	488467
Rebecca Barron, MD, MPH (Longmeadow, MA)	487033

EXPLANATION

This request is **Retroactive** due to an error discovered within the request letter that has been corrected and the letter resubmitted, which did not allow for the item be presented to Governor and Executive Council prior to its effective date. As previously stated, the original contracts were approved by the Governor and Executive Council on May 1, 2024 (item# 54).

OPLC requests approval of these contract extensions to provide continued expert physician consultant services, with a variety of medical specializations, to The Board of Medicine. As one of the largest professional and technical boards under the purview of OPLC, cases and complaints involving The Board of Medicine account for approximately 27% of all complaints received. In consideration of this volume of complaints and the heterogeneity of specialties within the field of medicine, it is beneficial to maintain contract with physicians which have expert knowledge in differing fields to assist the Board in reviews of complaints, claims, suits, and other issues involving licensees where the safety of the public could be adversely affected.

In the event that Agency funds become no longer available, General Funds will not be requested to support this program.

Based on the foregoing, I am respectfully recommending approval of the contract amendments with the Contractors in the above table.

Respectfully submitted,

Deanna E. Jurius
Executive Director

**State of New Hampshire
Office of Professional Licensure and Certification
Amendment #1**

This Amendment to the Expert Physician Consultant Services contract is by and between the State of New Hampshire, Office of Professional Licensure and Certification ("State" or "OPLC") and Michael Sochat, MD ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on May 1, 2024, (Item #54), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18, and Exhibit A, Paragraph 1.1, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, or modify the scope of services to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:
December 31, 2025
2. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:
Jesse G. Wilcox, Contracts Administrator.

All terms and conditions of the Contract and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

**State of New Hampshire
Office of Professional Licensure and Certification**

11/26/24
Date

Deanna E. Jurius
Name: Deanna E. Jurius
Title: Executive Director

Contractor

10/26/2024
Date

M-Sochat
Name: Michael Sochat
Title: MD

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

12/4/24

Date

Jessica A King

Name: Jessica A. King
Title: Senior Assistant Attorney General

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:
Title:



State of New Hampshire
OFFICE OF PROFESSIONAL LICENSURE AND
CERTIFICATION

Board of Medicine

Pursuant to RSA 310:8, I - this is to certify that

MICHAEL SOCHAT, MD

is licensed to practice as a(n)

Physician

LICENSE NO. 9970
EXPIRATION DATE: 06/30/2025



STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
OFFICE OF THE EXECUTIVE DIRECTOR

Lindsay B. Courtney, J.D.
 Executive Director

Heather A. Kelley
 Director

7 EAGLE SQUARE, CONCORD, NH 03301-4980
 Telephone: 603-271-2152
 TDD Access: Relay NH 1-800-735-2964
 www.oplc.nh.gov

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March 5, 2024

His Excellency, Governor Christopher T. Sununu
 and the Honorable Council
 State House
 Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Office of Professional Licensure and Certification (OPLC), to enter into contracts with the Contractors listed below in an amount not to exceed \$50,000.00 for all vendors for the provision of Expert Physician Consultant Services, for the OPLC. These contracts are a result of a competitive RFA-2024-BDMED-01-EXPER-01. These contracts shall be effective upon Governor and Executive Council Approval through December 31, 2024, with the option to extend for four (4) years. 100% Agency Funds.

Contractor Name	Vendor Code	Shared Price Limitation
Michael Sochat, MD (Raleigh, NC)	486898	\$50,000.00
Sarah Zachos, MD (Exeter, NH)	486996	
Timothy Desmond Brown, MD (Lunenburg, VT)	488262	
Robert Feder, MD (Hollis, NH)	169210	
Alfred A. Pirro, MD (Hampstead, NC)	488467	
Rebecca Barron, MD, MPH (Longmeadow, MA)	487033	

Funds to support this request are available in the following account:

01-21-2100-24040000 Division of Administration	<u>FY 2024</u>	<u>FY2025</u>
046-500462 - Consultants	\$25,000	\$25,000

EXPLANATION

The purpose of this request is to for the contractor to assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues to ensure compliance with statutory and regulatory provisions, including but not limited to, New Hampshire Revised Statutes Annotated (RSA) 329:Physicians and Surgeons, 328-D: Physician Assistants and The Administrative Rules of the Board of Medicine, MED 100-600. The Contractors assist OPLC staff as needed, in the timely review process of complaints, claims, suits and other issues involving licensees where the public could be adversely impacted.

In the event that Agency Funds become no longer available, General Funds will not be requested to support this program.

Based on the foregoing, I am respectfully recommending approval of the contractors in the table above.

Respectfully submitted,



Lindsey B. Courtney
Executive Director

Expert Physician Consultants (RFA-2024-BDMED-01-EXPER-01) Final Score Sheet

	Maximum Points Available	Barron, Rebecca	Brown, Desmond	Ebrah, Ali	Feder, Robert	Hattan, Mary Kate	Pirro, Alfred	Sochet, Michael	Zachos, Sarah
				Non-Compliant		Non-Compliant			
(Q1) Describe, in narrative form, your capability to perform the entire scope of work in this RFA, including any specialized classes, trainings and/or seminars attended.	40	30	40		35		30	25	30
(Q2) Describe, in narrative form, your experience in conducting peer reviews. Include a sample summary report with redactions of any personally identifiable information.	25	25	25		25		10	20	25
(Q3) Describe, in narrative form, your experience in the specialty for which you are applying. Include length of service in your profession and any achievements attained.	35	35	35		35		25	35	35
Totals:	100	90	100		95		65	80	90

Reviewer Name	Reviewer Title
Jessica F. Kallipolites	Director, Division of Enforcement
Michael W. Porter	Chief, Investigations Bureau
Marissa Shuetz, Esq.	Administrative Prosecutor
Marc L. Bertrand, MD	Member, Board of Medicine

Subject: Expert Physician Consultant (RFA-2024-BDMED-01-EXPER-01)

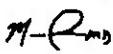
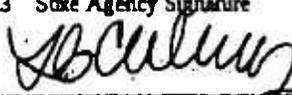
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

I. IDENTIFICATION.

1.1 State Agency Name Office of Professional Licensure and Certification		1.2 State Agency Address 7 Eagle Square Concord, NH 03301	
1.3 Contractor Name Michael Sochat, MD		1.4 Contractor Address Raleigh, NC 27606	
1.5 Contractor Phone Number	1.6 Account Unit and Class 010-021-2100-24040000-46-500462	1.7 Completion Date December 31, 2024	1.8 Price Limitation Shared Price Limitation of \$50,000
1.9 Contracting Officer for State Agency Heather A. Kelley, Director of Operations		1.10 State Agency Telephone Number (603) 271-0142	
1.11 Contractor Signature  Date: 11/27/2023		1.12 Name and Title of Contractor Signatory Michael Sochat MD, physician	
1.13 State Agency Signature  Date: 11/29/23		1.14 Name and Title of State Agency Signatory Lindsey B. Courtney, Executive Director	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 4/15/2024			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

whatever nature incurred by the Contractor in the performance

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of

Contractor Initials: np

Date: 11/18/2023

hereof, and shall be the only and the complete compensation to the Contractor for the Services. Agreement.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. **INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than

\$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States

Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and

Contractor Initials: MP

Date: 11/18/2023

**Office of Professional Licensure and Certification
Dental Anesthesia Inspector Services**

EXHIBIT A

Revisions to General Provisions

1. Revisions to Form P-37, General Provisions

1.1. Paragraph 3, Effective Date: Completion of Project, is amended by adding subparagraph 3.4 as follows:

3.4. The parties may extend the Agreement for up to four (4) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

1.2. Paragraph 8, Event of Default: Remedies, subparagraph 8.2.3, is amended as follows:

8.2.3 Give the Contractor a written notice specifying the Event of Default and suspending payments, in whole or in part, to be made under this Agreement, until the Event of Default is cured.

1.3. Paragraph 14, Insurance is deleted in its entirety.



Scope of Services

1. Provisions Applicable to All Services

- 1.1. The Contractor shall provide medical expertise in the area of emergency medicine to assist the Office of Professional Licensure and Certification (OPLC) staff with investigations regarding the following to include, but are not limited to:
 - 1.1.1. Malpractice.
 - 1.1.2. Incompetence.
 - 1.1.3. Unprofessional conduct.
 - 1.1.4. Consumer complaints.
- 1.2. The Contractor shall maintain licensure as a Physician for the duration of this Agreement.
- 1.3. For the purposes of this agreement, all references to days shall mean business days, which are Monday through Friday excluding State and Federal Holidays, from 8:00 A.M. to 4:00 P.M. (EST).

2. Scope of Work

- 2.1. The Contractor shall assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues including, but not limited to:
 - 2.1.1. Malpractice lawsuits.
 - 2.1.2. Matters of incompetence.
 - 2.1.3. Unprofessional conduct allegations.
 - 2.1.4. Consumer complaints.
 - 2.1.5. Other issues that may constitute violations of:
 - 2.1.5.1. New Hampshire Revised Statutes Annotated (NH RSA) 328-D: Physician Assistants;
 - 2.1.5.2. NH RSA 329: Physicians and Surgeons; or
 - 2.1.5.3. The Administrative Rules of the Board of Medicine, MED 100-600.
- 2.2. The Contractor shall be available to receive electronic case files, as prepared and sent by OPLC.
- 2.3. The Contractor shall sign an attestation that confirms no conflict of interest with the parties involved in the investigation, as assigned by OPLC.
- 2.4. The Contractor shall review case file records which may include, but are not limited to:



- 2.4.1. Office records.
- 2.4.2. Responses to communications.
- 2.4.3. Radiographic films.
- 2.4.4. Reports from other agencies or states.
- 2.5. The Contractor shall utilize report formats provided by the OPLC to complete investigations of providers, as appropriate. The Contractor shall:
 - 2.5.1. Utilize the appropriate current report format to complete investigations.
 - 2.5.2. Ensure reports are completed accurately and according to the requirements of the investigation being conducted.
 - 2.5.3. Ensure completed reports are legible and any comments are clear, concise, and objective.
 - 2.5.4. Provide completed reports and supporting documentation, as applicable, to the OPLC no later than forty-five (45) days after receiving case files, unless an extension of time is requested and otherwise granted no later than thirty (30) days after receiving the case files.
- 2.6. The OPLC shall provide the final report to the Board of Medicine (the Board) for review. If the Board:
 - 2.6.1. Closes the case, the selected vendor(s) may submit an appropriate invoice, as specified in Exhibit C, Payment Terms.
 - 2.6.2. Determines the case must move forward to a hearing, the vendor(s) must be available to testify as an expert witness to the case and may submit an invoice upon the Board rendering a decision in the case, as specified in the payment terms.

mp

EXHIBIT C

Payment Terms

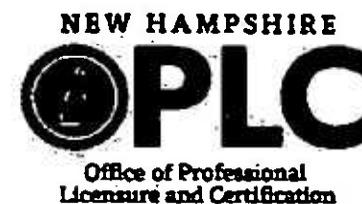
1. This Agreement is one of multiple agreements for services described in Exhibit B, Scope of Services. **No maximum or minimum client and service volume is guaranteed.** Accordingly, the price limitation among all agreements is identified in Form P-37, Block 1.8, Price Limitation for the duration of the agreement.
2. This Agreement is funded with 100% Agency Funds.
3. The Contractor agrees to provide the services in Exhibit B, Scope of Service in compliance with funding requirements. Failure to meet the scope of services may jeopardize the Contractor's current and/or future funding.
4. Payment for services shall be made as follows:
 - 4.1. Payment shall be on an hourly reimbursement rate of \$150 per hour, inclusive of travel, for actual hours worked, in accordance with Exhibit B, Scope of Services.
 - 4.2. The Contractor shall submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for actual hours worked during the prior month. The Contractor shall:
 - 4.2.1. Ensure each invoice is completed, dated, and returned to the OPLC in order to initiate payment.
 - 4.2.2. Keep detailed records of activities related to contract services.
 - 4.2.3. Ensure invoices include, but are not limited to:
 - 4.2.3.1. Case identifiers.
 - 4.2.3.2. Indication of whether the investigation is open and ongoing or closed as of the billing date.
 - 4.2.3.3. Number of hours worked.
 - 4.2.3.4. Contractor Name.
 - 4.2.3.5. Vendor Number.
 - 4.2.3.6. Contract Name and Number.
 - 4.3. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.
 - 4.4. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.

**Office of Professional Licensure and Certification
Expert Physician Consultants**

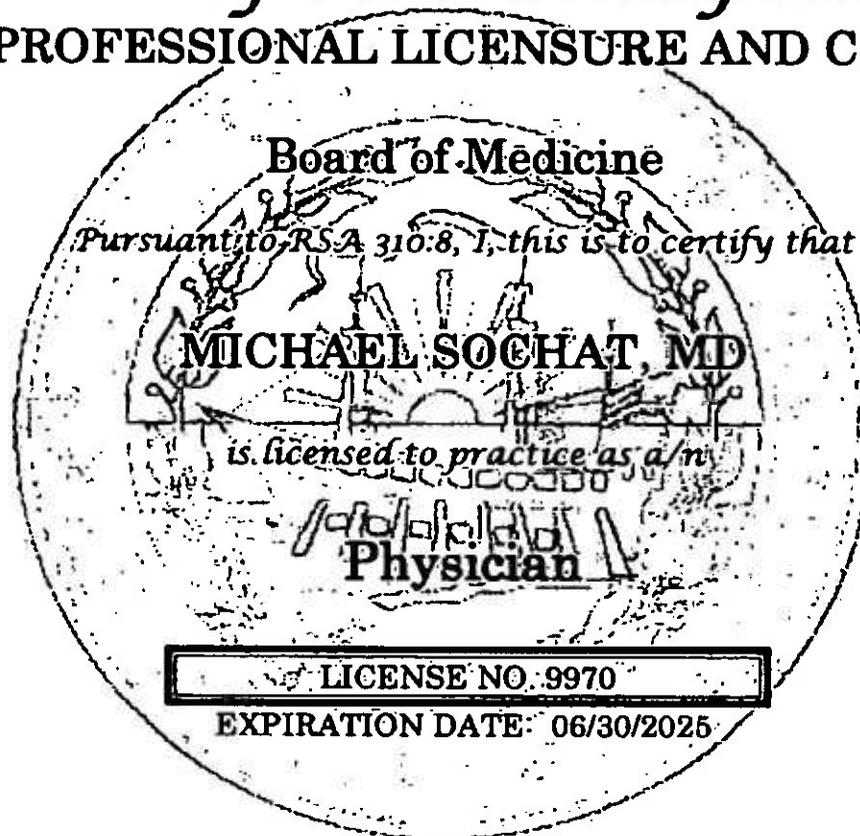
EXHIBIT C

5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to oplc.accountspayable@oplc.nh.gov, or invoices may be mailed to:

Heather Kelley, Director of Operations
Office of Professional Licensure and Certification
7 Eagle Square
Concord, NH 03301
6. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit B, Scope of Services and in this Exhibit C.
7. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.



State of New Hampshire
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION



Always verify licenses online at <https://forms.nh.gov/licenseverification/>

**State of New Hampshire
Office of Professional Licensure and Certification
Amendment #1**

This Amendment to the Expert Physician Consultant Services contract is by and between the State of New Hampshire, Office of Professional Licensure and Certification ("State" or "OPLC") and Sarah Zachos, MD ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on May 1, 2024, (Item #54), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18, and EXHIBIT A, Paragraph 1.1, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, or modify the scope of services to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

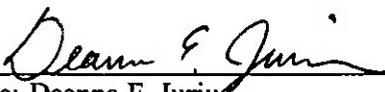
1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:
December 31, 2025
2. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:
Jesse G. Wilcox, Contracts Administrator.
3. Form P-37, EXHIBIT A, Revision to General Provisions, add subparagraph 1.3 as follows:
1.3 Paragraph 14, Insurance, is deleted in its entirety.

All terms and conditions of the Contract and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

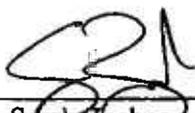
**State of New Hampshire
Office of Professional Licensure and Certification**

11/26/24
Date


Name: Deanna E. Jurius
Title: Executive Director

Contractor

10/25/24
Date


Name: Sarah Zachos
Title: MD

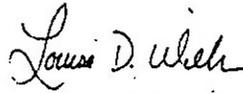
Sarah Zachos, MD

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

December 4, 2024

Date



Name: Louise D. Williams

Title: Assistant Attorney General

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:

Title:



State of New Hampshire
OFFICE OF PROFESSIONAL LICENSURE AND
CERTIFICATION

Board of Medicine

Pursuant to RSA 310:8, I - this is to certify that

SARAH C ZACHOS

is licensed to practice as a(n)

Physician

LICENSE NO. 9849
EXPIRATION DATE: 06/30/2026



STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
OFFICE OF THE EXECUTIVE DIRECTOR

Lindsey B. Courtney, J.D.
 Executive Director

Heather A. Kelley
 Director

7 EAGLE SQUARE, CONCORD, NH 03301-4980
 Telephone: 603-271-2152
 TDD Access: Relay NH 1-800-735-2964
 www.oplc.nh.gov

54

March 5, 2024

His Excellency, Governor Christopher T. Sununu
 and the Honorable Council
 State House
 Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Office of Professional Licensure and Certification (OPLC), to enter into contracts with the Contractors listed below in an amount not to exceed \$50,000.00 for all vendors for the provision of Expert Physician Consultant Services, for the OPLC. These contracts are a result of a competitive RFA-2024-BDMED-01-EXPER-01. These contracts shall be effective upon Governor and Executive Council Approval through December 31, 2024, with the option to extend for four (4) years. 100% Agency Funds.

Contractor Name	Vendor Code	Shared Price Limitation
Michael Sochat, MD (Raleigh, NC)	486898	\$50,000.00
Sarah Zachos, MD (Exeter, NH)	486996	
Timothy Desmond Brown, MD (Lunenburg, VT)	488262	
Robert Feder, MD (Hollis, NH)	169210	
Alfred A. Pirro, MD (Hampstead, NC)	488467	
Rebecca Barron, MD, MPH (Longmeadow, MA)	487033	

Funds to support this request are available in the following account:

01-21-2100-24040000 Division of Administration	<u>FY 2024</u>	<u>FY2025</u>
046-500462 - Consultants	\$25,000	\$25,000

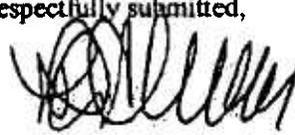
EXPLANATION

The purpose of this request is to for the contractor to assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues to ensure compliance with statutory and regulatory provisions, including but not limited to, New Hampshire Revised Statutes Annotated (RSA) 329:Physicians and Surgeons, 328-D: Physician Assistants and The Administrative Rules of the Board of Medicine, MED 100-600. The Contractors assist OPLC staff as needed, in the timely review process of complaints, claims, suits and other issues involving licensees where the public could be adversely impacted.

In the event that Agency Funds become no longer available, General Funds will not be requested to support this program.

Based on the foregoing, I am respectfully recommending approval of the contractors in the table above.

Respectfully submitted,



Lindsey B. Courtney
Executive Director

Expert Physician Consultants (RFA-2024-BDMED-01-EXPER-01) Final Score Sheet

	Maximum Points Available	Barron, Rebecca	Brown, Desmond	Ebrah, Ali	Feder, Robert	Hattan, Mary Kate	Pirro, Alfred	Sochat, Michael	Zachos, Sarah
				Non-Compliant		Non-Compliant			
(Q1) Describe, in narrative form, your capability to perform the entire scope of work in this RFA, including any specialized classes, trainings and/or seminars attended.	40	30	40		35		30	25	30
(Q2) Describe, in narrative form, your experience in conducting peer reviews. Include a sample summary report with redactions of any personally identifiable information.	25	25	25		25		10	20	25
(Q3) Describe, in narrative form, your experience in the specialty for which you are applying. Include length of service in your profession and any achievements attained.	35	35	35		35		25	35	35
Totals:	100	90	100		95		65	80	90

Reviewer Name	Reviewer Title
Jessica F. Kallipolites	Director, Division of Enforcement
Michael W. Porter	Chief, Investigations Bureau
Marissa Shuetz, Esq.	Administrative Prosecutor
Marc L. Bertrand, MD	Member, Board of Medicine

Subject: Expert Physician Consultant (RFA-2024-RDA(ED-01-EXPER-01)

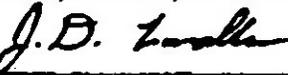
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

I. IDENTIFICATION.

1.1 State Agency Name Office of Professional Licensure and Certification		1.2 State Agency Address 7 Eagle Square Concord, NH 03301	
1.3 Contractor Name Sarah Zachos, MD		1.4 Contractor Address Exeter, NH 03833	
1.5 Contractor Phone Number	1.6 Account Unit and Class 010-021-2100-24040000-46-500462	1.7 Completion Date December 31, 2024	1.8 Price Limitation Shared Price Limitation of \$50,000
1.9 Contracting Officer for State Agency Heather A. Kelly, Director of Operations		1.10 State Agency Telephone Number (603) 271-0142	
1.11 Contractor Signature  Date: 12/4/23		1.12 Name and Title of Contractor Signatory SARAH ZACHOS, MD	
1.13 State Agency Signature  Date: 12/7/23		1.14 Name and Title of State Agency Signatory Lindsey B. Courtney, Executive Director	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 4/15/2024			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4 The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;
- 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
- 8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or
- 8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2

All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. **INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. **WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18.

AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. **CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. **THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. **SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. **FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

EXHIBIT A

Revisions to General Provisions

1. Revisions to Form P-37, General Provisions

1.1. Paragraph 3, Effective Date: Completion of Project, is amended by adding subparagraph 3.4 as follows:

3.4. The parties may extend the Agreement for up to four (4) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

1.2. Paragraph 8, Event of Default: Remedies, subparagraph 8.2.3, is amended as follows:

8.2.3 Give the Contractor a written notice specifying the Event of Default and suspending payments, in whole or in part, to be made under this Agreement, until the Event of Default is cured.



Scope of Services

1. Provisions Applicable to All Services

- 1.1. The Contractor shall provide medical expertise in the area of family medicine to assist the Office of Professional Licensure and Certification (OPLC) staff with investigations regarding the following to include, but are not limited to:
 - 1.1.1. Malpractice.
 - 1.1.2. Incompetence.
 - 1.1.3. Unprofessional conduct.
 - 1.1.4. Consumer complaints.
- 1.2. The Contractor shall maintain licensure as a Physician for the duration of this Agreement.
- 1.3. For the purposes of this agreement, all references to days shall mean business days, which are Monday through Friday excluding State and Federal Holidays, from 8:00 A.M. to 4:00 P.M. (EST).

2. Scope of Work

- 2.1. The Contractor shall assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues including, but not limited to:
 - 2.1.1. Malpractice lawsuits.
 - 2.1.2. Matters of incompetence.
 - 2.1.3. Unprofessional conduct allegations.
 - 2.1.4. Consumer complaints.
 - 2.1.5. Other issues that may constitute violations of:
 - 2.1.5.1. New Hampshire Revised Statutes Annotated (NH RSA) 328-D: Physician Assistants;
 - 2.1.5.2. NH RSA 329: Physicians and Surgeons; or
 - 2.1.5.3. The Administrative Rules of the Board of Medicine, MED 100-600.
- 2.2. The Contractor shall be available to receive electronic case files, as prepared and sent by OPLC.
- 2.3. The Contractor shall sign an attestation that confirms no conflict of interest with the parties involved in the investigation, as assigned by OPLC.
- 2.4. The Contractor shall review case file records which may include, but are not limited to:
 - 2.4.1. Office records.

Sarah Zachos, MD

Exhibit B

Contractor Initials SR

RFA-2024-BDDMED-01-EXPER

Page 1 of 1

Date 12/5/23



Exhibit B

- 2.4.2. Responses to communications.
- 2.4.3. Radiographic films.
- 2.4.4. Reports from other agencies or states.
- 2.5. The Contractor shall utilize report formats provided by the OPLC to complete investigations of providers, as appropriate. The Contractor shall:
 - 2.5.1. Utilize the appropriate current report format to complete investigations.
 - 2.5.2. Ensure reports are completed accurately and according to the requirements of the investigation being conducted.
 - 2.5.3. Ensure completed reports are legible and any comments are clear, concise, and objective.
 - 2.5.4. Provide completed reports and supporting documentation, as applicable, to the OPLC no later than forty-five (45) days after receiving case files, unless an extension of time is requested and otherwise granted no later than thirty (30) days after receiving the case files.
- 2.6. The OPLC shall provide the final report to the Board of Medicine (the Board) for review. If the Board:
 - 2.6.1. Closes the case, the selected vendor(s) may submit an appropriate invoice, as specified in Exhibit C, Payment Terms.
 - 2.6.2. Determines the case must move forward to a hearing, the vendor(s) must be available to testify as an expert witness to the case and may submit an invoice upon the Board rendering a decision in the case, as specified in the payment terms.

EXHIBIT C

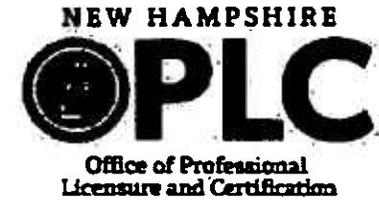
Payment Terms

1. This Agreement is one of multiple agreements for services described in Exhibit B, Scope of Services. **No maximum or minimum client and service volume is guaranteed.** Accordingly, the price limitation among all agreements is identified in Form P-37, Block 1.8, Price Limitation for the duration of the agreement.
2. This Agreement is funded with 100% Agency Funds.
3. The Contractor agrees to provide the services in Exhibit B, Scope of Service in compliance with funding requirements. Failure to meet the scope of services may jeopardize the Contractor's current and/or future funding.
4. Payment for services shall be made as follows:
 - 1.1. Payment shall be on an hourly reimbursement rate of \$150 per hour, inclusive of travel, for actual hours worked, in accordance with Exhibit B, Scope of Services.
 - 1.2. The Contractor shall submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for actual hours worked during the prior month. The Contractor shall:
 - 1.2.1. Ensure each invoice is completed, dated, and returned to the OPLC in order to initiate payment.
 - 1.2.2. Keep detailed records of activities related to contract services.
 - 1.2.3. Ensure invoices include, but are not limited to:
 - 4.1.1.1. Case identifiers.
 - 4.1.1.2. Indication of whether the investigation is open and ongoing or closed as of the billing date.
 - 4.1.1.3. Number of hours worked.
 - 4.1.1.4. Contractor Name.
 - 4.1.1.5. Vendor Number.
 - 4.1.1.6. Contract Name and Number.
 - 1.3. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.
 - 1.4. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.

**Office of Professional Licensure and Certification
Expert Physician Consultants**

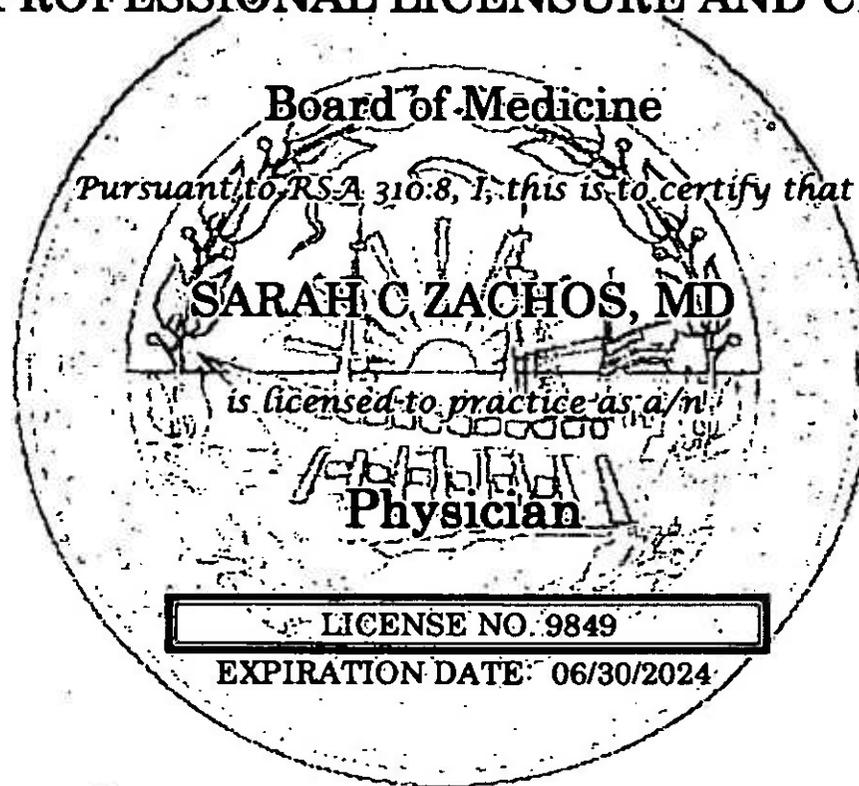
EXHIBIT C

5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to oplc.accounts@oplc.nh.gov, or invoices may be mailed to:
Heather Kelley, Director of Operations
Office of Professional Licensure and Certification
7 Eagle Square
Concord, NH 03301
6. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit B, Scope of Services and in this Exhibit C.
7. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.



State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION



Always verify licenses online at <https://forms.nh.gov/licenseverification/>

**State of New Hampshire
Office of Professional Licensure and Certification
Amendment #1**

This Amendment to the Expert Physician Consultant Services contract is by and between the State of New Hampshire, Office of Professional Licensure and Certification ("State" or "OPLC") and Timothy Desmond Brown, MD ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on May 1, 2024, (Item #54), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 1.8, and Exhibit A, Paragraph 1.1, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, or modify the scope of services to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:
December 31, 2025
2. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:
Jesse G. Wilcox, Contracts Administrator

All terms and conditions of the Contract and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below.

**State of New Hampshire
Office of Professional Licensure and Certification**

11/26/24
Date

Deanna F. Jurkus
Name: Deanna F. Jurkus
Title: Executive Director

Contractor

10/25/2024
Date

Timothy Desmond Brown
Name: Timothy Desmond Brown
Title: MD

Timothy Desmond Brown, MD

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

12/4/24

Date

Name: Jessica A King

Title: Senior Assistant Attorney General

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name

Title



State of New Hampshire
OFFICE OF PROFESSIONAL LICENSURE AND
CERTIFICATION

Board of Medicine

Pursuant to RSA 310:8, I - this is to certify that

TIMOTHY D. BROWN, MD

is licensed to practice as a(n)

Physician

LICENSE NO: 11191
EXPIRATION DATE: 06/30/2025



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/25/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER PHYSICIANS INS AGCY MASS INC/PHS 0808328 The Hartford Business Service Center 3600 Wiseman Blvd San Antonio, TX 78251	CONTACT NAME: PHONE (866) 467-8730 (A/C, No, Ext):		FAX (A/C, No):
	E-MAIL ADDRESS:		
INSURED T Desmond Brown LUNENBURG VT 05806		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Hartford Underwriters Insurance Company	NAIC# 30104
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> General Liability			08 SBM AY5Z4D	06/21/2024	06/21/2025	EACH OCCURRENCE	\$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRER AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident)	
	UMBRELLA LIAB EXCESS LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE DED: RETENTION \$						EACH OCCURRENCE	
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	YIN	N/A				PER STATUTE	OTH-ER
A	Employment Practices Liability Insurance			08 SBM AY5Z4D	06/21/2024	06/21/2025	Each Claim Limit	\$25,000
							Annual Aggregate Limit	\$25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Those usual to the Insured's Operations.

CERTIFICATE HOLDER THE NEW HAMPSHIRE OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION 7 EAGLE SQ CONCORD NH 03301-4980	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Susan S. Castaneda</i>
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STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
OFFICE OF THE EXECUTIVE DIRECTOR

Lindsay B. Courtney, J.D.
Executive Director

Heather A. Kelley
Director

7 EAGLE SQUARE, CONCORD, NH 03301-4980
Telephone: 603-271-2152
TDD Access: Relay NH 1-800-735-2964
www.oplc.nh.gov

54

March 5, 2024

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Office of Professional Licensure and Certification (OPLC), to enter into contracts with the Contractors listed below in an amount not to exceed \$50,000.00 for all vendors for the provision of Expert Physician Consultant Services, for the OPLC. These contracts are a result of a competitive RFA-2024-BDMED-01-EXPER-01. These contracts shall be effective upon Governor and Executive Council Approval through December 31, 2024, with the option to extend for four (4) years. 100% Agency Funds.

Contractor Name	Vendor Code	Shared Price Limitation
Michael Sochat, MD (Raleigh, NC)	486898	\$50,000.00
Sarah Zachos, MD (Exeter, NH)	486996	
Timothy Desmond Brown, MD (Lunenburg, VT)	488262	
Robert Feder, MD (Hollis, NH)	169210	
Alfred A. Pirro, MD (Hampstead, NC)	488467	
Rebecca Barron, MD, MPH (Longmeadow, MA)	487033	

Funds to support this request are available in the following account:

01-21-2100-24040000 Division of Administration	<u>FY 2024</u>	<u>FY2025</u>
046-500462 - Consultants	\$25,000	\$25,000

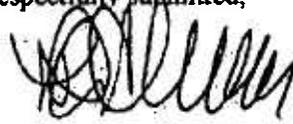
EXPLANATION

The purpose of this request is to for the contractor to assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues to ensure compliance with statutory and regulatory provisions, including but not limited to, New Hampshire Revised Statutes Annotated (RSA) 329:Physicians and Surgeons, 328-D: Physician Assistants and The Administrative Rules of the Board of Medicine, MED 100-600. The Contractors assist OPLC staff as needed, in the timely review process of complaints, claims, suits and other issues involving licensees where the public could be adversely impacted.

In the event that Agency Funds become no longer available, General Funds will not be requested to support this program.

Based on the foregoing, I am respectfully recommending approval of the contractors in the table above.

Respectfully submitted,



Lindsey B. Courtney
Executive Director

Expert Physician Consultants (RFA-2024-BDMED-01-EXPER-01) Final Score Sheet

	Maximum Points Available	Barron, Rebecca	Brown, Desmond	Ebrsh, Ali	Feder, Robert	Hattan, Mary Kate	Pirro, Alfred	Sochat, Michael	Zachos, Sarah
				Non-Compliant		Non-Compliant			
(Q1) Describe, in narrative form, your capability to perform the entire scope of work in this RFA, including any specialized classes, trainings and/or seminars attended.	40	30	40		35		30	25	30
(Q2) Describe, in narrative form, your experience in conducting peer reviews. Include a sample summary report with redactions of any personally identifiable information.	25	25	25		25		10	20	25
(Q3) Describe, in narrative form, your experience in the specialty for which you are applying. Include length of service in your profession and any achievements attained.	35	35	35		35		25	35	35
Totals:	100	90	100		95		65	80	90

Reviewer Name	Reviewer Title
Jessica F. Kallipolites	Director, Division of Enforcement
Michael W. Porter	Chief, Investigations Bureau
Marissa Shuetz, Esq.	Administrative Prosecutor
Marc L. Bertrand, MD	Member, Board of Medicine

FORM NUMBER P-37 (version 2/23/2023)

Subject: Expert Physician Consultant (RFA-2024-BDMED-01-EXPER-01)

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Office of Professional Licensure and Certification		1.2 State Agency Address 7 Eagle Square Concord, NH 03301	
1.3 Contractor Name Timothy Desmond Brown, MD		1.4 Contractor Address Lunenburg, VT 05906	
1.5 Contractor Phone Number	1.6 Account Unit and Class 010-021-2100-24040000-46-500462	1.7 Completion Date December 31, 2024	1.8 Price Limitation Shared Price Limitation of \$50,000
1.9 Contracting Officer for State Agency Heather A. Kelley, Director of Operations		1.10 State Agency Telephone Number (603) 271-0142	
1.11 Contractor Signature <i>J. Desmond Brown MD</i> Date: <i>11/28/2023</i>		1.12 Name and Title of Contractor Signatory TIMOTHY DESMOND BROWN, OWNER	
1.13 State Agency Signature <i>Lindsey B. Courtney</i> Date: <i>11/09/23</i>		1.14 Name and Title of State Agency Signatory Lindsey B. Courtney, Executive Director	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (If applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (If applicable) By: <i>J.D. Lusk</i> On: <i>4/15/2024</i>			
1.17 Approval by the Governor and Executive Council (If applicable) G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer, specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

Contractor Initials: J.D.B.

Date: 11/27/2023

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. **WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. **CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. **THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. **SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. **FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

EXHIBIT A

Revisions to General Provisions

1. Revisions to Form P-37, General Provisions

1.1. Paragraph 3, Effective Date: Completion of Project, is amended by adding subparagraph 3.4 as follows:

3.4. The parties may extend the Agreement for up to four (4) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

1.2. Paragraph 8, Event of Default: Remedies, subparagraph 8.2.3, is amended as follows:

8.2.3 Give the Contractor a written notice specifying the Event of Default and suspending payments, in whole or in part, to be made under this Agreement, until the Event of Default is cured.



Scope of Services

1. Provisions Applicable to All Services

- 1.1. The Contractor shall provide medical expertise in the area of orthopedic care to assist the Office of Professional Licensure and Certification (OPLC) staff with investigations regarding the following to include, but are not limited to:
 - 1.1.1. Malpractice.
 - 1.1.2. Incompetence.
 - 1.1.3. Unprofessional conduct.
 - 1.1.4. Consumer complaints.
- 1.2. The Contractor shall maintain licensure as a Physician for the duration of this Agreement.
- 1.3. For the purposes of this agreement, all references to days shall mean business days, which are Monday through Friday excluding State and Federal Holidays, from 8:00 A.M. to 4:00 P.M. (EST).

2. Scope of Work

- 2.1. The Contractor shall assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues including, but not limited to:
 - 2.1.1. Malpractice lawsuits.
 - 2.1.2. Matters of incompetence.
 - 2.1.3. Unprofessional conduct allegations.
 - 2.1.4. Consumer complaints.
 - 2.1.5. Other issues that may constitute violations of:
 - 2.1.5.1. New Hampshire Revised Statutes Annotated (NH RSA) 328-D: Physician Assistants;
 - 2.1.5.2. NH RSA 329: Physicians and Surgeons; or
 - 2.1.5.3. The Administrative Rules of the Board of Medicine, MED 100-600.
- 2.2. The Contractor shall be available to receive electronic case files, as prepared and sent by OPLC.
- 2.3. The Contractor shall sign an attestation that confirms no conflict of interest with the parties involved in the investigation, as assigned by OPLC.
- 2.4. The Contractor shall review case file records which may include, but are not limited to:
 - 2.4.1. Office records.



Exhibit B

- 2.4.2. Responses to communications.
- 2.4.3. Radiographic films.
- 2.4.4. Reports from other agencies or states.
- 2.5. The Contractor shall utilize report formats provided by the OPLC to complete investigations of providers, as appropriate. The Contractor shall:
 - 2.5.1. Utilize the appropriate current report format to complete investigations.
 - 2.5.2. Ensure reports are completed accurately and according to the requirements of the investigation being conducted.
 - 2.5.3. Ensure completed reports are legible and any comments are clear, concise, and objective.
 - 2.5.4. Provide completed reports and supporting documentation, as applicable, to the OPLC no later than forty-five (45) days after receiving case files, unless an extension of time is requested and otherwise granted no later than thirty (30) days after receiving the case files.
- 2.6. The OPLC shall provide the final report to the Board of Medicine (the Board) for review. If the Board:
 - 2.6.1. Closes the case, the selected vendor(s) may submit an appropriate invoice, as specified in Exhibit C, Payment Terms.
 - 2.6.2. Determines the case must move forward to a hearing, the vendor(s) must be available to testify as an expert witness to the case and may submit an invoice upon the Board rendering a decision in the case, as specified in the payment terms.

EXHIBIT C

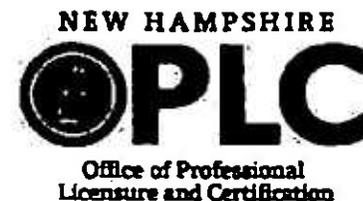
Payment Terms

1. This Agreement is one of multiple agreements for services described in Exhibit B, Scope of Services. **No maximum or minimum client and service volume is guaranteed.** Accordingly, the price limitation among all agreements is identified in Form P-37, Block 1.8, Price Limitation for the duration of the agreement.
2. This Agreement is funded with 100% Agency Funds.
3. The Contractor agrees to provide the services in Exhibit B, Scope of Service in compliance with funding requirements. Failure to meet the scope of services may jeopardize the Contractor's current and/or future funding.
4. Payment for services shall be made as follows:
 - 4.1. Payment shall be on an hourly reimbursement rate of \$150 per hour, inclusive of travel, for actual hours worked, in accordance with Exhibit B, Scope of Services.
 - 4.2. The Contractor shall submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for actual hours worked during the prior month. The Contractor shall:
 - 4.2.1. Ensure each invoice is completed, dated, and returned to the OPLC in order to initiate payment.
 - 4.2.2. Keep detailed records of activities related to contract services.
 - 4.2.3. Ensure invoices include, but are not limited to:
 - 4.2.3.1. Case identifiers.
 - 4.2.3.2. Indication of whether the investigation is open and ongoing or closed as of the billing date.
 - 4.2.3.3. Number of hours worked.
 - 4.2.3.4. Contractor Name.
 - 4.2.3.5. Vendor Number.
 - 4.2.3.6. Contract Name and Number.
 - 4.3. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.
 - 4.4. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.

**Office of Professional Licensure and Certification
Expert Physician Consultants**

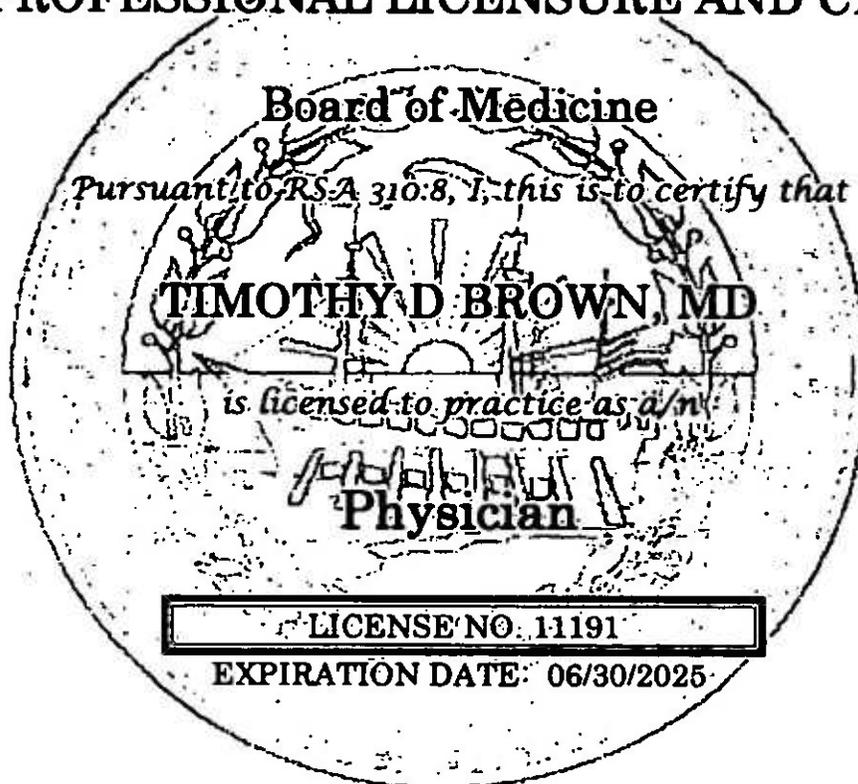
EXHIBIT C

5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to oplc.accountspayable@oplc.nh.gov, or invoices may be mailed to:
Heather Kelley, Director of Operations
Office of Professional Licensure and Certification
7 Eagle Square
Concord, NH 03301
6. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit B, Scope of Services and in this Exhibit C.
7. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.

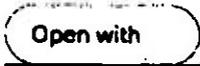


State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION



Always verify licenses online at <https://forms.nh.gov/licenseverification/>



State of New Hampshire
Office of Professional Licensure and Certification
Amendment #1

This Amendment to the Expert Physician Consultant Services contract is by and between the State of New Hampshire, Office of Professional Licensure and Certification ("State" or "OPLC") and Robert Feder, MD ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on May 1, 2024, (Item #54), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18, and Exhibit A, Paragraph 1.1, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, or modify the scope of services to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

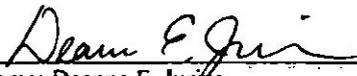
1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:
December 31, 2025
2. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:
Jesse G. Wilcox, Contracts Administrator.

All terms and conditions of the Contract and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

State of New Hampshire
Office of Professional Licensure and Certification

11/26/24
Date


Name: Deanna E. Jurkis
Title: Executive Director

Contractor

October 24, 2024
Date


Name: Robert Feder
Title: MD

Robert Feder, MD

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

12/4/24

Date

Jessica A King

Name: Jessica A. King

Title: Senior Assistant Attorney General

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:

Title:



State of New Hampshire
OFFICE OF PROFESSIONAL LICENSURE AND
CERTIFICATION

Board of Medicine

Pursuant to RSA 310:8, I - this is to certify that

ROBERT E FEDER, MD

is licensed to practice as a(n)

Physician

LICENSE NO: 6710
EXPIRATION DATE: 06/30/2025



STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
OFFICE OF THE EXECUTIVE DIRECTOR

Lindsey B. Courtney, J.D.
 Executive Director

Heather A. Kelley
 Director

7 EAGLE SQUARE, CONCORD, NH 03301-4980
 Telephone: 603-271-2152
 TDD Access: Relay NH 1-800-735-2964
 www.oplc.nh.gov

54

March 5, 2024

His Excellency, Governor Christopher T. Sununu
 and the Honorable Council
 State House
 Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Office of Professional Licensure and Certification (OPLC), to enter into contracts with the Contractors listed below in an amount not to exceed \$50,000.00 for all vendors for the provision of Expert Physician Consultant Services, for the OPLC. These contracts are a result of a competitive RFA-2024-BDMED-01-EXPER-01. These contracts shall be effective upon Governor and Executive Council Approval through December 31, 2024, with the option to extend for four (4) years. 100% Agency Funds.

Contractor Name	Vendor Code	Shared Price Limitation
Michael Sochat, MD (Raleigh, NC)	486898	\$50,000.00
Sarah Zachos, MD (Exeter, NH)	486996	
Timothy Desmond Brown, MD (Lunenburg, VT)	488262	
Robert Feder, MD (Hollis, NH)	169210	
Alfred A. Pirro, MD (Hampstead, NC)	488467	
Rebecca Barron, MD, MPH (Longmeadow, MA)	487033	

Funds to support this request are available in the following account:

01-21-2100-24040000 Division of Administration	<u>FY 2024</u>	<u>FY2025</u>
046-500462 - Consultants	\$25,000	\$25,000

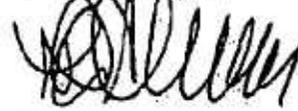
EXPLANATION

The purpose of this request is to for the contractor to assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues to ensure compliance with statutory and regulatory provisions, including but not limited to, New Hampshire Revised Statutes Annotated (RSA) 329:Physicians and Surgeons, 328-D: Physician Assistants and The Administrative Rules of the Board of Medicine, MED 100-600. The Contractors assist OPLC staff as needed, in the timely review process of complaints, claims, suits and other issues involving licensees where the public could be adversely impacted.

In the event that Agency Funds become no longer available, General Funds will not be requested to support this program.

Based on the foregoing, I am respectfully recommending approval of the contractors in the table above.

Respectfully submitted,



Lindsey B. Courtney
Executive Director

Expert Physician Consultants (RFA-2024-BDMED-01-EXPER-01) Final Score Sheet

	Maximum Points Available	Barron, Rebecca	Brown, Desmond	Ebrah, Ali	Feder, Robert	Hattan, Mary Kate	Pirro, Alfred	Sochat, Michael	Zachos, Sarah
				Non-Compliant		Non-Compliant			
(Q1) Describe, in narrative form, your capability to perform the entire scope of work in this RFA, including any specialized classes, trainings and/or seminars attended.	40	30	40		35		30	25	30
(Q2) Describe, in narrative form, your experience in conducting peer reviews. Include a sample summary report with redactions of any personally identifiable information.	25	25	25		25		10	20	25
(Q3) Describe, in narrative form, your experience in the specialty for which you are applying. Include length of service in your profession and any achievements attained.	35	35	35		35		25	35	35
Totals:	100	90	100		95		65	80	90

Reviewer Name	Reviewer Title
Jessica F. Kallipolites	Director, Division of Enforcement
Michael W. Porter	Chief, Investigations Bureau
Marissa Shuetz, Esq.	Administrative Prosecutor
Marc L. Bertrand, MD	Member, Board of Medicine

Subject: Expert Physician Consultant (RFA-2024-BDMED-01-EXPER-01)

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

I. IDENTIFICATION.

<p>1.1 State Agency Name Office of Professional Licensure and Certification</p>		<p>1.2 State Agency Address 7 Eagle Square Concord, NH 03301</p>	
<p>1.3 Contractor Name Robert Feder, MD</p>		<p>1.4 Contractor Address Hollis, NH 03104</p>	
<p>1.5 Contractor Phone Number</p>	<p>1.6 Account Unit and Class 010-021-2100-24040000-46-500462</p>	<p>1.7 Completion Date December 31, 2024</p>	<p>1.8 Price Limitation Shared Price Limitation of \$50,000</p>
<p>1.9 Contracting Officer for State Agency Heather A. Kelley, Director of Operations</p>		<p>1.10 State Agency Telephone Number (603) 271-0142</p>	
<p>1.11 Contractor Signature  Date: 11-29-23</p>		<p>1.12 Name and Title of Contractor Signatory</p>	
<p>1.13 State Agency Signature  Date: 12/1/23</p>		<p>1.14 Name and Title of State Agency Signatory Lindsey B. Courtney, Executive Director</p>	
<p>1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____</p>			
<p>1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 4/15/2024</p>			
<p>1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____</p>			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing, signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. CONFLICTING TERMS. In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. THIRD PARTIES. This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. SPECIAL PROVISIONS. Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. FURTHER ASSURANCES. The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

EXHIBIT A

Revisions to General Provisions

1. Revisions to Form P-37, General Provisions

1.1. Paragraph 3, Effective Date: Completion of Project, is amended by adding subparagraph 3.4 as follows:

3.4. The parties may extend the Agreement for up to four (4) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

1.2. Paragraph 8, Event of Default: Remedies, subparagraph 8.2.3, is amended as follows:

8.2.3 Give the Contractor a written notice specifying the Event of Default and suspending payments, in whole or in part, to be made under this Agreement, until the Event of Default is cured.

1.3. Paragraph 14, Insurance is deleted in its entirety.



Exhibit B

Scope of Services

1. Provisions Applicable to All Services

- 1.1. The Contractor shall provide medical expertise in the area of psychiatry to assist the Office of Professional Licensure and Certification (OPLC) staff with investigations regarding the following to include, but are not limited to:
 - 1.1.1. Malpractice.
 - 1.1.2. Incompetence.
 - 1.1.3. Unprofessional conduct.
 - 1.1.4. Consumer complaints.
- 1.2. The Contractor shall maintain licensure as a Physician for the duration of this Agreement.
- 1.3. For the purposes of this agreement, all references to days shall mean business days, which are Monday through Friday excluding State and Federal Holidays, from 8:00 A.M. to 4:00 P.M. (EST).

2. Scope of Work

- 2.1. The Contractor shall assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues including, but not limited to:
 - 2.1.1. Malpractice lawsuits.
 - 2.1.2. Matters of incompetence.
 - 2.1.3. Unprofessional conduct allegations.
 - 2.1.4. Consumer complaints.
 - 2.1.5. Other issues that may constitute violations of:
 - 2.1.5.1. New Hampshire Revised Statutes Annotated (NH-RSA) 328-D: Physician Assistants;
 - 2.1.5.2. NH RSA 329: Physicians and Surgeons; or
 - 2.1.5.3. The Administrative Rules of the Board of Medicine, MED 100-600.
- 2.2. The Contractor shall be available to receive electronic case files, as prepared and sent by OPLC.
- 2.3. The Contractor shall sign an attestation that confirms no conflict of interest with the parties involved in the investigation, as assigned by OPLC.
- 2.4. The Contractor shall review case file records which may include, but are not limited to:
 - 2.4.1. Office records.

Robert Feder, MD

Exhibit B

Contractor Initials RF

RFA-2024-8DDMED-01-EXPER

Page 1 of 2

Date 11-29-23



Exhibit B

- 2.4.2. Responses to communications.
- 2.4.3. Radiographic films.
- 2.4.4. Reports from other agencies or states.
- 2.5. The Contractor shall utilize report formats provided by the OPLC to complete investigations of providers, as appropriate. The Contractor shall:
 - 2.5.1. Utilize the appropriate current report format to complete investigations.
 - 2.5.2. Ensure reports are completed accurately and according to the requirements of the investigation being conducted.
 - 2.5.3. Ensure completed reports are legible and any comments are clear, concise, and objective.
 - 2.5.4. Provide completed reports and supporting documentation, as applicable, to the OPLC no later than forty-five (45) days after receiving case files, unless an extension of time is requested and otherwise granted no later than thirty (30) days after receiving the case files.
- 2.6. The OPLC shall provide the final report to the Board of Medicine (the Board) for review. If the Board:
 - 2.6.1. Closes the case, the selected vendor(s) may submit an appropriate invoice, as specified in Exhibit C, Payment Terms.
 - 2.6.2. Determines the case must move forward to a hearing, the vendor(s) must be available to testify as an expert witness to the case and may submit an invoice upon the Board rendering a decision in the case, as specified in the payment terms.

EXHIBIT C

Payment Terms

1. This Agreement is one of multiple agreements for services described in Exhibit B, Scope of Services. **No maximum or minimum client and service volume is guaranteed.** Accordingly, the price limitation among all agreements is identified in Form P-37, Block 1.8, Price Limitation for the duration of the agreement.
2. This Agreement is funded with 100% Agency Funds.
3. The Contractor agrees to provide the services in Exhibit B, Scope of Service in compliance with funding requirements. Failure to meet the scope of services may jeopardize the Contractor's current and/or future funding.
4. Payment for services shall be made as follows:
 - 4.1. Payment shall be on an hourly reimbursement rate of \$150 per hour, inclusive of travel, for actual hours worked, in accordance with Exhibit B, Scope of Services.
 - 4.2. The Contractor shall submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for actual hours worked during the prior month. The Contractor shall:
 - 4.2.1. Ensure each invoice is completed, dated, and returned to the OPLC in order to initiate payment.
 - 4.2.2. Keep detailed records of activities related to contract services.
 - 4.2.3. Ensure invoices include, but are not limited to:
 - 4.2.3.1. Case identifiers.
 - 4.2.3.2. Indication of whether the investigation is open and ongoing or closed as of the billing date.
 - 4.2.3.3. Number of hours worked.
 - 4.2.3.4. Contractor Name.
 - 4.2.3.5. Vendor Number.
 - 4.2.3.6. Contract Name and Number.
 - 4.3. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.
 - 4.4. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.

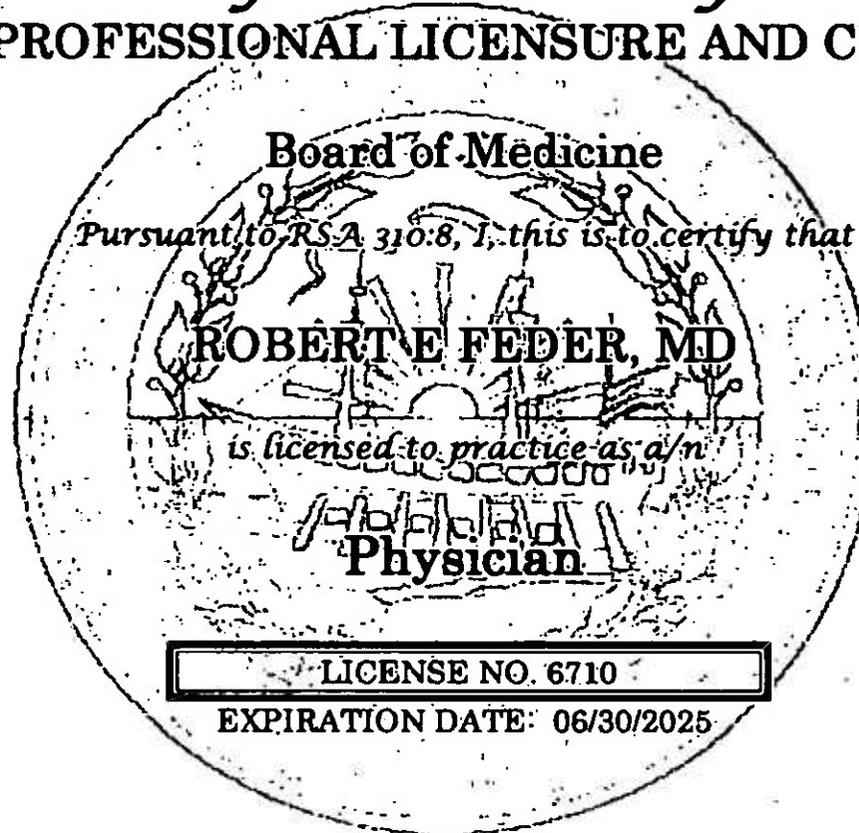
EXHIBIT C

5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to oplc.accountspayable@oplc.nh.gov, or invoices may be mailed to:
Heather Kelley, Director of Operations
Office of Professional Licensure and Certification
7 Eagle Square
Concord, NH 03301
6. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit B, Scope of Services and in this Exhibit C.
7. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.



State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION



Always verify licenses online at <https://forms.nh.gov/licenseverification/>

**State of New Hampshire
Office of Professional Licensure and Certification
Amendment #1**

This Amendment to the Expert Physician Consultant Services contract is by and between the State of New Hampshire, Office of Professional Licensure and Certification ("State" or "OPLC") and Alfred A. Pirro, MD ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on May 1, 2024, (Item #54), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18, and Exhibit A, Paragraph 1.1, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, or modify the scope of services to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

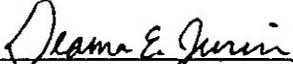
1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:
December 31, 2025
2. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:
Jesse G. Wilcox, Contracts Administrator.

All terms and conditions of the Contract and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

**State of New Hampshire
Office of Professional Licensure and Certification**

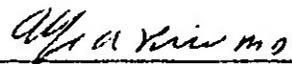
Date



Name: Deanna E. Jurius
Title: Executive Director

Contractor

11/10/2024
Date



Name: Alfred A. Pirro
Title: MD

Alfred A. Pirro, MD

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

12/3/24

Date

Jessica A King

Name: Jessica A. King

Title: Senior Assistant Attorney General

I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:

Title:



State of New Hampshire
OFFICE OF PROFESSIONAL LICENSURE AND
CERTIFICATION

Board of Medicine

Pursuant to RSA 310:8:1 - this is to certify that

Alfred Anthony Pirro, Jr

is licensed to practice as a(n)

Compact Physician

LICENSE NO. 23429
EXPIRATION DATE 06/30/2026
SPECIALTY Critical Care Medicine - AN



STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
OFFICE OF THE EXECUTIVE DIRECTOR

Lindsey B. Courtney, J.D.
 Executive Director

Heather A. Kelley
 Director

7 EAGLE SQUARE, CONCORD, NH 03301-4980
 Telephone: 603-271-2152
 TDD Access: Relay NH 1-800-735-2964
 www.oplc.nh.gov

54

March 5, 2024

His Excellency, Governor Christopher T. Sununu
 and the Honorable Council
 State House
 Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Office of Professional Licensure and Certification (OPLC), to enter into contracts with the Contractors listed below in an amount not to exceed \$50,000.00 for all vendors for the provision of Expert Physician Consultant Services, for the OPLC. These contracts are a result of a competitive RFA-2024-BDMED-01-EXPER-01. These contracts shall be effective upon Governor and Executive Council Approval through December 31, 2024, with the option to extend for four (4) years. 100% Agency Funds.

Contractor Name	Vendor Code	Shared Price Limitation
Michael Sochat, MD (Raleigh, NC)	486898	\$50,000.00
Sarah Zachos, MD (Exeter, NH)	486996	
Timothy Desmond Brown, MD (Lunenburg, VT)	488262	
Robert Feder, MD (Hollis, NH)	169210	
Alfred A. Pirro, MD (Hampstead, NC)	488467	
Rebecca Barron, MD, MPH (Longmeadow, MA)	487033	

Funds to support this request are available in the following account:

01-21-2100-24040000 Division of Administration	<u>FY 2024</u>	<u>FY2025</u>
046-500462 - Consultants	\$25,000	\$25,000

EXPLANATION

The purpose of this request is to for the contractor to assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues to ensure compliance with statutory and regulatory provisions, including but not limited to, New Hampshire Revised Statutes Annotated (RSA) 329:Physicians and Surgeons, 328-D: Physician Assistants and The Administrative Rules of the Board of Medicine, MED 100-600. The Contractors assist OPLC staff as needed, in the timely review process of complaints, claims, suits and other issues involving licensees where the public could be adversely impacted.

In the event that Agency Funds become no longer available, General Funds will not be requested to support this program.

Based on the foregoing, I am respectfully recommending approval of the contractors in the table above.

Respectfully submitted,



Lindsey B. Courtney
Executive Director

Expert Physician Consultants (RFA-2024-BDMED-01-EXPER-01) Final Score Sheet

	Maximum Points Available	Barron, Rebecca	Brown, Desmond	Ebrsh, Ali	Feder, Robert	Hattan, Mary Kate	Pirro, Alfred	Sochal, Michael	Zachos, Sarah
				Non-Compliant		Non-Compliant			
(Q1) Describe, in narrative form, your capability to perform the entire scope of work in this RFA, including any specialized classes, trainings and/or seminars attended.	40	30	40		35		30	25	30
(Q2) Describe, in narrative form, your experience in conducting peer reviews. Include a sample summary report with redactions of any personally identifiable information.	25	25	25		25		10	20	25
(Q3) Describe, in narrative form, your experience in the specialty for which you are applying. Include length of service in your profession and any achievements attained.	35	35	35		35		25	35	35
Totals:	100	90	100		95		65	80	90

Reviewer Name	Reviewer Title
Jessica F. Kallipolites	Director, Division of Enforcement
Michael W. Porter	Chief, Investigations Bureau
Marissa Shuetz, Esq.	Administrative Prosecutor
Marc L. Bertrand, MD	Member, Board of Medicine

FORM NUMBER P-37 (version 2/23/2023)

Subject: Expert Physician Consultant (MFA-1874-BDMED-01-EXPER-01)

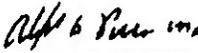
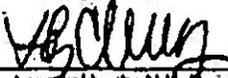
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

I. IDENTIFICATION

1.1 State Agency Name Office of Professional Licensure and Certification		1.2 State Agency Address 7 Eagle Square Concord, NH 03301	
1.3 Contractor Name Alfred A. Pirro, MD		1.4 Contractor Address Hampstead, NH 28443	
1.5 Contractor Phone Number	1.6 Account Unit and Class 010-021-2100-24040000-16-500462	1.7 Completion Date December 31, 2024	1.8 Price Limitation Shared Price Limitation of \$50,000
1.9 Contracting Officer for State Agency Heather A. Kelley, Director of Operations		1.10 State Agency Telephone Number (603) 271-0142	
1.11 Contractor Signature  Date: 11/15/24		1.12 Name and Title of Contractor Signatory Alfred A. Pirro, MD	
1.13 State Agency Signature  Date: 12/17/23		1.14 Name and Title of State Agency Signatory Lindsey B. Courtney, Executive Director	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: 4/15/2024			
1.17 Approval by the Governor and Executive Council (if applicable) G&C Item number: _____ G&C Meeting Date: _____			

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.1] ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

Contractor Initials: AP

Date: 11/14/13

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
- 8.1.2 failure to submit any report required hereunder; and/or
- 8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2

All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. INDEMNIFICATION. The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

Contractor Initials:

Date: 11/24/15

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. **WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18.

AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. **CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. **THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. **SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. **FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

Contractor Initials: AP

Date: 11/24/11

EXHIBIT A

Revisions to General Provisions

1. Revisions to Form P-37, General Provisions
 - 1.1. Paragraph 3, Effective Date: Completion of Project, is amended by adding subparagraph 3.4 as follows:
 - 3.4. The parties may extend the Agreement for up to four (4) additional years from the Completion Date, contingent upon²satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.
 - 1.2. Paragraph 8, Event of Default: Remedies, subparagraph 8.2.3, is amended as follows:
 - 8.2.3 Give the Contractor a written notice specifying the Event of Default and suspending payments, in whole or in part, to be made under this Agreement, until the Event of Default is cured.



Scope of Services

1. Provisions Applicable to All Services

- 1.1. The Contractor shall provide medical expertise in the area of hospitalist medicine to assist the Office of Professional Licensure and Certification (OPLC) staff with investigations regarding the following to include, but are not limited to:
 - 1.1.1. Malpractice.
 - 1.1.2. Incompetence.
 - 1.1.3. Unprofessional conduct.
 - 1.1.4. Consumer complaints.
- 1.2. The Contractor shall maintain licensure as a Physician for the duration of this Agreement.
- 1.3. For the purposes of this agreement, all references to days shall mean business days, which are Monday through Friday excluding State and Federal Holidays, from 8:00 A.M. to 4:00 P.M. (EST).

2. Scope of Work

- 2.1. The Contractor shall assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues including, but not limited to:
 - 2.1.1. Malpractice lawsuits.
 - 2.1.2. Matters of incompetence.
 - 2.1.3. Unprofessional conduct allegations.
 - 2.1.4. Consumer complaints.
 - 2.1.5. Other issues that may constitute violations of:
 - 2.1.5.1. New Hampshire Revised Statutes Annotated (NH RSA) 328-D: Physician Assistants;
 - 2.1.5.2. NH RSA 329: Physicians and Surgeons; or
 - 2.1.5.3. The Administrative Rules of the Board of Medicine, MED 100-600.
- 2.2. The Contractor shall be available to receive electronic case files, as prepared and sent by OPLC.
- 2.3. The Contractor shall sign an attestation that confirms no conflict of interest with the parties involved in the investigation, as assigned by OPLC.
- 2.4. The Contractor shall review case file records which may include, but are not limited to:

Alfred A. Pirro, MD

Exhibit B

Contractor Initials AP

RFA-2024-BDDMED-01-EXPER

Page 1 of 1

Date 11/27/21



Exhibit B

- 2.4.1. Office records.
- 2.4.2. Responses to communications.
- 2.4.3. Radiographic films.
- 2.4.4. Reports from other agencies or states.
- 2.5. The Contractor shall utilize report formats provided by the OPLC to complete investigations of providers, as appropriate. The Contractor shall:
 - 2.5.1. Utilize the appropriate current report format to complete investigations.
 - 2.5.2. Ensure reports are completed accurately and according to the requirements of the investigation being conducted.
 - 2.5.3. Ensure completed reports are legible and any comments are clear, concise, and objective.
 - 2.5.4. Provide completed reports and supporting documentation, as applicable, to the OPLC no later than forty-five (45) days after receiving case files, unless an extension of time is requested and otherwise granted no later than thirty (30) days after receiving the case files.
- 2.6. The OPLC shall provide the final report to the Board of Medicine (the Board) for review. If the Board:
 - 2.6.1. Closes the case, the selected vendor(s) may submit an appropriate invoice, as specified in Exhibit C, Payment Terms.
 - 2.6.2. Determines the case must move forward to a hearing, the vendor(s) must be available to testify as an expert witness to the case and may submit an invoice upon the Board rendering a decision in the case, as specified in the payment terms.

EXHIBIT C

Payment Terms

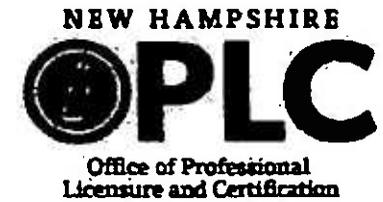
1. This Agreement is one of multiple agreements for services described in Exhibit B, Scope of Services. **No maximum or minimum client and service volume is guaranteed.** Accordingly, the price limitation among all agreements is identified in Form P-37, Block 1.8, Price Limitation for the duration of the agreement.
2. This Agreement is funded with 100% Agency Funds.
3. The Contractor agrees to provide the services in Exhibit B, Scope of Service in compliance with funding requirements. Failure to meet the scope of services may jeopardize the Contractor's current and/or future funding.
4. Payment for services shall be made as follows:
 - 1.1. Payment shall be on an hourly reimbursement rate of \$150 per hour, inclusive of travel, for actual hours worked, in accordance with Exhibit B, Scope of Services.
 - 1.2. The Contractor shall submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for actual hours worked during the prior month. The Contractor shall:
 - 1.2.1. Ensure each invoice is completed, dated, and returned to the OPLC in order to initiate payment.
 - 1.2.2. Keep detailed records of activities related to contract services.
 - 1.2.3. Ensure invoices include, but are not limited to:
 - 4.1.1.1. Case identifiers.
 - 4.1.1.2. Indication of whether the investigation is open and ongoing or closed as of the billing date.
 - 4.1.1.3. Number of hours worked.
 - 4.1.1.4. Contractor Name.
 - 4.1.1.5. Vendor Number.
 - 4.1.1.6. Contract Name and Number.
 - 1.3. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.
 - 1.4. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.

**Office of Professional Licensure and Certification
Expert Physician Consultants**

EXHIBIT C

5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to oplc.accountspayable@oplc.nh.gov, or invoices may be mailed to:

Heather Kelley, Director of Operations
Office of Professional Licensure and Certification
7 Eagle Square
Concord, NH 03301
6. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit B, Scope of Services and in this Exhibit C.
7. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.



State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

Board of Medicine

Pursuant to RSA 310:8, I, this is to certify that

ALFRED ANTHONY PIRRO, JR MD

is licensed to practice as a/n

Compact Physician

LICENSE NO: 23423

EXPIRATION DATE: 06/30/2024

Always verify licenses online at <https://forms.nh.gov/licenseverification/>

**State of New Hampshire
Office of Professional Licensure and Certification
Amendment #1**

This Amendment to the Expert Physician Consultant Services contract is by and between the State of New Hampshire, Office of Professional Licensure and Certification ("State" or "OPLC") and Rebecca Barron, MD, MPH ("the Contractor").

WHEREAS, pursuant to an agreement (the "Contract") approved by the Governor and Executive Council on May 1, 2024, (Item #54), the Contractor agreed to perform certain services based upon the terms and conditions specified in the Contract and in consideration of certain sums specified; and

WHEREAS, pursuant to Form P-37, General Provisions, Paragraph 18, and Exhibit A, Paragraph 1.1, the Contract may be amended upon written agreement of the parties and approval from the Governor and Executive Council; and

WHEREAS, the parties agree to extend the term of the agreement, increase the price limitation, or modify the scope of services to support continued delivery of these services; and

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and conditions contained in the Contract and set forth herein, the parties hereto agree to amend as follows:

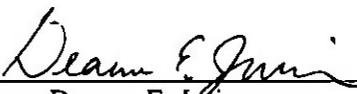
1. Form P-37 General Provisions, Block 1.7, Completion Date, to read:
December 31, 2025
2. Form P-37, General Provisions, Block 1.9, Contracting Officer for State Agency, to read:
Jesse G. Wilcox, Contracts Administrator.

All terms and conditions of the Contract and prior amendments not modified by this Amendment remain in full force and effect. This Amendment shall be effective upon Governor and Council approval.

IN WITNESS WHEREOF, the parties have set their hands as of the date written below,

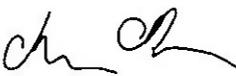
**State of New Hampshire
Office of Professional Licensure and Certification**

11/26/24
Date


Name: Deanna E. Jarius
Title: Executive Director

Contractor

11/1/24
Date


Name: Rebecca Barron
Title: MD, MPH

Rebecca Barron, MD

The preceding Amendment, having been reviewed by this office, is approved as to form, substance, and execution.

OFFICE OF THE ATTORNEY GENERAL

12/4/24

Date

Jessica A King

Name: Jessica A. King

Title: Senior Assistant Attorney General

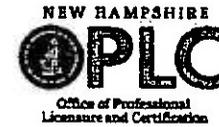
I hereby certify that the foregoing Amendment was approved by the Governor and Executive Council of the State of New Hampshire at the Meeting on: _____ (date of meeting)

OFFICE OF THE SECRETARY OF STATE

Date

Name:

Title:



State of New Hampshire
OFFICE OF PROFESSIONAL LICENSURE AND
CERTIFICATION

Board of Medicine

Pursuant to RSA 310:8, I - this is to certify that

REBECCA JILL BARRON

is licensed to practice as a(n)

Physician

LICENSE NO. 19287

EXPIRATION DATE 06/30/2026

SPECIALTY Emergency Medicine



STATE OF NEW HAMPSHIRE
OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION
OFFICE OF THE EXECUTIVE DIRECTOR

Lindsey B. Courtoey, J.D.
Executive Director

Heather A. Kelley
Director

7 EAGLE SQUARE, CONCORD, NH 03301-4980
Telephone: 603-271-2152
TDD Access: Relay NH 1-800-735-2964
www.oplc.nh.gov

54

March 5, 2024

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Office of Professional Licensure and Certification (OPLC), to enter into contracts with the Contractors listed below in an amount not to exceed \$50,000.00 for all vendors for the provision of Expert Physician Consultant Services, for the OPLC. These contracts are a result of a competitive RFA-2024-BDMED-01-EXPER-01. These contracts shall be effective upon Governor and Executive Council Approval through December 31, 2024, with the option to extend for four (4) years. 100% Agency Funds.

Contractor Name	Vendor Code	Shared Price Limitation
Michael Sochat, MD (Raleigh, NC)	486898	\$50,000.00
Sarah Zachos, MD (Exeter, NH)	486996	
Timothy Desmond Brown, MD (Lunenburg, VT)	488262	
Robert Feder, MD (Hollis, NH)	169210	
Alfred A. Pirro, MD (Hampstead, NC)	488467	
Rebecca Barron, MD, MPH (Longmeadow, MA)	487033	

Funds to support this request are available in the following account:

01-21-2100-24040000 Division of Administration	<u>FY 2024</u>	<u>FY2025</u>
046-500462 - Consultants	\$25,000	\$25,000

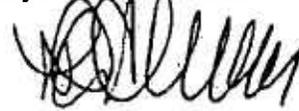
EXPLANATION

The purpose of this request is to for the contractor to assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues to ensure compliance with statutory and regulatory provisions, including but not limited to, New Hampshire Revised Statutes Annotated (RSA) 329:Physicians and Surgeons, 328-D: Physician Assistants and The Administrative Rules of the Board of Medicine, MED 100-600. The Contractors assist OPLC staff as needed, in the timely review process of complaints, claims, suits and other issues involving licensees where the public could be adversely impacted.

In the event that Agency Funds become no longer available, General Funds will not be requested to support this program.

Based on the foregoing, I am respectfully recommending approval of the contractors in the table above.

Respectfully submitted,



Lindsey B. Courtney
Executive Director

Expert Physician Consultants (RFA-2024-BDMED-01-EXPER-01) Final Score Sheet

	Maximum Points Available	Barron, Rebecca	Brown, Desmond	Ebrah, Ali	Feder, Robert	Hattan, Mary Kate	Pirro, Alfred	Sochat, Michael	Zachos, Sarah
				Non-Compliant		Non-Compliant			
(Q1) Describe, in narrative form, your capability to perform the entire scope of work in this RFA, including any specialized classes, trainings and/or seminars attended.	40	30	40		35		30	25	30
(Q2) Describe, in narrative form, your experience in conducting peer reviews. Include a sample summary report with redactions of any personally identifiable information.	25	25	25		25		10	20	25
(Q3) Describe, in narrative form, your experience in the specialty for which you are applying. Include length of service in your profession and any achievements attained.	35	35	35		35		25	35	35
Totals:	100	90	100		95		65	80	90

Reviewer Name	Reviewer Title
Jessica F. Kallipolites	Director, Division of Enforcement
Michael W. Porter	Chief, Investigations Bureau
Marissa Shuetz, Esq.	Administrative Prosecutor
Marc L. Bertrand, MD	Member, Board of Medicine

Subject: Expert Physician Consultant (RFA-2024-BDMED-01-EXPER-01)

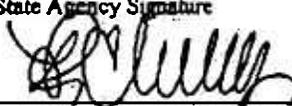
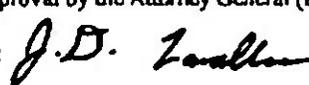
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Office of Professional Licensure and Certification		1.2 State Agency Address 7 Eagle Square Concord, NH 03301	
1.3 Contractor Name Rebecca Barron, MD, MPH		1.4 Contractor Address Longmeadow, MA 01106	
1.5 Contractor Phone Number	1.6 Account Unit and Class 010-021-2100-24040000-46-500462	1.7 Completion Date December 31, 2024	1.8 Price Limitation Shared Price Limitation of \$50,000
1.9 Contracting Officer for State Agency Heather A. Kelley, Director of Operations		1.10 State Agency Telephone Number (603) 271-0142	
1.11 Contractor Signature  Date: 1/30/24		1.12 Name and Title of Contractor Signatory	
1.13 State Agency Signature  Date: 2/9/24		1.14 Name and Title of State Agency Signatory Lindsey B. Courtney, Executive Director	
1.15 Approval by the N.H. Department of Administration, Division of Personnel (if applicable)			
By:		Director, On:	
1.16 Approval by the Attorney General (Form, Substance and Execution) (if applicable)			
By: 		On: 4/15/2024	
1.17 Approval by the Governor and Executive Council (if applicable)			
G&C Item number:		G&C Meeting Date:	

2. SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT B which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.13 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

3.3 Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds. In no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds by any state or federal legislative or executive action that reduces, eliminates or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope for Services provided in EXHIBIT B, in whole or in part, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate the Services under this Agreement immediately upon giving the Contractor notice of such reduction or termination. The State shall not be required to transfer funds from any other account or source to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT C which is incorporated herein by reference.

5.2 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8. The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance

hereof, and shall be the only and the complete compensation to the Contractor for the Services.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 The State's liability under this Agreement shall be limited to monetary damages not to exceed the total fees paid. The Contractor agrees that it has an adequate remedy at law for any breach of this Agreement by the State and hereby waives any right to specific performance or other equitable remedies against the State.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all applicable statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal employment opportunity laws and the Governor's order on Respect and Civility in the Workplace, Executive order 2020-01. In addition, if this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all federal executive orders, rules, regulations and statutes, and with any rules, regulations and guidelines as the State or the United States issue to implement these regulations. The Contractor shall also comply with all applicable intellectual property laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of age, sex, sexual orientation, race, color, marital status, physical or mental disability, religious creed, national origin, gender identity, or gender expression, and will take affirmative action to prevent such discrimination, unless exempt by state or federal law. The Contractor shall ensure any subcontractors comply with these nondiscrimination requirements.

6.3 No payments or transfers of value by Contractor or its representatives in connection with this Agreement have or shall be made which have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in extortion, kickbacks, or other unlawful or improper means of obtaining business.

6.4. The Contractor agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with this Agreement and all rules, regulations and orders pertaining to the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 The Contracting Officer specified in block 1.9, or any successor, shall be the State's point of contact pertaining to this Agreement.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) calendar days from the date of the notice; and if the Event of Default is not timely cured, terminate this Agreement, effective two (2) calendar days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 give the Contractor a written notice specifying the Event of Default and set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 give the Contractor a written notice specifying the Event of Default, treat the Agreement as breached, terminate the Agreement and pursue any of its remedies at law or in equity, or both.

9. TERMINATION.

9.1 Notwithstanding paragraph 8, the State may, at its sole discretion, terminate the Agreement for any reason, in whole or in part, by thirty (30) calendar days written notice to the Contractor that the State is exercising its option to terminate the Agreement.

9.2 In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall, at the State's discretion, deliver to the Contracting Officer, not later than fifteen (15) calendar days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. In addition, at the State's discretion, the Contractor shall, within fifteen (15) calendar days of notice of early termination, develop and submit to the State a transition plan for Services under the Agreement.

10. PROPERTY OWNERSHIP/DISCLOSURE.

10.1 As used in this Agreement, the word "Property" shall mean all data, information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

10.2 All data and any Property which has been received from the State, or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

10.3 Disclosure of data, information and other records shall be governed by N.H. RSA chapter 91-A and/or other applicable law. Disclosure requires prior written approval of the State.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

12.1 Contractor shall provide the State written notice at least fifteen (15) calendar days before any proposed assignment, delegation, or other transfer of any interest in this Agreement. No such assignment, delegation, or other transfer shall be effective without the written consent of the State.

12.2 For purposes of paragraph 12, a Change of Control shall constitute assignment. "Change of Control" means (a) merger, consolidation, or a transaction or series of related transactions in which a third party, together with its affiliates, becomes the direct or indirect owner of fifty percent (50%) or more of the voting shares or similar equity interests, or combined voting power of the Contractor, or (b) the sale of all or substantially all of the assets of the Contractor.

12.3 None of the Services shall be subcontracted by the Contractor without prior written notice and consent of the State.

12.4 The State is entitled to copies of all subcontracts and assignment agreements and shall not be bound by any provisions contained in a subcontract or an assignment agreement to which it is not a party.

13. **INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the State, its officers, and employees from and against all actions, claims, damages, demands, judgments, fines, liabilities, losses, and other expenses, including, without limitation, reasonable attorneys' fees, arising out of or relating to this Agreement directly or indirectly arising from death, personal injury, property damage, intellectual property infringement, or other claims asserted against the State, its officers, or employees caused by the acts or omissions of negligence, reckless or willful misconduct, or fraud by the Contractor, its employees, agents, or subcontractors. The State shall not be liable for any costs incurred by the Contractor arising under this paragraph 13. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and continuously maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 commercial general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate or excess; and

14.1.2 special cause of loss coverage form covering all Property subject to subparagraph 10.2 herein, in an amount not less than 80% of the whole replacement value of the Property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or any successor, a certificate(s) of insurance for all insurance required under this Agreement. At the request of the Contracting Officer, or any successor, the Contractor shall provide certificate(s) of insurance for all renewal(s) of insurance required under this Agreement. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. The Contractor shall furnish the Contracting Officer identified in block 1.9, or any successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. **WAIVER OF BREACH.** A State's failure to enforce its rights with respect to any single or continuing breach of this Agreement shall not act as a waiver of the right of the State to later enforce any such rights or to enforce any other or any subsequent breach.

17. **NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. **AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no such approval is required under the circumstances pursuant to State law, rule or policy.

19. CHOICE OF LAW AND FORUM.

19.1 This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of New Hampshire except where the Federal supremacy clause requires otherwise. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

19.2 Any actions arising out of this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration, but must, instead, be brought and maintained in the Merrimack County Superior Court of New Hampshire which shall have exclusive jurisdiction thereof.

20. **CONFLICTING TERMS.** In the event of a conflict between the terms of this P-37 form (as modified in EXHIBIT A) and any other portion of this Agreement including any attachments thereto, the terms of the P-37 (as modified in EXHIBIT A) shall control.

21. **THIRD PARTIES.** This Agreement is being entered into for the sole benefit of the parties hereto, and nothing herein, express or implied, is intended to or will confer any legal or equitable right, benefit, or remedy of any nature upon any other person.

22. **HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

23. **SPECIAL PROVISIONS.** Additional or modifying provisions set forth in the attached EXHIBIT A are incorporated herein by reference.

24. **FURTHER ASSURANCES.** The Contractor, along with its agents and affiliates, shall, at its own cost and expense, execute any additional documents and take such further actions as may be reasonably required to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

25. **SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

26. **ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, "constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings with respect to the subject matter hereof.

EXHIBIT A

Revisions to General Provisions

1. Revisions to Form P-37, General Provisions

1.1. Paragraph 3, Effective Date: Completion of Project, is amended by adding subparagraph 3.4 as follows:

3.4. The parties may extend the Agreement for up to four (4) additional years from the Completion Date, contingent upon satisfactory delivery of services, available funding, agreement of the parties, and approval of the Governor and Executive Council.

1.2. Paragraph 8, Event of Default: Remedies, subparagraph 8.2.3, is amended as follows:

8.2.3 Give the Contractor a written notice specifying the Event of Default and suspending payments, in whole or in part, to be made under this Agreement, until the Event of Default is cured.

1.3. Paragraph 14, Insurance is deleted in its entirety.



Scope of Services

1. Provisions Applicable to All Services

- 1.1. The Contractor shall provide medical expertise in the area of emergency medicine to assist the Office of Professional Licensure and Certification (OPLC) staff with investigations regarding the following to include, but are not limited to:
 - 1.1.1. Malpractice.
 - 1.1.2. Incompetence.
 - 1.1.3. Unprofessional conduct.
 - 1.1.4. Consumer complaints.
- 1.2. The Contractor shall maintain licensure as a Physician for the duration of this Agreement.
- 1.3. For the purposes of this agreement, all references to days shall mean business days, which are Monday through Friday excluding State and Federal Holidays, from 8:00 A.M. to 4:00 P.M. (EST).

2. Scope of Work

- 2.1. The Contractor shall assist and work with the OPLC staff by providing expert consulting services in the specific area of medicine to ensure thorough investigations of quality-of-care issues including, but not limited to:
 - 2.1.1. Malpractice lawsuits.
 - 2.1.2. Matters of incompetence.
 - 2.1.3. Unprofessional conduct allegations.
 - 2.1.4. Consumer complaints.
 - 2.1.5. Other issues that may constitute violations of:
 - 2.1.5.1. New Hampshire Revised Statutes Annotated (NH RSA) 328-D: Physician Assistants;
 - 2.1.5.2. NH RSA 329: Physicians and Surgeons; or
 - 2.1.5.3. The Administrative Rules of the Board of Medicine, MED 100-600.
- 2.2. The Contractor shall be available to receive electronic case files, as prepared and sent by OPLC.
- 2.3. The Contractor shall sign an attestation that confirms no conflict of interest with the parties involved in the investigation, as assigned by OPLC.
- 2.4. The Contractor shall review case file records which may include, but are not limited to:
 - 2.4.1. Office records.



Exhibit B

- 2.4.2. Responses to communications.
- 2.4.3. Radiographic films.
- 2.4.4. Reports from other agencies or states.
- 2.5. The Contractor shall utilize report formats provided by the OPLC to complete investigations of providers, as appropriate. The Contractor shall:
 - 2.5.1. Utilize the appropriate current report format to complete investigations.
 - 2.5.2. Ensure reports are completed accurately and according to the requirements of the investigation being conducted.
 - 2.5.3. Ensure completed reports are legible and any comments are clear, concise, and objective.
 - 2.5.4. Provide completed reports and supporting documentation, as applicable, to the OPLC no later than forty-five (45) days after receiving case files, unless an extension of time is requested and otherwise granted no later than thirty (30) days after receiving the case files.
- 2.6. The OPLC shall provide the final report to the Board of Medicine (the Board) for review. If the Board:
 - 2.6.1. Closes the case, the selected vendor(s) may submit an appropriate invoice, as specified in Exhibit C, Payment Terms.
 - 2.6.2. Determines the case must move forward to a hearing, the vendor(s) must be available to testify as an expert witness to the case and may submit an invoice upon the Board rendering a decision in the case, as specified in the payment terms.

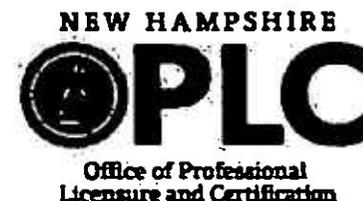
EXHIBIT C

Payment Terms

1. This Agreement is one of multiple agreements for services described in Exhibit B, Scope of Services. **No maximum or minimum client and service volume is guaranteed.** Accordingly, the price limitation among all agreements is identified in Form P-37, Block 1.8, Price Limitation for the duration of the agreement.
2. This Agreement is funded with 100% Agency Funds.
3. The Contractor agrees to provide the services in Exhibit B, Scope of Service in compliance with funding requirements. Failure to meet the scope of services may jeopardize the Contractor's current and/or future funding.
4. Payment for services shall be made as follows:
 - 4.1. Payment shall be on an hourly reimbursement rate of \$150 per hour, inclusive of travel, for actual hours worked, in accordance with Exhibit B, Scope of Services.
 - 4.2. The Contractor shall submit an invoice in a form satisfactory to the State by the twentieth (20th) working day of each month, which identifies and requests reimbursement for actual hours worked during the prior month. The Contractor shall:
 - 4.2.1. Ensure each invoice is completed, dated, and returned to the OPLC in order to initiate payment.
 - 4.2.2. Keep detailed records of activities related to contract services.
 - 4.2.3. Ensure invoices include, but are not limited to:
 - 4.2.3.1. Case identifiers.
 - 4.2.3.2. Indication of whether the investigation is open and ongoing or closed as of the billing date.
 - 4.2.3.3. Number of hours worked.
 - 4.2.3.4. Contractor Name.
 - 4.2.3.5. Vendor Number.
 - 4.2.3.6. Contract Name and Number.
 - 4.3. The State shall make payment to the Contractor within thirty (30) days of receipt of each invoice, subsequent to approval of the submitted invoice and if sufficient funds are available.
 - 4.4. The final invoice shall be due to the State no later than forty (40) days after the contract Form P-37, Block 1.7 Completion Date.

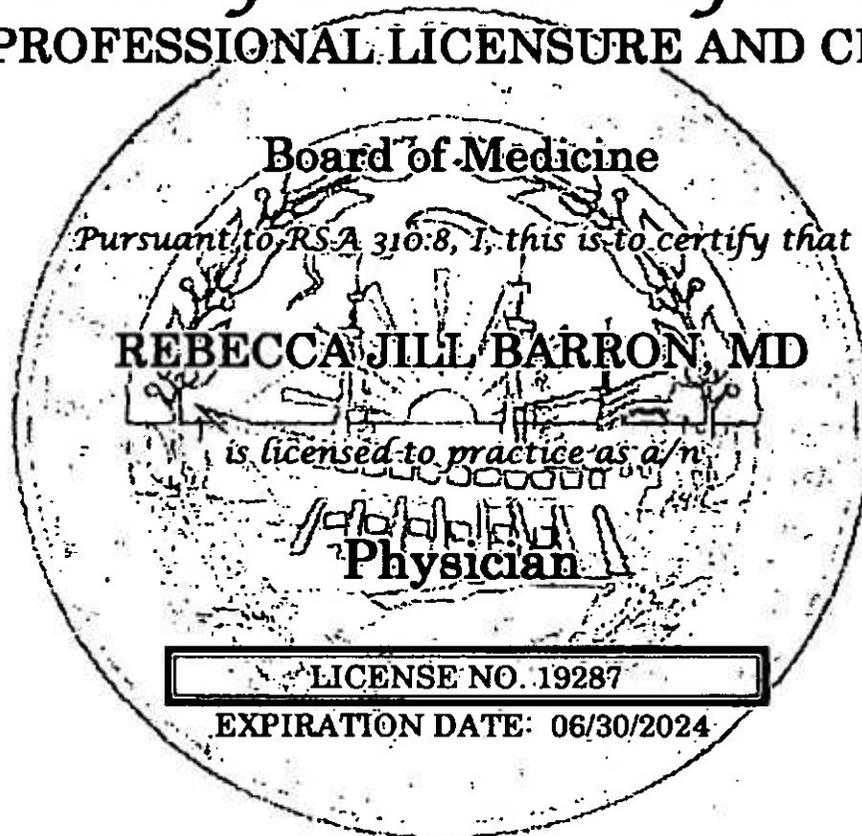
EXHIBIT C

5. In lieu of hard copies, all invoices may be assigned an electronic signature and emailed to oplc.accounts payable@oplc.nh.gov, or invoices may be mailed to:
Heather Kelley, Director of Operations
Office of Professional Licensure and Certification
7 Eagle Square
Concord, NH 03301
6. Payments may be withheld pending receipt of required reports or documentation as identified in Exhibit B, Scope of Services and in this Exhibit C.
7. Notwithstanding paragraph 18 of the General Provisions P-37, changes limited to adjusting encumbrances between State Fiscal Years, may be made by written agreement of both parties and may be made without obtaining approval of the Governor and Executive Council.



State of New Hampshire

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION



Always verify licenses online at <https://forms.nh.gov/licenseverification/>