



Brownsville Independent School District

Agenda Category: General Function
Contracts/MOU Board of Education Meeting: 05/07/24

Item Title: Affiliation Agreement between X Action
Sunshine Haven, Inc and Brownsville Information
ISD for Health Science Practicum Discussion

BACKGROUND:

The Career & Technical Education (CTE) Department is requesting approval to enter into a Clinical Affiliation Agreement with Sunshine Haven. The term of the Agreement shall continue for 3 years. After such initial Term, this Agreement shall continue from year to year unless one party shall give the other 180 days prior written notice of intention to terminate.

This will provide Health Science Technology students enrolled in the Practicum of Health Science with clinical learning experiences through the application of knowledge and skills in an actual patient-centered environment. Sunshine Haven will provide opportunities for students to assist in various aspects of palliative patient care. The term is for 2024-2027 school years.

FISCAL IMPLICATIONS:

164 CTE Categorical Funding: 5,000.00 is to be utilized for criminal background, drug and alcohol test as per hospital policy.

RECOMMENDATION:

Recommend approval to enter into a Clinical Affiliation Agreement between Sunshine Haven and Brownsville ISD. CTE Categorical Funding: \$5,000.00 is to utilized for criminal background, drug and alcohol test as per hospital policy.

Benita Villarreal
Submitted by: Principal/Program Director
Miguel Salinas
Recommended by: Asst. Supt./CFO
Reviewed by: Staff Attorney
Beatriz Hernandez
Approved by: /Chief Officer

Approved for Submission to Board of Education:

Dr. Jesus H. Chavez
Dr. Jesus H. Chavez, Superintendent

Roxanne Eckstein

From: Priscilla Lozano <plozano@808West.com>
Sent: Thursday, April 11, 2024 3:07 PM
To: Roxanne Eckstein; Kevin O'Hanlon; Lea Ohrstrom
Cc: Minerva Almanza; Miguel Salinas
Subject: [EXTERNAL]Re: Sunshine Haven, Inc. Affiliation Agreement

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Good afternoon,

Please ensure that BISD does maintain the insurances that are required by the agreement. Subject to this verification, the agreement is approved as to form.

Sincerely,
Priscilla

— ODC —
O'HANLON, DEMERATH & CASTILLO
Attorneys and Counselors at Law

Priscilla A. Lozano

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Austin, Texas 78701
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From: Roxanne Eckstein <reckstein@bisd.us>
Sent: Wednesday, April 10, 2024 3:13 PM
To: Kevin O'Hanlon <kohanlon@808West.com>; Lea Ohrstrom <lohrstrom@808West.com>; Priscilla Lozano <plozano@808West.com>
Cc: Minerva Almanza <malmanza1@bisd.us>; Miguel Salinas <miguelsalinas@bisd.us>
Subject: Sunshine Haven, Inc. Affiliation Agreement

Ms. Lozano,

Please see the attached for your review and approval for the May 7th Board Meeting.

Thank you! Should you have any questions or comments, please contact me at (956) 698-6379.

Sincerely,

Roxy Eckstein

Roxanne Eckstein | Paralegal to Miguel Salinas | Staff Attorney | Phone: 956.698.6379 | Fax: 956.714.6400
Brownsville Independent School District | 1900 East Price Road, Suite 302 | Brownsville, TX 78521

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EDUCATIONAL EXPERIENCE AFFILIATION AGREEMENT

THIS AGREEMENT, effective the ____ day of __, 2024, is between The Brownsville Independent School District, and Sunshine Haven, Inc. ("Facility"), a special care facility having its principal office at 7105 West Lakeside Blvd. Olmito, TX. 78575, State of Texas.

Recitals

- A. Facility operates facilities located at 7105 West Lakeside Blvd. in the City of Olmito, State of Texas, and therein provides comfort / palliative care services to terminally ill patients.
- B. BISD provides academic courses with respect to and periodically desires to provide students in such courses with educational experience by utilizing appropriate facilities and personnel of third parties ("Program").
- C. Facility desires to cooperate with BISD to establish and implement from time to time one or more Programs involving the students and personnel of BISD and the facilities and personnel of Facility.

Agreement

NOW, THEREFORE, in consideration of the mutual promises herein, BISD and Sunshine Haven agree that any Program established and implemented by BISD and Sunshine Haven during the term of this Agreement shall be covered by and subject to the following terms and conditions.

1. **PROGRAM AGREEMENT.** To become effective, all agreements with respect to a Program ("Program Agreement") shall be reduced to writing, executed by authorized representatives of BISD and Sunshine Haven.
2. **CONFLICT.** In the event of conflict between the text of a Program Agreement and the text of this Agreement, this Agreement shall govern.
3. **AMENDMENT OF PROGRAM AGREEMENT.** No amendment to a Program Agreement shall be effective unless reduced to writing, executed by the authorized representatives of BISD and Sunshine Haven.
4. **JOINT RESPONSIBILITIES. Both parties to this agreement:**
 - a. will cooperate in providing the student a learning opportunity.
 - b. agree that the number of students receiving their practicum training at the Facility will be arranged jointly, with due consideration given to the number of students and to the Facility materials available;
 - c. agree the number of students in any one class are limited to no less than 10-20 at any one time;

- d. agree to a policy of non-discrimination in employment or training. Qualified students, applicants, or employees will not be excluded from any course or activity because of age, race, creed, color, sex, religion, national origin, or handicap.
 - e. agree, in order to promote open communication between BISD and the Facility, that representatives of the designated BISD's CTE Department and Facility will meet annually to discuss implementation of this agreement and to prevent misunderstandings. Additional meetings shall be held as needed.
 - f. agree that nothing in this agreement is intended nor shall be construed to create an employer/employee relationship between contracting parties. The sole interest and responsibility of the parties is to ensure that the services covered by this agreement shall be performed and rendered in a competent, efficient, and satisfactory manner.
 - g. will comply with all federal, state, and local laws applicable to this agreement.
5. **RESPONSIBILITY OF FACILITY.** Except for acts to be performed by BISD pursuant to the provisions of this Agreement, Facility will furnish the premises, personnel, services, and all other items necessary for the educational experience specified in the Program Agreement. In connection with such Program, Facility will:
- a. comply with all applicable federal, state, and municipal laws, ordinances, rules, and regulations; comply with all applicable requirements of any accreditation authority; and certify such compliance upon request by BISD;
 - b. permit the authority responsible for accreditation of BISD's curriculum to inspect the facilities, services, and other items provided by Facility for purposes of the educational experience; and
 - c. appoint a person to serve for Facility as liaison ("Facility Liaison") by the following procedure:
 - (1) Facility shall submit BISD the name and professional and academic credentials of the person proposed as Facility Liaison in writing at least 30 days prior to the date the appointment is to become effective.
 - (2) BISD shall notify Facility of approval or disapproval of such person within 10 days after receipt of such notice.
 - (3) No person shall act as Facility Liaison without the prior written approval of BISD.
 - (4) In the event the Facility Liaison approved by BISD later becomes unacceptable and BISD so notifies Facility in writing, Facility will appoint another person in accordance with the procedure outlined in this paragraph 4.c.

- d. will assist BISD by providing through its supervisory personnel regular ongoing verbal evaluations of students;
- e. will allow participating students to use any workspace in the facility which are open to the Facility staff;
- f. will assume the cost of equipment that is broken or damaged in its normal use;
- g. will orient the BISD faculty to Facility's facilities and provide information on Facility's policies;
- h. will inform its professional staff of its participation in the various training programs of BISD;
- i. will allow teaching equipment owned by the Facility to be used in teaching program;
- j. may authorize, at its discretion, the purchase of expendable supplies for use in the teaching program;
- k. will supply, without remuneration to the student, opportunity for practical and/or observational experience designed to supplement theory training given by BISD;
- l. will supervise the practical experience as necessary to assure safe practice for the student and others;
- m. will not allow students to be substituted for paid staff. Students may not take responsibility or the place of "qualified" staff. However, after demonstrating proficiency, students may be permitted to perform procedures with careful supervision.
- n. will have no authority to dismiss faculty or students but may prohibit them from being on Facility premises with or without cause.
- o. will retain the right, in its absolute discretion, to refuse its facilities and services to any student who does not meet the professional or other requirements of the Facility or any appropriate authority controlling and directing said Facility;
- p. may make, as it deems necessary, recommendations to BISD regarding the faculty and retain its full power to control the practice and operations of the faculty;
- q. will provide space as available for conference;
- r. may provide for, at its discretion, professional representation on BISD's advisory committees;
- s. will provide available emergency medical care for students or faculty injured while at hospital training. The costs of such treatment shall be the responsibility of the patient treated;

- t. will retain ultimate responsibility and authority for the safety and care of patients within the facility.
- u. will not be charged for services performed by BISD students and faculty in connection with the program;
- v. will not have any obligation to pay salaries or expenses of students or faculty in connection with the program;
- w. will not be responsible for student or faculty transportation to and from the Facility's facilities;

5. RESPONSIBILITIES OF THE BISD DISTRICT. BISD will:

- a. furnish Facility with the names of the students assigned by the BISD to participate in the Program;
- b. assign only those students who have satisfactorily completed those portions of BISD curriculum that are prerequisite to Program participation;
- c. designate a member of the BISD faculty (BISD Representative) to coordinate the educational experience of students participating in the Program with the Faculty Liaison. BISD shall give Facility written notice of the name of the BISD Representative.
- d. will provide qualified instructors as expressed in the curriculum who have appropriate credentials for the courses that they teach;
- e. for each student participating in the program, BISD will require the student to obtain a pre-assignment criminal history, nurse aide registry and employee misconduct registry clearance that ensures compliance with 25 Tex. Admin. Code §414.504(d), which prohibits a DSHS facility from allowing an individual to be employed by, assigned volunteer status at, or serve as a professional clinical intern at the facility who has been listed as revoked in the Nurse Aide Registry (maintained by the Department of Aging and Disability Services), listed as unemployable in the Employee Misconduct Registry (maintained by the Department of Aging and Disability Services), or convicted of any offense identified on Attachment A, which is incorporated by reference and made a part of this agreement. Pursuant to Texas Government Code Section 411.1103, DSHS is entitled to access criminal history record information for all students in the program. All costs associated with the criminal history and registry clearances shall be paid by the BISD or by the student.
 - a. This information shall be used to determine if an offense may be a prohibition or contraindication to students being eligible to participate in the clinical rotation at the Facility. Students who have not passed the criminal background check will not be permitted on the Facility premises.
- f. will require instructors and students of BISD to abide by the policies of the Facility while using its facilities.

- g. will require the students to be properly attired when reporting for the practicum experience;
- h. will instruct its students and faculty to respect the confidential nature of all information which they may obtain from patients and records of the Facility and will be responsible for any breach of the privacy or security of any patient or record caused by the act or omission of the student or faculty;
- i. will inform students that they will be responsible for any damage caused to Facility's equipment due to negligence;
- j. to the extent permitted by the Texas Constitution or other Texas law, will inform faculty that he or she will be responsible for any damages caused to the Facility's equipment due to negligence;
- k. will ensure its faculty cooperate with and participate in the Facility inservice programs as appropriate;
- l. will be responsible for administrative functions related to student experience, such as records of rotation, attendance, and proficiency;
- m. will have its faculty evaluate and counsel students with regards to performance;
- n. will ensure that its students will be subject to all appropriate rules and regulations pertaining to regular employees of the Facility;
- o. will require students to provide evidence to facility that they have current immunizations as required by the Centers for Disease Control.
- p. will follow proper communication channels at the Facility for planning practicum student experience;
- q. will provide teaching facilities for students and faculty;
- r. will maintain control of its CTE program;
- s. will maintain accreditation with the Texas Education Agency during the continuation of this agreement;
- t. will require students participating in the program to carry professional liability insurance, in amounts of \$1,000,000/\$3,000,000, and to provide proof of liability insurance to Facility;
 - a. BISD maintains professional liability insurance with a single limit of no less than (\$1,000,000) per occurrence and (\$3,000,000) annual aggregate and general liability insurance with a single limit of no less than (\$1,000,000) per occurrence and (\$2,000,000) annual aggregate, with umbrella liability coverage in amounts not less than (\$1,000,000). BISD shall provide proof of such insurance to Facility upon request.
- u. shall inform all students of the requirement to provide proof of medical insurance coverage

to Facility as a condition of participation.

- v. will ensure that all students have completed the basic curriculum to be eligible for this program; and
 - w. will require that students do not work more hours than are permitted by law in any one work week.
6. **NOTICES.** All notices under this Agreement or a Program Agreement shall be in writing and delivered either by personal delivery or by United States certified mail, return receipt requested. Such notices shall be deemed given when received by such party's designated representative.
 7. **ORAL REPRESENTATIONS.** No oral representations of any officer, agent, or employee of Facility, BISD, or System shall affect or modify any obligations of either party under this Agreement or any Program Agreement.
 8. **AMENDMENT TO AGREEMENT.** No amendment to this Agreement shall be valid unless reduced to writing, signed by an authorized representative of each party.
 9. **ASSIGNMENT.** Neither this Agreement nor a Program Agreement may be assigned by either party without prior written approval of the other party.
 10. **PERFORMANCE.** A delay in or failure of performance of either party that is caused by occurrences beyond the control of either party shall not constitute default hereunder, or give rise to any claim for damages.
 11. **TERM AND EFFECTIVE DATE.** This Agreement shall continue in effect for (3) years after the date and year stated in the first paragraph ("Term"). After such initial Term, this Agreement shall continue from year to year unless one party shall give the other 180 days prior written notice of intention to terminate. If such notice is given, this Agreement shall terminate: (a) at the end of such 180 days; or (b) when all students enrolled in the Program at the time such notice is given have completed their respective courses of study under the Program, whichever event occurs last.
 12. **APPLICABLE LAW.** The validity, interpretation, performance, and enforcement of this Agreement and any Program Agreement shall be governed by the laws of the State of Texas.
 13. **FERPA.** For purposes of this Agreement, pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA), BISD hereby designates the Facility as a school official with a legitimate educational interest in the educational records of the Students who participate in the Program to the extent that access to the records are required by the Facility to carry out the Program. Facility agrees to maintain the confidentiality of the educational records in accordance with the provisions of FERPA.

[NOTE: IF AN INDEMNIFICATION CLAUSE IS DESIRED BY THE UNIVERSITY, THE FOLLOWING STANDARD INDEMNIFICATION CLAUSE MAY BE USED. OTHERWISE, IT SHOULD BE DELETED FROM THE AGREEMENT.]

14. **INDEMNIFICATION.** To the extent authorized under the Constitution and laws of the State of Texas, BISD shall hold Facility harmless from liability resulting from BISD acts or omissions within the terms of this Agreement; provided, however, BISD shall not hold Facility harmless from any claims, demands, or causes of action arising in favor of any person or entity resulting directly or indirectly from negligence (whether sole, joint, concurring, or otherwise) of Facility, its officers, agents, representatives, or employees, or any person or entity not subject to BISD supervision or control.

[NOTE: IF THE FACILITY IS A COVERED ENTITY THAT IS SUBJECT TO HIPAA THE FOLLOWING PARAGRAPH SHOULD BE INCLUDED. OTHERWISE, IT SHOULD BE DELETED FROM THE AGREEMENT. IF THERE WILL BE NO COLLEGE FACULTY GOING TO THE FACILITY WITH THE STUDENTS TO PROVIDE SUPERVISION AT THE FACILITY, ALL REFERENCES TO "BISD FACULTY"-- WHICH IS THE LANGUAGE IN BRACKETS--SHOULD BE DELETED FROM THIS SECTION 15].

15. **HIPAA.** The parties agree that:
- a. the Facility is a covered entity for purposes of the Health Insurance Portability and Accountability Act of 1996, of 1996 as amended by the Health Information Technology for Economic and Clinical Health (HITECH) Act and the Privacy, Security and Breach Notification Regulations at 45 CFR §§ 160 and 164 (hereinafter collectively, "HIPAA") and subject to 45 CFR Parts 160 and 164 ("the HIPAA Administrative Simplification Regulations");
 - b. to the extent that BISD students are participating in the Program [and BISD faculty members are providing supervision at the Facility as part of the Program], such **students [and faculty members] shall:**
 - (1) **be considered** part of the Facility's workforce for HIPAA compliance purposes in accordance with 45 CFR §160.103, but shall not be construed to be employees of the Facility;
 - (2) receive training by the Facility on, and subject to compliance with, all of Facility's privacy policies adopted pursuant to the HIPAA Privacy Regulations; and
 - (3) not disclose any Protected Health Information, as that term is defined by 45 CFR §160.103, to BISD which a student accessed through Program participation [or a faculty member accessed through the provision of supervision at the Facility] that has not first been de-identified as provided in 45 CFR §164.514(a);
 - c. BISD will never access or request to access any Protected Health Information held or collected by or on behalf of the Facility, from a student [or faculty member] who is acting as a part of the Facility's workforce as set forth in paragraph 15.b. of this

Agreement or any other source, that has not first been de-identified as provided in 45 CFR §164.514(a); and

- d. no services are being provided to the Facility by BISD pursuant to this Agreement and therefore this Agreement does not create a "business associate" relationship as that term is defined in 45 CFR §160.103.

SCHOOL DISTRICT:

FACILITY:

By: _____,
Brownsville Independent School District
Superintendent
(Name)

By: _____
Edward C. Camarillo, Executive Director
(Name and Title)

Date: _____

Date: _____

By: _____,
Brownsville Independent School District Board
President

By: _____,
Sunshine Haven Board President

APPROVED:

Brownsville Independent School District

Date: _____