



MAY 22 '13 AM 10:16 DMS

96 DMS XMA

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF COMMUNITY BASED CARE SERVICES

BUREAU OF BEHAVIORAL HEALTH

Nicholas A. Toumpas
Commissioner

Nancy L. Rollins
Associate
Commissioner

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5000 1-800-852-3345 Ext. 5000
Fax: 603-271-5058 TDD Access: 1-800-735-2964

April 25, 2013

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, NH 03301

100% General Funds

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Community Based Care Services, Bureau of Behavioral Health to amend an agreement, Purchase Order number 1017030, with Attorney John P. LeBrun, (vendor code 174196-R001), 46 North State Street,, Concord NH 03301, to provide legal services by increasing the price limitation \$7,130, from \$83,894 to an amount not to exceed \$91,024, effective June 5, 2013, or date of Governor and Executive Council approval through June 30, 2013, whichever is later. This agreement was originally approved by Governor and Executive Council on May 25, 2011, item number 94 and subsequently amended on April 18, 2012 Item number 73. Funds are available in the following account:

05-95-92-920010-7003 HEALTH AND SOCIAL SERVICES, DEPT. OF HEALTH AND HUMAN SVCS,
HHS: BEHAVIORAL HEALTH – DIV OF, DIV OF BEHAVIORAL HEALTH, COMMITMENT COSTS

<u>Fiscal Year</u>	<u>Class/Object</u>	<u>Class Title</u>	<u>Current Modified Amount</u>	<u>Increase Amount</u>	<u>Revised Modified Amount</u>
2012	102-500731	Contracts for Program Services	\$46,938	\$ 0	\$46,938
2013	102-500731	Contracts for Program Services	36,956	7,130	44,086
			\$83,894	\$7,130	\$91,024

EXPLANATION

The purpose of this request is to pay Attorney LeBrun for the legal services he provides to persons who are subject to Involuntary Emergency Admission to New Hampshire Hospital in SFY 2013. In accordance with RSA 135-C:30, I, such individuals are entitled to representation by legal counsel.

Attorney LeBrun is under contract to the State for SFY 2013 to provide the above legal services at the rate of \$62.00 per case up to a total of \$36,956. There has been a greater number of involuntary emergency admission hearings than anticipated during SFY 2013, requiring Attorney LeBrun to represent more individuals than

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
April 25, 2013
Page 2

originally projected. The State does not have sufficient funds within the contract to reimburse him for the additional services provided. This contractor has provided excellent service in past contracts and is a valuable resource to the State.

Attorney LeBrun was one of eleven respondents to an advertisement that was placed in the New Hampshire Bar News on February 12, 13, and 14, 2011, requesting letters of interest in providing this services.

Should Governor and Executive Council determine not to approve this request the State will not be able to commit people who are mentally ill and dangerous to New Hampshire Hospital. The state and federal constitutions require representation by an attorney before the State can deprive a person of their liberty.

Area served: statewide.

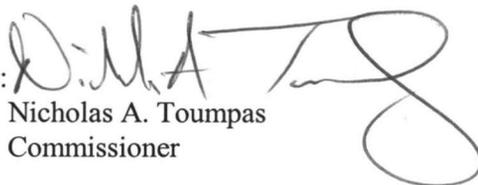
Source of funds: 100% General Funds.

Respectfully submitted,



Nancy L. Rollins
Associate Commissioner

Approved by:



Nicholas A. Toumpas
Commissioner

AMENDMENT

This Agreement (hereinafter called the "Amendment") dated this 24th day of April, 2013, by and between the State of New Hampshire acting by and through its Division of Community Based Care Services of the Department of Health & Human Services (hereinafter referred to as the "Division") and Attorney John P. LeBrun, an individual contractor (hereinafter referred to as the "Contractor").

WHEREAS, pursuant to an agreement (hereinafter called the "Agreement"), dated 18th day of April, 2012, the Provider agreed to perform certain services upon the terms and conditions specified in the Agreement and in consideration of payment by the Division of certain sums as specified therein;

WHEREAS, pursuant to the provisions of Section 18 of the Agreement, the Agreement may be modified or amended only by a written instrument executed by the parties thereto and only after approval of such modification by the Governor & Council, or amendment;

WHEREAS, the Provider and the Division have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and modification of Agreement:

The Agreement is hereby amended as follows:

1.1 Amend Section 1.8 of the General Provisions by replacing \$83,894 with \$91,024.

1.2 Replace Exhibit B, Methods and Conditions of Payment, paragraph 1 with the following:

Subject to the availability of State funds, and in consideration for the satisfactory completion of the services to be performed under this Agreement, the State shall pay the Contractor the sum of \$62.00 per case for professional services rendered pursuant to this agreement. The total of the payments made pursuant to this Agreement shall not exceed \$91,024, the price limitation set forth in block 1.8 of the General Provisions.

1.3 Amend Exhibit C-1, Additional Special Provision by adding the following:

Subparagraph 4 of the General Provisions of this contract, Conditional Nature of Agreement, is amended as follows:

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments, in whole or in part, under this Agreement are contingent upon continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability of funds affected 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 of Services provided in Exhibit A, Scope of Services, in whole or in part. In no

Contractor Initials JPL
Date 4/24/13

event shall the State be liable for any payments hereunder in excess of appropriated or available funds. In the event of a reduction, termination or modification of appropriated or available funds, the State shall have the right to withhold payment until such funds become available, if ever. The State shall have the right to reduce, terminate or modify services under this Agreement immediately upon giving the Contractor notice of such reduction, termination or modification. The State shall not be required to transfer funds from any other source or account into the Account identified in block 1.6, or any other account, in the event funds are reduced or unavailable.

2. Effective Date of Amendment:

This Amendment shall be effective June 5, 2013, or date of Governor and Executive Council approval, whichever is later through June 30, 2013.

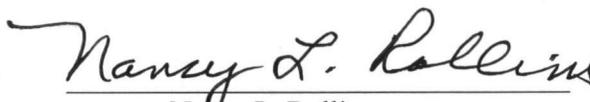
3. Continuance of Agreement:

Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement and the obligation of the parties thereunder shall remain in full force and effect in accordance with the terms and conditions set forth therein.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

STATE OF NEW HAMPSHIRE

Division of Community Based Care Services

By 
Nancy L. Rollins
Associate Commissioner

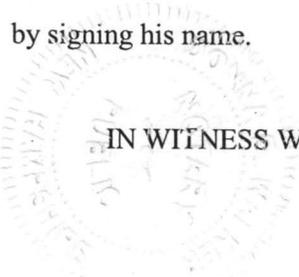
By 
John P. LeBrun

Contractor Initials JPC
Date 4/24/13

State of New Hampshire
County of Merrimack

On this the 24 day of April, 2013, before me, Donna E. Walker, the
(Notary Public or Justice of the Peace)

undersigned officer, personally appeared John P. LeBrun, who executed the foregoing instrument
by signing his name.



IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Donna E. Walker
Notary Public/Justice of the Peace

My Commission expires: 4/18/17

Approved as to form, execution and substance:

OFFICE OF THE ATTORNEY GENERAL

By Jeanne P. Herrick
Jeanne P. Herrick
Attorney

Date 3 May, 2013

Contractor Initials JPC

Date 4/24/13

NH Department of Health and Human Services

AMENDED BUDGET

Attorney John P. LeBrun

	FY 2012	FY 2013	Total
Current Contract Budget Amount	\$ 46,938.00	\$ 36,956.00	\$ 83,894.00
115 additional cases @ \$62 per case		\$ 7,130.00	\$ 7,130.00
Revised Contract Budget Amount	\$ 46,938.00	\$ 44,086.00	\$ 91,024.00

Contractor Initials JPL
Date 4/23/13

John P. LeBrun, Esq.

EDUCATION:

1983	J.D., Franklin Pierce Law Center Concord, NH
1976	M.A., University of Rhode Island Kingston, RI
1975	B.A., Rhode Island College Providence, RI

EXPERIENCE:

1990 – Present	Partner, Goldman & LeBrun, P.A. General practice of law
1984 – 1990	Associate, Law Office of Stephen R. Goldman, PA. Associate Attorney in general practice of law.

TRAINING & EXPERIENCE IN IEA ISSUES:

1995 – Present	Defense Attorney in IEA Defense Representation on Fridays and also on an as-needed basis on Thursdays. I have also covered for other contract attorneys when they have had conflicts in their schedules.
1986 – 1995	Special Justice, Concord District Court for IEA Hearings.



**STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF COMMUNITY BASED CARE SERVICES**

BUREAU OF BEHAVIORAL HEALTH

Nicholas A. Toumpas
Commissioner

Nancy L. Rollins
Associate
Commissioner

105 PLEASANT STREET, CONCORD, NH 03301
603-271-5000 1-800-852-3345 Ext. 5000
Fax: 603-271-5058 TDD Access: 1-800-735-2964

Approved by G+C
Date 4-18-12
Item # 73
Contract # 10170301

March 26, 2012

His Excellency, Governor John H. Lynch
and the Honorable Executive Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Health and Human Services, Division of Community Based Care Services, Bureau of Behavioral Health to amend an agreement, Purchase Order number 1017030, with Attorney John P. LeBrun, (vendor code 174196-R001), 46 North State Street,, Concord NH 03301, to provide legal services by increasing the price limitation \$9,982, from \$73,912 to an amount not to exceed \$83,894, effective April 18, 2012, or date of Governor and Executive Council approval through June 30, 2013, whichever is later. This agreement was originally approved by Governor and Executive Council on May 25, 2011, item number 94. Funds are available in the following account:

**05-95-92-920010-7003 HEALTH AND SOCIAL SERVICES, DEPT. OF HEALTH AND HUMAN SVCS,
HHS: BEHAVIORAL HEALTH – DIV OF, DIV OF BEHAVIORAL HEALTH, COMMITMENT COSTS**

<u>Fiscal Year</u>	<u>Class/Object</u>	<u>Class Title</u>	<u>Current Modified Amount</u>	<u>Increase Amount</u>	<u>Revised Modified Amount</u>
2012	102-500731	Contracts for Program Services	\$36,956	\$9,982	\$46,938
2013	102-500731	Contracts for Program Services	<u>36,956</u>	<u>0</u>	<u>36,956</u>
			\$73,912	\$9,982	\$83,894

EXPLANATION

The purpose of this request is to pay Attorney LeBrun for the legal services he provides to persons who are subject to Involuntary Emergency Admission to New Hampshire Hospital in SFY 2012. In accordance with RSA 135-C:30, I, such individuals are entitled to representation by legal counsel.

Attorney LeBrun is under contract to the State for SFY 2012 and SFY 2013 to provide the above legal services at the rate of \$62.00 per case up to a total of \$36,956. There has been a greater number of involuntary emergency admission hearings than anticipated during SFY 2012 year, requiring Attorney LeBrun to represent more individuals than originally projected. The State does not have sufficient funds within the contract to reimburse

His Excellency, Governor John H. Lynch
and the Honorable Executive Council
March 26, 2012
Page 2

him for the additional services provided. This contractor has provided excellent service in past contracts and is a valuable resource to the State.

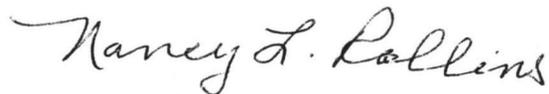
Attorney LeBrun was one of eleven respondents to an advertisement that was placed in the New Hampshire Bar News on February 12, 13, and 14, 2011, requesting letters of interest in providing this services.

Should Governor and Executive Council determine not to approve this request the State will not be able to commit people who are mentally ill and dangerous to New Hampshire Hospital. The state and federal constitutions require representation by an attorney before the State can deprive a person of their liberty.

Area served: statewide.

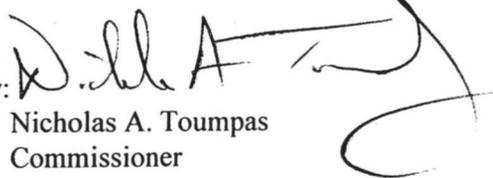
Source of funds: 100% General Funds.

Respectfully submitted,



Nancy L. Rollins
Associate Commissioner

Approved by:



Nicholas A. Toumpas
Commissioner



STATE OF NEW HAMPSHIRE
 DEPARTMENT OF HEALTH AND HUMAN SERVICES
 DIVISION OF COMMUNITY BASED CARE SERVICES

BUREAU OF BEHAVIORAL HEALTH

Nicholas A. Toumpas
 Commissioner

Nancy L. Rollins
 Associate Commissioner

105 PLEASANT STREET, CONCORD, NH 03301
 603-271-5000 1-800-852-3345 Ext. 5000
 Fax: 603-271-5058 TDD Access: 1-800-735-2964

February 15, 2011

Approved by G + C

Date 5-25-11

Item # 94

Contract # 1017030

His Excellency, Governor John H. Lynch
 and the Honorable Executive Council
 State House
 Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Division of Community Based Care Services, Bureau of Behavioral Health to enter into an agreement with Attorney John P. LeBrun, 46 North State Street, Concord, NH 03301, vendor code 174196-R001, to provide legal services, in an amount not to exceed \$73,912, effective July 1, 2011, or date of Governor and Executive Council approval, whichever is later, through June 30, 2013. Funds to support this request are available in the following account:

05-95-92-920010-7003 HEALTH AND SOCIAL SERVICES, DEPT. OF HEALTH AND HUMAN SVCS, HHS: BEHAVIORAL HEALTH – DIV OF, DIV OF BEHAVIORAL HEALTH, COMMITMENT COSTS

<u>Class/Object</u>	<u>Class Title</u>	<u>Activity Code</u>	<u>FY 2012</u>	<u>FY 2013</u>
102-500731	Contracts for Program Services	92107003	\$36,956	\$36,956

EXPLANATION

The purpose of this request is to provide legal services to individuals subject to involuntary emergency admission (IEA) at probable cause hearings held in the Concord District Court and to meet with individuals at New Hampshire Hospital whose conditional discharge has been revoked to review their legal rights and effectuate any appeal. Individuals subject to involuntary admission or absolute revocation of conditional discharge have an unconditional right to legal counsel at such hearings or upon readmission to New Hampshire Hospital as provided in RSA 135-C:22 and He-M 609. Reimbursement for these expenses has been included in the budget of the Bureau of Behavioral Health.

Attorney LeBrun was one of eleven respondents to an advertisement that was placed in the New Hampshire Bar News on February 12, 13 and 14, 2011, requesting letters of interest in providing this service. The Bureau of

His Excellency, Governor John H. Lynch
and the Honorable Executive Council
February 15, 2011
Page 2

subject:

Behavioral Health currently contracts with Attorney LeBrun and will continue to do so in fiscal year 2012 and fiscal year 2013. Attorney LeBrun's resume is attached.

The rate of reimbursement for this service was established by the Bureau of Behavioral Health in fiscal year 2004, to be paid on a per case rate rather than the hourly fee for service rate established by the court in indigent defense cases. Previously, counsel have been appointed by the district courts and have billed the Bureau of Behavioral Health at \$60 per hour, the rate for appointed counsel in indigent defense cases. This contract will reduce expenses to the State for providing this service by reimbursing Attorney LeBrun at the rate of \$62 per case.

Area served: statewide.

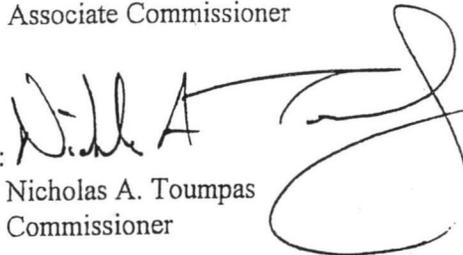
The source of funds for appropriation 7003 are 100% general funds.

Respectfully submitted,



Nancy L. Rollins
Associate Commissioner

Approved by:



Nicholas A. Toumpas
Commissioner

RSP/jk

Enclosures