

**AGREEMENT BETWEEN WRANGELL MEDICAL CENTER AND  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

WHEREAS, Wrangell Medical Center (“WMC”) filed a certificate of need (“CON”) application in November 2009 for a new, expanded medical center, which application was approved in part by the Commissioner of the Department of Health and Social Services (“DHSS”) on April 1, 2010, and,

WHEREAS, WMC has filed an administrative appeal of that decision and,

WHEREAS, WMC and DHSS (“the parties”) mutually desire to resolve this appeal without the necessity of an administrative hearing,

THEREFORE, the parties agree and undertake as follows:

1. A modified CON will be issued within 10 days of the execution of this Agreement authorizing construction and utilization of 28 beds, consisting of 20 nursing home and eight acute care beds, four of which maybe licensed as swing beds upon completion of the construction. Conversion of any of the remaining four acute care beds to swing beds must be authorized by DHSS.

2. Within five days of issuing the CON referenced in paragraph 1 above, WMC shall dismiss case OAH No. 10-0214-DHS.

3. At any time after construction, WMC may apply for conversion of one or more of the four non-swing beds to swing beds. Once the necessary information is received by DHSS, DHSS will respond promptly to that application, with a target of 15

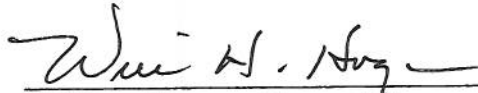
working days. Approval or disapproval of any request for swing bed conversion will be governed by the formula set out in Appendix A to this Agreement.

4. Nothing in this Agreement is intended to either waive WMC's rights to seek approval of a new CON at any time, or to limit or otherwise interfere with DHSS's obligations to review any such application pursuant to the applicable regulations and methodologies.

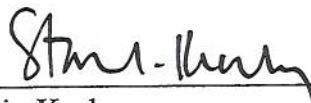
5. WMC agrees that it will facilitate a community needs assessment to develop strategies to address the continuum of care for the aging population in Wrangell and will contribute not less than \$20,000 to that endeavor.

6. Each party to bear their own costs and fees associated with this appeal.


Date July 21, 2010

  
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William Hogan, Commissioner  
Department of Health & Social Services


Date July 22, 2010

  
\_\_\_\_\_  
Stacie Kraly  
Chief Assistant Attorney General

Date July 26, 2010

  
\_\_\_\_\_  
Noel Rea, Chief Executive Officer  
Wrangell Medical Center

Date July 29, 2010

  
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Peter Gruenstein, Esq.  
Attorney for Wrangell Medical Center

## APPENDIX A

### **Methodology for Determining Request for Conversion to Swing Beds**

**After construction of the new facility, and prior to returning to all eight acute care beds:**

1. LTC beds must be at least at 90 percent average occupancy (average daily census 18) over a consecutive six-month period prior to any request for conversion of swing beds, AND,
2. At least a 60 percent average occupancy of the four swing beds (average daily census of 2.4) over a consecutive three-month period\*).

#### **Data to be submitted:**

Individual admission and discharge data is preferred, with age, admission source, and place of residence; however, if that is not possible, data on a per month basis will be accepted.

1. Bed days per month for each type of service: LTC, Swing, Acute.
2. Admissions by age group (0-64, 65-74, 75-84, 85+) and community of residence (30 days prior to admission), per month by type of service.
  - a. From other WMC by bed type
  - b. From home
  - c. Transfer other facility (outside of Wrangell)
  - d. Other -- specify
3. Discharges per month by type of service
  - a. Deceased
  - b. Transfer to another WMC bed/service
  - c. Transfer to another facility
  - d. Home

Only the submitted data necessary to make a determination with respect to the two criteria above will be considered by DHSS (specifically item #1-bed days per month), and consideration of a request to convert one or more of the beds to

\* The six-month or three-month period used will be the most recent one for which data is reasonably available and accessible to WMC.

swing beds will not be delayed pending submission of data that are not necessary for determination of the requested conversion.

Absent extraordinary circumstances, DHSS agrees to act on a conversion request within 30 working days of a proper submission (i.e., one containing the critical data).

Upon denial of a request for conversion, WMC may ask the Commissioner to reconsider the denial. In that case, the Commissioner shall act promptly on the request for reconsideration within 30 days of receipt of the request. In the event that the Commissioner denies the reconsideration request, administrative remedy will be deemed exhausted, and WMC may file an action in Superior Court. In the event that such action is filed, neither party will oppose a request from the other for expedited consideration by the Superior Court.