

I'm not a lawyer, so don't shoot me, but I read Infinitecare's consulting agreement, and I've found multiple instances of Infinitecare's failure to abide by the agreement, so that, as I understand it, they are actually in breach of the agreement, which could consequently be terminated for cause within 30 days.

On line 136, Relationship. "With respect to Facility Operator, Consultant shall at all times be an independent contractor. No provision of this Agreement shall be construed to constitute Consultant or any of its officers or employees as an employee or employees of Facility Operator." **As we know, there are several employees who are employed by both the County and Infinitecare, most prominently, the Administrator. That is contrary to the relationship laid out in this agreement.**

On line 141- "Consultant shall follow the written policies of the Facility Operator that are delivered to Consultant in advance." **As we heard in the letter written by medical staff at the ACC which Mr. Setren read during the Health and Human Services Committee last week, only county employees at the ACC are held to the county's policies and procedures, and agency staff are treated very differently and allowed to behave far below the standards set by the county.**

Line 164 – "The Facility Operator shall have sole power and authority to appoint a Medical Director to direct the medical activities of the Facility and to perform such duties as may be assigned from time to time by the Facility Operator." **This previous legislature passed a resolution which delegated authority for Infinitecare to appoint a medical director and all medical staff, in defiance of DOH regulations and their consulting contract, and this is what they have done for the last 2 years.**

Line 170 – Restricted powers. **To summarize, this section states that all employees shall be hired according to civil service rules and all applicants will be presented to the county HR Director, who alone has the discretion to hire or fire. In reality, the HR Director, through no fault of her own, has been completely shut out of the hiring, monitoring or firing of half of the present employees at the ACC. When I asked her about it, she said that she had no way to even know who was working there apart from county employees. The fact that the operator has no oversight of half of the employees there poses a considerable risk.**

Line 257 – "Consultant shall utilize Care Safely as a remote risk management/quality assurance tool for monitoring of quality of care by the Facility Operator and County LDC before and after the CON Transition Date (see www.caresafely.com). Consultant shall provide quarterly reports to the County LDC and Facility Operator in form and

content to be agreed to from time to time by the Consultant, County LDC and Facility Operator representatives.” **Caresafely has not been made available to the county, and there have been no quarterly reports that I’m aware of.**

Line 275 “The parties will explore structures to permit employees to remain in the current retirement and benefits system after the CON Transition Date and will negotiate in good faith contracts for its employees after the CON Transition Date.” **County employees were told by the Deputy County Manager and the HF Director last year to either transition to another job in the county or they would lose their jobs immediately when and if the CON is granted. Infinitecare has not offered county employees any specifics as to what they are offering for pay or benefits should they get the lease. I don’t see how anybody can say that this constitutes good faith. County employees at the ACC described a hostile work environment in their letter of last week.**

Line 308 –“Within sixty (60) days after the last day of each calendar month, Consultant shall prepare and submit to the Facility Operator internal unaudited financial reports which will be prepared consistent with generally accepted accounting principles for the Facility and which shall contain as an exhibit actual and budgeted revenues (based on the Budget) and expenses of the Facility for the preceding month and year to date, an analysis of accounts receivable activity, and reasonable explanations of any variances from the Budget.” **That didn’t happen.**

Line 456 – Compensation. **This section details payments by the Operator to the consultant or all revenues, including a monthly \$30,000 service fee, plus compensation for the consultant’s employees when the Operator hasn’t been able to provide enough staff, minus the monthly “shortfall payment” which is what the Operator has lost in costs not covered by revenue. As you know, Infinitecare has completely defaulted on the shortfall payment and there seems to be no plan in place for the county to regain what the County Manager estimated at one million dollars per quarter, except through renegotiation of the lease agreement. By my calculations, that amounts to 9 million dollars, approximately. That’s 9 million dollars that Infinitecare owes this county’s taxpayers, which the county manager is apparently not making any effort whatsoever to collect.**

I hope that any of the legislators who may have signed a letter in support of Infinitecare are aware that Infinitecare is pocketing the 9 million dollars they were supposed to pay back, according to their consultant’s contract. Renegotiation of the lease agreement would be the job of the LDC. I

have to say that if Sol Klein's nonadherence to one contract is any indication of how he will honor the conditions of another, it just amazes me that any of you would still consider Infinitecare as a business partner. Meeting the conditions of the consulting contract is supposed to be a precondition of the lease.