



State of West Virginia
Office of the Attorney General

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Attorney General

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**WRITTEN DETERMINATION REGARDING THE APPOINTMENT OF
OUTSIDE COUNSEL ON BEHALF OF THE WEST VIRGINIA
HEALTH INFORMATION NETWORK**

The West Virginia Health Information Network (hereinafter the "WVHIN") is seeking legal representation with experience involving privacy and security issues related to the healthcare industry, and requests permission to re-appoint their existing counsel, Jackson Kelly PLLC, to complete the needed legal services.

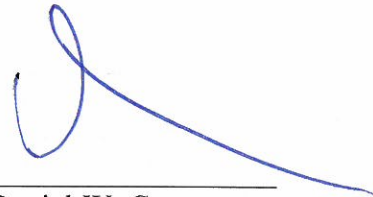
More specifically, WVHIN is seeking continued legal counsel to assist with (1) updating more than twenty WVHIN policies that are impacted by recent changes to the Health Insurance Portability and Accountability Act (HIPAA) rules; (2) updating participation agreement forms to comply with Omnibus and Legislative Rules; and, (3) finalizing other unfinished effort relating to policies, procedures, forms and contracts that have been impacted by recent healthcare law changes. Jackson Kelly has been assisting WVHIN with the needed legal representation, and has agreed to continue its representation through June 30, 2014 at discounted hourly fees (150 hrs @ \$320/hr and 100 hrs @ \$175/hr) plus incidentals capped at a total amount of \$80,000.

In accordance with the Attorney General's Policy on Outside Counsel (Policy #WVAGO-004), the Office of the Attorney General has determined that it is both cost-effective and in the interest of the public to appoint the law firm of Jackson Kelly to continue its representation of WVHIN in the matters set forth above through June 30, 2014, based on the following factors.

- Having already performed part of the work needed by WVHIN, Jackson Kelly is uniquely situated to provide the legal analysis and support needed for the legal matter in question;
- Jackson Kelly has already begun the process of updating the numerous policies and procedures in question, and continuity is critical for the appropriate completion of this project;
- The geographic area where the attorney services are to be performed is Kanawha County, where Jackson Kelly is currently headquartered;
- The legal services in question require specialized expertise and familiarity with healthcare law that is not currently possessed by the Office of the Attorney General;

- It would require a significant time commitment from the Office of the Attorney General to familiarize itself with the particular issues relating to the legal matter in question – issues which Jackson Kelly are already handling on behalf of WVHIN; and,
- The significant time and cost associated with appointing new outside counsel – which would have to familiarize itself with issues already being handled – makes it more cost-effective and in the interest of the public to allow Jackson Kelly to continue its representation.

Because this matter involves the continuation of a previous legal appointment, and the renewal of Jackson Kelly's legal services would necessarily avoid disrupting a pending legal matter, the Office of the Attorney General determines that requests for proposal are not necessary pursuant to section (D)(2) of Policy #WVAGO-004.



Daniel W. Greear
Chief Counsel

Date Signed: August 2, 2013