

**ARKANSAS DEPARTMENT OF HUMAN SERVICES**  
**PERFORMANCE BASED CONTRACTING**

Pursuant to Ark. Code Ann. 19-11-267 et. seq., the selected contractor shall comply with performance-based standards. Following are the performance-based standards that will be a part of the contract and with which the contractor must comply for acceptable performance to occur under the contract.

- I. The contractor must comply with all statutes, regulations, codes, ordinances, and licensure or certification requirements applicable to the contractor or to the contractor's agents and employees and to the subject matter of the contract. Failure to comply shall be deemed unacceptable performance.
- II. Except as otherwise required by law, the contractor agrees to hold the contracting Division/Office harmless and to indemnify the contracting Division/Office for any additional costs of alternatively accomplishing the goals of the contract, as well as any liability, including liability for costs or fees, which the contracting Division/Office may sustain as a result of the contractor's performance or lack of performance.
- III. During the term of the contract, the division/office will complete sufficient performance evaluation(s) to determine if the contractor's performance is acceptable. The damages set forth below are not exclusive and shall in no way exclude or limit any remedies available at law or in equity.
- IV. The State **shall** have the right to modify, add, or delete Performance Standards throughout the term of the contract, should the State determine it is in its best interest to do so. Any changes or additions to performance standards will be made in good faith following acceptable industry standards and may include the input of the vendor so as to establish standards that are reasonably achievable.
- V. The contract program deliverables and performance indicators to be performed by the contractor are:

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<p>Service Delivery Location</p> <p>A. All services <b>must</b> be provided during normal business hours, 8:00 a.m. - 4:30 p.m., and within the agreed upon number of days unless otherwise arranged and coordinated with the agency. The Contractor <b>shall</b> give the agency immediate notice of any anticipated delays that will affect the service delivery requirement.</p> <p>B. The Contractor <b>shall</b> provide on-site medical care to CHDC clients/residents for a minimum of sixteen (16) service hours per week. CHDC reserves the right to request additional hours as needed. The Contractor <b>shall</b> always maintain an up to date, on-site, and on-call schedule for reference by nursing services and residential services providers at CHDC.</p> <p>C. The Contractor <b>must</b> be available twenty-four (24) hours a day, seven (7) days a week, for on-call services and emergency medical needs, or provide another Arkansas-licensed physician to be available to take such calls with prior approval by DHS.</p> <p>D. DHS/DDS reserves the right to request additional service locations as mutually agreed upon between the Contractor and DHS/DDS.</p> <p>Service Location: 150 East Siebenmorgen Rd, Conway, AR 72032</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p><b>Compliance</b></p> <p>In addition to Federal and state laws and regulations, the Contractor <b>shall</b> comply with the following:</p> <ol style="list-style-type: none"> <li>1. DHS policies and Health Insurance Portability and Accountability Act (HIPAA) laws and regulations related to protecting the rights and privacy of each client.</li> <li>2. Quality standards of the Commission on Accreditation of Rehabilitation Facilities (CARF).</li> <li>3. <a href="#">Arkansas Medical Practices Act and</a></li> </ol>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the</p>

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<p><a href="#">Regulations.</a></p> <p>4. Maintain status of Good Standing with the Arkansas State Medical Board.</p>		<p>contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p><b>Medical Management/Leadership</b></p> <p>1. The Contractor <b>shall</b> oversee and monitor the delivery of high quality and safe services.</p> <p>2. The Contractor <b>must</b> establish and maintain high standards of clinical care.</p> <p>3. The Contractor <b>shall</b> review medical charts for accuracy and compliance.</p> <p>4. Patients must receive services by the same physician throughout the duration of the contract unless otherwise approved by DHS/DDS.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in</p>

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		full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.
<b>Patient Care Quality and Safety</b> 1. The Contractor <b>must</b> ensure that services are available to help residents attain and maintain their highest practicable level of functioning consistent with regulatory requirements.  2. The Contractor <b>shall</b> investigate patient care complaints regarding services rendered by APRNs and other HDC staff.  3. The Contractor <b>shall</b> help the facility identify, evaluate, and address healthcare issues related to the quality of care.	Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.	1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.  2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.  In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.
<b>Medical Services</b> 1. The Contractor <b>shall</b> order laboratory analyses, which may include without limitation complete blood count, chemistry profile, antiepileptic drug levels, urinalysis, thyroid profiles, and other tests as deemed medically necessary, on an annual basis or more often as medically necessary. The Physician <b>shall</b> evaluate all laboratory	Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.	1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.  2nd incident: A five percent (5%) penalty will be assessed in the

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<p>analyses and prescribe the necessary medical intervention based upon the individual's condition.</p> <p>2. The Contractor <b>shall</b> refer clients to outside medical and ancillary services as necessary to provide appropriate medical care.</p> <p>3. The Contractor <b>shall</b> maintain communication with in-patient/out-patient medical providers regarding client's treatment, progress, and hospital discharge plan.</p> <p>4. The Contractor <b>shall</b> conduct admission physicals within twenty-four (24) hours of client admission.</p> <p>5. The Contractor <b>shall</b> provide such other medical services, as necessary.</p>		<p>following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p><b>Participation</b></p> <p>1. The Contractor <b>shall</b> participate (directly or indirectly) in determining each client's Individual Program Plan (IPP) within an inter-disciplinary setting. Physician <b>shall</b> provide assessments of each individual's physical and mental handicaps, required treatment and preventative measures, in order to help ensure that the IPP reflects the client's potential capabilities.</p> <p>2. The Contractor <b>shall</b> attend and participate in monthly peer review meetings. DHS and the facility reserve the right to request the physician to present as needed.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose</p>

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		<p>additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p><b>Records/Documentation</b></p> <ol style="list-style-type: none"> <li>1. The Contractor <b>must</b> document all treatment provided in the individuals' medical records (chart), which <b>must</b> be maintained at the facility and in accordance with all controlling medical standards.</li> <li>2. The Contractor <b>shall</b> monitor all monthly quality reviews of the clients' medical records for thoroughness.</li> </ol>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p><b>Criminal Background Checks</b> Contractor <b>shall</b> comply with A.C.A. §21-15-101 et seq., or any amendments thereto, which requires all employees of</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten</p>

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<p>state agencies, in designated positions including those providing care, supervision, treatment or any other services to the elderly, mentally ill or developmentally disabled persons, to individuals with mental illnesses or to children who reside in any state-operated facility or a position in which the applicant or employee will have direct contact with a child, to have a criminal history check and a central registry check. Should an applicant or employee be found to have been convicted of a crime listed in A.C.A. §21-15-101 et seq., that employee shall be prohibited from providing services in a designated position as defined by Arkansas law or being present at the facility. Should an applicant or employee be found to have been named as an offender or perpetrator in a true, substantiated, or founded report from the Child Maltreatment Central Registry, the Adult Abuse Central Registry, or the Certified Nursing Assistant/ Employment Clearance Registry, the applicant/employee shall be immediately disqualified.</p>	<p>standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>(10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p><b>Insurance Requirements</b> Prior to contract awarding, the Contractor <b>must</b> furnish an approved "Certificate of Insurance" and <b>must</b> maintain the insurance Requirements throughout the contract and any/all extensions. The insurance <b>shall</b> not be modified without DHS approval.</p> <p>The Contractor <b>shall</b> maintain insurance for the contract period and any resultant renewals in the minimum amount:</p> <ul style="list-style-type: none"> <li>• \$1,000,000 per occurrence general liability; and</li> <li>• \$3,000,000 aggregate, for professional liability, negligence, errors and omissions and public liability.</li> </ul> <p>The insurance <b>must</b> have limits sufficient to cover losses resulting from, or arising</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified</p>

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<p>out of:</p> <ul style="list-style-type: none"> <li>• Contractor's action or inaction in the performance of the contract by the Vendor, its agents, servants, employees, or subcontractors.</li> </ul> <p>The insurance <b>shall</b> cover and continue to cover all occurrences during the term of this contract and any extensions thereof. All insurance policies <b>shall</b> be with a company licensed by the State of Arkansas to do business and to provide such policies.</p> <p>The Contractor must be notified, not less than forty-five (45) days in advance of any non-renewal, cancellation, or expiration of the Contractor's insurance policy. In the event DHS receives a notice of non-renewal, the Contractor <b>shall</b> provide DHS with an insurance policy from another carrier at least thirty (30) days prior to the expiration of the insurance policy then in effect.</p> <p>DHS reserves have the right to inspect all relevant insurance policies held by the Contractor.</p>		<p>month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>
<p><b>Payment and Invoicing</b></p> <p>A. All invoices <b>shall</b> be forwarded to: Conway HDC 150 E. Siebenmorgen Road Conway, AR 72032</p> <p>B. Invoices must be submitted by the 15<sup>th</sup> of the following month and must include the total number of hours worked. The Contractor must submit a statement of compliance with all policies and standards of CAFR with each monthly invoice.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>1st Incident: A Corrective Action Plan (CAP) acceptable to DHS shall be due to DHS within ten (10) business days of the request.</p> <p>2nd incident: A five percent (5%) penalty will be assessed in the following months' payment to the provider for each thirty (30) day period the Vendor is not in full compliance with all requirements of the contract. The five percent (5%) penalty will be calculated from the total payment for the identified month in which the deficiency took place.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties</p>



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		including without limitation, monetary damages, withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.
<p><b>Mandated Reporting</b></p> <p>Pursuant to Ark. Code Ann. §12-18-402 (b)(10) and Ark. Code Ann. §§ 12-12-1708(a)(1)(AA), Contractor and all of its employees, agents, and all Subcontractors and Subcontractor's employees and agents shall immediately make a report to the Child Abuse Hotline or the Adult Maltreatment Hotline (based on type of maltreatment) if Contractor or any of its employees, agents, or Subcontractors' employees and agents, while performing duties under this contract, have reasonable cause to suspect that:</p> <ol style="list-style-type: none"> <li>A child has been subjected to child maltreatment;</li> <li>A child died as a result of child maltreatment;</li> <li>A child died suddenly and unexpectedly; or</li> <li>Observe a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.</li> </ol> <p>or</p> <ol style="list-style-type: none"> <li>An endangered person or an impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment.</li> </ol> <p>A privilege or contract shall not prevent a person from reporting maltreatment when he or she is a mandated reporter and required to report under this section.</p> <p>An employer or supervisor of a mandated reporter shall not prohibit an employee or a volunteer from directly reporting maltreatment to the Hotline.</p>	<p>Acceptable performance is defined as one hundred percent (100%) compliance with all service criteria and standards for acceptable performance throughout the contract term as determined by DHS.</p>	<p>For each failure to report, DHS may impose:</p> <ol style="list-style-type: none"> <li>1. A ten percent (10%) penalty, assessed in the following months' payment for each failure to report. The penalty will be calculated from the total payment for the identified month in which the deficiency took place; or</li> <li>2. A one percent (1%) penalty, assessed in the next payment for each failure to report. The penalty will be calculated from the projected total yearly contract amount for the contract, as determined by DHS. DHS may elect to calculate penalties/damages differently per occurrence.</li> </ol> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, requiring a Corrective Action Plan (CAP), withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.</p>

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<p>An employer or supervisor of a mandated reporter shall not require an employee or a volunteer to obtain permission or notify any person, including an employee or a supervisor, before reporting maltreatment to the Hotline.</p> <p>Pursuant to Act 531 of 2019, Ark. Code Ann. §12-18-402 (b)(10) and Ark. Code Ann. §§ 12-12-1708(a)(1)(AA), Contractor and all of its employees, agents, and all Subcontractors and Subcontractor's employees and agents are mandated reporters.</p>		
<p><b>Conflict of Interest Mitigation</b></p> <p>During the term of this contract, the Vendor shall comply with the terms of the DHS Organizational or Personal Conflict of Interest provisions. The Vendor shall disclose all actual, apparent, or potential conflicts of interest to the Department of Human Services (DHS) within five (5) days of having knowledge of them. The Vendor shall develop a mitigation plan as requested by DHS which must be approved and accepted by DHS. Any changes to the approved mitigation plan must be approved in advance by DHS.</p>	<p>The Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the term of the contract.</p>	<p>The Vendor will be fined one thousand dollars (\$1,000) per day for each day past five (5) days for each actual, apparent, or potential conflict of interest it fails to disclose. The Vendor shall be fined ten thousand dollars (\$10,000) for the first failure to comply with the mitigation plan developed by the Vendor and approved by DHS. Each subsequent violation of the mitigation plan shall be twice the amount of the immediately preceding violation fine.</p>
<p><b>Transition Planning</b></p> <p>Ninety (90) days prior to the contract end date, the vendor shall submit to DHS a detailed plan for transitioning all contracted services to DHS, or to another vendor selected by DHS to provide the contracted services.</p> <p>The transition plan shall include provisions for the delivery of all proprietary data collected and/or created during the life of the contract to DHS thirty (30) days prior to the contract end date. All proprietary data collected and/or created during the final thirty (30) days of the contract, or any proprietary data not captured in the initial delivery, shall be delivered to DHS no more than fifteen (15) days</p>	<p>The Vendor must maintain one hundred percent (100%) compliance with this item at all times throughout the term of the contract.</p>	<p>If the Vendor fails to meet the acceptable performance standard, DHS may issue a below standard Vendor Performance Report (VPR) maintained in the vendor file. Final payment may be withheld from the vendor until the all elements of the transition are satisfied as determined by DHS.</p>

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following the contract end date.		
<p>Arkansas Freedom of Information Act (Ark. Code Ann. §25-19-101 et seq.):</p> <ol style="list-style-type: none"> <li>1. Contractor shall cooperate with DHS requests for information and documents that DHS requires to fulfil an Arkansas Freedom of Information Act (FOIA) request.</li> <li>2. Contractor shall timely provide all documents in its possession or control to DHS that match the request made by DHS.</li> <li>3. Contractor is subject to Arkansas FOIA law pursuant to Ark. Code Ann. §25-19-103(7)(A).</li> </ol> <p>Contractor shall timely and accurately respond to FOIA requests made directly to Contractor. See Ark. Code Ann. §25-19-101 et seq. for specific requirements.</p>	<p>Contractor shall respond to FOIA requests timely and accurately one hundred percent (100%) of the time.</p> <p>Contractor shall provide information and documents to DHS upon request in the timeframe specified in the request one hundred percent (100%) of the time. DHS shall have sole determination as to the sufficiency of Contractor's response and provision of documents.</p>	<ol style="list-style-type: none"> <li>1. For each failure to meet performance standard, DHS may impose: <ol style="list-style-type: none"> <li>a. A ten percent (10%) penalty, assessed in the following months' payment for each failure to report. The penalty will be calculated from the total payment for the identified month in which the deficiency took place; or</li> <li>b. A one percent (1%) penalty, assessed in the next payment for each failure to report. The penalty will be calculated from the projected total yearly contract amount for the contract, as determined by DHS.</li> </ol> </li> </ol> <p>DHS may elect to calculate penalties/damages differently per occurrence.</p> <p>In addition to the above, Contractor shall be responsible for any penalties, fees, and costs imposed on DHS associated with vendor's failure to timely and accurately provide the requested information and documents.</p> <p>In addition to the above penalties, DHS reserves the right to impose additional penalties including without limitation, requiring a</p>

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		Corrective Action Plan (CAP), withholding payment on future invoices until Vendor is in full compliance, maintaining a below standard Vendor Performance Report (VPR) in the vendor file and contract termination.

Failure to meet the minimum Performance Standards as specified **may** result in the assessment of damages.

In the event a Performance Standard is not met, the vendor will have the opportunity to defend or respond to, or cure to the satisfaction of the State, the insufficiency. The State **may** waive damages if it determines there were extenuating factors beyond the control of the vendor that hindered the performance of services of it is in the best interest of the State. In these instances, the State **shall** have final determination of the performance acceptability.

Should any compensation be owed to the agency due to the assessment of damages, vendor **shall** follow the direction of the agency regarding the required compensation process.

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<sup>i</sup> Nothing in this table is intended to set forth all obligations of the Contractor under the contract. These obligations are in addition to any others imposed by the contract and applicable law.

<sup>ii</sup> The damages set forth are not exclusive and shall in no way exclude or limit any remedies available at law or in equity.