



Monterey County

Board Order

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

Agreement No.: A-11849

Upon motion of Supervisor Salinas, seconded by Supervisor Parker and carried by those members present, the Board of Supervisors hereby:

- a. Authorized the Purchasing Manager for Natividad Medical Center (NMC) to execute the First Amendment to the Professional Services Agreement (A-11849) with Central Coast Nephrology to provide nephrology services at NMC, extending the Agreement to June 30, 2015 and adding \$300,000 for a revised total Agreement amount not to exceed \$550,000 in the aggregate; and
- b. Authorized the Purchasing Manager for NMC to execute to sign up to three (3) amendments to this agreement where the total amendments do not exceed 10% of the original contract amount, and do not significantly change the scope of work.

PASSED AND ADOPTED on this 27th day of August 2013, by the following vote, to wit:

AYES: Supervisors Armenta, Calcagno, Salinas and Parker


NOES: None

ABSENT: Supervisor Potter

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 76 for the meeting on August 27, 2013.

Dated: August 27, 2013
File Number: A 13-209

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By 
Deputy

**FIRST AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES
AGREEMENT**

THIS FIRST AMENDMENT TO PROFESSIONAL AND CALL COVERAGE SERVICES AGREEMENT (the "**Amendment**") is made and entered into as of September 1, 2013, by and between COUNTY OF MONTEREY ("**County**") on behalf of NATIVIDAD MEDICAL CENTER ("**Hospital**"), and CENTRAL COAST NEPHROLOGY MEDICAL CORPORATION, a California professional corporation ("**Contractor**") with respect to the following:

RECITALS

A. County owns and operates Hospital, a general acute care teaching hospital facility located in Salinas, California under its acute care license.

B. Contractor and Hospital have entered into that certain Professional Services Agreement effective as of September 1, 2011 (the "**Agreement**"), pursuant to which Contractor provides professional services in the Specialty to both Clinic Patients and Non-Clinic Patients.

C. Hospital and Contractor desire to amend the Agreement to increase the amount payable to Contractor by an additional Three Hundred Thousand Dollars (\$300,000) for services provided during the extended term of the Agreement.

AGREEMENT

IN CONSIDERATION of the foregoing recitals and the mutual promises and covenants contained herein, Hospital and Contractor agree as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement.

2. **Exhibit 1.12.** Exhibit 1.12 to the Agreement is hereby replaced in its entirety and incorporated by this reference with the attached Exhibit 1.12.

3. **Section 1.15.** Subsection (d) of Section 1.15 to the Agreement is hereby amended to read in its entirety as follows:

“(d) any Group Physician voluntarily or involuntarily retires from the practice of medicine;”

4. **Section 2.1.** Section 2.1 to the Agreement is hereby amended to read in its entirety as follows:

2.1 Compensation. Hospital shall pay to Contractor the amount determined in accordance with Exhibit 2.1 (the "**Compensation**"), upon the terms and conditions set forth therein. The amount payable by Hospital to Contractor under this Agreement shall not exceed an aggregate amount of Five Hundred Fifty Thousand Dollars (\$550,000) for the full term of the Agreement.”

5. **Exhibit 2.1.** Exhibit 2.1 to the Agreement is hereby replaced in its entirety and incorporated by this reference with the attached Exhibit 2.1.

6. **Section 5.1.** Section 5.1 to the Agreement is hereby amended to read in its entirety as follows:

“5.1 Term. This Agreement shall become effective on September 1, 2011 (the **“Effective Date”**), and shall continue until June 30, 2015 (the **“Expiration Date”**), subject to the termination provisions of this Agreement.”

7. **Exhibit 6.4.** Exhibit 6.4 to the Agreement is hereby replaced in its entirety and incorporated by this reference with the attached Exhibit 6.4.

8. **Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

9. **Continuing Effect of Agreement.** Except as herein provided, all of the terms and conditions of the Agreement remain in full force and effect from the Effective Date of the Agreement.

10. **Reference.** After the date of this Amendment, any reference to the Agreement shall mean the Agreement as amended by this Amendment.

[signature page follows]

IN WITNESS WHEREOF, Hospital and Contractor have executed this Amendment as of the day and year first written above.

CONTRACTOR

CENTRAL COAST NEPHROLOGY, a
California professional corporation

Date: 08/05, 2013

By: [Signature]
Its President

By: _____
Its _____

NATIVIDAD MEDICAL CENTER

Purchase Order Number

By: [Signature]
Contracts /Purchasing Manager

Date: 8-29, 2013

By: [Signature]
Natividad Medical Center Representative

Date: 8/6, 2013

APPROVED AS TO LEGAL FORM:
CHARLES J. McKEE, County Counsel

[Signature]
Stacy Saetta, Deputy County Counsel

Date: 8/7, 2013

Reviewed as to fiscal provisions

[Signature]
Auditor/Controller
County of Monterey 8-8-13

Exhibit 1.12



MEDICAL STAFF POLICY

Title: Practitioner Code of Conduct	Effective: 05/09 Reviewed/Revised: 08/11
Standard: MSP004-2	Approved: MEC 08/11 BOT 09/11

As a member of the Medical Staff or an Allied Health Professional (AHP) of Natividad Medical Center (NMC) (collectively Practitioners), I acknowledge that the ability of Practitioners and NMC employees to jointly deliver high quality health care depends significantly upon their ability to communicate well, collaborate effectively, and work as a team. I recognize that patients, family members, visitors, colleagues and NMC staff members must be treated in a dignified and respectful manner at all times.

POLICY

In keeping with the accepted standards of the health care profession as evidenced by the Hippocratic Oath, the Code of Ethics of the American Medical Association (AMA) and other professional societies, and the values of NMC, Practitioners are leaders in maintaining professional standards of behavior. In keeping with this responsibility to maintain professional standards of behavior at NMC, Practitioners:

1. Facilitate effective patient care by consistent, active, and cooperative participation as members of the NMC health care team.
2. Recognize the individual and independent responsibilities of all other members of the NMC health care team and their right to independently advocate on behalf of the patient.
3. Maintain respect for the dignity and sensitivities of patients and families, as well as colleagues, NMC employees, and all other health care professionals.
4. Participate in the Medical Staff quality assessment and peer review activities, and in organizational performance improvement activities.
5. Contribute to the overall educational mission of NMC.
6. Reflect positively upon the reputation of the health care profession, the Medical Staff, and NMC in their language, action, attitude, and behavior.

Behaviors of Practitioners which do not meet the professional behavior standards established in this Code of Conduct (Code) shall be referred to as Disruptive or Unprofessional Behavior. Disruptive or Unprofessional Behavior by Practitioners exhibited on the premises of NMC, whether or not the Practitioner is on duty or functioning in his/her professional capacity, are subject to this Code.

EXAMPLES OF PROFESSIONAL BEHAVIOR

Practitioners are expected to exhibit professional behavior at NMC, consistent with this Code, as follows:

1. Be consistently available with cooperative and timely responsiveness to appropriate requests from physicians, nurses, and all other members of the NMC health care team in patient care and other professional responsibilities.
2. Provide for and communicate alternate coverage arrangements to assure the continuity and quality of care.
3. Demonstrate language, action, attitude and behavior which consistently convey to patients, families, colleagues, and all other members of the NMC health care team a sense of compassion and respect for human dignity.
4. Understand and accept individual cultural differences.
5. Maintain appropriate, timely, and legible medical record entries which enable all NMC professionals to understand and effectively participate in a cohesive plan of management to assure continuity, quality, and efficiency of care and effective post-discharge planning and follow-up.
6. Respect the right of patients, families or other designated surrogates to participate in an informed manner in decisions pertaining to patient care.
7. Treat patients and all persons functioning in any capacity within NMC with courtesy, respect, and human dignity.
8. Conduct one's practice at NMC in a manner that will facilitate timely commencement of medical/surgical procedures at NMC, including but not limited to, timely arrival at the hospital, pre-ordering all needed special equipment and/or supplies, and timely notification of required staff.

EXAMPLES OF DISRUPTIVE OR UNPROFESSIONAL BEHAVIOR

Disruptive or Unprofessional Behavior, as characterized in this Code, includes but is not limited to:

1. Misappropriation or unauthorized removal or possession of NMC owned property.
2. Falsification of medical records, including timekeeping records and other NMC documents.
3. Working under the influence of alcohol or illegal drugs.

4. Working under the influence of prescription or over-the-counter medications when use of such medications significantly affects the practitioner's level of cognitive functioning.
5. Possession, distribution, purchase, sale, transfer, transport or use of illegal drugs in the workplace.
6. Possession of dangerous or unauthorized materials such as explosives, firearms, or other weapons in the workplace.
7. Writing derogatory and/or accusatory notes in the medical record which are not necessary for the provision of quality patient care services. Concerns regarding the performance of other Practitioners or NMC employees should be reported on a NMC Quality Review Report form and submitted pursuant to NMC policy and should not be entered into the patient's medical record.
8. Harassment
 - a. Harassment is verbal or physical contact that denigrates or shows hostility or aversion toward an individual based on race, religion, color, national origin, ancestry, age, disability, marital status, gender, sexual orientation, or any other basis protected by federal, state, or local law or ordinance, and that:
 1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment, or;
 2. Has the purpose or effect of unreasonably interfering with an individual's work performance, or;
 3. Otherwise adversely affects an individual's employment opportunity.
 - b. Harassing conduct includes, but is not limited to:
 1. Epithets, slurs, negative stereotyping, threatening, intimidating, or hostile acts that relate to race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation.
 2. Written material or illustrations that denigrate or show hostility or aversion toward an individual or group because of race, religion, color, national origin, ancestry, age, disability, marital status, gender, or sexual orientation, and is placed on walls; bulletin boards, or elsewhere on NMC's premises or circulated in the workplace.
9. Physical behavior that is harassing, intimidating, or threatening, from the viewpoint of the recipient, including touching, obscene or intimidating gestures, or throwing of objects;
10. Passive behaviors, such as refusing to perform assigned tasks or to answer questions, return phone calls, or pages;

11. Language that is a reasonable adult would consider to be foul, abusive, degrading, demeaning, or threatening, such as crude comments, degrading jokes or comments, yelling or shouting at a person, or threatening violence or retribution;
12. Single incident of egregious behavior, such as an assault or other criminal act.
13. Criticism of NMC staff in front of patients, families, or other staff.

PROCEDURE

1. Any person who functions in any capacity at NMC who observes Practitioner language, action, attitude, or behavior which may be unprofessional, harassing, or disruptive to the provision of quality patient care services should document the incident on a NMC Quality Review Report form.
2. Identified incidents involving Practitioners shall be reviewed pursuant to the current Road Map for Handling Reports of Disruptive or Unprofessional Behavior or the County Sexual Harassment Policy, as determined by the nature of the behavior and the person who exhibits it.

I acknowledge that I have received and read this Practitioner Code of Conduct. I acknowledge that hospitals are required to define and address disruptive and inappropriate conduct to comply with The Joint Commission standards for accreditation. I agree to adhere to the guidelines in this Code and conduct myself in a professional manner. I further understand that failure to behave in a professional fashion may result in disciplinary actions set forth in the RoadMap for Handling Reports of Disruptive or Unprofessional Behavior or as determined by the Medical Executive Committee pursuant to the Medical Staff Bylaws.

Exhibit 2.1

COMPENSATION

1. **Professional Services.** Hospital shall pay to Contractor the amount of Six Hundred Twenty Four Dollars (\$624.00) per four (4) hour period (each, a “**Half-Day Clinic**”) for Professional Services provided to Clinic Patients (“**Clinic Services**”); provided, however, that Contractor is in compliance with the terms and conditions of this Agreement. Contractor shall provide Clinic Services a minimum of four (4) Half-Day Clinics per month during the term of this Agreement.
2. **Coverage Stipend.**
 - (a) For the period of September 1, 2013 to August 31, 2014, Hospital shall pay to Contractor an amount equal to One Hundred Seventy Dollars (\$170.00) per twenty-four (24) hour period for Coverage Services provided pursuant to this Agreement (the “**Coverage Stipend**”).
 - (b) For the period of September 1, 2014 to June 30, 2015, the Coverage Stipend shall equal One Hundred Seventy Two Dollars (\$172.00) per twenty-four (24) hour period for Coverage Services provided pursuant to this Agreement.
3. **Administrative Services.** Hospital shall pay to Contractor an amount equal to One Hundred Ninety Dollars (\$190.00) per hour for Administrative Services rendered by Contractor under this Agreement, not to exceed an amount equal to Three Hundred Eighty Dollars (\$380.00) per week.
4. **Timing.** Hospital shall pay the compensation due for Services performed by Contractor after Contractor’s submission of the monthly invoice of preceding month’s activity and time report in accordance with this Agreement; provided, however, that if Contractor does not submit an invoice and time sheet within sixty (60) days of the end of the month during which Services were performed, Hospital shall not be obligated to pay Contractor for Services performed during that month. The County of Monterey Standard Payment Terms for contracts/PSAs and paying invoices is “30 days after receipt of the certified invoice in the Auditor-Controller’s Office”.

Exhibit 6.4

BUSINESS ASSOCIATE AGREEMENT

THIS BUSINESS ASSOCIATE AGREEMENT (“**Exhibit**”) supplements and is made a part of this Agreement by and between Hospital (“**Covered Entity**” or “**CE**”) and Contractor (“**Business Associate**” or “**BA**”).

(A) Unless otherwise specified in this Exhibit, all capitalized terms used in this Exhibit shall have the meanings established for purposes of HIPAA or HITECH, as applicable. Specific statutory or regulatory citations used in this Exhibit shall mean such citations as amended and in effect from time to time.

1. “**Electronic Protected Health Information**” shall mean Protected Health Information that is transmitted or maintained in electronic media.
2. “**HIPAA**” shall mean the Health Insurance Portability and Accountability Act, 42 U.S.C. §§ 1320d through 1320d-8, as amended from time to time, and all associated existing and future implementing regulations, when effective and as amended from time to time.
3. “**HITECH**” shall mean Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, 42 U.S.C. §§ 17921-17954, as amended from time to time, and all associated existing and future implementing regulations, when effective and as amended from time to time.
4. “**Protected Health Information**” shall mean the term as defined in 45 C.F.R. § 160.103, and is limited to the Protected Health Information received from, or received or created on behalf of, the CE by BA pursuant to performance of the Services.
5. “**Privacy Rule**” shall mean the federal privacy regulations issued pursuant to HIPAA, as amended from time to time, codified at 45 C.F.R. Part 164 (Subparts A and E).
6. “**Security Rule**” shall mean the federal security regulations issued pursuant to HIPAA, as amended from time to time, codified at 45 C.F.R. Part 164 (Subparts A and C).
7. “**Services**” shall mean the Professional Services, the Teaching Services, and the Additional Services, collectively, as defined in the Agreement.
8. “**Unsecured Protected Health Information**” shall mean Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary in the regulations or guidance issued pursuant to 42 U.S.C. § 17932(h)(2).

(B) With regard to BA's use and disclosure of Protected Health Information:

1. BA may use and disclose Protected Health Information as reasonably required or contemplated in connection with the performance of the Services, excluding the use or further disclosure of Protected Health Information in a manner that would violate the requirements of the Privacy Rule, if done by the CE. Notwithstanding the foregoing, BA may use and disclose Protected Health Information for the proper management and administration of BA as provided in 45 C.F.R. § 164.504(e)(4).
2. BA will not use or further disclose Protected Health Information other than as permitted or required by this Exhibit, and in compliance with each applicable requirement of 45 C.F.R. § 164.504(e), or as otherwise Required by Law.
3. BA will implement and use appropriate administrative, physical, and technical safeguards to (1) prevent use or disclosure of Protected Health Information other than as permitted or required by this Exhibit; (2) reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that BA creates, receives, maintains, or transmits on behalf of the CE; and (3) comply with the Security Rule requirements set forth in 45 C.F.R. §§ 164.308, 164.310, 164.312, and 164.316.
4. BA will, without unreasonable delay, report to the CE (1) any use or disclosure of Protected Health Information not provided for by this Exhibit of which it becomes aware in accordance with 45 C.F.R. § 164.504(e)(2)(ii)(C); and/or (2) any Security Incident affecting Electronic Protected Health Information of which BA becomes aware in accordance with 45 C.F.R. § 164.314(a)(2)(C).
5. BA will, without unreasonable delay, and in any event no later than sixty (60) calendar days after Discovery, notify the CE of any Breach of Unsecured Protected Health Information. The notification shall include, to the extent possible (and subsequently as the information becomes available), the identification of all individuals whose Unsecured Protected Health Information is reasonably believed by BA to have been Breached along with any other available information that is required to be included in the notification to the Individual, the Secretary, and/or the media, all in accordance with the data breach notification requirements set forth in 42 U.S.C. § 17932 and 45 C.F.R. Parts 160 and 164 (Subparts A, D, and E).
6. BA will ensure that any subcontractors or agents to whom BA provides Protected Health Information agree to the same restrictions and conditions that apply to BA with respect to such Protected Health Information. To the extent that BA provides Electronic Protected Health Information to a subcontractor or agent, it will require the subcontractor or agent to implement reasonable and appropriate safeguards to protect the Electronic Protected Health Information consistent with the requirements of this Exhibit.
7. BA will, to the extent that Protected Health Information in BA's possession constitutes a Designated Record Set, make available such Protected Health Information in accordance with 45 C.F.R. § 164.524.

8. In the event that BA, in connection with the Services, uses or maintains an Electronic Health Record of Protected Health Information of or about an Individual, BA will provide an electronic copy of such Protected Health Information in accordance with 42 U.S.C. § 17935(e).
9. BA will, to the extent that Protected Health Information in BA's possession constitutes a Designated Record Set, make available such Protected Health Information for amendment and incorporate any amendments to such information as directed by the CE, all in accordance with 45 C.F.R. § 164.526.
10. BA will document and make available the information required to provide an accounting of disclosures of Protected Health Information, in accordance with 45 C.F.R. § 164.528.
11. In the event that BA, in connection with the Services, uses or maintains an Electronic Health Record of Protected Health Information of or about an Individual, BA will make an accounting of disclosures of such Protected Health Information in accordance with the requirements for accounting of disclosures made through an Electronic Health Record in 42 U.S.C. § 17935(c).
12. BA will make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary for purposes of determining the CE's compliance with the Privacy Rule.
13. BA will limit any request, use, or disclosure by BA of Protected Health Information, to the extent practicable, to the Limited Data Set of such Protected Health Information (as defined in 45 C.F.R. § 164.514(e)(2)), or, if the request, use, or disclosure by BA of Protected Health Information, not in a Limited Data Set, is necessary for BA's performance of the Services, BA will limit the amount of such Protected Health Information requested, used, or disclosed by BA to the minimum necessary to accomplish the intended purpose of such request, use, or disclosure, respectively as set forth by the Secretary (pursuant to 42 U.S.C. § 17935(b)(1)(B)).
14. BA will not directly or indirectly receive remuneration in exchange for any Protected Health Information as prohibited by 42 U.S.C. § 17935(d).
15. BA will not make or cause to be made any communication about a product or service that is prohibited by 42 U.S.C. § 17936(a).
16. BA will not make or cause to be made any written fundraising communication that is prohibited by 42 U.S.C. § 17936(b).

- (C) In addition to any other obligation set forth in this Agreement, including this Exhibit, the CE agrees that it will: (1) not make any disclosure of Protected Health Information to BA if such disclosure would violate HIPAA, HITECH, or any applicable federal or state law or regulation; (2) not request BA to use or make any disclosure of Protected Health Information in any manner that would not be permissible under HIPAA, HITECH, or any applicable federal or state law or regulation if such use or disclosure were done by the CE; and (3) limit any disclosure of Protected Health Information to BA, to the extent practicable, to the Limited Data Set of such Protected Health Information, or, if the disclosure of Protected Health Information that is not in a Limited Data Set is necessary for BA's performance of the Services, to limit the disclosure of such Protected Health Information to the minimum necessary to accomplish the intended purpose of such disclosure, as set forth by the Secretary (pursuant to 42 U.S.C. § 17935(b)(1)(B)).
- (D) If either the CE or BA knows of either a violation of a material term of this Exhibit by the other party or a pattern of activity or practice of the other party that constitutes a material breach or violation of this Exhibit, the non-breaching party will provide written notice of the breach or violation to the other party that specifies the nature of the breach or violation. In the event that the breaching party does not cure the breach or end the violation on or before thirty (30) days after receipt of the written notice, the non-breaching party may do the following:
- (i) if feasible, terminate this Agreement; or
 - (ii) if termination of this Agreement is infeasible, report the issue to the Secretary.
- (E) BA will, at termination of this Agreement, if feasible, return or destroy all Protected Health Information that BA still maintains in any form and retain no copies of Protected Health Information or, if such return or destruction is not feasible (such as in the event that the retention of Protected Health Information is required for archival purposes to evidence the Services), BA may retain such Protected Health Information and shall thereupon extend the protections of this Exhibit to such Protected Health Information and limit further uses and disclosures to those purposes that make the return or destruction of such Protected Health Information infeasible.
- (F) Any other provision of this Agreement that is directly contradictory to one or more terms of this Exhibit shall be superseded by the terms of this Exhibit to the extent and only to the extent of the contradiction and only for the purpose of the CE's and BA's compliance with HIPAA and HITECH. The terms of this Exhibit, to the extent they are unclear, shall be construed to allow for compliance by the CE and BA with HIPAA and HITECH.
- (G) **Indemnification.** Each party, CE and BA, will indemnify, hold harmless and defend the other party to this Exhibit from and against any and all claims, losses, liabilities, costs, and other expenses incurred as a result or arising directly or indirectly out of or in connection with (a) any misrepresentation, active or passive negligence, breach of warranty or non-fulfillment of any undertaking on the part of the party under this Exhibit; and (b) any claims, demands, awards, judgments, actions and proceedings made by any person or organization, arising out of or in any way connected with the party's performance under this Exhibit.

In addition, the CE agrees to compensate BA for any time and expenses that BA may incur in responding to requests for documents or information under HIPAA, HITECH, or any regulations promulgated under HIPAA or HITECH.

Nothing contained in this Exhibit is intended to confer upon any person (other than the parties hereto) any rights, benefits, or remedies of any kind or character whatsoever, whether in contract, statute, tort (such as negligence), or otherwise, and no person shall be deemed a third-party beneficiary under or by reason of this Exhibit.

Hospital

Signature: _____

Date: _____

8/6/13

Contractor

Signature: _____

Date: _____

08/05/2013

Contractor

Signature: _____

Date: _____