

**Board of Directors Compliance Report**

**Annual Evaluation  
Including the Fourth Quarter  
For Fiscal Year 2005**

## **Change In Compliance Requirements**

**HIPAA “The Security Regulation”**

**Stark II Phase II**

**Medicare Prescription Drug Improvement and Modernization Act**

**EMTALA**

**New OIG Compliance Guidance**

**Sentencing Guidelines**

**New JCAHO Requirements**

**State Regulations**

**OIG Interpretations**

Address the changes and affect of these new regulations and impact on our program.

### **Program Effectiveness Review**

To truly be effective, our program must demonstrate that it has achieved its goals of:

- providing guidance to employees on the organization's expectations of appropriate business conduct;
- giving employees the tools necessary to meet those expectations;
- providing a safe and trusted mechanism for employees to seek further guidance or to raise ethical issues; and
- continually monitoring the program and its various elements in light of current needs and challenges facing the organization.

Add more detail in presentation.

### **Program Effectiveness Review**

If the program is not designed or implemented with those goals in mind, it will not be effective.

The development and operation of a compliance program is an ongoing process; therefore, this review is my evaluation of the program.

This review is based on both the GAO and OIG elements identified as hallmarks of an effective program, as well as the requirements set forth in the Federal Sentencing Guidelines.

Add more detail during presentation.

**Program Effectiveness Review**

**“Snapshot”**

I am using the Balanced Score Card approach to rate my snapshot.

**KEY**

Better Than Expected



As Expected



Worse Than Expected



Explain the balanced score card approach, key and that much of the levels are based on quantification of each element and my opinion as to the effectiveness of each element.

I will identify those elements that can be supported by statics.

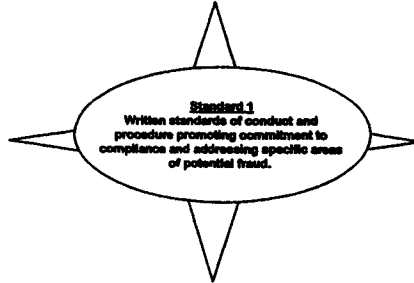
You will see more yellow.

### Code Content

- Describes the districts expectations concerning compliant behavior
- Periodically reviewed for accuracy and updated as needed
- Average reading level is equal to its intended audiences

### Code Dissemination

- System-wide distribution
- Alternative methods, such as newsletters, mailers, etc
- Employees understand code



### Compliance Related Procedures

- Core procedures (reporting, upholding compliance standards, non-retaliation for reports, etc) implemented
- Reviewed/revised on a defined schedule
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## Standard 1

**Written standards of conduct and and  
procedure promoting commitment to  
compliance and addressing specific areas  
of potential fraud.**

## **Code Content**

Describes the districts expectations concerning compliant behavior

Periodically reviewed for accuracy and updated as needed

Average reading level is equal to its intended audiences

**Code Content:** The compliance program has been built upon our written code of conduct which establishes the district's expectations of our employees and other constituents concerning ethical and legal conduct. The new code is a straightforward, easily understood document describing the organization's commitment to operating in compliance with applicable laws, regulations, policies and ethical standards. The code is also tied to the organization's values. The Code is made up of a "Code of Conduct" and a Code of Business Standards" It will be reviewed and updated by the Compliance Committee annually.

Copy Provided.

## **Code Dissemination**

- **System-wide Distribution**
- **Alternative methods, such as newsletters, mailers**
- **Employees understand the Code**

### **Code Dissemination:**

The code has been disseminated to all departments electronically, will be provided to all new employees and will soon be available on the PPH intranet.

Procedure CE.11 Code of Conduct and Business Standards Distribution and Training is completed and going through approval.

The Code is promoted in the "Messenger" on a monthly bases.

2,152 employees demonstrated an understanding of the code during annual training with less then .01% missing code related questions.

I feel this area meets or exceeds the standards



## **Compliance Related Procedures**

- Core Procedures implemented
- Reviewed/revised on a defined schedule
- Average reading level equal to its intended audience

### **General Compliance Related Procedures:**

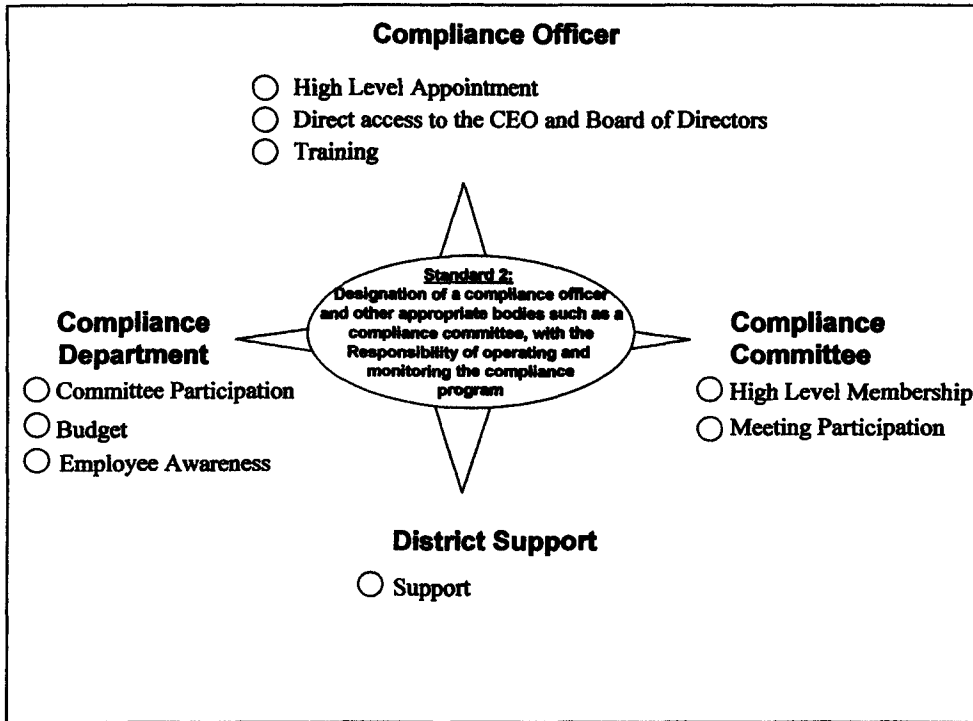
A new Board Policy under the Governance Committee was developed and approved by the Board (GOV-29) and supporting procedures at an average reading level, implementing and supporting the compliance effort and addressing all significant compliance risk areas.

26 compliance procedures will be completed and made readily available to all employees and others (such as contractors) responsible for upholding the procedures by the 15 October. These procedures are working their way through the Compliance Committee and will be periodically reviewed to ensure that they provide appropriate guidance in all significant compliance risk areas.

The adequacy, appropriateness and availability of procedures will be documented and audited.

Attachment list procedures and review dates.

I feel overall this standard meets the requirements



**Standard 2:  
Designation of a compliance officer and other appropriate bodies  
such as a compliance committee, with the Responsibility of  
operating and  
monitoring the compliance program**

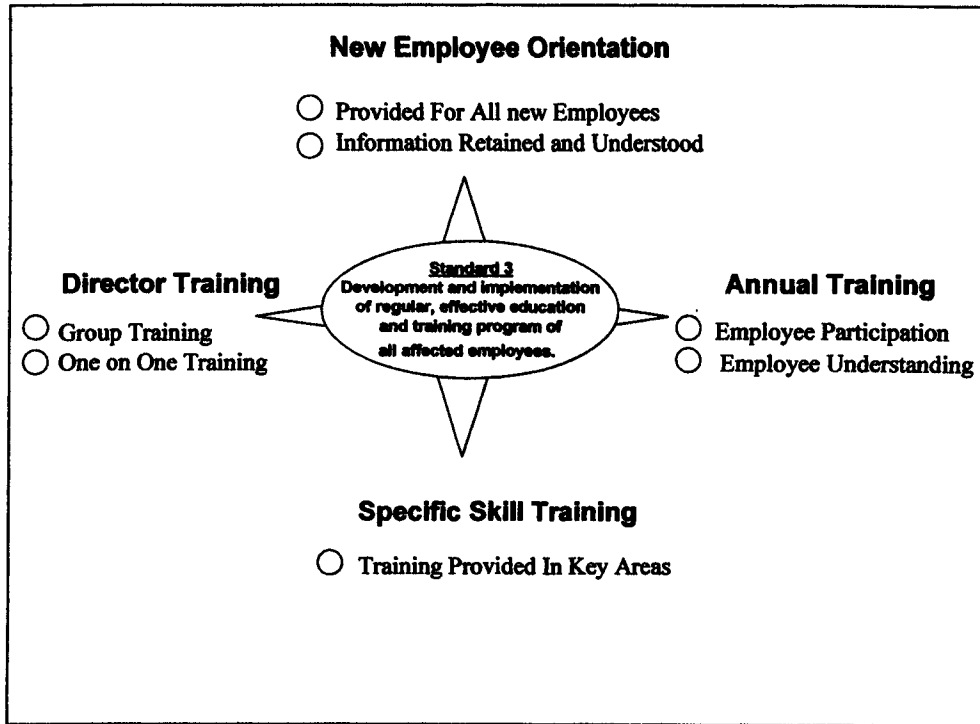
**Compliance Officer:** My unrestricted access to the CEO and Board has been reinforced by the CEO. I have been allowed to attend all requested training.

**Compliance Department, Bio Ethics, IRB, Formulary and Audit :** I have received necessary funds to support the compliance program. Employee knowledge was demonstrated during annual training with 2,391 employees test scores having no area with more then .01%.

**Compliance Committee:** A Compliance Committee has been established and acts on a separate, formally adopted charter defining its oversight responsibilities and authorities with respect to the compliance function. This committee is made up of EMT, high level directors and other employees. It meets quarterly with good attendance. I have no problems getting volunteers to serve on subcommittees. The chair is Terrie Kintzel

**District Support:** Support for the program has come from the highest levels. The district has demonstrated in a clear and unambiguous manner that support for the compliance program comes from Senior Management (the CEO on down) as well as the organization's Board of Directors.

I feel over all this standard meets the requirements

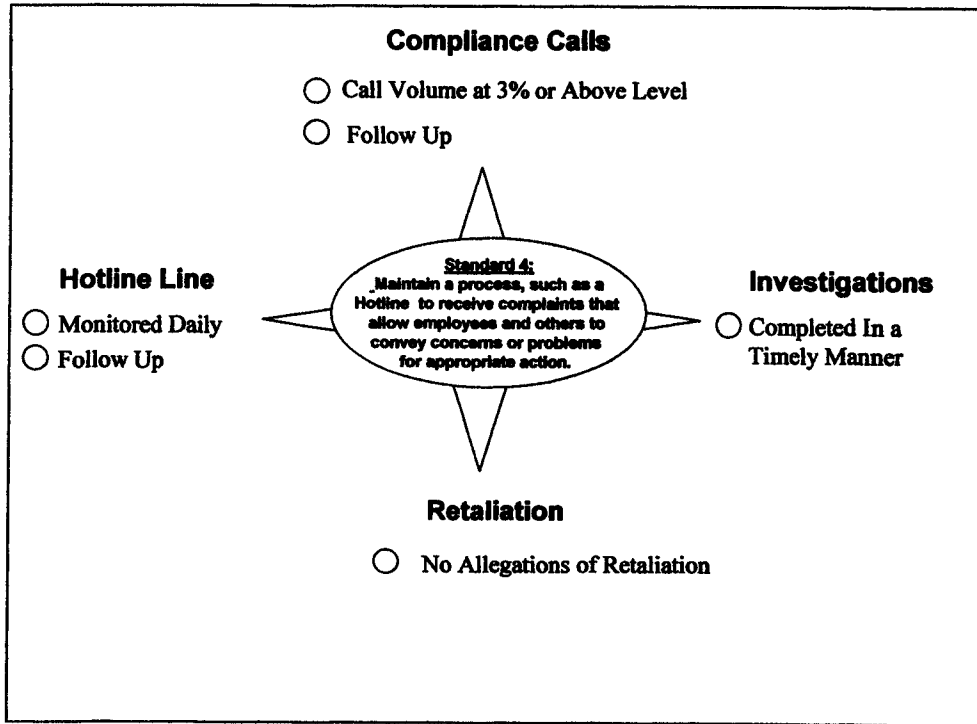


**New Employee Orientation:** This program provides a macro view of the compliance program using case studies and emphasizes integrity. Post training test reflect over 95% retention rate.

**Director Training:** Monthly training designed specifically for directors and above is provided. Additionally I meet one on one with all directors and above within their first month on the job to discuss compliance issues and my support. I am currently working my way through interviews with all Directors and above.

**Annual Training and Specific Skill Training:** Training occurs on two separate tracks. All employee receive annual training on the compliance program itself, including information on the code of conduct, the organization’s reporting mechanism and non-retaliation policy, and the district’s commitment to compliance. Employee knowledge annual training out of 3,152 employees no area had more then .01 missed. In addition, employees in “technical” or compliance risk areas (such as billing and coding, lab, pharmacy, medical documentation, etc.) have received training on how to perform their jobs in accordance with changes in applicable laws and regulations as well as the system’s own policies and procedures. New employee, director and specific skill training had over 1345 participants with very positive feedback.

I feel over all this standard meets or exceeds the requirements



**Compliance Calls:** The compliance officer is available to all employees who have a question or concern about compliance within the organization. I have requested I be called directly. Calls were well above the 3% level. Employee reflected knowledge during annual training less then .01% wrong regarding the reporting procedures.

**Hotline Line :** There is an employee option for reporting anonymously and the report with any follow up to the call remains confidential, to the extent possible under the law.

**Investigations:** There is a process in place to follow up on any calls, initiate any appropriate investigation or respond to caller's questions, in a timely and thorough manner. Some of the issues required investigations and CAPs which are completed in a timely manner.

**Retaliation:** There is a strict policy of non-retaliation against anyone who uses the reporting process, and the organization has the mechanism in place to appropriately discipline anyone who violates that policy. There were no allegations of retaliation for compliance issues.

I feel over all this standard meets the requirements

## **Compliance Calls**

- **Call Volume at 3% or Above Level**

- Quarter 1 = 53 calls
- Quarter 2 = 53 calls
- Quarter 3 = 85 calls
- Quarter 4 = 144 calls

Total for the year = 335 calls

- **Quarter 1 Fy 06 has exceeded 144**

Add more detail during presentation.

## **Calls and Request for Assistance**

### **Total of 335 calls.**

<b>14</b>	<b>Conflict of Interest</b>	<b>8</b>	<b>Health and Safety</b>
<b>29</b>	<b>Manager Issue</b>	<b>40</b>	<b>Billing Practices</b>
<b>19</b>	<b>External Requirements</b>	<b>27</b>	<b>Patient Care</b>
<b>12</b>	<b>Fair Treatment of Employees</b>	<b>20</b>	<b>Policies and Procedures</b>
<b>31</b>	<b>Legal Responsibilities</b>	<b>6</b>	<b>Accuracy of records</b>
<b>2</b>	<b>Payer Issue</b>	<b>6</b>	<b>Use of PPH Assets</b>
<b>33</b>	<b>HIPAA</b>	<b>41</b>	<b>Contracts</b>
<b>12</b>	<b>Foundation</b>	<b>17</b>	<b>Medical Staff</b>
<b>12</b>	<b>PPH Board</b>	<b>2</b>	<b>Other</b>

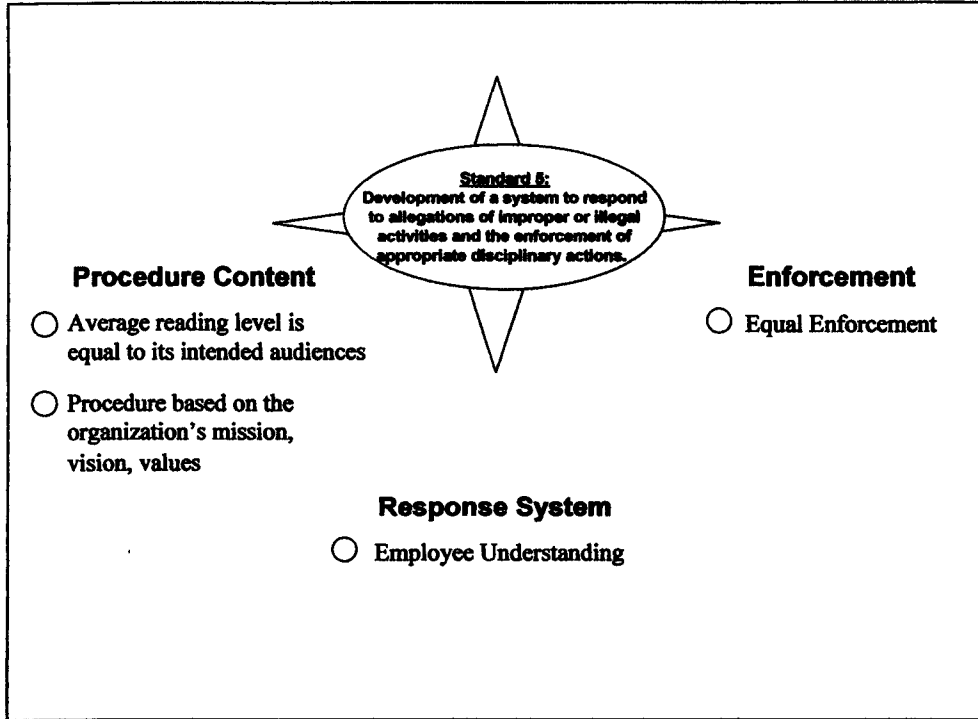
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## **Calls and Request for Assistance**

### **Total of 335 calls.**

- 3    were anonymous or hotline calls**
- 263   were consultative in nature**
- 56   were complaint in nature**
- 13   were informational in nature**

Add more detail during presentation.



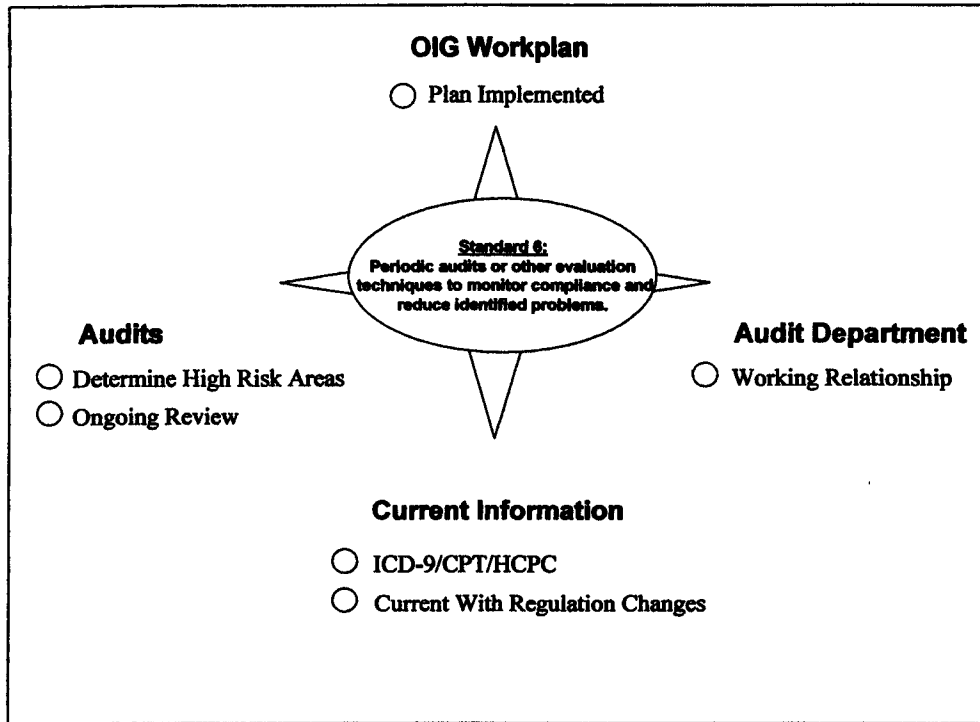
**Procedure Content:** The District has a clear, internally consistent statement of mission, vision and values that is effectively communicated to employees at all levels. Mission, vision and values statements are consistently incorporated into the foundation of all compliance training programs and communication efforts. There is a management decision-making protocol based on the organization's mission, vision, values and commitment to corporate compliance. Employee compliance training is tied to the system's mission, vision and values and employees recognize that compliance is an extension of the organization's commitment to those values.

**Enforcement:** There has been enforcement at all levels for employees violating policies and procedures at all levels.

**Response System :** Employee knowledge annual training 2,341 correct 5 wrong

I feel over all this standard exceeds the requirements





**OIG Workplan:** The OIG work plan was scrutinized by the Compliance Committee and a plan was developed to evaluate the districts risks and address these risks. This was done with the Audit Department. Many of the risk areas defined are also part of the OIGs new compliance program.

**Audits:** Internal audit protocols are being developed for all operational areas and all departments. These protocols are designed to assure the integrity and objectivity of the audit process. Operational areas, including clinical disciplines, will be audited according to an established schedule. Audit protocols will allow for and encourage targeted audits on an as needed basis. The results of internal audits will be reported to the appropriate committee of the Board on a quarterly or on an as needed bases. Leaders from operational areas will have an opportunity to review the internal audit department’s protocols to ensure their ongoing relevance and applicability. Ongoing reviews are being developed using the ACL system.

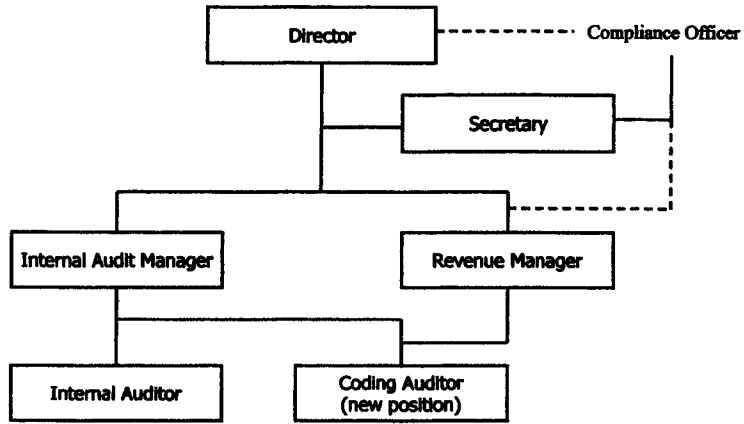
**Detailed HIPAA Audit.**

**Audit Department:** With the hiring of a experienced Internal Auditor and the implementation of a new internal audit department and Board Committee the last part of the compliance program is in place. The working relationship between the departments is exceptional.

**Current Information:** The Compliance Department has circulated updated information on regulation changes to the responsible individuals and has ordered the code books for each department. We also negotiated to get physicians with privileges our discount.

I feel over all this standard meets or exceeds the requirements

# PPH Internal Audit Services



July 2005

## **General Information**

**HIPAA Security Regulation went into effect  
April 21, 2005.**

**PPH Physician Recruitment Contracts are part of the  
the Defense being presented in the United States V  
Weinbaum trial.**

**There is one "Specific Probe" ongoing at this time  
for Villa POM Radiology.**

**Implementation of changes recommended by DHHS  
for a compliance Program are ongoing.**

**PPH Physician Recruitment Contracts are part of the the Defense in the United  
States V Weinbaum trial.**

**Contracts include: bokhari, Greenstein, Potts, Wadhwa and Yoo**

## Summary

The compliance program reflects the organization's operations and potential risk areas for non-compliance, and has met its objectives for the year.

Major operational changes within the organization, such as a major acquisition, new lines of business, or expansion into new geographic areas have been and are being considered and the compliance program has been and will be appropriately modified or supplemented in order to assure that the program accurately reflects the organization's operations.

Appropriate resources have been allocated to assure that the goals of the compliance program can be met.

Closing statement, leave this last thought in their mind.

Ask Paul for his opinion of the program from our attorneys prospective for the past year and how he would rate my interaction with legal.

**Thank You**

Questions?

Take questions

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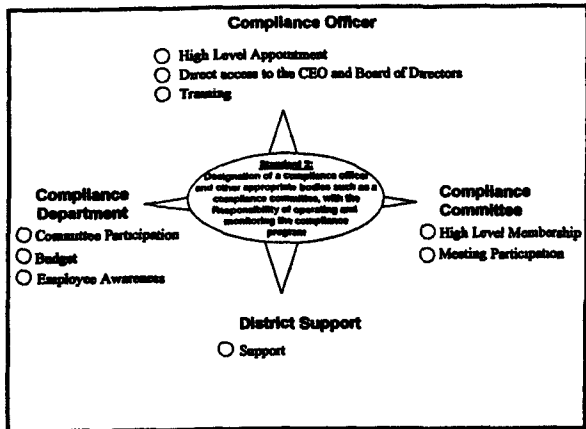
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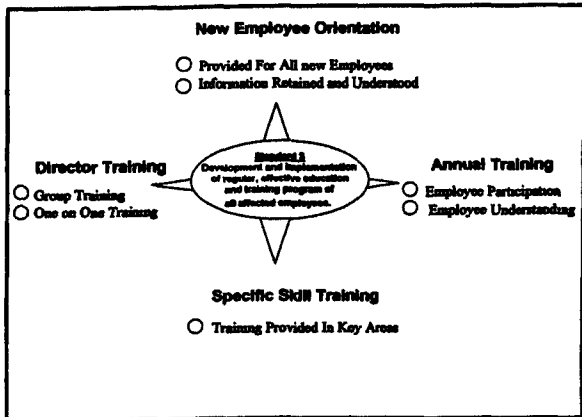
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See Attachment 2

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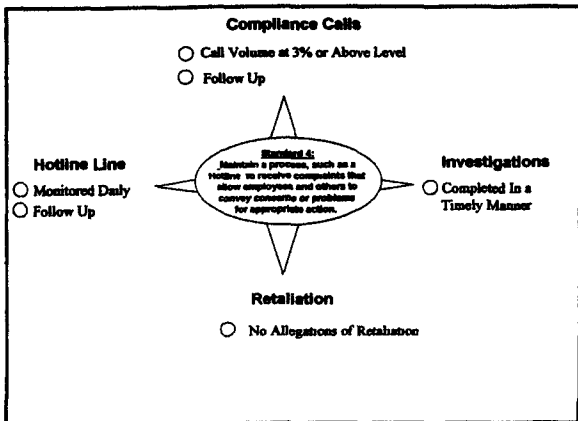
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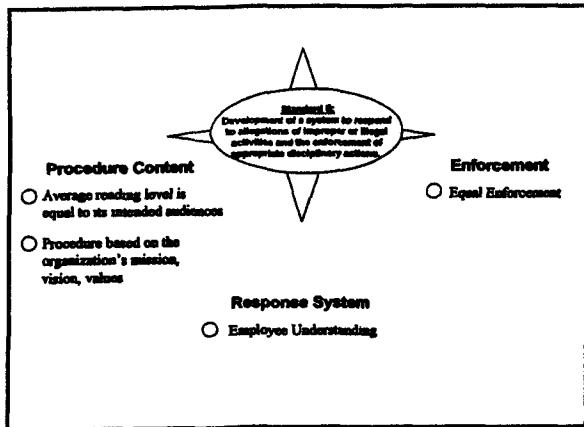
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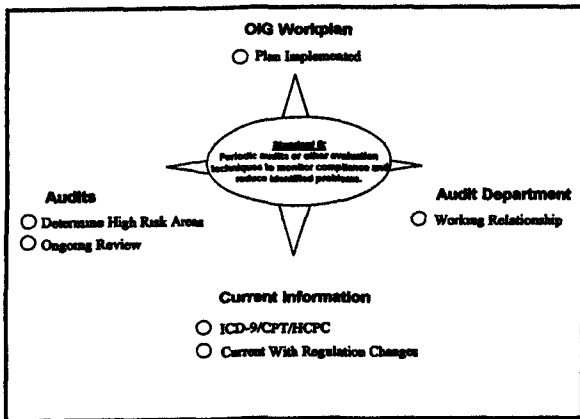
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*See Attachment 3*

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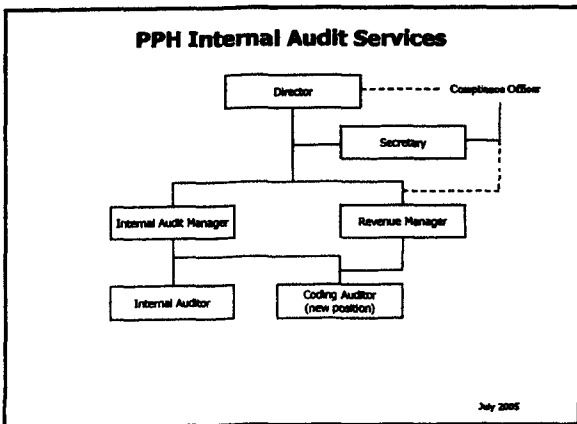
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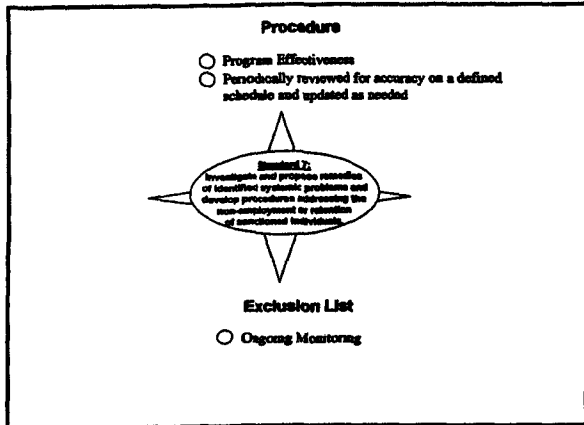
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**Thank You**

Questions?

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# *Promoting Professional Healthcare Standards*

## **Code of Conduct and Business Standards**

August 10, 2005

44  
Attachment 1

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**the**

## **Mission of Palomar Pomerado Health**

**To heal, comfort and promote health in the community we serve.**

**the**

## **Vision of Palomar Pomerado Health**

**PPH will be the health system of choice for patients, physicians and employees, recognized nationally for the highest quality of clinical care and access to comprehensive services.**

**the**

## **Guiding Principles of Palomar Pomerado Health**

**We believe that the interests of our patients are of primary importance to Palomar Pomerado Health. The patient provides the reasons for our existence and the rationale for the resources with which we operate.**

**We believe that we, as representatives of our patients, have an obligation to provide leadership in the health care field. We further believe that leadership in this field carries with it the responsibility for honesty and integrity in all our dealings with our various publics.**

**We believe that the long-term success of our organization is directly dependent on people. We believe our employees are our most valuable asset and every effort should be made towards the continued enhancement of our work force.**

**We will have a strong local presence in the community.**



# **Core Values**

**Integrity drives our commitment to quality service and our commitment to honest, forthright and respectful Relations with our patients, payers, Business Partners, Beneficiaries, vendors and fellow employees.**

**Responsibility makes us accountable for, and accept the consequences of, our behavior. We strive for excellence in everything we do. We can be relied upon to perform our job duties honestly and efficiently. We're all responsible for adhering to the highest legal and ethical standards.**

**Mutual respect creates a work environment based on teamwork, encouragement, trust, concern and honest and responsive communication among all employees.**

**Organizational citizenship mandates that we operate our business in a manner that respects and obeys all applicable laws and regulations governing our business and that we participate in activities intended to improve the quality of life and our community.**

# **Ethical Responsibilities**

The District's Board of Directors has adopted this Code of Business Ethics and Conduct. The Code applies to all Directors and all employees of the District starting from the top of the organization.

It is each employee's responsibility to be familiar with our Code of Business Ethics and Conduct and adhere to all District policies and procedures. Claims of ignorance, good intentions or using poor judgment will not be accepted as excuses for noncompliance. Violations of the law or District policies and procedures will result in disciplinary action, from warnings or reprimands up to and including termination of employment. Maintaining ethical standards is in everyone's interest. If you know of a problem, you cannot remain silent. You must step forward to help solve it!

Supervisors are responsible for the actions of their employees. Supervisors have a special responsibility to create and maintain a work environment where employees know that ethical and legal behavior is expected of them. Supervisors will be responsible for making sure that their employees understand and apply the ethical standards set out in the Code. To do so, Supervisors must listen to their employees and act on their concerns. Leadership requires setting a personal example of high ethical standards in the performance of your job.

The term "Supervisor" is used throughout the Code in the general sense, meaning to include any person who directly supervises a District employee whether that person's actual title is Supervisor, Manager, Director, Vice President, Senior Vice President, Executive Vice President or other officer of the District.

## **CODE OF CONDUCT PRINCIPLES**

In support of its mission PPH has developed the Code to maintain high ethical standards. The "Code" is made up of The Principles of Conduct and The Code of Business Standards that together define PPH's legal and ethical requirements. The Code applies to all PPH Personnel, including administrators, directors, managers, physicians.

1. All PPH personnel shall treat patients without discrimination and with respect, dignity and professionalism without regard to race, age, gender, religion, national origin, medical condition, physical or mental disability, ancestry, marital status, sexual orientation, citizenship, ability to speak English or status as a covered veteran.
2. PPH personnel shall adhere to all applicable standards of professional practice and ethical behavior in carrying out the business of the clinical enterprise and should not feel forced or compelled to participate in unethical, improper or illegal conduct.
3. All personnel are encouraged to report their concerns if they believe that patient care is at risk or the ethical and business standards defined in the Code have not been met. There will be no retaliation against personnel who, in good faith, report suspected noncompliance or raise concerns about compliance issues.
4. All personnel who have questions regarding any of the standards or who suspect that the standard is not being met, should follow the procedure for the communication of questions, concerns or reporting violations. Personnel may seek advice from a number of sources, including, but not limited to, notification of a supervisor, Corporate Compliance Officer, PPH General Counsel or by contacting the confidential Compliance Hot Line.
5. PPH personnel shall immediately communicate questions and concerns to a supervisor if federal regulations, or if a federal or state healthcare insurance carrier's instructions are not clear. The supervisor should, when necessary, work collaboratively with the Compliance Officer, auditor, federal and/or state government carriers, and other payers to clarify and revise policies, procedures and instructions in order to prevent future errors or mistakes.
6. Since unintentional errors can occur in the normal course of doing business, it is the responsibility of PPH, as a health care provider, and the federal government's contracted carrier to make timely and appropriate reporting and reimbursement adjustments for such errors.

*Remember, if you do not understand, or if you have any questions concerning these principles or any other part of the Code, contact your Supervisor, a higher level Supervisor, any of the District Resources listed on Page 8 or call the District Integrity HOTLINE (1-800-850-2551).*

# Addressing Integrity

## Concerns

Our business is governed by complex, demanding and ever changing laws, rules and regulations. We recognize that the application of these laws, rules and regulations can create uncertainty for employees in some situations. Our organization is committed to ensuring that each employee is provided the support and training that are necessary to perform his or her job in an ethical and legal manner.

Questions and concerns about the proper way to handle different situations may, and often do, arise. Open discussions of issues and concerns by all employees without any fear of retaliation is essential to the effectiveness of our District Compliance Program. The District Compliance Program has been established to help resolve any concerns or questions an employee may have about business ethics and integrity.

It is always a good idea to ask questions when you are not sure about whether an action or situation may be improper. We all have the responsibility for not only engaging in appropriate business conduct, but also for reporting any activity which we, in good faith, believe may be a violation of any applicable laws or regulations, or the Code of Business Ethics and Conduct. The District has an absolute policy against any retribution or retaliation for bringing forth a good faith concern. Any person who violates this policy will be subject to disciplinary action.

*You are encouraged to use the following steps to resolve any questions or concerns:*

### **Step 1**

When in doubt, ask and keep asking until you get an answer that makes sense.

- Is any law or regulation being violated?
- Is the action consistent with our values, our Code of Business Ethics and Conduct, and our District policies?
- If you know it is wrong, don't do it!

**Step 2**

Discuss the issue with your immediate Supervisor who knows you and the issues in your workplace. Give your Supervisor a chance to solve the problem. If your Supervisor cannot find the answer, or if you are not comfortable discussing the issue with your Supervisor, go to the next step.

**Step 3**

Discuss the issue with a higher level Supervisor. If the matter is still not resolved to your satisfaction, or if you are not comfortable discussing this issue with a higher level Supervisor, go to the next step.

**Step 4**

Discuss the issue with other available District Resources (a list of which is on the following page) or the District's Compliance Officer. If you are not comfortable taking this step, go to the next step.

**Step 5**

Call our District Integrity HOTLINE at 1-800-850-2551. Your call can be anonymous; you are not required to provide your name.

See Page 8.

# Resources Available to Address Integrity Concerns

Title and Name	Phone Number
Compliance Department	
Jim Neal	
Corporate Compliance Officer .....	(858) 675 – 5259
Confidential Fax Number .....	(858) 675 – 5181
Hotline .....	(800) 850 – 2551
Human Resources Department	
Wally George	
Chief Human Resources Officer .....	(858) 675 – 5268
Finance Department	
Bob Hemker	
Chief Financial Officer .....	(858) 675 – 5567
Information Systems Department	
Chief Information Officer .....	(858) 675 – 5034
HIPAA	
HIPAA Security Officer .....	(858) 675 – 5034
Kimberly Jackson	
HIPAA Privacy Officer.....	(858) 613-4615
.....	(760) 739-3290

# District Integrity

## HOTLINE

**1-800-850-2551**

Our District is committed to the policy that *all employees have an obligation to report problems or concerns involving ethical or compliance violations*. We have a District Integrity HOTLINE that allows us to seek guidance or report a matter of concern. The toll free number is **1-800-850-2551**.

*All calls to our HOTLINE can be made anonymously and without fear of retribution.* Employees are encouraged to provide adequate information to assist with further investigation. The calls are not traced, and the information is treated in a confidential manner, subject to the limits imposed by law. Careful efforts will be made to ensure that investigations are handled with the utmost confidentiality. The District has a policy of nonretaliation against any employee who makes a good faith call to the Compliance Officer. Any employee who violates this nonretaliation policy will be subject to disciplinary action up to and including termination of employment.

The District Integrity HOTLINE is intended to supplement existing internal communication channels. It is not intended to replace your local management team, Senior Management or other District Resources listed on the previous page. The District Integrity HOTLINE is available when you believe that you have exhausted normal District channels or feel uncomfortable about bringing an issue to your Supervisor or higher level Management.

The District Integrity HOTLINE is available 24 hours a day, seven days a week.

# Questions

and

# Answers

**Q Do I need to identify myself if I call the HOTLINE?**

**A** It is not necessary to identify yourself when you call the District Integrity HOTLINE. You should, however, be prepared to provide enough information about an incident or circumstance to allow the District to start an investigation. It is our policy to protect the anonymity of callers, subject to the limits imposed by law. You can be assured that all calls will be treated confidentially. However, if you tell others about a District Integrity HOTLINE call, your anonymity may be lost.

**Q Will I be informed if my concern was investigated and/or of the outcome of the investigation?**

**A** All District Integrity HOTLINE calls are taken seriously. Where appropriate, formal investigations will be conducted discretely and professionally. However, feedback is often limited by our obligation to protect the rights of all parties involved. Of course, if your call is anonymous, we are not likely to be able to get back to you.

**Q What information should I have to make a report?**

**A** Because each incident is different, there is no one correct way of documenting it. However, the following ground rules can provide general help in guiding you through the process. These questions should also be used in instances where an oral report is being submitted either by telephone or in person.

1. Describe the situation and the business area involved.
2. Do you know of the situation from your direct observance or did someone tell you about the situation?



3. How did the situation occur? (Was a procedure followed or not followed? Was an instruction given from a Manager or a Supervisor? Did a fellow employee or group of employees decide on an action?)
4. At what time or times did the situation occur? (Include dates and an approximate time, period of time or series of times.)
5. Where did/does the situation occur? (Specify a department, unit, facility or other location.)
6. Who was/is involved?
7. Has anyone else observed the situation?
8. Who or what might be affected by the misconduct? (Would it affect internal or external reports? Would another unit be affected? Would customers, members or providers be affected?)
9. Are there any documents or other evidence to support your report?
10. Have you discussed this matter with anyone else? Have you ever tried to report this situation before? If yes, to whom and when?

# Integrity

## Standard

### Compliance With the Law

#### **POLICY**

It is the policy of the District to comply with all federal, state and local laws and regulations which apply to our business. Any questions or concerns regarding specific laws, regulations or any legal issue should be promptly brought to the attention of the Compliance Officer.

If you are not sure an action or a proposed action is legal, contact your Supervisor or the Compliance Officer or follow other steps described in the section of the code entitled "Addressing Integrity Concerns" on Page 5. Remember, you may call the District Integrity HOTLINE to speak anonymously about your concern. If someone tells you to do something you think is wrong, you have an obligation to speak up. The District has an absolute policy against any retribution or retaliation for bringing forth a good faith concern.

All contracts entered into on behalf of the District must be executed by District Officers. These officers are responsible for ensuring that such contracts are consistent with District policies and are, in the officer's best business judgment, in the best interest of the District. In addition, all contracts entered into on behalf of the District must be reviewed and approved by the Compliance Officer to ensure compliance with applicable laws and regulations.

# Questions

and

## Answers

**Q** My Supervisor has directed me to do something that I believe is against the law. I'm afraid that if I don't do what I am told, my job will be in jeopardy. What should I do?

**A** Discuss the situation with your Supervisor to be certain that you both understand the facts of the situation and that he or she is fully aware of your concerns. If that conversation does not resolve the matter to your satisfaction, bring your concern to a higher level Supervisor or to the Compliance Department. They will assist you in reaching the right answer. You may also call our District Integrity HOTLINE to express your concern anonymously. Do not risk the loss of your job or the District's future by taking part in what you believe may be an illegal or unethical activity. There are no circumstances where breaking the law would be acceptable to the District.

**Q** I was at a meeting with a potential joint venture partner, and he asked me to sign a nondisclosure agreement to obtain a copy of his information package. Is it proper for me to sign such a document?

**A** You must not sign any nondisclosure agreements or any other agreements or contracts on behalf of the District unless you have been authorized to do so by Senior Management and have had the agreement reviewed and approved by the proper Responsible Officer.

*Remember, if you do not understand, or if you have any questions concerning this Integrity Standard or any other part of the Code, contact your Supervisor, a higher level Supervisor, any of the District Resources listed on Page 8 or call the District Integrity HOTLINE (1-800-850-2551).*

# Integrity

## Standard

### Quality of Service

#### **POLICY**

We are committed to providing services of the highest quality and value to our customers. In providing our services, we will strive to provide prompt and accurate services consistent with contractual benefits, District policies, procedures and regulatory requirements.

We will bill promptly and accurately.

We will serve our customers in a professional manner with integrity and respect.

We will comply with all statutes, regulations and instructions that apply to the administration of our compliance programs.

We will continue to seek new approaches to increase the quality of service delivered to our customers while ensuring that it is delivered in a cost effective manner.

# Questions

and

# Answers

**Q** I overheard one of my co-workers being rude to a customer. When asked for his name, the representative refused to give it and disconnected the caller. Should I report this to my supervisor?

**A** Yes. Our customers are very important to us. We always want to serve them courteously. Your Supervisor will want to contact the customer, apologize and address the customer's concerns appropriately. Your Supervisor will also counsel the employee to prevent similar situations in the future

**Q** One of our large groups has a special benefit requirement that is difficult to understand. I continually hear customer service representatives give incorrect information concerning this benefit. I do not want to get anyone in trouble, but I am concerned that this may impact this group's satisfaction with our service. What should I do?

**A** Discuss this with your Supervisor and let him or her know your concerns. Additional training or one on one coaching may be needed to ensure employees have the knowledge and information needed to provide quality service.

*Remember, if you do not understand, or if you have any questions concerning this Integrity Standard or any other part of the Code, contact your Supervisor, a higher level Supervisor, any of the District Resources listed on Page 8 or call the District Integrity HOTLINE (1-800-850-2551).*

# Integrity

## Standard

### Work Environment

#### **POLICY**

We are committed to maintaining a work environment where we treat each other with honesty, dignity and respect. We value the diverse contributions of all people, regardless of their position, sexual preference, family status, age, race, sex, disability, religion or national origin. All employment practices are based on ability and performance.

The diversity of employees is a great asset. Valuing all employees as unique individuals leads to a more productive and fulfilling work environment.

All employees have the right to work in, and the District is committed to, an environment free from harassment and discrimination. Privacy and dignity will be respected where all employees are protected from offensive, obscene or threatening behavior. The District will not tolerate sexual advances, actions, comments, inappropriate physical contact or any other conduct that is intimidating or otherwise creates an offensive or hostile work environment.

The District often needs to acquire and retain personal information on individual employees for effective operation of our District. It is the policy of the District to maintain the confidentiality of this information and to limit access to authorized persons who need the information for business or legal purposes.

All employees have a right to, and the District is committed to, a safe and healthy working environment that is also free from illegal drugs, violence, threats of violence and the influence of alcohol. The District prohibits the illegal use, sale, purchase, transfer or possession of controlled substances — other than medically prescribed drugs while on District premises. Similarly, District policy prohibits the unauthorized use, sale, purchase, transfer or possession of drugs alcohol by employees on District premises.

# Questions

and

## Answers

- Q** If an employee is terminated or resigns from the District and his or her potential employer calls for a reference, does our District give information on job performance, attendance or compensation to the potential employer?
- A** No. Regardless of whether an employee is terminated or resigns, District policy does not allow for the disclosure of the contents of his or her personnel files to the prospective employer. The only information provided is verification that the person worked at the District and dates of employment. Salary information will be released only with the employee's written consent.
- Q** One of my co-workers has a habit of telling questionable ethnic or "off color" jokes. This offends me and others in my group. How can I get this to stop?
- A** District policy prohibits this type of behavior. You have the option of discussing your feelings with the person telling the joke. If you prefer or cannot resolve the matter in this way, you should talk with your Supervisor or the Human Relations Department. You may also call the District Integrity HOTLINE.
- Q** What qualifies as sexual harassment, and what can I do if I believe that it is happening to me?
- A** Sexual harassment is defined as sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature:
1. when submission of such conduct is made a term or condition of an individual's employment;
  2. when submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such individuals; or

3. when such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

If you believe that you have been the subject of sexual harassment, you should notify your Supervisor or the Human Resources Department. You may also call the District Integrity HOTLINE.

*Remember*, if you do not understand, or if you have any questions concerning this Integrity Standard or any other part of the Code, contact your Supervisor, a higher level Supervisor, any of the District Resources listed on Page 8 or call the District Integrity HOTLINE (1-800-850-2551).



# Integrity

## Standard

### Conflict of Interest

#### **POLICY**

We must avoid situations where our personal interests could conflict, or reasonably appear to conflict, with the interest of the District. We must be free of actual, apparent or potential conflicts of interest when dealing with persons or business entities on behalf of the District. A conflict of interest occurs whenever an employee permits the prospect of direct or indirect personal gain to improperly influence his or her judgment or actions in the conduct of District business. It is not possible for the Code of Business Ethics and Conduct to list every type of potential conflict of interest. When in doubt, share the facts of the situation with your Supervisor or the Compliance Department.

We must award business solely on merit, getting the best value for the District, and wherever practical, on a competitive basis. Do not conduct business with any firm in which you or your family have a direct or indirect interest (5 percent or greater ownership or controlling interest).

We may not use information that comes to us in the course of employment for personal investment or gain, nor can we provide this type of information to members of our family or others.

A conflict of interest may also exist if the demands of any outside activity hinder or distract us from the performance of our job or even appear to influence our judgment or performance for the District. Generally, any outside employment with a competitor, provider or entity which does or seeks to do business with the District is not permitted.

We must avoid direct or indirect responsibility for the hiring or supervision of a family member. Even the appearance of favoritism can have a degrading effect on employee morale and perception of the District's fairness to all employees. Employment of family members is permitted so long as employees are not reporting directly or indirectly to each other.

# Questions

and

## Answers

- Q** My spouse is employed by a vender that believes it can supply higher quality and less expensive supplies to our District than the current vendor. Can we deal with our District?
- A** In this case yes, as long as you stay out of the purchasing decision, the District will be able to reach an independent judgment. Always notify the Purchasing Department of any close relationship you have with any of our vendors.
- Q** I have an outside business selling fitness products. Can I use District bulletin boards, e-mail or inter office mail to advertise these products to other District employees?
- A** No. You are free to engage in an outside business (provided there is no actual or potential conflict of interest) on your own time and off District premises. Products or services associated with your outside business should not be solicited or promoted during work hours or on District property. Neither should you use the District's name, its facilities or resources (e.g., time, telephones, copy machines) to engage in any personal business activity.
- Q** I am a an Ultra Sound Therapist and have an opportunity to moonlight with a vendor that provides on-call personnel to PPH, I will not work at PPH facilites. Can I take the job?
- A** Generally, District employees may not have outside employment with any provider, competitor or entity which does or seeks to do business with the District. It would be inappropriate for you to work for any physician group that files claims with or otherwise does business with the District. If you have questions on any type of outside employment, contact your Supervisor.

Remember, if you do not understand, or if you have any questions concerning this Integrity Standard or any other part of the Code, contact your Supervisor, a higher level Supervisor, any of the District Resources listed on Page 8 or call the District Integrity HOTLINE (1-800-850-2551).

# Integrity

## Standard

### Gifts, Gratuities and Kickbacks

#### **POLICY**

We maintain the high standards of integrity and objectivity in dealing with vendors, payers and service providers. We are prohibited from accepting or giving gifts or gratuities beyond common business courtesies of nominal value. Gifts or items of value should never be offered to government employees. Under no circumstances will we accept or give kickbacks in return for improperly obtaining, influencing or rewarding favorable treatment in obtaining contracts, services, referrals, goods or business. District employees will never accept or borrow money from patients or patient families.

We will not accept or offer gifts, gratuities or favors, except those associate with, and business courtesies of a nominal value of \$50 or less. The value of all gifts received in one year from all sources must not exceed \$340. Gifts exceeding this policy may be made to customers or other persons subject to Chief Executive Officers approval.

We must not offer or accept gifts of cash or cash equivalents to or from any current former or potential vendor, patient, visitor, broker or provider.

Entertainment and meals offered or received by employes as part of legitimate business activity are not included in the \$50 gift limit, but must be within the boundaries of reason and moderation. Generally, raffles and prizes that are part of the business activity are not considered gifts.

# Questions

and

# Answers

- Q** A vendor has invited me to evaluate some new equipment which the District is thinking of purchasing at its District headquarters in another city. The vendor has offered to pay all of my expenses. Is this okay?
- A** No. You must avoid even the appearance that your decision, to buy might be improperly influenced. If there is a business need to evaluate this equipment, the District should pay all expenses.
- Q** A group of District employees worked with a consulting firm on an important special project. After successfully completing the project, the consultant presented each member of the group with an engraved pen and pencil set, which is under \$50.00 in value, as a memento of the project. Is it okay to accept this gift?
- A** Yes. This is a customary business courtesy and does not give the appearance of improperly influencing your judgment.
- Q** Should District employees accept compensation for participating in professional committees or panel discussions, or making presentations related to District business?
- A** No. District employees may not receive compensation for such participation. Compensation for these types of activities is often referred to as an honorarium. If an honorarium is paid to an individual, it should be returned to the sender promptly with a letter explaining the District's policy, and a copy of the letter declining the honorarium should be sent to the Compliance Officer.

**Q** I was given a Christmas card from a patient with a hundred dollar bill, may I keep the money ?

**A** No. District employees may not take money from any patient. In this situation the money should be returned to the patient or family. If they are not willing to take the money back the Department may use the money to buy pizza and soda during training activities. Remember if you do not report this money you're violating District Policy.

Remember, if you do not understand, or if you have any questions concerning this Integrity Standard or any other part of the Code, contact your Supervisor, a higher level Supervisor, any of the District Resources listed on Page 8 or call the District Integrity HOTLINE (1-800-850-2551).

# Integrity

## Standard

### Accuracy of Records

#### **POLICY**

Accuracy and reliability in the preparation of all business records is mandated by law and is of critical importance to the District's decision making processes and to the proper discharge of our financial, legal and reporting obligations. We must ensure that all District records, business expense accounts, vouchers, bills, payrolls, service records and reports, whether electronic or on paper, are reliable, accurate and complete. Transactions between the District and outside individuals and organizations must be promptly and accurately entered in District records in accordance with District policies and procedures. We must never misrepresent facts or falsify records. False or misleading entries on records are unlawful and are not permitted. All records should be stored for the period of time required by applicable law or contract or District policy, whichever is longest.

We will keep accurate, true and complete District records. We must never create a false or misleading record including, but not limited to, vouchers, financial information, performance measurement data, payroll records, fixed asset records, benefits enrollment forms or claims, expense accounts, or other records pertaining to District business. Nor will we improperly alter or make false entries on, or willfully fail to make correct entries on any District record or document.

We will create and submit only true and accurate reports. We must not create or submit false or misleading reports of operating statistics or measurements, such as sales reports, performance data and utilization data. If you are not sure of the accuracy or reliability of information, take steps to verify it or immediately contact your Supervisor for advice.

We will preserve and maintain District records in accordance with the District's document retention procedures. We must not improperly destroy any District accounts, records or other official District documents. Nor will we improperly alter or make false entries or willfully fail to make correct entries on any District record or document.

When litigation, a government audit or investigation is imminent or pending, our normal document destruction procedures will be suspended until all documents relevant to the litigation, audit or investigation can be identified and segregated.

We will follow appropriate District procedures to ensure that errors are corrected, as they become known, through credits, refunds or other mutually acceptable means.

# Questions

and

## Answers

**Q** Why is accurate record keeping so important?

**A** Both the law and our many business relationships require the District to prepare and retain a large number of records and reports. It is the District's policy to do so accurately, completely and honestly. If the District fails to maintain accurate records, including the submission of inaccurate reports, our District and, in some cases, individual employees could be subject to fines and other civil or criminal penalties.

**Q** I am concerned about the accuracy of the reports we are providing to some of our large groups that have performance guarantee requirements. What should I do?

**A** Discuss your concerns with your Supervisor to make sure you understand the reporting requirements. If you are not comfortable doing that, or if you still have concerns after talking with your Supervisor, contact the Compliance Officer or one of the other District Resources listed on Page 8. The accuracy of information we provide to groups is a very important matter. Many of our larger groups routinely exercise their right to audit the performance guarantee results. A misstatement or misrepresentation of the results could damage our reputation and relationship with the group. False reporting to either governmental or private plans may subject the District and individuals to civil and/or criminal liability.

**Q** How will I know if a document that is scheduled for destruction under District policy is relevant to pending litigation, investigation or audit?



**A** When the District becomes aware that such a legal proceeding, audit or investigation has commenced, or is imminent, the Compliance Officer or Risk Manager will circulate a memorandum identifying which records and documents are relevant to the pending legal proceeding, investigation or audit and may not be destroyed. As more information becomes available, the Compliance Officer or Risk Manager will inform departments as to which, if any, of the previously identified documents may be destroyed. If you receive information regarding a potential government investigation or audit, or litigation to which the District is a party, promptly notify your Supervisor, the Compliance Officer or Risk Manager.

**Q** **If I need a certain record for a point past the scheduled destruction time, should I retain a personal copy?**

**A** Most, though not all, records will be destroyed in accordance with a specific schedule; this schedule depends upon a number of factors, such as legal and business requirements, whether the document contains business information or patient medical data, and the like. Ordinarily, you should not keep personal copies of documents scheduled for destruction. If you believe that a certain record or category of records should be kept for a longer time, notify your Supervisor.

# Integrity

## Standard

### Confidentiality of Information

#### **POLICY**

PPH must protect the confidentiality of the information handled by the District. Because these documents and records often contain confidential patient or business information, it is critical that information from these documents and records not be improperly disclosed to third parties. PPH employees will take precautions to avoid accidental disclosures of confidential or privileged information, records or documents. All HIPAA rules will be followed. Within the District, PPH will share confidential information only with those employees who have a legitimate need to know the information. PPH will maintain and protect the confidentiality of information handled by the District and other proprietary or confidential information even after termination of employment with the District.

#### **Medical Record and Claim Information**

We will disclose medical record and claim information outside the District only to authorized persons or entities. We will disclose medical record and claim information within the District only on a "need to know" basis for the purpose of conducting District business. These requirements continue to apply even after you leave the District's employment.

#### **Proprietary Business Information**

We will not give confidential or proprietary District information to unauthorized persons, such as competitors, suppliers or outside contractors without proper authorization. This includes financial information, customer lists, discounts, special prices, computer data and computer programs, as well as descriptions of District processes or operations. These requirements continue to apply even after you leave the District's employment.

## **Passwords**

We will protect and maintain the confidentiality and integrity of information used to access our systems, including but not limited to, passwords and other personal security codes. We will keep our passwords and other personal security codes confidential. We recognize that we are each responsible for the actions resulting from the use of our passwords. We will not share our passwords or let others use our computers while we are logged on.

# Questions

and

## Answers

**Q** Why is protecting confidential medical information so important ?

**A** Improper disclosures regarding someone's privacy, damages or reputations, cause embarrassment, and invite lawsuits. Improper disclosures may also be violations of the District's Agreement or contract with the government agency or another entity. Therefore, the privacy and confidentiality of each Covered Persons medical and claim information must be protected in accordance with the organization's policies and procedures.

**Q** Why shouldn't employee share their passwords and other personal security codes?

**A** All of our Information Security mechanisms require user IDs and passwords to authenticate an individual's identity and establish approved access and rights. If multiple individuals have access to the same user IDs and passwords, it is impossible to tell who did what. Sharing of user IDs and passwords is strictly prohibited. Every employee is responsible for the confidentiality of his or her user ID, password and other personal security codes, and will be held accountable for anything done with his or her user ID and password.

Organizational documents and files must be stored and secured on District servers in order to ensure both their recoverability as well as access by the proper individuals. Whenever it is necessary for an Information Technology Technician to work on a computer, the employee must be present to enter his or her passwords and provide oversight.

Remember, if you do not understand, or if you have any questions concerning this Integrity Standard or any other part of the Code, contact your Supervisor, a higher level Supervisor, any of the District Resources listed on Page 8 or call the District Integrity HOTLINE (1-800-850-2551).

# Integrity

## Standard

### Fair Competition

#### **POLICY**

The District is committed to a policy of vigorous, lawful and ethical competition which is based on the merits of our products and services. We will maintain the trust of our customers and payers by developing and providing high quality products and services in a fair, ethical and legal manner.

We will maintain trust by striving to ensure that our sales materials, advertisements and other communications accurately and fairly describe our products and services.

We will promote our products and services through fair and accurate comparisons with our competitors.

We are partners in the overall delivery of health care, we will be fair and honest in all dealings with health care providers and payers.

It is the policy of the organization to comply with all applicable antitrust and competition laws. These laws are very complex, but, in general, they prohibit agreements or conduct that may restrain trade or reduce competition. They are intended to provide a variety of products and services at competitive prices.

We will avoid all contracts, agreements and understandings which unlawfully reduce or eliminate competition where the production or sale of products or services.

**We will refuse any agreements with competitors to establish or fix prices or to divide or allocate markets by market segment, geography or by any other means.**

**We will exercise special care to ensure that our discussions and activities with representatives of other companies are compliant with antitrust laws.**

**Employees who have questions about potential antitrust implications or antitrust practices should contact the Compliance Department.**

**We will compete fairly. Information about competitors, customers and providers is a viable asset and a highly competitive market. However, no illegal or unethical means of obtaining this information will be tolerated. No information should be sought or used that would violate antitrust laws, or laws and contracts protecting proprietary data.**

# Questions

and

## Answers

- Q** A representative of one of our competitors proposes that we both freeze our prices on one of our procedures for a six month period to show our mutual commitment to restraining healthcare costs. The other providers representative says this is legal because we are limiting the price we will charge customers. Is this legal?
- A** No. It may be illegal. Maximum price fixing arrangements may be just as illegal under the antitrust laws as a minimum price fixing of agreements. You should avoid any discussion of prices with competitors and consult with the compliance department any time you receive a similar proposal.
- Q** Do I have to have a specific reason for refusing to do business with a particular broker, vendor or consultant?
- A** We have a broad discretion to decide with whom we will do business as long as we have legitimate business reasons and are not engaged in anti-competitive practices. If you have any questions about whether a particular practice is anti-competitive, contact the Compliance Department.

*Remember, if you do not understand, or if you have any questions concerning this Integrity Standard or any other part of the Code, contact your Supervisor, a higher level Supervisor, any of the District Resources listed on Page 8 or call the District Integrity HOTLINE (1-800-850-2551).*

# Integrity

## Standard

### Proper Use of District Assets

#### **POLICY**

District assets are to be used for the benefit of the organization. District assets include, but are not limited to, equipment, furniture, office supplies, District funds, employee time, and computer supplies and software. In addition, District assets also include District data, business strategies and Plans, financial data, and other proprietary or confidential information about the organization business or its employees. We have a responsibility to protect the organization's assets and to ensure that they are used exclusively for valid District purposes.

We will use and maintain District assets with the utmost care and respect, guarding against waste, abuse loss and theft.

We will not give confidential or proprietary District information to unauthorized persons, such as competitors, suppliers or outside contractors without proper authorization.

We will not make unauthorized copies of computer software programs or use personal software on District computer equipment. The creating or loading of unauthorized software onto District PCs, workstations or other computer systems is strictly prohibited. The loading or emailing of proprietary PPH software or information to any non-PPH employee is prohibited unless authorized by senior management. Such unauthorized actions could cause the destruction of information or computer systems, and other technical problems (for example, incompatible drivers or commands or viruses) or other substantial harm, if not approved by and coordinated with appropriate Information Systems personnel in advance. In addition, the unauthorized copying or use of unauthorized software could be a violation of federal copyright laws and could



result in civil and or criminal liability.

# Questions

and

## Answers

**Q** If I notice an employee intentionally misusing, damaging or stealing District property, what should I do?

**A** We all have an obligation to treat District property and equipment with care and respect. If you are aware of anyone intentionally or negligently damaging or stealing District property or equipment, report your observations to management, who will investigate the matter and take appropriate actions.

**Q** Can I supply a list of our clients to an outside source?

**A** Client lists are a viable asset and should never be disclosed to anyone outside the District without specific management approval.

**Q** Can I download documents, pictures, media clips or free software from the Internet for distribution, printing or use on my computer?

**A** No. All of us must limit our Internet access to business use only. Documents, pictures and media clips can be downloaded only if they are related to a legitimate business need and if allowed by the Internet host site. However, copyright laws must be applied prior to any distribution or copying, even if there is a legitimate business need.

Business related free software should not be loaded on a District computer at any time unless authorized and installed by the appropriate information systems resources. Unauthorized loading of free software is strictly prohibited. In many cases, free software may be contaminated with viruses or conflict with other computer architecture, which could disrupt not only your computer but also the main frame

# Integrity

## Standard

### Cooperating With the Government

#### **POLICY**

We cooperate with all reasonable requests for information from governmental agencies. All information provided will be truthful and accurate. Requests for information other than routine forms must be forwarded to the Compliance Officer.

We must always show respect for government and regulatory officials.

We must always provide accurate and complete information to government agencies. We must ensure that information we provide to government agencies includes all material facts necessary to ensure that the information submitted is not misleading.

We must never lie or make false or misleading statements, whether oral or written, to any government official or agency.

We must never attempt to persuade any District employee, or any other person, to provide false or misleading information to a government official or agency.

We must never destroy or alter any District document or record in anticipation of or following a request for the document or record by a government agency or court.

We will abide by all applicable laws, rules and regulations relating to gifts and entertainment of government officials and employees. See the Gifts, Gratuities and Kickbacks Integrity Standard.

If approached by any person who identifies himself or herself as a government investigator, you should contact the Compliance Officer immediately. A representative of the Compliance Officer will then assist you in following proper procedures for cooperating with the investigation.

Do not feel pressured to talk to a government investigator without first contacting our Compliance Officer. It is our policy to provide consultation with our Compliance Officer to any employee who is contacted in connection with a government investigation of the District.

# Questions

and

# Answers

- Q** What should I do if I am contacted by a law enforcement person who requests information about our District?
- A** You should notify Compliance or Risk Management Department of the request promptly and *before* providing any information. Explain to the law enforcement person that District policy requires notification of Compliance or Risk Management before any information is provided. The Compliance or Risk Management Department will evaluate the request, including whether a subpoena will be required for disclosure of the requested information.

# Integrity

## Standard

### Political Activity

#### **POLICY**

Federal laws restrict the use of District funds in connection with federal elections, and there are similar laws in many states. It is the policy of the District that neither District funds, the District name, nor District facilities shall be used directly or indirectly for political purposes on behalf of candidates for political office, political parties or elected incumbent office holders at any level, federal, state or local, except as permitted by law. The District will not reimburse employees for contributions to political candidates or causes.

Employees are encouraged to vote and participate fully in the political process. However, we cannot use District resources to vote and be active in political activities. We must do it on our own time and at our own expense. The District will, however, comply with the requirements of any applicable laws entitling employees to excused "time off" for voting.

# Questions

and

## Answers

**Q** Can I, on occasion, do some volunteer work monitoring Collection practices during various municipal, state, and federal elections?

**A** You may use vacation days to work as a volunteer in the election related activities mentioned. However, no reimbursement will be made by the District for any expenses which you incur.

**Q** Can I speak at a local club meeting on the issues of health care reform?

**A** Yes, for our district. If you are asked to represent our District in a formal capacity, you should discuss the matter and review your proposal presentation with our public affairs office.

**Q** Can I post literature about political issues or elections?

**A** No, as a public entity PPH must remain neutral regarding all political issues or elections.

# Conclusion

This Code of Business Ethics and Conduct reflects the District's commitment to the highest standards of legal and ethical business conduct. The Code does not contain all District policies or include all details regarding any policy. Rather, the Code sets forth the fundamental legal and ethical principles for conducting all aspects of District business. Detailed policies and procedures for conducting District business are contained in:

Nothing contained in the Code of Business Ethics and Conduct constitutes a contract of employment. The Code should not be construed as creating an express or implied contract of employment or continued employment by the District. The District reserves the right to modify the Code of Business Ethics and Conduct at any time as it deems appropriate. Revisions will be provided to all employees.



# Employee Compliance Attestation Form

Facility: \_\_\_\_\_

Department: \_\_\_\_\_

Name: \_\_\_\_\_

Email Address: \_\_\_\_\_

This form will be signed by all employees to signify their awareness of compliance efforts at Palomar Pomerado Health. By signing below, I attest and certify that:

1. I understand that Palomar Pomerado Health is committed to ethical provision of health care and management of business activities.
2. I understand that Palomar Pomerado Health is committed to billing only for services that were actually rendered and are medically necessary to the health and well being of our patients.
3. I understand that Palomar Pomerado Health is committed to assessing and coding accurately the services provided.
4. I understand that Palomar Pomerado Health is committed to adhere to all contracts and agreements it is a party to.
5. I understand that Palomar Pomerado Health is committed to a policy of support for those who identify and report suspected fraud and abuse, including a policy prohibiting retribution or retaliation against staff members who report suspected fraud and abuse.
6. In keeping with Palomar Pomerado Health values, I agree to conduct my duties in an ethical manner.
7. I understand that I have an obligation to report suspected instances of fraud or abuse.
8. I understand that, if I am listed on the OIG List of Excluded Individuals and Entities (LEIE), the General Services Administration (GSA) list of debarred contractors, or other federal exclusion lists, Palomar Pomerado Health cannot employ me.
9. I certify that I am not listed on the LEIE or the GSA list of debarred contractors.
10. I know that Jim Neal is Palomar Pomerado Health's compliance officer; I know what the compliance reporting mechanisms are and how to use them.
11. I understand that adherence to organization policy, laws and regulations is a condition of my employment and that disciplinary action, up to and including termination, will result from deliberate acts of noncompliance.
12. I agree to read and to comply with the standards contained in the Palomar Pomerado Health Corporate Integrity Manual.
13. I understand that I am not authorized to release any patient information unless authorized by my supervisor.
14. I agree to read and to comply with the standards contained in the Palomar Pomerado Health Code of Conduct and Business Standards.
15. I will only access business information for which I have legitimate business purposes.

16. I understand that medical information is confidential and restricted to legitimate medical need to know for diagnoses, treatment and care of a particular patient, or for health care operations and may be accessed only as outlined in my job descriptions.
17. I will exercise the "minimum necessary rule" when accessing or releasing information as permitted through the course of my duties.
18. I understand that this rule requires me to determine what minimum information sets are required to carry out the purpose of the access or disclosure. Nothing beyond what is needed will be accessed or released.
19. I will hold confidential information in the strictest confidence and not disclosed information to any person or in any manner, which is inconsistent with applicable policies and procedures.
20. I understand that access to computerized data is granted to employees for legitimate job related use. The combination of individual USERID and password constitutes my electronic signature.
21. I understand that I am not authorized to grant access to the PPH computerized information system to another individual by divulging my password.
22. I understand that I must close the PPH computerized information system containing patient identifiable information if I leave the computer for any period of time.
23. I understand that patient information may only be stored in authorized locations such as a hard copy medical record jacket. Exceptions may be incorporated into departmental procedures as an exception approved in writing by PPH.
24. I understand that all patient identifiable information including labels, copies etc., must be shredded or disposed of in a designated confidential trash bin.
25. I understand that patient identifiable information will be backed up to a network location or other authorized backup. I will not copy patient identifiable information to a floppy disk, hard drive, CD or other portable storage device. Exceptions may be incorporated into the department procedure so long as approved by the PPH HIPAA Security Officer or Chief Information Officer.
26. I understand that patient identifiable information such as medical records, x-rays, etc. will not be transported in personal vehicles unless there is department specific authorizations. This information must be transported by the Courier system. (see department specific regulations for exceptions)
27. I understand that disciplinary action or termination of employment, privileges, or educational affiliation, will conform with current human resources procedures, medical staff bylaws, or other applicable rules and regulations.
28. I understand that legal action could be taken against me on behalf of the person whose information I inappropriately disclosed.
29. I understand that fines and/or incarceration may also be imposed for the inappropriate release of patient identifiable information.
30. I understand that these listed obligations shall continue indefinitely, including after my termination of association with PPH.
31. I understand that Palomar Pomerado Health reserves the right to occasionally amend, modify and update the Code of Business Standards, Code of Conduct and the Corporate Integrity Manual.

If you have any questions regarding this form, contact the Director Corporate Compliance at 858-675-5259.

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Last update 8/6/05

# Code of Business Ethics and Conduct

## New Employee Compliance Certification

My signature on this form certifies that:

- I read the Code of Business Ethics and Conduct;
- I understand the purpose of the Code and how it applies to me;
- I agree to comply with the Code.

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Signature

---

Date

---

Printed Name

---

Telephone Extension

---

Department/ Location

# Code of Business Ethics and Conduct

## Annual Employee Compliance Certification

I, \_\_\_\_\_, am an employee of the Palomar  
(print name)  
Pomerado Health District (PPH).

I certify that I have read the PPH " Business Ethics and Conduct" and will comply with the same;

I further certify that, except as specified below, I have complied with all of the provisions of the Code during the past year;

I further certified that, and except as specified below, I have no knowledge, nor do I have reason to believe, that any PPH employee has violated any provisions of the Code during the past year;

I understand that any individual and who fails to report the violation of any provision of the Code may face discipline up to and including termination of employment.

Exception:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(please attach additional sheets if necessary)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Telephone Extension

\_\_\_\_\_  
Department/ Location

## Specific Skills Training For Fiscal year 2005

Attendance	Title	Tape/ CD	Materials	Date	Location
7	Diagnosis Coding for Congestive Heart Failure – (AHIMA)	N/A	X	6/3/04	Conf Rm A
4	Effective Discharge Planning: Proven Strategies to Avoid Compliance and Reimbursement Pitfalls	T	X	6/8/04	PMC
5	Advanced Interventional Radiology Coding (AHIMA)		X	6/17/04	Conf Rm D Innov
3	Assisting Low-Income, Uninsured Patients – (CHA)	N/A	X	6/22/04	Conf Rm E Innov
4	Radiology Modifiers: How to Ensure Correct Coding and Reimbursement	CD	X	7/21/04	Conf Rm E Innov
4	Facility-based chemotherapy and infusions: coding, charging, and billing best practices	CD	X	7/27/04	Conf Rm E Innov
4	2005 Proposed OPPS Rule: Analysis and Tips to Prepare for the Financial Impact "	CD	X	8/18/04	Conf Rm A Innov
5	The Impact of the New and Revised 2005 ICD-9-CM Codes: Navigating Through the Changes	CD	X	8/31/04	Conf Rm A Innov
1	Auditing APCs: Strategies for Revenue Recovery and Compliance	CD	X	9/29/04	Conf Rm A Innov
6	Understanding Consolidated Billing Practical Strategies to Comply with CMS Regulations	CD	X	10/28/04	Conf Rm A Innov
3	Teaming Coders with Case Managers to Enhance Documentation and Compliance	CD	X	11/10/04	Conf Rm A Innov
3	Auditing PFS: Strategies to Improve Billing and Collections	CD	X	2/24/05 10:00	Conf Rm A Innov
9	Coding Sepsis/SIRS/Septicemia (AHIMA)	CD		2/24/05	Conf Rm A Innov
2	Overturning the Sentencing Guidelines Impact on Compliance and Internal Investigations	CD	X	3/25/05 10:00	Conf Rm A Innov

Attendance	Title	Tape/ CD	Materials	Date	Location
8	Medicare Part B: Billing Beyond the Basics for Optimum Reimbursement	CD	X	4/19/05 10:00	Conf Rm B Innov
6	Coding for Emergency Department Services (AHIMA)		X	4/21/05 10:00	PMC OB Classroom
4	Cardiac Stents: Manage Compliance in the Face of Federal Scrutiny	CD	X	4/26/05	Conf Rm A Innov
4	APC Auditing Survival Strategies	CD	X	4/26/05	Conf Rm A Innov
3	Using the OIG Work Plan to Shape your Compliance Program	none	none	5/18/05	Conf Rm A Innov

**2006**

**ANNUAL COMPLIANCE  
PLAN**

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*Attachment 3*

# **Annual Compliance Plan For FY 2006**

This plan has been developed primarily using the goals established by the CEO, the Office of the Inspector General's (OIG) Work Plan and issues indicating possible risk areas to the organization. The plan has been designed to work closely with the Internal Audit Department's annual plan. This plan has been reviewed and approved by the Compliance Committee, Internal Audit, and the CEO.

The following areas will be addressed by the Compliance and Audit Departments to be completed by June 30, 2006. Updates will be provided during the quarterly reports to the Compliance Committee, EMT and the Board of Directors with an overall evaluation as part of the Annual Compliance Report. The following areas are not stated in any priority. Priority will depend on risk evaluation and availability of information from all sources.

1. The Compliance Department will evaluate requirements for the Baldrige Award and put into place ethics standards and emphasize the importance of these standards to all staff;
2. Expand communications using on-line Compliance training and testing for all staff;
3. Continue to implement contract evaluations to assure compliance with Federal laws, State laws; Sarbanes Oxley; and District requirements;
4. Provide orientation of all new leadership from Director up so that they are aware of PPH's ethical standards and Compliance requirements;
5. Expand Compliance Education for Medical Staff ;
6. Provide Medical Staff training on the physicians section of the OIG Work Plan.
7. Evaluate IS program and implementation of new software to insure compliance with current PPH needs and other mandates;
8. Evaluate PPH compliance with current HIPAA standards;
9. Redesign, as required, the PPH Compliance Program to meet the new "Guidelines" from DHHS;
10. Provide training specifically for Coders and Billers to ensure that they are current with changes to the regulations;
11. Request new "National Provider Identifiers" (NPI) for the district and provide training to the Medical Staff on acquiring their NPIs;
12. Complete an evaluation of the Compliance Program from an outside organization;
13. Develop and implement a joint Audit/Compliance Risk Assessment;
14. Attachment 1 describes how the OIG Work Plan is evaluated;



**ATTACHMENT 1**  
**Office of Inspector General**  
**Fiscal Year 2005 Work Plan**

The 2005 work plan was released in November of 2004. The OIG Work Plan briefly describes the various project areas that they perceive as critical to the mission of the OIG and to the Department of Health and Human Services. The OIG Work Plan is separated into twenty sections.

The following is an overview of my evaluation of the OIG Work Plan as it impacts Palomar Pomerado Health's daily operations. This process is a critical part of the Compliance and Internal Audit Departments' strategic plan for the protection of Palomar Pomerado Health (PPH) and to ensure compliance with all state and federal rules and regulations.

**Step 1:** I download a copy of the new OIG Work Plan from the Department Health and Human Services web site reading it through completely. I then went back through and determined which sections were applicable to PPH.

**Step 2:** I will established an OIG Work Plan Subcommittee made up of the following individuals: Jim Neal, Compliance Officer; Terrie Kensel, Director Patient Business Services; Kimberly Jackson, Director HIM; Mark Reyes, District Director of Laboratories; Virginia Barragan, District Director of Outpatient Rehabilitation Services; Elissa Hamilton, Director Home Health; Tom Boyle, Director Audit Services; K Macomb, Compliance Auditor; and Lynn Moore, Outside Consultant.

**Step 3:** I studied all Sections in great detail making copious notes and eliminating those areas that were easily identifiable as "not applicable" to PPH. These areas are listed in enclosure 1 and on the each coversheet. These sheets will be sent out to key members of the OIG Work Plan subcommittee for review and input. Any item that is questionable as being applicable to PPH will be researched, discussed and if found applicable, will be added to the list of items to be reviewed and evaluated.

**Step 4:** I consolidated all applicable areas of these subsections into the following four: i) Medicare Hospitals, with 12 applicable areas, enclosure 2; ii) Medicare Nursing Homes, with 14 applicable areas, enclosure 3; iii) Medicare Home Health, with 2 applicable areas, enclosure 3; and iv) Medicare Other Medicare services (with 12 applicable areas) enclosure 5. We plan on addressing all 40 areas identified.

**Step 5:** Work sheets have been developed (enclosures 2-1, 3-1, 4-1, 5-1) for each of these four consolidated applicable areas that identified:

- 1) The project area and responsible person:
  - a. The project areas were restated in this column directly out of the OIG Work Plan
  - b. Responsible person was assigned by the Compliance Officer or subcommittee members as that person responsible for the area or with the ability to compile the information.
- 2) An overview of the OIG's concerns as identified in the work planned:
  - a. This column consist of a brief explanation of the project area as outlined in the OIG
- 3) Risk Rating Level:
  - a. Risk rating categories were divided into: 1 = minimal risk, 2 = low-risk, 3 = moderate Risk, 4 = high risk.
  - b. Risk levels will be established based on the following input:

- i. Areas identified in newsletters, training, and audio conferences.
    - ii. Areas identified by key personnel as presenting risk.
    - iii. Areas identified as risk in past OIG Work Plans.
  - c. Work Plan, newsletters and Training Class attended by the Compliance Officer and subcommittee members were used to determine areas of concern identified by the OIG.
- 4) Evaluation steps:
  - a. The process that will be used to evaluate PPH's Compliance with project areas identified in the OIG Work Plan.
  - b. Items that did not apply were eliminated and listed
- 5) Conclusion:
  - a. The final determination of PPH's Compliance with project areas identified in the OIG Work Plan will be based on programming violations.
  - b. A new risk-rating category will be applied to each project area based on the final conclusions.

**Step 6:** I have assigned project areas to responsible people and am waiting for feedback, which is due no later than August 31, 2005. This feedback will include validation steps and risk ratings. This information will then be provided to key members of the OIG Work Plan Subcommittee for their evaluation and recommendations. This subcommittee will also confirmed evaluation steps, conclusions and risk ratings.

**Step 7:** A report will be made to the compliance committee. The compliance committee will also confirmed evaluation steps, conclusions and risk ratings.

# Enclosure 1

## Areas Not Applicable

<b>Do Not Apply</b>	<b>Why "Not Applicable"</b>
Quality Improvement Organization Mediation of Beneficiary Complaints	Start 2006
Medical Education Payments for Dental and Podiatry Residents	For teaching Hospitals only
Nursing and Allied Health Education Payments	Not part NAH
Graduate Medical Education Voluntary Supervision in Nonhospital Settings	Not GME facility
Inpatient Rehabilitation Facilities Payments	Out source
Inpatient Rehabilitation Payments—Late Assessments	Out source
Consecutive Inpatient Stays	Study
Long-Term Care Hospitals Payments	Not long term facility
Level of Care in Long-Term Care Hospitals	Not long term facility
Critical Access Hospitals	Not a Critical Access Hospital
Organ Acquisition Costs	Do not do organ transplants
Beneficiary Access to Home Health Agencies	Study
Effect of Prospective Payment System on Quality of Home Health Care	Study
Access to Skilled Nursing Facilities Under the Prospective Payment System	Study
Use of Additional Funds Provided to Skilled Nursing Facilities	Study
Nursing Home Deficiency Trends	Study
Enforcement Actions Against Noncompliant Nursing Homes	State actions
Nursing Home Informal Dispute Resolution	State actions
State Compliance With Complaint Investigation Guidelines	State actions
Billing Service Companies	Physician
Medicare Payments to VA Physicians	VA only
Care Plan Oversight	Physician
Physician Pathology Services	Physician
Cardiography and Echocardiography Services	Physician
Part B Mental Health Services	Physician
Coding of Evaluation and Management Services	Physician
Use of Modifier -25	Physician
"Long Distance" Physician Claims	2006
Provider-Based Entities	Physician practice ownership
Enhanced Managed Care Payments	PPH does not have Managed Care Organizations
Medical Necessity of Durable Medical Equipment	PPH is not a DME
Medicare Pricing of Equipment and Supplies	PPH is not a DME
Prescription Drug Cards	Part of the MAA
Employer Subsidies for Drug Coverage	Part of the MAA
Beneficiary Understanding of Drug Discount Card Program	Part of the MAA
Computation of Average Sales Price	Part of the MAA
Collecting and Maintaining Average Sales Price Data	Part of the MAA
Adequacy of Reimbursement Rate for Drugs Under ASP	Part of the MAA
Payments for Non-End-Stage Renal Disease Epoetin Alfa	Part of the MAA
New Payment Provisions for Ambulance Services	CMS review
Air Ambulance Services	CMS review
Quality of Care in Dialysis Facilities	State issue
Monitoring of Market Prices for Part B Drugs	Study
Emergency Health Services for Undocumented Aliens	CMS review

<b>Do Not Apply</b>	<b>Why "Not Applicable"</b>
Benefit Stabilization Fund	PPH is not a MCO
Adjusted Community Rate Proposals	PPH is not a MCO
Followup on Adjusted Community Rate Proposals	PPH is not a MCO
Administrative Costs	PPH is not a MCO
Managed Care Encounter Data	PPH is not a MCO
Enhanced Managed Care Payments	PPH is not a MCO
Enhanced Payments Under the Risk Adjustment Model	PPH is not a MCO
Managed Care Excessive Medical Costs	PPH is not a MCO
Duplicate Medicare Payments to Cost-Based Plans	PPH is not a MCO
Prompt Payment	PPH is not a MCO
Marketing Practices of MCOs	PPH is not a MCO
Managed Care "Deeming" Organizations	PPH is not a MCO
Preaward Reviews of Contract Proposals	Contract Oversight
CMS Oversight of Contractor Performance	Contract Oversight
Program Safeguard Contractor Performance	Contract Oversight
Accuracy of the Provider Enrollment, Chain, and Ownership System	Contract Oversight
Handling of Beneficiary Inquiries	Contract Oversight
Carrier Medical Review: Progressive Corrective Action	Contract Oversight
Duplicate Medicare Part B Payments	Contract Oversight
Contractors' Administrative Costs	Contract Oversight
Pension Segmentation	Contract Oversight
Pension Costs Claimed	Contract Oversight
Unfunded Pension Costs	Contract Oversight
Pension Segment Closing	Contract Oversight
Postretirement Benefits and Supplemental Employee Retirement Plan Costs	Contract Oversight
Medicaid Graduate Medical Education Payments	No GME
Hospital Outlier Payments	Medicaid state issue
Disproportionate Share Hospital Payments	Medicaid state issue
Hospital Eligibility for Disproportionate Share Hospital Payments	Medicaid state issue
Payments to Public Nursing Facilities	Study state issue
Community Residence Claims	Study state issue
Assisted Living Facilities	PPH does not have
Medicaid Home Health Care Services	PPH does not have
Targeted Case Management	Study state issue
Personal Care Services	Study state issue
Home- and Community-Based Services Administrative Costs	Study state issue
Medicaid Eligibility and the Working Disabled	Study state issue
Nursing Home Residents With Mental Illness and Mental Retardation	Study state issue
Claims for Residents of Institutions for Mental Diseases	Study state issue
Medicaid Services for Mentally Disabled Persons	Study state issue
Rehabilitation Services for Persons With Mental Illnesses	Study state issue
Community Mental Health Centers	Study state issue
Medicaid Reimbursement for Intermediate Care Facilities	Study state issue
Restraint and Seclusion in Children's Psychiatric Residential Treatment Facilities	Study state issue
Duplicate Claims for Medicaid and State Children's Health Insurance Program	Study state issue
Medicaid/State Children's Health Insurance Program	Study state issue

<b>Do Not Apply</b>	<b>Why "Not Applicable"</b>
Enrollment of Medicaid Eligibles in SCHIP	Study state issue
State Evaluations of SCHIP Programs	Study state issue
Detecting and Investigating Fraud and Abuse in SCHIP	Study state issue
Medicaid Drug Reimbursement	Study
Medicaid Drug Rebates—Computation of AMP and Best Price	Study
Oversight of Drug Manufacturer Recalculations for Medicaid Drug Rebates	CMS Oversight of Drug Manufacturer
<b>Indexing the Generic Drug Rebate</b>	Study
Drug Rebate Impact From Drugs Incorrectly Classified as Generic	Study
Medicaid Drug Rebate Collections	State Issue
Accuracy of Pricing Drugs in the Federal Upper Limit Program	Study
Medicaid Drug Utilization Review Program	Study
Family Planning Services	State Issue
School-Based Health Services	State Issue
<b>Adult Rehabilitative Services</b>	State Issue
Controls Over the Vaccine for Children Program	State Issue
Claims Paid for Clinical Diagnostic Laboratory Services	State Issue
Development, Referral, and Disposition of Medicaid Fraud Cases	State Issue
<b>Contingency Fee Payment Arrangements</b>	State Issue
Upper Payment Limits	State Issue
Calculation of Upper Payment Limits for Transition States	State Issue
State Match for Medicaid Upper Payment Limit Reimbursement	State Issue
Medicaid Provider Tax Issues	State Issue
State-Employed Physicians and Other Practitioners	State Issue
Skilled Professional Medical Personnel	State Issue
Physician Assistant Reimbursement	Physician Issue
Medicaid Claims for Excluded Providers	State Issue
Administrative Costs of Other Public Agencies	State Issue
Administrative Costs for Medicaid Managed Care Contracts	State Issue
University-Contributed Indirect Costs	State Issue
Federal Financial Participation for Medicaid Cost Allocation Plans	State Issue
Medicaid Accounts Receivable	State Issue
Section 1115 Demonstration Waiver	State Issue
Medicaid FFS Payments for Beneficiaries Enrolled in Managed Care	State Issue
CMS Oversight of Home- and Community-Based Waivers	Study
Security Planning for CMS Systems Under Development	Study
Accuracy of the Fraud Investigation Database	Study
Medicaid Statistical Information System	State Issue
State Controls Over Medicaid Payments and Program Eligibility	State Issue
CMS systems to determine the security of the data	Study
<b>Replacement State Medicaid System</b>	State Issue
Smart Card Technology	Study
University Hospital HIPAA	Study
FY 2004 Medicare Error Rate Estimate	Study
Group Purchasing Organizations	Study

**Do Not Apply**

Contractual Arrangements With Suppliers

Corporate Integrity Agreements

State Medical Boards as a Source of Patient Safety Data

Nursing Home Quality of Care: Promising Approaches

CMS model practice systems associated with positive outcomes.

Payments to Psychiatric Facilities Improperly Certified as Nursing Facilities

**Why "Not Applicable"**

Study

Study

Study

Study

Study

Study

# Enclosure 2

## Medicare Hospitals

Medicare Hospitals	Risk Level	Responsible Person	Item List Number	Assigned Completion Date	Date Completed
1 Postacute Care Transfers					
2 Diagnosis-Related Group Coding					
3 Inpatient Prospective Payment System Wage Indices					
4 Inpatient Outlier and Other Charge-Related Issues					
5 Medical Necessity of Inpatient Psychiatric Stays					
6 Rebates Paid to Hospitals					
7 Coronary Artery Stents					
8 Outpatient Cardiac Rehabilitation Services					
9 Outpatient Outlier and Other Charge-Related Issues					
10 Lifetime Reserve Days					
11 Hospital Reporting of Restraint-Related Deaths					
12 Medicaid Diagnosis-Related Group Payment Window					

### Do Not Apply

#### Quality Improvement Organization Mediation of Beneficiary

- 1 Complaints
- 2 Medical Education Payments for Dental and Podiatry Residents
- 3 Nursing and Allied Health Education Payments

#### Graduate Medical Education Voluntary Supervision in Nonhospital

- 4 Settings
- 5 Inpatient Rehabilitation Facilities Payments
- 6 Inpatient Rehabilitation Payments—Late Assessments
- 7 Consecutive Inpatient Stays
- 8 Long-Term Care Hospitals Payments
- 9 Level of Care in Long-Term Care Hospitals
- 10 Critical Access Hospitals
- 11 Organ Acquisition Costs

### Why "Not Applicable"

- Start 2006
- For teaching Hospitals only
- Not part NAH
- Not GME facility
- Out source
- Out source
- Study
- Not long term facility
- Not long term facility
- Not a Critical Access Hospital
- Do not do organ transplants

**Enclosure 2-1  
 MEDICARE HOSPITALS  
 Office of Inspector General (OIG)  
 2005 WORKPLAN**

7/5/05

Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
1. Postacute Care Transfers  <u>K. McComb</u>	To limit payments to acute care hospitals for patients who are discharged from a prospective payment system inpatient hospital and admitted to one of several postacute-care settings. This limitation applies to certain diagnosis-related groups (DRG).			
2. Diagnosis-Related Group Coding  <u>K. McComb</u>	OIG will examine DRGs that have a history of aberrant coding to determine whether some acute care hospitals exhibit aberrant coding patterns. Under the prospective payment system, the DRGs for inpatient acute care depend on accurate coding of diagnoses and procedures. Inaccurate coding by hospitals can lead to Medicare overpayments. CMS will determine coding payment error rates and incorporate the results of a recent review by quality improvement organizations.			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comments:**

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Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
3. Inpatient Prospective Payment System Wage Indices  <u>Lynn Moore</u>	<p>CMS will determine whether hospital and Medicare controls are adequate to ensure the accuracy of the hospital wage data used for calculating wage indices for the inpatient prospective payment system. They believe that the wage indices are vulnerable to inaccuracy because the data used to calculate them for many metropolitan statistical areas are significantly influenced by information reported by a single hospital. Consequently, a hospital that reports incorrect wage data through its Medicare cost report could receive incorrect DRG reimbursement. CMS will determine the effect on the Medicare program in terms of incorrect DRG reimbursement.</p>			
4. Inpatient Outlier and Other Charge- Related Issues <u>K. McComb</u> <u>V. Barragan</u>	<p>CMS will review payments to inpatient rehabilitation facilities under the prospective payment system to determine the extent to which they were made in accordance with Medicare laws and regulations. CMS will determine the extent to which admissions to inpatient rehabilitation facilities (IRF) met specific regulatory requirements and whether the facilities billed for services in compliance with Medicare prospective payment system regulations, such as the regulations.</p>			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comments:**

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Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
5. Medical Necessity of Inpatient Psychiatric Stays  S. Linback	<p>This review will determine the extent of any improper Medicare payments for inpatient psychiatric stays due to medical necessity or coverage issues. CMS will also assess the accuracy of controls to detect any such improper payments. Prospective payment system-exempt psychiatric units and specialty hospitals received over \$2.8 billion for Medicare inpatient stays in 2000. Medical reviews of outpatient psychiatric services provided by prospective payment hospitals and specialty psychiatric hospitals found very high rates of unsupported or unallowable services (58 percent and 42 percent, respectively). Hence, it is prudent to also review these services in the inpatient setting.</p>			
6. Rebates Paid to Hospitals  <u>Lynn Moore</u>	<p>This review will determine whether hospitals are properly identifying purchase credits as a separate line item in their Medicare cost reports. CMS will visit several large vendors and determine the amount of rebates paid to hospitals in a given year. CMS will then examine a sample of hospitals' Medicare cost reports to determine if the rebates are properly credited.</p>			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comments:**

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Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
7. Coronary Artery Stents.  This was addressed on the 2004 OIG Workplan  <u>K. McComb</u>	<p>CMS will review inpatient and outpatient claims involving arterial stent implantation to determine whether Medicare payments for these services were appropriate. Through medical reviews, we will determine if the services were medically necessary and supported by adequate documentation.</p> <p>CMS will also review claims for beneficiaries who had stent implantations during multiple surgical procedures to determine if the implantations should have been performed simultaneously.</p>			
8. Outpatient Cardiac Rehabilitation Services  <u>K. McComb</u> <u>V. Barragan</u>	<p>At the request of CMS, OIG will attempt to determine whether cardiac rehabilitation services provided by hospital outpatient departments met Medicare coverage requirements. Medicare covers such rehabilitation under the "incident-to" a physician's professional services benefit, which requires that the services of nonphysician personnel be furnished under the physician's direct supervision.</p>			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comments:**

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Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
9. Outpatient Outlier and Other Charge- Related Issues  K. McComb	CMS will determine whether outlier payments to hospital outpatient departments and community mental health centers were in accordance with Medicare laws and regulations and whether current Medicare reimbursement mechanisms appropriately reimburse providers as intended.			
10. Lifetime Reserve Days  L. Apfelbaum	CMS will determine how hospitals comply with the current requirement to notify Medicare beneficiaries about the use of lifetime reserve days and also assess the appropriateness and feasibility of providing an additional notification prior to a beneficiary's exhaustion of them. Medicare beneficiaries are entitled to an unlimited number of 90-day episodes of hospital care. They may also extend their inpatient benefit by up to a lifetime total of 60 days. These are called lifetime reserve days; they are not renewable. The MMA requires us to examine both current notice requirements and a contemplated additional notice at the end of this benefit.			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comments:**

Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
11. Hospital Reporting of Restraint-Related Deaths <u>J. Frienke</u>	CMS will assess hospital compliance with Medicare conditions of participation issued in July 1999, which require hospitals to report all patient deaths that may have been caused by restraints or seclusion. CMS will examine their early experiences with hospital reporting and review Medicare claims and enrollment data to determine whether patient deaths have been adequately reported.			
12. Medicaid Diagnosis-Related Group Payment Window <u>V. Barragan</u>	This review will determine whether prospective payment system hospitals submitted Medicaid claims for inpatient-stay-related laboratory and other services within 3 days of hospital admission and the potential cost savings that would result from State prohibition of this practice. Several previous reviews found that hospitals had improperly submitted separate Medicare billings for inpatient-stay-related laboratory and other services performed within 3 days of admission. Such billings are prohibited by Medicare			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comments:**

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# Enclosure 3 NURSING HOMES

	Risk Level	Responsible Person	Item List Number	Assigned Completion Date	Date Completed
<b>Medicare Nursing Homes</b>					
1 Nurse Aide Registries					
2 Nursing Home Compliance With Minimum Data Set Reporting Requirements					
3 Nursing Home Resident Assessment and Care Planning					
4 Nursing Home Residents' Rights					
5 Skilled Nursing Facilities' Involvement in Consecutive Inpatient Stays					
6 Imaging and Laboratory Services in Nursing Homes					
7 Skilled Nursing Facility Rehabilitation and Infusion Therapy Services					
8 Ordering Physicians Excluded From Medicare					
9 Physician Services at Skilled Nursing Facilities					
10 Physical and Occupational Therapy Services					
11 Wound Care Services					
12 Use of Modifiers With National Correct Coding Initiative Edits					
<b>Do Not Apply</b>					
1 Access to Skilled Nursing Facilities Under the Prospective Payment System					Study
2 Use of Additional Funds Provided to Skilled Nursing Facilities					Study
3 Nursing Home Deficiency Trends					Study
4 Enforcement Actions Against Noncompliant Nursing Homes					State actions
5 Nursing Home Informal Dispute Resolution					State actions
6 State Compliance With Complaint Investigation Guidelines					State actions
7 Billing Service Companies					Physician
8 Medicare Payments to VA Physicians					VA only
9 Care Plan Oversight					Physician
10 Physician Pathology Services					Physician
11 Cardiology and Echocardiography Services					Physician
12 Part B Mental Health Services					Physician
13 Coding of Evaluation and Management Services					Physician
14 Use of Modifier -25					Physician
15 "Long Distance" Physician Claims					2006
16 Provider-Based Entities					N/A

**Why "Not Applicable"**

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**Enclosure 3-1  
NURSING HOMES  
Office of Inspector General  
2005 WORKPLAN**

7/7/05

Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
1. <u>Nurse Aide Registries</u>  <u>B. Turner</u>	<p>CMS will evaluate nursing home and State compliance with Federal nurse aide registry requirements. Federal regulations require that each State establish and maintain a registry of nurse aides and that nursing homes verify the registry status of a nurse aide before employing the individual. This study will evaluate how registries are established and maintained, how consistently nursing homes check registries, and how State nursing home surveyors assess compliance with registry requirements.</p>			
2. <u>Nursing Home Compliance With Minimum Data Set Reporting Requirements</u>  <u>K. McComb</u>	<p>S will examine nursing home compliance with reporting requirements related to the Minimum Data Set. The Minimum Data Set is one of the primary mechanisms for addressing residents' quality of care. This assessment tool partially determines payment for Part A stays and Medicare conditions of participation require that it be reported on all residents for quality oversight purposes as well. CMS will review data submissions and nursing home records to assess the timeliness of reporting for all nursing home residents and the accuracy of reporting for beneficiaries in Part A covered stays.</p>			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comments:**

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Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
3. Nursing Home Resident Assessment and Care Planning  K. McComb	S will examine the type, frequency, and severity of deficiencies related to assessment and care planning for nursing home residents. In previous studies, we have identified increases in deficiencies related to comprehensive assessments, care planning, and the provision of services in accordance with the care plan. CMS will update our previous work in this area. CMS will also examine compliance issues and methods that State survey agencies use to identify and deal with MDS assessments and care plans that do not address all the needs of residents.			
4. Nursing Home Residents' Rights  K. McComb	S will assess the extent to which nursing home residents and their families are aware of their rights. Nursing home facilities are required to care for their residents in a manner that promotes maintenance or enhancement of each resident's quality of life and promotes each resident's dignity and respect. CMS will also determine how nursing homes ensure the personal rights of residents.			
5. Skilled Nursing Facilities' Involvement in Consecutive Inpatient Stays  K. McComb	S study will determine whether skilled nursing facility care provided to Medicare beneficiaries with consecutive inpatient stays was medically reasonable and necessary. All skilled nursing facility stays must be preceded by an inpatient hospital stay. This study will focus on beneficiaries who experience three or more consecutive stays, including at least one skilled nursing facility stay.			
S will also examine the extent and nature of consecutive Medicare hospital inpatient stays.				

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

Comments:

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Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
3. Nursing Home Resident Assessment and Care Planning  K. McComb	S will examine the type, frequency, and severity of deficiencies related to assessment and care planning for nursing home residents. In previous studies, we have identified increases in deficiencies related to comprehensive assessments, care planning, and the provision of services in accordance with the care plan. CMS will update our previous work in this area. CMS will also examine compliance issues and methods that State survey agencies use to identify and deal with MDS assessments and care plans that do not address all the needs of residents. S will assess the extent to which nursing home residents and their families are aware of their rights. Nursing home facilities are required to care for their residents in a manner that promotes maintenance or enhancement of each resident's quality of life and promotes each resident's dignity and respect. CMS will also determine how nursing homes ensure the personal rights of residents.			
4. Nursing Home Residents' Rights  K. McComb	S will assess the extent to which nursing home residents and their families are aware of their rights. Nursing home facilities are required to care for their residents in a manner that promotes maintenance or enhancement of each resident's quality of life and promotes each resident's dignity and respect. CMS will also determine how nursing homes ensure the personal rights of residents.			
5. Skilled Nursing Facilities' Involvement in Consecutive Inpatient Stays  K. McComb	S study will determine whether skilled nursing facility care provided to Medicare beneficiaries with consecutive inpatient stays was medically reasonable and necessary. All skilled nursing facility stays must be preceded by an inpatient hospital stay. This study will focus on beneficiaries who experience three or more consecutive stays, including at least one skilled nursing facility stay.  S will also examine the extent and nature of consecutive Medicare hospital inpatient stays.			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

Comments:

Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
6. Imaging and Laboratory Services in Nursing Homes <u>K. McComb</u>	CMS will determine the extent and nature of any medically unnecessary or excessive billing for imaging and laboratory services provided to nursing home residents. Medicare pays more than \$200 million a year for such imaging and laboratory services. CMS will review a sample of services and examine utilization patterns in nursing facilities.		Review a sample of services and examine utilization patterns in 10 records.	
7. Skilled Nursing Facility Rehabilitation and Infusion Therapy Services <u>K. McComb</u>	Through medical review, we will analyze whether rehabilitation and infusion therapy services provided to Medicare beneficiaries in skilled nursing facilities were medically necessary, adequately supported, and actually provided as ordered. The skilled nursing facilities provide infusion and rehabilitation therapy services to Medicare beneficiaries for a variety of medical and postsurgical conditions. These services are provided as ordered by a physician and are administered on-site by the skilled nursing facilities' nursing staff.			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comments:**

Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
8. Ordering Physicians Excluded From Medicare  <u>J. Neal</u>	This review will quantify the extent of services, if any, ordered by physicians excluded from Federal health care programs and the amount paid by Medicare Part B. Under Federal regulation, physicians who are excluded from Federal health care programs generally are precluded from ordering or performing services for Medicare beneficiaries. During a current review, we identified a significant number of services that had been ordered by excluded physicians.			
9. Physician Services at Skilled Nursing Facilities  <u>K. McComb</u>	CMS will examine Medicare Part A and Part B claims with overlapping services for skilled nursing facility patients and determine whether duplicate payments were made to either the physicians or the nursing homes for the same patient services. Physicians may bill Medicare only for the professional component of a service on behalf of skilled nursing facility patients. The technical component of physicians' services is covered under the patient's Medicare Part B stay in the skilled nursing facilities and should not be billed separately by the nursing home. Under an exception to this rule, nursing homes may receive Part B payments for both the professional and technical components of physicians' services if both parties have an agreement under which only the nursing home may bill and receive these Part B payments.			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comment**

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Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
10. Physical and Occupational Therapy Services <u>K. McComb</u>	CMS will review Medicare claims for therapy services provided by physical and occupational therapists to determine whether the services were reasonable and medically necessary, adequately documented, and certified by physician certification statements. Physical and occupational therapies are medically prescribed treatments concerned with improving or restoring functions, preventing further disability, and relieving symptoms.			
11. Wound Care Services <u>K. McComb</u>	CMS will determine whether claims for wound care services were medically necessary and billed in accordance with Medicare requirements. Medicare-allowed amounts for certain wound care services billed by physicians increased from approximately \$98 million in 1998 to \$147 million in 2002. CMS will also examine the adequacy of controls to prevent inappropriate payments for wound care services.			
12. Use of Modifiers With National Correct Coding Initiative Edits <u>K. McComb</u> <u>Kim Jackson</u>	CMS will determine whether claims were paid appropriately when modifiers were used to bypass National Correct Coding Initiative edits. The initiative, one of CMS's tools for detecting and correcting improper billing, is designed to provide Medicare Part B carriers with code pair edits for use in reviewing claims. A provider may include a modifier to allow payment for both services within the code pair under certain circumstances. In 2001, Medicare paid \$565 million to providers who included the modifier with code pairs within the National Correct Coding			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

**Comment**

11X

# Enclosure 3

## Medicare Home Health

<b>Medicare Home Health</b>	<b>Risk Level</b>	<b>Responsible Person</b>	<b>Item List Number</b>	<b>Assigned Completion Date</b>
1 Home Health Outlier Payments		E. Hamelton		
2 Enhanced Payments for Home Health Therapy		E. Hamelton		

### **Do Not Apply**

- 1 Beneficiary Access to Home Health Agencies
- 2 Effect of Prospective Payment System on Quality of Home Health Care

### **Why "Not Applicable"**

- Study
- Study

**Enclosure 3-1  
HOME HEALTH  
Office of Inspector General  
2005 WORKPLAN**

7/6/05

Project Areas Responsible Person	Overview	Risk Level	Evaluation Steps	Conclusion
1. Home Health Outlier Payments  E. Hamelton	CMS will determine whether outlier payments to home health agencies were in compliance with Medicare regulations. Intended to be a loss-sharing mechanism for costly cases, an outlier payment is made for an episode whose estimated cost exceeds a threshold amount for each case-mix group. CMS will evaluate the frequency of outliers and whether they cluster in certain Home Health Resource Groups or geographical areas. CMS also plan to determine whether the current outlier methodology is equitable to all home health agencies.			
2. Enhanced Payments for Home Health Therapy  E. Hamelton	CMS will determine whether home health agencies' therapy services met the threshold for higher payments in compliance with Medicare regulations. CMS will analyze the number and the duration of therapy visits provided per episode period.			

**Risk rating categories: 1. = Minimal risk 2. = Low risk 3. = Moderate risk 4. = High risk**

Comments:

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Palomar Pomerado Health  
**BOARD OF DIRECTORS**  
**SPECIAL BOARD MEETING**  
 Pomerado Hospital, Poway – Meeting Room E  
 Monday, September 12, 2005 – 5:30 p.m.

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
CALL TO ORDER	5:15 p.m. Quorum comprised Directors Bassett, Greer, Kleiter, Krider, Larson, Rivera. Director Scofield arrived after the start of the meeting, with apologies.		
NOTICE OF MEETING	Notice of meeting was posted consistent with legal requirements.		
PUBLIC COMMENTS	None		
IDENTIFICATION OF CLOSED SESSION ITEMS – REAL PROPERTY	Chairman Rivera then read out the two items posted for Closed Session concerning Conference with Real Property Negotiators as follows:  1, CONFERENCE WITH REAL PROPERTY NEGOTIATORS - pursuant to Government Code Section 54956.8  <i>Property: Escondido Research &amp; Technology Site (ERTC)</i> <i>Agency Negotiators: Bob Hemker, CFO, PP</i> <i>Negotiating Parties: James McCann and Bob Hemker</i> <i>Under Negotiation: Instruction to Negotiator will concern price and terms</i>		
	2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS - pursuant to Government Code Section 54956.8  <i>Property: That certain portion of Valley Boulevard between East Grand</i>		

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
	<p><i>Avenue and Hickory Street and the associated right of way; and the 600 East Block of East Pennsylvania Avenue, located between East Valley Parkway and North Fig Street and the associated right of way</i></p> <p><i>Agency Negotiators:</i>  <i>Bob Hemker, CFO, PPH</i></p> <p><i>Negotiating Parties:</i>  <i>City of Escondido and PPH</i></p> <p><i>Under Negotiation:</i>  <i>Instruction to Negotiator will concern price and terms</i></p>		
ADJOURNMENT TO CLOSED SESSION	5:40 p.m.	<p><b>MOTION:</b> by Bassett, 2<sup>nd</sup> by Greer and carried to move to Closed Session. All in favor.</p>	
OPEN SESSION RESUMPTION	6:25 p.m.	<p>Attorney Paul DeMuoro reported that the Board did take action in Closed Session, but that it would be premature to disclose details at this point.</p>	
FINAL ADJOURNMENT	6:26 p.m.		
SIGNATURES <ul style="list-style-type: none"> <li>▪ Board Secretary</li> <li>▪ Board Assistant</li> </ul>	<p>_____            Nancy H. Scofield</p> <p>_____            Christine D. Meaney</p>		

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**Palomar Pomerado Health**  
**BOARD OF DIRECTORS**  
**SPECIAL BOARD MEETING**  
**ANNUAL PERFORMANCE IMPROVEMENT (PI) REPORT**  
 Palomar Medical Center, Graybill Auditorium, Escondido  
 Monday, August 22, 2005 at 6:30 p.m.

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
CALL TO ORDER	6:30 p.m.  Quorum comprised Directors Bassett, Greer, Kleiter and Krider (Acting Chairman). Apologies from Directors Larson, Rivera (Chairman), and Scofield.  Other attendees:  Michael Covert, CEO Opal Reinbold, Chief Quality Officer Lorie Shoemaker, Chief Nurse Executive Sheila Brown, Chief Clinical Outreach Officer Duane Buringrud, MD, Chief Medical Quality Officer Cynthia Robertson, MD, Chair Patient Safety Committee Chiefs of Medical Staffs Jerry Kolins, M.D. Jim Flinn, Chief Admin Officer, Pomerado Mary Oelman, Associate Chief Nursing Officer Carrie Frederick, Director Performance Excellence Janie Frincke, RN, Risk Management Chris Cauch, Case Management Steve Tanaka, Interim Chief I/T Officer Gustavo Friederichsen, Chief Marketing & Communication Officer		
NOTICE OF MEETING	Notice of meeting was posted consistent with legal requirements.		
PUBLIC COMMENTS	None		

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
<p><b>ANNUAL REPORT ON THE STATE OF PERFORMANCE IMPROVEMENT</b></p> <p>--Accomplishments</p> <p><b>Opal Reinbold</b></p> <p>Key Focus Areas</p> <p>Demonstration Project - Benchmarking</p>	<p>Opal Reinbold, Chief Quality Officer, introduced the Annual Performance Improvement Report to the Board by stating that it was a privilege to present such a report concerning what had occurred over the past year and that everyone responsible for such positive accomplishments was present at this meeting.</p> <p>A powerpoint presentation (copy attached) also aided in relaying these accomplishments to the Board.</p> <p>Goals had been identified relating to the Key Focus Areas of Best Practice/Publicly Reported Data; Cerner implementation; Performance Improvement; Planning and Implementation of the Balanced Scorecard to drive key strategic priorities for the organization and necessary indicators, as we work toward the Baldrige Award scheme and move forward in a data-driven way, in addition to New Structure for Quality/Patient Safety/Resource Management.</p> <p>An Accomplishments Overview was then provided that included a strategically driven quality process for Balanced Scorecard implementation with publicly reported data and national patient safety goals.</p> <p>It was important to highlight that PPH had been part of a demonstration project with the Center for Medicare/Medicaid Benchmarking and we had done very well in comparison with top quartile performance by other organizations within our community and nation-wide, as well as in the "Get with the Guidelines" program.</p>	<p>Informational</p>	

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
JCAHO pilot project	<p>JCAHO had invited us to be one of 30 hospitals in the country to participate in a pilot project of continuous readiness for interdisciplinary, coordinated, safe patient care processes. JCAHO is planning to come in December to make a presentation. It was noted that this was a definite compliment to PPH, reflecting the efforts of those in the organization.</p> <p>A new structure for Quality/Patient Safety/Resource Management was in place that reflected an integrated approach including a strong Medical Staff partnership and PI assessment/inventory completion. Patient Safety was constantly reviewed by Dr. Cynthia Robertson as Chair of the Safety Committee and member of the Board Quality Review Committee, as we look at Patient Safety in a very proactive manner.</p> <p>A substantial amount of energy and diligence had been involved in the implementation of the new Cerner system with resultant changing out of several of our other I/T systems to ensure that the new system was properly in place. This provided an enhanced platform for data-driven review of care and concurrent capabilities.</p>		
<p>--Medical Staffs' Leadership Accomplishments</p> <p><b>Duane Buringrud, MD</b></p>	<p>Ms Reinbold then introduced Dr. Duane Buringrud, Chief Medical Quality Officer, to discuss the Medical Staffs' Leadership Accomplishments.</p> <p>Dr. Buringrud relayed that under the direction of Dr. John Massone, formerly interim Chief Quality Officer, a lot of work with the Medical Staffs leadership had been undertaken. Program presentations included Cardiac Alert and other state-of-the-art projects, including a Joint Medical Staff Quality Committee</p>		

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AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
<p>between PMC and Pomerado and subsequent Medical Staff Quality meetings at both campuses.</p> <p>He emphasized the need for Medical Staffs to get together to talk with both hospitals noting Dr. Conrad's efforts in joint, or common, Medical Staff Bylaws, and some combined Medical Staff meetings with PMC and Pomerado via a new physician leadership support team. In this way they were working towards common credentialing.</p> <p>In addition, many MBA/educational programs were offered to the Medical Staffs, noting that we were seeing the efforts of Michael Covert, CEO, in starting to educate the Medical Staffs so that they may begin to understand the Board's and Administration's roles in the organization.</p> <p>As a result, there was now more physician and organization interaction, with physicians needing to learn how to present their long-term plans instead of their needs for equipment, etc. Dr. Conrad was the Chair of their Planning Committee for Budgeting. Dr. Buringrud acknowledged that it was due to the hard work of Dr. Massone with programs such as Pneumonia etc., that had placed us in the top 10% nationally in many such programs.</p> <p>Acting Board Chairman Krider thanked Ms Reinbold and Dr. Buringrud for their informative and progressive reports.</p> <p>Mr. Jim Flinn was pleased to report that the door-to-doc time at Pomerado Hospital was 20 minutes. The best had been averaged at 17 minutes. This had all been due to the excellent collaboration between the physicians and the nurses for which he was very proud.</p> <p><b>--PI Highlight Reports</b></p> <ul style="list-style-type: none"> <li>• Mr. Jim Flinn, Chief Administrative Officer, Pomerado Hospital</li> </ul>			

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AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
	<p>He noted that Facilities Planning had improved their process and was on-time and on-budget.</p> <p>Regarding this year's JCAHO survey, there had been only one Type I at Pomerado regarding Environmental Care aspects. This had been a "sink bed" in the grounds of Pomerado to access the water supply shut-off which had been there for many years and was overlooked. This had since been rectified. He felt it was remarkable, given all of the facilities we have.</p>		
<ul style="list-style-type: none"> <li>Ms Lorie Shoemaker, Chief Nurse Executive</li> </ul>	<p>Ms Shoemaker reported that a lot of great things had occurred over the last year from a Quality and Shared Governance model with education and training undertaken. She referred to the National Data Base for Nursing Quality and California Nursing Outcomes data, noting that we give the nurses this information and ask them to provide solutions on their nursing floors regarding issues such as sores and pressure ulcers etc.</p>		
<ul style="list-style-type: none"> <li>Ms Sheila Brown, Chief Clinical Outreach Officer</li> </ul>	<p>Ms Brown reported to the Board that important strides had been made in her areas, including Home Health. Bi-monthly reports were also made to the full Board at their regular meetings.</p> <p>She also relayed that Dr. Roger Schechter had been "rounding" on all patients as to best treatment of care, particularly pressure sores, and that Dr. Patrick Gieseemann, Geriatric Medicine at PCCC received a 100% score on wound outcomes. It was noted that the JCAHO surveyor relayed to Ms Brown she had never participated in a survey whereby active physician involvement was so noticeable.</p> <p>Acting Chairman Krider inquired of Dr. Cynthia Robertson if Patient Safety was involved in all of these areas. She responded that it was.</p>		

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
<ul style="list-style-type: none"> <li>Board Members' Comments</li> </ul>	<p>Director Krider asked Dr. Buringrud how close we may be to having a joint medical staff. Dr. Buringrud responded that what was needed was a stimulus such as the opening of the new hospital.</p> <p>Director Nancy Bassett, RN referred to the many Community Conversations meetings held prior to the passage of Proposition BB, and that it appeared that a lot of people in her neighborhood go to Scripps or Sharp. However, she relayed that a neighbor was recently brought to PMC whose daughter checked us on the website, and the family was thrilled with the care this patient received under PPH.</p>		
<p><b>ADJOURNMENT TO CLOSED SESSION</b></p>	<p><b>6:50 p.m.</b></p>	<p><b>MOTION:</b> by Kleiter, 2<sup>nd</sup> by Krider and carried that the meeting adjourn to Closed Session pursuant to Section 32155 of the Health and Safety Code.</p>	
<p><b>OPEN SESSION RESUMED/FINAL ADJOURNMENT</b></p>	<p><b>7:45 pm.</b></p> <p>Acting Chairman Krider thanked all involved for this comprehensive review of the past year's achievements in the area of Performance Improvement/Quality for PPH.</p> <p>Director Greer welcomed Ms Opal Reinbold as Chief Quality Officer, and Mr. Steve Tanaka as Interim Chief I/T Officer, wishing them well.</p>	<p>No reportable action taken.</p>	
<p><b>SIGNATURES</b></p> <ul style="list-style-type: none"> <li>Board Secretary</li> <li>Board Assistant</li> </ul>	<p><b>Final adjournment at 7:50 p.m.</b></p> <p>_____ Nancy H. Scofield</p> <p>_____ Christine D. Meaney</p>		

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Palomar Pomerado Health  
**BOARD OF DIRECTORS**  
**SPECIAL BOARD MEETING**  
 Palomar Medical Center, Graybill Auditorium, Escondido  
 Tuesday, July 26, 2005 – 5:15 p.m.

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
CALL TO ORDER	5:15 p.m. Quorum comprised Directors Bassett, Kleiter, Krider, Larson, Rivera, Scofield. Director Greer absent with waiver/regrets.		
NOTICE OF MEETING	Notice of meeting was posted consistent with legal requirements.		
PUBLIC COMMENTS	None		
IDENTIFICATION OF CLOSED SESSION ITEMS – REAL PROPERTY	<p>Chairman Rivera, having called the meeting to order, introduced the matter of two items of real property to be discussed, identifying to all assembled the following agenda items to be discussed in closed session:</p> <p><b>1.* CONFERENCE WITH REAL PROPERTY NEGOTIATORS - 15 min</b>  <i>Poway Business Park -- pursuant to Government Code Section 54956.8</i></p> <p><i>Property: Lot 38, City of Poway, tract 87-13, Unit 1, property known as the "Blaisdell property"</i>  <i>Assessor's Parcel Number: 317-810-15-00</i></p> <p><i>Agency Negotiator:</i>  <i>Bob Hemker, CFO, PPH</i></p> <p><i>Negotiating Parties:</i>  <i>Bob Hemker; Derek Leffler; Henry Rick Ketels; Cabins to Castles Realty</i></p> <p><i>Under Negotiation:</i>  <i>Instruction to negotiator will concern price and terms of payment.</i>                      - Anticipated action</p>		

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
2.* CONFERENCE WITH LEGAL COUNSEL--ANTICIPATED LITIGATION -15 min	<p>Significant exposure to litigation pursuant to subdivision (b) of Government Code Section 54956.9: one potential case.</p> <p>PPH's Counsel will make an oral statement regarding the facts and circumstances that show there is a significant exposure to litigation against PPH.</p> <p>- Anticipated action</p> <p>Chairman Rivera then requested a motion to move to Closed Session.</p>	<p>MOTION: by Kleiter, 2<sup>nd</sup> by Larson and carried to adjourn the meeting to Closed Session.</p> <p>The meeting room was cleared of public attendance.</p>	
ADJOURNMENT TO CLOSED SESSION	5:20 p.m.		
OPEN SESSION RESUMPTION	Open Session resumed at 5:55 p.m.	<p>The public was invited back into the meeting room.</p> <p>Attorney Paul DeMuro, pursuant to Government Code 54957.1, reported that no action was taken which would require public report of that action being taken.</p>	
FINAL ADJOURNMENT	5:56 p.m.		
SIGNATURES	<p>Board Secretary</p> <p>_____</p> <p>Nancy H. Scofield</p>		
Board Assistant	<p>_____</p> <p>Christine D. Meaney</p>		

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Palomar Pomerado Health  
**BOARD OF DIRECTORS**  
**SPECIAL BOARD MEETING**  
Rancho Bernardo Inn, Andalucia I Room, 17550 Bernardo Oaks Drive, Rancho Bernardo  
Monday, July 18, 2005 – 6:30 pm

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
CALL TO ORDER	6:45 p.m. Quorum comprised Directors Bassett, Greer, Kleiter, Krider, Larson, Rivera and Scofield.		
NOTICE OF MEETING	Notice of meeting was posted consistent with legal requirements.		
PUBLIC COMMENTS	None		
6-MONTH BOARD SELF-EVALUATION PEER REVIEW	<p>So as to achieve a mid-year (6-month) review of the Board, Chairman Rivera referred to the recently completed PPH Board Self-Evaluation Peer Review surveys and the tabulated results. He then presented these results via PowerPoint, noting that as a Board, we are doing well.</p> <ul style="list-style-type: none"> <li>• Confidentiality was rated highly amongst Board Members, as were broad, impartial and objective meetings.</li> <li>• Self-education may be an area for a little concern.</li> <li>• Skills to chair a meeting varied, with some instances of possible lack of experience or desire to take control.</li> <li>• All come well-prepared to meetings.</li> <li>• Chairman Rivera stated that he would ensure that Committee Chairs report out to the full Board. Director Kleiter cautioned that the intent was to provide information to the full Board and not repeat everything.</li> <li>• In some instances, more extensive Committee Narratives were needed so that these may provide adequate</li> </ul>		Mr. Covert to follow through with Committee Staff as necessary, to assure

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
	<p>information to the Board.</p> <ul style="list-style-type: none"> <li>• Appropriate Use of Board Time, and Participation in PPH Activities was also very good.</li> </ul> <p><b>Summation of Survey Results:</b> In general the scores were similar to those achieved at the December, 2004 Annual Board Self-Evaluation meeting.</p> <p>Chairman Rivera distributed sealed envelopes relating to Board Member's anonymous tabulations for seven Board Members, thanking the Board for their efforts during a very busy period.</p> <p>Dr. Rivera then invited comments either at that time or by e-mail.</p> <p>Director Larson felt that with regard to the many issues of building, site development, land, PPHF, etc., the Board should possibly meet more often for information, particularly regarding being on budget and on time with our various projects, etc.</p> <p>The CEO noted that with regard to both Strategic Planning and Finance Committees, those meetings are always noticed as Special Board Meetings, and other Committees where the Board thinks it is appropriate. Director Kleiter stated that their actions however are Committee actions, and not Board Meetings. Most of the Finance and Strategic Planning Committee meetings are just Committee meetings with four Board Members' votes, but not votes from the full Board.</p> <p>However, Director Kleiter acknowledged Director Larson's comments regarding his suggestion for Board involvement, noting that</p>		adequate and informative Committee/Board Narratives.

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AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
	<p>Finance and Strategic Planning are the two key Committees.</p> <p>Director Larson commented he was not suggesting the revamping of our Committee structure, but it was a matter of discussion between the Board Chair, CEO and relevant Committee Chair to ensure prompt information to the full Board. Chairman Rivera noted that Committee Chairs liaise with the Board Chair. Director Bassett felt that one needs to trust the Committees and if there was a query, to contact the respective Committee Chair to discuss.</p> <p>The Chairman noted that the pivotal person was the CEO and that all Board Committees were to some extent involved in others. He continued that we would endeavor to minimize large meetings and try to improve means of communication. The CEO asked the Board to give thought as to how Board Committees are staffed as it was important to strike a good balance between Board and Staff.</p> <p>Director Scofield felt that items were not timely produced on the agenda – the CEO responded that he understood, noting it was often a fine balance between timing to ensure the latest information was accurately presented.</p> <p>Chairman Rivera in continuing his summation, reiterated that Board Members should contact the relevant Committee Chair if they have queries. Continuation of Self-Education, and understanding the role between Management, Administration and the Board with respect to each other, was also important.</p> <p>Director Kleiter commented that when he represents PPH at CHA, he felt that this Board</p>		

AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
	<p>and organization has more happening than in any other District and some of their problems do not come anywhere close to those which we face within this District. He emphasized that it was a pleasure to serve with a Board such as PPH, the members of which are all interested in what is occurring and that all Board Members are very actively involved.</p> <p>Mr. Covert stated that relative to the development of the system and the additional staff brought into the organization, everyone worked together as a team and were desirous of pleasing the Board, including the areas of Quality, Governance and Community Relations.</p> <p>Director Larson agreed, noting an atmosphere of great cooperation that Mr. Covert had created. Director Scofield concurred in terms of Board and Staff interest and cooperation under the CEO's leadership being the best she recalled.</p> <p>Chairman Rivera thanked everyone for their input.</p>		
<p><b>MASTER FACILITIES PLAN</b></p>	<p>Chairman Rivera then referred to the Master Facilities Plan and the area of communication so that the Board was kept fully informed. The challenge for the CEO was what we wanted our Committees to undertake and the reporting mechanisms, requesting a sense of direction in this regard.</p> <p>Director Kleiter commented that he had previously served on ad hoc committees, reporting to the Board as needed if there were any changes or updates, with negotiations undertaken by sub-committees, noting that this worked well, cautioning that one must always stay within the legal framework.</p>		

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AGENDA ITEM	DISCUSSION	CONCLUSIONS/ACTION	FOLLOW-UP/RESPONSIBLE PARTY
	<p>Chairman Rivera stated that ad hoc Committees often had to be practical and nimble based upon timelines, etc., and that the CEO worked in the appropriate manner in this regard.</p> <p>Director Larson felt there was a richness in the democratic process of our Board meetings and he believed his first opinion was not necessarily his best opinion. There was great value with a decision that ultimately emanated from the full Board. Director Bassett agreed.</p> <p>Chairman Rivera also concurred, stating that if there were issues we come together as a Board to make decisions in terms of any changes. He thanked the Board for their input and support.</p>		
ADJOURNMENT TO CLOSED SESSION	7:50 p.m.		
OPEN SESSION RESUMPTION/FINAL ADJOURNMENT	9:00 p.m.	No reportable action.	
SIGNATURES	<ul style="list-style-type: none"> <li>▪ Board Secretary _____ Nancy H. Scofield</li> <li>▪ Board Assistant _____ Christine D. Meaney</li> </ul>		

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**PALOMAR POMERADO HEALTH  
CONSOLIDATED DISBURSEMENTS  
FOR THE MONTH OF  
AUGUST, 2005**

08/01/05	TO	08/31/05	ACCOUNTS PAYABLE INVOICES	\$25,872,159.00
08/12/05	TO	08/26/05	NET PAYROLL	<u>\$8,877,576.00</u>
				\$34,749,735.00

I hereby state that this is an accurate and total listing of all accounts payable, patient refund and payroll fund disbursements by date and type since the last approval.



\_\_\_\_\_  
CHIEF FINANCIAL OFFICER

*APPROVAL OF REVOLVING, PATIENT REFUND AND PAYROLL FUND DISBURSEMENTS:*

Treasurer, Board of Directors PPH \_\_\_\_\_

Secretary, Board of Directors PPH \_\_\_\_\_

This approved document is to be attached to the last revolving fund disbursement page of the applicable financial month for future audit review.

cc: M. Covert, G. Bracht, R. Hemker, J. Flinn

## August 2005 & Fiscal YTD 2006 Financial Report

**TO:** Board of Directors  
**FROM:** Board Finance Committee  
Tuesday, October 4, 2005  
**MEETING DATE:** Monday, October 17, 2005  
**BY:** Robert Hemker, CFO

**Background:** The Board Financial Reports (unaudited) for August 2005 and Fiscal YTD 2006 are submitted for the Board's approval.

**Budget Impact:** N/A

**Staff Recommendation:** Staff recommends approval.

**Committee Questions:**

**COMMITTEE RECOMMENDATION:** The Finance Committee recommends approval of the Board Financial Reports (unaudited) for August 2005 and Fiscal YTD 2006.

**Motion:** X

**Individual Action:**

**Information:**

**Required Time:**

**PALOMAR POMERADO HEALTH**

*A California Health Care District*

**BOARD FINANCIAL REPORT**

**AUGUST 2005**

(UNAUDITED)

**PREPARED BY THE FINANCE DEPARTMENT  
15255 INNOVATION DRIVE, SUITE 202  
SAN DIEGO, CA 92128  
(858) 675-5223**



# PALOMAR POMERADO HEALTH

*A California Health Care District*

## BOARD FINANCIAL REPORT

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**PALOMAR POMERADO HEALTH  
AUGUST 2005 and YTD FY 2006 FINANCIAL RESULTS  
EXECUTIVE SUMMARY and HIGHLIGHTS**

**Statistics:**

Acute patient days decreased (3.0%) to 9,005 in August, compared to July. This was 2.6% lower than budget (9,250). YTD acute patient days were 18,377, compared to a budget of 18,500. The acute Average Daily Census (ADC) was 290 in August compared, to 302 in July. Acute admissions for August were 2,411, compared to budget of 2,352 (2.5% higher than budget). SNF patient days for YTD August were 12,948, compared to budget of 12,842 (.8% variance).

**Balance Sheet:**

**Current Cash & Cash Equivalents** decreased \$12 million to \$87 million in August from \$99 million in July. The decrease is mainly due to a transfer of \$14 million to Board Designated funds to be used for capital purchases budgeted in FY 06. Total Cash and Investments are \$120 million, compared to \$131 million at June 30, 2005. Days cash on hand are 135, compared to 148 at June 30, 2005, still within "A" rated guidelines.

**Net Accounts Receivable** increased \$678 thousand in August at \$77.2 million, compared to July (\$76M). Gross A/R days decreased to 68.3 in August. June 2005 and 2004 gross A/R days were 70 and 40, respectively. August patient account collections were \$24.6 million, compared to budget of \$26 million; however, this is significantly up from the \$18 million in July.

**Board Designated Assets** increased by \$12.3 million, mainly due the transfer of funds from Current Cash to be used for capital items budgeted in FY 06.

**Construction in Progress** increased by \$2.8 million, mainly due to payments for: 1) equipment for the Cardiac Angio Suite at Pomerado, and 2) building expansion project costs.

**Accounts Payable** increased \$2 million in August due to the timing of vendor in payments.

**Estimated 3<sup>rd</sup> Party Settlement** (receivables) decreased by \$450 thousand due to payments received from Medicare for settlements of Pomerado prior year appeals.

**Income Statement:**

**Gross Patient Revenue** for YTD August reflects a favorable budget variance of \$3.2 million. This favorable variance is comprised of a \$349 thousand favorable volume variance and a \$2.8 million favorable rate variance.

Routine revenue (inpatient room and board) reflects an unfavorable \$1 million budget variance. PPH North reflects an unfavorable variance of \$598 thousand, and PPH South reflects an unfavorable variance of \$405 thousand. Palomar's YTD acute patient days were at budget; however, PMC encountered a lower volume of trauma cases (and lower critical care days) than what was budgeted (approx 16% less cases). Pomerado's acute patient days are 2.8% lower than budget.

Inpatient Ancillary gross revenue represents a YTD \$948 thousand favorable budget variance at August. PPH North reflects a favorable variance of \$2.9 million, and PPH South reflects a \$2 million unfavorable variance. The main contributors to Palomar's favorable variance were the emergency room and CT scanner departments, totaling \$2.3 million higher than budget. Palomar's higher ancillary revenue does not correlate to the drop in Routing (nursing unit) revenue. Normally, Palomar reflects \$2 of IP ancillary revenue for every \$1 Routine. Palomar's

routine revenue was \$426 thousand less than budget, but the IP Ancillary revenue was \$2.3 million higher than budget. Thus, ancillary revenue is approximately \$3 million higher than expected and would result in higher contractual adjustments (see below). The main department contributors to Pomerado's unfavorable variance are surgery, patient chargeable supplies, and pharmacy (totaling a \$2.5 million unfavorable variance from budget).

Outpatient revenue reflects a YTD favorable budget variance of \$3.3 million. The majority of this favorable variance is reflected at PPH North (\$2.9 million – almost all from the Emergency department and CT Scanner), offset by other unfavorable variances in the Outreach areas (Gateway & Parkway radiology variance was \$340 thousand, and Home Health variance was \$62 thousand).

**Deductions from Revenue** reflects a YTD unfavorable variance of \$5 million. This variance is mainly due to an influx of uninsured patients, causing \$1.7 million in unfavorable bad debt/charity/undocumented write-offs and a disproportional usage of IP Ancillary services (which result in additional contractual adjustments of approximately \$3 million) at Palomar. Total Deductions from Revenue is 68.6% of gross revenue, compared to a budget of 67%.

Deductions from Revenue (excluding Capitation revenue and Bad Debt/Charity/Undocumented expenses), was 64% of Gross Revenue for June YTD, compared to budget of 63%.

The Capitation monies retained by PPH are reflecting a YTD \$156 thousand favorable variance as of August.

Bad debt, charity & undocumented care write-offs reflected a YTD unfavorable \$1.9 million budget variance. Bad debt, charity and undocumented write-offs as a percent of gross revenue were 5.7%, compared to the budget of 4.7%.

**Other Operating Revenue** reflects an unfavorable budget variance of \$241 thousand. This revenue is budgeted evenly throughout the year; however, most of this revenue is recognized when received, thus causing timing differences.

**Salaries, Wages & Contract labor** reflects a YTD unfavorable variance of \$191 thousand. This unfavorable variance is composed of: 1) Salaries and Wages – \$318,000 (actual \$26 million), and 2) Contract Labor – \$509,000 (actual \$2 million). August reflected approximately \$660 thousand of CHE longevity lump sum payments to employees, based on the terms of the contract.

**Supplies Expense** is reflecting a favorable budget variance of \$231 thousand. PPH North reflects an unfavorable variance of \$109 thousand, while PPH South reflects a favorable variance of \$270 thousand.

**Prof Fees & Purch Services** reflects a favorable budget variance of \$884,000. These expenses are budgeted evenly throughout the year; however, many of the actual expenses have not yet occurred.

**Non-Operating Income** reflects a YTD unfavorable variance of \$203 thousand in August. Investment Income accounts for nearly all of this variance. August reflects a \$173 thousand favorable Investment Income variance. The actual investment income yield was a loss of 1.23%, compared to a budget of 2%.

### Ratios

All required bond covenant ratios were achieved in August 2005.

Palomar Pomerado Health  
Balanced Scorecard  
Financial Indicators  
August 31, 2005

	May		June		July		August		YTD 2006		% to Actual to Budget	
	Actual		Actual		Actual		Actual	Budget	Variance	Budget		
	10.3%		12.6%		9.0%		8.0%	9.9%	-0.9%	8.5%	9.9%	-1.4%
	\$ 2,324.35	\$ 2,226.74	\$ 2,270.91	\$ 2,270.91	\$ 2,455.48	\$ 2,432.16	\$ 2,432.16	\$ 2,432.26	\$ 70.58	\$ 2,361.68	\$ 2,432.26	\$ 70.58
	\$ 1,344.71	\$ 1,260.14	\$ 1,353.93	\$ 1,353.93	\$ 1,455.68	\$ 1,416.75	\$ 1,416.75	\$ 1,416.81	\$ 12.88	\$ 1,403.93	\$ 1,416.81	\$ 12.88
	5.92	5.80	5.94	5.94	6.05	6.17	6.17	6.17	0.16	6.01	6.17	0.16

PPH Indicators:

OEBITDA Margin w/Prop Tax	8.5%	9.9%	-1.4%
Expenses/Wtd Day	\$ 2,361.68	\$ 2,432.26	\$ 70.58
SWB/Wtd Day	\$ 1,403.93	\$ 1,416.81	\$ 12.88
Prod FTE's/Adj Occupied Bed	6.01	6.17	0.16

PPH North Indicators:

	15.8%		-1.0%	7.1%		7.5%	11.9%	-4.8%	7.3%	11.9%	-4.6%
	\$ 2,195.81	\$ 2,242.37	\$ 2,158.90	\$ 2,158.90	\$ 2,339.31	\$ 2,305.66	\$ 2,305.66	\$ 57.38	\$ 2,248.28	\$ 2,305.66	\$ 57.38
	\$ 1,116.60	\$ 1,068.29	\$ 1,139.16	\$ 1,139.16	\$ 1,222.02	\$ 1,180.75	\$ 1,180.75	\$ 0.55	\$ 1,180.20	\$ 1,180.75	\$ 0.55
	4.95	4.90	4.97	4.97	5.07	5.09	5.09	5.10	5.02	5.10	0.08

PPH South Indicators:

	-17.0%		12.2%	10.1%	5.3%	1.4%	8.7%	378.6%	7.6%	1.4%	6.2%
	\$ 2,408.15	\$ 2,280.87	\$ 2,255.63	\$ 2,255.63	\$ 2,424.39	\$ 2,443.48	\$ 187.85	\$ 187.85	\$ 2,336.59	\$ 2,443.85	\$ 107.26
	\$ 1,223.51	\$ 1,086.74	\$ 1,182.09	\$ 1,182.09	\$ 1,277.37	\$ 1,261.88	\$ 79.79	\$ 79.79	\$ 1,227.88	\$ 1,262.07	\$ 34.19
	5.76	5.64	5.54	5.54	5.70	5.87	0.33	0.33	5.61	5.88	0.27

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Palomar Pomerado Health  
Consolidated Balance Sheet  
As of August 31, 2005

	Current Month	Prior Month	Prior Fiscal Year End	Current Month	Prior Month	Prior Fiscal Year End
<b>Assets</b>						
<b>Current Assets</b>						
Cash on Hand	\$4,427,684	\$1,383,846	\$12,666,668	\$14,444,450	\$12,647,143	\$15,833,163
Cash Marketable Securities	82,393,863	97,605,874	96,380,135	17,829,647	17,980,084	20,763,473
Total Cash & Cash Equivalents	86,821,547	98,989,720	109,046,803	9,912,010	9,945,791	10,212,195
Patient Accounts Receivable	195,379,116	197,610,655	190,388,774	2,099,204	1,403,995	708,785
Allowance on Accounts	-118,114,747	-121,024,146	-119,259,402	6,125,000	6,125,000	6,125,000
Net Accounts Receivable	77,264,369	76,586,509	71,129,372	-3,823,934	-4,274,233	-4,522,051
Inventories	6,176,598	6,274,353	6,320,951	16,201,616	16,659,454	6,228,408
Prepaid Expenses	2,177,489	2,275,941	2,059,484	62,787,994	60,487,234	55,348,973
Other	12,596,627	11,950,573	840,755			
Total Current Assets	185,036,631	196,077,095	189,397,365	163,841,583	163,816,502	79,819,688
<b>Non-Current Assets</b>						
Restricted Assets	96,273,949	95,242,040	12,026,055	212,912,446	223,465,115	220,585,622
Restricted by Donor	281,939	281,693	281,473	281,939	281,693	281,473
Board Designated	33,331,059	20,957,079	22,388,648	33,331,059	20,957,079	22,388,648
Total Restricted Assets	129,886,947	116,480,812	34,696,176	246,525,444	244,703,887	243,255,743
Property Plant & Equipment	338,270,715	337,840,372	337,484,770	\$473,155,256	\$469,007,624	\$378,424,403
Accumulated Depreciation	-221,356,524	-219,909,659	-218,491,576			
Construction in Process	30,916,778	28,111,562	26,744,075			
Net Property Plant & Equipment	147,830,969	146,042,275	145,737,269			
Investment in Related Companies	5,810,427	5,773,077	5,700,502			
Deferred Financing Costs	3,342,914	3,373,906	1,618,773			
Other Non-Current Assets	1,247,367	1,260,458	1,274,318			
Total Non-Current Assets	288,118,625	272,930,529	189,027,038			
Total Assets	\$473,155,256	\$469,007,624	\$378,424,403			
<b>Liabilities</b>						
<b>Current Liabilities</b>						
Accounts Payable						
Accrued Payroll						
Accrued PTO						
Accrued Interest Payable						
Current Portion of Bonds						
Est Third Party Settlements						
Other Current Liabilities						
Total Current Liabilities						
<b>Long Term Liabilities</b>						
Bonds & Contracts Payable						
<b>General Fund Balance</b>						
Unrestricted						
Restricted for Other Purpose						
Board Designated						
Total Fund Balance						
Total Liabilities / Fund Balance						

**PALOMAR POMERADO HEALTH  
CONSOLIDATED  
FYTD 2005  
AUG 2005**

	Month Activity		Variance		Variance		\$/Wtg Pt Day		
	Actual	Budget	Budget	Variance	Volume	Rate/Eff	Actual	Budget	
<b>Statistics:</b>									
Admissions - Acute	4,866	4,704		162					
Admissions - SNF	208	230		(22)					
Patient Days - Acute	18,377	18,500		(123)					
Patient Days - SNF	12,948	12,842		106					
LOS - Acute	3.97	4.00		(0.03)					
LOS - SNF	39.45	37.95		1.50					
Weighted Pt Days	24,939	24,629		310					
<b>Revenue:</b>									
Gross Revenue	\$ 182,695,218	\$ 179,477,458	\$ 3,217,760	F	\$ 2,259,045	\$ 958,715	\$ 7,325.68	\$ 7,287.24	\$ 38.44
Deductions from Rev	(125,409,197)	(120,392,760)	(5,016,437)	U	(1,515,358)	(3,501,079)	(5,028.64)	(4,888.25)	(140.39)
Net Patient Revenue	57,286,021	59,084,698	(1,798,677)	U	743,687	(2,542,364)	2,297.05	2,398.99	(101.94)
Other Oper Revenue	1,455,587	1,696,958	(241,371)	U	21,359	(262,730)	58.37	68.90	(10.53)
<b>Total Net Revenue</b>	<b>58,741,608</b>	<b>60,781,656</b>	<b>(2,040,048)</b>	<b>U</b>	<b>765,046</b>	<b>(2,805,094)</b>	<b>2,355.41</b>	<b>2,467.89</b>	<b>(112.48)</b>
<b>Expenses:</b>									
Salaries, Wages & Contr Labor	28,176,963	27,985,686	(191,277)	U	(352,250)	160,973	1,129.84	1,136.29	6.45
Benefits	6,835,765	6,908,944	73,179	F	(86,961)	160,140	274.10	280.52	6.42
Supplies	9,803,025	10,033,984	230,959	F	(126,296)	357,255	393.08	407.41	14.33
Prof Fees & Purch Svc	7,046,132	7,900,058	853,926	F	(99,436)	953,362	282.53	320.76	38.23
Depreciation	2,864,948	2,857,752	(7,196)	U	(35,970)	28,774	114.88	116.03	1.15
Other	3,336,575	3,388,594	52,019	F	(42,652)	94,671	133.79	137.59	3.80
<b>Total Expenses</b>	<b>58,063,408</b>	<b>59,075,018</b>	<b>1,011,610</b>	<b>F</b>	<b>(743,565)</b>	<b>1,755,175</b>	<b>2,328.22</b>	<b>2,398.60</b>	<b>70.38</b>
<b>Net Inc Before Non-Oper Income</b>	<b>678,200</b>	<b>1,706,638</b>	<b>(1,028,438)</b>	<b>U</b>	<b>21,481</b>	<b>(1,049,919)</b>	<b>27.19</b>	<b>69.29</b>	<b>(42.10)</b>
Property Tax Revenue	1,816,666	1,816,666	-	-	22,866	(22,866)	72.84	73.76	(0.92)
Non-Operating Income	(552,765)	(336,614)	(216,151)	U	(4,237)	(211,914)	(22.16)	(13.67)	(8.50)
<b>Net Income (Loss)</b>	<b>\$ 1,942,101</b>	<b>\$ 3,186,690</b>	<b>(1,244,589)</b>	<b>U</b>	<b>\$ 40,110</b>	<b>\$ (1,284,699)</b>	<b>\$ 77.87</b>	<b>\$ 129.39</b>	<b>\$ (51.51)</b>
Net Income Margin	3.1%	4.9%		-1.8%					
OEBITDA Margin w/o Prop Tax	5.6%	7.0%		-1.4%					
OEBITDA Margin with Prop Tax	8.5%	9.9%		-1.4%					

F= Favorable variance  
U= Unfavorable variance

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**PALOMAR POMERADO HEALTH  
CONSOLIDATED**  
MTD 2005  
AUG 2005

	Month Activity		Variance	Variance		\$/Wtg Pt Day	
	Actual	Budget		Volume	Rate/Eff	Actual	Budget
<b>Statistics:</b>							
Admissions - Acute	2,411	2,352	59				
Admissions - SNF	113	115	(2)				
Patient Days - Acute	9,005	9,250	(245)				
Patient Days - SNF	6,434	6,421	13				
LOS - Acute	3.97	4.00	(0.03)				
LOS - SNF	38.38	37.95	0.43				
Weighted Pt Days	12,363	12,315	48				
<b>Revenue:</b>							
Gross Revenue	\$ 92,899,063	\$ 89,738,729	\$ 3,160,334	F	\$ 7,514.28	\$ 7,286.95	\$ 227.34
Deductions from Rev	(63,501,913)	(60,196,380)	(3,305,533)	U	(5,136.45)	(4,888.05)	(248.39)
Net Patient Revenue	29,397,150	29,542,349	(145,199)	U	2,377.83	2,398.89	(21.06)
Other Oper Revenue	779,264	848,479	(69,215)	U	63.03	68.90	(5.87)
<b>Total Net Revenue</b>	<b>30,176,414</b>	<b>30,390,828</b>	<b>(214,414)</b>	<b>U</b>	<b>2,440.87</b>	<b>2,467.79</b>	<b>(26.92)</b>
<b>Expenses:</b>							
Salaries, Wages & Contr Labor	14,511,787	13,992,843	(518,944)	U	1,173.81	1,136.24	(37.56)
Benefits	3,484,804	3,454,472	(30,332)	U	281.87	280.51	(1.36)
Supplies	5,067,417	5,016,992	(50,425)	U	(30.870)	409.89	(47.76)
Prof Fees & Purch Svc	3,675,947	3,950,029	(274,082)	F	289.478	320.75	(31.27)
Depreciation	1,446,865	1,428,876	(17,989)	U	(12.420)	117.03	(129.45)
Other	1,753,047	1,694,297	(58,750)	U	(6.604)	141.80	(135.19)
<b>Total Expenses</b>	<b>29,939,867</b>	<b>29,537,509</b>	<b>(402,358)</b>	<b>U</b>	<b>(287.230)</b>	<b>2,398.50</b>	<b>(23.23)</b>
<b>Net Inc Before Non-Oper Income</b>	<b>236,547</b>	<b>853,319</b>	<b>(616,772)</b>	<b>U</b>	<b>3,326</b>	<b>69.29</b>	<b>(50.16)</b>
Property Tax Revenue	908,333	908,333	-		73.47	73.76	(0.29)
Non-Operating Income	12,880	(168,307)	181,187	F	1.04	(13.67)	14.71
<b>Net Income (Loss)</b>	<b>\$ 1,157,760</b>	<b>\$ 1,593,345</b>	<b>\$ (435,585)</b>	<b>U</b>	<b>\$ 6,210</b>	<b>\$ (441,795)</b>	<b>\$ (35,74)</b>
Net Income Margin	3.6%	4.9%	-1.3%				
OEBITDA Margin w/o Prop Tax	5.2%	7.0%	-1.8%				
OEBITDA Margin with Prop Tax	8.0%	9.9%	-1.9%				

F= Favorable variance  
U= Unfavorable variance

IF

**Palomar Pomerado Health**  
**STATEMENTS OF CASH FLOWS**  
**Fiscal Year 2006**

	<u>July</u>	<u>August</u>	<u>YTD</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Income (Loss from operations)	\$ 441,658	236,547	\$ 678,205
Adjustments to reconcile change in net assets to net cash provided by operating activities			
Depreciation Expense	1,418,083	1,446,865	2,864,948
Provision for bad debts	3,002,302	3,095,119	6,097,421
Changes in operating assets and liabilities			
Patient accounts receivable	(8,459,439)	(3,772,979)	(12,232,418)
Property Tax and other receivable:	(10,446,020)	17,744	(10,428,276)
Inventories	46,598	97,755	144,353
Prepaid expenses and Other Non-Current asset:	(289,032)	61,102	(227,930)
Accounts payable	(3,186,020)	1,797,307	(1,388,713)
Accrued comp	(3,049,793)	(184,218)	(3,234,011)
Estimated settlement amounts due third-party payor	247,818	450,299	698,117
Other current liabilities	11,339,379	450,495	11,789,874
Net cash provided by operating activitie	<u>(8,934,466)</u>	<u>3,696,036</u>	<u>(5,238,430)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Net Purchases (sales) on investment:	(83,010,156)	1,805,876	(81,204,280)
Interest (Loss) received on investment	(152,427)	442,860	290,433
Investment in affiliate:	13,860	(11,198)	2,662
Net cash used in investing activitie:	<u>(83,148,723)</u>	<u>2,237,538</u>	<u>(80,911,185)</u>
<b>CASH FLOWS FROM NON CAPITAL FINANCING ACTIVITIES:</b>			
Other	0	0	0
Receipt of district taxes	204,065	83,913	287,978
Net cash used in activities:	<u>204,065</u>	<u>83,913</u>	<u>287,978</u>
<b>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES</b>			
Acquisition of property plant and equipmer	(1,589,304)	(2,973,647)	(4,562,952)
Interest paid	0	0	0
Proceeds from issuance of deb	82,185,607	0	82,185,607
Payments of LT Deb <sup>r</sup>	0	0	0
Net cash used in activities:	<u>80,596,303</u>	<u>(2,973,647)</u>	<u>77,622,655</u>
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	(11,282,822)	3,043,840	(8,238,982)
CASH AND CASH EQUIVALENTS - Beginning of perio	<u>12,666,668</u>	<u>1,383,846</u>	<u>12,666,668</u>
CASH AND CASH EQUIVALENTS - End of perio	<u>\$ 1,383,846</u>	<u>\$ 4,427,686</u>	<u>\$ 4,427,686</u>



# PALOMAR POMERADO HEALTH BOND COVENANT RATIOS

<b>CUSHION RATIO</b>	<b>Jun-04</b>	<b>Jun-05</b>	<b>Aug-05</b>
Cash and Cash Equivalents	140,057,417	109,046,803	86,821,547
Board Designated Reserves	27,374,261	22,388,648	33,331,059
Trustee-held Funds	11,853,970	12,026,055	13,803,036
<b>Total</b>	<b>179,285,648</b>	<b>143,461,506</b>	<b>133,955,642</b>
Divided by:			
Max Annual Debt Service (Bond Year 2012)	10,697,594	10,697,594	10,697,594
<b>CUSHION RATIO</b>	<b>16.8</b>	<b>13.4</b>	<b>12.5</b>
<b>REQUIREMENT</b>	<b>1.5</b>	<b>1.5</b>	<b>1.5</b>
	<b>Achieved</b>	<b>Achieved</b>	<b>Achieved</b>

<b>DAYS CASH ON HAND</b>	<b>Jun-04</b>	<b>Jun-05</b>	<b>Aug-05</b>
Cash and Cash Equivalents	140,057,417	109,046,803	86,821,547
Board Designated Reserves	27,374,261	22,388,648	33,331,059
<b>Total</b>	<b>167,431,678</b>	<b>131,435,451</b>	<b>120,152,606</b>
Divide Total by Average Adjusted Expenses per Day			
Total Expenses	311,614,910	341,614,078	58,063,408
Less: Depreciation	14,546,550	16,394,985	2,864,948
<b>Adjusted Expenses</b>	<b>297,068,360</b>	<b>325,219,093</b>	<b>55,198,460</b>
Number of days in period	366	365	62
<b>Average Adjusted Expenses per Day</b>	<b>811,662</b>	<b>891,011</b>	<b>890,298</b>
<b>DAYS CASH ON HAND</b>	<b>206</b>	<b>148</b>	<b>135</b>
<b>REQUIREMENT</b>	<b>90</b>	<b>90</b>	<b>90</b>
	<b>Achieved</b>	<b>Achieved</b>	<b>Achieved</b>

<b>Net Income Available for Debt Service</b>	<b>Jun-04</b>	<b>Jun-05</b>	<b>Aug-05</b>
Excess of revenue over expenses Cur Mo	2,905,196	1,480,728	1,157,760
Excess of revenues over expenses YTD (General Funds)	16,053,177	17,042,445	1,942,101
ADD:			
Depreciation and Amortization	14,546,550	16,394,985	2,864,948
Interest Expense	5,581,454	5,272,031	834,568
<b>Net Income Available for Debt Service</b>	<b>36,181,181</b>	<b>38,709,461</b>	<b>5,641,617</b>
<b>Aggregate Debt Service</b>			
1993 Insured Refunding Revenue Bonds	6,017,132	6,020,301	1,003,690
1999 Insured Refunding Revenue Bonds	4,357,728	4,356,844	725,928
<b>Aggregate Debt Service</b>	<b>10,374,860</b>	<b>10,377,145</b>	<b>1,729,618</b>
<b>Net Income Available for Debt Service</b>	<b>3.49</b>	<b>3.73</b>	<b>3.26</b>
<b>Required Coverage</b>	<b>1.15</b>	<b>1.15</b>	<b>1.15</b>
	<b>Achieved</b>	<b>Achieved</b>	<b>Achieved</b>

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**Physician Recruitment Agreement  
Erika Cox, M.D.**

**TO:** Board of Directors

**FROM:** Board Finance Committee  
Tuesday, October 4, 2005

**MEETING DATE:** Monday, October 17, 2005

**BY:** Marcia Jackson, Chief Planning Officer

**Background:** The PPH community lacks an adequate number of primary care physicians as verified by AmeriMed, a national consulting firm that specializes in physician manpower studies. PPH has an established physician recruitment program and had allocated resources to attract additional family practice physicians to relocate to Inland North San Diego County. Erika Cox, M.D., has signed the PPH Physician Recruitment Agreement in order to begin practicing in Escondido, CA. She intends to begin practicing in October 2005.

**Budget Impact:** None

**Staff Recommendation:** Approval of the Physician Recruitment Agreement with Dr. Cox and recommend approval by the full Board of Directors.

**Committee Questions:**

**COMMITTEE RECOMMENDATION:** The Finance Committee recommends approval of the Physician Recruitment Agreement with Dr. Erika Cox.

**Motion:** X

**Individual Action:**

**Information:**

**Required Time:**

## PALOMAR POMERADO HEALTH - AGREEMENT ABSTRACT

Section Reference	Term/Condition	Term/Condition Criteria
	<b>TITLE</b>	Physician Recruitment Agreement—Family Practice
	<b>AGREEMENT DATE</b>	
	<b>PARTIES</b>	1) PPH 2) Erika Cox, M.D.
Recitals; Article I.1	<b>PURPOSE</b>	Provide recruitment assistance to enable Erika Cox, M.D., Family Practice, to establish her practice in Escondido. Dr. Cox is coming out of residency at Riverside County Regional Medical Center.
Article I	<b>SCOPE OF SERVICES</b>	Dr. Cox will provide family practice care on a full-time basis.
2.2(a); Exhibit 3.1(a).2	<b>TERM</b>	1 year of income assistance; two-year repayment/forgiveness period.
Recruitment procedure D.2	<b>RENEWAL</b>	None available
Article VI	<b>TERMINATION</b>	Contract stipulates conditions for termination by hospital, termination by physician and termination in event of governmental action
Article II; 2.2, 2.3, 2.4	<b>COMPENSATION METHODOLOGY</b>	For monthly income guarantee physician will submit monthly report of expenses and collections. Only incremental costs for Dr. Cox's practice can be covered by PPH. For relocation and start-up cost assistance physician will submit receipts.
	<b>BUDGETED</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO – <b>IMPACT:</b> None
5.5	<b>EXCLUSIVITY</b>	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES – <b>EXPLAIN:</b> Government prohibits hospitals from requiring physician to exclusively have privileges or make referrals only to their hospital
	<b>PHYSICIAN MANPOWER STUDY</b>	The Physician Manpower Study conducted by AmeriMed, a national consulting firm, confirmed there is a justifiable community need for this recruitment
	<b>EXTERNAL FINANCIAL VERIFICATION</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <b>Methodology:</b> Medical Development Specialists (MDS) developed a <i>pro forma</i> for the practice to establish the contract value to cover income guarantee and cash flow needs. MDS also provided the market comparison to establish an appropriate income guarantee.
	<b>LEGAL COUNSEL REVIEW</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO Minor changes to the standard agreement were reviewed and accepted by Legal Counsel. Supporting documentation was reviewed and accepted by Legal Counsel.
	<b>APPROVALS REQUIRED</b>	<input checked="" type="checkbox"/> CPO <input checked="" type="checkbox"/> CFO <input checked="" type="checkbox"/> CEO <input checked="" type="checkbox"/> BOD Finance Committee on October 4, 2005, 2005 <input checked="" type="checkbox"/> BOD

**PHYSICIAN RECRUITMENT AGREEMENT**

**by and between**

**PALOMAR POMERADO HEALTH (“Hospital”)**

**and**

**ERIKA COX, M.D. (“Physician”)**

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## PHYSICIAN RECRUITMENT AGREEMENT

THIS PHYSICIAN RECRUITMENT AGREEMENT (this "**Agreement**") is entered into and effective as of \_\_\_\_\_, 20\_\_ (the "**Execution Date**"), by and between Palomar Pomerado Health, a California district hospital ("**Hospital**"), and Erika Cox, M.D., an individual ("**Physician**"). Hospital and Physician are sometimes referred to in this Agreement, individually, as a "**Party**" or, collectively, as the "**Parties.**"

### RECITALS

- A. Hospital owns and operates two acute care hospital facilities located in Inland North San Diego County, which serve the communities of Escondido, San Marcos, Valley Center, Pala, Pauma Valley, Ramona, Julian, Poway, Rancho Bernardo, and Rancho Peñasquitos.
- B. Physician is duly licensed to practice medicine in the State of California (the "**State**") and is board eligible for the practice of medicine in the specialty of Family Practice (the "**Specialty**").
- C. At the time of the recruitment discussions, Physician was a resident in training.
- D. Hospital has determined that there is a community need for the services of Physician based upon the fact that:
1. The population-to-physician ratio in the community is deficient in the Specialty.
  2. There is demand in the community for medical services in the Specialty and a documented lack of availability of or long waiting periods for medical services in the Specialty.
  3. Physicians are reluctant to relocate to the community due to Hospital's high cost of living, relatively high housing costs, and traditionally low level of reimbursement for medical services.
  4. The number of physicians in the Specialty will be reduced due to the retirement or departure of physicians presently in the community within the next three-to-five year period.
  5. There is a documented lack of physicians serving indigent or Medicaid patients in the community.
- E. Physician has expressed to Hospital that he or she will not relocate to the Service Area without the financial assistance provided by Hospital pursuant to this Agreement.

## AGREEMENT

THE PARTIES AGREE AS FOLLOWS:

### ARTICLE I. PHYSICIAN'S OBLIGATIONS

**1.1 Provision of Professional Services.** Physician shall commence providing professional services in the Service Area no later than October 3, 2005 (the "**Start Date**"), or a later date as agreed by the Parties, and shall thereafter operate, a private practice of medicine in the Specialty (the "**Practice**") at one or more offices (the "**Offices**") located within the geographic area identified by the U.S. Postal Service Zip Codes listed in **Exhibit 1.1** (the "**Service Area**"). The Offices are hereby approved by Hospital, and Physician shall not relocate the Offices without the prior written consent of Hospital.

**1.2 Full-Time Commitment.** Physician shall, from and after the Start Date, personally devote Physician's full-time professional efforts to the Practice. Physician shall devote an average of at least Forty (40) hours per week to the Practice.

**1.3 Participation in Governmental Programs.** Physician shall, from and after the Start Date, be a participating provider in the Federal health care programs, as defined at 42 U.S.C. Section 1320(a)-7b(f) ("**Federal Health Care Programs**"), which programs include, but are not limited to, Medicare and Medicaid; accept and perform professional services for Federal Health Care Program patients at a level that is commensurate with the community need in the Service Area as determined by Hospital; and participate in any Medicare and/or Medicaid managed care efforts and programs of Hospital, as reasonably requested by Hospital from time to time.

**1.4 Uncompensated Care.** Physician shall, from and after the Start Date, provide uncompensated care for hospitalized patients as reasonably requested by Hospital from time to time. Hospital and Physician shall cooperate in designating the recipients of uncompensated care.

**1.5 Medical Staff Membership.** Physician shall, from and after the Start Date, be a member in good standing in the "active staff" category of Hospital's medical staff (the "**Medical Staff**"), and maintain all clinical privileges necessary to practice medicine in the Specialty at Hospital; provided, however, that if Physician, as of the Start Date, is not a member in good standing in the "active staff" category of the Medical Staff, or has not obtained all clinical privileges necessary to practice medicine in the Specialty at Hospital, Physician shall have a reasonable amount of time to obtain such membership and/or clinical privileges, provided that Physician diligently pursues such membership and/or clinical privileges in accordance with the normal procedures set forth in the bylaws, rules, regulations, guidelines and policies of Hospital and Medical Staff (collectively, the "**Hospital Rules**"). Physician shall, from and after the Start Date, actively participate in the Medical Staff department or section encompassing the Specialty and on all Medical Staff committees to which Physician may be appointed by the Medical Staff from time to time. Physician may obtain and maintain medical staff membership and clinical privileges at any other hospital or health care facility.

**1.6 Professional Qualifications.** Physician shall, from and after the Start Date, be duly licensed to practice medicine in the State, and shall be board eligible in the Specialty, and actively seeking board certification. Physician shall exclusively practice medicine in the Specialty.

**1.7 Professional Standards.** Physician shall, from and after the Start Date, comply with all Hospital Rules, and participate in continuing education as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community and as otherwise required by the medical profession.

**1.8 Participation on Emergency Department Call Panels.** Physician shall, from and after the Start Date, participate on any on-call panels of physicians practicing in the Specialty maintained by Hospital's emergency department, in a manner consistent with the coverage schedule and call requirements established by Hospital and the Medical Staff for such services.

**1.9 Administrative Obligations.** Physician shall, from and after the Start Date, perform, or ensure the performance of, the following administrative duties:

(a) Allow Hospital to inspect or audit, during regular business hours, such books and records for purposes of monitoring compliance with the terms and conditions of this Agreement.

(b) Provide and arrange for the billing and collection services in a commercially reasonable manner with respect to the professional medical and other health care services provided by Physician, and ensure such services are performed in a manner consistent with legal and contractual requirements.

(c) Take all necessary and reasonable steps to ensure that bills and claims are submitted to patients and payors not more than thirty (30) days after Physician's provision of services for a patient; bills and claims are collected in a timely and commercially reasonable manner; reasonable and affirmative collection actions are taken with respect to bills and claims which are outstanding for more than ninety (90) days; and all collections from patients and payors are immediately recorded so the Parties may calculate the amount of any Income Guarantee Advances due to Physician.

(d) Provide the following information to Hospital, as soon as reasonably possible, but not more than thirty (30) days following the last day of each month of the Assistance Period, as an attachment to each Physician Financial Report:

- (i) an accounting of the Practice Expenses incurred by Physician during the month;
- (ii) an accounts receivable report detailing Physician's outstanding accounts receivable attributable to the professional services provided by Physician during the month and an aging report on all of Physician's outstanding accounts receivable (including, without limitation, any reserves for contractual allowances and bad debts);



- (iii) such additional information regarding the financial condition of the Practice or the collateral under the Physician Security Agreement (as defined below) as Hospital may reasonably request from time to time.

**1.10 Representation and Warranty Regarding Documents and Information.**

Physician represents and warrants to Hospital that the Physician Financial Reports and any other statements or reports (financial or otherwise) delivered to Hospital by or on behalf of Physician pursuant to this Agreement: (a) are and will be consistent with the books and records of Physician; (b) are and will be true, accurate and complete in all material respects; (c) do not and will not contain any untrue information or statement of fact; and (d) do not and will not omit to state any information or fact reasonably necessary to make the information or facts contained in any such statement or report not misleading.

**1.11 Compliance with HIPAA.** Physician shall comply with the HIPAA Obligations as defined and set forth in Exhibit 1.11. HIPAA Obligations shall survive the expiration or termination for any reason of this Agreement.

**1.12 Participation in Managed Care.** Physician shall, from and after the Start Date, participate in all managed care programs, and shall accept and perform professional services for managed care patients, as reasonably requested by Hospital from time to time. Physician shall join and maintain a provider agreement with such independent physician associations or other organizations as reasonably requested by Hospital from time to time.

**1.13 Community Benefit Activities.** Physician shall, from and after the Start Date, participate in health fairs and other community health activities sponsored by Hospital in the Service Area, as reasonably requested by Hospital from time to time not to exceed four such activities per year.

**1.14 Notification of Certain Events.** Physician shall notify Hospital in writing within forty-eight (48) hours after becoming aware of the occurrence of any of the following events:

- (a) Physician becomes the subject of, or materially involved in, any investigation, proceeding, hearing or other disciplinary action by any federal, state or local governmental agency or program, including the Federal Health Care Programs;

- (b) Physician's medical staff membership or any clinical privilege at any health care facility (including Hospital) is denied, suspended, terminated, restricted, revoked or voluntarily relinquished for any reason, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

- (c) Physician becomes the subject of any suit, action or other legal proceeding arising out of Physician's professional services;

- (d) Physician is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;

(e) Physician becomes the subject of any disciplinary proceeding or action by any hospital, any state's medical board or any similar agency responsible for professional licensing, or professional standards or behavior;

(f) Physician is charged with a felony or with a misdemeanor involving fraud, dishonesty, or moral turpitude;

(g) Physician violates, or causes any other person or entity to violate, the Code of Conduct (as defined in Section 5.3);

(h) any act of nature or any other event occurs which substantially interrupts all or a portion of the Practice or which has a material adverse effect on Physician's ability to perform Physician's obligations under this Agreement;

(i) any material adverse change in the condition of the Practice;

(j) Physician changes Physician's Specialty or the location of the Offices;

(k) Physician's license to practice medicine in California or any other jurisdiction, or Physician's Drug Enforcement Agency ("DEA") registration, is denied, suspended, terminated, restricted, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto; or

(l) the occurrence of any Event of Default (as defined in Section 6.2).

## **ARTICLE II.** **RECRUITMENT INCENTIVES**

**2.1 Recruitment Incentives.** Hospital shall make available to Physician a loan consisting of the advances described in this Article II (the "**Recruitment Loan**"). Physician shall repay the Recruitment Loan pursuant to the terms and conditions of the Recruitment Note (as defined in Section 3.1(a)); provided, however, that amounts due to Hospital under the Recruitment Note may be forgiven, in whole or in part, as applicable, if certain conditions, outlined below and set forth in the Recruitment Note, are satisfied by Physician. Notwithstanding any other provision of this Agreement, the aggregate amount of the Recruitment Loan shall not exceed [REDACTED]

### **2.2 Income Guarantee Advances.**

(a) **Guaranteed Monthly Income.** Hospital shall advance to Physician such amounts, calculated in accordance with Section 2.2(c), as may be necessary for Physician to receive a minimum monthly income, before income and employment taxes, of [REDACTED] per month (the "**Guaranteed Monthly Income**") for Twelve (12) successive months (the "**Assistance Period**"), commencing on the Start Date.

(b) **Physician Financial Report.** Within ten (10) days after the last day of each month during the Assistance Period and each of the three (3) months after the Assistance Period, Physician shall submit to Hospital an accurate and complete report of Practice Receipts and Practice Expenses (each as defined in Section 2.2(c)) on the form attached as **Exhibit 2.2(b)**

(the “**Physician Financial Report**”). Physician shall acknowledge Physician’s approval and certify the accuracy of the contents of each Physician Financial Report by signing the Physician Financial Report prior to submission to Hospital.

(c) **Timing and Calculation of Advances.** Not more than thirty (30) days following receipt of the Physician Financial Report for each month during the Assistance Period, Hospital shall advance to Physician an amount equal to: (i) the Guaranteed Monthly Income, **plus** (ii) the costs and expenses actually and reasonably incurred by Physician and directly attributable to the provision of professional medical services by Physician during such month (“**Practice Expenses**”) (subject to the limits specified in the Physician Financial Report) **minus** (iii) the amount collected, on a cash basis, in such month from all sources by Physician and attributable to services furnished by Physician in connection with the Practice, including, without limitation, amounts received with respect to professional medical services, medical director services, on-call coverage services or administrative services provided or to be provided by Physician (“**Practice Receipts**”). The sums advanced to Physician pursuant to this Section shall be referred to as the “**Income Guarantee Advances.**”

(d) **Prorated Advances.** If the Start Date is other than the first (1<sup>st</sup>) day of a month, or if the last date of the Assistance Period is other than the last day of a month, the amounts of Guaranteed Monthly Income, Practice Receipts, and Practice Expenses shall be prorated based upon the actual number of days in the Assistance Period elapsed during such month and the aggregate number of days in that month.

(e) **Excess Receipts.** If Practice Receipts exceed the sum of Guaranteed Monthly Income and Practice Expenses in any month during the Assistance Period, Physician shall remit to Hospital such excess (the “**Excess Receipts**”), but only up to the amount of the then-outstanding principal balance of, and accrued interest owing on, the Income Guarantee Advances. Physician shall remit such Excess Receipts to Hospital on the same day that the Physician Financial Report is submitted to Hospital. All Excess Receipts shall be applied by Hospital against the then-outstanding balance of the Recruitment Loan, in accordance with the terms of the Recruitment Note (as defined in Section 3.1(a)).

(f) **Aggregate Amount.** Notwithstanding any other provision of this Agreement, the aggregate amount of the Income Guarantee Advances shall not exceed [REDACTED]

(g) **Recruitment Note.** Physician shall repay the Income Guarantee Advances pursuant to the terms and conditions of the Recruitment Note (as defined in Section 3.1(a)).

(h) **Contingencies to Payment of Income Guarantee Advances.** Notwithstanding any other provision of this Agreement, Hospital’s obligation to advance any Income Guarantee Advances to Physician pursuant to this Section 2.2 shall be contingent upon Physician’s compliance with the terms and conditions of this Agreement, the Recruitment Note (as defined in Section 3.1(a)) and the Physician Security Agreement (as defined in Section 3.1(b)), including, without limitation, the timely submission to Hospital of accurate and complete monthly Physician Financial Reports in accordance with Section 2.2(b).

(i) **Waiver of Income Guarantee Advances Amounts.** Physician, in Physician's sole discretion, may waive the right to receive Income Guarantee Advances amounts with respect to any month during the Assistance Period by giving written notice to Hospital at the time the Physician Financial Report is submitted for such month to Hospital.

### 2.3 **Moving Expense Reimbursement.**

(a) **Moving Expense Reimbursement.** Hospital shall, within Thirty (30) days after submission by Physician to Hospital of receipts in accordance with Section 2.3(d), advance to Physician an amount necessary to reimburse Physician for the Moving Expenses (as defined in Section 2.3(b)) actually and reasonably incurred by Physician in connection with Physician's relocation to the Service Area; provided, however, that such amount shall not exceed [REDACTED]. The amount advanced to Physician pursuant to this Section shall be referred to as the "**Moving Expense Reimbursement.**"

(b) **Moving Expenses.** For the purposes of this Agreement, "**Moving Expenses**" shall mean and be limited to the actual and reasonable cost of: (i) one or more moving vans for personal and practice-related possessions; (ii) packing of personal and practice-related possessions (including packing materials); (iii) loading and unloading of personal and practice-related possessions; and (iv) relocation travel expenses for airfare, or mileage and lodging if traveling by automobile, for Physician and Physician's immediate family.

(c) **Contingencies to Reimbursement of Moving Expenses.** Hospital's obligation to advance the Moving Expense Reimbursement to Physician shall be contingent upon Physician's submission, within sixty (60) days after the Start Date, of accurate receipts to Hospital evidencing the Moving Expenses, in form and substance acceptable to Hospital, and Physician's compliance with the terms of this Agreement, the Recruitment Note (as defined in Section 3.1(a)) and the Physician Security Agreement (as defined in Section 3.1(b)). If Physician does not submit receipts to Hospital within sixty (60) days after the Start Date, Hospital shall not be obligated to advance any further amounts under the Moving Expense Reimbursement, and Physician shall immediately return to Hospital any amounts previously advanced to Physician under the Moving Expense Reimbursement.

(d) **Recruitment Note.** Physician shall repay the Moving Expense Reimbursement pursuant to the terms and conditions of the Recruitment Note (as defined in Section 3.1(a)).

### 2.4 **Assistance Advance.**

(a) **Assistance Advance.** Hospital shall, on or before December 1, 2005, advance to Physician an amount equal to [REDACTED]. The amounts advanced to Physician pursuant to this Section shall be referred to as the "**Assistance Advance.**"

(b) **Use of Funds.** Physician shall use the Assistance Advance for the following purposes only: start up expenses including consulting, minor medical and office equipment (less than \$2,000 each), furnishings, office lease deposit, and initial medical and office supplies inventory (the "**Permitted Purposes**").

(c) **Contingencies to Payment of Assistance Advance.** Hospital's obligation to advance the Assistance Advance to Physician shall be contingent upon Physician's submission, within ninety (90) days after the Start Date, of documentation of the use of such funds for the Permitted Purposes above to Hospital, in form and substance acceptable to Hospital. If Physician does not submit such documentation to Hospital within ninety (90) days after the Start Date, Hospital shall not be obligated to advance any further amounts to Physician under the Assistance Advance and Physician shall immediately remit to Hospital any amounts previously advanced to Physician under the Assistance Advance.

(d) **Recruitment Note.** Physician shall repay the Assistance Advance pursuant to the terms and conditions of the Recruitment Note (as defined in Section 3.1(a)).

**2.5 Final Statement.** Within thirty (30) days after submission of the last Physician Financial Report, Hospital shall prepare and deliver to Physician a written statement of all amounts advanced by Hospital to Physician pursuant to this Agreement and all Excess Receipts paid by Physician to Hospital pursuant to this Agreement (the "**Final Statement**"). Physician must provide written notification to Hospital of any objections to the amounts reported by Hospital within thirty (30) days of Hospital's delivery of the Final Statement. If Physician does not provide a written notice of objection within thirty (30) days of Hospital's delivery of the Final Statement, the amount reported by Hospital on the Final Statement shall be the total principal balance owed by Physician to Hospital under the Recruitment Note. If Physician does object, the Parties may either agree to binding arbitration or either Party may file a legal action to determine the amount of the total principal balance owed by Physician to Hospital under the Recruitment Note.

**2.6 No Transfer of Recruitment Benefits.** Physician shall not transfer or assign to any other physician or physician practice (including any medical group) any amounts advanced or loaned to Physician by Hospital pursuant to this Agreement, except as required by applicable law or with the written consent of Hospital, which consent may be given, withheld or conditioned by Hospital as determined by Hospital to be necessary or appropriate to ensure compliance with applicable law.

### **ARTICLE III. PROMISSORY NOTE; SECURITY AGREEMENT**

**3.1 Physician's Deliverables.** Concurrently with the execution of this Agreement, Physician shall execute and deliver to Hospital:

- (a) the secured promissory note in the form attached as **Exhibit 3.1(a)** (the "**Recruitment Note**");
- (b) the security agreement in the form attached as **Exhibit 3.1(b)** (the "**Physician Security Agreement**"); and
- (c) a completed IRS Form W-9 identifying Physician's taxpayer identification number.

**3.2 Further Cooperation.** Physician shall perform all actions and execute all documents necessary to perfect the security interest granted in the Physician Security Agreement, as reasonably requested by Hospital from time to time.

**ARTICLE IV.  
INSURANCE AND INDEMNITY**

**4.1 Malpractice Liability Insurance.** Physician shall obtain and continuously maintain professional malpractice liability insurance coverage, issued by an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State, and acceptable to Hospital, in the amount of at least One Million Dollars (\$1,000,000) per occurrence or claim and Three Million Dollars (\$3,000,000) in the annual aggregate for the acts and omissions of Physician. Such coverage shall provide for a date of placement preceding or coinciding with the Start Date of this Agreement.

**4.2 Certificate of Insurance.** On or before the Start Date, Physician shall provide to Hospital an original certificate evidencing professional malpractice liability insurance coverage, and shall provide to Hospital proof of continued professional malpractice liability insurance coverage on an annual basis (or as periodically requested by Hospital). Physician shall provide to Hospital at least thirty (30) days' prior written notice of cancellation or any material change in such professional malpractice liability insurance coverage.

**4.3 Tail Coverage.** If Physician's professional malpractice liability insurance is provided on a claims-made basis, upon the expiration or termination of this Agreement for any reason, Physician shall continuously maintain such insurance or purchase from an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State, and acceptable to Hospital, extended reporting period (*i.e.*, "tail") coverage for the longest extended reporting period then available to ensure that insurance coverage in the amount set forth in Section 4.1 of this Agreement is maintained for claims which arise from professional services provided by Physician during the term of this Agreement.

**4.4 Indemnification.**

(a) **Indemnification by Physician.** Physician shall indemnify and hold harmless Hospital from and against: (i) any and all liability arising out of Physician's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Physician or Physician's employees or agents relating to or arising out of their professional services or this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Hospital in connection with the defense of such claims.

(b) **Indemnification by Hospital.** Hospital shall indemnify and hold harmless Physician from and against: (i) any and all liability arising out of Hospital's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Hospital or its employees or agents relating to or arising out of this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Physician in connection with the defense of such claims.

#### **4.5 Cooperation between the Parties.**

(a) The Parties recognize that, during the term of this Agreement and for a period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the Parties and their respective employees and agents. The Parties further recognize the importance of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions. As such, the Parties hereby agree to cooperate in good faith, using their best efforts, to address such risk management and claims handling issues in a manner that strongly encourages full cooperation between the Parties.

(b) The Parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an “**Action**”) arises with a third party wherein both of the Parties are included as defendants, each such Party shall promptly disclose to the other Party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each such Party shall make every reasonable attempt to include the other such Party in any settlement offer or negotiations. In the event the other such Party is not included in the settlement, the settling Party shall, unless prohibited by the settlement agreement, immediately disclose to the other such Party in writing the acceptance of any settlement and terms relating thereto.

**4.6 Survival of Insurance and Indemnity Obligations.** The provisions of this Article IV shall expressly survive the expiration or earlier termination of this Agreement.

### **ARTICLE V. RELATIONSHIP BETWEEN THE PARTIES**

**5.1 Independent Contractor.** Physician is and shall at all times be an independent contractor with respect to Hospital in meeting Physician’s responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Hospital and Physician.

**5.2 No Tax/No Benefit Contributions.** Hospital shall not be liable under this Agreement for withholding or compensating, paying or providing for taxes (including, but not limited to, federal and state income and employment taxes), or providing employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Physician or any other person employed or retained by Physician. If Hospital is required to compensate, pay or provide for taxes, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to, or on behalf of, Physician or any person employed, retained by or associated with Physician, Physician shall reimburse Hospital the amount of any such expenditure within ten (10) days after being notified of such expenditure.

**5.3 Code of Conduct.** Physician hereby acknowledges receipt of Hospital’s Code of Conduct, attached to this Agreement as **Exhibit 5.3** (the “**Code of Conduct**”), and agrees that he or she has been given ample opportunity to read, review and understand the Code of Conduct. Physician shall not act in any manner which conflicts with or violates the Code of Conduct, and shall not cause another person to act in any manner which conflicts with or violates the Code of

Conduct. Physician shall comply with the Code of Conduct as it relates to Physician's business relationships with Hospital, any Affiliate (as defined in Section 6.4(d)), or Hospital's or any Affiliate's employees, agents, servants, officers, directors, contractors and suppliers of any kind.

**5.4 Referrals.** Nothing in this Agreement or in any other written or oral agreement between Hospital and Physician, nor any consideration offered or paid in connection with this Agreement, contemplates or requires the admission or referral of any patients or business to Hospital or any Affiliate (as defined in Section 6.4(d)) by Physician. This Agreement is not intended to influence Physician's judgment in choosing the hospital or other health care facility or provider deemed by Physician to be best qualified to deliver goods or services to any particular patient. The rights of Physician under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital or any Affiliate by Physician. Notwithstanding the foregoing, Physician shall not refer any Hospital patient to any provider of health care services that Physician knows or should know is excluded or suspended from participation in, or sanctioned by, any Federal Health Care Program.

**5.5 Practice of Medicine; Limitation on Control.** Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. Hospital shall neither have nor exercise any control or direction over the professional medical judgment of Physician, or the methods by which Physician performs professional medical services; provided, however, that Physician shall be subject to and shall at all times comply with the Hospital Rules, and the terms and conditions of this Agreement.

## **ARTICLE VI. TERM AND TERMINATION**

**6.1 Term.** This Agreement shall have a term commencing on the Execution Date and continuing until all sums owing on the Recruitment Note are either forgiven or paid in full in accordance with the terms of this Agreement and the Recruitment Note.

**6.2 Termination by Hospital.** Hospital shall have the right to terminate this Agreement immediately upon the occurrence of any one or more of the following events (each an "Event of Default"):

- (a) breach of this Agreement by Physician where the breach is not cured within thirty (30) days after Hospital gives written notice of the breach to Physician;
- (b) any representation or warranty made by Physician in or pursuant to this Agreement or the Physician Security Agreement shall prove to be untrue or incorrect in any respect when made or deemed made;
- (c) Physician's voluntary retirement from the practice of medicine;
- (d) Physician's medical staff membership, or any clinical privilege at any health care facility (including Hospital) is denied, suspended, terminated, restricted, revoked or relinquished for any reason, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;



(e) Physician's license to practice medicine in the State, or any other jurisdiction, is denied, suspended, terminated, restricted, revoked or relinquished for any reason, whether voluntarily or involuntarily, temporarily or permanently, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(f) Physician fails to maintain current and valid DEA registration;

(g) Physician is charged with or convicted of a felony or with a misdemeanor involving fraud, dishonesty, or moral turpitude;

(h) Physician's performance of this Agreement, in the sole determination of Hospital, jeopardizes the mental or physical health or well-being of any patient of Hospital;

(i) Physician is debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program;

(j) Physician acts, or Physician causes another person to act, in a manner which conflicts with or violates the Code of Conduct or Hospital Rules;

(k) breach by Physician of any HIPAA Obligation;

(l) Physician makes an assignment for the benefit of creditors, admits in writing Physician's inability to pay Physician's debts as they mature, applies to any court for the appointment of a trustee or receiver of any of the Collateral (as defined in Section 1 of the Physician Security Agreement) or any substantial part of Physician's properties, or commences any voluntary proceedings under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, liquidation or other similar law of any jurisdiction;

(m) any application or any proceedings described in Section 6.2(l) is filed or commenced against Physician, and Physician indicates Physician's approval, consent or acquiescence thereto, or an order is entered adjudicating Physician bankrupt or insolvent and such order remains in effect for thirty (30) days;

(n) Physician breaches, defaults or fails to fully perform or observe, when and as required, any covenant, condition or agreement contained in any other agreements, promissory notes, instruments or documents with Hospital or any Affiliate (as defined in Section 6.4(d)), including, without limitation, the Recruitment Note and the Physician Security Agreement, subject to any applicable cure periods expressly provided for in such agreements, promissory notes, instruments or documents;

(o) Physician defaults with respect to the payment of indebtedness or under any agreement, covenant, provision or condition with respect to such indebtedness, whether such indebtedness is owing to either Hospital or to any other creditor;

(p) any execution, levy or attachment is placed on any assets of Physician;

(q) Physician transfers all or substantially all of Physician's assets; or

(r) Physician is rendered unable to comply with the terms of this Agreement for any reason.

**6.3 Termination by Physician.** Physician shall have the right to terminate this Agreement upon the breach of this Agreement by Hospital where the breach is not cured within thirty (30) days after Physician gives written notice of the breach to Hospital.

**6.4 Termination or Modification in the Event of Government Action.**

(a) In the event of any Government Action, the Parties shall, within ten (10) days after one Party gives written notification of the Government Action to the other Party, meet and confer to negotiate in good faith to attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, after good faith negotiations that shall not exceed thirty (30) days, are unable to make the amendments necessary to comply with the Government Action, or, alternatively, if Hospital determines in good faith that compliance with the Government Action is impossible or infeasible, Hospital may terminate this Agreement effective ten (10) days after the date that Hospital gives a written notice of termination under this Section to the other Party.

(c) For the purposes of this Section, “**Government Action**” shall mean any legislation, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any notice of a decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to Hospital, as a result or consequence, in whole or in part, of the arrangement between the Parties set forth in this Agreement, the Recruitment Note or the Physician Security Agreement, if or when implemented, could reasonably be expected to result in or present a material risk of any one or more of the following:

- (i) revocation or threat of revocation of the status of any health facility license granted to Hospital or any Affiliate (as defined in Section 6.4(d));
- (ii) revocation or threat of revocation of the federal, state or local tax-exempt status of Hospital or any Affiliate, or their respective tax-exempt financial obligations;
- (iii) constitute a violation of 42 U.S.C. Section 1395nn (commonly referred to as the Stark law) or any state law governing patient referrals if Physician referred patients to Hospital or any Affiliate;
- (iv) prohibit Hospital or any Affiliate from submitting claims or materially reducing the reimbursement received by Hospital or any Affiliate for services provided to patients referred by Physician; or
- (v) subject Hospital, Physician, any Affiliate, or any of their respective employees or agents, to civil or criminal prosecution or the imposition of any sanction (including any excise benefit tax penalty under Internal Revenue Code Section 4958) on the basis of their participation in executing this Agreement or performing their respective obligations under this Agreement.

(d) For the purposes of this Agreement, “Affiliate” shall mean any entity which, directly or indirectly, controls, is controlled by or is under common control with Hospital.

#### **6.5 Automatic Termination upon Death or Permanent Disability.**

(a) This Agreement shall automatically terminate upon the death or the inability of Physician to practice medicine in the Specialty for the foreseeable future (as evidenced by the opinion of an independent physician acceptable to Hospital) after such disability has existed for a continuous period exceeding one (1) year due to Physician’s physical or mental condition but excluding any such condition resulting, in whole or in part, from substance abuse, alcohol abuse, or criminal or fraudulent conduct by Physician (“Permanent Disability”).

(b) Notwithstanding any other provision of this Agreement, Hospital shall forgive the entire then-outstanding balance of principal and all accrued unpaid interest owing on the Recruitment Note, together with all other applicable fees, costs and charges, if any, in the event of Physician’s death or Permanent Disability. If Physician’s disability is determined not to be a Permanent Disability in the opinion of an independent physician acceptable to Hospital, all rights and duties under this Agreement shall be suspended until such short-term disability is deemed to no longer exist as determined by an independent physician acceptable to Hospital. Upon the termination of Physician’s short-term disability, the rights and duties of this Agreement shall recommence as if it was the day upon which Physician left the Practice due to the disability.

#### **6.6 Qualifying Leave of Absence.**

(a) If any Qualifying Leave of Absence (as defined below) occurs during the Assistance Period, Physician’s obligations under Sections 1.1 and 1.2 of this Agreement, and Hospital’s obligations under Article II of this Agreement, shall be suspended, and such Qualifying Leave of Absence shall not constitute an Event of Default under this Agreement, the Recruitment Note, or the Physician Security Agreement. In such event, Physician’s obligations under Sections 1.1 and 1.2 of this Agreement, and Hospital’s obligations under Article II of this Agreement, shall recommence as of the end of such Qualifying Leave of Absence, and the Assistance Period shall be extended for a period equal to the length of such Qualifying Leave of Absence.

(b) If a Qualifying Leave of Absence (as defined below) occurs after the end of the Assistance Period, Physician’s obligations under Sections 1.1 and 1.2 of this Agreement shall be suspended, any repayment and/or forgiveness under the Recruitment Note shall be suspended, and such Qualifying Leave of Absence shall not constitute an Event of Default under this Agreement, the Recruitment Note, or the Physician Security Agreement. In such event, Physician’s obligations under Sections 1.1 and 1.2 of this Agreement shall recommence as of the end of such Qualifying Leave of Absence, and the Repayment Period under the Recruitment Note shall be extended for a period equal to the length of such Qualifying Leave of Absence.

(c) Physician shall provide to Hospital at least thirty (30) days’ advance notice of any Qualifying Leave of Absence is to begin if the need for the Qualifying Leave of Absence is foreseeable, otherwise, as soon as practicable.

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(d) Physician acknowledges and agrees that any leave of absence that does not constitute a Qualifying Leave of Absence, and any Qualifying Leave of Absence that exceeds a period of three (3) months, shall constitute an Event of Default for purposes of this Agreement.

(e) For purposes of this Agreement, “**Qualifying Leave of Absence**” shall mean a leave of absence for a period not to exceed three (3) months that is taken by Physician for one of the following reasons: (i) to take medical leave for Physician’s own Serious Health Condition; (ii) to care for an immediate family member (child, parent or spouse) with a Serious Health Condition; (c) for the birth and care of a newborn child of Physician; or (d) for placement with Physician of a son or daughter for adoption or foster care. For purposes of this Agreement, “**Serious Health Condition**” shall have the same meaning as set forth in the federal Family and Medical Leave Act, 29 U.S.C. Section 2601 *et seq.*

#### **6.7 Rights upon Expiration or Termination.**

(a) **Generally.** Upon any termination or expiration of this Agreement, all rights and obligations of the Parties shall cease except those rights and obligations that have accrued or expressly survive such termination or expiration.

(b) **Immediate Repayment of Outstanding Indebtedness.** Upon the termination or expiration of this Agreement for any reason, except termination of this Agreement pursuant to Sections 6.3, 6.4 or 6.5, Hospital may, at its option, declare any outstanding indebtedness evidenced by the Recruitment Note to be immediately due and payable to Hospital.

(c) **Repayment upon Termination by Physician or Government Action.** If this Agreement is terminated by Physician pursuant to Section 6.3 or as a result of Government Action pursuant to Section 6.4, the entire outstanding balance of principal and accrued interest together with any applicable fees, costs and charges owing on the Recruitment Note as of the effective date of such termination shall be payable by Physician to Hospital in thirty-six (36) equal monthly installments of principal and interest commencing as of the date that is one (1) month following the effective date of the termination of this Agreement; provided, however, if such repayment terms violate any federal, state or local law, rule or regulation, or Government Action, Physician shall pay to Hospital, on the effective date of the termination of this Agreement, the entire outstanding balance of principal and accrued interest together with any applicable fees, costs and charges owing on the Recruitment Note as of the effective date of such termination. Physician shall not have any right to offset the amount owing to Hospital under this Section upon termination by any amounts that then or thereafter may be owing by Hospital to Physician whether as a result of the termination or otherwise.

### **ARTICLE VII. GENERAL PROVISIONS**

7.1 **Amendment.** This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated, signed by the Parties and explicitly indicate that such writing modifies or amends this Agreement.

7.2 **Assignment.** Except for assignment by Hospital to an entity owned, controlled by, or under common control with Hospital, neither Party may assign any right, interest, duty, or

obligation under this Agreement without the other Party's prior written consent. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, successors, assigns and representatives.

**7.3 Attorneys' Fees.** If either Party brings an action or proceeding, arising out of or relating to this Agreement, the Recruitment Note, or the Physician Security Agreement, the non-prevailing Party shall pay to the prevailing Party reasonable attorneys' fees and costs incurred in bringing such action, including, without limitation, fees incurred in post judgment motions, contempt proceedings, garnishment, levy, debtor and third party examinations, discovery, bankruptcy litigation, arbitration, trial, and any appeal or review, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered shall contain a provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. The prevailing Party shall be the Party who is identified in any judgment or order entered as the Party entitled to recover its costs of suit, whether or not the action or proceeding proceeds to final judgment or award.

**7.4 Choice of Law.** This Agreement shall be construed in accordance with and governed by the laws of California, without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than California.

**7.5 Compliance with Laws.** Physician shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments, and any Government Action, including, without limitation, policies, standards, requirements, guidelines, and recommendations of the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO"), all as in effect and amended from time to time.

**7.6 Compliance with Medicare Rules.** To the extent required by law or regulation, Physician shall make available, or shall cause to be made available upon written request from Hospital, the Secretary of Health and Human Services, the Comptroller General of the United States, or any other duly authorized agent or representative, this Agreement and Physician's books, documents and records pertaining to this Agreement. Physician shall preserve or cause to be preserved such books, documents and records for a period of ten (10) years after the end of the term of this Agreement. If Physician is requested to disclose books, documents or records pursuant to this Section for any purpose, Physician shall notify Hospital of the nature and scope of such request, and Physician shall make available to Hospital, upon written request of Hospital, all such books, documents or records. This Section shall survive the expiration or termination for any reason of this Agreement.

**7.7 Confidentiality.** Neither Party shall disclose any of the provisions of this Agreement to any person or entity, other than their respective attorneys or accountants, without the prior written consent of the other Party, unless and only to the extent such disclosure is required by law, subpoena or legal process. Hospital or Physician may disclose the provisions of this Agreement to any person or entity without the prior written consent of the other Party to the extent such disclosure is requested or required by (a) the Party's respective contracts existing as of the date of this Agreement; or (b) fiscal intermediaries, public agencies or commissions with governmental powers and duties related to disclosure of information which have the right to compel disclosure of such information. Hospital may also disclose the provisions of this

Agreement to any person or entity without the prior written consent of Physician to the extent such disclosure is requested or required by (a) Hospital's representatives or others in connection with any tax-exempt bond or other financing transactions of Hospital or any Affiliates; or (b) Hospital's corporate integrity program.

**7.8 Counterparts.** This Agreement 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.

**7.9 Dispute Resolution.** All disputes, controversies, claims, questions, or disagreements arising out of or relating to this Agreement, shall be litigated in any state or federal court having appropriate jurisdiction and located within California, County of San Diego. The Parties, by the execution of this Agreement, expressly consent to the jurisdiction of any such court, to venue therein and to the service of process in any such action or proceedings, as required by applicable law.

**7.10 Entire Agreement.** This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties with respect to such subject matter. No other understanding between the Parties shall be binding on them unless set forth in writing, signed and attached to this Agreement.

**7.11 Exhibits and Attachments.** The attached exhibits and attachments, together with all documents incorporated by reference in the exhibits and attachments, form an integral part of this Agreement and are incorporated by reference into this Agreement.

**7.12 Force Majeure.** Neither Party shall be liable for nonperformance or defective performance or late performance of any of his, her or its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), terrorism, action of any governmental authority, riots, revolutions, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, or strikes (or similar nonperformance or defective performance or late performance of employees, suppliers or subcontractors).

**7.13 Governing Documents.** In the event of any inconsistency or conflict between the terms and conditions set forth in this Agreement and the terms and conditions set forth in the exhibits or attachments to this Agreement, this Agreement shall govern.

**7.14 Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

**7.15 Income Tax Ramifications.** The Parties acknowledge that Physician may incur federal and state income tax liabilities from certain of the transactions contemplated by this Agreement, and that Hospital is or may be required to report items of income to Physician under relevant income tax laws and regulations. The Parties acknowledge and agree that Hospital has not made any representation to Physician with respect to the tax implications of the transactions contemplated by this Agreement, and that statements made by Hospital or its agents, employees,

representatives or attorneys shall not be relied upon by Physician, and shall not be interpreted or construed as tax advice to Physician.

**7.16 Litigation Consultation.** Physician shall not accept consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named, as a defendant. Physician shall not accept similar consulting assignments if (a) the defendant(s) or anticipated defendant(s) include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which Physician served as a treating physician.

**7.17 Meaning of Certain Words.** Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified, "days" shall be considered "calendar days" and "months" shall be considered "calendar months" in this Agreement and its exhibits and attachments.

**7.18 No Conflicting Obligations.** Physician represents and warrants that the execution and delivery of this Agreement and the performance of Physician's obligations under this Agreement do not and will not: (a) present a conflict of interest or materially interfere with the performance of Physician's duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation. Physician shall immediately inform Hospital of any other agreements that may present a conflict of interest or materially interfere with performance of Physician's duties under this Agreement.

**7.19 No Limitations or Restrictions on Physician's Practice.** If, at any time during the term of this Agreement, Physician joins or associates with a medical group or other physician practice ("**Group**"), whether as an employee, independent contractor or owner, Physician shall not agree to any contractual provision that allows Group to impose or enforce, or attempt to impose or enforce, any limitations or restrictions on Physician's practice of medicine, other than limitations or restrictions directly related to quality of care. Without limiting the generality of the foregoing, during the term of this Agreement, Group shall not be able to impose or enforce, or attempt to impose or enforce, any restrictions or limitations on Physician's ability to compete with Group or any other limitations or restrictions that impair or impede, or could reasonably be expected to impair or impede, Physician's ability to establish and operate a medical practice separate and apart from Group.

**7.20 Non-Discrimination.** Physician shall not differentiate or discriminate in the provision of medical services on the basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, age, medical condition, medical history, genetics, evidence of insurability, or claims history, in violation of any applicable state, federal or local law or regulation, or Hospital Rules, including, without limitation, the Age Discrimination Act of 1975, the Americans with Disabilities Act and all regulations issued pursuant thereto and as may be amended from time to time. Physician and Hospital shall be in full compliance with Section 504

of the Rehabilitation Act of 1973, Titles VI and VII of the 1964 Civil Rights Act, and all regulations issued pursuant thereto and as may be amended from time to time.

**7.21 No Other Relocation Assistance Being Received.** Physician represents and warrants that Physician is not bound by any agreement with any other person or entity pursuant to which Physician receives or will receive financial assistance or compensation during the Assistance Period, except as previously disclosed in writing to Hospital.

**7.22 No Third Party Beneficiary Rights.** This Agreement shall not confer or be construed to confer any rights or benefits to any person or entity other than the Parties.

**7.23 Notices.** All notices or communications required or permitted under this Agreement shall be given in writing and shall be delivered to the Party to whom notice is to be given either: (a) by personal delivery (in which case such notice shall be deemed given on the date of delivery); (b) by next business day courier service (*e.g.*, Federal Express, UPS or other similar service) (in which case such notice shall be deemed given on the business day following date of deposit with the courier service); or (c) by United States mail, first class, postage prepaid, registered or certified, return receipt requested (in which case such notice shall be deemed given on the third (3<sup>rd</sup>) day following the date of deposit with the United States Postal Service). In each case, notice shall be delivered or sent to the address indicated on the signature page, or such other address as provided by a Party, from time to time, pursuant to this Section.

**7.24 Participation in Governmental Programs.** Physician represents that Physician is not, and never has been, debarred, suspended, excluded or otherwise ineligible to participate in any Federal Health Care Program.

**7.25 Representations.** Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by the other Party or by the other Party's agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) such Party has been represented by legal counsel of such Party's own choice or has elected not to be represented by legal counsel in this matter.

**7.26 Severability.** Subject to Section 6.4, if any provision of this Agreement, in whole or in part, or the application of any provision, in whole or in part, is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction and such provision can be severed without substantially changing the bargain reached by the Parties, such provision or part of such provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability, performance or obligations of the remainder of this Agreement, including the remainder of such provision not determined to be illegal, invalid or unenforceable. If Section 6.4 is applicable, this Section shall not be enforced.

**7.27 Waiver.** No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing, and shall apply solely to the specific instance expressly stated.



**7.28 Waiver of Injunctive or Similar Relief.** Upon any breach or termination of this Agreement by Hospital that is determined to be improper by a court or by an arbitrator, Physician shall accept monetary damages, if any, as full and complete relief, to the exclusion of any specific performance or injunctive or similar equitable relief.

*[signature page follows]*

The Parties have executed this Agreement on the Execution Date.

**HOSPITAL**

Palomar Pomerado Health,  
a California district hospital

\_\_\_\_\_  
By: Michael H. Covert  
Its: President/CEO

Hospital's address:

15255 Innovation Drive  
San Diego, CA 92128  
\_\_\_\_\_

**PHYSICIAN**

Erika Cox, M.D., an individual

\_\_\_\_\_  
Erika Cox, M.D.

Physician's principal place of business:

935 East Pennsylvania Avenue  
Escondido, CA 92025  
\_\_\_\_\_

**Exhibit 1.1**

**SERVICE AREA**

92025 Escondido  
92026 Escondido  
92027 Escondido  
92029 Escondido  
92036 Cuyamaca/Julian  
92059 Pala  
92060 Palomar Mountain  
92061 Pauma Valley  
92064 Poway  
92065 Ramona  
92069 San Marcos  
92070 Santa Ysabel  
92082 Valley Center  
92127 Rancho Bernardo  
92128 Rancho Bernardo  
92129 Rancho Peñasquitos

1.1-1  
Service Area

**Exhibit 1.11**

**OBLIGATIONS UNDER THE HEALTH INSURANCE PORTABILITY AND  
ACCOUNTABILITY ACT OF 1996 ("HIPAA")**

**1. Definitions.**

- a. **"Designated Record Set"** shall have the meaning given to such term under the Privacy Rule (as defined below).
- b. **"HIPAA Obligations"** means the obligations of Physician as set forth in this Exhibit.
- c. **"Privacy Rule"** means the HIPAA Regulation that is codified at 45 CFR Parts 160 and 164, or applicable successor provisions, as may be amended from time to time.
- d. **"Protected Health Information"** means any information, whether oral or recorded in any form or medium that: (i) relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, or is defined as such under the Privacy Rule.
- e. **"Protected Information"** means Protected Health Information provided by Hospital to Physician or created or received by Physician on Hospital's behalf.
- f. **"Required by Law"** shall have the meaning given to such term under the Privacy Rule.

2. **Use of Protected Information.** Physician shall not use Protected Information except as permitted by and for the purpose of performing Physician's obligations under this Agreement. Physician shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by Hospital.

3. **Permitted Disclosures.** Physician shall not disclose Protected Information, except as expressly permitted or required by this Agreement or as Required by Law. Further, Physician shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by Hospital.

4. **Appropriate Safeguards.** Physician shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Agreement.

5. **Reporting of Improper Use or Disclosure.** Physician shall notify Hospital in writing of any use or disclosure of Protected Information other than as provided for by this

Agreement and this Exhibit within two (2) days of becoming aware of such use or disclosure.

6. **Physician's Employees and Agents.** Physician shall ensure that any employees and agents of Physician, including subcontractors, to whom Physician provides Protected Information, agree in writing to the same restrictions and conditions that apply to Physician with respect to such Protected Information.
7. **Access to Protected Information.** Physician shall make Protected Information maintained by Physician or Physician's employees, agents or subcontractors available to Hospital for inspection and copying within ten (10) days of a request by Hospital for any purpose.
8. **Amendment of Protected Health Information.** Within ten (10) days of receipt from Hospital of a request for an amendment of Protected Information or a record maintained by Physician or Physician's employees, agents or subcontractors, Physician shall make such Protected Information available to Hospital for amendment and incorporate any such amendment in such record.
9. **Accounting Rights.** Within ten (10) days of notice by Hospital of a request for an accounting of disclosures of Protected Information, Physician and Physician's employees, agents or subcontractors shall provide to Hospital an accounting of disclosures sufficient to enable Hospital to fulfill its obligations under the Privacy Rule. As set forth and as limited by the Privacy Rule, Physician need not provide an accounting to Hospital of disclosures: (i) to carry out treatment, payment or health care operations; (ii) to individuals of Protected Information about them; (iii) to persons involved in the individual's care; (iv) for national security or intelligence purposes; or (v) to correctional institutions or law enforcement officials. Physician agrees to maintain information on disclosures by Physician and Physician's employees, agents or subcontractors for at least six (6) years following the disclosure, but not before the compliance date of the Privacy Rule. At a minimum, such information shall include: (A) the date of disclosure; (B) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (C) a brief description of Protected Information disclosed; and (D) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or copy of the individual's authorization, or a copy of the written request for disclosure.
10. **Access to Records.** Physician shall make Physician's internal practices, books and records relating to the use and disclosure of Protected Information available to Hospital for purposes of determining Physician's compliance with this Agreement or, at the request of Hospital, to the Secretary of the U.S. Department of Health and Human Services, for purposes of determining Hospital's compliance with the Privacy Rule.
11. **Retention of Protected Information.** Except as provided in Sections 12 and 13 of this Exhibit, Physician and Physician's employees, agents or subcontractors shall retain all Protected Information throughout the term of this Agreement and shall continue to

maintain the information required under Section 9 of this Exhibit for a period of six (6) years after expiration or termination of this Agreement.

12. **Term of Obligations.** Physician's HIPAA Obligations shall commence as of the compliance date of the Privacy Rule, and shall terminate when all of the Protected Information is destroyed or returned to Hospital, or, if it is infeasible to return or destroy Protected Information, protections are extended to such information, in accordance with Section 13 of this Exhibit.
13. **Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Physician shall return or destroy all Protected Information that Physician or Physician's employees, agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, as determined by Hospital, Physician shall continue to extend the protections of this Exhibit to such information, and limit further use of such Protected Health Information to those purposes that make the return or destruction of such Protected Health Information infeasible.
14. **Amendment.** The Parties agree to take such action as is necessary to amend HIPAA Obligations from time to time in order for Hospital to comply with the requirements of the Privacy Rule, HIPAA and other applicable laws relating to the security or confidentiality of Protected Health Information.
15. **Interpretation of Obligations.** The HIPAA Obligations shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The Parties acknowledge and agree that any ambiguity in the HIPAA Obligations shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

**Exhibit 2.2(b)**

**PHYSICIAN FINANCIAL REPORT FORM**

**Month:** \_\_\_\_\_, 20\_\_

Physician represents and warrants to Hospital that this Physician Financial Report (a) is consistent with the books and records of Physician; (b) is true, accurate and complete in all respects; (c) does not contain any untrue information or statement of fact; and (d) does not omit to state any information or fact reasonably necessary to make the information or facts contained herein not misleading.

\_\_\_\_\_  
Signature of Physician

Patient Volume (Visits this month) \_\_\_\_\_

**PRACTICE RECEIPTS** \_\_\_\_\_

**PRACTICE EXPENSES**

Maximum Allowable  
Expenses

Actual Expenses  
Incurred

<b>PRACTICE EXPENSES</b>	<u>Maximum Allowable Expenses</u>	<u>Actual Expenses Incurred</u>
Rent (Office)		
Phone & Answering Service		
Utilities		
Malpractice Insurance		
Insurance (Office)		
Salaries		
Fringe Benefits & Payroll Taxes		
Medical Supplies		
Office Supplies		
Licenses		
Professional Supplies and Services		
Transcription Expenses		
Leased Equipment and Equipment Fees		
Billing Expenses		
Bank Charges		
Dues, Subscriptions, CME		
Marketing/Advertising		
Misc. Expenses		
<b>TOTAL PRACTICE EXPENSES</b>		

For purposes of calculating the Practice Expenses, Physician shall apply only those expenses identified above and the total amount of each such expense in any given month shall not exceed the maximum allowable Practice Expense for that month, except as otherwise agreed to in writing by Hospital. Physician may only include as Practice Expenses those expenses that are actually paid by Physician during the month and only to the extent reasonable and customary to conduct the Practice. Payroll tax obligations of Physician shall not be treated as a Practice Expense.

**NET PAYMENT CALCULATION**

***FOR ACCOUNTING USE ONLY***

<b>Guaranteed Monthly Income</b>	_____
<i>Add:</i> <b>Practice Expenses</b>	_____
<i>Less:</i> <b>Practice Receipts</b>	_____
<i>Equals:</i> <b>Income Guarantee Advance (Excess Receipts)</b>	_____
 <b>Total Income Guarantee Advances To Date</b>	 _____

Exhibit 3.1(a)

SECURED PROMISSORY NOTE

Not to Exceed [REDACTED]

\_\_\_\_\_, 20\_\_\_\_

**FOR VALUE RECEIVED**, the undersigned borrower Erika Cox, M.D. (“**Physician**”) promises to pay to the order of Palomar Pomerado Health, a California district hospital (“**Hospital**”), as noteholder, the principal sum equal to the aggregate amount of advances paid to Physician pursuant to the Physician Recruitment Agreement by and between Physician and Hospital, dated as of even date herewith (the “**Recruitment Agreement**”). Unless otherwise defined in this Secured Promissory Note (the “**Recruitment Note**”), each capitalized term shall have the meaning given in the Recruitment Agreement. The aggregate principal amount of the loans provided to Physician pursuant to the Recruitment Agreement (the “**Principal**”) shall not exceed [REDACTED]

1. **Advances of Principal; Interest.**

(a) Physician hereby promises to pay to the order of Hospital, at such place as Hospital may from time to time designate in writing, in lawful money of the United States of America, the Principal and accrued interest thereon.

(b) Interest shall accrue on the Principal outstanding at a rate equal to the Prime Rate (as defined below), adjusted annually on each anniversary date of this Recruitment Note, plus two percent (2 %), computed on the basis of a 365/366-day year and the number of days elapsed, commencing as of the first date that Principal is advanced to Physician under this Recruitment Note and continuing thereafter until the Principal is either repaid or forgiven in full; provided, however, that interest shall never accrue at an annual rate greater than the maximum rate permitted to be charged under applicable law on commercial loans between unrelated persons. “**Prime Rate**” shall mean the annual interest rate published from time to time by the Wall Street Journal as the prime or base rate of interest on corporate loans. Physician acknowledges that the Prime Rate is \_\_\_ percent (\_\_\_%) as of the date of this Recruitment Note.

2. **Repayment and Forgiveness.** Notwithstanding any other provisions of this Recruitment Note, Principal, accrued interest, and other applicable fees, costs and charges (“**Costs**”), if any, owing on this Recruitment Note shall be payable or forgiven as follows:

(a) **Repayment.** Principal and accrued interest thereon shall be payable “mortgage-style” in Twenty four (24) equal monthly installments sufficient to fully amortize the unpaid balance of this Recruitment Note. Principal and accrued interest thereon shall be payable on the first (1<sup>st</sup>) day of each month during the Repayment Period (as defined below).

(b) **Repayment Period.** “**Repayment Period**” shall mean the period beginning on the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) calendar month immediately following the end of the Assistance Period and continuing until the earlier of (i) the date on which the Principal and



all accrued interest thereon, and all Costs, if any, are either paid or forgiven in full, or (ii) the Maturity Date (as defined below). In all events, and subject to the remaining provisions of this Section 2, the entire then-outstanding balance of Principal and all accrued, unpaid interest thereon, and all Costs, if any, shall be due and payable by Physician to Hospital no later than the Maturity Date. The “**Maturity Date**” shall mean the date that is Twenty four (24) months from the first (1<sup>st</sup>) day of the first (1<sup>st</sup>) calendar month immediately following the end of the Assistance Period.

(c) **Forgiveness.** If Physician has continuously complied throughout the term of the Recruitment Agreement with all terms and conditions of the Recruitment Agreement, this Recruitment Note and the Physician Security Agreement, and no Event of Default (as defined in Section 3 below) has occurred (i) Hospital shall forgive, on the last day of each month during the Repayment Period, an amount equal to the monthly amount (including Principal and accrued interest) otherwise due to Hospital for such month pursuant to Section 2(a) of this Recruitment Note; and (ii) Hospital shall forgive, on the last day of the Repayment Period, all Costs, if any, owing by Physician.

(d) **Repayment with Excess Receipts.** If Practice Receipts exceed the sum of Guaranteed Monthly Income and Practice Expenses in any month during the Assistance Period, Physician shall pay to Hospital such excess (the “**Excess Receipts**”) within ten (10) days after the end of such month. All payments of Excess Receipts made pursuant to this Section 2(d) shall be applied as follows: first, to Costs, if any; second, to due and unpaid interest; and third, to the outstanding Principal, in inverse order of maturity.

(e) **Forgiveness upon Death or Permanent Disability.** Notwithstanding any other provision of this Recruitment Note to the contrary, Hospital shall forgive the entire then-outstanding balance of Principal and all accrued, unpaid interest owing on the Recruitment Note, together with all other Costs, if any, in the event of Physician’s death or Permanent Disability.

(f) **Prepayment.** Physician shall have the right to prepay the Principal outstanding in whole or in part without penalty. Any partial prepayment shall be applied against the Principal outstanding and shall not postpone the due date of any subsequent monthly installment.

(g) **Application of Payments.** Unless otherwise agreed in writing in advance by Hospital, each payment or forgiveness with respect to this Recruitment Note shall be credited as follows: first, against Costs, if any; second, against accrued and unpaid interest then due and owing; and third, against the Principal outstanding.

3. **Events of Default.** The termination for any reason of the Recruitment Agreement, other than any automatic termination upon the death or Permanent Disability of Physician, or the occurrence of any Event of Default under the Recruitment Agreement shall constitute an event of default (“**Event of Default**”) under this Recruitment Note.

4. **Acceleration.** Upon the expiration or termination of the Recruitment Agreement for any reason, except termination pursuant to Sections 6.3, 6.4 or 6.5 of the Recruitment Agreement, Hospital may, at its option, declare the entire Principal outstanding, together with

interest accrued thereon and all other Costs, if any, immediately due and payable to Hospital and Hospital may proceed to exercise any rights or remedies that it may have under this Recruitment Note, at law, equity or otherwise. In the event of such acceleration, Physician may discharge Physician's obligations to Hospital by paying the entire Principal outstanding, plus accrued interest and any other Costs, if any, as set forth in this Recruitment Note.

**5. Termination by Physician or in the Event of Government Action.** If the Recruitment Agreement is terminated by Physician pursuant to Section 6.3 of the Recruitment Agreement or as a result of Government Action pursuant to Section 6.4 of the Recruitment Agreement, the entire outstanding balance of Principal and accrued interest together with the Costs owing on this Recruitment Note as of the effective date of such termination shall be payable by Physician to Hospital in thirty-six (36) equal monthly installments of Principal and interest commencing as of the date that is one (1) month following the effective date of the termination of the Recruitment Agreement; provided, however, if such repayment terms violate any federal, state or local law, rule, regulation, or Government Action, Physician shall pay to Hospital, on the effective date of the termination of the Recruitment Agreement, the Principal and accrued interest together with the Costs owing on this Recruitment Note as of the effective date of such termination. Physician shall not have any right to offset the amount owing to Hospital under this Section upon termination by any amounts that then or thereafter may be owing by Hospital to Physician whether as a result of the termination or otherwise.

**6. Costs of Collection.** If Hospital exercises its acceleration rights pursuant to this Recruitment Note, in addition to the Principal outstanding and accrued interest thereon, Hospital shall be entitled to collect all costs of collection, including reasonable attorneys' fees incurred in connection with the protection or realization of collateral and Hospital's reasonable collection efforts, whether or not suit on this Recruitment Note or any foreclosure proceeding is filed. Any and all such costs and expenses shall be payable on demand and secured by the Physician Security Agreement.

**7. Continuing Liability.** Following the occurrence of an Event of Default, Physician's liability under this Recruitment Note shall not be affected by Hospital's pursuit or non-pursuit of any one or more of its rights, powers or remedies (including, without limitation, its option to accelerate the payment of this Recruitment Note), regardless of the order in which or the extent to which Hospital may pursue any of such rights, powers or remedies, it being understood that the liability of Physician shall cease only upon satisfaction in full of all of Physician's obligations arising under this Recruitment Note and the Recruitment Agreement.

**8. No Waiver.** No failure on the part of Hospital to exercise any right or remedy under this Recruitment Note, whether before or after a default, shall constitute a waiver of such right or remedy, and no waiver of any past default shall constitute waiver of any future default. No acceptance of a past due installment or other indulgence granted from time to time shall constitute a waiver of the right to insist upon prompt payment, be deemed to be a novation of this Recruitment Note or as a reinstatement of the debt evidenced by this Recruitment Note, or be construed to preclude the exercise of any right which Hospital may have under law, by agreement or otherwise. Physician and each endorser or guarantor hereby expressly waive the benefit of any statute or rule of law or equity which would produce a result contrary to or in conflict with the foregoing. Physician expressly waives the four (4) year statutory period for

civil actions upon written contracts set forth in California Code of Civil Procedure Section 337, and agrees that the statutory period for any actions upon this Recruitment Note shall run for eight (8) years as permitted by California Code of Civil Procedure Section 360.5.

9. **Waiver of Notice.** Physician and each endorser or guarantor of this Recruitment Note hereby (i) waives presentment, demand, protest and notice of presentment, notice of protest and notice of dishonor of this debt and any other notice respecting this Recruitment Note, and (ii) agrees that Hospital, at any time without notice to such party or such party's consent, may grant extensions of time, without limit as to the number or the aggregate period of such extensions, for the payment of any Principal of or interest accrued thereon.

10. **Amendments.** This Recruitment Note may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated, signed by the Parties and attached to this Recruitment Note.

11. **Assignment.** Physician shall not assign, sell, transfer or delegate any of Physician's rights or duties under this Recruitment Note without the prior written consent of Hospital. Hospital may assign its rights and delegate its duties under this Recruitment Note upon written notice to Physician.

12. **Business Purposes.** Physician represents and warrants that the loan evidenced by this Recruitment Note is being made for business purposes.

13. **Choice of Law.** This Recruitment Note shall be construed in accordance with and governed by the laws of California, without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than California. Physician and each endorser or guarantor hereby submit to jurisdiction in California for the enforcement of Physician's obligations under this Recruitment Note and under the Physician Security Agreement (as defined in Section 17 below), and waive any and all rights under the laws of any other state to object to jurisdiction within California.

14. **Interest Limitations.** Notwithstanding anything to the contrary contained in this Recruitment Note, the total liability for payments in the nature of interest shall not exceed the limits imposed by applicable interest rate laws. If any payments in the nature of interest are held to be in excess of the limits imposed by applicable interest rate laws, any such amount held to be in excess shall be considered payment of Principal and the Principal outstanding shall be reduced accordingly.

15. **Notices.** Any notice required or permitted to be given in this Recruitment Note shall be given in accordance with the notices provision of the Recruitment Agreement.

16. **Referrals.** Hospital and Physician acknowledge that the amounts loaned to Physician and Physician's rights and duties under this Recruitment Note in no way require, and in no way are contingent upon the admission, recommendation, referral or any other arrangement for the provision of any item or service offered by Hospital or any Affiliate, to any patients of Physician, Physician's practice, or any of Physician's contractors, partners, employees or agents.

17. **Security.** This Recruitment Note is secured by a first priority security interest granted by Physician to Hospital in the collateral described in that certain Physician Security Agreement of even date herewith (the "**Physician Security Agreement**") by and between Physician and Hospital. All of the provisions contained in the Physician Security Agreement are hereby made a part of this Recruitment Note to the same extent and with the same effect as if they were fully set forth in this Recruitment Note.

18. **Severability.** If any provision of this Recruitment Note, in whole or in part, or the application of any provision, in whole or in part, is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction, such provision or part of such provision shall be severed from this Recruitment Note, and such severance shall have no effect upon the enforceability, performance or obligations of the remainder of this Recruitment Note, including the remainder of such provision not determined to be illegal, invalid or unenforceable.

19. **Successors and Assigns.** The provisions of this Recruitment Note shall inure to the benefit of and shall be binding upon the heirs, assigns, successors and representatives of Physician and Hospital, respectively. The term "**Physician**" shall mean Physician and each heir, successor, assign, and representative of Physician as obligor of this Recruitment Note. The term "**Hospital**" shall mean Hospital and each successor, assign, and representative of Hospital as payee or holder of this Recruitment Note.

20. **Time of the Essence.** Time is of the essence in the performance of Physician's obligations under this Recruitment Note.

This Recruitment Note is executed on the date first above written, at \_\_\_\_\_,  
\_\_\_\_\_.

**PHYSICIAN**

\_\_\_\_\_  
Erika Cox, M.D., an individual

**Exhibit 3.1(b)**

**PHYSICIAN SECURITY AGREEMENT**

THIS PHYSICIAN SECURITY AGREEMENT (this "**Physician Security Agreement**") is made and entered into as of \_\_\_\_\_, 20\_\_ (the "**Execution Date**"), by and between Erika Cox, M.D., an individual, as the debtor ("**Physician**"), and Palomar Pomerado Health, a California district hospital ("**Hospital**"), as the secured party.

**RECITALS**

A. Physician is obligated to Hospital under that certain Physician Recruitment Agreement by and between Hospital and Physician, dated as of even date herewith (the "**Recruitment Agreement**"), and that certain Secured Promissory Note, dated as of even date herewith, executed and delivered by Physician to Hospital (the "**Recruitment Note**"). Unless otherwise defined in this Physician Security Agreement, each capitalized term shall have the meaning given in the Recruitment Agreement.

B. Hospital and Physician wish to enter into this Physician Security Agreement to secure the payment and performance of all indebtedness, liabilities and obligations of Physician due or to become due to Hospital under the Recruitment Note and set forth under the Recruitment Agreement (collectively, the "**Obligations**").

**AGREEMENT**

Physician and Hospital agree as follows:

1. **Grant of Security Interest.** Physician hereby grants to Hospital a security interest in the collateral, as described and defined in **Attachment A** to this Physician Security Agreement (the "**Collateral**"), to secure the payment and performance of all of the Obligations due or to become due, and all modifications, renewals, extensions, rearrangements, substitutions and replacements of such Obligations.

2. **Release of Collateral.** The Collateral shall be released and relieved of the security interest granted herein, and Physician shall be entitled to unencumbered title thereto and possession thereof, upon full and complete payment, performance, satisfaction, forgiveness or observance of all Obligations in accordance with the terms of this Physician Security Agreement, the Recruitment Note and the Recruitment Agreement. Upon the release of the Collateral, Hospital shall execute and deliver, at Physician's sole cost and without recourse against Hospital, any necessary instruments of title, release, reassignment and delivery as Physician may reasonably request.

3. **Events of Default.** The termination for any reason of the Recruitment Agreement, other than any automatic termination upon the death or Permanent Disability of Physician, or the occurrence of any Event of Default under the Recruitment Agreement shall constitute an event of default ("**Event of Default**") under this Physician Security Agreement and shall provide Hospital with the rights and remedies described below.

4. **Rights and Remedies upon Default.** Upon the occurrence and during the continuation of any of the above Events of Default, Hospital may accelerate all of the Obligations and shall have, in addition to all other rights and remedies provided herein or by applicable law, all of the rights and remedies of a secured party under the California Commercial Code (the "**Code**").

5. **Indemnity and Expenses.** Physician agrees to indemnify Hospital from and against any and all claims, losses and liabilities arising out of or relating to this Physician Security Agreement (including enforcement of this Physician Security Agreement or any actions taken by Hospital pursuant to this Physician Security Agreement), except claims, losses or liabilities resulting from Hospital's own gross negligence or willful misconduct. Physician will on demand pay to Hospital the amount of any and all reasonable costs and expenses, including the reasonable fees and disbursements of its legal counsel and of any experts or agents, which Hospital may incur in connection with: (i) the exercise or enforcement by Hospital of any of its rights or remedies under this Physician Security Agreement, or (ii) any failure by Physician to perform any of the Obligations.

6. **Physician Remains Liable.** Notwithstanding any other provision of this Physician Security Agreement, (i) Physician shall remain liable under the contracts and agreements included in the Collateral to perform all of Physician's duties and obligations thereunder to the same extent as if this Physician Security Agreement had not been executed, (ii) the exercise by Hospital of any of its rights under this Physician Security Agreement shall not release Physician from any of Physician's duties or obligations under the contracts and agreements included in the Collateral, and (iii) Hospital shall not have any obligation or liability under the contracts and agreements included in the Collateral by reason of this Physician Security Agreement, nor shall Hospital be obligated to perform any of the obligations or duties of Physician or to take any action to collect or enforce any claim for payment.

7. **Waivers; Cumulative Remedies.** Physician waives notice of the acceptance of this Physician Security Agreement and all other notices, demands or protests to which Physician might otherwise be entitled by law in respect to this Physician Security Agreement, the Obligations or the Collateral, and which may be lawfully waived. Hospital shall have no duty as to the collection or protection of the Collateral or any income, or as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining to the Collateral beyond reasonable care in the custody or preservation thereof. Hospital may exercise its rights and remedies with respect to the Collateral without resorting or regard to other security or sources for payment. All rights and remedies of Hospital shall be cumulative and may be exercised singularly or concurrently.

8. **Authorization to File Financings Statement.** Physician authorizes Hospital to prepare and file all financing statements (Form UCC-1), continuation statements (Form UCC-3),

or other written statements or notices required in order to perfect, secure or maintain as perfected Hospital's security interest in the Collateral, without the signature of Physician where permitted by law. Copies of all financing statements, continuation statements or other written statements or notices shall be promptly delivered to Physician.

9. **Further Assurances.** Each Party shall perform any further acts and execute any further documents, including, without limitation, financing or continuation statements, or amendments thereto, an account control agreement substantially in the form attached hereto as **Attachment B**, and such other instruments, endorsements or notices as may be reasonably necessary or otherwise reasonably requested to perfect, secure or maintain as perfected Hospital's security interest in the Collateral or to carry out the provisions of this Physician Security Agreement.

10. **Amendments.** This Physician Security Agreement may be modified or amended, waived, discharged or terminated only by an instrument in writing signed by the Party against which enforcement of the amendment, waiver, discharge or termination is sought.

11. **Assignment.** If at any time or times by sale, assignment, negotiation, pledge or otherwise, Hospital transfers any of the Obligations, such transfer shall carry with it Hospital's rights and remedies under this Physician Security Agreement with respect to the transferred Obligations, and the transferee shall become vested with such rights and remedies whether or not they are specifically referred to in the transfer. If and to the extent Hospital retains any other Obligations, Hospital shall continue to have those rights and remedies.

12. **Costs and Fees.** Physician agrees to pay reasonable attorneys' fees and all other costs and expenses which may be incurred by Hospital in the enforcement of this Physician Security Agreement, the Obligations, or in any action or proceeding arising out of, or relating to, this Physician Security Agreement.

13. **Counterparts.** This Physician Security Agreement 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.

14. **Definitions and Incorporation by Reference.** All terms used but not expressly defined in this Physician Security Agreement will have the same meaning as set forth in the Code. All terms, provisions and definitions of any loan agreements, guarantees or other credit arrangements between Physician and Hospital are incorporated in this Physician Security Agreement by reference as though set forth in full.

15. **Dispute Resolution.** All disputes, controversies, claims, questions, or disagreements arising out of or relating to this Physician Security Agreement, shall be litigated in any state or federal court having appropriate jurisdiction and located within California, County of San Diego. The Parties, by the execution of this Physician Security Agreement, expressly consent to the jurisdiction of any such court, to venue therein and to the service of process in any such action or proceedings, as required by applicable law.

16. **Choice of Law.** This Physician Security Agreement shall be construed in accordance with and governed by the laws of California, without giving effect to any choice of

law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than California.

17. **Notices.** Any notice required or permitted to be given in this Physician Security Agreement shall be in writing and shall be given in accordance with the notices provision of the Recruitment Agreement.

18. **Severability.** If any provision, or the application of any provision, of this Physician Security Agreement is determined to be illegal, invalid or unenforceable, that provision shall be severed from this Physician Security Agreement and such severance shall have no effect upon the enforceability, performance or obligations of the remainder of this Physician Security Agreement.

19. **Successors and Assigns.** This Physician Security Agreement shall be binding upon Physician's heirs, successors, assigns, and representatives and shall inure to the benefit of and be enforceable by Hospital and its successors, assigns, and representatives.

*[signature page follows]*



Physician and Hospital have executed this Physician Security Agreement on the Execution Date.

**PHYSICIAN**

Erika Cox, M.D., an individual

\_\_\_\_\_  
Erika Cox, M.D.

Physician's principal place of business:

935 East Pennsylvania Avenue \_\_\_\_\_  
Escondido, CA 92025 \_\_\_\_\_  
\_\_\_\_\_

**HOSPITAL**

Palomar Pomerado Health,  
a California district hospital

\_\_\_\_\_  
By: Michael H. Covert \_\_\_\_\_  
Its: President/CEO \_\_\_\_\_

Hospital's address:

15255 Innovation Drive \_\_\_\_\_  
San Diego, CA 92128 \_\_\_\_\_  
\_\_\_\_\_

**Attachment A**

**DESCRIPTION OF COLLATERAL**

Except to the extent the granting of a security interest is limited by application of law with respect to payments from governmental entities, all present and future right, title and interest of Erika Cox, M.D., an individual ("**Debtor**"), in and to the following property, whether now owned or later acquired or created: (a) payments and rights to payment from all sources, for goods sold or leased or for services furnished, including, without limitation, all those which are not evidenced by instruments or chattel paper, and whether or not they have been earned by performance ("**Accounts Receivable**"); (b) furniture, fixtures and equipment; (c) rights under contracts with managed care entities; (d) proceeds of letters of credit of which Debtor is named beneficiary; (e) general intangibles; (f) contract rights; (g) chattel paper; (h) instruments; (i) documents; (j) insurance proceeds; (k) all books and records in respect to the foregoing; (l) proceeds of all the foregoing; and (m) all monies from time to time on deposit in Debtor's business bank account no. \_\_\_\_\_ with \_\_\_\_\_ (collectively, the "**Collateral**"), each to the extent used in Debtor's medical practice or arising out of or related to the provision of professional medical and other health care services performed by Debtor.

## Attachment B

### ACCOUNT CONTROL AGREEMENT

This Control Agreement (this “**Agreement**”), is entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, by and among Palomar Pomerado Health, a California district hospital (“**Secured Party**”), Erika Cox, M.D., an individual (“**Debtor**”), and [Name of Bank] (“**Bank**”). Secured Party, Debtor and Bank are sometimes referred to in this Agreement, individually, as a “**Party**” or, collectively, as the “**Parties.**”

#### RECITAL

Pursuant to that certain Physician Security Agreement of even date herewith, by and between Secured Party and Debtor, Debtor has granted Secured Party a security interest in a deposit account maintained by Bank for Debtor. The Parties are entering into this Agreement to perfect Secured Party’s security interest in that account.

#### AGREEMENT

**Section 1. The Account.** Bank maintains a deposit account for Debtor, currently numbered \_\_\_\_\_ and titled \_\_\_\_\_ (as such account may be renumbered or retitled, the “**Account**”). All Parties agree that the Account is a “deposit account” within the meaning of Division 9 of the Uniform Commercial Code of the State of California (the “**UCC**”).

**Section 2. Control.** Bank will comply with instructions originated by Secured Party directing disposition of the funds in the Account without further consent by Debtor. Bank may also comply with instructions directing the disposition of funds in the Account originated by Debtor or its authorized representatives until such time as Secured Party delivers a written notice to Bank that Secured Party is thereby exercising exclusive control over the Account. Such notice is referred to herein as the “**Notice of Exclusive Control.**” Upon receiving a Notice of Exclusive Control, Bank will cease complying with instructions concerning the Account or funds on deposit therein originated by Debtor or its representatives. Bank has not and will not agree with any third party to comply with instructions or other directions concerning the Account or the disposition of funds in the Account originated by such third party without the prior written consent of Secured Party and Debtor.

**Section 3. Subordination of Bank’s Security Interest.** Bank hereby subordinates all security interests, encumbrances, claims and rights of setoff it may have, now or in the future, against the Account or any funds in the Account other than in connection with the payment of Bank’s customary fees and charges pursuant to its agreement with Debtor and for the reversal of provisional credits.

**Section 4. Statements, Confirmations and Notices of Adverse Claims.** Bank will send copies of all statements concerning the Account to each of Debtor and Secured Party at the address set forth on the signature page of this Agreement. Upon receipt of written notice of any lien, encumbrance or adverse claim against the Account or any funds credited thereto, Bank will make reasonable efforts promptly to notify Secured Party and Debtor thereof.

**Section 5. Bank's Responsibility.** Except for acting on Debtor's instructions in violation of Section 2 above, Bank shall have no responsibility or liability to Secured Party for complying with instructions concerning the Account from Debtor or Debtor's authorized representatives which are received by Bank before Bank receives a Notice of Exclusive Control and has had reasonable opportunity to act on it. Bank shall have no responsibility or liability to Debtor for complying with a Notice of Exclusive Control or complying with instructions concerning the Account originated by Secured Party, and shall have no responsibility to investigate the appropriateness of any such instruction or Notice of Exclusive Control, even if Debtor notifies Bank that Secured Party is not legally entitled to originate any such instruction or Notice of Exclusive Control.

**Section 6. Indemnity.** Debtor and Secured Party hereby agree to indemnify and hold harmless Bank, its directors, officers, agents and employees against any and all claims, causes of action, liabilities, lawsuits, demands and damages, including, without limitation, any and all court costs and reasonable attorneys' fees, in any way related to or arising out of or in connection with this Agreement or any action taken or not taken pursuant hereto, except to the extent caused by Bank's gross negligence or willful misconduct or Bank's breach of any of the provisions hereof.

**Section 7. Customer Agreement.** In the event of a conflict between this Agreement and any other agreement between Bank and Debtor relating to the Account, the terms of this Agreement will prevail; provided, however, that this Agreement shall not alter or affect any mandatory arbitration provision currently in effect between Bank and Debtor pursuant to a separate agreement.

**Section 8. Termination.** Unless earlier terminated by Bank pursuant to this Section, this Agreement shall continue in effect until Secured Party has notified Bank in writing that this Agreement, or its security interest in the Account, is terminated. Upon receipt of such notice the obligations of Bank hereunder with respect to the operation and maintenance of the Account after the receipt of such notice shall terminate, Secured Party shall have no further right to originate instructions concerning the Account and any previous Notice of Exclusive Control delivered by Secured Party shall be deemed to be of no further force and effect. Bank reserves the right, unilaterally, to terminate this Agreement, such termination to be effective thirty (30) days after written notice thereof is given to Debtor and Secured Party.

**Section 9. Complete Agreement; Amendments.** This Agreement and the instructions and notices required or permitted to be executed and delivered hereunder set forth the entire agreement of the Parties with respect to the subject matter hereof, and, subject to Section 7 above supersede any prior agreement and contemporaneous oral agreements of the Parties concerning its subject matter. No amendment, modification or (except as otherwise specified in Section 8 above) termination of this Agreement, nor any assignment of any rights hereunder (except to the extent contemplated under Section 12 below), shall be binding on any Party hereto unless it is in writing and is signed by each of the Parties hereto, and any attempt to so amend, modify, terminate or assign except pursuant to such a writing shall be null and void. No waiver of any rights hereunder shall be binding on any Party hereto unless such waiver is in writing and signed by the Party against whom enforcement is sought.

**Section 10. Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of California. The Parties agree that California is the “bank’s jurisdiction” for purposes of the UCC.

**Section 11. Severability.** To the extent a provision of this Agreement is unenforceable, this Agreement will be construed as if the unenforceable provision were omitted.

**Section 12. Successors and Assigns.** The terms of this Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective successors or heirs and personal representatives. This Agreement may be assigned by Secured Party to any successor of Secured Party under its Security Agreement with Debtor, provided that written notice thereof is given by Secured Party to Bank.

**Section 13. Notices.** Except as otherwise expressly provided herein, any notice, order, instruction, request or other communication required or permitted to be given under this Agreement shall be in writing and deemed to have been properly given when delivered in person, or when sent by telecopy or other electronic means and electronic confirmation of error-free receipt is received or upon receipt of notice sent by certified or registered United States mail, return receipt requested, postage prepaid, addressed to the Party at the address set below such Party’s name on the signature page of this Agreement. Any Party may change its address for notices in the manner set forth above.

**Section 14. Jury Waiver.** DEBTOR WAIVES ITS RIGHT TO A JURY TRIAL WITH RESPECT TO ANY ACTION OR CLAIM ARISING OUT OF ANY DISPUTE IN CONNECTION WITH THIS AGREEMENT, ANY RIGHTS, REMEDIES, OBLIGATIONS, OR DUTIES HEREUNDER, OR THE PERFORMANCE OR ENFORCEMENT HEREOF OR THEREOF.

**Section 15. Counterparts.** This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same instrument, and any Party hereto may execute this Agreement by signing and delivering one or more counterparts.

*[signature page follows]*

The Parties have executed this Agreement on the date first written above.

**SECURED PARTY**

Palomar Pomerado Health,  
a California district hospital

By: Michael H. Covert  
Its: President/CEO

Secured Party's address:

15255 Innovation Drive  
San Diego, CA 92128

**DEBTOR**

Erika Cox, M.D.,  
an individual

\_\_\_\_\_  
Erika Cox, M.D.

Debtor's address:

935 East Pennsylvania Avenue  
Escondido, CA 92025

**BANK**

\_\_\_\_\_,  
a *[state]* *[type of entity]*

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Bank's address:

\_\_\_\_\_  
\_\_\_\_\_

### Exhibit 5.3

#### **CODE OF CONDUCT**

1. I will perform my duties faithfully and to the best of my ability, and in the interest of PPH.
2. I will not lie, cheat, steal, or violate any law in connection with my employment by PPH.
3. I will not pay or arrange for PPH to pay any person or entity for the referral of patients to PPH, nor will I accept any payment or arrange for PPH to accept any payment for referrals from PPH.
4. I will not participate in any false billing of patients, government entities or any other party, nor will I participate in the preparation of any false cost reports, or other type of report submitted to the government.
5. I will not engage in any conduct or practice that conflicts (or appears to conflict) with interest of PPH, unless I first obtain the express written consent of the Palomar Pomerado Health Board of Directors or designee.
6. I will not use PPH's confidential or proprietary information gathered during my employment with PPH for my own personal benefit, either during or after my employment at PPH.
7. I will not obtain any improper personal benefits by virtue of my employment with PPH.
8. I will notify the compliance officer immediately upon the receipt (at work or home) of an inquiry, subpoena (other than for routine licensing or tax matters) or other agency or government request for information regarding PPH.
9. I will not destroy or alter information or documents in anticipation of or in response to, a request for documents by any applicable government agency or from a court of competent jurisdiction.
10. I will not engage in any business practice intended to unlawfully obtain favorable treatment or business from any government entity, physician, patient, vendor or any other party in a position to provide such treatment or business.
11. I will not solicit or receive from any person or entity, nor offer to give to any person or entity, anything of value if that person or entity is in a position to refer business to PPH or if PPH is in a position to refer business to that person or entity.
12. I will not accept any gift of more than nominal value, (\$50), and hospitality or entertainment which because of its source or value might influence my independent judgment in transactions involving PPH.
13. I will not provide any gifts to any government or public agency representative.
14. I will disclose to the compliance officer any financial interest or ownership interest or any other relationship that I or a member of my immediate family has with PPH customers, and vendors or competitors.
15. I will not disclose confidential medical information pertaining to PPH patients without the express written consent of the patient in accordance with HIPAA, other applicable law and PPH applicable policies or procedures.
16. I will promptly report all violations or suspected violations of this manual by myself or other employees to the compliance officer.
17. I will not conspire with a competitor of PPH to illegally fix prices, labor cost, allocate markets, or engage in group boycotts. Before considering any agreements or entering into discussions with a competitor concerning any of these issues, I should first obtain the advice of the compliance officer concerning antitrust issues.

**Associate Medical Directorship for  
Hyperbaric Oxygen Medicine**

**TO:** Board of Directors

**FROM:** Board Finance Committee  
Tuesday, October 4, 2005

**MEETING DATE:** Monday, October 17, 2005

**BY:** Ann Z. Moore, RN, MSN, CWCN  
Sheila Brown, RN, MBA, Clinical Outreach Officer

**BACKGROUND:** This is a request to approve the Associate Medical Director Agreement of Bradley B. Bailey, M.D. Dr. Bailey is board certified in Hyperbaric Oxygen Therapy (HBOT), and brings his expertise and experience to the program.

The Wound Care Clinic has enhanced the existing wound care program at Palomar Pomerado Health through the addition of HBOT. HBOT is a treatment in which a patient breathes 100% oxygen under pressure for a prescribed period of time. While breathing pure oxygen, the patient's blood plasma becomes saturated, carrying 20 to 30 times the normal amount of O<sub>2</sub> to the body's tissues.

*NOTE: Deferred item from the May 31, 2005, Finance Committee meeting.*

**BUDGET IMPACT:** None.

**STAFF RECOMMENDATION:** Approval.

**COMMITTEE QUESTIONS:**

**COMMITTEE RECOMMENDATION:** The Finance Committee recommends approval of the two-year Associate Medical Directorship Agreement for Hyperbaric Oxygen Medicine with Bradley B. Bailey, M.D.

**Motion:** X

**Individual Action:**

**Information:**

**Required Time:**



## PALOMAR POMERADO HEALTH - AGREEMENT ABSTRACT

Section Reference	Term/Condition	Term/Condition Criteria
	<b>TITLE</b>	Associate Medical Directorship Agreement
	<b>AGREEMENT DATE</b>	June 1, 2005
	<b>PARTIES</b>	Bradley B. Bailey, MD and PPH
	<b>PURPOSE</b>	To provide professional medical coverage in the department of Hyperbaric Oxygen Medicine.
	<b>SCOPE OF SERVICES</b>	Professional medical coverage Monday through Friday, 8:00 a.m. to 4:30 p.m. at Pomerado Hospital in Hyperbaric Oxygen Therapy as required.
	<b>PROCUREMENT METHOD</b>	<input type="checkbox"/> Request For Proposal <input checked="" type="checkbox"/> Discretionary
5.1	<b>TERM</b>	June 1, 2005 through June 1, 2007 (two years)
	<b>RENEWAL</b>	None.
5.2, 5.3, 5.4, 5.5	<b>TERMINATION</b>	a. Without cause with 30 days written notice by either party. b. Immediately for cause.
	<b>COMPENSATION METHODOLOGY</b>	Per benchmarks within PPH and Compliance Officer review.
	<b>BUDGETED</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO – IMPACT: None.
	<b>EXCLUSIVITY</b>	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES – EXPLAIN:
	<b>JUSTIFICATION</b>	Required for the operation of Hyperbaric Oxygen Therapy.
	<b>AGREEMENT NOTICED</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <b>Methodology &amp; Response:</b> Posted in Medical Staff offices – no response.
	<b>ALTERNATIVES/IMPACT</b>	
	<b>Duties</b>	<input checked="" type="checkbox"/> Provision for Staff Education <input checked="" type="checkbox"/> Provision for Medical Staff Education <input checked="" type="checkbox"/> Provision for participation in Quality Improvement <input checked="" type="checkbox"/> Provision for participation in budget process development
	<b>COMMENTS</b>	
	<b>APPROVALS REQUIRED</b>	<input checked="" type="checkbox"/> VP <input type="checkbox"/> CFO <input checked="" type="checkbox"/> CEO <input type="checkbox"/> BOD Committee Finance <input checked="" type="checkbox"/> BOD

**ASSOCIATE MEDICAL DIRECTORSHIP AGREEMENT**

**by and between**

**PALOMAR POMERADO HEALTH,  
a local hospital district, doing business as "PPH"**

**and**

**BRADLEY B. BAILEY, M.D., ("Practitioner")**

*June 2005*

## ASSOCIATE MEDICAL DIRECTORSHIP AGREEMENT

THIS ASSOCIATE MEDICAL DIRECTORSHIP AGREEMENT (this “**Agreement**”) is entered into as of June 1, 2005, by and between Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code and doing business as “PPH”(“**Hospital**”), and Bradley B. Bailey, M.D., an individual (“**Practitioner**”). Hospital and Practitioner are sometimes referred to in this Agreement individually as a “**Party**” or, collectively, as the “**Parties.**”

### RECITALS

A. Hospital owns and operates two acute care hospital facilities, two extended healthcare facilities and a Home Health Agency, located in Poway and Escondido, California. These include Pomerado Hospital, Palomar Medical Center, Palomar Continuing Care Center, Villa Pomerado and Palomar Pomerado Home Health Agency. Hospital provides a Wound Management Program for its facilities and agencies. Hospital also currently operates an outpatient Wound Care Clinic and a Hyperbaric Medicine Wound Healing Facility as an integral part of both the Wound Management Program and Wound Care Clinic at Pomerado Hospital in Poway, California. The Wound Management Program, Wound Care Clinic, and Hyperbaric Medicine Wound Healing Facility may be referred to collectively as Palomar Pomerado Center for Wound Care and Hyperbaric Medicine (the “**PPCWCHBM**” or “**Program**” or “**Wound Management Program**”).

B. Practitioner is licensed to practice medicine in the State of California, board certified for the practice of medicine in the specialty of Emergency Medicine (the “**Specialty**”), with certification in the sub-specialty of Wound Care, and a member in good standing of Hospital’s medical staff (the “**Medical Staff**”).

C. Hospital desires to engage Practitioner as an independent contractor to provide medical and administrative oversight with respect to the Wound Management Program, the Wound Care Clinic, as well as the integrated Hyperbaric Medicine Wound Healing Facility, and believes that the following can be achieved if Practitioner assumes such responsibility as set forth in this Agreement: This will enhance the Program’s, Clinic’s and Hospital’s organization, procedure standardization, economic efficiency, professional proficiency, and provide other benefits to enhance coordination and cooperation among the Program’s providers and users.

D. Practitioner has the following qualifications and expertise to provide the services described in this Agreement: Board Certification in Emergency Medicine, Sub-Specialization in Wound Care, Active Staff Membership in the PPCWCHBM, and Board eligible in Hyperbaric Medicine.

E. Hospital has considered the following factors in determining the necessity and amount of compensation payable to Practitioner pursuant to this Agreement:

1. The nature of Practitioner’s duties as contemplated by this Agreement as per Exhibit 1.1.
2. Practitioner’s qualifications as described in Recital D.

3. The difficulty in obtaining a qualified physician to provide the services described in this Agreement.
4. The benefits to Hospital and Hospital's community resulting from Practitioner's performance of the services described in this Agreement.
5. The economic conditions locally and in the health care industry generally.
6. Surveys of practitioner compensation prepared by Sullivan Cotter and Associates.

## AGREEMENT

### THE PARTIES AGREE AS FOLLOWS:

#### ARTICLE I. PRACTITIONER'S OBLIGATIONS

**1.1 Associate Director Services.** Practitioner shall provide to Hospital those medical director services set forth on Exhibit 1.1 ("Associate Director Services"), upon the terms and subject to the conditions set forth in this Agreement. Practitioner shall ensure that all Associate Director Services are performed when and as needed, but shall also perform any Director Services when and as requested by Hospital from time to time.

**1.2 Time Commitment.** Practitioner shall devote whatever time is necessary to ensure the operation of a high-quality Wound Management Program, Wound Care Clinic, and Wound Healing Hyperbaric Medicine Facility; provided, however, that Practitioner shall perform Director Services a minimum of 5 hours and a maximum of 15 hours per month. Practitioner shall allocate time to Associate Director Services as reasonably requested by Hospital from time to time.

**1.3 Availability.** On or before the first (1st) day of each month, Practitioner shall inform Hospital of Practitioner's schedule and availability to perform Associate Director Services during that month. Practitioner shall use his or her best efforts to adjust such schedule of availability if reasonably requested by Hospital in order to meet Hospital's needs for Associate Director Services.

**1.4 Personal Services; Absences.** This Agreement is entered into by Hospital in reliance on the professional and administrative skills of Practitioner. Except as otherwise provided in this Agreement, Practitioner shall be solely responsible for performing Associate Director Services and otherwise fulfilling the terms of this Agreement; provided, however, that if Practitioner is temporarily unable to provide Associate Director Services due to illness, disability, continuing education responsibilities, or vacation, Subject to the prior written approval of Hospital, Practitioner may select a designee Wound Care Physician to perform the duties of Associate Director in the Medical Director's absence. The designee shall meet all of the same qualifications as specified herein for Medical Director. Practitioner shall ensure that any such designated replacement meets any and all qualifications, obligations and requirements of Practitioner under this Agreement. Practitioner shall be solely responsible for compensating and

making any tax filings or withholdings with respect to any designated replacement providing Director Services on Practitioner's behalf. If the length of Practitioner's absence is anticipated by Hospital to be or actually is longer than sixty (60) calendar days, the person who provides Associate Director Services in Practitioner's absence shall execute a written document in form and substance acceptable to Hospital agreeing to be bound by this Agreement. Except in the event of absence due to illness or disability, Hospital shall have the right to approve the length of Practitioner's absence, and any unapproved absence shall constitute a breach of this Agreement. Nothing in this Section shall be deemed to limit in any way Hospital's right to terminate this Agreement in accordance with Section 5.2.

**1.5 Time Reports.** Practitioner shall maintain monthly time reports that provide a true and accurate accounting of the time spent each day by Practitioner in providing Associate Director Services. Such reports shall be substantially in the form attached as Exhibit 1.5. Practitioner shall submit all time reports to Hospital no later than the tenth (10th) day of each month for Associate Director Services provided by Practitioner during the immediately preceding month. If the Practitioner does not submit all time reports to PPH no later than the thirtieth (30th) day of each month the Practitioner will not be paid for that time period.

**1.6 Medical Staff.** Practitioner shall be a member in good standing in the "active staff" category of Hospital's medical staff (the "**Medical Staff**") and hold all clinical privileges at Hospital necessary for the performance of Practitioner's obligations under this Agreement. If, as of the Effective Date (as defined in Section 5.1), Practitioner is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for the performance of Practitioner's obligations hereunder, Practitioner shall have a reasonable amount of time, which in no event shall exceed 90 days from the Effective Date, to obtain such membership and/or clinical privileges; provided that Hospital may immediately terminate this Agreement if Hospital determines that Practitioner is not diligently pursuing such membership and/or clinical privileges in accordance with the normal procedures set forth in the Medical Staff bylaws. Practitioner may obtain and maintain medical staff privileges at any other hospital or health care facility.

**1.7 Professional Qualifications.** Practitioner shall be duly licensed and qualified to practice medicine in the State of California. Practitioner shall be board certified in the Specialty.

**1.8 Continuing Medical Education.** Practitioner shall participate in continuing medical education as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community, as otherwise required by the medical profession and as required to effectively perform Practitioner's obligations under this Agreement.

**1.9 Performance Standards.** Practitioner shall comply with and perform the duties under this Agreement in accordance with all bylaws, Medical Staff policies, rules and regulations of Hospital and the Medical Staff, and all protocols applicable to the performance of Director Services or the [Department/Program] (the "**Protocols**").

**1.10 Code of Conduct.** Practitioner hereby acknowledges receipt of Hospital's Code of Conduct, attached to this Agreement as Exhibit 1.10 (the "**Code**"). With respect to

Practitioner's business dealings with Hospital and Practitioner's performance of duties under this Agreement, Practitioner shall not act, or fail to act, in any manner which conflicts with or violates the Code, and shall not cause another person to act, or fail to act, in any manner which conflicts with or violates the Code. Practitioner shall comply with the Code as it relates to Practitioner's business relationship with Hospital or any Palomar Pomerado Health affiliates, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind.

**1.11 Use of Space.** Practitioner shall not use any part of the space that Hospital designates for the Program and PPCWCHBM as an office for the private practice of medicine, except in an emergency or with Hospital's prior written consent.

**1.12 Notification of Certain Events.** Practitioner shall notify Hospital in writing within twenty-four (24) hours after Practitioner becomes aware of the occurrence of any one or more of the following events:

(a) Practitioner becomes the subject of, or otherwise materially involved in, any government investigation of Practitioner's business practices or the provision of professional services, including being served with a search warrant in connection with such activities;

(b) Practitioner's medical staff membership or clinical privileges at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) Practitioner becomes the subject of any suit, action or other legal proceeding arising out of Practitioner's professional services;

(d) Practitioner is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;

(e) Practitioner becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;

(f) Practitioner becomes incapacitated or disabled from performing Director Services, or voluntarily or involuntarily retires from the practice of medicine;

(g) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(h) Practitioner is charged with or convicted of a criminal offense;

(i) any act of nature or any other event occurs which has a material adverse effect on Practitioner's ability to provide Director Services;

(j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any federal or state health care program;

- (k) any termination, non-renewal, cancellation or reduction in coverage of any insurance policy required to be maintained by Practitioner under this Agreement; or
- (l) Practitioner fails or is otherwise unable to comply with any term of this Agreement.

## **ARTICLE II. COMPENSATION**

**2.1 Compensation.** In exchange for Practitioner's provision of Associate Director Services, Hospital shall compensate Practitioner in accordance with the terms of Exhibit 2.1.

**2.2 IRS Form W-9.** Upon execution of this Agreement, Practitioner shall furnish a completed and executed copy of IRS Form W-9 which identifies Practitioner's taxpayer identification number.

## **ARTICLE III. INSURANCE AND INDEMNITY**

**3.1 Malpractice Liability Insurance.** Practitioner shall obtain and continuously maintain professional malpractice liability insurance coverage, issued by an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, in the amount of at least One Million Dollars (\$1,000,000) per occurrence or claim and Three Million Dollars (\$3,000,000) in the annual aggregate for the acts and omissions of Practitioner. Such coverage shall provide for a date of placement preceding or coinciding with the Effective Date of this Agreement.

**3.2 Certificate of Insurance.** On or before the Effective Date, Practitioner shall provide Hospital with an original certificate evidencing professional malpractice liability insurance coverage, and shall provide Hospital with proof of continued professional malpractice liability insurance coverage on an annual basis (or as periodically requested by Hospital). Practitioner shall provide Hospital with no less than thirty (30) calendar days' prior written notice of cancellation or any material change in such professional malpractice liability insurance coverage.

**3.3 Tail Coverage.** If Practitioner's professional malpractice liability insurance is provided on a claims-made basis, upon the expiration or termination of this Agreement for any reason, Practitioner shall continuously maintain such insurance or purchase from an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, extended reporting period (*i.e.*, "tail") coverage for the longest extended reporting period then available to ensure that insurance coverage in the amount set forth in Section 3.1 of this Agreement is maintained for claims which arise from professional services provided by Practitioner during the term of this Agreement. This Section shall survive the expiration or termination for any reason of this Agreement.

### **3.4 Indemnification.**

(a) **Indemnification by Practitioner.** Practitioner shall indemnify, defend and hold harmless Hospital against: (i) any and all liability arising out of Practitioner's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Practitioner or Practitioner's employees or agents relating to or arising out of Director Services or this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Hospital in connection with the defense of such claims.

(b) **Indemnification by Hospital.** Hospital shall indemnify, defend and hold harmless Practitioner against: (i) any and all liability arising out of Hospital's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Hospital or its employees or agents relating to or arising out of this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Practitioner in connection with the defense of such claims.

## **ARTICLE IV. RELATIONSHIP BETWEEN THE PARTIES**

**4.1 Independent Contractor.** Practitioner is and shall at all times be an independent contractor with respect to Hospital in meeting Practitioner's responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Hospital and Practitioner.

**4.2 Limitation on Control.** Hospital shall neither have nor exercise any control or direction over Practitioner's professional medical judgment or the methods by which Practitioner performs professional medical services; provided, however, that Practitioner shall be subject to and shall at all times comply with the Protocols and the bylaws, guidelines, policies and rules applicable to other members of the Medical Staff.

**4.3 Practice of Medicine.** Practitioner and Hospital acknowledge that Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved to, Hospital in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Hospital shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

**4.4 No Benefit Contributions.** Hospital shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner. Notwithstanding the foregoing, if Hospital determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by



Practitioner, Practitioner shall reimburse Hospital for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

**4.5 Non-Solicitation.** During the term of this Agreement and for a period of one (1) year thereafter, Practitioner shall not solicit for employment or actually employ any employee of Hospital, or interfere with any relationship, contractual or otherwise, between Hospital and any of its employees.

**4.6 Referrals.** Practitioner shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Practitioner best qualified to deliver medical services to any particular patient; provided, however, that Practitioner shall not refer any Hospital patient to any provider of health care services which Practitioner knows or should have known is excluded or suspended from participation in, or sanctioned by, any state or federal health care program. No term of this Agreement shall be construed as requiring or inducing Practitioner to refer patients to Hospital. Practitioner's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital by Practitioner.

**4.7 Physician Compensation Arrangements.** Practitioner represents and warrants to Hospital that the compensation paid or to be paid by Practitioner to any physician who is employed or contracted with Practitioner is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Hospital or any Affiliate (as defined in Section [5.4/5.5]). Practitioner further represents and warrants to Hospital that Practitioner has and will at all times maintain a written agreement with each physician receiving compensation from Practitioner.

**4.8 No Competing Services.** During the term of this Agreement, Practitioner shall not own any interest in, manage, operate, or provide any administrative, consulting, or other items or director services to or on behalf of, any person or entity (whether as director, officer, employee, partner, shareholder, member, agent, representative, security holder, consultant or otherwise), that furnishes or intends to furnish any items or services competitive with those furnished by Hospital or its Affiliates without the prior written consent of Hospital. Notwithstanding the foregoing, nothing in this Section shall prohibit Practitioner from owning securities in any publicly traded company that furnishes services furnished by Hospital or its Affiliates.

## **ARTICLE V. TERM AND TERMINATION**

**5.1 Term.** This Agreement shall become effective on June 1, 2005 (the "**Effective Date**"), and shall continue until June 1, 2007 (the "**Expiration Date**"), subject to the termination provisions of this Agreement. On the Expiration Date and on each of the following two (2) annual anniversary dates of this Agreement thereafter, this Agreement shall automatically renew for an additional one (1) year term, unless and until either Party gives the other Party written notice of its intention not to renew this Agreement at least thirty (30) calendar days prior to the expiration of the immediately preceding one (1) year term.

**5.2 Termination by Hospital.** Hospital shall have the right to terminate this Agreement immediately upon the occurrence of any one or more of the following events:

- (a) breach of this Agreement by Practitioner where the breach is not cured within thirty (30) calendar days after Hospital gives written notice of the breach to Practitioner;
- (b) death or permanent disability of Practitioner;
- (c) Practitioner's voluntary retirement from the practice of medicine;
- (d) neglect of professional duty by Practitioner in a manner that violates Hospital's policies, rules or regulations or the Protocols;
- (e) Practitioner's clinical privileges at any hospital are suspended, restricted, revoked or voluntarily relinquished, or Practitioner's medical staff membership at any hospital is suspended or terminated, for reasons relating to quality of care, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (f) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (g) except as provided in Section 1.6, Practitioner at any time during the term of the Agreement for any reason is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for Practitioner's performance of Director Services;
- (h) Practitioner is charged with or convicted of a criminal offense;
- (i) Practitioner's performance of Director Services, in the sole determination of Hospital, jeopardizes the mental or physical health or well-being of patients of Hospital;
- (j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any federal or state health care program;
- (k) Practitioner acts, or causes another person to act, in a manner which conflicts with or violates the Code;
- (l) breach of any HIPAA Obligation (as defined in Exhibit 6.5); or
- (m) Practitioner is rendered unable to comply with the terms of this Agreement for any reason.

**5.3 Termination without Cause.** Either Party may terminate this Agreement without cause, expense or penalty, effective 30 days after written notice of termination is given to the other Party. If this Agreement is terminated prior to the date that is twelve (12) months from the Effective Date (the "**One Year Anniversary**"), the Parties shall not, at any time prior to the One Year Anniversary, enter into any other agreement or arrangement for the provision of

Director Services that modifies, changes, or alters in any way the provisions of this Agreement. The foregoing sentence shall survive termination of this Agreement pursuant to this Section.

**5.4 Termination by Practitioner.** Practitioner shall have the right to terminate this Agreement upon breach of this Agreement by Hospital where the breach is not cured within thirty (30) calendar days after Practitioner gives written notice of the breach to Hospital.

**5.5 Termination or Modification in the Event of Government Action.**

(a) In the event of any Government Action (as defined below), the Parties shall, within ten (10) days after one Party gives written notification of such Government Action to the other Party, meet and confer and negotiate in good faith to attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, after good faith negotiations that shall not exceed thirty (30) days, are unable to mutually agree upon the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, either Party may terminate this Agreement effective ten (10) days after a written notice of termination is given to the other Party.

(c) For the purposes of this Section, “Government Action” shall mean any legislation, statute, law, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to either Party, as a result or consequence, in whole or in part, of the arrangement between the Parties set forth in this Agreement, if or when implemented, could reasonably be expected to result in or present a material risk of any one or more of the following:

- (i) revocation or threat of revocation of the status of any license, certification or accreditation granted to Hospital or any Affiliate (as defined in Section [5.4/5.5](d));
- (ii) revocation or threat of revocation of the federal, state or local tax-exempt status of Hospital, or any Affiliate, or their respective tax-exempt financial obligations;
- (iii) prohibit or restrict the ability of Hospital or any Affiliate to issue tax-exempt bonds, certificates of participation or other tax-exempt financial obligations;
- (iv) prevent Practitioner from being able to access and use the facilities of Hospital or any Affiliate of Hospital;
- (v) violation of or threat of prosecution under 42 U.S.C. Section 1320a-7b(b) (commonly referred to as the “Anti-Kickback law”), 42 U.S.C. Section 1395nn (commonly referred to as the “Stark law”) or any comparable state law governing kickbacks, bribes,

rebates or patient referrals if Practitioner referred patients to Hospital or any Affiliate;

- (vi) violation by Hospital of, or threat of prosecution of Hospital under, any law, regulation, rule or procedure applicable to Hospital;
- (vii) prohibit Practitioner, Hospital or any Affiliate from submitting claims or materially reducing the reimbursement received by Hospital or any Affiliate for services provided to patients referred by Practitioner; or
- (viii) subject Hospital, Practitioner, any Affiliate, or any of their respective officers, directors, employees or agents, to civil action or criminal prosecution by any governmental authority or other person or entity or the imposition of any sanction (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their approval of or participation in this Agreement or performing their respective obligations under this Agreement.

(d) For the purposes of this Agreement, “Affiliate” shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Hospital.

**5.6 Effect of Termination or Expiration.** Upon any expiration or termination for any reason of this Agreement:

(a) all rights and obligations of the Parties shall cease except (i) those rights and obligations that have accrued and remain unsatisfied prior to the expiration or termination for any reason of this Agreement, and (ii) those rights and obligations which expressly survive the expiration or termination for any reason of this Agreement;

(b) upon Hospital’s request, Practitioner shall immediately vacate the [Department/Program] premises, removing any and all of Practitioner’s personal property, and Hospital may remove and store, at Practitioner’s expense, any personal property that Practitioner has not so removed;

(c) Practitioner shall immediately return to Hospital all of Hospital’s property, including Hospital’s equipment, supplies, furniture, furnishings and patient records, in Practitioner’s possession or under Practitioner’s control; and

(d) Practitioner shall not do anything or cause any other person to do anything that interferes with Hospital’s efforts to engage any other person or entity for the provision of Director Services, or interferes in any way with any relationship between Hospital and any other person or entity who may be engaged to provide Director Services to Hospital.

(e) The expiration or termination for any reason of this Agreement shall not entitle Practitioner to the right to a “fair hearing” or any other similar rights or procedures more particularly set forth in the Medical Staff Bylaws.

**ARTICLE VI.**  
**GENERAL PROVISIONS**

**6.1 Amendment.** This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated, signed by the Parties and attached to this Agreement.

**6.2 Assignment.** Practitioner may not assign any of Practitioner's rights, interests, duties, or obligations under this Agreement without Hospital's prior written consent, which consent may be given or withheld in Hospital's sole discretion. Any attempted or purported assignment by Practitioner in violation of this Section shall be void. Hospital may, in its sole discretion, assign any or all of its rights, interests, duties, or obligations hereunder to any person or entity without the prior written consent of Practitioner. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, successors, assigns and representatives.

**6.3 Attorneys' Fees.** If either Party brings an action for any relief or collection against the other Party, declaratory or otherwise, arising out of the arrangement described in this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' fees and costs actually incurred in bringing such action, including without limitation fees incurred in arbitration, at trial, on appeal and on any review therefrom, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. For the purpose of this Section, attorneys' fees shall include fees incurred in connection with discovery, post judgment motions, contempt proceedings, garnishment and levy.

**6.4 Choice of Law.** This Agreement shall be construed in accordance with and governed by the internal laws of the State of California, except choice of law rules that would require the application of the laws of any other jurisdiction.

**6.5 Compliance with HIPAA.** Practitioner shall comply with the HIPAA Obligations as defined and set forth in Exhibit 6.5. The HIPAA Obligations shall survive the expiration or termination for any reason of this Agreement.

**6.6 Compliance with Laws.** Practitioner shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments, including without limitation laws that require Practitioner to disclose any economic interest or relationship with Hospital, and the policies, standards, requirements, guidelines and recommendations of the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO").

**6.7 Compliance with Medicare Rules.** To the extent required by law or regulation, Practitioner shall make available, upon written request from Hospital, the Secretary of Health and Human Services, the Comptroller General of the United States, or any duly authorized agent or representative of the foregoing, a copy of this Agreement and Practitioner's books, documents and records to the extent necessary to certify the nature and extent of Hospital's costs for services provided by Practitioner. Practitioner shall preserve and make available such books,

documents and records for a period which is the longer of ten (10) years after the end of the term of this Agreement or the length of time required by state or federal law. If Practitioner is requested to disclose books, documents or records pursuant to this Section for any purpose, Practitioner shall notify Hospital of the nature and scope of such request, and Practitioner shall make available, upon written request of Hospital, all such books, documents or records. Practitioner shall indemnify and hold harmless Hospital if any amount of reimbursement is denied or disallowed because of Practitioner's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties and legal costs.

**6.8 Confidentiality.** Neither Party shall disclose any of the terms of this Agreement to any person or entity, other than its attorneys and accountants, without the prior written consent of the other Party, unless and only to the extent such disclosure is required by law or specifically allowed by this Agreement.

**6.9 Counterparts.** This Agreement 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.

**6.10 Dispute Resolution.** In the event of any controversy or dispute related to or arising out of this Agreement, the Parties agree to meet and confer in good faith to attempt to resolve the controversy or dispute without an adversary proceeding. If the controversy or dispute is not resolved to the mutual satisfaction of the Parties within five (5) business days of notice of the controversy or dispute, the Parties agree to waive their rights, if any, to a jury trial and pre-trial discovery, and to submit the controversy or dispute to a retired judge or justice pursuant to Section 638 *et seq.* of the California Code of Civil Procedure, or any successor provision, for resolution in accordance with Chapter 6 (References and Trials by Referees), of Title 8 of Part 2 of the California Code of Civil Procedure, or any successor chapter. The Parties agree that the only proper venue for the submission of claims is the County of San Diego, California, and that the hearing before the referee shall be concluded within nine (9) months of the filing and service of the complaint. The Parties reserve the right to contest the referee's decision and to appeal from any award or order of any court.

**6.11 Entire Agreement.** This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties. No other understanding between the Parties shall be binding on them unless set forth in a writing signed by the Parties.

**6.12 Exhibits.** The attached exhibits, together with all documents incorporated by reference in the exhibits, form an integral part of this Agreement and are incorporated into this Agreement wherever reference is made to them to the same extent as if they were set out in full at the point at which such reference is made.

**6.13 Force Majeure.** Neither Party shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), action of any

governmental authority, riots, revolutions, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, or strikes (or similar nonperformance or defective performance or late performance of employees, suppliers or subcontractors).

**6.14 Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

**6.15 Litigation Consultation.** Practitioner shall not accept consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named as a defendant. Practitioner shall not accept similar consulting assignments if (a) the defendants or anticipated defendants include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which Practitioner served as a treating physician.

**6.16 Meaning of Certain Words.** Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified, "days" shall be considered "calendar days" and "months" shall be considered "calendar months" in this Agreement and its exhibits and attachments.

**6.17 No Conflicting Obligations.** Practitioner represents and warrants that the execution and delivery of this Agreement and the performance of his or her respective obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of his or her respective duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation. Practitioner shall immediately inform Hospital of any other agreements to which Practitioner is a party that may present a conflict of interest or materially interfere with performance of his or her duties under this Agreement.

**6.18 Non-Discrimination.** Practitioner shall not differentiate or discriminate in the provision of medical services on the basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, age, medical condition, medical history, genetics, evidence of insurability, or claims history, in violation of any applicable state, federal or local law or regulation, or Hospital Rules, including, without limitation, the Age Discrimination Act of 1975, the Americans with Disabilities Act and all regulations issued pursuant thereto and as may be amended from time to time. Practitioner and Hospital shall be in full compliance with Section 504 of the Rehabilitation Act of 1973, Titles VI and VII of the 1964 Civil Rights Act, and all regulations issued pursuant thereto and as may be amended from time to time.

**6.19 Notices.** All notices or communications required or permitted under this Agreement shall be given in writing and delivered personally or sent by United States registered or certified mail with postage prepaid and return receipt requested or by overnight delivery service (e.g., Federal Express, DHL). Notice shall be deemed given when sent, if sent as specified in this Section, or otherwise deemed given when received. In each case, notice shall be delivered or sent to:

If to Hospital, addressed to:

Palomar Pomerado Health  
1540 East Valley Parkway, #100  
Escondido, California 92027  
Attention: Sheila D. Brown, RN, MBA

If to Practitioner, addressed to:

**Bradley B. Bailey, M.D.**  
**Pomerado Hospital Wound Care Clinic**  
**15615 Pomerado Road**  
**Poway, Ca. 92064**

**6.20 Participation in Federal and State Programs.** Practitioner hereby represents that Practitioner is not debarred, suspended, excluded or otherwise ineligible to participate in any federal or state health care program.

**6.21 Representations.** Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

**6.22 Severability.** Except as otherwise provided in Section [5.4/5.5]), if any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement.

**6.23 No Third Party Beneficiary Rights.** The Parties do not intend to confer and this Agreement shall not be construed to confer any rights or benefits to any person, firm, group, corporation or entity other than the Parties.

**6.24 Trade Secrets.** During the term of this Agreement, Practitioner will have access to and become acquainted with confidential information and trade secrets of Hospital, including information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data (collectively, "Trade Secrets"). All Trade Secrets are the property



of Hospital and used in the course of Hospital's business, and shall be proprietary information protected under the Uniform Trade Secrets Act. Practitioner shall not disclose to any person or entity, directly or indirectly, either during the term of this Agreement or at any time thereafter, any Trade Secrets, or use any Trade Secrets other than in the course of providing Director Services under this Agreement. All documents that Practitioner prepares, or Trade Secrets that might be given to Practitioner in the course of providing Director Services under this Agreement, are the exclusive property of Hospital, and, without the prior written consent of Hospital, shall not be removed from Hospital's premises.

**6.25 Waiver.** No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

**6.26 Waiver of Injunctive or Similar Relief.** Upon any breach or termination of this Agreement by Hospital that is determined to be improper by a court or by an arbitrator, Practitioner shall accept monetary damages, if any, as full and complete relief, to the exclusion of any specific performance, or injunctive or similar equitable relief.

*[signature page follows]*

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

**HOSPITAL**

Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code and doing business as, "PPH"

By: Michael H. Covert

Its: President & Chief Executive Officer

**PRACTITIONER**

Bradley B. Bailey, M.D., an individual

**Exhibit 1.1**

**DIRECTOR SERVICES**

Practitioner shall:

1. provide general administration of the day-to-day operations of the PPCWCHBM;
2. implement the Hospital's policies and procedures regarding the Wound Management Program;
3. ensure physician coverage of the Wound Management Program;
4. schedule, coordinate and supervise the provision of medical and ancillary services within the Wound Management Program;
5. ensure the maintenance of consistently high quality service, and advise Hospital in the development and implementation of an appropriate quality assurance program with respect to the Wound Management Program;
6. advise and assist in the organization and implementation of an effective utilization review program with respect to the Wound Management Program and related services;
7. coordinate and consult with Hospital and medical staff regarding the efficiency and effectiveness of the Wound Management Program, and make recommendations and analyses as needed for Hospital to improve services provided in the Wound Management Program, and reduce costs;
8. advise Hospital regarding budget, equipment, building, supplies, and other items for the proper and efficient operation of the Wound Management Program;
9. develop, review, and provide training programs for Medical Staff and Hospital personnel;
10. ensure that the Wound Management Program is operated in accordance with all requirements of the JCAHO, all applicable licensing requirements, and all other relevant requirements promulgated by any federal, state or local agency;
11. prepare such reports and records as may be required by this Agreement, Hospital or the Medical Staff;
12. participate in Hospital and Medical Staff committees upon request by Hospital;
13. participate in continuing medical education, research and teaching activities upon request by Hospital;

14. participate in development and presentation of programs related to the marketing of the Wound Management Program's services and enhancing Hospital/community relations; provided, however, that Practitioner shall not be required to participate in any advertising or commercials related to the Wound Management Program's services;
15. advise and assist in the development of protocols and policies for the Wound Management Program;
16. upon request by Hospital, be available at all times to respond/consult in the event of urgent or emergency situations;
17. help prepare a budget for the PPCWCHBM;
18. assist in the supervision of maintenance of financial, patient and personnel records for the Wound Management Program;
19. ensure and supervise compliance by Medical Staff and employees of the Wound Management Program with Hospital and Medical Staff rules and bylaws;
20. participate in utilization review programs, as reasonably requested by Hospital;
21. participate in risk management and quality assurance programs, as reasonably requested by Hospital;
22. accept third party insured patients and referrals of patients which are made by members of Medical Staff, subject only to the limitations of scheduling and Practitioner's professional qualifications;
23. work with Hospital to monitor and review the clinical performance of health care professionals who provide services to Hospital's patients. Specifically, the role of the Medical Director shall include, but not be limited to, serving as a wound management coordinator between medical staff, nursing staff and ancillary skilled staff throughout the Palomar Pomerado Health (PPH) district. PPH facilities included in this description are Pomerado Hospital, Palomar Medical Center, Palomar Continuing Care Center, Villa Pomerado and Palomar Pomerado Home Health Agency. Practitioner shall also assist in monitoring the performance of those professionals who are not meeting Hospital quality and/or performance standards, and in disciplining any professionals who continue poor performance, recognizing that the Hospital Board of Directors is ultimately responsible for maintaining the standards of care provided to patients;
24. be available if called upon to evaluate patient wound care issues raised by clinicians within PPH. Subsequently, after the evaluation of the wound care issues, the Medical Director may then contact the Physician staff member to discuss the current plan of care related to patients' wounds or potential for wounds.

25. assist Hospital management with preparation for, and conduct of, any inspections and on-site surveys of Hospital or the [Department/Program] conducted by governmental agencies, accrediting organizations, or payors contracting with Hospital; and
26. additional services to be provided by Practitioner.

**Exhibit 1.5**

**MONTHLY TIME REPORT**

*See Attached.*

**Administration Time Log**

PRACTITIONER	MONTH/YEAR																																			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31					
ADMINISTRATION																																				
Medical Direction of [Department/Program]																																				
Supervision/Training of Technical Staff																																				
Physician/Staff Inservice																																				
Eval/approve/implement lab procedures																																				
[Department/Program] Meetings																																				
Committee Meetings																																				
Schedules and Planning																																				
Policies/Procedures																																				
Budget Activities																																				
Quality Improvement Utilization Review																																				
Advisory Duties																																				
Liaison Activities																																				
[Department/Program] Development																																				
Maintain Accrediting Standards																																				
Evaluate Staff Competency																																				
Evaluate Quality Control Results																																				
Other																																				
																																				TOTAL HOURS

**PRACTITIONER CERTIFIES THAT THE ABOVE ACCURATELY REPRESENTS THE HOURS PRACTITIONER DEVOTED TO DIRECTOR SERVICES DURING THE PERIOD OF THIS REPORT.**

Bradley B. Bailey, M.D. \_\_\_\_\_ Date

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## Exhibit 1.10

### **CODE**

1. I will perform my duties faithfully and to the best of my ability, and in the interest of Hospital.
2. I will not lie, cheat, steal, or violate any law in connection with my employment by Hospital.
3. I will not pay or arrange for Hospital to pay any person or entity for the referral of patients to Hospital, nor will I accept any payment or arrange for Hospital to accept any payment for referrals from Hospital.
4. I will not participate in any false billing of patients, government entities or any other party, nor will I participate in the preparation of any false cost reports, or other type of report submitted to the government.
5. I will not engage in any conduct or practice that conflicts (or appears to conflict) with interest of Hospital, unless I first obtain the express written consent of the Palomar Pomerado Health Board of Directors or designee.
6. I will not use Hospital's confidential or proprietary information gathered during my employment with Hospital for my own personal benefit, either during or after my employment at Hospital.
7. I will not obtain any improper personal benefits by virtue of my employment with Hospital.
8. I will notify the compliance Director immediately upon the receipt (at work or home) of an inquiry, subpoena (other than for routine licensing or tax matters) or other agency or government request for information regarding Hospital.
9. I will not destroy or alter information or documents in anticipation of or in response to, a request for documents by any applicable government agency or from a court of competent jurisdiction.
10. I will not engage in any business practice intended to unlawfully obtain favorable treatment or business from any government entity, physician, patient, vendor or any other party in a position to provide such treatment or business.
11. I will not solicit or receive from any person or entity, nor offer to give to any person or entity, anything of value if that person or entity is in a position to refer business to Hospital or if Hospital is in a position to refer business to that person or entity.
12. I will not accept any gift of more than nominal value, (\$50), and Hospitality or entertainment which because of its source or value might influence my independent judgment in transactions involving Hospital.
13. I will not provide any gifts to any government or public agency representative.
14. I will disclose to the compliance Director any financial interest or ownership interest or any other relationship that I, or a member of my immediate family has with Hospital customers, and vendors or competitors.
15. I will not disclose confidential medical information pertaining to Hospital patients without the express written consent of the patient in accordance with HIPAA, other applicable law and Hospital applicable policies or procedures.
16. I will promptly report all violations or suspected violations of this manual by myself or other employees to the compliance Director.
17. I will not conspire with a competitor of Hospital to illegally fix prices, labor cost, allocate markets, or engage in group boycotts. Before considering any agreements or entering into discussions with a competitor concerning any of these issues, I should first obtain the advice of the compliance Director concerning antitrust issues.



## Exhibit 2.1

### COMPENSATION

1. Compensation. Hospital shall pay to Practitioner the amount of One Hundred and Thirty Dollars (\$130) per hour for the provision of Director Services.

2. Timing. Hospital shall pay the compensation due for Director Services performed by Practitioner in the immediately preceding month within five (5) business days after Practitioner's submission of the monthly time report in accordance with this Agreement; provided, however, that if Practitioner does not submit a time sheet within sixty (60) days of the end of the month during which Director Services were performed, Hospital shall not be obligated to pay Practitioner for Director Services performed during that month.

**Exhibit 6.5**

**OBLIGATIONS UNDER THE HEALTH INSURANCE PORTABILITY AND  
ACCOUNTABILITY ACT OF 1996 ("HIPAA")**

In the performance of duties and services under this Agreement, Practitioner shall comply with all requirements of The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its regulations, as amended from time to time, and shall comply with the following:

**1. Definitions.**

- a. **"Designated Record Set"** shall have the meaning given to such term under the Privacy Rule (as defined below).
- b. **"HIPAA Obligations"** means the obligations of Practitioner as set forth in this Exhibit.
- c. **"Privacy Rule"** means the HIPAA Regulation that is codified at Title 45 of the Code of Federal Regulations, Parts 160 and 164, or applicable successor provisions, as may be amended from time to time.
- d. **"Protected Health Information"** means any information, whether oral or recorded in any form or medium that: (i) relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, or is defined as such under the Privacy Rule.
- e. **"Protected Information"** means Protected Health Information provided by Hospital to Practitioner or created or received by Practitioner on Hospital's behalf.
- f. **"Required by Law"** shall have the meaning given to such term under the Privacy Rule.

2. **Use of Protected Information.** Practitioner shall not use Protected Information except as permitted by and for the purpose of performing Practitioner's obligations under this Agreement. Practitioner shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by Hospital.

3. **Permitted Disclosures.** Practitioner shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if disclosed by Hospital, except that Practitioner may disclose Protected Information in a manner permitted pursuant to this Agreement or as Required by Law.

4. **Appropriate Safeguards.** Practitioner shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Agreement.
5. **Reporting of Improper Use or Disclosure.** Practitioner shall notify Hospital in writing of any use or disclosure of Protected Information other than as provided for by this Agreement and this Exhibit within two (2) days of becoming aware of such use or disclosure.
6. **Practitioner's Agents.** Practitioner shall ensure that any agents of Practitioner, including subcontractors, to whom Practitioner provides Protected Information, agree in writing to the same restrictions and conditions that apply to Practitioner with respect to such Protected Information.
7. **Access to Protected Information.** Practitioner shall make Protected Information maintained by Practitioner or Practitioner's agents or subcontractors in Designated Record Sets available to Hospital for inspection and copying within ten (10) days of a request by Hospital to enable Hospital to fulfill its obligations under the Privacy Rule.
8. **Amendment of Protected Health Information.** Within ten (10) days of receipt from Hospital for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Practitioner or Practitioner's agents or subcontractors shall make such Protected Information available to Hospital for amendment and incorporate any such amendment to enable Hospital to fulfill its obligations under the Privacy Rule.
9. **Accounting Rights.** Within ten (10) days of notice by Hospital of a request for an accounting of disclosures of Protected Information, Practitioner and Practitioner's agents or subcontractors shall provide to Hospital an accounting of disclosures sufficient to enable Hospital to fulfill its obligations under the Privacy Rule. As set forth and as limited by the Privacy Rule, Practitioner shall not provide an accounting to Hospital of disclosures: (i) to carry out treatment, payment or health care operations; (ii) to individuals of Protected Information about them; (iii) to persons involved in the individual's care or other notification purposes; (iv) for national security or intelligence purposes; or (v) to correctional institutions or law enforcement officials. **[Practitioner agrees to implement a process that allows for an accounting to be collected and maintained by Practitioner and Practitioner's agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule.]** At a minimum, such information shall include: (A) the date of disclosure; (B) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (C) a brief description of Protected Information disclosed; and (D) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or copy of the individual's authorization, or a copy of the written request for disclosure.

10. **Governmental Access to Records.** Practitioner shall make his or her internal practices, books and records relating to the use and disclosure of Protected Information available to Hospital or, at the request of Hospital, to the Secretary of the U.S. Department of Health and Human Services, for purposes of determining Hospital's compliance with the Privacy Rule.
11. **Retention of Protected Information.** Except as provided in Sections 12 and 13 of this Exhibit, Practitioner and Practitioner's agents or subcontractors shall retain all Protected Information throughout the term of this Agreement and shall continue to maintain the information required hereunder for a period of six (6) years after expiration or termination for any reason of this Agreement.
12. **Term of Obligations.** Practitioner's HIPAA Obligations shall commence as of the compliance date of the Privacy Rule, and shall terminate when all of the Protected Information is destroyed or returned to Hospital, or, if it is infeasible to return or destroy Protected Information, protections are extended to such information, in accordance with Section 14 of this Exhibit.
13. **Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Practitioner shall return or destroy all Protected Information that Practitioner or Practitioner's agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, Practitioner shall continue to extend the protections of this Exhibit to such information, and limit further use of such Protected Health Information to those purposes that make the return or destruction of such Protected Health Information infeasible.
14. **Amendment.** The Parties agree to take such action as is necessary to amend HIPAA Obligations from time to time in order for Hospital to comply with the requirements of the Privacy Rule, HIPAA and other applicable laws relating to the security or confidentiality of Protected Health Information.
15. **Interpretation of Obligations.** The HIPAA Obligations shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The Parties acknowledge and agree that any ambiguity in the HIPAA Obligations shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

**Medical Directorship for  
Wound Care Center and Hyperbaric Oxygen Therapy**

**TO:** Board of Directors

**FROM:** Board Finance Committee  
Tuesday, October 4, 2005

**MEETING DATE:** Monday, October 17, 2005

**BY:** Ann Z. Moore, RN, MSN, CWCN  
Sheila Brown, RN, MBA, Clinical Outreach Officer

**BACKGROUND:** This is a request to approve the Medical Directorship Agreement of Roger B. Schechter, M.D. Dr. Schechter currently provides Medical Director coverage for the Pomerado Wound Care and Hyperbaric Oxygen Therapy (HBOT) Center. Under Dr. Schechter's leadership, the Wound Care Clinic has demonstrated positive patient care quality outcomes and very high patient satisfaction scores.

The Wound Care Clinic has enhanced the existing wound care program at Palomar Pomerado Health through the addition of HBOT. HBOT is a treatment in which a patient breathes 100% oxygen under pressure for a prescribed period of time. While breathing pure oxygen, the patient's blood plasma becomes saturated, carrying 20 to 30 times the normal amount of O<sub>2</sub> to the body's tissues.

*NOTE: Deferred item from the May 31, 2005, Finance Committee meeting.*

**BUDGET IMPACT:** None.

**STAFF RECOMMENDATION:** Approval.

**COMMITTEE QUESTIONS:**

**COMMITTEE RECOMMENDATION:** The Finance Committee recommends approval of the two-year Medical Directorship Agreement for Hyperbaric Oxygen Medicine with Roger B. Schechter, M.D.

**Motion:** X

**Individual Action:**

**Information:**

**Required Time:**

**PALOMAR POMERADO HEALTH - AGREEMENT ABSTRACT**

<b>Section Reference</b>	<b>Term/Condition</b>	<b>Term/Condition Criteria</b>
	<b>TITLE</b>	Medical Directorship Agreement
	<b>AGREEMENT DATE</b>	June 1, 2005
	<b>PARTIES</b>	Roger B. Schechter, MD and PPH
	<b>PURPOSE</b>	To provide professional medical coverage in the departments of Wound Care Center and Hyperbaric Oxygen Medicine.
	<b>SCOPE OF SERVICES</b>	Professional medical coverage Monday through Friday, 8:00 a.m. to 4:30 p.m. at Pomerado Hospital in the Wound Care Center and Hyperbaric Oxygen Medicine as required.
	<b>PROCUREMENT METHOD</b>	<input type="checkbox"/> Request For Proposal <input checked="" type="checkbox"/> Discretionary
5.1	<b>TERM</b>	June 1, 2005 through June 1, 2007 (two years)
	<b>RENEWAL</b>	None.
5.2, 5.3, 5.4, 5.5	<b>TERMINATION</b>	a. Without cause with 30 days written notice by either party. b. Immediately for cause.
	<b>COMPENSATION METHODOLOGY</b>	Benchmark comparison to PPH Medical Directors and Compliance Officer review.
	<b>BUDGETED</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO – IMPACT: None.
	<b>EXCLUSIVITY</b>	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES – EXPLAIN:
	<b>JUSTIFICATION</b>	Required for the operation of Wound Care and Hyperbaric Oxygen Therapy Center
	<b>AGREEMENT NOTICED</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <b>Methodology &amp; Response:</b> Posted in Medical Staff office – no response.
	<b>ALTERNATIVES/IMPACT</b>	
	<b>Duties</b>	<input checked="" type="checkbox"/> Provision for Staff Education <input checked="" type="checkbox"/> Provision for Medical Staff Education <input checked="" type="checkbox"/> Provision for participation in Quality Improvement <input checked="" type="checkbox"/> Provision for participation in budget process development
	<b>COMMENTS</b>	
	<b>APPROVALS REQUIRED</b>	<input checked="" type="checkbox"/> VP <input type="checkbox"/> CFO <input checked="" type="checkbox"/> CEO <input type="checkbox"/> BOD Committee <u>Finance</u> <input checked="" type="checkbox"/> BOD

**MEDICAL DIRECTORSHIP AGREEMENT**

**by and between**

**PALOMAR POMERADO HEALTH,**  
a local hospital district, doing business as "PPH"

and

**ROGER B. SCHECHTER, M.D., ("Practitioner")**

*June 2005*

## MEDICAL DIRECTORSHIP AGREEMENT

THIS MEDICAL DIRECTORSHIP AGREEMENT (this “**Agreement**”) is entered into as of June 1, 2005, by and between Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code and doing business as “PPH”(“**Hospital**”), and Roger B. Schechter, M.D., an individual (“**Practitioner**”). Hospital and Practitioner are sometimes referred to in this Agreement individually as a “**Party**” or, collectively, as the “**Parties.**”

### RECITALS

A. Hospital owns and operates two acute care hospital facilities, two extended healthcare facilities and a Home Health Agency, located in Poway and Escondido, California. These include Pomerado Hospital, Palomar Medical Center, Palomar Continuing Care Center, Villa Pomerado and Palomar Pomerado Home Health Agency. Hospital provides a Wound Management Program for its facilities and agencies. Hospital also currently operates an outpatient Wound Care Clinic and a Hyperbaric Medicine Wound Healing Facility as an integral part of both the Wound Management Program and Wound Care Clinic at Pomerado Hospital in Poway, California. The Wound Management Program, Wound Care Clinic, and Hyperbaric Medicine Wound Healing Facility may be referred to collectively as Palomar Pomerado Center for Wound Care and Hyperbaric Medicine (the “**PPCWCHBM**”) or “**Program**” or “**Wound Management Program**”.

B. Practitioner is licensed to practice medicine in the State of California, board certified for the practice of medicine in the specialty of Emergency Medicine (the “**Specialty**”), with certification in the sub-specialty of Wound Care, and a member in good standing of Hospital’s medical staff (the “**Medical Staff**”).

C. Hospital desires to engage Practitioner as an independent contractor to provide medical and administrative oversight with respect to the Wound Management Program, the Wound Care Clinic, as well as the integrated Hyperbaric Medicine Wound Healing Facility, and believes that the following can be achieved if Practitioner assumes such responsibility as set forth in this Agreement: This will enhance the Program’s, Clinic’s and Hospital’s organization, procedure standardization, economic efficiency, professional proficiency, and provide other benefits to enhance coordination and cooperation among the Program’s providers and users.

D. Practitioner has the following qualifications and expertise to provide the services described in this Agreement: Board Certification in Emergency Medicine, Sub-Specialization in Wound Care, Active Staff Membership in the PPCWCHBM, and completion of a UHMS approved introductory course in Hyperbaric Medicine.

E. Hospital has considered the following factors in determining the necessity and amount of compensation payable to Practitioner pursuant to this Agreement:

1. The nature of Practitioner’s duties as contemplated by this Agreement as per Exhibit 1.1.
2. Practitioner’s qualifications as described in Recital D.



3. The difficulty in obtaining a qualified physician to provide the services described in this Agreement.
4. The benefits to Hospital and Hospital's community resulting from Practitioner's performance of the services described in this Agreement.
5. The economic conditions locally and in the health care industry generally.
6. Surveys of practitioner compensation prepared by Sullivan Cotter and Associates.

## AGREEMENT

### THE PARTIES AGREE AS FOLLOWS:

#### ARTICLE I. PRACTITIONER'S OBLIGATIONS

**1.1 Director Services.** Practitioner shall provide to Hospital those medical director services set forth on Exhibit 1.1 ("**Director Services**"), upon the terms and subject to the conditions set forth in this Agreement. Practitioner shall ensure that all Director Services are performed when and as needed, but shall also perform any Director Services when and as requested by Hospital from time to time.

**1.2 Time Commitment.** Practitioner shall devote whatever time is necessary to ensure the operation of a high-quality Wound Management Program, Wound Care Clinic, and Wound Healing Hyperbaric Medicine Facility; provided, however, that Practitioner shall perform Director Services a minimum of 5 hours and a maximum of 20 hours per month. Practitioner shall allocate time to Director Services as reasonably requested by Hospital from time to time.

**1.3 Availability.** On or before the first (1st) day of each month, Practitioner shall inform Hospital of Practitioner's schedule and availability to perform Director Services during that month. Practitioner shall use his or her best efforts to adjust such schedule of availability if reasonably requested by Hospital in order to meet Hospital's needs for Director Services.

**1.4 Personal Services; Absences.** This Agreement is entered into by Hospital in reliance on the professional and administrative skills of Practitioner. Except as otherwise provided in this Agreement, Practitioner shall be solely responsible for performing Director Services and otherwise fulfilling the terms of this Agreement; provided, however, that if Practitioner is temporarily unable to provide Director Services due to illness, disability, continuing education responsibilities, or vacation, Subject to the prior written approval of Hospital, Practitioner may select a designee Wound Care Physician to perform the duties of Director in the Medical Director's absence. The designee shall meet all of the same qualifications as specified herein for Medical Director. Practitioner shall ensure that any such designated replacement meets any and all qualifications, obligations and requirements of Practitioner under this Agreement. Practitioner shall be solely responsible for compensating and making any tax filings or withholdings with respect to any designated replacement providing Director Services on Practitioner's behalf. If the length of Practitioner's absence is anticipated

by Hospital to be or actually is longer than sixty (60) calendar days, the person who provides Director Services in Practitioner's absence shall execute a written document in form and substance acceptable to Hospital agreeing to be bound by this Agreement. Except in the event of absence due to illness or disability, Hospital shall have the right to approve the length of Practitioner's absence, and any unapproved absence shall constitute a breach of this Agreement. Nothing in this Section shall be deemed to limit in any way Hospital's right to terminate this Agreement in accordance with Section 5.2.

**1.5 Time Reports.** Practitioner shall maintain monthly time reports that provide a true and accurate accounting of the time spent each day by Practitioner in providing Director Services. Such reports shall be substantially in the form attached as Exhibit 1.5. Practitioner shall submit all time reports to Hospital no later than the tenth (10th) day of each month for Director Services provided by Practitioner during the immediately preceding month. If the Practitioner does not submit all time reports to PPH no later than the thirtieth (30th) day of each month the Practitioner will not be paid for that time period.

**1.6 Medical Staff.** Practitioner shall be a member in good standing in the "active staff" category of Hospital's medical staff (the "**Medical Staff**") and hold all clinical privileges at Hospital necessary for the performance of Practitioner's obligations under this Agreement. If, as of the Effective Date (as defined in Section 5.1), Practitioner is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for the performance of Practitioner's obligations hereunder, Practitioner shall have a reasonable amount of time, which in no event shall exceed 90 days from the Effective Date, to obtain such membership and/or clinical privileges; provided that Hospital may immediately terminate this Agreement if Hospital determines that Practitioner is not diligently pursuing such membership and/or clinical privileges in accordance with the normal procedures set forth in the Medical Staff bylaws. Practitioner may obtain and maintain medical staff privileges at any other hospital or health care facility.

**1.7 Professional Qualifications.** Practitioner shall be duly licensed and qualified to practice medicine in the State of California. Practitioner shall be board [certified/eligible/admissible/qualified] in the Specialty.

**1.8 Continuing Medical Education.** Practitioner shall participate in continuing medical education as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community, as otherwise required by the medical profession and as required to effectively perform Practitioner's obligations under this Agreement.

**1.9 Performance Standards.** Practitioner shall comply with and perform the duties under this Agreement in accordance with all bylaws, Medical Staff policies, rules and regulations of Hospital and the Medical Staff, and all protocols applicable to the performance of Director Services or the [Department/Program] (the "**Protocols**").

**1.10 Code of Conduct.** Practitioner hereby acknowledges receipt of Hospital's Code of Conduct, attached to this Agreement as Exhibit 1.10 (the "**Code**"). With respect to Practitioner's business dealings with Hospital and Practitioner's performance of duties under this

Agreement, Practitioner shall not act, or fail to act, in any manner which conflicts with or violates the Code, and shall not cause another person to act, or fail to act, in any manner which conflicts with or violates the Code. Practitioner shall comply with the Code as it relates to Practitioner's business relationship with Hospital or any Palomar Pomerado Health affiliates, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind.

**1.11 Use of Space.** Practitioner shall not use any part of the space that Hospital designates for the Program and PPCWCHBM as an office for the private practice of medicine, except in an emergency or with Hospital's prior written consent.

**1.12 Notification of Certain Events.** Practitioner shall notify Hospital in writing within twenty-four (24) hours after Practitioner becomes aware of the occurrence of any one or more of the following events:

(a) Practitioner becomes the subject of, or otherwise materially involved in, any government investigation of Practitioner's business practices or the provision of professional services, including being served with a search warrant in connection with such activities;

(b) Practitioner's medical staff membership or clinical privileges at any hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) Practitioner becomes the subject of any suit, action or other legal proceeding arising out of Practitioner's professional services;

(d) Practitioner is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;

(e) Practitioner becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;

(f) Practitioner becomes incapacitated or disabled from performing Director Services, or voluntarily or involuntarily retires from the practice of medicine;

(g) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(h) Practitioner is charged with or convicted of a criminal offense;

(i) any act of nature or any other event occurs which has a material adverse effect on Practitioner's ability to provide Director Services;

(j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any federal or state health care program;

- (k) any termination, non-renewal, cancellation or reduction in coverage of any insurance policy required to be maintained by Practitioner under this Agreement; or
- (l) Practitioner fails or is otherwise unable to comply with any term of this Agreement.

## **ARTICLE II. COMPENSATION**

**2.1 Compensation.** In exchange for Practitioner's provision of Director Services, Hospital shall compensate Practitioner in accordance with the terms of Exhibit 2.1.

**2.2 IRS Form W-9.** Upon execution of this Agreement, Practitioner shall furnish a completed and executed copy of IRS Form W-9 which identifies Practitioner's taxpayer identification number.

## **ARTICLE III. INSURANCE AND INDEMNITY**

**3.1 Malpractice Liability Insurance.** Practitioner shall obtain and continuously maintain professional malpractice liability insurance coverage, issued by an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, in the amount of at least One Million Dollars (\$1,000,000) per occurrence or claim and Three Million Dollars (\$3,000,000) in the annual aggregate for the acts and omissions of Practitioner. Such coverage shall provide for a date of placement preceding or coinciding with the Effective Date of this Agreement.

**3.2 Certificate of Insurance.** On or before the Effective Date, Practitioner shall provide Hospital with an original certificate evidencing professional malpractice liability insurance coverage, and shall provide Hospital with proof of continued professional malpractice liability insurance coverage on an annual basis (or as periodically requested by Hospital). Practitioner shall provide Hospital with no less than thirty (30) calendar days' prior written notice of cancellation or any material change in such professional malpractice liability insurance coverage.

**3.3 Tail Coverage.** If Practitioner's professional malpractice liability insurance is provided on a claims-made basis, upon the expiration or termination of this Agreement for any reason, Practitioner shall continuously maintain such insurance or purchase from an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, extended reporting period (*i.e.*, "tail") coverage for the longest extended reporting period then available to ensure that insurance coverage in the amount set forth in Section 3.1 of this Agreement is maintained for claims which arise from professional services provided by Practitioner during the term of this Agreement. This Section shall survive the expiration or termination for any reason of this Agreement.

### **3.4 Indemnification.**

(a) **Indemnification by Practitioner.** Practitioner shall indemnify, defend and hold harmless Hospital against: (i) any and all liability arising out of Practitioner's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Practitioner or Practitioner's employees or agents relating to or arising out of Director Services or this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Hospital in connection with the defense of such claims.

(b) **Indemnification by Hospital.** Hospital shall indemnify, defend and hold harmless Practitioner against: (i) any and all liability arising out of Hospital's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Hospital or its employees or agents relating to or arising out of this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Practitioner in connection with the defense of such claims.

## **ARTICLE IV. RELATIONSHIP BETWEEN THE PARTIES**

**4.1 Independent Contractor.** Practitioner is and shall at all times be an independent contractor with respect to Hospital in meeting Practitioner's responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Hospital and Practitioner.

**4.2 Limitation on Control.** Hospital shall neither have nor exercise any control or direction over Practitioner's professional medical judgment or the methods by which Practitioner performs professional medical services; provided, however, that Practitioner shall be subject to and shall at all times comply with the Protocols and the bylaws, guidelines, policies and rules applicable to other members of the Medical Staff.

**4.3 Practice of Medicine.** Practitioner and Hospital acknowledge that Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved to, Hospital in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Hospital shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

**4.4 No Benefit Contributions.** Hospital shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner. Notwithstanding the foregoing, if Hospital determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by

Practitioner, Practitioner shall reimburse Hospital for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

**4.5 Non-Solicitation.** During the term of this Agreement and for a period of one (1) year thereafter, Practitioner shall not solicit for employment or actually employ any employee of Hospital, or interfere with any relationship, contractual or otherwise, between Hospital and any of its employees.

**4.6 Referrals.** Practitioner shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Practitioner best qualified to deliver medical services to any particular patient; provided, however, that Practitioner shall not refer any Hospital patient to any provider of health care services which Practitioner knows or should have known is excluded or suspended from participation in, or sanctioned by, any state or federal health care program. No term of this Agreement shall be construed as requiring or inducing Practitioner to refer patients to Hospital. Practitioner's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital by Practitioner.

**4.7 Physician Compensation Arrangements.** Practitioner represents and warrants to Hospital that the compensation paid or to be paid by Practitioner to any physician who is employed or contracted with Practitioner is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Hospital or any Affiliate (as defined in Section [5.4/5.5]). Practitioner further represents and warrants to Hospital that Practitioner has and will at all times maintain a written agreement with each physician receiving compensation from Practitioner.

**4.8 No Competing Services.** During the term of this Agreement, Practitioner shall not own any interest in, manage, operate, or provide any administrative, consulting, or other items or director services to or on behalf of, any person or entity (whether as director, officer, employee, partner, shareholder, member, agent, representative, security holder, consultant or otherwise), that furnishes or intends to furnish any items or services competitive with those furnished by Hospital or its Affiliates without the prior written consent of Hospital. Notwithstanding the foregoing, nothing in this Section shall prohibit Practitioner from owning securities in any publicly traded company that furnishes services furnished by Hospital or its Affiliates.

## **ARTICLE V. TERM AND TERMINATION**

**5.1 Term.** This Agreement shall become effective on June 1, 2005 (the "**Effective Date**"), and shall continue until June 1, 2007 (the "**Expiration Date**"), subject to the termination provisions of this Agreement. On the Expiration Date and on each of the following two (2) annual anniversary dates of this Agreement thereafter, this Agreement shall automatically renew for an additional one (1) year term, unless and until either Party gives the other Party written notice of its intention not to renew this Agreement at least thirty (30) calendar days prior to the expiration of the immediately preceding one (1) year term.

**5.2 Termination by Hospital.** Hospital shall have the right to terminate this Agreement immediately upon the occurrence of any one or more of the following events:

- (a) breach of this Agreement by Practitioner where the breach is not cured within thirty (30) calendar days after Hospital gives written notice of the breach to Practitioner;
- (b) death or permanent disability of Practitioner;
- (c) Practitioner's voluntary retirement from the practice of medicine;
- (d) neglect of professional duty by Practitioner in a manner that violates Hospital's policies, rules or regulations or the Protocols;
- (e) Practitioner's clinical privileges at any hospital are suspended, restricted, revoked or voluntarily relinquished, or Practitioner's medical staff membership at any hospital is suspended or terminated, for reasons relating to quality of care, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (f) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (g) Except as provided in Section 1.6, Practitioner at any time during the term of the Agreement for any reason is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for Practitioner's performance of Director Services;
- (h) Practitioner is charged with or convicted of a criminal offense;
- (i) Practitioner's performance of Director Services, in the sole determination of Hospital, jeopardizes the mental or physical health or well-being of patients of Hospital;
- (j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any federal or state health care program;
- (k) Practitioner acts, or causes another person to act, in a manner which conflicts with or violates the Code;
- (l) breach of any HIPAA Obligation (as defined in Exhibit 6.5); or
- (m) Practitioner is rendered unable to comply with the terms of this Agreement for any reason.

**5.3 Termination without Cause.** Either Party may terminate this Agreement without cause, expense or penalty, effective 30 days after written notice of termination is given to the other Party. If this Agreement is terminated prior to the date that is twelve (12) months from the Effective Date (the "**One Year Anniversary**"), the Parties shall not, at any time prior to the One Year Anniversary, enter into any other agreement or arrangement for the provision of

Director Services that modifies, changes, or alters in any way the provisions of this Agreement. The foregoing sentence shall survive termination of this Agreement pursuant to this Section.

**5.4 Termination by Practitioner.** Practitioner shall have the right to terminate this Agreement upon breach of this Agreement by Hospital where the breach is not cured within thirty (30) calendar days after Practitioner gives written notice of the breach to Hospital.

**5.5 Termination or Modification in the Event of Government Action.**

(a) In the event of any Government Action (as defined below), the Parties shall, within ten (10) days after one Party gives written notification of such Government Action to the other Party, meet and confer and negotiate in good faith to attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, after good faith negotiations that shall not exceed thirty (30) days, are unable to mutually agree upon the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, either Party may terminate this Agreement effective ten (10) days after a written notice of termination is given to the other Party.

(c) For the purposes of this Section, “Government Action” shall mean any legislation, statute, law, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to either Party, as a result or consequence, in whole or in part, of the arrangement between the Parties set forth in this Agreement, if or when implemented, could reasonably be expected to result in or present a material risk of any one or more of the following:

- (i) revocation or threat of revocation of the status of any license, certification or accreditation granted to Hospital or any Affiliate (as defined in Section [5.5](d));
- (ii) revocation or threat of revocation of the federal, state or local tax-exempt status of Hospital, or any Affiliate, or their respective tax-exempt financial obligations;
- (iii) prohibit or restrict the ability of Hospital or any Affiliate to issue tax-exempt bonds, certificates of participation or other tax-exempt financial obligations;
- (iv) prevent Practitioner from being able to access and use the facilities of Hospital or any Affiliate of Hospital;
- (v) violation of or threat of prosecution under 42 U.S.C. Section 1320a-7b(b) (commonly referred to as the “Anti-Kickback law”), 42 U.S.C. Section 1395nn (commonly referred to as the “Stark law”) or any comparable state law governing kickbacks, bribes,



rebates or patient referrals if Practitioner referred patients to Hospital or any Affiliate;

- (vi) violation by Hospital of, or threat of prosecution of Hospital under, any law, regulation, rule or procedure applicable to Hospital;
- (vii) prohibit Practitioner, Hospital or any Affiliate from submitting claims or materially reducing the reimbursement received by Hospital or any Affiliate for services provided to patients referred by Practitioner; or
- (viii) subject Hospital, Practitioner, any Affiliate, or any of their respective officers, directors, employees or agents, to civil action or criminal prosecution by any governmental authority or other person or entity or the imposition of any sanction (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their approval of or participation in this Agreement or performing their respective obligations under this Agreement.

(d) For the purposes of this Agreement, “Affiliate” shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Hospital.

**5.6 Effect of Termination or Expiration.** Upon any expiration or termination for any reason of this Agreement:

(a) all rights and obligations of the Parties shall cease except (i) those rights and obligations that have accrued and remain unsatisfied prior to the expiration or termination for any reason of this Agreement, and (ii) those rights and obligations which expressly survive the expiration or termination for any reason of this Agreement;

(b) upon Hospital’s request, Practitioner shall immediately vacate the [Department/Program] premises, removing any and all of Practitioner’s personal property, and Hospital may remove and store, at Practitioner’s expense, any personal property that Practitioner has not so removed;

(c) Practitioner shall immediately return to Hospital all of Hospital’s property, including Hospital’s equipment, supplies, furniture, furnishings and patient records, in Practitioner’s possession or under Practitioner’s control; and

(d) Practitioner shall not do anything or cause any other person to do anything that interferes with Hospital’s efforts to engage any other person or entity for the provision of Director Services, or interferes in any way with any relationship between Hospital and any other person or entity who may be engaged to provide Director Services to Hospital.

(e) The expiration or termination for any reason of this Agreement shall not entitle Practitioner to the right to a “fair hearing” or any other similar rights or procedures more particularly set forth in the Medical Staff Bylaws.

**ARTICLE VI.**  
**GENERAL PROVISIONS**

**6.1 Amendment.** This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated, signed by the Parties and attached to this Agreement.

**6.2 Assignment.** Practitioner may not assign any of Practitioner's rights, interests, duties, or obligations under this Agreement without Hospital's prior written consent, which consent may be given or withheld in Hospital's sole discretion. Any attempted or purported assignment by Practitioner in violation of this Section shall be void. Hospital may, in its sole discretion, assign any or all of its rights, interests, duties, or obligations hereunder to any person or entity without the prior written consent of Practitioner. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, successors, assigns and representatives.

**6.3 Attorneys' Fees.** If either Party brings an action for any relief or collection against the other Party, declaratory or otherwise, arising out of the arrangement described in this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' fees and costs actually incurred in bringing such action, including without limitation fees incurred in arbitration, at trial, on appeal and on any review therefrom, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. For the purpose of this Section, attorneys' fees shall include fees incurred in connection with discovery, post judgment motions, contempt proceedings, garnishment and levy.

**6.4 Choice of Law.** This Agreement shall be construed in accordance with and governed by the internal laws of the State of California, except choice of law rules that would require the application of the laws of any other jurisdiction.

**6.5 Compliance with HIPAA.** Practitioner shall comply with the HIPAA Obligations as defined and set forth in Exhibit 6.5. The HIPAA Obligations shall survive the expiration or termination for any reason of this Agreement.

**6.6 Compliance with Laws.** Practitioner shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments, including without limitation laws that require Practitioner to disclose any economic interest or relationship with Hospital, and the policies, standards, requirements, guidelines and recommendations of the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO").

**6.7 Compliance with Medicare Rules.** To the extent required by law or regulation, Practitioner shall make available, upon written request from Hospital, the Secretary of Health and Human Services, the Comptroller General of the United States, or any duly authorized agent or representative of the foregoing, a copy of this Agreement and Practitioner's books, documents and records to the extent necessary to certify the nature and extent of Hospital's costs for services provided by Practitioner. Practitioner shall preserve and make available such books,

documents and records for a period which is the longer of ten (10) years after the end of the term of this Agreement or the length of time required by state or federal law. If Practitioner is requested to disclose books, documents or records pursuant to this Section for any purpose, Practitioner shall notify Hospital of the nature and scope of such request, and Practitioner shall make available, upon written request of Hospital, all such books, documents or records. Practitioner shall indemnify and hold harmless Hospital if any amount of reimbursement is denied or disallowed because of Practitioner's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties and legal costs.

**6.8 Confidentiality.** Neither Party shall disclose any of the terms of this Agreement to any person or entity, other than its attorneys and accountants, without the prior written consent of the other Party, unless and only to the extent such disclosure is required by law or specifically allowed by this Agreement.

**6.9 Counterparts.** This Agreement 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.

**6.10 Dispute Resolution.** In the event of any controversy or dispute related to or arising out of this Agreement, the Parties agree to meet and confer in good faith to attempt to resolve the controversy or dispute without an adversary proceeding. If the controversy or dispute is not resolved to the mutual satisfaction of the Parties within five (5) business days of notice of the controversy or dispute, the Parties agree to waive their rights, if any, to a jury trial and pre-trial discovery, and to submit the controversy or dispute to a retired judge or justice pursuant to Section 638 *et seq.* of the California Code of Civil Procedure, or any successor provision, for resolution in accordance with Chapter 6 (References and Trials by Referees), of Title 8 of Part 2 of the California Code of Civil Procedure, or any successor chapter. The Parties agree that the only proper venue for the submission of claims is the County of San Diego, California, and that the hearing before the referee shall be concluded within nine (9) months of the filing and service of the complaint. The Parties reserve the right to contest the referee's decision and to appeal from any award or order of any court.

**6.11 Entire Agreement.** This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties. No other understanding between the Parties shall be binding on them unless set forth in a writing signed by the Parties.

**6.12 Exhibits.** The attached exhibits, together with all documents incorporated by reference in the exhibits, form an integral part of this Agreement and are incorporated into this Agreement wherever reference is made to them to the same extent as if they were set out in full at the point at which such reference is made.

**6.13 Force Majeure.** Neither Party shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), action of any

governmental authority, riots, revolutions, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, or strikes (or similar nonperformance or defective performance or late performance of employees, suppliers or subcontractors).

**6.14 Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

**6.15 Litigation Consultation.** Practitioner shall not accept consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named as a defendant. Practitioner shall not accept similar consulting assignments if (a) the defendants or anticipated defendants include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which Practitioner served as a treating physician.

**6.16 Meaning of Certain Words.** Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified, "days" shall be considered "calendar days" and "months" shall be considered "calendar months" in this Agreement and its exhibits and attachments.

**6.17 No Conflicting Obligations.** Practitioner represents and warrants that the execution and delivery of this Agreement and the performance of his or her respective obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of his or her respective duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation. Practitioner shall immediately inform Hospital of any other agreements to which Practitioner is a party that may present a conflict of interest or materially interfere with performance of his or her duties under this Agreement.

**6.18 Non-Discrimination.** Practitioner shall not differentiate or discriminate in the provision of medical services on the basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, age, medical condition, medical history, genetics, evidence of insurability, or claims history, in violation of any applicable state, federal or local law or regulation, or Hospital Rules, including, without limitation, the Age Discrimination Act of 1975, the Americans with Disabilities Act and all regulations issued pursuant thereto and as may be amended from time to time. Practitioner and Hospital shall be in full compliance with Section 504 of the Rehabilitation Act of 1973, Titles VI and VII of the 1964 Civil Rights Act, and all regulations issued pursuant thereto and as may be amended from time to time.

**6.19 Notices.** All notices or communications required or permitted under this Agreement shall be given in writing and delivered personally or sent by United States registered or certified mail with postage prepaid and return receipt requested or by overnight delivery service (e.g., Federal Express, DHL). Notice shall be deemed given when sent, if sent as specified in this Section, or otherwise deemed given when received. In each case, notice shall be delivered or sent to:

If to Hospital, addressed to:

Palomar Pomerado Health  
1540 East Valley Parkway, #100  
Escondido, California 92027  
Attention: Sheila D. Brown, RN, MBA

If to Practitioner, addressed to:

**Roger B. Schechter, M.D.**  
**Pomerado Hospital Wound Care Clinic**  
**15615 Pomerado Road**  
**Poway, Ca. 92064**

**6.20 Participation in Federal and State Programs.** Practitioner hereby represents that Practitioner is not debarred, suspended, excluded or otherwise ineligible to participate in any federal or state health care program.

**6.21 Representations.** Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

**6.22 Severability.** Except as otherwise provided in Section [5.4/5.5]), if any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement.

**6.23 No Third Party Beneficiary Rights.** The Parties do not intend to confer and this Agreement shall not be construed to confer any rights or benefits to any person, firm, group, corporation or entity other than the Parties.

**6.24 Trade Secrets.** During the term of this Agreement, Practitioner will have access to and become acquainted with confidential information and trade secrets of Hospital, including information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data (collectively, "Trade Secrets"). All Trade Secrets are the property

of Hospital and used in the course of Hospital's business, and shall be proprietary information protected under the Uniform Trade Secrets Act. Practitioner shall not disclose to any person or entity, directly or indirectly, either during the term of this Agreement or at any time thereafter, any Trade Secrets, or use any Trade Secrets other than in the course of providing Director Services under this Agreement. All documents that Practitioner prepares, or Trade Secrets that might be given to Practitioner in the course of providing Director Services under this Agreement, are the exclusive property of Hospital, and, without the prior written consent of Hospital, shall not be removed from Hospital's premises.

**6.25 Waiver.** No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

**6.26 Waiver of Injunctive or Similar Relief.** Upon any breach or termination of this Agreement by Hospital that is determined to be improper by a court or by an arbitrator, Practitioner shall accept monetary damages, if any, as full and complete relief, to the exclusion of any specific performance, or injunctive or similar equitable relief.

*[signature page follows]*

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

**HOSPITAL**

Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code and doing business as, "PPH"

By: Michael H. Covert

Its: President & Chief Executive Officer

**PRACTITIONER**

Roger B. Schechter, M.D., an individual

**Exhibit 1.1**

**DIRECTOR SERVICES**

Practitioner shall:

1. provide general administration of the day-to-day operations of the PPCWCHBM;
2. implement the Hospital's policies and procedures regarding the Wound Management Program;
3. ensure physician coverage of the Wound Management Program;
4. schedule, coordinate and supervise the provision of medical and ancillary services within the Wound Management Program;
5. ensure the maintenance of consistently high quality service, and advise Hospital in the development and implementation of an appropriate quality assurance program with respect to the Wound Management Program;
6. advise and assist in the organization and implementation of an effective utilization review program with respect to the Wound Management Program and related services;
7. coordinate and consult with Hospital and medical staff regarding the efficiency and effectiveness of the Wound Management Program, and make recommendations and analyses as needed for Hospital to improve services provided in the Wound Management Program, and reduce costs;
8. advise Hospital regarding budget, equipment, building, supplies, and other items for the proper and efficient operation of the Wound Management Program;
9. develop, review, and provide training programs for Medical Staff and Hospital personnel;
10. ensure that the Wound Management Program is operated in accordance with all requirements of the JCAHO, all applicable licensing requirements, and all other relevant requirements promulgated by any federal, state or local agency;
11. prepare such reports and records as may be required by this Agreement, Hospital or the Medical Staff;
12. participate in Hospital and Medical Staff committees upon request by Hospital;
13. participate in continuing medical education, research and teaching activities upon request by Hospital;



14. participate in development and presentation of programs related to the marketing of the Wound Management Program's services and enhancing Hospital/community relations; provided, however, that Practitioner shall not be required to participate in any advertising or commercials related to the Wound Management Program's services;

15. advise and assist in the development of protocols and policies for the Wound Management Program;

16. upon request by Hospital, be available at all times to respond/consult in the event of urgent or emergency situations;

17. help prepare a budget for the PPCWCHBM;

18. assist in the supervision of maintenance of financial, patient and personnel records for the Wound Management Program;

19. ensure and supervise compliance by Medical Staff and employees of the Wound Management Program with Hospital and Medical Staff rules and bylaws;

20. participate in utilization review programs, as reasonably requested by Hospital;

21. participate in risk management and quality assurance programs, as reasonably requested by Hospital;

22. accept third party insured patients and referrals of patients which are made by members of Medical Staff, subject only to the limitations of scheduling and Practitioner's professional qualifications;

23. work with Hospital to monitor and review the clinical performance of health care professionals who provide services to Hospital's patients. Specifically, the role of the Medical Director shall include, but not be limited to, serving as a wound management coordinator between medical staff, nursing staff and ancillary skilled staff throughout the Palomar Pomerado Health (PPH) district. PPH facilities included in this description are Pomerado Hospital, Palomar Medical Center, Palomar Continuing Care Center, Villa Pomerado and Palomar Pomerado Home Health Agency. Practitioner shall also assist in monitoring the performance of those professionals who are not meeting Hospital quality and/or performance standards, and in disciplining any professionals who continue poor performance, recognizing that the Hospital Board of Directors is ultimately responsible for maintaining the standards of care provided to patients;

24. be available if called upon to evaluate patient wound care issues raised by clinicians within PPH. Subsequently, after the evaluation of the wound care issues, the Medical Director may then contact the Physician staff member to discuss the current plan of care related to patients' wounds or potential for wounds.

25. assist Hospital management with preparation for, and conduct of, any inspections and on-site surveys of Hospital or the [Department/Program] conducted by governmental agencies, accrediting organizations, or payors contracting with Hospital; and

26. additional services to be provided by Practitioner.

**Exhibit 1.5**

**MONTHLY TIME REPORT**

*See Attached.*

# Administration Time Log

PRACTITIONER	MONTH/YEAR																															TOTAL HOURS			
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31				
ADMINISTRATION																																			
Medical Direction of [Department/Program]																																			
Supervision/Training of Technical Staff																																			
Physician/Staff Inservice																																			
Eval/approve/implement lab procedures																																			
[Department/Program] Meetings																																			
Committee Meetings																																			
Schedules and Planning																																			
Policies/Procedures																																			
Budget Activities																																			
Quality Improvement Utilization Review																																			
Advisory Duties																																			
Liaison Activities																																			
[Department/Program] Development																																			
Maintain Accrediting Standards																																			
Evaluate Staff Competency																																			
Evaluate Quality Control Results																																			
Other																																			

**PRACTITIONER CERTIFIES THAT THE ABOVE ACCURATELY REPRESENTS THE HOURS PRACTITIONER DEVOTED TO DIRECTOR SERVICES DURING THE PERIOD OF THIS REPORT.**

Roger B. Schecter, M.D. \_\_\_\_\_ Date

2x2

## Exhibit 1.10

### CODE

1. I will perform my duties faithfully and to the best of my ability, and in the interest of Hospital.
2. I will not lie, cheat, steal, or violate any law in connection with my employment by Hospital.
3. I will not pay or arrange for Hospital to pay any person or entity for the referral of patients to Hospital, nor will I accept any payment or arrange for Hospital to accept any payment for referrals from Hospital.
4. I will not participate in any false billing of patients, government entities or any other party, nor will I participate in the preparation of any false cost reports, or other type of report submitted to the government.
5. I will not engage in any conduct or practice that conflicts (or appears to conflict) with interest of Hospital, unless I first obtain the express written consent of the Palomar Pomerado Health Board of Directors or designee.
6. I will not use Hospital's confidential or proprietary information gathered during my employment with Hospital for my own personal benefit, either during or after my employment at Hospital.
7. I will not obtain any improper personal benefits by virtue of my employment with Hospital.
8. I will notify the compliance Director immediately upon the receipt (at work or home) of an inquiry, subpoena (other than for routine licensing or tax matters) or other agency or government request for information regarding Hospital.
9. I will not destroy or alter information or documents in anticipation of or in response to, a request for documents by any applicable government agency or from a court of competent jurisdiction.
10. I will not engage in any business practice intended to unlawfully obtain favorable treatment or business from any government entity, physician, patient, vendor or any other party in a position to provide such treatment or business.
11. I will not solicit or receive from any person or entity, nor offer to give to any person or entity, anything of value if that person or entity is in a position to refer business to Hospital or if Hospital is in a position to refer business to that person or entity.
12. I will not accept any gift of more than nominal value, (\$50), and Hospitality or entertainment which because of its source or value might influence my independent judgment in transactions involving Hospital.
13. I will not provide any gifts to any government or public agency representative.
14. I will disclose to the compliance Director any financial interest or ownership interest or any other relationship that I, or a member of my immediate family has with Hospital customers, and vendors or competitors.
15. I will not disclose confidential medical information pertaining to Hospital patients without the express written consent of the patient in accordance with HIPAA, other applicable law and Hospital applicable policies or procedures.
16. I will promptly report all violations or suspected violations of this manual by myself or other employees to the compliance Director.
17. I will not conspire with a competitor of Hospital to illegally fix prices, labor cost, allocate markets, or engage in group boycotts. Before considering any agreements or entering into discussions with a competitor concerning any of these issues, I should first obtain the advice of the compliance Director concerning antitrust issues.

**Exhibit 2.1**

**COMPENSATION**

1. Compensation. Hospital shall pay to Practitioner the amount of [REDACTED] per hour for the provision of Director Services.

2. Timing. Hospital shall pay the compensation due for Director Services performed by Practitioner in the immediately preceding month within five (5) business days after Practitioner's submission of the monthly time report in accordance with this Agreement; provided, however, that if Practitioner does not submit a time sheet within sixty (60) days of the end of the month during which Director Services were performed, Hospital shall not be obligated to pay Practitioner for Director Services performed during that month.

## Exhibit 6.5

### **OBLIGATIONS UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (“HIPAA”)**

In the performance of duties and services under this Agreement, Practitioner shall comply with all requirements of The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its regulations, as amended from time to time, and shall comply with the following:

1. **Definitions.**

- a. **“Designated Record Set”** shall have the meaning given to such term under the Privacy Rule (as defined below).
- b. **“HIPAA Obligations”** means the obligations of Practitioner as set forth in this Exhibit.
- c. **“Privacy Rule”** means the HIPAA Regulation that is codified at Title 45 of the Code of Federal Regulations, Parts 160 and 164, or applicable successor provisions, as may be amended from time to time.
- d. **“Protected Health Information”** means any information, whether oral or recorded in any form or medium that: (i) relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, or is defined as such under the Privacy Rule.
- e. **“Protected Information”** means Protected Health Information provided by Hospital to Practitioner or created or received by Practitioner on Hospital’s behalf.
- f. **“Required by Law”** shall have the meaning given to such term under the Privacy Rule.

2. **Use of Protected Information.** Practitioner shall not use Protected Information except as permitted by and for the purpose of performing Practitioner’s obligations under this Agreement. Practitioner shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by Hospital.

3. **Permitted Disclosures.** Practitioner shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if disclosed by Hospital, except that Practitioner may disclose Protected Information in a manner permitted pursuant to this Agreement or as Required by Law.

4. **Appropriate Safeguards.** Practitioner shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Agreement.
5. **Reporting of Improper Use or Disclosure.** Practitioner shall notify Hospital in writing of any use or disclosure of Protected Information other than as provided for by this Agreement and this Exhibit within two (2) days of becoming aware of such use or disclosure.
6. **Practitioner's Agents.** Practitioner shall ensure that any agents of Practitioner, including subcontractors, to whom Practitioner provides Protected Information, agree in writing to the same restrictions and conditions that apply to Practitioner with respect to such Protected Information.
7. **Access to Protected Information.** Practitioner shall make Protected Information maintained by Practitioner or Practitioner's agents or subcontractors in Designated Record Sets available to Hospital for inspection and copying within ten (10) days of a request by Hospital to enable Hospital to fulfill its obligations under the Privacy Rule.
8. **Amendment of Protected Health Information.** Within ten (10) days of receipt from Hospital for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Practitioner or Practitioner's agents or subcontractors shall make such Protected Information available to Hospital for amendment and incorporate any such amendment to enable Hospital to fulfill its obligations under the Privacy Rule.
9. **Accounting Rights.** Within ten (10) days of notice by Hospital of a request for an accounting of disclosures of Protected Information, Practitioner and Practitioner's agents or subcontractors shall provide to Hospital an accounting of disclosures sufficient to enable Hospital to fulfill its obligations under the Privacy Rule. As set forth and as limited by the Privacy Rule, Practitioner shall not provide an accounting to Hospital of disclosures: (i) to carry out treatment, payment or health care operations; (ii) to individuals of Protected Information about them; (iii) to persons involved in the individual's care or other notification purposes; (iv) for national security or intelligence purposes; or (v) to correctional institutions or law enforcement officials. **[Practitioner agrees to implement a process that allows for an accounting to be collected and maintained by Practitioner and Practitioner's agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule.]** At a minimum, such information shall include: (A) the date of disclosure; (B) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (C) a brief description of Protected Information disclosed; and (D) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or copy of the individual's authorization, or a copy of the written request for disclosure.



10. **Governmental Access to Records.** Practitioner shall make his or her internal practices, books and records relating to the use and disclosure of Protected Information available to Hospital or, at the request of Hospital, to the Secretary of the U.S. Department of Health and Human Services, for purposes of determining Hospital's compliance with the Privacy Rule.
11. **Retention of Protected Information.** Except as provided in Sections 12 and 13 of this Exhibit, Practitioner and Practitioner's agents or subcontractors shall retain all Protected Information throughout the term of this Agreement and shall continue to maintain the information required hereunder for a period of six (6) years after expiration or termination for any reason of this Agreement.
12. **Term of Obligations.** Practitioner's HIPAA Obligations shall commence as of the compliance date of the Privacy Rule, and shall terminate when all of the Protected Information is destroyed or returned to Hospital, or, if it is infeasible to return or destroy Protected Information, protections are extended to such information, in accordance with Section 14 of this Exhibit.
13. **Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Practitioner shall return or destroy all Protected Information that Practitioner or Practitioner's agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, Practitioner shall continue to extend the protections of this Exhibit to such information, and limit further use of such Protected Health Information to those purposes that make the return or destruction of such Protected Health Information infeasible.
14. **Amendment.** The Parties agree to take such action as is necessary to amend HIPAA Obligations from time to time in order for Hospital to comply with the requirements of the Privacy Rule, HIPAA and other applicable laws relating to the security or confidentiality of Protected Health Information.
15. **Interpretation of Obligations.** The HIPAA Obligations shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The Parties acknowledge and agree that any ambiguity in the HIPAA Obligations shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

**PALOMAR MEDICAL CENTER  
MEDICAL DIRECTOR – PSYCHIATRIC OUTPATIENT  
PROGRAM**

**TO:** Board of Directors

**FROM:** Board Finance Committee  
Tuesday, October 4, 2005

**DATE:** Monday, October 17, 2005

**BY:** Sheila Brown, R.N., M.B.A.  
Susan Linback, R.N., M.B.A.

**BACKGROUND:** This is a request to approve the Medical Director Agreement of Stephen Signer, M.D. Due to the retirement of Dr. Richard Henderson, Dr. Signer will provide Medical Director coverage for the Palomar Medical Center Psychiatric Outpatient Program, which is required under Medicare regulations. This busy Outpatient Mental Health Program provides needed services to adult community members who suffer from acute psychiatric illnesses, and it is part of the continuum of behavioral health services within the PPH System. Dr. Signer promotes an internal continuity of care by remaining active in the inpatient Mental Health Unit, also as Medical Director.

**BUDGET IMPACT:** No Budget Impact.

**STAFF RECOMMENDATION:** Approve

**COMMITTEE QUESTIONS:**

**COMMITTEE RECOMMENDATION:** The Finance Committee recommends approval of the one-year Medical Directorship Agreement for the Psychiatric Outpatient Program at Palomar Medical Center with Stephen Signer, M.D.

**Motion:** X

**Individual Action:**

**Information:**

**Required Time:**

## PALOMAR POMERADO HEALTH - AGREEMENT ABSTRACT

Section Reference	Term/Condition	Term/Condition Criteria
	<b>TITLE</b>	Medical Director Contract Psychiatric Outpatient Program – Palomar Medical Center
Recitals	<b>AGREEMENT DATE</b>	July 1, 2005
Recitals	<b>PARTIES</b>	1) PPH 2) Stephen Signer, M.D.
	<b>PURPOSE</b>	To provide Medical oversight for Palomar Medical Center Psychiatric Outpatient Program
	<b>SCOPE OF SERVICES</b>	Due to the retirement of Richard L. Henderson, M.D., Dr. Stephen Signer has agreed to provide Medical Director coverage and medical leadership for the Palomar Medical Center Psychiatric Outpatient Program, which is required under Medicare regulations. This busy Outpatient Mental Health Program provides needed services to adult community members who suffer from acute psychiatric illnesses and is part of the continuum of behavioral health services within the PPH System.
	<b>TERM</b>	July 1, 2005 through June 30, 2006
	<b>RENEWAL</b>	None
	<b>TERMINATION</b>	Immediately for cause or within 90 days of written notice without cause.
	<b>COMPENSATION METHODOLOGY</b>	Monthly payment on or before the 15 <sup>th</sup> of each month with supporting documentation of the prior month's time records.
	<b>BUDGETED</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO - IMPACT: None
	<b>EXCLUSIVITY</b>	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES – EXPLAIN:
	<b>JUSTIFICATION</b>	To comply with Medicare Conditions of Participation for Medical Oversight.
	<b>POSITION POSTED</b>	<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <b>Methodology &amp; Response:</b> Posted in Medical Staff Services per PPH policy. No other physician applied for this position.
	<b>ALTERNATIVES/IMPACT</b>	Proceeding without this arrangement will cause the program to be out of compliance with medical oversight and supervision.
	<b>Duties</b>	x Provision for Staff Education x Provision for Medical Staff Education x Provision for participation in Quality Improvement x Provision for participation in budget process development
	<b>LEGAL REVIEW</b>	Attorney developed template agreement used.
	<b>COMMENTS</b>	
	<b>APPROVALS REQUIRED</b>	<input checked="" type="checkbox"/> VP <input checked="" type="checkbox"/> CFO <input checked="" type="checkbox"/> CEO <input checked="" type="checkbox"/> <input type="checkbox"/> BOD Committee _____ <input checked="" type="checkbox"/> BOD

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**PSYCHIATRIC OUTPATIENT PROGRAM DIRECTORSHIP AGREEMENT**

**by and between**

**PALOMAR POMERADO HEALTH,**

**A Local Health Care District ("Hospital")**

**and**

**STEPHEN F. SIGNER, M.D. ("Practitioner")**

## MEDICAL DIRECTORSHIP AGREEMENT

THIS MEDICAL DIRECTORSHIP AGREEMENT (this "Agreement") is entered into as of July 1, 2005, by and between Palomar Pomerado Health, a local health care district organized under Division 23 of the California Health and Safety Code ("Hospital"), and Stephen F. Signer, M.D., an individual ("Practitioner"). HOSPITAL and Practitioner are sometimes referred to in this Agreement individually as a "Party" or, collectively, as the "Parties."

### RECITALS

A. Hospital owns and operates Palomar Medical Center, an acute care hospital facility located in Inland North San Diego County, California, in which it operates a Psychiatric Outpatient Program (the "Program") under its acute care license.

B. Practitioner is licensed to practice medicine in the State of California, board certified for the practice of medicine in the specialty of Psychiatry (the "Specialty") and a member in good standing of Hospital's medical staff (the "Medical Staff").

C. Hospital desires to engage Practitioner as an independent contractor to provide medical and administrative oversight with respect to the Program, and believes that this proposed arrangement with the Practitioner will enhance the Program's and Hospital's organization, procedure standardization, economic efficiency, professional proficiency, and will have other benefits to Hospital if Practitioner assumes such responsibility as set forth in this Agreement.

D. Practitioner has the following qualifications and expertise to provide the services described in this Agreement: licensed physician and a member in good standing of Palomar Medical Center's medical staff.

E. Hospital has considered the following factors in determining the necessity and amount of compensation payable to Practitioner pursuant to this Agreement:

1. Practitioner will provide services as Psychiatric Outpatient Department Director to enhance the Department's and Hospital's organization, procedure standardization, economic efficiency and professional proficiency.
2. Practitioner's qualifications.

**AGREEMENT**

**THE PARTIES AGREE AS FOLLOWS:**

**ARTICLE I.  
PRACTITIONER'S OBLIGATIONS**

**1.1 Director Services.** Practitioner shall provide to Hospital those medical director services set forth on Exhibit 1.1 ("Director Services"), upon the terms and subject to the conditions set forth in this Agreement. Practitioner shall ensure that all Director Services are performed when and as needed, but shall also perform any Director Services when and as requested by Hospital from time to time.

**1.2 Time Commitment.** Practitioner shall devote whatever time is necessary to ensure the operation of a high-quality Program; provided, however, that Practitioner shall perform Director Services a maximum of twenty-four (24) hours per month. Practitioner shall allocate time to Director Services as reasonably requested by Hospital from time to time.

**1.3 Availability.** On or before the first (1st) day of each month, Practitioner shall inform Hospital of Practitioner's schedule and availability to perform Director Services during that month. Practitioner shall use his or her best efforts to adjust such schedule of availability if reasonably requested by Hospital in order to meet Hospital's needs for Director Services.

**1.4 Personal Services; Absences.** This Agreement is entered into by Hospital in reliance on the professional and administrative skills of Practitioner. Except as otherwise provided in this Agreement, Practitioner shall be solely responsible for performing Director Services and otherwise fulfilling the terms of this Agreement; Except in the event of absence due to illness or disability, Hospital shall have the right to approve the length of Practitioner's absence, and any unapproved absence shall constitute a breach of this Agreement. Nothing in this Section shall be deemed to limit in any way Hospital's right to terminate this Agreement in accordance with Section 5.2.

**1.5 Time Reports.** Practitioner shall maintain monthly time reports that provide a true and accurate accounting of the time spent each day by Practitioner in providing Director Services. Such reports shall be substantially in the form attached as Exhibit 1.5. Practitioner shall submit all time reports to Hospital no later than the tenth (10th) day of each month for Director Services provided by Practitioner during the immediately preceding month. If the Practitioner does not submit all time reports to Hospital no later than the tenth (10th) day of each month the Practitioner will not be paid for that time period.

**1.6 Medical Staff.** Practitioner shall be a member in good standing in the "active staff" category of Hospital's medical staff (the "**Medical Staff**") and hold all clinical privileges at Hospital necessary for the performance of Practitioner's obligations under this Agreement. If, as of the Effective Date (as defined in Section 5.1), Practitioner is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for the performance of Practitioner's obligations hereunder, Practitioner shall have a reasonable amount of time, which in no event shall exceed thirty (30) days from the Effective Date, to obtain such membership and/or clinical privileges; provided that Hospital may

immediately terminate this Agreement if Hospital determines that Practitioner is not diligently pursuing such membership and/or clinical privileges in accordance with the normal procedures set forth in the Medical Staff bylaws. Practitioner may obtain and maintain medical staff privileges at any other hospital or health care facility.

**1.7 Professional Qualifications.** Practitioner shall be duly licensed and qualified to practice medicine in the State of California. Practitioner shall be board certified in their Specialty.

**1.8 Continuing Medical Education.** Practitioner shall participate in continuing medical education as necessary to maintain licensure, professional competence and skills commensurate with the standards of the medical community, as otherwise required by the medical profession and as required to effectively perform Practitioner's obligations under this Agreement.

**1.9 Performance Standards.** Practitioner shall comply with and perform the duties under this Agreement in accordance with all bylaws, Medical Staff policies, JCAHO rules and regulations, rules and regulations of Hospital and the Medical Staff, and all protocols applicable to the performance of Director Services or the Program (the "Protocols").

**1.10 Code of Conduct.** Practitioner hereby acknowledges receipt of Hospital's Code of Conduct, attached to this Agreement as Exhibit 1.10 (the "Code"). With respect to Practitioner's business dealings with Hospital and Practitioner's performance of duties under this Agreement, Practitioner shall not act, or fail to act, in any manner which conflicts with or violates the Code, and shall not cause another person to act, or fail to act, in any manner which conflicts with or violates the Code. Practitioner shall comply with the Code as it relates to Practitioner's business relationship with Hospital or any Palomar Pomerado Health affiliates, subsidiaries, employees, agents, servants, officers, directors, contractors and suppliers of every kind.

**1.11 Use of Space.** Practitioner shall not use any part of the space that Hospital designates for the Program as an office for the private practice of medicine, except in an emergency or with Hospital's prior written consent.

**1.12 Notification of Certain Events.** Practitioner shall notify Hospital in writing within twenty-four (24) hours after Practitioner becomes aware of the occurrence of any one or more of the following events:

(a) Practitioner becomes the subject of, or otherwise materially involved in, any government investigation of Practitioner's business practices or the provision of professional services, including being served with a search warrant in connection with such activities;

(b) Practitioner's medical staff membership or clinical privileges at any Hospital are denied, suspended, restricted, revoked or voluntarily relinquished, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(c) Practitioner becomes the subject of any suit, action or other legal proceeding arising out of Practitioner's professional services;

- (d) Practitioner is required to pay damages or any other amount in any malpractice action by way of judgment or settlement;
- (e) Practitioner becomes the subject of any disciplinary proceeding or action before any state's medical board or similar agency responsible for professional standards or behavior;
- (f) Practitioner becomes incapacitated or disabled from performing Director Services, or voluntarily or involuntarily retires from the practice of medicine;
- (g) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;
- (h) Practitioner is charged with or convicted of a criminal offense;
- (i) any act of nature or any other event occurs which has a material adverse effect on Practitioner's ability to provide Director Services;
- (j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any federal or state health care program;
- (k) any termination, non-renewal, cancellation or reduction in coverage of any insurance policy required to be maintained by Practitioner under this Agreement; or
- (l) Practitioner fails or is otherwise unable to comply with any term of this Agreement.

**ARTICLE II.**  
**COMPENSATION**

**2.1 Compensation.** In exchange for Practitioner's provision of Director Services, Hospital shall compensate Practitioner in accordance with the terms of Exhibit 2.1.

**2.2 IRS Form W-9.** Upon execution of this Agreement, Practitioner shall furnish a completed and executed copy of IRS Form W-9 which identifies Practitioner's taxpayer identification number.

**ARTICLE III.**  
**INSURANCE AND INDEMNITY**

**3.1 Malpractice Liability Insurance.** Practitioner shall obtain and continuously maintain professional malpractice liability insurance coverage, issued by an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, in the amount of at least One Million Dollars (\$1,000,000) per occurrence or claim and Three Million Dollars (\$3,000,000) in the annual aggregate for the acts and omissions of Practitioner. Such coverage shall provide for a date of placement preceding or coinciding with the Effective Date of this Agreement.



**3.2 Certificate of Insurance.** On or before the Effective Date, Practitioner shall provide Hospital with an original certificate evidencing professional malpractice liability insurance coverage, and shall provide Hospital with proof of continued professional malpractice liability insurance coverage on an annual basis (or as periodically requested by Hospital). Practitioner shall provide Hospital with no less than thirty (30) calendar days' prior written notice of cancellation or any material change in such professional malpractice liability insurance coverage.

**3.3 Tail Coverage.** If Practitioner's professional malpractice liability insurance is provided on a claims-made basis, upon the expiration or termination of this Agreement for any reason, Practitioner shall continuously maintain such insurance or purchase from an insurance company licensed or otherwise qualified to issue professional liability insurance policies or coverage in the State of California, and acceptable to Hospital, extended reporting period (*i.e.*, "tail") coverage for the longest extended reporting period then available to ensure that insurance coverage in the amount set forth in Section 3.1 of this Agreement is maintained for claims which arise from professional services provided by Practitioner during the term of this Agreement. This Section shall survive the expiration or termination for any reason of this Agreement.

**3.4 Indemnification.**

(a) Indemnification by Practitioner. Practitioner shall indemnify, defend and hold harmless Hospital against: (i) any and all liability arising out of Practitioner's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Practitioner or Practitioner's employees or agents relating to or arising out of Director Services or this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Hospital in connection with the defense of such claims.

(b) Indemnification by Hospital. Hospital shall indemnify, defend and hold harmless Practitioner against: (i) any and all liability arising out of Hospital's failure to comply with the terms of this Agreement, and any injury, loss, claims, or damages arising from the negligent operations, acts, or omissions of Hospital or its employees or agents relating to or arising out of this Agreement; and (ii) any and all costs and expenses, including reasonable legal expenses, incurred by or on behalf of Practitioner in connection with the defense of such claims.

**3.5 Cooperation.**

(a) The Parties recognize that, during the term of this Agreement and for an undetermined time period thereafter, certain risk management issues, legal issues, claims or actions may arise that involve or could potentially involve the Parties and their respective employees and agents. The Parties further recognize the importance of cooperating with each other in good faith when such issues, claims or actions arise, to the extent such cooperation does not violate any applicable laws, cause the breach of any duties created by any policies of insurance or programs of self-insurance, or otherwise compromise the confidentiality of communications or information regarding the issues, claims or actions. As such, the Parties hereby agree to cooperate in good faith, using their best efforts, to address such risk management and legal issues, claims, or actions.

(b) The Parties further agree that if a controversy, dispute, claim, action or lawsuit (each, an "Action") arises with a third party wherein both the Parties are included as defendants, each Party shall promptly disclose to the other Party in writing the existence and continuing status of the Action and any negotiations relating thereto. Each Party shall make every reasonable attempt to include the other Party in any settlement offer or negotiations. In the event the other Party is not included in the settlement, the settling Party shall immediately disclose to the other Party in writing the acceptance of any settlement and terms relating thereto, if allowed by the settlement agreement.

**3.6 Survival of Obligations.** The Parties' obligations under this Article III shall survive the expiration or termination for any reason of this Agreement.

#### **ARTICLE IV. RELATIONSHIP BETWEEN THE PARTIES**

**4.1 Independent Contractor.** Practitioner is and shall at all times be an independent contractor with respect to Hospital in meeting Practitioner's responsibilities under this Agreement. Nothing in this Agreement is intended nor shall be construed to create a partnership, employer-employee or joint venture relationship between Hospital and Practitioner.

**4.2 Limitation on Control.** Hospital shall neither have nor exercise any control or direction over Practitioner's professional medical judgment or the methods by which Practitioner performs professional medical services; provided, however, that Practitioner shall be subject to and shall at all times comply with the Protocols and the bylaws, guidelines, policies and rules applicable to other members of the Medical Staff.

**4.3 Practice of Medicine.** Practitioner and Hospital acknowledge that Hospital is neither authorized nor qualified to engage in any activity which may be construed or deemed to constitute the practice of medicine. To the extent that any act or service required of, or reserved to, Hospital in this Agreement is construed or deemed to constitute the practice of medicine, the performance of such act or service by Hospital shall be deemed waived or unenforceable, unless this Agreement can be amended to comply with the law, in which case the Parties shall make such amendment.

**4.4 No Benefit Contributions.** Hospital shall have no obligation under this Agreement to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner. Notwithstanding the foregoing, if Hospital determines or is advised that it is required by law to compensate or pay applicable taxes for, or provide employee benefits of any kind (including contributions to government mandated, employment-related insurance and similar programs) to or on behalf of, Practitioner or any other person employed or retained by Practitioner, Practitioner shall reimburse Hospital for any such expenditure within thirty (30) calendar days after being notified of such expenditure.

**4.5 Non-Solicitation.** During the term of this Agreement and for a period of one (1) year thereafter, Practitioner shall not solicit for employment or actually employ any employee of

Hospital, or interfere with any relationship, contractual or otherwise, between Hospital and any of its employees.

**4.6 Referrals.** Practitioner shall be entitled to refer patients to any hospital or other health care facility or provider deemed by Practitioner best qualified to deliver medical services to any particular patient; provided, however, that Practitioner shall not refer any Hospital patient to any provider of health care services which Practitioner knows or should have known is excluded or suspended from participation in, or sanctioned by, any state or federal health care program. No term of this Agreement shall be construed as requiring or inducing Practitioner to refer patients to Hospital. Practitioner's rights under this Agreement shall not be dependent in any way on the referral of patients or business to Hospital by Practitioner.

**4.7 Physician Compensation Arrangements.** Practitioner represents and warrants to Hospital that the compensation paid or to be paid by Practitioner to any physician who is employed or contracted with Practitioner is and will at all times be fair market value for services and items actually provided by such physician, not taking into account the value or volume of referrals or other business generated by such physician for Hospital or any Affiliate (as defined in Section 5.5). Practitioner further represents and warrants to Hospital that Practitioner has and will at all times maintain a written agreement with each physician receiving compensation from Practitioner.

**4.8 No Competing Services.** During the term of this Agreement, Practitioner shall not own any interest in, manage, operate, or provide any administrative, consulting, or other items or director services to or on behalf of, any person or entity (whether as director, officer, employee, partner, shareholder, member, agent, representative, security holder, consultant or otherwise), that furnishes or intends to furnish any items or services competitive with those furnished by Hospital or its Affiliates, without the prior written consent of Hospital. Notwithstanding the foregoing, nothing in this Section shall prohibit Practitioner from owning securities in any publicly traded company that furnishes services furnished by Hospital or its Affiliates.

**4.9 Other Agreements.** The following list constitutes all agreements (including space leases, equipment leases, professional service agreements, medical directorships or any other agreement), existing as of the date of this Agreement between the Hospital and the Practitioner or the Practitioner's immediate family members.

Name of Contract Party	Relation to Physician Source of Referrals	Description of Contract	Start of Term	End of Term
Stephen F. Signer M.D.		Psychiatric Inpatient Program Directorship Agreement	1/1/2004	12/31/2005

## ARTICLE V. TERM AND TERMINATION

**5.1 Term.** This Agreement shall become effective on July 1, 2005 (the "Effective Date"), and shall continue until June 30, 2006 (the "Expiration Date"), subject to the termination provisions of this Agreement. On the Expiration Date this Agreement shall

automatically renew for an additional one (1) year term, unless and until either Party gives the other Party written notice of its intention not to renew this Agreement at least thirty (30) calendar days prior to the expiration of the immediately preceding one (1) year term.

**5.2 Termination by Hospital.** Hospital shall have the right to terminate this Agreement immediately upon the occurrence of any one or more of the following events:

(a) breach of this Agreement by Practitioner where the breach is not cured within thirty (30) calendar days after Hospital gives written notice of the breach to Practitioner;

(b) death or permanent disability of Practitioner;

(c) Practitioner's voluntary retirement from the practice of medicine;

(d) neglect of professional duty by Practitioner in a manner that violates Hospital's policies, rules or regulations or the Protocols;

(e) Practitioner's clinical privileges at any hospital are suspended, restricted, revoked or voluntarily relinquished, or Practitioner's medical staff membership at any hospital is suspended or terminated, for reasons relating to quality of care, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(f) Practitioner's license to practice medicine in the State of California is restricted, suspended or terminated, regardless of the availability of civil or administrative hearing rights or judicial review with respect thereto;

(g) except as provided in Section 1.6, Practitioner at any time during the term of the Agreement for any reason is not a member in good standing in the "active staff" category of the Medical Staff or does not hold all clinical privileges at Hospital necessary for Practitioner's performance of Director Services;

(h) Practitioner is charged with or convicted of a criminal offense;

(i) Practitioner's performance of Director Services, in the sole determination of Hospital, jeopardizes the mental or physical health or well-being of patients of Hospital;

(j) Practitioner is debarred, suspended, excluded or otherwise ineligible to participate in any federal or state health care program;

(k) Practitioner acts, or causes another person to act, in a manner which conflicts with or violates the Code;

(l) breach of any HIPAA Obligation (as defined in **Exhibit 6.5**); or

(m) Practitioner is rendered unable to comply with the terms of this Agreement for any reason.

**5.3 Termination without Cause.** Either Party may terminate this Agreement without cause, expense or penalty, effective thirty (30) days after written notice of termination is given to the other Party. If this Agreement is terminated prior to the date that is twelve (12) months from the Effective Date (the “**One Year Anniversary**”), the Parties shall not, at any time prior to the One Year Anniversary, enter into any other agreement or arrangement for the provision of Director Services that modifies, changes, or alters in any way the provisions of this Agreement. The foregoing sentence shall survive termination of this Agreement pursuant to this Section.

**5.4 Termination by Practitioner.** Practitioner shall have the right to terminate this Agreement upon breach of this Agreement by Hospital where the breach is not cured within thirty (30) calendar days after Practitioner gives written notice of the breach to Hospital.

**5.5 Termination or Modification in the Event of Government Action.**

(a) In the event of any Government Action (as defined below), the Parties shall, within ten (10) days after one Party gives written notification of such Government Action to the other Party, meet and confer and negotiate in good faith to attempt to amend this Agreement in order to comply with the Government Action.

(b) If the Parties, after good faith negotiations that shall not exceed thirty (30) days, are unable to mutually agree upon the amendments necessary to comply with the Government Action, or, alternatively, if either Party determines in good faith that compliance with the Government Action is impossible or infeasible, either Party may terminate this Agreement effective ten (10) days after a written notice of termination is given to the other Party.

(c) For the purposes of this Section, “**Government Action**” shall mean any legislation, statute, law, regulation, rule or procedure passed, adopted or implemented by any federal, state or local government or legislative body or any private agency, or any decision, finding, interpretation or action by any governmental or private agency, court or other third party which, in the opinion of counsel to either Party, as a result or consequence, in whole or in part, of the arrangement between the Parties set forth in this Agreement, if or when implemented, could reasonably be expected to result in or present a material risk of any one or more of the following:

- (i) revocation or threat of revocation of the status of any license, certification or accreditation granted to Hospital or any Affiliate;
- (ii) revocation or threat of revocation of the federal, state or local tax-exempt status of Hospital, or any Affiliate, or their respective tax-exempt financial obligations;
- (iii) prohibit or restrict the ability of Hospital or any Affiliate to issue tax-exempt bonds, certificates of participation or other tax-exempt financial obligations;
- (iv) prevent Practitioner from being able to access and use the facilities of Hospital or any Affiliate of Hospital;

- (v) violation of or threat of prosecution under 42 U.S.C. Section 1320a-7b(b) (commonly referred to as the "Anti-Kickback law"), 42 U.S.C. Section 1395nn (commonly referred to as the "Stark law") or any comparable state law governing kickbacks, bribes, rebates or patient referrals if Practitioner referred patients to Hospital or any Affiliate;
- (vi) violation by Hospital of, or threat of prosecution of Hospital under, any law, regulation, rule or procedure applicable to Hospital;
- (vii) prohibit Practitioner, Hospital or any Affiliate from submitting claims or materially reducing the reimbursement received by Hospital or any Affiliate for services provided to patients referred by Practitioner; or
- (viii) subject Hospital, Practitioner, any Affiliate, or any of their respective officers, directors, employees or agents, to civil action or criminal prosecution by any governmental authority or other person or entity or the imposition of any sanction (including any excise tax penalty under Internal Revenue Code Section 4958), on the basis of their approval of or participation in this Agreement or performing their respective obligations under this Agreement.

(d) For the purposes of this Agreement, "Affiliate" shall mean any entity which, directly or indirectly, controls, is controlled by, or is under common control with Hospital.

**5.6 Effect of Termination or Expiration.** Upon any expiration or termination for any reason of this Agreement:

(a) all rights and obligations of the Parties shall cease except (i) those rights and obligations that have accrued and remain unsatisfied prior to the expiration or termination for any reason of this Agreement, and (ii) those rights and obligations which expressly survive the expiration or termination for any reason of this Agreement;

(b) upon Hospital's request, Practitioner shall immediately vacate the Program premises, removing any and all of Practitioner's personal property, and Hospital may remove and store, at Practitioner's expense, any personal property that Practitioner has not so removed;

(c) Practitioner shall immediately return to Hospital all of Hospital's property, including Hospital's equipment, supplies, furniture, furnishings and patient records, in Practitioner's possession or under Practitioner's control; and

(d) Practitioner shall not do anything or cause any other person to do anything that interferes with Hospital's efforts to engage any other person or entity for the provision of Director Services, or interferes in any way with any relationship between Hospital and any other person or entity who may be engaged to provide Director Services to Hospital.

(e) The expiration or termination for any reason of this Agreement shall not entitle Practitioner to the right to a "fair hearing" or any other similar rights or procedures more particularly set forth in the Medical Staff Bylaws.

**ARTICLE VI.**  
**GENERAL PROVISIONS**

**6.1 Amendment.** This Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated, signed by the Parties and attached to this Agreement.

**6.2 Assignment.** Practitioner may not assign any of Practitioner's rights, interests, duties, or obligations under this Agreement without Hospital's prior written consent, which consent may be given or withheld in Hospital's sole discretion. Any attempted or purported assignment by Practitioner in violation of this Section shall be void. Hospital may, in its sole discretion, assign any or all of its rights, interests, duties, or obligations hereunder to any person or entity without the prior written consent of Practitioner. Subject to the foregoing, this Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, successors, assigns and representatives.

**6.3 Attorneys' Fees.** If either Party brings an action for any relief or collection against the other Party, declaratory or otherwise, arising out of the arrangement described in this Agreement, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' fees and costs actually incurred in bringing such action, including without limitation fees incurred in arbitration, at trial, on appeal and on any review therefrom, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. For the purpose of this Section, attorneys' fees shall include fees incurred in connection with discovery, post judgment motions, contempt proceedings, garnishment and levy.

**6.4 Choice of Law.** This Agreement shall be construed in accordance with and governed by the internal laws of the State of California, except choice of law rules that would require the application of the laws of any other jurisdiction.

**6.5 Compliance with HIPAA.** Practitioner shall comply with the HIPAA Obligations as defined and set forth in Exhibit 6.5. The HIPAA Obligations shall survive the expiration or termination for any reason of this Agreement.

**6.6 Compliance with Laws.** Practitioner shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local governments, including without limitation laws that require Practitioner to disclose any economic interest or relationship with Hospital, and the policies, standards, requirements, guidelines and recommendations of the Joint Commission on Accreditation of Healthcare Organizations ("JCAHO").

**6.7 Compliance with Medicare Rules.** To the extent required by law or regulation, Practitioner shall make available, upon written request from Hospital, the Secretary of Health and Human Services, the Comptroller General of the United States, or any duly authorized agent

or representative of the foregoing, a copy of this Agreement and Practitioner's books, documents and records to the extent necessary to certify the nature and extent of Hospital's costs for services provided by Practitioner. Practitioner shall preserve and make available such books, documents and records for a period which is the longer of ten (10) years after the end of the term of this Agreement or the length of time required by state or federal law. If Practitioner is requested to disclose books, documents or records pursuant to this Section for any purpose, Practitioner shall notify Hospital of the nature and scope of such request, and Practitioner shall make available, upon written request of Hospital, all such books, documents or records. Practitioner shall indemnify and hold harmless Hospital if any amount of reimbursement is denied or disallowed because of Practitioner's failure to comply with the obligations set forth in this Section. Such indemnity shall include, but not be limited to, the amount of reimbursement denied, plus any interest, penalties and legal costs.

**6.8 Confidentiality.** Neither Party shall disclose any of the terms of this Agreement to any person or entity, other than its attorneys and accountants, without the prior written consent of the other Party, unless and only to the extent such disclosure is required by law or specifically allowed by this Agreement.

**6.9 Counterparts.** This Agreement 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.

**6.10 Dispute Resolution.** In the event of any controversy or dispute related to or arising out of this Agreement, the Parties agree to meet and confer in good faith to attempt to resolve the controversy or dispute without an adversary proceeding. If the controversy or dispute is not resolved to the mutual satisfaction of the Parties within five (5) business days of notice of the controversy or dispute, the Parties agree to waive their rights, if any, to a jury trial and pre-trial discovery, and to submit the controversy or dispute to a retired judge or justice pursuant to Section 638 *et seq.* of the California Code of Civil Procedure, or any successor provision, for resolution in accordance with Chapter 6 (References and Trials by Referees), of Title 8 of Part 2 of the California Code of Civil Procedure, or any successor chapter. The Parties agree that the only proper venue for the submission of claims is the County of San Diego, California, and that the hearing before the referee shall be concluded within nine (9) months of the filing and service of the complaint. The Parties reserve the right to contest the referee's decision and to appeal from any award or order of any court.

**6.11 Entire Agreement.** This Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions between the Parties. No other understanding between the Parties shall be binding on them unless set forth in a writing signed by the Parties.

**6.12 Exhibits.** The attached exhibits, together with all documents incorporated by reference in the exhibits, form an integral part of this Agreement and are incorporated into this Agreement wherever reference is made to them to the same extent as if they were set out in full at the point at which such reference is made.



**6.13 Force Majeure.** Neither Party shall be liable for nonperformance or defective or late performance of any of its obligations under this Agreement to the extent and for such periods of time as such nonperformance, defective performance or late performance is due to reasons outside such Party's control, including acts of God, war (declared or undeclared), action of any governmental authority, riots, revolutions, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, or strikes (or similar nonperformance or defective performance or late performance of employees, suppliers or subcontractors).

**6.14 Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the construction or interpretation of this Agreement.

**6.15 Litigation Consultation.** Practitioner shall not accept consulting assignments or otherwise contract, agree, or enter into any arrangement to provide expert testimony or evaluation on behalf of a plaintiff in connection with any claim against Hospital or any Affiliate named, or expected to be named as a defendant. Practitioner shall not accept similar consulting assignments if (a) the defendants or anticipated defendants include a member of the medical staff of Hospital or any Affiliate, and (b) the matter relates to events that occurred at Hospital or any Affiliate; provided, however, the provisions of this Section shall not apply to situations in which Practitioner served as a treating physician.

**6.16 Meaning of Certain Words.** Wherever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine, or neuter forms, and the singular form of nouns shall include the plural and vice versa. Unless otherwise specified, "days" shall be considered "calendar days" and "months" shall be considered "calendar months" in this Agreement and its exhibits and attachments.

**6.17 No Conflicting Obligations.** Practitioner represents and warrants that the execution and delivery of this Agreement and the performance of his or her respective obligations hereunder do not and will not: (a) present a conflict of interest or materially interfere with the performance of his or her respective duties under any other agreement or arrangement; or (b) violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice and/or lapse of time, would constitute a default) under, terminate, accelerate the performance required by, or result in a right of termination or acceleration under any of the terms, conditions or provisions of any other agreement, indebtedness, note, bond, indenture, security or pledge agreement, license, franchise, permit, or other instrument or obligation. Practitioner shall immediately inform Hospital of any other agreements to which Practitioner is a party that may present a conflict of interest or materially interfere with performance of his or her duties under this Agreement.

**6.18 Non-Discrimination.** Practitioner shall not differentiate or discriminate in the provision of medical services on the basis of race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, age, medical condition, medical history, genetics, evidence of insurability, or claims history, in violation of any applicable state, federal or local law or regulation, or Hospital Rules, including, without limitation, the Age Discrimination Act of 1975, the Americans with Disabilities Act and all regulations issued pursuant thereto and as may be amended from time to time. Practitioner and Hospital shall be in full compliance with

Section 504 of the Rehabilitation Act of 1973, Titles VI and VII of the 1964 Civil Rights Act, and all regulations issued pursuant thereto and as may be amended from time to time.

**6.19 Notices.** All notices or communications required or permitted under this Agreement shall be given in writing and delivered personally or sent by United States registered or certified mail with postage prepaid and return receipt requested or by overnight delivery service (e.g., Federal Express, DHL). Notice shall be deemed given when sent, if sent as specified in this Section, or otherwise deemed given when received. In each case, notice shall be delivered or sent to:

If to Hospital, addressed to:

PALOMAR POMERADO HEALTH  
15255 Innovation Drive, Suite 204  
San Diego, CA 92128  
Attention: Chief Executive Officer

If to Practitioner, addressed to:

Stephen F. Signer M.D.  
331 Saratoga Glen  
Escondido, CA 92025

**6.20 Participation in Federal and State Programs.** Practitioner hereby represents that Practitioner is not debarred, suspended, excluded or otherwise ineligible to participate in any federal or state health care program.

**6.21 Representations.** Each Party represents with respect to itself that: (a) no representation or promise not expressly contained in this Agreement has been made by any other Party or by any Parties' agents, employees, representatives or attorneys; (b) this Agreement is not being entered into on the basis of, or in reliance on, any promise or representation, expressed or implied, other than such as are set forth expressly in this Agreement; and (c) Party has been represented by legal counsel of Party's own choice or has elected not to be represented by legal counsel in this matter.

**6.22 Severability.** Except as otherwise provided, if any provision of this Agreement is determined to be illegal or unenforceable, that provision shall be severed from this Agreement, and such severance shall have no effect upon the enforceability of the remainder of this Agreement.

**6.23 No Third Party Beneficiary Rights.** The Parties do not intend to confer and this Agreement shall not be construed to confer any rights or benefits to any person, firm, group, corporation or entity other than the Parties.

**6.24 Trade Secrets.** During the term of this Agreement, Practitioner will have access to and become acquainted with confidential information and trade secrets of Hospital, including information and data relating to payor contracts and accounts, clients, patients, patient groups, patient lists, billing practices and procedures, business techniques and methods, strategic plans, operations and related data (collectively, "Trade Secrets"). All Trade Secrets are the property of Hospital and used in the course of Hospital's business, and shall be proprietary information protected under the Uniform Trade Secrets Act. Practitioner shall not disclose to any person or entity, directly or indirectly, either during the term of this Agreement or at any time thereafter, any Trade Secrets, or use any Trade Secrets other than in the course of providing Director Services under this Agreement. All documents that Practitioner prepares, or Trade Secrets that might be given to Practitioner in the course of providing Director Services under this Agreement, are the exclusive property of Hospital, and, without the prior written consent of Hospital, shall not be removed from Hospital's premises.

**6.25 Waiver.** No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision as to that or any other instance. Any waiver granted by a Party must be in writing to be effective, and shall apply solely to the specific instance expressly stated.

**6.26 Waiver of Injunctive or Similar Relief.** Upon any breach or termination of this Agreement by Hospital that is determined to be improper by a court or by an arbitrator, Practitioner shall accept monetary damages, if any, as full and complete relief, to the exclusion of any specific performance, or injunctive or similar equitable relief.

The Parties have executed this Agreement on the date first above written, and signify their agreement with duly authorized signatures.

**Hospital**

Palomar Pomerado Health , a local health care district organized under Division 23 of the California Health and Safety Code and doing business as \_\_\_\_\_

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**PRACTITIONER**

\_\_\_\_\_  
Stephen F. Signer, M.D., an individual

SSN: \_\_\_\_\_

**Exhibit 1.1**

**DIRECTOR SERVICES**

**POSITION TITLE: Medical Director for Outpatient Behavioral Health Services**

**Qualifications:**

A physician member of the active medical staff at Palomar Medical Center, who has special interest and specific knowledge in the assessment, diagnosis and treatment of patients with psychiatric problems, shall provide medical direction for Outpatient Behavioral Health Services. The Medical Director shall be qualified as a board-certified Psychiatrist by the American Board of Psychiatry and Neurology and be in good standing with that organization.

**General Responsibilities:**

The Medical Director for Outpatient Behavioral Health Services shall provide for overall medical direction of the Program and insure that professional standards of care and ethical practice are adhered in all situations of patient care.

In general Medical Director shall:

1. Perform each and every duty, which, in connection with Medical Director's functions as Medical Director, is required by statute, regulation, the State of California, by the JCAHO, Hospital Bylaws, Medical Staff Bylaws or by the Medical Staff Executive Committee.
2. Work with Hospital Administration in the timely planning of activities, including the annual development of Program objectives, operations budget, and a capital equipment budget.
3. Advise and assist in the organization and implementation of an effective utilization management program for the Program and Hospital and perform specific utilization management services.
4. Develop, provide, and review on-going training programs of the medical staff, nursing staff and other support personnel.
5. Be responsible for proper and efficient use of equipment and materials, and making recommendations as to appropriate repair or replacement.
6. Demonstrate effective interpersonal skills that reflect respect, concern and empathy for the spiritual, cultural, emotional and informational needs of patients, physicians, employees and all other customers.
7. Demonstrate flexibility and willingness to support the changing needs and priorities of the Hospital.

8. Demonstrate a team approach and facilitate team efforts by interacting cooperatively with others and empowering staff to achieve Program and system goals and objectives.
9. Accurately assess problems/concerns in the Program and assist in the resolution of these matters in an effective and timely manner.
10. Attend appropriate staff and medical staff meetings.
11. Actively seek to understand how all parts of the organization interact to meet organizational goals.
12. Through visibility and presence with Medical Staff, facilitate the image of psychiatry with the medical settings.
13. Medical Director shall act as a liaison between Hospital Administration and the Psychiatry medical staff to provide direct and ongoing communication and information regarding the performance and future direction of the Hospital Outpatient Behavioral Health Services program. As Medical Director, he/she will work directly with the Behavioral Health Services administrative staff to develop and coordinate the implementation of any new or expanded Behavioral Health Services and/or programs, and to identify marketing and contracting business opportunities.
14. In the event of Medical Director's absence, Medical Director shall designate a qualified member of the active medical staff to act in his/her behalf.

**Specific Responsibilities:**

As requested, medical direction for the above services and programs shall include the following:

- 1 Provides medical leadership and program oversight; meets regularly and collaborates with Program Manager and clinical staff for decision-making regarding patient, program, clinical programming, physician, quality, and resource issues.
- 2 Actively participates in development and implementation of annual Behavioral Health strategic business plan and program development, prioritization of objectives and the ongoing assessment/appraisal of the strengths, weaknesses, and overall quality of the program.
- 3 Assists and supports the development and implementation of administrative rules and regulations, new policies, procedures, and/or health system changes affecting either the Behavioral Health Program and/or the Behavioral Health medical staff as members of the Hospital Behavioral Health Services healthcare delivery team.
- 4 Provides education, orientation, resource, and dispute resolution to medical staff with the focus on improving quality from Behavioral Health specialty perspective. This includes annual presentation at formal Grand Rounds in area of Psychiatry.

- 5 Supports and facilitates educational opportunities for Program staff. Actively participates in formal case conferences, clinical rounds, and educational inservices on a regularly scheduled basis to ensure the delivery of high quality clinical services.
- 6 Liaisons with psychiatrists, other Medical Directors, Departments, and physicians to promote a positive image, relationship, and collaboration between Behavioral Health and acute care areas, and Hospital Skilled Nursing facilities.
- 7 Develops and maintains cooperative relationships with other hospitals that have psychiatric programs for exchange of information and services, and with State and national associations, community agencies, volunteer groups and professional organizations with interest in mental health, to encourage high professional standards and services in the Mental Health Program.
- 8 Represents Hospital Behavioral Health Services at San Diego County Medical Director, Psychiatric Society, or other local meetings, as well as National and State meetings, conferences, and conventions.
- 9 Actively involved in the development, monitoring and progress of outcome measures. Initiates and participates in Program-based projects or teams which support performance improvement related to patient care.
- 10 Demonstrates knowledge of and strict compliance with Medicare regulations and Hospital Behavioral Health procedures pertaining to medical necessity.
- 11 Participates in Program chart review, Quality Management, UR, staff meetings and Psychiatric Committee meeting.
- 12 Supervises and monitors the pre-screening, transfer, and admission system to the Program when necessary and appropriate. Determines medical necessity and signs certification statements for all patients in the Program.
- 13 Accepts and treats unassigned patients referred to the program who are in need of medical supervision.
- 14 Attends weekly Treatment Team Conferences. Provides medical leadership, direction, and supervision in the Treatment Planning process and conferences and problem-solving meetings. Develops recommendations to staff and attending psychiatrists concerning treatment issues.
- 15 Acts as a role model and exhibits leadership in keeping charts, dictation, time records, etc. current. Responsible for ensuring and overseeing physician compliance with all federal and state rules and regulations, as well as legal, regulatory, quality, utilization, treatment, policy and procedural issues.
- 16 Serves as a resource to patients, staff and physicians to consult on difficult cases, physician issues, clinical programming and for resolution of problems related to patient

Exhibit 1.1-3

care. Effectively deals with disruptive physicians in concert with administration.

- 17 Is available by telephone to provide psychiatric emergency consultation to Program and Emergency Department when the attending physician cannot be reached. Intercedes in those instances where a change in treatment approach might be in the best interest of the patient; in these instances the Medical Director will discuss the clinical situation with the attending physician to offer suggestions.
- 18 Participates as the Behavioral Health medical staff representative in the evaluation, preparation, and representation of the Behavioral Health program for any state or federally sponsored surveys/inspections (i.e. JCAHO, California Program of Health, OSHA, etc.).
- 19 Initiates and implements programs, policies and procedures, which promote efficient, cost effective Program operations, and intercedes, on behalf of the health system, to prevent unnecessary utilization of services.
  - a) Assists Director in development of annual capital and operating budgets
  - b) Implements cost efficient tools (order sets, guidelines, protocols) to address variations in care
  - c) Identifies cost-saving opportunities
  - d) Actively participates in Psychiatric Committee to develop clinical rules, standing orders, and procedures applicable to the Program
- 20 Communicates special needs of medical and nursing staffs to Hospital administration.
- 21 Participates in the evaluation and selection of Program key employees.
- 22 Assists Hospital administration, Behavioral Health Community Resource Specialist, and Director through consultation, community endeavors, and marketing, such as presentations, to promote the Program as a desirable option for members of the community and Managed Care Contractors.
- 23 Assists Administration with the recruitment of new psychiatrists and orients new psychiatrists to the physician's role in the Program.
- 24 Is available to testify as an expert witness or otherwise for up to five (5) working days at no cost to the Hospital, in the event that litigation is brought against the Hospital and/or Hospital, their respective directors, officers, or employees based upon a claim or claims of negligence; malpractice, or other causes of action relating to the Program.
- 25 Medical Director shall support the mission vision, values and strategic initiatives of Hospital.



Exhibit 1.5

**MONTHLY TIME REPORT  
MEDICAL DIRECTOR DUTIES  
INVOICE/TIME SHEET FORM**

**PSYCHIATRIC OUTPATIENT SERVICES**

#	Duties	Time Commitment
1	Program oversight: Collaborate with Manager/Clinical staff for decision-making regarding patient, program, clinical programming, physician, quality, and resource issues	4°/month
2	Department Mgmt Meeting with Director/Program Manager	2°/month
3	Provide education, orientation, resource, and dispute resolution to medical staff with the focus on improving quality from Behavioral Health specialty perspective.	1°/month
4	Support/facilitate educational opportunities for Program staff: Formal clinical rounds/case review weekly for education purposes Formal in-services monthly with focus on improving quality Medication Groups for patients	2°/month + prep
5	Liaison with psychiatrists, other Medical Directors, departments, and physicians to promote a positive image, relationship, and collaboration between Behavioral Health and Acute Care areas, and Hospital Skilled Nursing facilities.	1°/month
6	Ensure medical staff compliance with legal, regulatory, quality, utilization, treatment, policy and procedural issues	1°/month
7	Participate in and provide medical leadership and problem-solving in Treatment Team conferences	4°/month
8	Active involvement in the development, monitoring, and progress of outcome measures and quality management for the Program	1°/month
9	Provide psychiatric emergency consultation to Program and E.D.	1°/month
10	Participate in Department Chart Review, Quality Management, UR, staff meetings, and Psychiatric Committee meeting.	1°/month
11	Accept and treat unassigned patients referred to the Program and in need of medical supervision.	3°/month
12	Represent Behavioral Health Services at San Diego County Medical Director, Psychiatric Society, or other local meetings, develop and promote cooperative relationships with other hospitals' psychiatric programs	1°/month
13	Assist in recruiting psychiatrists and in new physician orientation	0.5°/month
14	Present formal Grand Rounds in area of psychiatry one time per year	0.5°/month + prep
15	Market Behavioral Health Program in coordination with Administration and Community Resource Specialist through formal meetings/presentations	1°/month
16	Identify cost savings opportunities	As Needed
17	Assist Department's Director in development of annual capital and operating budgets.	As Needed
18	Assist Department's Director in development and implementation of Strategic Business Plan, prioritization of objectives and the ongoing assessment / appraisal of the strengths, weaknesses, and overall quality of the Program.	As Needed
19	Other (describe): <b>Total Hours</b>	24°/month (incl. prep)

Exhibit 1.5-1

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Exhibit 1.10

**Code of Conduct**

1. I will perform my duties faithfully and to the best of my ability, and in the interest of Hospital.
2. I will not lie, cheat, steal, or violate any law in connection with my employment by Hospital.
3. I will not pay or arrange for Hospital to pay any person or entity for the referral of patients to Hospital, nor will I accept any payment or arrange for Hospital to accept any payment for referrals from Hospital.
4. I will not participate in any false billing of patients, government entities or any other party, nor will I participate in the preparation of any false cost reports, or other type of report submitted to the government.
5. I will not engage in any conduct or practice that conflicts (or appears to conflict) with interest of Hospital, unless I first obtain the express written consent of the Palomar Pomerado Health Board of Directors or designee.
6. I will not use Hospital's confidential or proprietary information gathered during my employment with Hospital for my own personal benefit, either during or after my employment at Hospital.
7. I will not obtain any improper personal benefits by virtue of my employment with Hospital.
8. I will notify the compliance officer immediately upon the receipt (at work or home) of an inquiry, subpoena (other than for routine licensing or tax matters) or other agency or government request for information regarding Hospital.
9. I will not destroy or alter information or documents in anticipation of or in response to, a request for documents by any applicable government agency or from a court of competent jurisdiction.
10. I will not engage in any business practice intended to unlawfully obtain favorable treatment or business from any government entity, physician, patient, vendor or any other party in a position to provide such treatment or business.
11. I will not solicit or receive from any person or entity, nor offer to give to any person or entity, anything of value if that person or entity is in a position to refer business to Hospital or if Hospital is in a position to refer business to that person or entity.
12. I will not accept any gift of more than nominal value, (\$50), and hospitality or entertainment which because of its source or value might influence my independent judgment in transactions involving Hospital.
13. I will not provide any gifts to any government or public agency representative.
14. I will disclose to the compliance officer any financial interest or ownership interest or any other relationship that I or a member of my immediate family has with Hospital customers, and vendors or competitors.
15. I will not disclose confidential medical information pertaining to Hospital patients without the express written consent of the patient in accordance with HIPAA, other applicable law and Hospital applicable policies or procedures.
16. I will promptly report all violations or suspected violations of this manual by myself or other employees to the compliance officer.
17. I will not conspire with a competitor of Hospital to illegally fix prices, labor cost, allocate markets, or engage in group boycotts. Before considering any agreements or entering into

discussions with a competitor concerning any of these issues, I should first obtain the advice of the compliance officer concerning antitrust issues.

Exhibit 1.10-2

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**Exhibit 2.1**

**COMPENSATION**

1. **Compensation.** Hospital shall pay to Practitioner the amount of [REDACTED] per hour for the provision of Director Services. In no case will the monthly installment exceed [REDACTED]

2. **Timing.** Hospital shall pay the compensation due for Director Services performed by Practitioner in the immediately preceding month within fourteen (14) business days after Practitioner's submission of the monthly time report in accordance with this Agreement; provided, however, that if Practitioner does not submit a time sheet within thirty (30) days of the end of the month during which Director Services were performed, Hospital shall not be obligated to pay Practitioner for Director Services performed during that month.

**Exhibit 6.5**

**OBLIGATIONS UNDER THE HEALTH INSURANCE PORTABILITY AND  
ACCOUNTABILITY ACT OF 1996 (“HIPAA”)**

In the performance of duties and services under this Agreement, Practitioner shall comply with all requirements of The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and its regulations, as amended from time to time, and shall comply with the following:

**1. Definitions.**

- a. **“Designated Record Set”** shall have the meaning given to such term under the Privacy Rule (as defined below).
- b. **“HIPAA Obligations”** means the obligations of Practitioner as set forth in this Exhibit.
- c. **“Privacy Rule”** means the HIPAA Regulation that is codified at Title 45 of the Code of Federal Regulations, Parts 160 and 164, or applicable successor provisions, as may be amended from time to time.
- d. **“Protected Health Information”** means any information, whether oral or recorded in any form or medium that: (i) relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual, and (ii) identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, or is defined as such under the Privacy Rule.
- e. **“Protected Information”** means Protected Health Information provided by Hospital to Practitioner or created or received by Practitioner on Hospital’s behalf.
- f. **“Required by Law”** shall have the meaning given to such term under the Privacy Rule.

**2. Use of Protected Information.** Practitioner shall not use Protected Information except as permitted by and for the purpose of performing Practitioner’s obligations under this Agreement. Practitioner shall not use Protected Information in any manner that would constitute a violation of the Privacy Rule if so used by Hospital.

**3. Permitted Disclosures.** Practitioner shall not disclose Protected Information in any manner that would constitute a violation of the Privacy Rule if disclosed by Hospital, except that Practitioner may disclose Protected Information in a manner permitted pursuant to this Agreement or as Required by Law.

4. **Appropriate Safeguards.** Practitioner shall implement appropriate safeguards as are necessary to prevent the use or disclosure of Protected Information other than as permitted by this Agreement.
5. **Reporting of Improper Use or Disclosure.** Practitioner shall notify Hospital in writing of any use or disclosure of Protected Information other than as provided for by this Agreement and this Exhibit within two (2) days of becoming aware of such use or disclosure.
6. **Practitioner's Agents.** Practitioner shall ensure that any agents of Practitioner, including subcontractors, to whom Practitioner provides Protected Information, agree in writing to the same restrictions and conditions that apply to Practitioner with respect to such Protected Information.
7. **Access to Protected Information.** Practitioner shall make Protected Information maintained by Practitioner or Practitioner's agents or subcontractors in Designated Record Sets available to Hospital for inspection and copying within ten (10) days of a request by Hospital to enable Hospital to fulfill its obligations under the Privacy Rule.
8. **Amendment of Protected Health Information.** Within ten (10) days of receipt from Hospital for an amendment of Protected Information or a record about an individual contained in a Designated Record Set, Practitioner or Practitioner's agents or subcontractors shall make such Protected Information available to Hospital for amendment and incorporate any such amendment to enable Hospital to fulfill its obligations under the Privacy Rule.
9. **Accounting Rights.** Within ten (10) days of notice by Hospital of a request for an accounting of disclosures of Protected Information, Practitioner and Practitioner's agents or subcontractors shall provide to Hospital an accounting of disclosures sufficient to enable Hospital to fulfill its obligations under the Privacy Rule. As set forth and as limited by the Privacy Rule, Practitioner shall not provide an accounting to Hospital of disclosures: (i) to carry out treatment, payment or health care operations; (ii) to individuals of Protected Information about them; (iii) to persons involved in the individual's care or other notification purposes; (iv) for national security or intelligence purposes; or (v) to correctional institutions or law enforcement officials. **[Practitioner agrees to implement a process that allows for an accounting to be collected and maintained by Practitioner and Practitioner's agents or subcontractors for at least six (6) years prior to the request, but not before the compliance date of the Privacy Rule.]** At a minimum, such information shall include: (A) the date of disclosure; (B) the name of the entity or person who received Protected Information and, if known, the address of the entity or person; (C) a brief description of Protected Information disclosed; and (D) a brief statement of purpose of the disclosure that reasonably informs the individual of the basis for the disclosure, or copy of the individual's authorization, or a copy of the written request for disclosure.



10. **Governmental Access to Records.** Practitioner shall make his or her internal practices, books and records relating to the use and disclosure of Protected Information available to Hospital or, at the request of Hospital, to the Secretary of the U.S. Department of Health and Human Services, for purposes of determining Hospital's compliance with the Privacy Rule.
11. **Retention of Protected Information.** Except as provided in Sections 12 and 13 of this Exhibit, Practitioner and Practitioner's agents or subcontractors shall retain all Protected Information throughout the term of this Agreement and shall continue to maintain the information required hereunder for a period of six (6) years after expiration or termination for any reason of this Agreement.
12. **Term of Obligations.** Practitioner's HIPAA Obligations shall commence as of the compliance date of the Privacy Rule, and shall terminate when all of the Protected Information is destroyed or returned to Hospital, or, if it is infeasible to return or destroy Protected Information, protections are extended to such information, in accordance with Section 14 of this Exhibit.
13. **Effect of Termination.** Upon expiration or termination of this Agreement for any reason, Practitioner shall return or destroy all Protected Information that Practitioner or Practitioner's agents or subcontractors still maintain in any form, and shall retain no copies of such Protected Information. If return or destruction is not feasible, Practitioner shall continue to extend the protections of this Exhibit to such information, and limit further use of such Protected Health Information to those purposes that make the return or destruction of such Protected Health Information infeasible.
14. **Amendment.** The Parties agree to take such action as is necessary to amend HIPAA Obligations from time to time in order for Hospital to comply with the requirements of the Privacy Rule, HIPAA and other applicable laws relating to the security or confidentiality of Protected Health Information.
15. **Interpretation of Obligations.** The HIPAA Obligations shall be interpreted as broadly as necessary to implement and comply with HIPAA and the Privacy Rule. The Parties acknowledge and agree that any ambiguity in the HIPAA Obligations shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the Privacy Rule.

# MEDICAL STAFF SERVICES

September 27, 2005



TO: Board of Directors  
BOARD MEETING DATE: October 17, 2005  
FROM: James S. Otonari, M.D., Chief of Staff  
PMC Medical Staff Executive Committee  
SUBJECT: Medical Staff Credentialing Recommendations

## PALOMAR MEDICAL CENTER

- I. Provisional Appointment (10/17/2005 – 09/30/2007)  
Bradley B. Bailey, M.D., Wound Care  
Julie J. Chuan, M.D., Family Practice/Sports Medicine (includes PCCC)  
George Delgado, M.D., Family Practice  
Steven G. Eisenberg, D.O., Medical Oncology  
Christopher B. Geary, M.D., Orthopaedic Surgery  
Kyoung E. Han, M.D., Internal Medicine (includes PCCC)  
Dipul M. Kansagara, M.D., Internal Medicine  
Bashir Q. Rashid, M.D., Family Practice  
Mark J. Ritter, M.D., Orthopaedic Surgery  
Sarah B. Shubert, M.D., Orthopaedic Surgery  
Juergen G. Winkler, M.D., Family Practice (includes PCCC)
- II. Advancement from Provisional to Active Category  
Kevin M. Deitel, M.D., Orthopaedic Surgery (10/17/2005 – 04/30/2006)  
Soheil Niku, M.D., Diagnostic Radiology (10/17/2005 – 07/31/2006)  
Christine Q. Phan, D.O., Family Practice (10/17/2005 – 06/30/2006) (includes PCCC)
- III. Additional Privileges  
Richard A. Brower, M.D., Gastroenterology
  - Moderate SedationAnatoly J. Bulkin, M.D., General Vascular Surgery
  - Spinal Cord Stimulators (surgical aspects of generator placement and lead tunneling and connection)Ying Chang Chen, M.D., Obstetrics and Gynecology
  - Transobturator Urethral Slings
- IV. Leave of Absence  
Bruce W. Adams, D.D.S., Dentistry (09/21/2005 – 03/21/2006)  
Sanford L. Behrens, M.D., Urology (10/17/2005 – 09/30/2007)  
Cynthia D. McKinney, M.D. Family/General Practice (09/01/2005 – 08/31/2007)  
Bradley A. Patay, M.D., Medicine/Pediatrics (09/30/2005 – 09/30/2007)
- V. Voluntary Resignations/Withdrawal of Membership  
Pierre S. Hendricks, M.D., Orthopaedic Surgery (effective 10/17/2005)  
Robert P. Kaplan, D.O., Family/General Practice (effective 10/20/2005)  
Samuel C. Kim, M.D., Neurosurgery (effective 10/17/2005)  
Michael N. Markopoulos, M.D., Family/General Practice (effective 10/17/2005)

PALOMAR MEDICAL  
CENTER  
555 East Valley Parkway  
Escondido, CA 92025  
Tel 760.739.3140  
Fax 760.739.2926

POMERADO  
HOSPITAL  
15615 Pomerado Road  
Poway, CA 92064  
Tel 858.613.4664  
Fax 858.613.4217

ESCONDIDO  
SURGERY CENTER  
343 East Second Avenue  
Escondido, CA 92025  
Tel 760.480.6606  
Fax 760.480.1288

VI. Allied Health Professional Appointment (10/17/2005 – 09/30/2005)  
 Shawn E. Brooking, CNM, Certified Nurse Midwife; Sponsors: Drs. Buringrud, Hannig, Kohatsu, Trifunovic, Ghosh.  
 Dawn M. Elders, N.P., Nurse Practitioner; Sponsors: Drs. Just and Eisenberg  
 Harold T. Frank, P.A.-C., Physician Assistant; Sponsors: Drs. Bulkin, Georgy, Macksood, Moldovan, Polansky, Price, Rickards, Taggart.

VII. Allied Health Professional Resignation/Withdrawal  
 Kiersten L. Gregory, P.A.-C, Physician Assistant; Sponsor: Dr. Yoo (effective 09/16/2005)

VIII. Reappointments Effective 11/01/2005 – 10/31/2007

H. Richard Adams, M.D. (Includes PCCC)	Physical Med & Rehab	Dept of Ortho/Rehab	Associate
Nancy P. Chen, M.D.	Dermatology	Dept of Medicine	Associate
Irene L. Chennell, M.D.	Ophthalmology	Dept of Surgery	Associate
Lorne D. Kapner, M.D.	Ophthalmology	Dept of Surgery	Associate
Jon P. Kelly, M.D.	Orthopaedic Surgery	Dept of Ortho/Rehab	Active
Christopher P. Khoury, M.D.	Psychiatry	Dept of Medicine	Active
Lara L. Le, M.D. (includes PCCC)	Internal Medicine	Dept of Medicine	Active
Leslie J. McCormick, M.D.	Pediatrics	Dept of Pediatrics	Active
Bing S. Pao, M.D.	Emergency Medicine	Dept of Emergency Med	Active
Kenneth R. Roth, M.D.	Orthopaedic Surgery	Dept of Ortho/Rehab	Associate
Ulrika B. Schumacher, M.D.	Gastroenterology	Dept of Medicine	Courtesy
Matthew E. Sitzer, M.D.	Gastroenterology	Dept of Medicine	Active
Damon E. Smith, M.D. (includes PCCC)	Radiation Oncology	Dept of Radiology	Consulting
John W. Snider, M.D. (includes PCCC)	OB/GYN	Dept of OB/GYN	Active
Vanessa M. Weir, M.D. (includes PCCC)	Family Practice	Dept of Family Practice	Active

IX. Allied Health Professional Reappointments Effective 10/17/2005 – 09/30/2007  
 John A. Frisbie, P.A.-C., Physician Assistant; Sponsors: CEP  
 Gayle E. Hicks, Ph.D., Evoked Potential Tech; Sponsors: Drs. Deitel, Marcisz, Stern, V.Tantuwaya, Yoo

Certification by and Recommendation of Chief of Staff:

As Chief of Staff of Palomar Medical Center, I certify that the procedures described in the Medical Staff Bylaws for appointment, reappointment or alteration of staff membership or the granting of privileges and that the policy of the Palomar Pomerado Health System's Board of Directors regarding such practices have been properly followed. I recommend that the action requested in each case be taken by the Board of Directors.

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Bradley B. Bailey, M.D.
<i>PPHS Facilities</i>	Palomar Medical Center

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Wound Care Certified - 2005 Hyperbaric Medicine Certified - 2004 Emergency Medicine Certified - 1998
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**ORGANIZATIONAL NAME**

<i>Name</i>	California Emergency Physicians
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	University of Nevada , Reno FROM: 08/01/1989 TO: 05/15/1993
<i>Internship Information</i>	Maricopa Medical Center, Phoenix, AZ Emergency Medicine From: 06/23/1993 To: 06/22/1994 Transitional Intern Emergency Medicine
<i>Residency Information</i>	Maricopa Medical Center, Phoenix, AZ Emergency Medicine From: 07/01/1994 To: 06/30/1997
<i>Fellowship Information</i>	University of California, San Diego Hyperbaric/Dive Medicine From: 07/01/2003 To: 07/31/2004
<i>Current Affiliation Information</i>	Pomerado Hospital Long Beach Memorial Medical Center University of California, San Diego Sharp Grossmont Hospital Carson Tahoe Hospital, Carson City, NV

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Julie J. Chuan, M.D.
<i>PPHS Facilities</i>	Pomerado Hospital Palomar Medical Center

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Family Practice Certified – 2004
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**ORGANIZATIONAL NAME**

<i>Name</i>	Neighborhood Healthcare
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	University of California, Los Angeles FROM: 06/01/1997 TO: 06/01/2001 Doctor of Medicine Degree
<i>Internship Information</i>	N/A
<i>Residency Information</i>	University of California, San Diego Family Practice From: 06/24/2001 To: 06/30/2004
<i>Fellowship Information</i>	University of California, San Diego Sports Medicine From: 08/01/2004 To: 07/31/2005
<i>Current Affiliation Information</i>	N/A

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	George Delgado, M.D.
<i>PPHS Facilities</i>	Pomerado Hospital Palomar Medical Center

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Family Practice Certified - 1991/1998
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**ORGANIZATIONAL NAME**

<i>Name</i>	Pregnancy and Family Care Center
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	University of California, Davis FROM: 09/27/1984 TO: 06/17/1988 Doctor of Medicine Degree
<i>Internship Information</i>	N/A
<i>Residency Information</i>	Santa Monica Hospital Medical Center Family Practice From: 07/01/1988 To: 06/30/1991 UCLA
<i>Fellowship Information</i>	N/A
<i>Current Affiliation Information</i>	Colusa Regional Medical Center, Colusa, CA Mt. Diablo Hospital Medical Center, Concord, CA Contra Costa Regional Medical Center, Martinez, CA Sutter Solano Medical Center, Vallejo, CA

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Steven G. Eisenberg, D.O.
<i>PPHS Facilities</i>	Pomerado Hospital Palomar Medical Center

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Oncology Certified - 2002 Hematology Certified - 2003 Internal Medicine Certified - 1999
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**ORGANIZATIONAL NAME**

<i>Name</i>	Pacific Oncology & Hematology
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	Philadelphia College of Osteopathic Medicine, Philadelphia, PA FROM: 08/01/1992 TO: 06/02/1996 Doctor of Osteopathy Degree
<i>Internship Information</i>	Philadelphia College of Osteopathic Medicine Internal Medicine From: 07/01/1996 To: 06/30/1997
<i>Residency Information</i>	Philadelphia College of Osteopathic Medicine Internal Medicine From: 07/01/1997 To: 06/30/1999
<i>Fellowship Information</i>	Georgetown University Medical Center, Washington, DC Hematology/Oncology From: 07/01/1999 To: 06/30/2002 Lombardi Comprehensive Cancer Center
<i>Current Affiliation Information</i>	Scripps Memorial Hospital, Encinitas Tri-City Medical Center

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<b><i>Provider Name &amp; Title</i></b>	Christopher B. Geary, M.D.
<b><i>PPHS Facilities</i></b>	Escondido Surgery Center Pomerado Hospital Palomar Medical Center

**SPECIALTIES/BOARD CERTIFICATION**

<b><i>Specialties</i></b>	Not Board Certified
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**ORGANIZATIONAL NAME**

<b><i>Name</i></b>	S.D. Arthroscopy & Sports Medicine
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**EDUCATION/AFFILIATION INFORMATION**

<b><i>Medical Education Information</i></b>	Columbia University, College of Phys & Surgeons, New York, New York FROM: 09/03/1996 TO: 05/17/2000
<b><i>Internship Information</i></b>	New England Medical Center, Boston, MA General Surgery From: 06/21/2000 To: 06/20/2001 Tufts-New England Medical Center
<b><i>Residency Information</i></b>	New England Medical Center, Boston, MA Orthopaedics From: 07/01/2001 To: 06/30/2005 Tufts-New England Medical Center
<b><i>Fellowship Information</i></b>	San Diego Arthroscopy & Sports Medicine Sports Medicine From: 08/01/2005 To: 07/31/2006
<b><i>Current Affiliation Information</i></b>	N/A



**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Kyoung E. Han, M.D.
<i>PPHS Facilities</i>	Pomerado Hospital Palomar Medical Center Villa Pomerado Palomar Continuing Care Center

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Geriatric Medicine Certified - 1996 Internal Medicine Certified - 1994/2004
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**ORGANIZATIONAL NAME**

<i>Name</i>	Kaiser Permanente
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	Yonsei University College of Medicine, Seoul, Korea FROM: 03/01/1981 TO: 02/25/1985 Doctor of Medicine Degree
<i>Internship Information</i>	N/A
<i>Residency Information</i>	West Suburban Hospital Medical Center, Oak Park, IL Internal Medicine From: 07/01/1989 To: 06/30/1992
<i>Fellowship Information</i>	Rush-Presbyterian-St. Luke's Medical Ctr., Chicago Geriatrics From: 07/01/1992 To: 06/30/1994
<i>Current Affiliation Information</i>	Kaiser Permanente, San Diego

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**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
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**PERSONAL INFORMATION**

<b>Provider Name &amp; Title</b>	Dipul M. Kansagara, M.D.
<b>PPHS Facilities</b>	Palomar Medical Center

**SPECIALTIES/BOARD CERTIFICATION**

<b>Specialties</b>	Internal Medicine Certified - 2001
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**ORGANIZATIONAL NAME**

<b>Name</b>	Kaiser Permanente
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**EDUCATION/AFFILIATION INFORMATION**

<b>Medical Education Information</b>	UCSD School of Medicine FROM: 09/29/1992 TO: 06/09/1996 Doctor of Medicine Degree
<b>Internship Information</b>	University of California, San Francisco (Fresno) General Surgery From: 06/24/1996 To: 06/22/1997
<b>Residency Information</b>	University of California, San Francisco (Fresno) General Surgery From: 07/01/1997 To: 06/30/1998  Kaiser Medical Center, Oakland Internal Medicine From: 06/24/1998 To: 05/02/2001
<b>Fellowship Information</b>	N/A
<b>Current Affiliation Information</b>	Kaiser Permanente, San Diego

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
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**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Robert J. Knuff, M.D.
<i>PPHS Facilities</i>	Pomerado Hospital

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Orthopaedic Surgery Certified - 1976
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**ORGANIZATIONAL NAME**

<i>Name</i>	Kaiser Permanente
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	Marquette University, Milwaukee, WI FROM: 09/05/1963 TO: 06/04/1967 Doctor of Medicine Degree
<i>Internship Information</i>	Naval Hospital, Philadelphia, PA From: 07/01/1967 To: 06/30/1968 Hospital Closed 11/01/1993
<i>Residency Information</i>	Naval Hospital, Portsmouth, VA Orthopaedics From: 07/06/1972 To: 07/05/1975
<i>Fellowship Information</i>	N/A
<i>Current Affiliation Information</i>	Sharp Coronado Hospital Kaiser Permanente, San Diego

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Roger Kornu, M.D.
<i>PPHS Facilities</i>	Pomerado Hospital

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Internal Medicine Certified - 2002
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**ORGANIZATIONAL NAME**

<i>Name</i>	Michael I. Keller, M.D., Inc.
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	University of Texas Southwestern Med Center, Dallas FROM: 08/21/1995 TO: 06/04/1999 Doctor of Medicine Degree
<i>Internship Information</i>	Southwestern Medical Center at Dallas Internal Medicine From: 07/01/1999 To: 06/30/2000
<i>Residency Information</i>	Southwestern Medical Center at Dallas Internal Medicine From: 07/01/2000 To: 06/30/2002
<i>Fellowship Information</i>	Southwestern Medical Center at Dallas Rheumatology From: 07/01/2003 To: 06/30/2005
<i>Current Affiliation Information</i>	None

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Robert S. Powell, M.D.
<i>PPHS Facilities</i>	Pomerado Hospital

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Not Board Certified
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**ORGANIZATIONAL NAME**

<i>Name</i>	Kaiser Permanente
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	Eastern Virginia Medical School, Norfolk, VA FROM: 08/13/1993 TO: 05/17/1997
<i>Internship Information</i>	University of Medicine/Dentistry of New Jersey, New Brunswick General Surgery From: 07/01/1997 To: 06/30/1998
<i>Residency Information</i>	University of Medicine/Dentistry of New Jersey Orthopaedics From: 07/01/1998 To: 06/30/2002 Chief Resident 07/01/2001-06/30/2002
<i>Fellowship Information</i>	Scripps Green Hospital, La Jolla Orthopaedics From: 08/01/2002 To: 10/13/2003 Lower Extremity Reconstruction
<i>Current Affiliation Information</i>	Kaiser Permanente, San Diego

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<b><i>Provider Name &amp; Title</i></b>	Bashir Q. Rashid, M.D.
<b><i>PPHS Facilities</i></b>	Palomar Medical Center

**SPECIALTIES/BOARD CERTIFICATION**

<b><i>Specialties</i></b>	Family Practice Certified - 2005
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**ORGANIZATIONAL NAME**

<b><i>Name</i></b>	QualityCare Medical Center
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**EDUCATION/AFFILIATION INFORMATION**

<b><i>Medical Education Information</i></b>	Ross University School of Medicine, New York, NY FROM: 05/06/1998 TO: 04/30/2002
<b><i>Internship Information</i></b>	Riverside County Regional Medical Center, Moreno Valley, CA Family Practice From: 07/01/2002 To: 06/30/2003
<b><i>Residency Information</i></b>	Riverside County Regional Medical Center Family Practice From: 07/01/2003 To: 06/30/2005
<b><i>Fellowship Information</i></b>	N/A
<b><i>Current Affiliation Information</i></b>	Tri-City Medical Center

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<b>Provider Name &amp; Title</b>	Mark J. Ritter, M.D.
<b>PPHS Facilities</b>	Escondido Surgery Center Pomerado Hospital Palomar Medical Center

**SPECIALTIES/BOARD CERTIFICATION**

<b>Specialties</b>	Not Board Certified
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**ORGANIZATIONAL NAME**

<b>Name</b>	S.D. Arthroscopy & Sports Medicine
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**EDUCATION/AFFILIATION INFORMATION**

<b>Medical Education Information</b>	University of Iowa College of Medicine, Iowa City, IA FROM: 09/01/1995 TO: 05/14/1999
<b>Internship Information</b>	Rhode Island Hospital, Providence, RI General Surgery From: 06/24/1999 To: 06/30/2000 Brown Medical School
<b>Residency Information</b>	Rhode Island Hospital Orthopaedics From: 07/01/2000 To: 06/30/2004 Brown Medical School Program
<b>Fellowship Information</b>	Rhode Island Hospital Trauma From: 07/01/2004 To: 06/30/2005 Orthopaedic trauma surgery  San Diego Arthroscopy & Sports Medicine Sports Medicine From: 08/01/2005 To: 07/31/2006
<b>Current Affiliation Information</b>	Rhode Island Hospital, Providence, RI

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Raymond A. Sachs, M.D.
<i>PPHS Facilities</i>	Pomerado Hospital

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Orthopaedic Surgery Certified - 1983
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**ORGANIZATIONAL NAME**

<i>Name</i>	Kaiser Permanente
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	Loyola University, Illinois, Maywood, IL FROM: 09/26/1968 TO: 06/10/1972 Stritch School of Medicine
<i>Internship Information</i>	Rush-Presbyterian-St. Luke's Medical Ctr., Chicago General Surgery From: 07/01/1972 To: 06/30/1973
<i>Residency Information</i>	Rush-Presbyterian-St. Luke's Medical Ctr., Chicago General Surgery From: 07/01/1973 To: 06/30/1974  Naval Medical Center, San Diego Orthopaedics From: 07/01/1974 To: 06/30/1981
<i>Fellowship Information</i>	N/A
<i>Current Affiliation Information</i>	Sharp Coronado Hospital Kaiser Permanente, San Diego



**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Steven R. Schelkun, M.D.
<i>PPHS Facilities</i>	Pomerado Hospital

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Orthopaedic Surgery Certified - 1986/1997
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**ORGANIZATIONAL NAME**

<i>Name</i>	Kaiser Permanente
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	Ohio State University College of Medicine, Columbus, OH FROM: 09/28/1970 TO: 06/08/1973 Doctor of Medicine
<i>Internship Information</i>	Ohio State University Medicine From: 06/24/1973 To: 06/23/1974
<i>Residency Information</i>	Naval Hospital, Portsmouth, VA Orthopaedics From: 07/01/1980 To: 04/30/1984
<i>Fellowship Information</i>	N/A
<i>Current Affiliation Information</i>	Sharp Coronado Hospital Kaiser Permanente, San Diego

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Sarah B. Shubert, M.D.
<i>PPHS Facilities</i>	Escondido Surgery Center Pomerado Hospital Palomar Medical Center

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Not Board Certified
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**ORGANIZATIONAL NAME**

<i>Name</i>	S.D. Arthroscopy & Sports Medicine
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	Tufts University School of Medicine, Boston, MA FROM: 08/26/1996 TO: 05/21/2000
<i>Internship Information</i>	New England Medical Center, Boston, MA General Surgery From: 06/21/2000 To: 06/20/2001 Tufts-New England Medical Center
<i>Residency Information</i>	New England Medical Center Orthopaedics From: 07/01/2001 To: 06/30/2005 Tufts- New England Medical Center
<i>Fellowship Information</i>	San Diego Arthroscopy & Sports Medicine Sports Medicine From: 08/01/2005 To: 07/31/2006
<i>Current Affiliation Information</i>	None

**PALOMAR POMERADO HEALTH SYSTEM  
PROVISIONAL APPOINTMENT  
October, 2005**

**PERSONAL INFORMATION**

<i>Provider Name &amp; Title</i>	Juergen G. Winkler, M.D.
<i>PPHS Facilities</i>	Pomerado Hospital Palomar Medical Center Villa Pomerado Palomar Continuing Care Center

**SPECIALTIES/BOARD CERTIFICATION**

<i>Specialties</i>	Family Practice Certified - 1991/1998
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**ORGANIZATIONAL NAME**

<i>Name</i>	Elizabeth Hospice
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**EDUCATION/AFFILIATION INFORMATION**

<i>Medical Education Information</i>	University of Maryland at Baltimore FROM: 09/01/1984 TO: 05/20/1988 Doctor of Medicine Degree
<i>Internship Information</i>	Arrowhead Regional Medical Center, Colton, CA Family Practice From: 07/01/1988 To: 06/30/1989
<i>Residency Information</i>	Arrowhead Regional Medical Center Family Practice From: 07/01/1989 To: 06/30/1991
<i>Fellowship Information</i>	N/A
<i>Current Affiliation Information</i>	None

**PALOMAR POMERADO HEALTH  
ALLIED HEALTH PROFESSIONAL  
APPOINTMENTS  
FOR OCTOBER 2005**

<b>NAME:</b>	<b>Eve S. Allerton, P.A.-C.</b>	
<b>SPECIALTY:</b>	Physician Assistant	
<b>SERVICES:</b>	Physician Assistant services for Kaiser Orthopaedic Surgeons at Pomerado Hospital	
<b>TRAINING:</b>	University of Southern California, Los Angeles, CA	
	Bachelor of Science – Physician Assistant practice	09/01/96-12/21/98
	Arrowhead Regional Medical Center, Colton, CA	
	Orthopaedic Physician Assistant Residency Program	09/01/98-08/31/99
<b>PRACTICE:</b>	Orthopaedic Physician Assistant, Kaiser Permanente, San Diego, CA	03/01/00-Present
	Physician Assistant, Arrowhead Regional Medical Center, Colton, CA	09/13/99-03/12/01
<b>SPONSORS:</b>	Kaiser Orthopaedic Surgeons at Pomerado Hospital	
<b>CERTIFICATION:</b>	National Commission on Certification of Physician Assistants	1998
<b>FACILITY:</b>	Pomerado Hospital	
<b>NAME:</b>	<b>Shawn E. Brooking, RN, CNM</b>	
<b>SPECIALTY:</b>	Certified Nurse Midwife	
<b>SERVICES:</b>	Certified Nurse Midwife services at the PMC Birth Center	
<b>TRAINING:</b>	California State University, San Bernardino	
	Bachelor of Science Degree – Nursing	08/01/91-06/18/94
	Frontier School of Midwifery&Family Nursing, Hyden, KY	11/10/03-06/02/05
<b>PRACTICE:</b>	Certified Nurse Midwife, Palomar Medical Center Birth Center	06/27/05-Present
	Registered Nurse, L&D, Rancho Springs Medical Center, Murrieta, CA	06/01/04-12/31/04
	Registered Nurse, L&D, Palomar Medical Center, Escondido, CA	12/01/00-05/31/04
	Registered Nurse, IS Clinical Analyst, Pioneers Memorial Hospital, Brawley, CA	06/15/98-Present
	Staff Nurse, Active Duty Navy, Naval Hospital, Camp Pendleton, CA	08/01/94-06/30/98
<b>SPONSORS:</b>	Drs. Buringrud, Ghosh, Hannig, Kohatsu, Trifunovic	
<b>CERTIFICATION:</b>	American College of Nurse Midwives	2005
<b>FACILITY:</b>	Palomar Medical Center	
<b>NAME:</b>	<b>Dawn M. Elders, N.P.</b>	
<b>SPECIALTY:</b>	Nurse Practitioner	
<b>SERVICES:</b>	Nurse Practitioner	
<b>TRAINING:</b>	Palomar College, San Marcos, CA	
	A.A. Nursing	09/01/86-12/01/89
	University of Phoenix, San Diego, CA	
	Bachelor of Science in Nursing	09/01/92-07/31/94
	University of San Diego	
	Master of Science in Nursing, Adult Nurse Practitioner	01/31/00-05/25/03
<b>PRACTICE:</b>	Nurse Practitioner, S.D. Pacific Oncology&Hematology Associates Escondido, CA	08/01/04-Present
	Hospice Nurse, Elizabeth Hospice, Escondido, CA	12/3/02-09/18/04
	Nurse Practitioner, Point Loma Nazarene University, San Diego, CA	08/01/99-07/31/04
	R.N., Case Manager, Kaiser Permanente, Home Health/Hospice, San Diego, CA	08/24/99-05/19/00
	Nurse Practitioner, UCSD Home Care, San Diego, CA	11/13/92-01/24/97
<b>SPONSORS:</b>	Richard Just, M.D., and Steven Eisenberg, M.D.	
<b>CERTIFICATION:</b>	American Academy of Nurse Practitioners	2004
<b>FACILITY:</b>	Palomar Medical Center and Pomerado Hospital	

**PALOMAR POMERADO HEALTH  
ALLIED HEALTH PROFESSIONAL  
APPOINTMENTS  
FOR OCTOBER 2005**

**Page two**

**NAME:** Harold T. Frank, P.A.-C.  
**SPECIALTY:** Physician Assistant  
**SERVICES:** Physician Assistant  
**TRAINING:** Western University of Health Sciences, Pomona, CA  
Physician Assistant Certificate 01/01/97-12/31/98  
**PRACTICE:** Physician Assistant, Valley Radiology Medical Group 05/02/2005-Present  
Physician Assistant, Sterling Medical, Naval Medical Center,  
San Diego, CA 03/01/01-02/29/05  
Physician Assistant, Robert Reichman, M.D., Escondido, CA 03/15/00-03/31/01  
Physician Assistant, Call Doctor Medical Group, San Diego, CA 02/01/00-03/31/01  
Physician Assistant, US Healthworks, San Diego, CA 01/01/00-Present  
Instructor, Maric College, Vista, CA 08/01/99-08/31/01  
Physician Assistant, La Jolla Cardiovascular/Thoracic Surgeons 02/01/99-06/30/99  
**SPONSORS:** Drs. A. Bulkin, B. Georgy, D. Macksood, S. Moldovan, A. Polansky,  
R. Price, P. Rickards and S. Taggart  
**CERTIFICATION:** National Commission on Certification of Physician Assistants 1999  
**FACILITY:** Palomar Medical Center, Pomerado Hospital, Escondido Surgery Center

# MEDICAL STAFF SERVICES



September 27, 2005

TO: Board of Directors

BOARD MEETING DATE: October 17, 2005

FROM: James S. Otoshi, M.D., Chief of Staff  
PMC Medical Staff Executive Committee

SUBJECT: Department of OB/GYN Rules and Regulations

At the September 26, 2005 Executive Committee meeting for Palomar Medical Center, the following modifications to the Department of OB/GYN Rules and Regulations were approved for forwarding to the Board of Directors with a recommendation for approval.

## Rationale

It was recommended that the Guidelines for Review of Privileges, which are currently a part of the OB/GYN privilege checklist, be incorporated into the Department of OB/GYN Rules and Regulations. In addition, the Guidelines were modified to clarify the intent regarding the need for Family Practitioners to have a formal arrangement with a qualified Obstetrician for transfer of care.

## GUIDELINES FOR REVIEW OF PRIVILEGES

### Resources

- a. **Education/Training**  
The applicant process includes submission of a questionnaire to the director of the internship, residency and fellowship. This questionnaire includes the question, "did the applicant's training include those procedures being requested." A copy of the applicant's checklist is included.
- b. **Reference Letters**
- c. **Operative Reports**  
If submitted operative reports are not felt to be of sufficient number to reflect training to be a primary surgeon and/or obstetrician, the Department of OB/GYN may direct another letter to the training program specifically asking for training details.
- d. **Malpractice Coverage Limitations**
- e. **Criteria**  
(as developed for specific procedures: i.e. laparoscopic procedures ,etc.)
- f. **List of Procedures/Equipment Requiring Certificates.**
- g. **Department of OB/GYN policy entitled "Department of OB/GYN Monitoring Policy".**
- h. **Department of OB/GYN policy entitled "Department of OB/GYN Attendance Policy".**
- i. **Guidelines for Care of Low Risk OB Patients by Family Practitioners.**

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## **GUIDELINES FOR CARE OF LOW RISK OB PATIENTS BY FAMILY PRACTITIONERS**

1. The following list of functions for the Family Practitioner is not all inclusive but intended as guidelines to facilitate obstetrical care for the low risk patient.
  - A. Assess, document and manage patients in uncomplicated labor.
  - B. Document and evaluate the status of membranes.
  - C. Admit and discharge patients from hospital
  - D. Provide pain management
  - E. Perform amniotomy
  - F. Initiate non-stress tests and interpret fetal monitoring strips
  - G. Apply internal and external fetal and pressure monitors
  - H. Perform local anesthesia infiltration
  - I. Perform and repair episiotomies
  - J. Repair first and second degree obstetrical lacerations
  - K. Manage single spontaneous vertex vaginal deliveries
  - L. Manage third stage of labor (not including manual extraction)
  - M. Perform cervical and vaginal inspection
  - N. Stabilize and initiate fetal or maternal resuscitation and call for back up and resuscitation team as needed
  - O. Sign birth certificate
  - P. Document all exams and delivery notes
  - Q. Write postpartum orders
  - R. Do discharge teaching and exams, write discharge orders
  - S. Assess, document and manage outpatients with obstetrical related conditions
  
2. The following conditions must be evaluated by and transferred to the direct care of an OB/GYN with whom a previous, formal arrangement has been made. This will require that the Family Practitioner have an arrangement with an Obstetrician with full OB privileges at PMC to be available to assume care of the patient\*:
  - A. Suspected uterine rupture
  - B. Cardiac disease
  - C. History renal disease
  - D. Insulin dependent diabetic
  - E. Severe PIH and MGSO4
  - F. Non Reactive NST
  - G. Placenta Previa
  - H. Persistent drug use
  - I. Multiple medical problems
  - J. Multiple gestations
  - K. Fetal demise < 20 weeks
  - L. Severe asthma
  - M. Major obstetrical lacerations
  - N. Gestation under 35 weeks
  - O. Any situation required operative delivery
  - P. Persistent late decelerations
  
3. There may be situations where the Family Practitioner and OB/GYN co-manage a patient. This is to be documented in the patients' chart.
  
4. Any additional privileges must be requested individually.

\*Reference should be made to the following documents from the American College of Obstetrics and Gynecology:

1. ACOG Statement of Policy AAFP—ACOG Joint Statement on Cooperative Practice and Hospital Privileges. (March 1998)
2. Quality Improvement in Women's Health Care
3. Ethics in Obstetrics and Gynecology

# MEDICAL STAFF SERVICES

**DATE:** September 27, 2005

**MEMO TO:** Palomar Pomerado Health  
Board of Directors

**FROM:** Marvin Levenson, M.D.  
Medical Director, Escondido Surgery Center

**RE:** Medical Staff Recommendations



The Executive Committee of the Medical Staff of Palomar Medical Center approved the following credentialing recommendations for Escondido Surgery Center for submission to the Board of Directors:

### Appointment:

Effective 10/17/2005 – 09/30/2007

- ◆ Christopher B. Geary, M.D., Orthopaedic Surgery
- ◆ Mark J. Ritter, M.D., Orthopaedic Surgery
- ◆ Sarah B. Shubert, M.D., Orthopaedic Surgery

### Leave of Absence:

- ◆ Bruce W. Adams, D.D.S., Dentistry (09/21/2005 – 03/21/2006)
- ◆ Sanford L. Behrens, M.D., Urology (10/17/2005 – 09/30/2007)
- ◆ Cynthia D. McKinney, M.D. Family/General Practice (09/01/2005 – 08/31/2007)

### Resignations:

- ◆ Pierre S. Hendricks, M.D., Orthopaedic Surgery (effective 10/17/2005)
- ◆ Robert P. Kaplan, D.O., Family/General Practice (effective 10/20/2005 following leave of absence)
- ◆ Samuel C. Kim, M.D., Neurosurgery (effective 10/17/2005)

### Allied Health Professional Appointment:

Effective 10/17/2005 – 09/30/2007

- ◆ Harold T. Frank, P.A.-C., Physician Assistant; Sponsors: Drs. Bulkin, Georgy, Macksood, Moldovan, Polansky, Price, Rickards, Taggart

### Allied Health Professional Withdrawal:

- ◆ Kiersten L. Gregory, P.A.-C, Physician Assistant; Sponsor: Dr. Yoo (effective 09/16/2005)

### Reappointment:

Effective 10/17/2005 – 04/30/2006

- ◆ Kevin M. Deitel, M.D., Orthopaedic Surgery

Effective 11/01/2005 – 10/31/2007

- ◆ Irene L. Chennell, M.D., Ophthalmology
- ◆ Lorne D. Kapner, M.D., Ophthalmology
- ◆ Jon P. Kelly, M.D., Orthopaedic Surgery

### Certification by and Recommendation of Escondido Surgery Center Medical Director:

As Medical Director of Escondido Surgery Center, I certify that the procedures described in the Escondido Surgery Center Policies and Procedures for appointment, reappointment or the granting of privileges and that the policy of the Palomar Pomerado Health Board of Directors regarding such practices have been properly followed. I recommend that the action requested in each case be taken by the Board of Directors.

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PALOMAR  
POMERADO  
HEALTH

**Pomerado Hospital Medical Staff Services**

15615 Pomerado Road  
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FAX - (858) 613-4217

DATE: October 4, 2005  
TO: Board of Directors - October 17, 2005 Meeting  
FROM: Paul E. Tornambe, M.D., Chief of Staff, Pomerado Hospital Medical Staff  
SUBJECT: Medical Staff Credentials Recommendations – September 2005:

Provisional Appointments:

Julie J. Chuan, M.D. – Medicine  
George Delgado, M.D. – Medicine  
Steven G. Eisenberg, D.O. - Medicine  
Christopher B. Geary, M.D. – Orthopedic Surgery – Assisting only for Dr. Brad Cohen  
Robert J. Knuff, M.D. – Orthopedic Surgery  
Kyoung E. Han, M.D. – Medicine  
Roger Kornu, M.D. - Medicine  
Robert S. Powell, M.D. – Orthopedic Surgery  
Mark J. Ritter, M.D. – Orthopedic Surgery – Assisting only for Dr. Brad Cohen  
Raymond A. Sachs, M.D. – Orthopedic Surgery  
Steven R. Schelkun, M.D. – Orthopedic Surgery  
Sarah B. Shubert, M.D. – Orthopedic Surgery – Assisting only for Dr. Brad Cohen  
Juergen Winkler, M.D. - Medicine

Biennial Reappointments: Effective through 10/31/2007

Irene L. Chennell, M.D. – Ophthalmology – Affiliate  
Jill S. Cotel, M.D. – Internal Medicine – Active (Villa also)  
Lorne D. Kapner, M.D. – Ophthalmology – Active  
Daniel Y. Lee, M.D. – Gastroenterology – Active  
Leslie J. McCormick, M.D. – Pediatrics – Active  
Bing S. Pao, M.D. – Emergency Medicine – Active  
Damon E. Smith, M.D. – Radiology – Consulting (Villa also)

Advancement to Active Category

Soheil Niku, M.D. Radiology/Diagnostic Radiology

Allied Health Appointments:

Eve S. Allerton, P.A.-C – Sponsors Kaiser Physicians  
Dawn Elders, RN, NP – Sponsor – R. Just, M.D.  
Harold T. Frank, P.A.-C – Sponsors – A. Bulkin, M.D., S. Moldovan, M.D., B. Georgy, M.D.,  
D. Macksood, M.D., R. Price, M.D., S. Taggart, M.D.

Allied Health Renewal

Maureen Fleming, P.A.-C - Sponsor – A. Conrad, M.D.  
Kelly L. Neil, RN, NP – Sponsors – C. Callery, M.D., K. Potts, M.D.

Resignations:

James Jaworski, MD - Anesthesia

Additional PCA Privileges:

Brent A. Howard, M.D.  
Michael G. Ryan, M.D.  
Larry S. Williams, M.D.

Allied Health Resignation:

Kiersten L. Gregory, P.A.-C – Sponsor Dr. Yoo  
Karen Richardson R.N. – Sponsor – Dr. Jauregui

**POMERADO HOSPITAL**

Certification by and Recommendation of Chief of Staff: As Chief of Staff of Pomerado Hospital, I certify that the procedures described in the Medical Staff Bylaws for appointment, reappointment, or alternation of staff membership or the granting of privileges and the policy of the Palomar Pomerado Health System's Board of Directors regarding such practices have been properly followed. I recommend that the Board of Directors take the action requested in each case.

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**Information Only: Review of Year-end Financial Breakdown  
(Salaries, Wages, Benefits)**

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Human Resources Committee: September 13, 2005

**BACKGROUND:** It was recommended at Financial Committee that HR Committee review a breakdown of the FY'05 year-end financials relative to salaries, wages and benefits. Point of specific interest is the future management of contract labor, recruitment and retention strategies. Going forward the Finance Committee will continue to watch the financial impact on salaries, wages and contract labor expenses, keeping HR Committee apprised of labor trends.

**BUDGET IMPACT:**

**STAFF RECOMMENDATION:**

**COMMITTEE QUESTIONS:**

Concern expressed that contract labor may be underestimated (budget), especially during these summer months. Labor costs are being closely monitored by EMT. Representatives from all quadrants meet monthly to evaluate and effectively respond to the financial trends.

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**Information Only: Employee Engagement Survey**

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Human Resources Committee: September 13, 2005

**BACKGROUND:** PPH employees recently participated in the Gallup Employee Engagement (Q12) Survey, which measures the level of employee engagement and overall satisfaction with the health system. PPH conducts two Q12 surveys per year with employees answering thirteen standard and three custom questions over the telephone. Survey results are tabulated for each facility, department and leader. Results are then shared with employees and each department generates an Impact Plan addressing ways to improve the workplace. This survey was carried out over a 2-week period from May 31 to June 12, 2005 to measure the fiscal year-end level of engagement for FY 05. Mark Drapala, Director of Service Excellence, presented a summary of the survey results. A copy of the PPH survey results can be found with Christine Meaney in the Board of Directors office.

**BUDGET IMPACT:**

**STAFF RECOMMENDATION:**

**COMMITTEE QUESTIONS:**

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

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**Information Only: Magnet Status**

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Human Resources Committee: September 13, 2005

**BACKGROUND:** As you know, PPH has been working toward achieving Magnet Recognition status from the American Nurses Credentialing Center. Lorie Shoemaker presented a progress report on activities to date, and those planned for the near future.

**BUDGET IMPACT:**

**STAFF RECOMMENDATION:**

**COMMITTEE QUESTIONS:**

1. In response to a question regarding professional development for nursing education/degrees: This topic will be discussed at the October 11 HR Committee meeting by Lorie Shoemaker, Chief Nursing Officer.

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

## Community Needs Assessment

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Community Relations Committee on September 23, 2005

**BY:** Gustavo Freiderichsen

**BACKGROUND:** Mike Moder of Moder Research and Communications, Inc. gave a presentation on the Palomar Pomerado Health's 2005 Health needs Assessment. The assessment was based on findings of the Health needs within Palomar Pomerado Health's service area. Health issues were assessed by Ethnicity and Race, by Age Category and by Region. The top four Health Issues based on total overall score were 1) access to health care services, 2) Overweight and Obesity, 3) Diabetes 4) Mental Health. These findings were based on the best and most available data.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information purposes only

### COMMITTEE RECOMMENDATION:

**Information:** X

## Lifeline Report

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Community Relations Committee on September 23, 2005

**BY:** Gustavo Freiderichsen

**BACKGROUND:** Jennifer Allen, Lifeline coordinator shared a few success stories of patients who were helped through the Lifeline Program. She reminded the Committee how important it is to get the word out to the community to make them aware of the tremendous service we offer. She thanked the Marketing Department for helping her to do just that. Jennifer was pleased to report that the program is making money. She said that they run specials to get people initially on board and that our rates are pretty standard throughout the U.S. She also stressed the fact that as the program grows; the need to purchase more equipment grows. Michael said that he would approve all revenue to return directly back into the program for two years and at the end of two years he wants Jennifer to show him that the proceeds were returned to the program and that it is growing.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information purposes only

### COMMITTEE RECOMMENDATION:

**Information:** X

**Media in Review**

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Community Relations Committee on September 23, 2005

**BY:** Gustavo Freiderichsen

**BACKGROUND:** Andy Hoang reported on the Pro-active Media relative to Palomar Pomerado Health. Stories included Hospital of the Future, Spelling Bee radio Commercial, PMC Downtown Workshop, Dikembe Mutombo, Nursing Partnership with CSUSM & Palomar College, GOMED Student Tours, Go Red for Women Campaign, Sarah Gordon; Pomerado Nurse in Mississippi, Cover Story: Advance for Nurses Magazine and Managed Healthcare Executive: Michael Covert Cover Story. This media coverage totaled 28 articles, 1265 total column inches and \$158,813.40 in Media Value.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information purposes only

**COMMITTEE RECOMMENDATION:**

**Information:** X

## Fall TV Campaign

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Community Relations Committee on September 23, 2005

**BY:** Gustavo Freiderichsen

**BACKGROUND:** Gustavo Friederichsen gave a brief presentation on concepts, messaging and goals relative to the fall TV campaign. He shared ideas for the production and airing of our upcoming commercials, one that will be educational for viewers where our Mission statement is used. The voice-over will announce "At Palomar Pomerado Health, our Mission is and the Doctor will look up from a patient and say "to heal", a nurse looks up from a mom and baby and says "to comfort, and a classroom instructor says "to promote good health". "Specializing in you" is the tag line. The second is a recruitment spot where the day in the life of a physician is featured. The spots will air in early November and run until April during the day, prime time and weekends.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information purposes only

### COMMITTEE RECOMMENDATION:

**Information:** X



**PPH Brand Identity Change process**

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Community Relations Committee on September 23, 2005

**BY:** Gustavo Freiderichsen

**BACKGROUND:** Gustavo Friederichsen began discussion with the committee regarding the process, timeline and structure for name and brand change for Palomar Pomerado Health. Gustavo shared that the goal is to create a credible, innovative brand; one that defines who we are, illustrates the integrity and passion of the organization and conveys our vision for the future. Gustavo shared the background and history of the name as it is today and the need to rebrand. The process will include involvement from staff across the system, involvement of the Community Relations Committee and involvement of key stakeholders (outside) from throughout the district. He says that due to the sensitive nature of the topic and the amount of money spent on a similar project nearly five years ago, we will proceed with heightened sensitivity.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information purposes only

**COMMITTEE RECOMMENDATION:**

**Information:** X

## Government Relations Update

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Community Relations Committee on September 23, 2005

**BY:** Gustavo Freiderichsen

**BACKGROUND:** Gustavo Friederichsen shared that there are many local, state and national issues regarding healthcare. His concern is that the CHA and the ACHD are not in agreement as to what the "Top 10" Bills are. He plans to hold a conference call to try and bring the two together in order to help PPH decide if we would like to make a stand on any of them.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information purposes only

### COMMITTEE RECOMMENDATION:

**Information:** X

## Monthly Reports

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Community Relations Committee on September 23, 2005

**BY:** Gustavo Friederichsen

**BACKGROUND:** Monthly reports were respectively presented to the Community Relations Committee. Included were Marketing/Public Relations, HealthSource, and Community Outreach for the months of July and August, 2005.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information purposes only

### COMMITTEE RECOMMENDATION:

**Information:** X

## Community Needs Assessment

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Strategic Planning Committee on September 20, 2005

**BY:** Gustavo Friederichsen, Chief Marketing and Communications Officer

**BACKGROUND:** Every three years the Community Health Improvement Project (CHIP) prepares a community needs assessment for the County. In addition to this County study, PPH initiated a similar study focused on the PPH district area. Together these studies can assist PPH in planning our clinical services and community outreach projects. Results of these studies were presented to the Committee.

Kristen Garrett, Executive Director, CHIP (Community Health Improvement Partners) presented "Charting the Course IV," the CHIP San Diego County Needs Assessment, as a resource to identify community health concerns.

The **top four Health Issues** were ranked as follows:

1. Access to Health Care Services
2. Overweight and Obesity
3. Mental Health
4. Physical Activity & Fitness

The **top four Non-Clinical Health Issues** are:

1. Access to Health Care services
2. Overweight and Obesity
3. Physical Activity & Fitness
4. Injury & Violence Prevention

The **top four Clinical Health Issues** are:

1. Mental Health
2. Diabetes
3. Substance Abuse
4. Cancer

Mike Moder, of Moder Research and Communications, Inc., presented an overview of "Palomar Pomerado Health 2005 Health Needs Assessment" which was conducted to identify trends and updated information regarding the health needs throughout the Palomar Pomerado Health services area, and to help better understand the diverse health needs of the residents of the district. The focus of the assessment was on:

- Current service area demographics
- Access to care

## Community Needs Assessment

- Birth Trends
- Hospital utilization
- Causes of death
- Health issues

Michael Covert emphasized that the point of this presentation was not to overwhelm, but to provide some degree of vision dealing with access to health care, and that PPH needs to focus on what the community needs. This information at a detailed level will be used in our clinical and community outreach planning.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information and discussion only.

### COMMITTEE RECOMMENDATION:

**Information:**        X

## Nursing Clinical Research Studies

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Strategic Planning Committee on September 20, 2005

**BY:** Marcia Jackson, Chief Planning Officer

**BACKGROUND:** At the June 2005 Strategic Planning Committee, a Board member requested a presentation regarding the nursing clinical research studies that have been and are underway at Palomar Pomerado Health. Linda Urden, DNSc, RN, CNA, FAAN, presented this agenda topic at the September 20 Committee meeting.

Linda discussed the Magnet Standard Research and EBP (Evidence-based practice), using the following categories:

- Current literature available
- Nursing involvement in institutional IRB
- Research consultants & experts are available
- Budget & resources are allocated for nursing research
- Internal, external validation studies; internal, external research; participation in surveys; interdisciplinary studies
- Research/EBP education & mentoring activities for staff
- Interface between quality and research
- Evidence-based integration into clinical and operational processes (non-clinical)

Dr. Larson commented that PPH will reap great rewards from achieving Magnet status, and that PPH will really bloom in a few years.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information and discussion only.

**COMMITTEE RECOMMENDATION:**

**Information:** X

## Wellness Task Force Report

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Strategic Planning Committee on September 20, 2005

**BY:** Marcia Jackson, Chief Planning Officer

**BACKGROUND:** A group of physicians interested in considering establishment of a Wellness Initiative at PPH had an opportunity to meet in June to begin discussing this opportunity. Dr. Larson provided an update on the efforts of that task force.

Dr. Larson got a group of approximately 15 physicians, as well as Michael Covert and Sheila Brown, together to meet to discuss community wellness and employee wellness. Sheila Brown will present the employee wellness portion of the initiative in greater detail at a future Committee meeting.

Dr. Rivera expressed some skepticism in making large financial investments of some aspect; however, he felt everyone could understand the importance of wellness. He also emphasized that a strong clinical leader is critical for a wellness initiative, to avoid becoming scattered and unfocused.

Nancy Bassett, RN, stressed the importance of focusing on chronic disease and described a success story in Vermont, which centered on identifying employees at risk and treating them, resulting in increased health as well as financial savings to the employer.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information and discussion only.

### COMMITTEE RECOMMENDATION:

**Information:** X

**FY'05 Goal Outcome**

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Strategic Planning Committee on September 20, 2005

**BY:** Marcia Jackson, Chief Planning Officer

**BACKGROUND:** Annual goals were established at the beginning of fiscal year 2005. The spreadsheet provided a year-end summary of the achievement of those goals.

Marcia Jackson asked if the Committee had any questions, and there were none. Dr. Larson commented that the goals were very clear.

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information and discussion only.

**COMMITTEE RECOMMENDATION:**

**Information:** X



## Site Visit Summary

**TO:** PPH Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Strategic Planning Committee on September 20, 2005

**BY:** Marcia Jackson, Chief Planning Officer

**BACKGROUND:** As part of the research process for designing our new construction projects, we are finding it very informative to visit other facilities who have created unique and successful buildings and processes. This report summarized some of the key findings that have been gained to date.

Marcia discussed visits to 4 local lab sites, including Long Beach Memorial, Hoag Memorial, ARUP Reference Lab, and Laboratory Instrumentation. Key areas of study included lab automation, point of care testing, molecular diagnostic testing program, core lab, and rapid response lab.

A site visit was made to **Bronson Methodist Hospital**, a Center for Health Design Pebble Project; opened new hospital in December of 2000. Bronson Key Findings were as follows:

- Excellent job with public space – emphasis on healing environment, natural lighting, indoor gardens
- Health education library; boutique-like café area

A team also went to **UCLA Westwood Hospital** to learn about their interventional platform, and discovered the following:

- Early full-size mock-up rooms were critical, and they made many changes based on mock-ups
- State regulations require equipment specificity in the plans, which limits flexibility
- Ceiling booms limit actual flexibility of the rooms
- UCLA has moved away from the totally flexible model, but still “tries”

A site visit was made to **Scottsdale Healthcare – Shea Campus**, which focused on the women’s component of this hospital, featuring a women’s tower that includes outpatient and inpatient women’s services. The center also features a boutique and spa. Key findings at Shea Women’s Centered included:

- They utilized a “storefront” approach which provides flexibility and easy Wayfinding
- Strong emphasis on healing environment; beautiful place to work; there is a waiting list for nursing staff who want to work here

## Site Visit Summary

- Innovative connection between their women's service line and their bariatric program
- Variety of VIP levels of service
- Essential to have a short-term day care space
- Sub-waiting areas were peaceful, with items such as a pitcher of water or tea & coffee to make patients/family feel welcome

A site visit to **St. Joseph's Hospital** in Wisconsin resulted in the following notations:

- Major agenda in planning this new hospital was creating a safe environment
- Prioritized this, and felt that if it was safe, it would be a healing environment; tour members felt it was very tranquil and healing
- Focused on possible failure points and tried to design to reduce potential failures, noting:
  - Bathrooms placed next to patient bed with hand rail on wall to reduce falls
  - Same-handed patient rooms
- Really focused on noise abatement based on research

**BUDGET IMPACT:** None

**STAFF RECOMMENDATION:** For information and discussion only.

### COMMITTEE RECOMMENDATION:

**Information:**            X

**Palomar Pomerado Health  
FACILITIES AND GROUNDS COMMITTEE  
Co-Generation**

**TO:** Board of Directors

**MEETING DATE:** Monday October 17, 2005

**FROM:** FACILITIES AND GROUNDS COMMITTEE  
Meeting of October 10, 2005

**BY:** Jim Flinn, CHE  
Chief Administrative Officer  
Pomerado Hospital

**Background:** The educational session consisted of a PowerPoint presentation focused on the co-generation units at both Palomar Medical Center and Pomerado Hospital. Savings and costs associated with both systems was shared. Also shared was the decision factors that were the basis for not continuing with the cogeneration program at Pomerado Hospital

**Budget Impact:** N/A

**Staff Recommendation:** INFORMATION ONLY

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**Palomar Pomerado Health  
FACILITIES AND GROUNDS COMMITTEE  
Capacity Planning at PMC**

**TO:** Board of Directors

**MEETING DATE:** Monday October 17, 2005

**FROM:** FACILITIES AND GROUNDS COMMITTEE  
Meeting of October 10, 2005

**BY:** Jim Flinn, CHE  
Chief Administrative Officer  
Pomerado Hospital

**Background: Capacity Planning @ Palomar Medical Center**

A mobile trailer has been located near the Emergency entrance at Palomar Medical Center and the administrative functions of the Emergency Department have been relocated to this mobile location.

On-going efforts were detailed that are being made to plan for greater capacity expansion and the continued move of Admin functions outside the main hospital building.

Efforts to date have resulted in the creation of or reclassification of 18 beds and 4 ED exam rooms.

**Budget Impact:** N/A

**Staff Recommendation:**

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**Palomar Pomerado Health  
FACILITIES AND GROUNDS COMMITTEE  
Combined Behavioral & Mental Health Units**

**TO:** Board of Directors

**MEETING DATE:** Monday October 17, 2005

**FROM:** FACILITIES AND GROUNDS COMMITTEE  
Meeting of October 10, 2005

**BY:** Jim Flinn, CHE  
Chief Administrative Officer  
Pomerado Hospital

**Background: Combined Behavioral & Mental Health Units.**

Phase I of the remodel project was completed on 7/1/05 - Phase II has begun with completion target date by 10-15-05. Completion of this project allows for the consolidation of Behavioral and Mental Health Services.

**Budget Impact:** N/A

**Staff Recommendation:**

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**Palomar Pomerado Health  
FACILITIES AND GROUNDS COMMITTEE  
Angio Suite**

**TO:** Board of Directors

**MEETING DATE:** Monday October 17, 2005

**FROM:** FACILITIES AND GROUNDS COMMITTEE  
Meeting of October 10, 2005

**BY:** Jim Flinn, CHE  
Chief Administrative Officer  
Pomerado Hospital

**Background:** The Angio Suite construction began March 18, 2005 and was completed on August 1, 2005. The Angio Suite is state-of-the-art, with the capability of invasive radiology and vascular work, as well as diagnostic cardiac catheterization, pending operational reviews.

**Budget Impact:** N/A

**Staff Recommendation:**

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**Palomar Pomerado Health  
FACILITIES AND GROUNDS COMMITTEE  
Radiology CT Updates for PMC and Pomerado**

**TO:** Board of Directors

**MEETING DATE:** Monday October 17, 2005

**FROM:** FACILITIES AND GROUNDS COMMITTEE  
Meeting of October 10, 2005

**BY:** Jim Flinn, CHE  
Chief Administrative Officer  
Pomerado Hospital

**Background:** **Radiology CT Updates for PMC & Pomerado**  
Planning efforts are underway to provide mobile CT, MR and Lithotripsy services at Palomar Medical Center in November 2005. The November 2005 completion date is predicated on anticipated local and state OSHPD approvals. Permanent CT upgrades to both existing units at Palomar Medical Center and Pomerado Hospital are planned for May 2006 and August 2006, respectively.

**Budget Impact:** N/A

**Staff Recommendation:**

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**Palomar Pomerado Health  
FACILITIES AND GROUNDS COMMITTEE  
Outpatient Services Pavilion**

**TO:** Board of Directors

**MEETING DATE:** Monday October 17, 2005

**FROM:** FACILITIES AND GROUNDS COMMITTEE  
Meeting of October 10, 2005

**BY:** Jim Flinn, CHE  
Chief Administrative Officer  
Pomerado Hospital

**Background: Outpatient Services Pavilion**

A detailed overview was given on the Pomerado Facility for Phase I and Phase II. A very aggressive time line has been set to accommodate an occupancy date for one of our major tenants, which will require precise coordination with the contractor and construction trades. An April 2007 projected completion date was established for the first phase and a total project completion date of August 2007.

**Budget Impact:** N/A

**Staff Recommendation:**

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**



**Palomar Pomerado Health  
FACILITIES AND GROUNDS COMMITTEE  
CEQA Findings Report for New Site**

**TO:** Board of Directors

**MEETING DATE:** Monday October 17, 2005

**FROM:** FACILITIES AND GROUNDS COMMITTEE  
Meeting of October 10, 2005

**BY:** Jim Flinn, CHE  
Chief Administrative Officer  
Pomerado Hospital

**Background:** Palomar Pomerado Health, in it's planning for the expansion of Pomerado Hospital, entered into a process to define and determine that the hospital planning will be in conformance with the California Environmental Quality Act, C.E.Q.A. An Update on the findings and process, and how the act has influenced the design, process and planning of the new expansion was given. A negative declaration was distributed and discussed. There are no significant impacts on the environment associated with the Pomerado Hospital Master Facility Plan.

**Budget Impact:** N/A

**Staff Recommendation:** Approve Report at Nov 14, 2005 meeting

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**Palomar Pomerado Health  
FACILITIES AND GROUNDS COMMITTEE  
Date/Time/Location of Next Meeting**

**TO:** Board of Directors

**MEETING DATE:** Monday October 17, 2005

**FROM:** FACILITIES AND GROUNDS COMMITTEE  
Meeting of October 10, 2005

**BY:** Jim Flinn, CHE  
Chief Administrative Officer  
Pomerado Hospital

**Background:** The next meeting will be December 19, 2005 at Pomerado Hospital, Conference Room C, located on the 3rd floor. Lunch will be served from 11:30 to 12:00 noon; the meeting will start at 12:00 noon and end at 1:30 p.m.

**Budget Impact:** N/A

**Staff Recommendation:**

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**GOVERNANCE COMMITTEE  
Board Policies Review**

**TO:** Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Governance Committee, September 13, 2005

**BY:** Christine Meaney for Michael Covert

**Background:** Continued review of PPH Board Policies was deferred to the next Governance Committee meeting. It was anticipated they would include several of those more recently discussed.

**Budget Impact:** None

**Staff Recommendation:** Informational

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

The Governance Committee agreed to defer to the next Governance Committee meeting continued review of PPH Board Policies, including several of those more recently discussed.

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**GOVERNANCE COMMITTEE  
Annual CEO Evaluation**

**TO:** Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Governance Committee, September 13, 2005

**BY:** Christine Meaney for Michael Covert

**Background:** Following discussion on the timing of the Annual CEO Evaluation, it was determined that this be held in January, 2006 and that a Board availability matrix be distributed in due course to determine a suitable date.

**Budget Impact:** None

**Staff Recommendation:** Informational

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**The Governance Committee agreed that the Annual CEO Evaluation be held in January, 2006 and that a Board availability matrix be distributed in due course to determine a suitable date.**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**GOVERNANCE COMMITTEE**  
**Annual Board Self-Evaluation**

**TO:** Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Governance Committee, September 13, 2005

**BY:** Christine Meaney for Michael Covert

**Background:** Following discussion regarding the Annual Board Self-Evaluation meeting and consideration of a Facilitator for this purpose, it was agreed that it be held sometime during the period following Thanksgiving through mid-December, 2005. It was also agreed that Dr. Ron Riner, if available, be invited to act as the Board's Facilitator, and that the Governance Institute's Board Self-Assessment Survey be used.

Following the meeting, it was determined that Wednesday, December 14, 2005 was agreeable to all Board Members and to Dr. Riner. This date has been confirmed.

**Budget Impact:** None

**Staff Recommendation:** Informational

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

The Governance Committee agreed that the Annual Board Self-Evaluation meeting be held sometime during the period following Thanksgiving through mid-December, 2005. It was also agreed that Dr. Ron Riner, if available, be invited to act as the Board's Facilitator, and that the Governance Institute's Board Self-Assessment Survey be used. The meeting has since been confirmed as Wednesday, December 14, 2005.

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**GOVERNANCE COMMITTEE**  
**Board Committee Memberships between PPH and PPHFoundation**

**TO:** Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Governance Committee, September 13, 2005

**BY:** Christine Meaney for Michael Covert

**Background:** At the September 13 Governance Committee, Michael Covert referred to the possibility of PPHFoundation Board Members being represented on relevant PPH Board Committees, allowing for interaction between both Boards and emphasizing the value of the Foundation.

If this was pursued, and pending finalization of the Management Services Agreement between PPH and the Foundation, the matter could eventually come back to Governance Committee for approval of potential membership of a PPHFoundation Board Member representative on PPH Board Committees.

However, it would require legal clarification and compliance with the Brown Act. Once positive determination had been made, Mr. Covert suggested a letter might be sent from the Chair of Governance to the Chairs of the other PPH Board Committees soliciting interest regarding Foundation representatives on their respective PPH Board Committees. If agreeable, Board approval would ultimately be sought, with incorporation of Foundation Board Member representation on PPH Board Committees into PPH Bylaws.

**Budget Impact:** None

**Staff Recommendation:** Informational

**Committee Questions:**

**GOVERNANCE COMMITTEE**  
**Board Committee Memberships between PPH and PPHFoundation**

**COMMITTEE RECOMMENDATION:**  
Following discussion, the Governance Committee approved the concept of pursuing the potential of “ex officio” membership for PPHFoundation Board Members on PPH Board Committees, pending legal clarification and finalization of the Management Services Agreement.

**Motion:**

**Individual Action:**

**Information:** **X**

**Required Time:**

**GOVERNANCE COMMITTEE**  
**Legislative/Governmental Relations Update**

**TO:** Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Governance Committee, September 13, 2005

**BY:** Christine Meaney for Michael Covert

**Background:** Gustavo Friederichsen presented an extensive legislative update including CHA and ACHD Key Bills. He noted that the top ten listed under ACHD are not on the top ten list for CHA.

The Committee felt there should be more coordination between CHA and ACHD regarding relevant important legislative matters with a letter suggested being sent indicating concern with apparent discrepancies in highlighting legislative issues, as we needed to have a collective voice in Sacramento. Gustavo Friederichsen was scheduling a conference call between the parties involved.

As PPH is the largest healthcare district in California, suggestion was made that a representative from CHA and ACHD might come to address the Board regarding our efforts to keep ahead of certain legislative issues. The potential of having our own lobbyist was also discussed.

Mr. Friederichsen also relayed that AB 312 Medical Records was found on CHA's website but not on ACHD. Prescription Drug Ballot Initiatives (Prop 78 and Prop 79) were noted to be causing confusion to seniors. CHA had provided The Emergency Services & Tobacco Tax Act Ballot Initiative – Talking Points dated September 7, 2005, and it was generally felt we should support this Initiative, part of which monies will be allocated for Hospital Emergency Care (and Physicians) Services, Nursing Education, Smoking Prevention, and Breast Cancer Fund, etc.

A draft PPH Legislative Review and Recommended Action Grid was provided.

HASD&IC and CHPAC was honoring Senator Jim Brulte who would be presented with CHA's 2004 Public Service Award on September 21.



**GOVERNANCE COMMITTEE**  
**Legislative/Governmental Relations Update**

Gustavo Friederichsen proposed a joint 2005 Legislative Conference hosted by PPH, HASD&IC and ACHD in November or December, preferably on a Friday, that would include Key Issues and an Action Plan. Mr. Friederichsen to follow up.

**Budget Impact:**                      None

**Staff Recommendation:**            Informational

**Committee Questions:**

**COMMITTEE RECOMMENDATION: Informational**

**Motion:**

**Individual Action:**

**Information:**                      X

**Required Time:**

**GOVERNANCE COMMITTEE**  
**Date/Time/Location of Next Meeting**

**TO:** Board of Directors

**MEETING DATE:** October 17, 2005

**FROM:** Governance Committee, September 13, 2005

**BY:** Christine Meaney for Michael Covert

**Background:** Due the Board's Annual Retreat November 5-9, 2005, it was requested that the regularly scheduled Governance Committee meeting on November 8 be rescheduled. Following discussion, it was agreed that the next Governance Committee meeting be held instead on **Tuesday, November 15, 2005 from 10 am – Noon. Location since determined as PMC Administrative Conference Room #2** and confirmed with the Committee. The Board calendar has also been amended.

**Budget Impact:** None

**Staff Recommendation:** Informational

**Committee Questions:**

**COMMITTEE RECOMMENDATION:**

**The Governance Committee agreed that due to the Annual Board Retreat November 5-9, 2005, the next Governance Committee meeting be rescheduled from November 8 to November 15, 2005 from 10 am – Noon. Location since determined as PMC Administrative Conference Room #2.**

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**Palomar Pomerado Health Foundation  
Line of Credit**

**TO:** Board of Directors

**FROM:** Board Finance Committee  
Tuesday, October 4, 2005

**MEETING DATE:** Monday, October 17, 2005

**BY:** Bob Hemker, CFO

**Background:** In conjunction with the Management Services Agreement between Palomar Pomerado Health and the Palomar Pomerado Health Foundation, certain extensions of money are contemplated under a Line of Credit.

**Budget Impact:** N/A

**Staff Recommendation:** Approval of the Line of Credit to the Palomar Pomerado Health Foundation.

**Committee Questions:**

**COMMITTEE RECOMMENDATION:** At the Board Finance Committee meeting on Tuesday, October 4, 2005, the Finance Committee approved in concept the extension of a Line of Credit to the Palomar Pomerado Health Foundation, the final form of which is to be attached to the Management Services Agreement for review and approval by the Board of Directors.

**Motion:**

**Individual Action:**

**Information:** X

**Required Time:**

**GOVERNANCE COMMITTEE**  
**Board Quality Review Committee Membership Composition**

**TO:** Board of Directors  
**MEETING DATE:** October 17, 2005  
**FROM:** Governance Committee, September 13, 2005  
**BY:** Christine Meaney for Michael Covert

**Background:** The Board Quality Review Committee, at its meeting on July 12, 2005, approved the motion to include as a **non-voting** member of that Committee, the Chairperson of the Patient Safety Committee, who will attend the Quality Review Committee's monthly meetings.

This request was brought to the Governance Committee on September 13 for approval, and incorporation into the Bylaws.

**Budget Impact:** None  
**Staff Recommendation:** Approval requested  
**Committee Questions:**

**COMMITTEE RECOMMENDATION:** Governance Committee recommended Board approval to include the Chairperson of the Patient Safety Committee as a non-voting member of Quality Review Committee, and for incorporation into the Bylaws.

**Motion:** X

**Individual Action:**

**Information:**

**Required Time:**

**Informal Bidding Procedures Under the  
Uniform Public Construction Cost Accounting Act ("UPCCA")**

**TO:** Board of Directors

**FROM:** Board Finance Committee  
Tuesday, October 4, 2005

**MEETING DATE:** Monday, October 17, 2005

**BY:** Michael H. Covert, President and Chief Executive Officer  
Jim Neal, Director Corporate Compliance & Integrity

**BACKGROUND:** Currently, when contracting for public works construction, PPH is subject to §32132 of the Health and Safety Code, which states that, "the board of directors shall let any contract involving an expenditure of more than twenty-five thousand dollars (\$25,000) for materials and supplies to be furnished, sold, or leased to the district, or any contract involving an expenditure of more than twenty-five thousand dollars (\$25,000) for work to be done, to the lowest responsible bidder who shall give the security the board requires, or else reject all bids". This dollar limit has not been changed in years and presents significant problems to the District for several reasons:

- The bid threshold of \$25,000 is so low that it significantly limits PPH's ability to perform minor work in a timely manner.
- On many smaller projects, it is unknown whether the project will exceed the bid threshold; therefore, many times the District doesn't know until the bids come in whether the project needed to be formally bid.
- Projects that are formally bid require that a detailed list of specifications be written. This adds significant cost and time to the smaller projects with no increased benefit to the District
- Projects subject to the traditional bidding process limit the ability of the District to contract with local contractors on smaller projects, since a public bid is open to all contractors regardless of where they are domiciled.

However, there is a provision of the Public Contract Code (§22003) that enables a District to adopt the Uniform Public Construction Cost Accounting (UPCCA) procedures, effectively enabling the District to increase the formal bid limits. The procedures require that PPH provide a detailed analysis of labor and materials used on public works projects performed by PPH employees. Due to the fact that a low volume of public works are completed with PPH employees, this requirement would require little to no additional workload for PPH to comply with the requirements on this work. The UPCCA procedures also require that PPH maintain records of costs incurred for projects completed by contractors to PPH. This requirement does not impose additional burdens on PPH's purchasing/facilities/accounting staff as PPH's existing procedures include accounting for costs incurred with contractors.

As part of adopting the UPCCA procedures, PPH would be required to maintain a list of qualified contractors according to the categories of work that they perform. During November each year, PPH would be required to mail a written notice to all construction trade journals designated for the counties represented by PPH, inviting all licensed contractors to submit the names and qualifications of their firms to the District for consideration and inclusion in PPH's list of qualified bidders for the following calendar year. Contractors would be added to the list as requested during the course of the following year. Qualified contractors from this list would be solicited on each informal bid on projects valued at between \$30,000 and \$125,000.

The benefit of adopting the Uniform Public Construction Cost Accounting procedure is that the bid limits would be raised as follows:

- Projects under \$30,000 would be exempt from bidding requirements as they would be performed by negotiated contract or by purchase order.
- Projects between \$30,000 and \$125,000 would be let to the qualified contractor submitting the lowest quote through an informal bidding process. PPH would still reserve the right to formally bid a project in this range if

**Informal Bidding Procedures Under the  
Uniform Public Construction Cost Accounting Act ("UPCCA")**

desired. Bid bonds, performance bonds, and payment bonds would continue to be required of all contractors doing work under these provisions.

- Projects of more than \$125,000 would be subject to formal bidding requirements.
- If no bids are received through the informal or formal bidding procedures, PPH is authorized by §22038(c) to have the Project completed by negotiated contract complying with bidding procedures.

Adopting this section of the contract code will enable PPH to more efficiently and effectively manage small to medium sized projects. Adopting these procedures would also benefit local contractors who are deemed "qualified" bidders for Projects let by the informal bidding procedures. Many of these local contractors are strong supporters of PPH; therefore, the additional contracting opportunities afforded through the informal bidding process could serve to strengthen the ties between the local contracting community and PPH.

**FISCAL IMPACT:** None

**RECOMMENDATION:** At the October 4, 2005, Finance Committee meeting, it was recommended that the Finance Committee approve the proposed resolution for PPH to become subject to the procedures of the Uniform Public Construction Cost Accounting Act and adopt a resolution to enact the informal bidding procedures applicable thereunder.

**COMMITTEE RECOMMENDATION:** The Finance Committee recommends approval of the proposed resolution for PPH to become subject to the procedures of the Uniform Public Construction Cost Accounting Act and adopt a resolution to enact the informal bidding procedures applicable thereunder.

***Motion:***

***Individual Action:***           X

***Information:***

***Required Time:***

**PALOMAR POMERADO HEALTH**

**RESOLUTION NO. 10.17.05 (01) - 18**

**RESOLUTION OF THE GOVERNING BOARD OF PALOMAR POMERADO HEALTH RE: INFORMAL BIDDING PROCEDURES UNDER THE UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT.**

WHEREAS, and Palomar Pomerado Health has adopted the uniform public construction cost accounting procedures set forth in the Uniform public construction Cost Accounting Act (the "Act") set forth at California Public Contract Code §22000 et seq.; and

WHEREAS, pursuant to the Act, if a public entity adopts the uniform public construction cost accounting procedures, such public agency may, in its discretion, adopt and implement the alternative bidding procedures and certain informal bidding procedures set forth in the Act commencing at California Public Contract Code §22030 et seq;

NOW, THEREFORE, BE IT RESOLVED that the Board of Palomar Pomerado Health hereby adopts the following informal bidding procedures:

**INFORMAL BID PROCEDURES**

Public projects, as defined in the Act, of One Hundred Twenty-Five Thousand Dollars (\$125,000) or less may be let to contract by informal procedures as set forth in §22032 et seq., of the California Public Contract Code.

**LIST OF CONTRACTORS**

A list of contractors shall be developed and maintained in accordance with the provisions of §22034 of the California Public Contract Code and criteria promulgated from time to time by the California Uniform Cost Accounting Commission. The list shall set forth the different categories of trade work that each listed contractor is qualified to perform on behalf of the District.

**NOTICE INVITING INFORMAL BIDS**

Where a public project is to be performed which is subject to the provisions of this policy, an notice inviting formal bids (which shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for submissions of bids) shall be mailed to: (1) all contractors for the category of work to be bid as shown in the list of contractors developed pursuant to this Resolution above, or (2) all trade journals specified in the California Uniform Cost Accounting Commission for Santa Cruz County in accordance with §22036 of the California Public Contract Code, or (3) both such contractors with such trade journals. All mailing of notices to the contractors and/or trade journals described above shall be completed not less than 10 calendar days prior to the date that the bids are due. Additional contractors and/or construction and/or construction trade journals may be notified at the discretion of the President and CEO of Palomar Pomerado Health; provided that;

If there is no list of qualified contractors maintained by the Palomar Pomerado Health for the particular category of work to be performed, the notice inviting bids shall be sent to the construction trade journals specified by the Commission and such other contractors and trade journals as the President and CEO, or his designee, may determine; and

If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.

**AWARD OF CONTRACTS**

The President and CEO and/or designee of Palomar Pomerado Health are each authorized, without further action or authorization of the Board of Palomar Pomerado Health to award contracts bid pursuant to the informal bidding procedures adopted by these resolutions pursuant to the authority conferred under Public Contract Code §22034(e) which allows the governing body of the public agency to delegate the authority to award informal contracts.

**EFFECTIVE DATE**

These Resolutions shall take effect and be in force as of the date of enactment.

PASSED AND ADOPTED by the Governing Board of Palomar Pomerado Health in Escondido, California, this 17<sup>th</sup> day of October, 2005, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

IN WITNESS WHEREOF, this instrument has been duly signed and sealed as of the 17<sup>th</sup> day of October, 2005.

\_\_\_\_\_  
Marcelo R. Rivera, M.D.  
Chairman, Board of Directors  
Palomar Pomerado Health

ATTEST: \_\_\_\_\_  
Nancy H. Scofield  
Secretary, Board of Directors  
Palomar Pomerado Health



PALOMAR POMERADO HEALTH  
RESOLUTION NO. 10.17.05 (02) - 19

RESOLUTION OF THE GOVERNING BOARD OF PALOMAR POMERADO HEALTH RE: ADOPTION OF THE CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING PROCEDURES.

WHEREAS, PRIOR TO THE PASSAGE OF Assembly Bill No. 1666, Chapter 1054 Stats. 1983, which added Chapter 2 commencing with §22000 to Part 3 of Division 2 of the public Contract Code, existing law did not provide a uniform cost accounting standard for construction work performed or contracted by local public agencies; and

WHEREAS, Public Contract Code §22000 et seq., the Uniform Public Construction Cost Accounting Act, ("the Act") establishes such a uniform cost accounting standard; and

WHEREAS, the Commission established under the Act has developed uniform public construction cost accounting procedures for implementation by local public agencies in the performance of or in the contracting for construction of public projects;

NOW, THEREFORE, BE IT RESOLVED that the Governing Board of Palomar Pomerado Health hereby elects under public Contract Code §22030 to become subject to the uniform public construction cost accounting procedures set forth in the Act and to the Commission's policies and procedures manual and cost accounting review procedures, as they may each from time to time be amended, and directs that the President and CEO or his designee notify the State Controller forthwith of this election.

PASSED AND ADOPTED by the Governing Board of Palomar Pomerado Health in Poway, California, this 17<sup>th</sup> day of October, 2005, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

IN WITNESS WHEREOF, this instrument has been duly signed and sealed as of the 17<sup>th</sup> day of October, 2005.

\_\_\_\_\_  
Marcelo R. Rivera, M.D.  
Chairman, Board of Directors  
Palomar Pomerado Health

ATTEST: \_\_\_\_\_  
Nancy H. Scofield  
Secretary, Board of Directors  
Palomar Pomerado Health