

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: HEALTH SERVICES AGENCY

BOARD AGENDA # *B-9

Urgent _____ Routine X *WC*

AGENDA DATE October 16, 2001

CEO Concurs with Recommendation YES dit WC NO _____
(Information Attached)

4/5 Vote Required YES _____ NO ✓

SUBJECT: APPROVAL OF PROFESSIONAL SERVICES AGREEMENT BETWEEN THE SCENIC FACULTY MEDICAL GROUP (SFMG) AND STANISLAUS COUNTY FOR PROVISION OF PRIMARY CARE SERVICES TO THE HEALTH SERVICES AGENCY.

- STAFF RECOMMENDATIONS:
1. APPROVE THE AGREEMENT WITH THE SCENIC FACULTY MEDICAL GROUP FOR PRIMARY CARE SERVICES AT THE HEALTH SERVICES AGENCY.
 2. AUTHORIZE THE HEALTH SERVICES AGENCY MANAGING DIRECTOR OR DESIGNEE TO SIGN AND EXECUTE THE AGREEMENT.

FISCAL IMPACT: The term of this Agreement is for a period of 18 months effective January 1, 2002 and ending June 30, 2003. Under the terms of this Agreement, County agrees to provide facilities, staffing, and other support services to SFMG in return for SFMG medical providers staffing the County's primary care clinics. SFMG will then compensate County for these support services based on a percentage of professional fees collected. It is estimated that the net annual amount paid to HSA from SFMG under this Agreement will be approximately \$888,500.

BOARD ACTION

No. 2001-809

On motion of Supervisor Caruso, Seconded by Supervisor Blom
and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Simon, Caruso, and Chair Paul

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) _____ Denied
- 3) _____ Approved as amended

MOTION:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

By: Deputy

File No.

SUBJECT: APPROVAL OF PROFESSIONAL SERVICES AGREEMENT BETWEEN THE SCENIC FACULTY MEDICAL GROUP (SFMG) AND STANISLAUS COUNTY FOR PROVISION OF PRIMARY CARE SERVICES TO THE HEALTH SERVICES AGENCY.

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DISCUSSION: The proposed agreement will replace multiple agreements and understandings between HSA and SFMG for SFMG's staffing of the County's clinics. In addition to this proposed agreement, HSA has two separate and distinct agreements with SFMG. The first agreement is one for teaching of residents and expires June 30, 2002. The second agreement is for SFMG to provide medical professionals to HSA's Urgent Care and is an "evergreen" agreement, which was effective in November 1998.

The Scenic Faculty Medical Group (SFMG) has had a collaborative relationship with the Health Services Agency since 1984, whereby SFMG has staffed the Agency's clinics with medical providers and provided care to the Agency's patients in the Agency's various clinics. The SFMG has approximately 28 physicians who provide care to approximately 39% of total Agency patient visits during the year.

The proposed agreement addresses both the financial and operational relationship between HSA and SFMG for physician staffing in the County's clinics. Presently, SFMG provides staffing for these clinics and bills and collects for their services to either the patient or the patient's third party coverage. Recognizing that HSA provides the overhead for these clinics, SFMG then reimburses HSA approximately \$4700/month and pays HSA 50% of any primary care capitated fees received. Clearly this amount does not reflect a fair compensation to HSA for overhead. Under the proposed agreement, SFMG will continue to bill the patient or the patient's third party coverage and will pay to HSA on a monthly basis a predetermined percentage of their collections as payment to HSA for their overhead. This amount can be demonstrated to show that SFMG overhead is approximately 50-55% of their total collections, which is an industry average for a primary care practice. As illustrated on the attached table, compensation to HSA is expected to increase from approximately \$662,701 to \$888,499 per year.

As the Health Services Agency changes to meet the needs of the community, the Agency has looked to strengthen its relationship with SFMG and to align both groups' incentives and goals to better meet these needs and the financial needs of the Agency. In addition to developing a sound financial agreement, HSA and SFMG worked to develop an agreement that provides for increased provider productivity, improved customer service, strengthening of internal partnerships, and creation of mutual incentives. As a result, the proposed Agreement achieves these objectives and simplifies the previous individual agreements and financial transactions into one agreement. The Agreement, in general, provides for the following:

SUBJECT: APPROVAL OF PROFESSIONAL SERVICES AGREEMENT BETWEEN THE SCENIC FACULTY MEDICAL GROUP (SFMG) AND STANISLAUS COUNTY FOR PROVISION OF PRIMARY CARE SERVICES TO THE HEALTH SERVICES AGENCY.

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DISCUSSION

(CONTINUED): SFMG will pay to HSA each month a percentage of their professional fees collected, including capitated payments. Since HSA provides all support services for the clinics, including supplies, staff, utilities, malpractice insurance, etc., this financial arrangement ensures that SFMG adequately contributes to those overhead and support services provided by the agency.

1. Productivity requirements and expectations for SFMG providers. SFMG is contractually obligated to maintain provider productivity which meets or exceeds industry standards as published annually by the Medical Group Management Association. These current standards provide for a minimum of 4800 patient encounters/year for a full time primary care physician.
2. Accessibility standards whereby SFMG providers will maintain acceptable access for routine patient appointments and a requirement that each SFMG provider have daily schedules which include same day appointments for those patients needing same day access. Further, SFMG has agreed to recruit additional providers and staff additional clinics if appointment accessibility becomes unacceptable. The Agreement requires equal accessibility to all financial classes of patients.
3. The Agency and SFMG agree to jointly develop and adhere to certain benchmark standards related to customer service, clinic operations, and quality of patient care.
4. The requirement that SFMG adhere to all applicable Agency policies and procedures.
5. A structured, thorough, contract review at the end of 6 months to include a review of both parties' financial expectations, patient accessibility, provider productivity, areas of process improvements, and additional strategic and/or tactical alliances or opportunities.
6. A 120 day without cause termination at any time during the contract period.

SUBJECT: APPROVAL OF PROFESSIONAL SERVICES AGREEMENT BETWEEN THE SCENIC FACULTY MEDICAL GROUP (SFMG) AND STANISLAUS COUNTY FOR PROVISION OF PRIMARY CARE SERVICES TO THE HEALTH SERVICES AGENCY.

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**DISCUSSION
(CONTINUED):**

The Agency presently has multiple and varied agreements with SFMG covering various unique and singular services provided in the clinics. The proposed Agreement simplifies these transactions and incorporates equitable payments into the Agreement. A financial comparison of expected payments to the Agency are identified in the following tables based on an analysis of the last quarter of CY 2000. This analysis concluded that SFMG's payments to the Agency will increase by approximately \$38,000 at constant patient volumes. However, as provider productivity continues to improve, as expected, the increase in payments to the Agency will increase.

HSA Perspective

SFMG Overhead Proposal – 6/14/01

Annualized figures based on October – December 2000

	Current Agreement-HSA #'s		SFMG Proposal	
	Revenue	Expense	Revenue	Expense
<i>Receipts from SFMG</i>				
Kaiser Cap	\$ 336,768		\$ 226,474	
VIPA Cap	\$ 127,732		\$ 100,408	
Gould Cap	\$ 123,520		\$ 74,257	
Less Inpatient			\$ (45,128)	
Malpractice, Space, Phone, and Staff Development	\$ 56,404		\$ -	
Commercial plus all FFS			\$ 197,781	
IHCP			\$ (16,268)	
MediCal			\$ 103,207	
BCMC			\$ -	
Misc Category			\$ 74,140	
<i>Payments to SFMG</i>				
Sexual Abuse Exams		\$ 13,200		\$ 13,200
Well Child Checks	\$130,405	\$ 101,716	\$ 306,276	\$ 119,448
Wenstrup	\$107,140	\$ 104,352		\$ -
	\$ 881,969	\$ 219,268	\$ 1,021,147	\$ 132,648
Net Revenue	\$ 662,701		\$ 888,499	

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POLICY

ISSUES: Approval of this Agreement will further the Board's priority for a safe and healthy community and for excellent , efficient government operations, and excellent community service.

STAFFING

IMPACTS: No additional staffing will be required.

**AGREEMENT
FOR
PROFESSIONAL SERVICES**

This Agreement For Professional Services is made and entered into by and between the County of Stanislaus ("County") and Scenic Faculty Medical Group "Contractor").

Introduction

WHEREAS, the County has a need for services involving the provision of professional medical providers to staff County clinics and provide medical services to County clients; and

WHEREAS, the Contractor is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. **Scope of Work**

1.1 The Contractor shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in Exhibit A, which is attached hereto and, by this reference, made a part hereof.

1.3 Services and work provided by the Contractor under this Agreement will be performed in a timely manner in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Contractor; provided, however, that such schedule is subject to review by and concurrence of the County.

1.4 The Contractor shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions. The Contractor represents and warrants that it will perform its work in accordance with generally accepted industry standards and practices for the profession or professions that are used in performance of this Agreement and that are in effect at the time of performance of this Agreement. Except for that representation and any representations made or contained in any proposal submitted by the Contractor and any reports or opinions prepared or issued as part of the work performed by the Contractor under this Agreement, Contractor makes no other warranties, either express or implied, as part of this Agreement.

2. Consideration

2.1 The Contractor shall be compensated as provided in Exhibit A attached hereto.

2.2 Except as expressly provided in this Agreement, Contractor shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Contractor shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Contractor under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Contractor. County has no responsibility or liability for payment of Contractor's taxes or assessments.

3. Term

3.1 The term of this Agreement shall be from the date of this Agreement until completion of the agreed upon services unless sooner terminated as provided below or unless some other method or time or termination is listed in Exhibit A.

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 The County may terminate this agreement upon 120 days prior written notice. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Contractor as provided in Paragraph 2 herein, subject to any applicable setoffs.

3.4 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, or (b) sale of Contractor's business.

4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Contractor to provide the services and work described in Exhibit A must be procured by Contractor and be valid at the time Contractor enters into this Agreement. Further, during the term of this Agreement, Contractor must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and

permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Contractor at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in this Agreement, Contractor shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Contractor to provide the services under this Agreement. The Contractor--not the County--has the sole responsibility for payment of the costs and expenses incurred by Contractor in providing and maintaining such items, unless other stipulations are provided in Exhibit A.

6. Insurance

6.1 Contractor shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Comprehensive general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Contractor under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.3 Automobile Liability Insurance. If the Contractor or the Contractor's officers, employees, agents, representatives or subcontractors utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury, property damage and transportation related pollution liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Contractor certifies under section 1861 of the Labor Code that the Contractor is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the

insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Contractor shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Contractor agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Contractor's defense and indemnification obligations as set forth in this Agreement.

6.3 The Contractor shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Contractor, including the insured's general supervision of the Contractor; (b) services, products and completed operations of the Contractor; (c) premises owned, occupied or used by the Contractor; and (d) automobiles owned, leased, hired or borrowed by the Contractor. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Contractor.

6.4 The Contractor's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Contractor's insurance and shall not contribute with Contractor's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees.

6.6 The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Contractor shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-:VII; provided, however, that if no California admitted insurance company provides

the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance.

6.9 Contractor shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Contractor and Contractor's officers, employees, agents, representatives or subcontractors.

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Contractor shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Contractor or Contractor's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, Contractor's obligation to indemnify the County and its agents, officers and employees for any judgment, decree or arbitration award shall extend only to the percentage of negligence or responsibility of the Contractor in contributing to such claim, damage, loss and expense.

7.2 Contractor's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Contractor to procure and maintain a policy of insurance.

7.3 To the fullest extent permitted by law, the County shall indemnify, hold harmless and defend the Contractor and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's

fees, arising out of or resulting from the negligence or wrongful acts of County and its officers or employees.

7.4 Subject to the limitations in 42 United States Code section 9607 (e), and unless otherwise provided in a Scope of Services approved by the parties:

(a) Contractor shall not be responsible for liability caused by the presence or release of hazardous substances or contaminants at the site, unless the release results from the negligence of Contractor or its subcontractors;

(b) No provision of this Agreement shall be interpreted to permit or obligate Contractor to assume the status of "generator," "owner," "operator," "arranger," or "transporter" under state or federal law; and

(c) At no time, shall title to hazardous substances, solid wastes, petroleum contaminated soils or other regulated substances pass to Contractor.

8. Status of Contractor

8.1 All acts of Contractor and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Contractor relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Contractor, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Contractor has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Contractor. It is understood by both Contractor and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Contractor and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Contractor shall determine the method, details and means of performing the work and services to be provided by Contractor under this Agreement. Contractor shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Contractor in fulfillment of this Agreement. Contractor has control over the manner and means of performing the services under this Agreement. If necessary, Contractor has the responsibility for employing other persons or firms to assist Contractor in fulfilling the terms and obligations under this Agreement.

8.4 Contractor is permitted to provide services to others during the same period service is provided to County under this Agreement; provided, however, such

services do not conflict directly or indirectly with the performance of the Contractor's obligations under this Agreement.

8.5 If in the performance of this Agreement any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Contractor.

8.6 It is understood and agreed that as an independent contractor and not an employee of County, the Contractor and the Contractor's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and, except as expressly provided for in any Scope of Services made a part hereof, do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.7 It is further understood and agreed that Contractor must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Contractor's assigned personnel under the terms and conditions of this Agreement.

8.8 As an independent contractor, Contractor hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Contractor shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Contractor. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Contractor agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Contractor and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental handicap, medical condition (including genetic characteristics), marital status, age, political affiliation or sex. Contractor and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Contractor. County has relied upon the skills, knowledge, experience and training of Contractor and the Contractor's firm, associates and employees as an inducement to enter into this Agreement. Contractor shall not assign or subcontract this Agreement without the express written consent of County. Further, Contractor shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Contractor or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: County of Stanislaus
Health Services Agency
Attention: Managing Director
P.O. Box 3271
Modesto, CA 95353

To Contractor: Scenic Faculty Medical Group
Attention: George Killian, Administrator
P.O. Box 3271
Modesto, CA 95353

15. Conflicts

Contractor agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first hereinabove written.

COUNTY OF STANISLAUS

COUNTY OF STANISLAUS



Kathy Kohrman
Interim Managing Director
Health Services Agency
Dated: 12-03-01

CONTRACTOR




Scenic Faculty Medical Group

Dated: 2P/Nov 01

Contractor's Taxpayer Identification :

APPROVED AS TO FORM FOR USE
THROUGH JUNE 30, 2002:

BY: 

TITLE: DEPUTY COUNTY COUNSEL
DATE: JUNE 1, 2001

EXHIBIT "A"

This Agreement between County and Contractor shall supercede any previously executed agreement and/or understanding between the parties for which any previously executed agreement and/or understanding is in conflict with this Agreement. However, nothing in this Agreement changes or modifies the terms of any existing Agreement for Urgent Care or Teaching between the parties.

A. Scope

This facilities and service agreement provides the general terms under which Contractor provides professional medical services to County clinics, exclusive of cardiology services, rendered by agents of Contractor. Under the terms of this Agreement, County agrees to provide facilities, staffing, and other support services to Contractor in the exclusive provision of professional primary care medical services in return for Contractor's financial contribution to County's overhead as stipulated in this Agreement. Exceptions to the primary care exclusivity include providers hired by County under a Health Professional Shortage Area program (HPSA loan repayment, J-1 visa) and any other medical provider to which both parties mutually agree may be employed by County for primary care services. Contractor shall also be offered the right of first refusal for provision of OB/GYN services.

B. County Responsibility

B.1. County shall provide reasonable overhead including utilities, supplies, space, and fixtures necessary for Contractor to fulfill the terms of this Agreement. Reasonable overhead shall include but not be limited to local and long distance telephone service necessary for fulfilling this Agreement, medical supplies, office fixtures, Contractor's administrative office space of approximately 425 square feet, electricity, heating, cooling, scheduling services, front and back office clinic staff, transcription services, administrative supplies, medical malpractice expense covering medical liability exposure for County patient's, standard medical equipment, internet access, computers, monitors, and coding/diagnosis software and related tools. County shall be the ultimate arbiter of "reasonable overhead" subject to discussion with Contractor. Reasonable overhead shall expressly exclude transcription services related to work outside the scope of this Agreement and clerical support for work outside the scope of this Agreement.

B.2. Upon mutual agreement, Contractor may purchase and maintain its own equipment, furniture, or fixtures which shall be maintained by Contractor in conformity with all state and federal laws, rules, and regulations. The acquisition, replacement, or requests for medical equipment, furniture, or fixtures shall be incorporated into the annual and mid-year budget process.

B.3. County shall provide to Contractor reasonable, necessary, and timely assistance in securing billing information for Contractor's professional medical claims at no expense to Contractor.

B.4. County shall facilitate and work jointly with Contractor to develop quantifiable standards or benchmarks for clinic operations and the provision of quality patient care which are within budgetary constraints of County. Such standards or benchmarks may include but shall not be limited to such issues as scheduling, referrals, messaging, medical record completion, and pharmacy refills.

C. Contractor Responsibility

C.1. All Contractor's physicians and mid-level medical providers shall not be considered employees of County. Contractor shall be solely responsible for providing workers compensation for any of its employees. Further, Contractor shall be responsible for and hold County harmless from all matters relating to payment of its employees, agents, and independent contractors, including compliance with social security, income tax withholding and all other regulations and programs concerning such matters. Contractor shall not encumber County to any agreement or arrangement, including any arrangement that entails a concomitant expense to County or that adversely impacts the County's financial position, unless previously agreed to in writing by both parties. Contractor shall only utilize professional medical providers that are acceptable to County.

C.2. Contractor may at its sole discretion terminate any of its professional medical staff who have been assigned responsibility to render services under this Agreement upon notice of this intention to County.

C.3. Recognizing the need for continuity in staffing the County's ambulatory clinics for optimum productivity and patient accessibility, Contractor agrees to provide to County professional medical providers sufficient in numbers at each clinic staffed by Contractor to maintain routine, established patient appointment accessibility. County shall consult and coordinate any material changes in clinic hours and times with Contractor for which Contractor or Contractor's agents will be expected to provide professional medical providers. If these changes are expected to result in improved patient accessibility without compromising current patient accessibility or adversely impacting Contractor's productivity, Contractor shall be responsible for securing professional medical providers for such clinic. County recognizes that Contractor may hire physicians assistants or nurse practitioners in order to meet this responsibility.

C.4. Contractor agrees to abide by all Health Care Financing Administration and California Department of Health Services laws, rules, and regulations relating to the provision of professional medical services. Contractor agrees to adhere to applicable County policies and procedures, including those related to utilization of non-credentialed providers.

C.5. Whenever a foreseen or anticipated absence from one of the County's scheduled clinics is anticipated by a professional medical provider of Contractor, Contractor, through the respective Clinic Chief, shall give written notification to the respective clinic manager of the dates and duration of such anticipated absence at least 30 calendar days prior to the first day of the anticipated absence. Further, whenever such absence is anticipated to last

longer than 14 consecutive calendar days, Contractor shall use its best efforts to arrange for replacement coverage from the first day of the anticipated absence. This provision specifically applies to vacation and Continuing Medical Education but excludes illness or sickness.

C.6. Contractor agrees to maintain minimum provider productivity standards, which meet or exceed acceptable industry standards as annually published by the Medical Group Management Association. These current published standards provide for a minimum of 4800 patient encounters per full time primary care provider per year.

C.7. Contractor agrees to provide equal accessibility to all financial classes of patients and to ensure that the panel of patients assigned to Contractor's providers remains open to MIA and Medi-Cal patients. Contractor further agrees that clinic patients for whom Contractor has received a capitated payment, shall be seen by Contractor or Contractor's agent and not by a County provider.

C.8. Contractor shall ensure reasonable access for routine patient appointments, such that wait times for appointments are minimized. Contractor shall ensure that Contractor's providers have daily schedules that include same day appointments for those patients needing same day access.

D. Compensation

D.1. Professional Medical Fees shall be defined as the gross professional and procedure fees generated and billed by Contractor or Contractor's agent in any County clinic, except for those services billed by County for Contractor's professional medical providers working in any of County's Rural Health Clinics and for CHDP visits or any other circumstance for which County bills on Contractor's behalf. Contractor agrees to not bill for any technical charges.

D.2. Contractor shall pay to County by the 10th of each month the percentage of Professional Medical Fees collected during the previous month that this Agreement is in force for each aggregate payor group identified below:

Commercial FFS	37%
Medicare	37%
Private Pay	37%
Managed care Medi-Cal	0%
IHCP	0%
Medi Cal FFS	20%
Medi Cal Other (ie. OFP, etc.)	10%

For the Medi-Cal fee-for-service payor grouping, the percentage contribution identified in the above table will default to zero (-0-) on the date, if any, that the County is eligible to bill and receive payment for a "treatment room charge" on this financial class of patients as determined by the Department of Health Services. This change will not alter the

Contractor's commitment to pay County at the above percentage for any Professional Medical Fee generated and billed under this agreement prior to the date on which County is eligible to receive a treatment room charge from the Medi-Cal fee-for-service program.

D.3. Contractor shall provide sufficient detail to County to substantiate payments made in D.2. above and shall meet no more frequently than monthly with County to review the effectiveness of Contractor's collection efforts as determined by collection reports and summaries which Contractor agrees to reasonably provide to County upon request.

D.4. Contractor agrees to pay to County 37% of all outpatient capitated professional fees paid to Contractor for patients assigned to one of Contractor's or Contractor's agent's Primary Care and OB/GYN Providers whose professional medical services are under the scope and terms of this Agreement. Calculation of the outpatient portion of capitated fees received by Contractor shall utilize a methodology which is mutually agreeable to both parties. Such payment will be made by the 10th of each successive month

D.5. County shall make every effort to collect co-payments, full or partial payments, and full payment for "bundled" services in accordance with County policy, (services for which both a technical and professional charge is made by County), eg. PD45, etc. County shall provide Contractor a weekly accounting of such amounts received by date of service, patient name (including any unique patient identifier), payor class, and amount received. County shall compensate Contractor by the 10th of the month for all such monies received during the previous month net of the percentage stipulated in D.2 above.

All co-payments received by County are recognized to be for professional medical services and shall be paid to Contractor in accordance with this section. Patient payments received at the time of service for a PD45 or any other County global or discount plan or any "private pay" full or partial payment will be shared according to D.2, above. Patient payments received on older accounts will be retained by County. MIA and Medi-Cal Share of Cost collected at the time of service will be retained by County and credited to any charge made by County.

D.6. Within 30 calendar days of the effective date of this Agreement, Contractor shall pay County 50% of Professional Medical Fees collected on fee-for-service Valley IPA patients for whom Professional Medical Fees were generated and billed by Contractor or Contractor's agent from April 1, 2001 to the effective date of this Agreement. Contractor shall provide County with sufficient documentation of collections to validate the payment made to under D.7.

D.7. The following services will be billed by County with County compensating Contractor in accordance with the following guidelines.

D.7.1. County shall pay Contractor 50% of the current recognized cost/visit as determined by the most recently submitted cost report for any patient visit attended by Contractor at each County Rural Health Clinics which are billed by County.

- D.7.2. Professional fees for CHDP patients will be billed by County. County shall pay Contractor \$21.00 for each CHDP visit, subject to annual adjustments to be effective on the anniversary date of this agreement to be based on the blended average of updated CHDP compensation rates.
- D.7.3. County shall bill for Pediatric Evidentiary Examinations and Contractor shall be compensated as follows:
 - D.7.3.1. \$300 for all pediatric evidentiary examinations performed.
 - D.7.3.2. \$100 for any client who does not appear for the scheduled appointment unless 24 hours notice has been given to the clinic.
 - D.7.3.3. \$200/hour as a witness fee based upon portal time (including wait times). Travel time will be limited to 30 minutes for each appearance.
- D.7.4 Any other professional fees which may be billed by County on behalf of Contractor shall be shared in accordance with D.2 above.
- D.7.5. Contractor agrees to assign all such billings to County. County shall pay Contractor by the 15th of the month for the above services rendered in the preceding month.

D.8. At the written request of either party, both parties agree to perform and complete calendar quarter reconciliation(s) within 45 days of the end of any calendar quarter to quantify capitated patient utilization by capitated and non-capitated providers and to quantify any fee-for-service payments owing to any non-capitated provider by the capitated provider. The value of the rendered care by the non-capitated provider shall be based on the respective payor's fee-for-service reimbursement rate for non-capitated primary care services or as otherwise mutually agreed upon by the parties. Based on this reconciliation, the party owing money to the other party shall make full payment to that party within 30 days of the date on which the reconciliation is validated by both parties.

E. Miscellaneous Provisions

E.1. Clinic Chiefs. Contractor shall provide a Clinic Chief for each County clinic site deemed necessary by County, excluding Specialty Clinics. Appointment of clinic chiefs shall be made upon recommendation with approval of County and Contractor. Appointment term will be by mutual agreement of County and Contractor. Clinic Chiefs shall be responsible for meeting the duties and responsibilities contained in Attachment A, Physician Job Description, Clinic Chief.

County shall pay to Contractor the monthly sum of \$900/clinic chief by the 10th of each successive month in return for the services of the Clinic Chiefs.

E.2. Medical Director. County and Contractor shall designate a physician of Contractor to function as the Medical Director for the County's clinics. County shall pay Contractor \$2,400.00 by the 10th of each successive month for Contractor's fulfillment of this position and attendant responsibilities. The Medical Director shall be responsible for meeting the duties and responsibilities contained in Attachment B, Medical Director.

E.3. Clinical Oversight. Contractor, through the respective clinic chiefs, shall provide clinical oversight of clinical employees of County in each clinic site.

E.4. Mid-Level Oversight. Contractor agrees to provide oversight of mid-level providers employed by County working in County clinics. Such oversight shall meet all legal and regulatory requirements. In return for this oversight, County shall pay Contractor the monthly amount of \$7,583.33 by the 10th of the month for the previous month's oversight, provided the number of full-time equivalent (FTE) mid-level providers is between 8 and 12, inclusive. An increase or decrease in mid-level provider FTE's below 8 or above 12 will result in a corresponding adjustment in compensation paid to Contractor by \$758/full or partial FTE per month.

E.5. Recruitment. In the event County and Contractor mutually agree to undertake joint recruitment of medical professionals to work for Contractor, County agrees, with prior written approval, to reimburse Contractor up to 50% of recruitment expenses, including but not limited to, travel expense, lodging, food, and relocation expenses.

E.6. Unprofessional Conduct. Should an issue of substance abuse, violation of law, or unprofessional activity or behavior be identified by County's Managing Director of HSA regarding any of Contractor's agents, the Managing Director will notify Contractor's Administrative Director, who will have 30 days to resolve the problem to the mutual satisfaction of both County and Contractor. Should the problem not be resolved within the 30 days, the County reserves the right to demand that the offending individual be removed from practicing at any County site; Contractor shall promptly comply with such demand.

E.7. Problem Resolution. If at any time during the term of this Agreement either party has an unresolved grievance against the other, the grieved party shall notify in writing and inform the respective administrative authority for the respective organization of the nature and extent of the grievance. Both parties agree to formally meet within 7 calendar days to attempt to resolve any such grievance.

E.8. Federal Access to Records. To the extent necessary to prevent disallowance of reimbursement under Section 1861 (v)(1)(I) of the Social Security Act, until the expiration of four (4) years after the furnishing of services under this Agreement, Contractor shall make available, upon written request to the Secretary of the United States Department of Health and Human Services, or upon request to the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of this Agreement and such books, documents, and records as are necessary to certify the nature and extent of the costs of services provided by Contractor under this Agreement. Contractor further agrees that in the event Contractor carries out any of its duties under this Agreement through a subcontract with a value or cost of Ten Thousand Dollars (\$10,000.00) or more over a twelve month period, with a related organization, such contract shall contain a clause to the effect that until the expiration of four (4) years after the furnishing of such services pursuant to such subcontract, the related organization shall make available, upon written request to the Secretary of the United States Department of Health and Human Services, or upon request to the Comptroller General of the United States General Accounting Office, or any of their duly authorized representatives, a copy of

such subcontract and such books, documents and records or such organization as are necessary to verify the nature and extent of such costs.

E.9. Compliance. During the term of this Agreement and while performing services under this Agreement, Contractor shall make every effort to comply with the Health Insurance Portability and Accountability Act of 1996, as amended, which stipulates a provider's responsibility to prevent health care fraud and abuse. At a minimum, the Contractor shall be solely responsible for (1) providing prompt and timely medically necessary Common Procedural Terminology (CPT) codes for professional services using guidelines promulgated by the American Medical Association and specific diagnosis code(s) for each patient encounter; such codes shall be recorded, in accordance with HSA policy, on each patient's billing form, (2) ensuring complete, thorough, and accurate medical record documentation related to each patient encounter, (3) complying with all HCFA coding, documentation, and medical necessity requirements of treatment, and (4) providing appropriate diagnosis codes for medically necessary ancillary testing.

In addition, as required by the Office of Inspector General and Medicare Fraud and Abuse statutes, the Contractor agrees to cooperate and participate in the HSA's' Corporate Compliance Program's written recommendations and guidelines relative to the scope of services covered by this agreement and to participate in the organization's quality improvement program.

E.10. Confidentiality. Contractor agrees that all patient information obtained or observed during the provision of service under the terms of this Agreement shall remain confidential and shall be treated as confidential by Contractor and Contractor's agents. Contractor shall implement and maintain such safeguards as are necessary to ensure that all patient information obtained, observed, recorded, and maintained by County in their clinics for which Contractor has access will be forever treated as confidential and will not be used or disclosed by Contractor or Contractor's agent without the expressed written consent of patient.

Contractor shall promptly report to County any use or disclosure of patient information in any form of which Contractor becomes aware that is outside the scope of this Agreement.

This Section E.10 shall survive the termination of this Agreement indefinitely.

E.11. Renegotiation or Modification. Either party shall have the right to request renegotiation of this Agreement upon written notice and offer to renegotiate the terms hereof.

E.12. Exclusivity. During the term of this Agreement, Contractor shall be the exclusive provider of Primary Care and OB/GYN services in County's clinics, except for the exceptions and conditions noted under "Scope" above.

F. Contract Review

Both parties agree to formally review this Agreement after 6 continuous months based upon the following minimum criteria.

- Mutual financial results
- Patient Accessibility
- Provider Productivity
- Areas of process improvements
- Additional strategic and/or tactical alliances or opportunities

This formal review will be concluded by the end of the 7th month of the Agreement.

G. Professional Malpractice Liability Protection

County shall provide to Contractor professional malpractice liability protection covering patient care services rendered by Contractor while performing his/her responsibilities under the terms of this Agreement to County patients . Contractor must provide professional malpractice protection for any and all services or care provided outside the course or scope of this agreement and in his/her private practice. It is further understood and agreed that this Agreement shall be terminated in the event that the County is unable to provide professional liability protection to Contractor through the County's professional liability program.

H. Term and Termination

The effective date of this Agreement shall be January 1, 2002. The term of this Agreement shall extend through June 30, 2003. Either party may terminate this Agreement without cause upon one hundred twenty (120) days prior written notice to the other party.

Both parties shall notify the other party no later than 180 days from the above termination date of their intention to renegotiate and/or extend this Agreement beyond the termination date.