

AGREEMENT FOR PROVISION OF
HIV HEALTH CARE SERVICES
BETWEEN
COUNTY OF ORANGE

AND

ADVANCED SKINCARE MEDCENTER, INC.

~~AUGUST 5, 2008~~ MARCH 1, 2010 THROUGH FEBRUARY ~~28, 2010~~ 29, 2012

THIS AGREEMENT entered into this ~~5th~~ 1st day of ~~August 2008~~ March 2010, which date is enumerated for purposes of reference only, is by and between the COUNTY OF ORANGE (COUNTY) and ADVANCED SKINCARE MEDCENTER, INC.— (CONTRACTOR). This Agreement shall be administered by the County of Orange Health Care Agency (ADMINISTRATOR).

W I T N E S S E T H :

WHEREAS, COUNTY wishes to contract with CONTRACTOR for the provision of HIV Health Care Services described herein to the residents of Orange County; and

WHEREAS, CONTRACTOR is agreeable to the rendering of such services on the terms and conditions hereinafter set forth:

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

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REFERENCED CONTRACT PROVISIONS

~~Term: August 5, 2008~~ **Term:** March 1, 2010 through February 29, 2012

“Period One” means the period from March 1, 2010 through February 28, 2010 ~~2011~~

~~Maximum Obligation: \$55,000~~

“Period Two” means the period from March 1, 2011 through February 29, 2012

Basis for Reimbursement: Fee-for-Service

Payment Method: Fee-for-Service

Notices to COUNTY and CONTRACTOR:

COUNTY: County of Orange
 Health Care Agency
 Contract Development and Management
 405 West 5th Street, Suite 600
 Santa Ana, CA 92701-4637

CONTRACTOR: Advanced Skincare Medcenter, Inc.
 Attention: Ruben D. Cota, Operations Director
 301 Bastanchury Rd., Suite 210
 Fullerton, CA 92835

~~CONTRACTOR'S~~ **CONTRACTOR's Insurance Coverages:**

<u>Coverage</u>	<u>Minimum Limits</u>
Comprehensive General Liability with broad form property damage and contractual liability	\$1,000,000 combined single limit per occurrence \$2,000,000 aggregate
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claims made or
Comprehensive General Liability Insurance	\$1,000,000 per occurrence
Sexual Misconduct Liability	\$1,000,000 per occurrence

Note: Proof of alternate insurance coverage to adequately protect COUNTY is subject to review and approval by the County of Orange Risk Management Office.

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I. ALTERATION OF TERMS

This Agreement, together with Exhibit A attached hereto and incorporated herein by reference, fully expresses all understanding of COUNTY and CONTRACTOR with respect to the subject matter of this Agreement, and shall constitute the total Agreement between the parties for these purposes. No addition to, or alteration of, the terms of this Agreement, whether written or verbal, shall be valid unless made in writing and formally approved and executed by both parties.

II. COMPLIANCE

A. COUNTY’s Health Care Agency (HCA) has established a Compliance Program for the purpose of ensuring adherence to all rules and regulations related to federal and state health care programs.

1. ADMINISTRATOR shall provide CONTRACTOR with a copy of the relevant HCA Policies and Procedures relating to the Compliance Program.

2. CONTRACTOR shall ensure that its employees, subcontractors, interns, volunteers, and members of Board of Directors or duly authorized agents, if appropriate, ("Covered Individuals") relative to this Agreement are made aware of ~~these~~ HCA’s Policies and Procedures.

~~B. CODE OF CONDUCT—Under the direction of the HCA Office of Compliance, a Code of Conduct for adherence by all HCA employees and contract providers has been developed.~~ CONTRACTOR has the option to adhere to HCA’s Compliance Program or establish its own.

~~1. Within thirty (30) calendar days of award of this Agreement, CONTRACTOR has the option of submitting to ADMINISTRATOR a signed acknowledgement and agreement that CONTRACTOR shall comply with the “HCA Contractor Code of Conduct” specified in subparagraph B.3. below or CONTRACTOR shall submit a copy of its Code of Conduct to ADMINISTRATOR for review and comparison to federal, state and county standards by the HCA Compliance Officer.~~ If CONTRACTOR elects to have its own Compliance Program then it shall submit a copy of its Compliance Program, Code of Conduct, and relevant policies and procedures to ADMINISTRATOR within thirty (30) calendar days of award of this Agreement.

~~2. If CONTRACTOR elects to submit a copy of its Code of Conduct, HCA’s Compliance Officer shall advise CONTRACTOR of any necessary changes to if CONTRACTOR’s Code of Conduct to meet minimum standards and~~ compliance program is accepted. CONTRACTOR shall either take necessary action to meet said standards or shall be asked to acknowledge and agree to the ~~“HCA Contractor~~ HCA’s Code of Conduct” ~~specified in subparagraph B.3. below.~~

~~3. HCA CONTRACTOR CODE OF CONDUCT—CONTRACTOR and its employees and subcontractors shall:~~

~~a. Comply with all applicable laws, regulations, rules or guidelines when providing and billing for the services specified herein.~~

~~b. Conduct themselves honestly, fairly, courteously and with a high degree of integrity in their professional dealings related to this Agreement and avoid any conduct that could reasonably be~~

1 ~~expected to reflect adversely upon the integrity of CONTRACTOR and/or COUNTY.~~

2 ~~_____ c. Treat COUNTY employees, clients and other COUNTY contractors fairly and with~~
3 ~~respect.~~

4 ~~_____ d. Not engage in any activity in violation of this agreement, nor engage in any other~~
5 ~~conduct which violates any applicable law, regulation, rule or guideline.~~

6 ~~_____ e. Take precautions to ensure that claims are prepared and submitted accurately, timely~~
7 ~~and are consistent with all applicable laws, regulations, rules or guidelines.~~

8 ~~_____ f. Ensure that no false, fraudulent, inaccurate or fictitious claims for payment or~~
9 ~~reimbursement of any kind are submitted.~~

10 ~~_____ g. Bill only for eligible services actually rendered and fully documented and use billing~~
11 ~~codes that accurately describe the services provided.~~

12 ~~_____ h. Act promptly to investigate and correct problems if errors in claims or billings are~~
13 ~~discovered.~~

14 ~~_____ i. Promptly report to HCA's Compliance Officer any activity that CONTRACTOR~~
15 ~~believes may violate the standards of the HCA Compliance Program, or any other applicable law,~~
16 ~~regulation, rule or guideline.~~

17 ~~_____ j. Promptly report to HCA's Compliance Officer any suspected violation(s) of the HCA~~
18 ~~Contractor Code of Conduct³.~~ Upon approval of CONTRACTOR's Compliance Program by

19 HCA's Compliance Officer, CONTRACTOR shall ensure that its employees, subcontractors, interns,
20 volunteers, and members of Board of Directors or duly authorized agents, if appropriate, ("Covered
21 Individuals") relative to this Agreement are made aware of CONTRACTOR's Policies and Procedures.

22 ~~_____ k. Consult with HCA's Compliance Officer if there are any questions or uncertainties of~~
23 ~~any Compliance Program standard or any other applicable law, regulation, rule or guideline.~~

24 4. Failure of CONTRACTOR to submit its Compliance Program, Code of Conduct, and
25 relevant policies and procedures shall constitute a material breach of this Agreement. Failure to cure
26 such breach within sixty (60) calendar days of such notice from ADMINISTRATOR shall constitute
27 grounds for termination of this Agreement as to the non-complying party.

28 C. CODE OF CONDUCT - Under the direction of the HCA Office of Compliance, a Code of
29 Conduct for adherence by all HCA employees and contract providers has been developed.

30 1. If CONTRACTOR elects to adhere to HCA Compliance Program, then within thirty (30)
31 calendar days of award of this Agreement, CONTRACTOR shall submit to ADMINISTRATOR a
32 signed acknowledgement and agreement that CONTRACTOR shall comply with the "HCA Contractor
33 Code of Conduct."

34 2. Failure of CONTRACTOR to timely submit the acknowledgement of the HCA Contractor
35 Code of Conduct ~~or its own Code of Conduct~~ shall constitute a material breach of this Agreement, and

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37 failure to cure such breach within sixty (60) calendar days of such notice from ADMINISTRATOR

1 shall constitute grounds for termination of this Agreement as to the non-complying party.

2 ~~E~~D. CONTRACTOR shall screen all Covered Individuals employed or retained to provide services
3 related to this Agreement to ensure that they are not designated as ~~“~~“Ineligible Persons,” as defined
4 hereunder. Screening shall be conducted against the General Services Administration's List of Parties
5 Excluded from Federal Programs and the Health and Human Services/Office of Inspector General List
6 of Excluded Individuals/Entities.

7 1. Ineligible Person shall be any individual or entity who:

8 a. is currently excluded, suspended, debarred or otherwise ineligible to participate in the
9 federal health care programs; or

10 b. has been convicted of a criminal offense related to the provision of health care items or
11 services and has not been reinstated in the federal health care programs after a period of exclusion,
12 suspension, debarment, or ineligibility.

13 2. CONTRACTOR shall screen prospective Covered Individuals prior to hire or engagement.
14 CONTRACTOR shall not hire or engage any Ineligible Person to provide services relative to this
15 Agreement.

16 3. CONTRACTOR shall screen all current Covered Individuals semi-annually (January and
17 July) to ensure that they have not become Ineligible Persons.

18 4. Covered Individuals shall be required to disclose to CONTRACTOR immediately any
19 debarment, exclusion or other event that makes the Covered Individual an Ineligible Person.
20 CONTRACTOR shall notify COUNTY immediately upon such disclosure.

21 5. CONTRACTOR acknowledges that Ineligible Persons are precluded from providing
22 federal and state funded health care services by contract with COUNTY in the event that they are
23 currently sanctioned or excluded by a federal or state law enforcement regulatory or licensing agency.
24 If CONTRACTOR becomes aware that a Covered Individual has become an Ineligible Person,
25 CONTRACTOR shall remove such individual from responsibility for, or involvement with,
26 HCA business operations related to this Agreement.

27 ~~D~~ 6. CONTRACTOR shall notify ADMINISTRATOR immediately if a Covered Individual or
28 entity is currently excluded, suspended or debarred, or is identified as such after being sanction
29 screened. Such individual or entity shall be immediately removed from participating in any activity
30 associated with this AGREEMENT. ADMINISTRATOR will determine if any repayment is necessary
31 from CONTRACTOR for services provided by ineligible person or individual.

32 E. REIMBURSEMENT STANDARDS

33 1. CONTRACTOR shall take reasonable precaution to ensure that the coding of health care
34 claims and billing for same are prepared and submitted in an accurate and timely manner and are
35 consistent with federal, state and county laws and regulations.

36 //

37 2. CONTRACTOR shall submit no false, fraudulent, inaccurate or fictitious claims for

1 payment or reimbursement of any kind.

2 3. CONTRACTOR shall bill only for those eligible services actually rendered which are also
3 fully documented. When such services are coded, CONTRACTOR shall use ~~only correct~~ accurate
4 billing codes ~~that~~ to accurately describe the services provided and to ensure compliance with all billing
5 and documentation requirements.

6 4. CONTRACTOR shall act promptly to investigate and correct any problems or errors in
7 coding of claims and billing, if and when, any such problems or errors are identified.

8 **EF.** COMPLIANCE TRAINING - ADMINISTRATOR shall make General Compliance Training
9 and Provider Compliance Training, where appropriate, available to Covered Individuals.

10 1. CONTRACTOR shall use its best efforts to encourage completion by Covered Individuals;
11 provided, however, that at a minimum CONTRACTOR shall assign at least one (1) designated
12 representative to complete all Compliance Trainings when offered.

13 2. Such training will be made available to Covered Individuals within thirty (30) calendar
14 days of employment or engagement.

15 3. Such training will be made available to each Covered Individual annually.

16 4. Each Covered Individual attending training shall certify, in writing, attendance at
17 compliance training. CONTRACTOR shall retain the certifications. Upon written request by
18 ADMINISTRATOR, CONTRACTOR shall provide copies of the certifications.

19
20 **III. CONFIDENTIALITY**

21 A. CONTRACTOR shall maintain the confidentiality of all records, including billings and any
22 audio and/or video recordings, in accordance with all applicable federal, state and county codes and
23 regulations, as they now exist or may hereafter be amended or changed.

24 1. CONTRACTOR acknowledges and agrees that all persons served pursuant to this
25 Agreement are clients of the Orange County HIV services system, and therefore it may be necessary for
26 authorized staff of ~~Administrator~~ ADMINISTRATOR to audit client files, or to exchange information
27 regarding specific clients with COUNTY or other providers of related services contracting with
28 COUNTY.

29 2. CONTRACTOR acknowledges and agrees that it shall be responsible for obtaining written
30 consents for the release of information from all persons served by CONTRACTOR pursuant to this
31 Agreement. ~~Such~~ consents shall be obtained by CONTRACTOR in accordance with California Civil
32 Code, Division 1, Part 2.6 relating to Confidentiality of Medical Information.

33 3. In the event of a collaborative service agreement between HIV services providers,
34 CONTRACTOR acknowledges and agrees that it is responsible for obtaining releases of information,
35 from the collaborative agency, for clients receiving services through the collaborative agreement.

36 //

37 B. Prior to providing any services pursuant to this Agreement, all CONTRACTOR members of the

1 Board of Directors or its designee or authorized agent, employees, consultants, subcontractors,
 2 volunteers and interns shall agree, in writing, with CONTRACTOR to maintain the confidentiality of
 3 any and all information and records which may be obtained in the course of providing such services.
 4 The agreement shall specify that it is effective irrespective of all subsequent resignations or terminations
 5 of CONTRACTOR members of the Board of Directors or its designee or authorized agent, employees,
 6 consultants, subcontractors, volunteers and interns.

8 **IV. DELEGATION AND ASSIGNMENT**

9 A. CONTRACTOR may not delegate the obligations hereunder, either in whole or in part, without
 10 prior written consent of COUNTY; provided, however, obligations undertaken by CONTRACTOR
 11 pursuant to this Agreement may be carried out by means of subcontracts, provided such subcontracts are
 12 approved in writing by ADMINISTRATOR, meet the requirements of this Agreement as they relate to
 13 the service or activity under subcontract, and include any provisions that ADMINISTRATOR may
 14 require. No subcontract shall terminate or alter the responsibilities of CONTRACTOR to COUNTY
 15 pursuant to this Agreement. CONTRACTOR may not assign the rights hereunder, either in whole or in
 16 part, without the prior written consent of COUNTY.

17 B. For CONTRACTORS which are nonprofit corporations, any change from a nonprofit
 18 corporation to any other corporate structure of CONTRACTOR, including a change in more than fifty
 19 percent (50%) of the composition of the Board of Directors within a two (2) month period of time, shall
 20 be deemed an assignment for purposes of this paragraph. Any attempted assignment or delegation in
 21 derogation of this paragraph shall be void. ADMINISTRATOR may disallow, from payments
 22 otherwise due CONTRACTOR, amounts claimed for subcontracts not approved in accordance with this
 23 paragraph.

24 C. For CONTRACTORS which are for-profit organizations, any change in the business structure,
 25 including but not limited to, the sale or transfer of more than ten percent (10%) of the assets or stocks of
 26 CONTRACTOR, change to another corporate structure, including a change to a sole proprietorship, or a
 27 change in fifty percent (50%) or more of CONTRACTOR's directors at one time shall be deemed an
 28 assignment pursuant to this paragraph. Any attempted assignment or delegation in derogation of this
 29 paragraph shall be void.

31 **V. EMPLOYEE ELIGIBILITY VERIFICATION**

32 CONTRACTOR warrants that it ~~makes~~ shall make its best effort to fully comply with all federal
 33 and state statutes and regulations regarding the employment of aliens and others and to ensure that ~~all its~~
 34 employees, subcontractors and consultants performing work under this Agreement meet the citizenship
 35 or alien status requirement set forth in federal statutes and regulations. CONTRACTOR shall obtain,
 36 from all employees, subcontractors and consultants performing work hereunder, all verification and
 37 other documentation of employment eligibility status required by federal or state statutes and regulations

1 including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq.,
2 as they currently exist and as they may be hereafter amended. CONTRACTOR shall retain all such
3 documentation for all covered employees, subcontractors and consultants for the period prescribed by
4 the law.

5
6 **VI. FACILITIES, PAYMENTS AND SERVICES**

7 | CONTRACTOR agrees to provide the services, staffing, facilities, any equipment and supplies, and
8 reports in accordance with Exhibit A to this Agreement. COUNTY shall compensate, and authorize,
9 when applicable, said services. CONTRACTOR shall operate continuously throughout the term of this
10 Agreement with at least the minimum number and type of staff which meet applicable federal and state
11 requirements, and which are necessary for the provision of the services hereunder.

12
13 **VII. INDEMNIFICATION AND INSURANCE**

14 | A. CONTRACTOR agrees to indemnify, defend, and hold COUNTY, its elected and appointed
15 officials, officers, employees, agents and those special districts and agencies for which COUNTY's
16 Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any
17 claims, demands, including defense costs, or liability of any kind or nature, including but not limited to
18 personal injury or property damage, arising from or related to the services, products or other
19 performance provided by CONTRACTOR pursuant to this Agreement. If judgment is entered against
20 CONTRACTOR and COUNTY by a court of competent jurisdiction because of the concurrent active
21 negligence of COUNTY or COUNTY INDEMNITEES, CONTRACTOR and COUNTY agree that
22 liability will be apportioned as determined by the court. Neither party shall request a jury
23 apportionment.

24 B. COUNTY agrees to indemnify, defend and hold CONTRACTOR, its officers, employees,
25 agents, directors, members, shareholders and/or affiliates harmless from any claims, demands, including
26 defense costs, or liability of any kind or nature, including but not limited to personal injury or property
27 damage, arising from or related to the services, products or other performance provided by COUNTY
28 pursuant to this Agreement. If judgment is entered against COUNTY and CONTRACTOR by a court
29 of competent jurisdiction because of the concurrent active negligence of CONTRACTOR, COUNTY
30 and CONTRACTOR agree that liability will be apportioned as determined by the court. Neither party
31 shall request a jury apportionment.

32 C. Each party agrees to provide the indemnifying party with written notification of any claim
33 related to services provided by either party pursuant to this Agreement within thirty (30) calendar days
34 of notice thereof, and in the event the indemnifying party is subsequently named party to the litigation,
35 each party shall cooperate with the indemnifying party in its defense

36 //

37 D. Without limiting CONTRACTOR's indemnification, CONTRACTOR warrants that it is self-

1 insured or shall maintain in force at all times during the term of this Agreement, the policy or policies of
2 insurance covering its operations placed with reputable insurance companies in amounts as specified on
3 Page 3 of this Agreement. Upon request by ADMINISTRATOR, CONTRACTOR shall provide
4 evidence of such insurance.

5 E. COUNTY warrants that it is self-insured or maintains policies of insurance placed with
6 reputable insurance companies licensed to do business in the State of California which insures the perils
7 of bodily injury, medical, professional liability, and property damage. Upon request by
8 CONTRACTOR, COUNTY shall provide evidence of such insurance.

9 F. All insurance policies except Workers' Compensation and Employer's Liability, shall contain
10 the following clauses:

11 1. "The County of Orange is included as an additional insured with respect to the operations of
12 the named insured performed under contract with the County of Orange."

13 2. "It is agreed that any insurance maintained by the County of Orange shall apply in excess
14 of, and not contribute with, insurance provided by this policy."

15 3. "This insurance shall not be canceled, limited or non-renewed until after thirty (30)
16 calendar days written notice has been given to Orange County HCA/Contract Development and
17 Management, 405 West 5th Street, Suite 600, Santa Ana, CA 92701-4637."

18 G. Certificates of Insurance and endorsements evidencing the above coverages and clauses shall be
19 mailed to COUNTY as referenced on Page 3 of this Agreement.

20 **VIII. INSPECTIONS AND AUDITS**

21
22 A. ADMINISTRATOR, any authorized representative of COUNTY, any authorized representative
23 of the State of California, the Secretary of the United States Department of Health and Human Services,
24 the Comptroller General of the United States, or any other of their authorized representatives, shall have
25 access to any books, documents, and records, including but not limited to, medical and client records, of
26 CONTRACTOR that are directly pertinent to this Agreement, for the purpose of responding to a
27 beneficiary complaint, or conducting an audit, review, evaluation, or examination, or making transcripts
28 during the periods of retention set forth in the Records Management and Maintenance paragraph of this
29 Agreement. Such persons may at all reasonable times, inspect or otherwise evaluate the services
30 provided pursuant to this Agreement, and the premises in which they are provided.

31 B. CONTRACTOR shall actively participate and cooperate with any person specified in
32 subparagraph A. above in any evaluation or monitoring of the services provided pursuant to this
33 Agreement, and shall provide the above-mentioned persons adequate office space to conduct such
34 evaluation or monitoring.

35 //

36 C. CONTRACTOR shall not be subject to disallowances as the result of audits of the cost of
37 services.

1 D. AUDIT RESPONSE

2 1. Following an audit report, in the event of non-compliance with applicable laws and
3 regulations governing funds provided through this Agreement, COUNTY may terminate this Agreement
4 as provided for in the Termination paragraph or direct CONTRACTOR to immediately implement
5 appropriate corrective action. A plan of corrective action shall be submitted to ADMINISTRATOR in
6 writing within thirty (30) calendar days after receiving notice from ADMINISTRATOR.

7 2. If the audit reveals that money is payable from one party to the other, that is, reimbursement
8 by CONTRACTOR to COUNTY, or payment of sums due from COUNTY to CONTRACTOR, said
9 funds shall be due and payable from one party to the other within sixty (60) calendar days of receipt of
10 the audit results. If reimbursement is due from CONTRACTOR to COUNTY, and such reimbursement
11 is not received within said sixty (60) calendar days, COUNTY may, in addition to any other remedies
12 provided by law, reduce any amount owed CONTRACTOR by an amount not to exceed the
13 reimbursement due COUNTY.

14 E. ~~Within fourteen (14) calendar days of receipt by CONTRACTOR,~~ CONTRACTOR shall
15 forward to ADMINISTRATOR a copy of any audit report within fourteen (14) calendar days of receipt.
16 Such audit shall include, but not be limited to, management, financial, programmatic or any other type
17 of audit of CONTRACTOR's operations, whether or not the cost of such operation or audit is
18 reimbursed in whole or in part through this Agreement.

19
20 **IX. LICENSES AND LAWS**

21 A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term
22 of this Agreement, maintain all necessary licenses, permits, approvals, certificates, waivers, and
23 exemptions necessary for the provision of ~~the~~ services hereunder and required by the laws and
24 regulations of the United States, the State of California, COUNTY, and any other applicable
25 governmental agencies. CONTRACTOR shall notify ADMINISTRATOR immediately and in writing
26 of its inability to obtain or maintain, irrespective of the pendency of an appeal, such permits, licenses,
27 approvals, certificates, waivers and exemptions. Said inability shall be cause for termination of this
28 Agreement.

29 B. CONTRACTOR shall comply with all applicable governmental laws, regulations, and
30 requirements as they exist now or may be hereafter amended or changed. These laws, regulations, and
31 requirements shall include, but not be limited to, the following:

- 32 1. Title XXVI of the Public Health Services Act, as amended by the Ryan White HIV/AIDS
33 Treatment Modernization Act of 2006.
- 34 2. Federal Single Audit Act of 1984 (31 U.S.C.A. 7501.70).
- 35 3. The Americans with Disabilities Act of 1990 (42 U.S.C.A. 12101; et seq.).
- 36 4. 42 CFR, Public Health.
- 37 5. Public Law 103-227, Pro-Children Act of 1994.

- 6. State of California Penal Code Section 11164, et seq., Child Abuse and Neglect Reporting.
- 7. State of California Welfare and Institutions Code Section 15600, et seq., Abuse of the Elderly and Dependent Adults.
- 8. 45 ~~CFR~~, CRF Part 76, Drug Free Work Place.
- 9. California Code of Regulations, Title 9, Division 4.
- 10. California Code of Regulations, Title 22.
- 11. California Health and Safety Code, Divisions 10.5 and 10.6.
- 12. U.S. Department of Health and Human Services, Public Health Services, PHS Grant Policy Statement.
- 13. Office of Management and Budget (OMB) Circulars A-~~87~~89, A-110, A-122, and A-133.
- 14. Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, as it may exist now, or be hereafter amended, and if applicable.

C. ENFORCEMENT OF CHILD SUPPORT OBLIGATIONS

1. CONTRACTOR agrees to furnish to ADMINISTRATOR within thirty (30) calendar days of the award of this Agreement:

- a. In the case of an individual contractor, his/her name, date of birth, ~~Social Security~~ social security number, and residence address;
- b. In the case of a contractor doing business in a form other than as an individual, the name, date of birth, ~~Social Security~~ social security number, and residence address of each individual who owns an interest of ten percent (10%) or more in the contracting entity;
- c. A certification that CONTRACTOR has fully complied with all applicable federal and state reporting requirements regarding its employees;
- d. A certification that CONTRACTOR has fully complied with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment, and will continue to so comply;

2. Failure of CONTRACTOR to timely submit the data and/or certifications required by subparagraphs 1.a., 1.b., 1.c., or 1.d. above, or to comply with all federal and state employee reporting requirements for child support enforcement, or to comply with all lawfully served Wage and Earnings Assignment Orders and Notices of Assignment shall constitute a material breach of this Agreement, and failure to cure such breach within sixty (60) calendar days of notice from COUNTY shall constitute grounds for termination of this Agreement.

3. It is expressly understood that this data will be transmitted to governmental agencies charged with the establishment of child support orders, or as permitted by federal and/or state statute.

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X. ~~MAXIMUM OBLIGATION~~ LITERATURE

~~The Maximum Obligation of COUNTY for services provided in accordance with this Agreement is~~

1 ~~as specified on Page 3 of this Agreement.~~

2 Any written information, including educational and promotional materials, distributed by
3 CONTRACTOR to any person for purposes directly or indirectly related to this Agreement must be
4 approved by ADMINISTRATOR before distribution. For the purposes of this Agreement, distribution
5 of written materials shall include electronic media such as the Internet. Such information shall not
6 imply endorsement by the COUNTY, unless ADMINISTRATOR consents thereto in writing.

7
8 **XI. NONDISCRIMINATION**

9 **A. EMPLOYMENT**

10 1. CONTRACTOR shall ensure that applicants are employed, and that employees are treated
11 during employment, without regard to their ethnic group identification, race, religion, ancestry, creed,
12 color, sex, marital status, national origin, age (40 and over), sexual preference, medical condition, or
13 physical or mental disability. Such action shall include, but not be limited to the following:
14 employment, upgrade, demotion or transfer; recruitment or recruitment advertising; layoff or
15 termination; rate of pay or other forms of compensation; and selection for training, including
16 apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for
17 employment, notices from ADMINISTRATOR and/or the United States Equal Employment
18 Opportunity Commission setting forth the provisions of the Equal Opportunity clause.

19 2. All solicitations or advertisements for employees placed by or on behalf of
20 CONTRACTOR shall state that all qualified applicants will receive consideration for employment
21 without regard to ethnic group identification, race, religion, ancestry, creed, color, sex, marital status,
22 national origin, age (40 and over), sexual preference, medical condition, or physical or mental disability.
23 Such requirement shall be deemed fulfilled by use of the phrase "an equal opportunity employer."

24 3. Each labor union or representative of workers with which CONTRACTOR has a collective
25 bargaining agreement or other contract or understanding must post a notice advising the labor union or
26 workers' representative of the commitments under this Nondiscrimination paragraph and shall post
27 copies of the notice in conspicuous places available to employees and applicants for employment.

28 **B. SERVICES, BENEFITS AND FACILITIES** - CONTRACTOR shall not discriminate in the
29 provision of services, the allocation of benefits, or in the accommodation in facilities on the basis of
30 ethnic group identification, race, religion, ancestry, creed, color, sex, marital status, national origin, age
31 (40 and over), sexual preference, medical condition, or physical or mental disability in accordance with
32 Title VI of the Civil Rights Act of 1964 (42 U.S.C.A. - §2000d) and all other pertinent rules and
33 regulations promulgated pursuant thereto, and as otherwise provided by state law and regulations, as all
34 may now exist or be hereafter amended or changed.

35 //

36 1. For the purpose of this subparagraph B., "discrimination" includes, but is not limited to the
37 following based on one or more of the factors identified above:

- 1 a. Denying a client or potential client any service, benefit, or accommodation.
- 2 b. Providing any service or benefit to a client which is different or is provided in a
- 3 different manner or at a different time from that provided to other clients.
- 4 c. Restricting a client in any way in the enjoyment of any advantage or privilege enjoyed
- 5 by others receiving any service or benefit.
- 6 d. Treating a client differently from others in satisfying any admission requirement or
- 7 condition, or eligibility requirement or condition, which individuals must meet in order to be provided
- 8 any service or benefit.
- 9 e. Assignment of times or places for the provision of services.

10 2. Complaint Process - CONTRACTOR shall establish procedures for advising all clients
11 through a written statement that CONTRACTOR's clients may file all complaints alleging
12 discrimination in the delivery of services with CONTRACTOR, ADMINISTRATOR, or the U.S.
13 Department of Health and Human Services' Office for Civil Rights. CONTRACTOR's statement shall
14 advise clients of the following:

- 15 a. In those cases where the client's complaint is filed initially with the Office for Civil
- 16 Rights (Office), the Office may proceed to investigate the client's complaint, or the Office may request
- 17 COUNTY to conduct the investigation.
- 18 b. Within the time limits procedurally imposed, the complainant shall be notified in
- 19 writing as to the findings regarding the alleged complaint and, if not satisfied with the decision, may file
- 20 an appeal with the Office for Civil Rights.

21 C. PERSONS WITH DISABILITIES - CONTRACTOR agrees to comply with the provisions of
22 Section 504 of the Rehabilitation Act of 1973 (29 U.S.C.A. 794 et seq., as implemented in 45 CFR 84.1
23 et seq.), and the Americans with Disabilities Act of 1990 (42 U.S.C.A. 12101 et seq.), pertaining to the
24 prohibition of discrimination against qualified persons with disabilities in all programs or activities, as
25 they exist now or may be hereafter amended together with succeeding legislation.

26 D. RETALIATION - Neither CONTRACTOR, nor its employees or agents shall intimidate, coerce
27 or take adverse action against any person for the purpose of interfering with rights secured by federal or
28 state laws, or because such person has filed a complaint, certified, assisted or otherwise participated in
29 an investigation, proceeding, hearing or any other activity undertaken to enforce rights secured by
30 federal or state law.

31 E. In the event of non-compliance with this paragraph or as otherwise provided by federal and
32 state law, this Agreement may be canceled, terminated or suspended in whole or in part and
33 CONTRACTOR may be declared ineligible for further contracts involving federal, state, or county
34 funds.

35 //

36 **XII. NOTICES**

37 A. Unless otherwise specified, all notices, claims, correspondence, reports and/or statements

1 authorized or required by this Agreement shall be effective:

- 2 1. When written and deposited in the United States mail, first class postage prepaid and
3 addressed as specified on Page 3 of this Agreement or as otherwise directed by ADMINISTRATOR;
- 4 2. When ~~FAXed~~ faxed, transmission confirmed;
- 5 3. When sent by electronic mail; or
- 6 4. When accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel
7 Service, or other expedited delivery service.

8 B. Termination Notices shall be addressed as specified on Page 3 of this Agreement or as
9 otherwise directed by ADMINISTRATOR and shall be effective when ~~FAXed~~ faxed, transmission
10 confirmed, or when accepted by U.S. Postal Service Express Mail, Federal Express, United Parcel
11 Service, or other expedited delivery service.

12 C. CONTRACTOR shall notify ADMINISTRATOR, in writing, within twenty-four (24) hours of
13 becoming aware of any occurrence of a serious nature, which may expose COUNTY to liability. Such
14 occurrences shall include, but not be limited to, accidents, injuries, or acts of negligence, or loss or
15 damage to any ~~County~~ COUNTY property in possession of CONTRACTOR.

16 D. For purposes of this Agreement, any notice to be provided by COUNTY may be given by
17 ADMINISTRATOR.

18 E. In the event of a death, notification shall be made in accordance with the Notification of Death
19 paragraphs of this Agreement.

20 21 **XIII. NOTIFICATION OF DEATH**

22 **A. NON-TERMINAL ILLNESS DEATH**

23 1. CONTRACTOR shall notify ADMINISTRATOR by telephone immediately upon
24 becoming aware of the death due to non-terminal illness of any person served hereunder or served
25 within the previous twelve (12) months; provided, however, weekends and holidays shall not be
26 included for purposes of computing the time within which to give telephone notice and, notwithstanding
27 the time limit herein specified, notice need only be given during normal business hours.

28 2. In addition, CONTRACTOR shall, within sixteen (16) hours after such death, hand deliver
29 or ~~FAX~~ fax, a written Notification of Non-Terminal Illness Death to ADMINISTRATOR.

30 3. The telephone report and written Notification of Non-Terminal Illness Death shall contain
31 the name of the deceased, the date and time of death, the nature and circumstances of the death, and the
32 name(s) of CONTRACTOR's officers or employees with knowledge of the incident.

33 **B. TERMINAL ILLNESS DEATH**

34 1. CONTRACTOR shall notify ADMINISTRATOR by written report ~~FAXed~~ faxed, hand
35 delivered, or postmarked within forty-eight (48) hours of becoming aware of the death due to terminal
36 illness of any person served hereunder or served within the previous twelve (12) months. The
37 Notification of Terminal Illness Death shall contain the name of the deceased, the date and time of

1 death, the nature and circumstances of the death, and the name(s) of CONTRACTOR's officers or
2 employees with knowledge of the incident.

3 2. If there are any questions regarding the cause of death of any person served hereunder who
4 was diagnosed with a terminal illness, or if there are any unusual circumstances related to the death,
5 CONTRACTOR shall immediately notify ADMINISTRATOR in accordance with subparagraph A.
6 above.

7 **XIV. NOTIFICATION OF PUBLIC EVENTS AND MEETINGS**

9 **A. CONTRACTOR shall notify ADMINISTRATOR of any public event or meeting funded in
10 whole or part by the COUNTY, except for those events or meetings that are intended solely to serve
11 clients or occur in the normal course of business.**

12 **B. CONTRACTOR shall notify ADMINISTRATOR at least ten (10) working days in advance of
13 any applicable public event or meeting. The notification must include the date, time, duration, location
14 and purpose of public event or meeting. Any promotional materials or event related flyers must be
15 approved by ADMINISTRATOR prior to distribution.**

16 **XV. RECORDS MANAGEMENT AND MAINTENANCE**

17 **A. CONTRACTOR, its officers, agents, employees and subcontractors shall, throughout the term
18 of this Agreement, prepare, maintain and manage records appropriate to the services provided and in
19 accordance with this Agreement and all applicable requirements, which ~~are listed below~~ include, but are
20 not limited to:**

21 1. California Code of Regulation Title 22, Chapter 7, Article 6, §75055 - Retention of records
22 by outpatient medical facilities.

23 2. 45 CFR, HIPAA Privacy Rule (Designated Record Set).

24 3. State of California, Health and Safety Code §§123100 – 123149.5.

25 **B. CONTRACTOR shall ensure appropriate financial records related to cost reporting,
26 expenditure, revenue, billings, etc., are prepared and maintained accurately and appropriately.**

27 **C. CONTRACTOR shall ensure all appropriate state and federal standards of documentation,
28 preparation, and confidentiality of records related to participant, client and/or patient records are met at
29 all times.**

30 **D. CONTRACTOR shall be informed through this Agreement that HIPAA has broadened the
31 definition of medical records and identified this new record set as a Designated Record Set (DRS). 45
32 CFR §164.501, defines DRS as a group of records maintained by or for a covered entity that is:**

33 1. The medical records and billing records about individuals maintained by or for a covered
34 health care provider;

35 2. The enrollment, payment, claims adjudication, and case or medical management record
36 systems maintained by or for a health plan; or
37

1 3. Used, in whole or in part, by or for the covered entity to make decisions about individuals.

2 E. CONTRACTOR shall ensure all HIPAA DRS requirements are met. HIPAA requires that
3 clients, participants, patients, etc., be provided the right to access or receive a copy of their DRS and/or
4 request addendum to their records.

5 F. CONTRACTOR shall ensure compliance with requirements pertaining to the privacy and
6 security of personally identifiable information (hereinafter "PII") and/or protected health information
7 (hereinafter "PHI"). CONTRACTOR shall, immediately upon discovery of a breach of privacy and/or
8 security of PII and/or PHI by CONTRACTOR, notify ADMINISTRATOR of such breach by telephone
9 and email or facsimile.

10 G. CONTRACTOR may be required to pay any costs associated with a breach of privacy and/or
11 security of PII and/or PHI, including but not limited to the costs of notification. CONTRACTOR shall
12 pay any and all such costs arising out of a breach of privacy and/or security of PII and/or PHI.

13 H. CONTRACTOR shall retain all financial records for a minimum of five (5) years from the
14 commencement of the contract, unless a longer period is required due to legal proceedings such as
15 litigations and/or settlement of claims.

16 G.I. CONTRACTOR shall retain all participant, client, ~~and/or~~ patient ~~and/or~~ medical records for
17 seven (7) years following discharge of the participant, client and/or patient, with the exception ~~to un~~of
18 ~~non~~-emancipated minors for whom records must be kept for at least one (1) year after such minors have
19 reached the age of eighteen (18) years, or for seven (7) years after the last date of service, whichever is
20 longer.

21 H.I. CONTRACTOR shall make records pertaining to the costs of services, participant fees, charges,
22 billings, and revenues available at one (1) location within the limits of the County of Orange.

23 I.K. If CONTRACTOR is unable to meet the record location criteria above, ADMINISTRATOR
24 may provide written approval to CONTRACTOR to ~~change the record~~ maintain records in a single
25 location ~~criteria~~, identified by CONTRACTOR.

26 J.L. CONTRACTOR may be required to retain all records involving litigation proceedings and
27 settlement of claims for a longer term which will be directed by the ADMINISTRATOR.

28 M. CONTRACTOR shall notify ADMINISTRATOR of any Public Record Act (PRA) request
29 within twenty-four (24) hours. CONTRACTOR shall provide ADMINISTRATOR all information that
30 is requested by the PRA request.

31 **XVI. SEVERABILITY**

32 If a court of competent jurisdiction declares any provision of this Agreement or application thereof
33 to any person or circumstances to be invalid or if any provision of this Agreement contravenes any
34 federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement or
35 the application thereof shall remain valid, and the remaining provisions of this Agreement shall remain
36 in full force and effect, and to that extent the provisions of this Agreement are severable.

XVII. STATUS OF CONTRACTOR

CONTRACTOR is, and shall at all times be deemed to be, an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement. CONTRACTOR is entirely responsible for compensating staff, subcontractors, and consultants employed by CONTRACTOR. This Agreement shall not be construed as creating the relationship of employer and employee, or principal and agent, between COUNTY and CONTRACTOR or any of CONTRACTOR's employees, agents, consultants, or subcontractors. CONTRACTOR assumes exclusively the responsibility for the acts of its employees, agents, consultants, or subcontractors as they relate to the services to be provided during the course and scope of their employment. CONTRACTOR, its agents, employees, consultants, or subcontractors, shall not be entitled to any rights or privileges of COUNTY employees and shall not be considered in any manner to be COUNTY employees.

XVIII. ~~TERM~~TERM

The term of this Agreement shall commence and terminate as specified on Page 3 of this Agreement, unless otherwise sooner terminated as provided in this Agreement; provided, however, CONTRACTOR shall be obligated to perform such duties as would normally extend beyond this term, including but not limited to, obligations with respect to confidentiality, indemnification, audits, reporting and accounting.

XIX. TERMINATION

A. Either party may terminate this Agreement, without cause, upon thirty (30) calendar days written notice given the other party.

B. Unless otherwise specified in this Agreement, COUNTY may terminate this Agreement upon five (5) calendar days written notice if CONTRACTOR fails to perform any of the terms of this Agreement. At ADMINISTRATOR's sole discretion, CONTRACTOR may be allowed up to thirty (30) calendar days for corrective action.

C. COUNTY may terminate this Agreement immediately, upon written notice, on the occurrence of any of the following events:

1. The loss by CONTRACTOR of legal capacity.
2. Cessation of services.
3. The delegation or assignment of CONTRACTOR's services, operation or administration to another entity without the prior written consent of COUNTY.
4. The ~~habitual~~ neglect by any physician or licensed person employed by CONTRACTOR of any duty required pursuant to this Agreement.
5. The loss of accreditation or any license required by the Licenses and Laws paragraph of this Agreement.

1 6. The continued incapacity of any physician or licensed person to perform duties required
2 pursuant to this Agreement.

3 7. Unethical conduct or malpractice by any physician or licensed person providing services
4 pursuant to this Agreement; provided, however, COUNTY may waive this option if CONTRACTOR
5 removes such physician or licensed person from serving persons treated or assisted pursuant to this
6 Agreement.

7 D. CONTINGENT FUNDING

8 1. Any obligation of COUNTY under this Agreement is contingent upon the following:

9 a. The continued availability of federal, state, and county funds for reimbursement of
10 COUNTY's expenditures, and

11 b. Inclusion of sufficient funding for the services hereunder in the applicable budgets
12 approved by the Board of Supervisors.

13 2. In the event such funding is subsequently reduced or terminated, COUNTY may terminate
14 or renegotiate this Agreement upon thirty (30) calendar days written notice given CONTRACTOR.

15 E. In the event this Agreement is terminated prior to the completion of the term as specified on
16 Page 3 of the Agreement, ADMINISTRATOR may, at its sole discretion, reduce the Maximum
17 Obligation of this Agreement in an amount consistent with the reduced term of the Agreement.

18 F. After receiving a Notice of Termination CONTRACTOR shall do the following:

19 1. Comply with termination instructions provided by ADMINISTRATOR in a manner which
20 is consistent with recognized standards of quality care and prudent business practice.

21 2. Obtain immediate clarification from ADMINISTRATOR of any unsettled issues of contract
22 performance during the remaining contract term.

23 3. If clients are to be transferred to another facility for services, furnish ADMINISTRATOR,
24 upon request, all client information and records deemed necessary by ADMINISTRATOR to effect an
25 orderly transfer.

26 4. Assist ADMINISTRATOR in effecting the transfer of clients in a manner consistent with
27 their best interests.

28 5. If records are to be transferred to COUNTY, pack and label such records in accordance
29 with directions provided by ADMINISTRATOR.

30 G. The rights and remedies of COUNTY provided in this Termination paragraph shall not be
31 exclusive, and are in addition to any other rights and remedies provided by law or under this Agreement.

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36 **XX. THIRD PARTY BENEFICIARY**

37 Neither party hereto intends that this Agreement shall create rights hereunder in third parties

1 including, but not limited to, any subcontractors or any clients provided services hereunder.

2
3 **XXI. ~~WAIVER~~WAIVER OF ~~DEFAULT~~DEFAULT OR BREACH**

4 Waiver by COUNTY of any default by CONTRACTOR shall not be considered a waiver of any
5 subsequent default. Waiver by COUNTY of any breach by CONTRACTOR of any provision of this
6 Agreement shall not be considered a waiver of any subsequent breach. Waiver by COUNTY of any
7 default or any breach by CONTRACTOR shall not be considered a modification of the terms of this
8 Agreement.

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36 IN WITNESS WHEREOF, the parties have executed this Agreement, in the County of Orange,
37 State of California.

1
2 ADVANCED SKINCARE MEDCENTER, INC.

3
4 BY: _____ DATED: _____

5
6 TITLE: _____

7
8 BY: _____ DATED: _____

9
10 TITLE: _____

11
12 COUNTY OF ORANGE

13
14 BY: _____ DATED: _____

15 CHAIR OF THE BOARD OF SUPERVISORS

16
17 SIGNED AND CERTIFIED THAT A COPY
18 OF THIS DOCUMENT HAS BEEN DELIVERED
19 TO THE CHAIR OF THE BOARD PER G.C. SEC. 25103, RESO 79-1535
20 ATTEST:

21
22 _____ DATED: _____

23 DARLENE J. BLOOM
24 Clerk of the Board of Supervisors
25 Orange County, California

26 APPROVED AS TO FORM
27 OFFICE OF THE COUNTY COUNSEL
28 ORANGE COUNTY, CALIFORNIA

29 BY: _____ DATED: _____

30 DEPUTY

31
32 If the contracting party is a corporation, two (2) signatures are required: one (1) signature by the Chairman of the Board, the
33 President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer
34 or any Assistant Treasurer. If the contract is signed by one (1) authorized individual only, a copy of the corporate resolution
35 or by-laws whereby the board of directors has empowered said authorized individual to act on its behalf by his or her
36 signature alone is required by HCA.
37

EXHIBIT A
TO AGREEMENT FOR PROVISION OF
HIV HEALTH CARE SERVICES
WITH

ADVANCED SKINCARE MEDCENTER, INC.

~~AUGUST 5, 2008~~ MARCH 1, 2010 THROUGH FEBRUARY ~~28, 2010~~ 29, 2012

I. PAYMENTS

A. BASIS FOR REIMBURSEMENT - As compensation to CONTRACTOR for providing Medical Care services described herein, for which prior authorization has been approved by ADMINISTRATOR, COUNTY shall compensate CONTRACTOR at the indicated rate(s) as follows:

- 1. 100% of the current Region 26 Medicare Resource Based Relative Value System (RBRVS) fee schedule for services listed in the RBRVS fee schedule; or
- 2. \$3,000 per suction assisted lipectomy, as defined in the Services paragraph of Exhibit A to this Agreement.

B. COUNTY shall not make payment for services rendered without prior authorization of services, as specified in the Services paragraph of Exhibit A to this Agreement.

C. CONTRACTOR shall submit to ADMINISTRATOR or designee, claims for services rendered to individual clients. Claims shall be submitted on a properly completed form approved or supplied by ADMINISTRATOR. CONTRACTOR's claims shall include such information as may be required by ADMINISTRATOR. All claims are due within forty-five (45) calendar days of the date of service to be eligible for reimbursement. Any claim submitted after the due date will not be processed.

D. Payments to CONTRACTOR should be released by COUNTY no later than forty-five (45) calendar days after receipt of the correctly completed claim. ADMINISTRATOR may withhold or delay any payment if CONTRACTOR fails to comply with any provision of this Agreement.

E. CONTRACTOR may not claim reimbursement for services provided beyond the expiration or termination of this Agreement.

F. All claims to COUNTY shall be supported, at CONTRACTOR's facility, by appropriate medical records and documentation.

G. CONTRACTOR shall not bill clients for services provided pursuant to this Agreement.

II. SERVICES

A. Definitions

1. "Medical Care" means the provision of outpatient physician services and/or outpatient diagnostic tests and procedures. Physician Services include, but are not limited to, diagnostic testing, preventative care and screening, practitioner examination, medical history, and treatment of common physical and mental conditions. Outpatient diagnostic tests and procedures include, but are not limited

1 to, radiology (CT Scans, MRI, Ultrasound, and Upper GI series), pathology, biopsies, endoscopies, and
2 ancillary services as ordered by physician.

3 2. "Suction assisted lipectomy" means surgical reduction of abnormal accumulations of fat in
4 the dorsocervical fat pad or male breast area, when such accumulation is determined to be a side-effect
5 of HIV medication treatment and causing pain.

6 B. CONTRACTOR shall provide Medical Care services that are within the scope of
7 CONTRACTOR's license(s) to practice.

8 C. Medical Care services shall be based on current established medical standards of care.

9 D. CONTRACTOR shall provide appointments and visits within three (3) weeks of the request for
10 service or sooner, if medical condition warrants.

11 E. CONTRACTOR shall obtain prior authorization for all services provided pursuant to this
12 Agreement. Prior authorization shall consist of a Prior Authorization (P.A.) form approved by
13 ADMINISTRATOR. CONTRACTOR services shall be limited to those services authorized by
14 ADMINISTRATOR on a P.A. form. Contractor shall retain a copy of each approved P.A. form in the
15 client's file.

16 F. CONTRACTOR shall obtain a new P.A. form for additional services, tests, and procedures not
17 authorized on the originating P.A. form prior to rendering such services, tests and/or procedures.

18 G. Whenever possible, CONTRACTOR shall use pertinent medical records and laboratory results
19 provided by ADMINISTRATOR, prior to requesting authorization for additional testing.

20 H. Lab services are covered only when authorized by a P.A. form.

21 I. CONTRACTOR shall provide follow-up consultation notes and/or reports to
22 ADMINISTRATOR in a timely manner, not to exceed seven (7) calendar days.

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