

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FROM:** Human Resources Department

**SUBMITTAL DATE:**

May 6, 2010

**SUBJECT:** Exclusive Care - EPO Agreement Renewal with American Board of Medical Specialties (ABMS).

**RECOMMENDED MOTION:** 1) Ratify and approve the attached Agreement from April 8, 2010 until April 8, 2011, with American Board of Medical Specialties (ABMS); 2) authorize the Chairperson to sign four (4) copies of the attached Agreement and; 3) retain one (1) copy of the signed Agreement and return three (3) copies to Human Resources for distribution.

**BACKGROUND:** In 1999, the Board of Supervisors established the County's self-funded Exclusive Provider Option (EPO) health plan, Exclusive Care, to provide a value health plan option to the employees of Riverside County and their families. In order to assure our providers have the necessary credentials to provide services to its enrolled members Exclusive Care utilizes ABMS to verify board certification of specialties. The term of this agreement will be no longer than five (5) years from the effective date.

*Barbara A. Olivier*  
\_\_\_\_\_  
Barbara A. Olivier  
Acting Asst. County Executive Officer/Human Resources Dir.

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	No
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ to be determined by claims	For Fiscal Year:	2009/10

<b>SOURCE OF FUNDS:</b> Premiums paid by members	<b>Positions To Be Deleted Per A-30</b>	<input type="checkbox"/>
	<b>Requires 4/5 Vote</b>	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

**APPROVE**

BY: *Karen L. Johnson*  
\_\_\_\_\_  
Karen L. Johnson

**County Executive Office Signature**

**Prev. Agn. Ref.:** \_\_\_\_\_ **District:** ALL **Agenda Number:** \_\_\_\_\_

**ATTACHMENTS FILED**

FORM APPROVED COUNTY COUNSEL  
BY: *Neal R. Kipnis*  
DATE: 5/13/10  
Departmental Concurrence

Dep't Recomm.:  Consent  Policy

Per Exec. Ofc.:  Consent  Policy

# CERTIFACTS ON-LINE SUBSCRIPTION AGREEMENT

Standard Annual Subscription Fee: \$1,323.00 (Per Year – Only if Agreement signed and returned by 04/08/2010.)

## 1. Grant of License

TMP Medical Listings, (“TMP”), a business unit of TMP Directional Marketing LLC, is a licensee of the American Board of Medical Specialties (“ABMS”) and an Official ABMS® Display Agent. TMP will, during the term of this Agreement provide the undersigned requesting organization (“Requesting Organization”) Internet access to the primary source ABMS Board Certification verification database (the “Database”) located at [www.certifacts.org](http://www.certifacts.org) (or at such other URL as TMP may, in its discretion, designate at any time) for the purpose of verifying the certification status of physicians certified by the twenty-four member boards of ABMS (“Certified Physicians”), on the terms and conditions set forth herein. ABMS is a third party beneficiary of this Grant of License and shall have the right to enforce the terms of this Grant of License directly against the Requesting Organization. Subject to Section 3 below, the Database will reveal the following information, to the extent known and available, when the name of a Certified Physician is input: (a) physician’s year of birth (when known); (b) last known address and telephone number (when known); (c) name of the current specialty or subspecialty certification(s); (d) effective date(s) of current certification(s) and/or recertification(s); and (e) year of expiration of each current certification (with month, if available) or the effective period of the current certification(s) (collectively, the “Information”).

Requesting Organization understands and agrees that (a) Information will be treated with total confidentiality, (b) Information is granted solely to the Requesting Organization for its own internal use and is granted as a non-exclusive limited license, consistent with and limited to the specific purpose of verification of physician Board Certification status, and (c) no Information will be released, copied, extracted or otherwise usurped for use by any other party except as required by law or for audit purposes, and for the use of beneficiary parties, a list of which must be attached hereto and which may be updated quarterly during the term of this Agreement, provided that each beneficiary party agrees not to disclose the information to any third party, except as required by law or for audit purposes. In the case of Credentialing Verification Organizations (“CVOs”), the information can be released, copied, or extracted only for the internal use of its contracted CVO customers, a list of which must be attached hereto and which may be updated quarterly during the term of this agreement, provided that each CVO customer agrees not to disclose the information to any third party.

Requesting Organization is prohibited from (a) reproducing any data from the Database, downloading such data, or commingling such data with any other database, except as required for internal credentialing use, (b) making such data public in any manner or otherwise disclosing it to any third party, with or without compensation except as permitted above, (c) incorporating, in whole or in part, any portion of the Information or the CertiFACTS On-Line website into any other website, whether by framing, linking or otherwise, and (d) “screen scraping”. As used herein, “screen scraping” shall mean the act of capturing data from a system or program by snooping the contents of some display that is not actually intended for data transport or inspection by programs, or parsing HTML in generated web pages with programs designed to mine out particular patterns of content. Any violation by Requesting Organization of the foregoing covenants or prohibitions shall result in an immediate automatic termination of this Agreement and TMP and ABMS shall retain the right to all other remedies available in law or equity. The prohibitions on and obligations of Requesting Organization contained in this Section 1 will survive any expiration or termination of this Agreement.

2. Terms of Use

The effective date of this Agreement ("Effective Date") shall be the date the Agreement is signed by Requesting Organization as shown on the last page of the Agreement.

**One Year** - This Agreement shall be in effect for a period of twelve (12) months from its Effective Date and automatically renews upon expiration of such 12-month period unless written notice of non-renewal is received by TMP, or is provided by TMP, sixty (60) days prior to expiration. The subscription price is due upon execution of the Agreement. Payment for subsequent years is due annually on the anniversary date of the Effective Date for the following year of service if no timely notice of cancellation is given. The annual subscription fee shall increase by 5% over the prior year's license fee.

3. No Warranties

TMP endeavors to maintain the Information in a complete, current, and timely manner. However, TMP DOES NOT REPRESENT OR WARRANT THAT THE INFORMATION CONTAINED IN THE DATABASE IS COMPLETE OR ERROR-FREE AND ACCESS TO SUCH INFORMATION IS PROVIDED ON A STRICTLY "AS IS" BASIS. Verification of the information is made from the ABMS database, which is updated periodically with information provided by its Member Boards. Neither TMP, ABMS, nor any of their agents can be held legally responsible for inaccurate or incomplete information in each physician record. In consideration of the receipt of each physician record provided by TMP, the Requesting Organization hereby releases TMP, ABMS, and their agents and servants from any and all liability whatsoever for inaccurate or incomplete information in each such physician record.

TMP is in no way responsible or liable for any problems in the Requesting Organization's access to the Internet. Moreover, TMP shall not be liable in the event its servers become temporarily unavailable for any reason.

4. Restrictions on Use

**Single User, Single Site, Single Beneficiary** – Requesting Organization may access the Database from one single-user personal computer or terminal, or access the Database from another single-user personal computer or terminal, but under no circumstances may Requesting Organization access the Database from more than one personal computer or terminal at the same time. Requesting Organization may access the Database from a multi-user network system but only by the one authorized user identified below. Requesting Organization must give TMP sixty (60) days' written notice if it wants to add an additional user(s) or site(s) and pay any increase in fees resulting from such increased access. Each authorized user will receive a distinct password and under no circumstances may any authorized user transfer his/her password for access to any other user except as delineated herein. If any authorized user leaves the employ of the Requesting Organization, Requesting Organization must deactivate that user's password, and should the user be replaced by a new employee, assign a new user password to the new employee. If Requesting Organization will be obtaining verification on behalf of affiliated hospitals or health plans, it must provide TMP written notice of the number, names and addresses of each such organization it will provide with credentialing services verification of board certification.

Physical address of entity where site is located:

**County of Riverside - Exclusive Care, P. O. Box 1508, Riverside, California, 92502**

Total number of hospitals, health plans, or other entities for which Requesting Organization will provide credentialing services verification of board certification: **One (1), See below**

Name and address of each hospital, health plan or other entity for which Requesting Organization will provide credentialing services verification of board certification (if more than one, all should be listed on an attachment hereto):

**County of Riverside - Exclusive Care, P. O. Box 1508, Riverside, California, 92502**

ANY USE OF INFORMATION CONTRARY TO THE PROVISIONS OF THIS AGREEMENT WILL RESULT IN AUTOMATIC AND IMMEDIATE TERMINATION OF THIS AGREEMENT WITHOUT REFUND OR CREDIT, AND TMP MAY SEEK ANY AND ALL SUCH OTHER RELIEF AS MAY BE AWARDED BY A COURT OF LAW AND/OR EQUITY INCLUDING, BUT NOT LIMITED TO, MONEY DAMAGES, PUNITIVE DAMAGES AND INJUNCTIVE RELIEF. Each user and site is subject to the terms set forth in this Agreement, and the parent entity signing this Agreement is responsible for any breach of this Agreement by any user or site. This provision survives expiration or termination of this Agreement.

5. Restrictions on Transfer

This license is personal to Requesting Organization and Requesting Organization may not assign or otherwise transfer (by sale, merger, sublicense, operation of law, or in any other manner) any of its rights or delegate any of its duties under this Agreement without the prior written consent of TMP. Any purported sale, assignment, transfer or sublicense without the prior written consent of TMP will be null and void and will automatically terminate Requesting Organization's right to access the ABMS Board Certification verification information.

6. Force Majeure

TMP will not be deemed to have breached this Agreement to the extent that performance of its obligations or attempts to cure any breach are delayed or prevented by reason of an act of God, accident, act of government, shortage of equipment, materials or supplies beyond the reasonable control of TMP, or any other cause beyond the reasonable control of TMP.

7. Miscellaneous

Notices delivered under this Agreement may be given by letter, facsimile or e-mail (with hard copy confirmation of such e-mail) and will be effective when received. This Agreement contains the entire understanding of the parties with respect to the transactions and matters contemplated hereby, supersedes all previous communications, understandings and agreements (whether oral or written), and cannot be amended or waived except by a writing signed by both parties; however, if TMP provides written notice of any fee increase with respect to renewal of the subscription, Requesting Organization's failure to terminate the subscription before such renewal will conclusively constitute consent to such fee increase and this Agreement will be deemed amended to incorporate such new prices. No failure or delay on the part of either party in exercising any right or remedy provided in this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of or failure to exercise any such right or remedy under

this Agreement. This Agreement shall be construed in accordance with the domestic laws of the State of Georgia and Requesting Organization hereby consents to personal jurisdiction in the federal and state courts of Georgia and agrees not to contest venue in any suit brought therein.

Requesting Organization: **County of Riverside - Exclusive Care**  
Address: **P. O. Box 1508**  
**Riverside, California, 92502**  
Telephone: **(951) 955-0234**  
Fax: **(951) 955-3790**

**ATTEST:**  
Clerk to the Board  
Kecia Harper-Ihem

**COUNTY OF RIVERSIDE:**

By \_\_\_\_\_  
Deputy

By \_\_\_\_\_  
Chairman, Board of Supervisors  
Marion Ashley

Date \_\_\_\_\_

Date \_\_\_\_\_

Approved as to form and content:

Pamela J. Walls  
County Counsel

By: \_\_\_\_\_  
Deputy County Counsel

**CONTRACTOR:**  
**TMP Medical Listings,**  
**Division of TMP Directional Marketing, LLC**  
400 Perimeter Center Terraces, North Terraces, Suite 290  
Atlanta, GA 30346-1227  
Telephone: (800) 733-2267  
Fax: (770) 395-7456

By: David Coursey

Printed Name: David Coursey

Title: Agency Director

Date: June 17, 2010

Effective Date: 4/8/2010

Expiration Date: 4/8/2011

Account # 100779