



County Counsel
Risk Management Division
COUNTY OF TULARE
AGENDA ITEM

BOARD OF SUPERVISORS

KUYLER CROCKER
District One

PETE VANDER POEL
District Two

AMY SHUKLIAN
District Three

J. STEVEN WORTHLEY
District Four

MIKE ENNIS
District Five

AGENDA DATE: September 11, 2018

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
County Counsel Sign-Off	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>

CONTACT PERSON: Sandra Flores .PHONE: 559-636-4950

SUBJECT: Medical Malpractice Program Extended Participation Agreement

REQUESTS:

That the Board of Supervisors:

1. Authorize the County to participate in the California State Association of Counties-Excess Insurance Authority (CSAC-EIA) Extended Medical Malpractice Program and approve the Medical Malpractice Program Extended Participation Agreement with CSAC-EIA, effective October 1, 2018 through October 1, 2020, in an amount not to exceed \$507,000 for the 2018/2019 policy year, and not to exceed \$557,700 for the 2019/2020 policy year.
2. Authorize the Chairman to sign three copies of the Agreement with CSAC-EIA.

SUMMARY:

The County currently participates in the Medical Malpractice Program through CSAC-EIA. This program renews on October 1, 2018. This program offers comprehensive occurrence based coverage at reasonable cost. The program includes coverage for the County's medical malpractice exposure arising out of its employee providers, health facilities, clinic operations and contracted providers when specified by contract.

The 2017/2018 premium for this program was \$427,588 and it is anticipated that the premium for the 2018-2019 policy year will be between \$444,000 and \$507,000. The increase is partially a result of CSAC-EIA making changes to the allocation methodology to bring the allocation more in line with other casualty program allocations. In addition, there is a 5 to 20 percent increase in premium estimates. CSAC-EIA indicates that this estimate is for budgeting purposes and may vary well

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be reduced prior to the policy effective date.

The CSAC-EIA Medical Malpractice Committee approved the 2018/2019 renewal terms with Med Pro, on June 14, 2018, which included a flat renewal for 2018/2019 and a not-to-exceed 10% premium increase for the 2019/2020 policy year. The renewal terms require 2 year member commitments from at least 75% of the members, based on expiring premium volume, in order to receive the 10% premium increase cap for 2019/2020. If 75% of CSAC-EIA members do not agree to participate in the Medical Malpractice Program by January 1, 2019, the 2018/2019 rates will remain in place, but participating members will be released from the obligation to remain participants for the 2019/2020 policy year.

By entering into the Medical Malpractice Program Extended Participation Agreement and committing to participating in the program for two years, the County will gain an opportunity for premium savings through the 10% cap on premium increases for the 2019/2020 policy year.

This agreement substantively deviates from the standard County boilerplate agreement in that the term is multiple years.


FISCAL IMPACT/FINANCING:

Insurance program costs of up to \$507,000 for the 2018/2019 policy year are included in the 2018/2019 budget. Insurance program costs of up to \$557,700 for the 2019/2020 policy year will be included in the 2019/2020 budget. Participation in the CSAC-EIA Medical Malpractice Program will result in discounted premium rates, if approved.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Approval of this request contributes to the Strategic Initiative of Organizational Performance to continuously improve organizational effectiveness and fiscal stability.

ADMINISTRATIVE SIGN-OFF:



Susan L. Cox, Risk Manager

Cc: County Administrative Office

Attachments: Medical Malpractice Program Extended Participation Agreement
CSAC-EIA Medical Malpractice Committee Meeting Summary
approving 2018/2019 renewal

AFH/20181397/8/23/2018/1217356

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF MEDICAL MALPRACTICE PROGRAM EXTENDED PARTICIPATION AGREEMENT)))	Resolution No. _____ Agreement No. _____
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UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

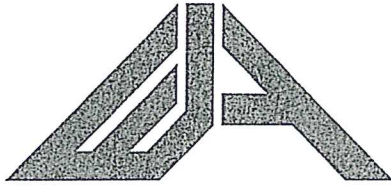
ATTEST: MICHAEL C. SPATA
 COUNTY ADMINISTRATIVE OFFICER/
 CLERK, BOARD OF SUPERVISORS

BY: _____
 Deputy Clerk

* * * * *

1. Authorized the County to participate in the California State Association of Counties-Excess Insurance Authority (CSAC-EIA) Extended Medical Malpractice Program and approve the Medical Malpractice Program Extended Participation Agreement with CSAC-EIA, effective October 1, 2018 through October 1, 2020, in an amount not to exceed \$507,000 for the 2018/2019 policy year, and not to exceed \$557,700 for the 2019/2020 policy year.

 2. Authorized the Chairman to sign three copies of the Agreement with CSAC-EIA.
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**CSAC Excess Insurance Authority
Medical Malpractice Program
Extended Participation Agreement**

This Extended Participation Agreement ("Agreement") is entered into by and between the CSAC-EIA ("EIA") and the participating members of the Medical Malpractice Program ("Program"), consisting of counties and other public entities ("Public Entity").

WHEREAS, on June 14, 2018, the EIA's Medical Malpractice Committee ("Committee") approved an extended participation requirement for participating members covering the period from October 1, 2018 to October 1, 2020 (two-years); and

WHEREAS, the Program's excess carrier, the Medical Protective Company (MedPro), has agreed to extend their coverage commitment to October 1, 2020 and have agreed to provide a flat premium for the October 1, 2018 renewal and not to exceed a 10% increase to the Program for the October 1, 2019 renewal contingent upon a minimum number of participating members comprising at least 75% of the premium base committing to remain in the Program for the two year period; and

WHEREAS, the Committee has approved a plan in which participating members will be given the choice of executing this Agreement in exchange for a flat 2018/19 premium for the Program and a limited premium increase to the Program for 2019/20.

NOW, THEREFORE, in consideration of the mutual promises and agreements made herein, the parties hereby agree as follows:

1. **Term of Agreement.** The term of this Agreement is two years beginning October 1, 2018 until October 1, 2020 and each participating member hereby agrees not to withdraw from this Agreement prior to October 1, 2020.
2. **Minimum Participation.** In order for the Program to receive the agreed premium considerations a certain minimum number of participating members has been agreed to by the Committee and MedPro. If an insufficient number of participating members execute this Agreement as set forth in paragraph 3, the Program will not receive the agreed flat premium for 2018/19 nor the 10% maximum premium increase for 2019/20. If the minimum participation is not met, individual participating members that executed this Agreement will be released from the terms of this Agreement and the 2018/19 and 2019/20 renewals will be subject to further negotiations.
3. **Time for Execution of Agreement.** Participating members shall have until January 1, 2019, to execute this Agreement.
4. **Future Commitments.** Participating members agree that the Committee may consider such two-year commitments in the future.

5. **Agreement and Amendment.** This Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations or agreements by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means.

10/1/2018
Dated

Michael P. H.
CSAC Excess Insurance Authority
Chief Executive Officer/Secretary

Dated

Authorized Representative
Of (Member Name): _____

Please Print Name: _____

APPROVED AS TO FORM:
COUNTY COUNSEL
BY [Signature]
DEPUTY (20181397)

CSAC EXCESS INSURANCE AUTHORITY
MEDICAL MALPRACTICE COMMITTEE

MEETING SUMMARY

CSAC Excess Insurance Authority
75 Iron Point Circle, Suite 200
Folsom, California 95630
916-850-7300

Thursday, June 14, 2018
10:30 a.m.
Fifth Meeting – 2018

Members Present

Sharon Hymes-Offord, Contra Costa County
Maria Boehne, Marin County – Alternate
Tanya Moreno, San Joaquin County
Lance Sposito, Santa Clara County
Kevin Watson, Stanislaus County – Alternate

Members Absent

Karen Caoile, Alameda County
Jim Kotey, Placer County
Lari Camarra, Riverside County
Ann Fremd, Tuolumne County

Renewal Business

- The Committee approved the 2018/19 renewal terms with Med Pro, which included a flat renewal for 2018/19 and a not-to-exceed 10% increase for 2019/20. The agreement requires a 2 year member commitment from at least 75% of the members, based on expiring premium volume.
- The Committee took action to approve circulating the proposed MOC revisions to the Program members. The proposed changes are largely focused in 3 areas: the definition of the established health care facility; the definition of a medical event; and the “other coverage” language has been revised to match up with intent.

General Business

- Kaweah Delta Health Care District was approved for membership in the Program, with SIR options of \$1M, \$2M, \$3M, and \$4M, effective July 1, 2018, subject to carrier approval, with nose coverage for their prior claims-made exposure, and coverage for the Kaweah Delta Medical Foundation as an additional non-profit.
- The Committee received an update regarding California Forensic Medical Group’s (CFMG) insurance limits. Staff and RMS are currently reaching out to members who contract with CFMG to get copies of their contracts and proof of insurance limits in an effort to eventually assist the members with the development of consistent risk transfer language that will be used in those contracts. A webinar will be set up between, RMS, EIA, and CFMG to listen to and address any concerns members may have regarding CFMG’s insurance limits.
- The Committee approved the request to reimburse Santa Barbara County’s county counsel fees and granted authority for their county counsel to continue handling the exposure for a specific claim that is being moved from the GL2 Program to the Medical Malpractice Program.

- The Committee received a recap of the 2018 Spring Retreat, which included information on 4 topics: National Expansion; Member Investment in the EIO; Actuarial Risk in the EIO; and the Reallocation of PE Broker Fees.
- The Committee received an update on the Member Services Department's recent activities, which include: Labor Law/Employment Practices Consultations now available to all EIA members; Traffic Control Regional Training Sessions; EAGLE Awards winners have been determined and will be announced at October Board of Directors meeting; and a Service Partners Tradeshow will be held in June 2019 in conjunction with the June Board of Directors meeting.

Next Meeting

The next regularly scheduled meeting will be held at the call of the Chair.