

BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Health
Department No.: 041
For Agenda Of: October 9, 2018
Placement: Administrative
Estimated Tme: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Van Do-Reynoso, MPH, PhD
Director Public Health Department
Contact Info: Dana Gamble, Assistant Deputy Director 681-5171

SUBJECT: Third Amendment to the Walgreens 340B Pharmacy Services Agreement

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Risk Management

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute a Third Amendment to the Walgreens Company 340B Pharmacy Services Agreement to incorporate a Business Associate Addendum (Attachment A).
- b) Approve, ratify, and authorize the Second Amendment to the Walgreens Company 340B Pharmacy Services Agreement dated June 15, 2015 to incorporate deletion of references to central inventory replenishment sites (Attachment B).
- c) Determine that these activities are exempt from California Environmental Quality Act review per CEQA Guideline Section 15378(b)(4), since this is a government fiscal activity that does not involve commitment to a specific project that may result in a potentially significant physical impact on the environment.

Summary Text:

This item is on the agenda to execute a Third Amendment to the Walgreens Company 340B Pharmacy Services Agreement to incorporate a Business Associate Addendum. The Third Amendment adds a Business Associate Addendum. Ratification of the Second Amendment is included to ensure it is incorporated as part of the Agreement. The Second Amendment removed central inventory replenishment sites since they were no longer being used.

Background:

This HIPAA Business Associate Addendum is made between the Public Health Department (PHD) as a Covered Entity and the Walgreens Company as a Business Associate (BA) that stipulates how Protected Health Information (PHI) can be used. This Addendum sets out the terms of permissible use based on the relationship between the parties and the activities or services being performed by the BA or sub-contractor. The Addendum stipulates that the BA will not use or disclose any PHI with which they come into contact other than as permitted by the Addendum, that the BA implements appropriate safeguards to prevent the unauthorized disclosure of PHI, and that the BA will advise the Covered Entity of any breaches of PHI.

Because of its Federally Qualified Health Center (FQHC) status, the PHD has the ability to participate in the Federal Section 340B Drug Discount program as a “covered entity.” As a covered entity, PHD is able to purchase certain drugs at the lowest market price made available in order to provide access to affordable medications for its patients. PHD has partnered successfully with Walgreens Company over the past several years at four Walgreens pharmacy locations in Santa Barbara County.

This Agreement with Walgreens generates approximately \$300,000 revenue annually with eligible patients under Medicare Part D coverage. These revenues are used to support and enhance medical and pharmaceutical services for FQHC patients. Revenues are also reinvested to provide for uncompensated care by serving the uninsured and underinsured patient populations as the safety net provider in Santa Barbara County. A business associate is a person or entity (other than a member of the covered entity’s workforce) that creates, receives, maintains, or transmits protected health information for a covered entity.

Mandates

PHD is mandated to provide access to medical care under Sections 330 (e) and 330 (h) of the Public Health Service Act which also establishes its Federally Qualified Health Center status. These pharmaceuticals are necessary in order for PHD to deliver the necessary medical care.

Performance Measure:

There are no performance measures currently associated with the 340B Contract Pharmacy Network. However, an extensive system of 340B claims adjudication, monitoring and auditing of 340B claims has been put into place to ensure capture of appropriate 340B claims and associated drug manufacturer discounts while concurrently ensuring compliance with complex 340B regulations.

Fiscal and Facilities Impacts:

Budgeted: Yes

Fiscal Analysis:

There are no fiscal impacts associated with the execution of the Third Amendment to the Walgreens Company 340B Pharmacy Services Agreement

Key Contract Risks:

Walgreens Company is self-insured for General and Professional Liability. Their self-insurance retention levels are \$2,000,000 per occurrence with a \$20 million annual aggregate deductible for products liability claims. Walgreens self-insurance is also backed by a commercial insurance company in the event of insolvency.

Special Instructions:

Please execute two (2) original Third Amendments to Walgreens Company 340B Pharmacy Services Agreement, and retain one (1) original Amendment and one (1) Minute Order for pick up by the department. Please email the PHD Contracts Unit at phdcu@sbcphd.org when available for pick up.

Attachments:

- A. Third Amendment to Walgreens 340B Pharmacy Service Agreement
- B. Second Amendment to Walgreens 340B Pharmacy Service Agreement
- C. First Amendment to Walgreens 340B Pharmacy Service Agreement
- D. Walgreens 340B Pharmacy Service Agreement

Authored by:

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