

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF SAN BERNARDINO COUNTY  
AND RECORD OF ACTION**

June 11, 2024

**FROM**

**ANDREW GOLDFRACH, ARMC Chief Executive Officer, Arrowhead Regional Medical Center**

**SUBJECT**

Approve Software as a Service Agreement with Clinician Nexus, Inc for Cloud Based Medical Student Scheduling and Management System

**RECOMMENDATION(S)**

Approve Software as a Service **Agreement No. 24-457** with Clinician Nexus, Inc., including non-standard terms, for a cloud based medical student scheduling and management system in the total contract amount of \$82,400 for a five-year period of July 1, 2024 through June 30, 2029 and may be renewed up to two additional 12 month terms.

(Presenter: Andrew Goldfrach, ARMC Chief Executive Officer, 580-6150)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Provide for the Safety, Health and Social Service Needs of County Residents.**

**FINANCIAL IMPACT**

Approval of the item will not result in the use of Discretionary General Funding (Net County Cost). The cost of \$82,400 is funded by State Medi-Cal, Federal Medicare, private insurances, and other departmental revenue. Funding sources may change in the future pending any legislative activity related to the repeal and/or replacement of the Affordable Care Act. Adequate appropriation and revenue have been included in the Arrowhead Regional Medical Center (ARMC) 2024-25 recommended budget and will be included in the future recommended budgets.

**BACKGROUND INFORMATION**

This Agreement for Software as a Service (SaaS) with Clinician Nexus, Inc. (CNI) will provide ARMC with a cloud based medical student scheduling and management system. Currently, there is approximately 650 medical students annually, manually tracked on an Excel schedule for clinical rotations. The current system is not conducive to the large number of rotations offered at ARMC.

ARMC is a university-affiliated teaching health care facility offering residency and fellowship programs throughout the county and is committed to training the next generation of physicians in the latest evidence-based treatment techniques. Over 1,500 clinical rotations are offered to medical students at ARMC.

The CNI SaaS Agreement is CNI's standard commercial contract, which include terms that different from the standard County contract and omits certain County standard contract terms.

**Approve Software as a Service Agreement with Clinician Nexus, Inc for  
Cloud Based Medical Student Scheduling and Management System  
June 11, 2024**

While the parties negotiated certain contract terms of County standards, CNI would not agree to all County standard terms. The non-standard and missing terms include the following:

1. Governing law is either the State of New York or Delaware.
  - The County standard contract requires California governing law.
  - Potential Impact: The Agreement will be interpreted under either New York or Delaware State law. Any questions, issues or claims arising under this Agreement will require the County to hire outside counsel competent to advise on New York or Delaware law, depending on where the dispute is brought, which may result in fees that exceed the total Agreement amount.
2. CNI can assign the contract without notice to the County and without the County's approval in connection with a merger, change of control, consolidation or reorganization.
  - The County standard contract requires that the County must approve any assignment of the contract.
  - Potential Impact: CNI could assign the Agreement to a third party or business with which the County is legally prohibited from doing business due to issues of Federal debarment or suspension and conflict of interest, without the County's knowledge. Should this occur, the County could be out of compliance with the law until it becomes aware of the assignment and terminates the Agreement. County Counsel cannot advise on whether and to what extent New York or Delaware law may permit or restrict a party's right to assign without an express provision in the Agreement.
3. There is no provision in the Agreement addressing each party's responsibility for paying attorneys' fees.
  - The County standard contract requires each party to bear its own costs and attorney fees, regardless of who is the prevailing party.
  - Potential Impact: County Counsel cannot advise on, whether and to what extent, New York or Delaware law may affect a party's requirement to pay the prevailing party's attorneys' fees and costs in a legal action where no specific provision is provided in the Agreement.
4. The County is required to indemnify CNI against claims alleging that County information or any other information or materials provided to the service or Clinician Nexus infringe a third-party's intellectual property rights, privacy, publicity or other proprietary rights.
  - The County standard contract does not include any indemnification or defense by the County of a contractor.
  - Potential Impact: By agreeing to indemnify CNI, the County could be contractually waiving the protection of sovereign immunity. Claims that may otherwise be barred against the County, time limited, or expense limited could be brought against CNI without such limitations and the County could be responsible to defend and reimburse CNI for costs, expenses, and damages, which could exceed the total Agreement amount. County Counsel cannot advise on, whether and to what extent, New York or Delaware law may limit or expand this Agreement term.
5. CNI's maximum aggregate liability to the County is limited to two times the fees received by CNI in the twelve months preceding the event giving rise to the claim, excluding indemnification, gross negligence and willful misconduct.

**Approve Software as a Service Agreement with Clinician Nexus, Inc for  
Cloud Based Medical Student Scheduling and Management System  
June 11, 2024**

- The County standard contract does not include a limitation of liability.
- Potential Impact: Claims could exceed the liability cap and the Agreement amount leaving the County financially liable for the excess. County Counsel cannot advise on, whether and to what extent, New York or Delaware law may limit or expand the exclusion of limits to the extent prohibited by applicable law.

ARMC recommends approval of the agreement, including non-standard terms, to allow ARMC to implement the Clinician Nexus Application to streamline the scheduling process and improve medical student operations.

**PROCUREMENT**

Purchasing supports this non-competitive procurement based on specialized product and expertise for the management of medical student rotations and evaluation management. Clinician Nexus' scheduling software is designed to manage high volumes of students. Clinician Nexus also has undergraduate medical education training experience.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Bonnie Uphold, Supervising Deputy County Counsel, 387-5455) on April 4, 2024; Purchasing (Veronica Pedace, Buyer III, 387-2464) on April 5, 2024; Risk Management (Loretta Acuna, Staff Analyst II 386-9039) on April 5, 2024; ARMC Finance (Chen Wu, Finance and Budget Officer, 580-3165) on May 17, 2024; Finance (Jenny Yang, Administrative Analyst, 387-4884) on May 22, 2024; and County Finance and Administration (Valerie Clay, Deputy Executive Officer, 387- 5423) on May 22, 2024.

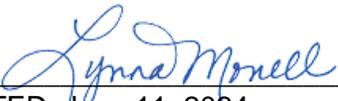
**Approve Software as a Service Agreement with Clinician Nexus, Inc for  
Cloud Based Medical Student Scheduling and Management System  
June 11, 2024**

Record of Action of the Board of Supervisors  
San Bernardino County

**APPROVED (CONSENT CALENDAR)**

Moved: Joe Baca, Jr. Seconded: Curt Hagman  
Ayes: Col. Paul Cook (Ret.), Jesse Armendarez, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: June 11, 2024



cc: ARMC - Goldfrach w/agree  
Contractor - c/o ARMC w/agree  
File - w/agree  
CCM 06/12/2024