

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

November 5, 2019

**FROM**

**TRUDY RAYMUNDO, Director, Department of Public Health**

**SUBJECT**

Agreement with UpToDate, Inc. for a Subscription to UpToDate Anywhere

**RECOMMENDATION(S)**

Approve a Subscription **Agreement No. 19-732** with UpToDate, Inc. for use of UpToDate Anywhere, an evidence-based, physician-authored clinical decision support resource, in the amount of \$9,085, for the one-year period of December 1, 2019 through November 30, 2020. (Presenter: Trudy Raymundo, Director, 387-9146)

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

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

**Pursue County Goals and Objectives by Working with Other Agencies.**

**FINANCIAL IMPACT**

This item does not impact Discretionary General Funding (Net County Cost). The cost of this subscription is funded by fee-for-service Medi-Cal, Managed Care Medi-Cal, private insurance, and sliding fee scale clients. Adequate appropriation and revenue have been included in the Department of Public Health's (DPH) 2019-20 budget and will be included in the 2020-21 recommended budget.

**BACKGROUND INFORMATION**

The recommended agreement with UpToDate, Inc. (UTD) will enable medical providers within the DPH Federally Qualified Health Centers (FQHCs) and Public Health Clinics to utilize UpToDate Anywhere, an evidence-based, physician-authored clinical decision support resource. More than 6,300 world-renowned physician authors, editors, and peer reviewers synthesize the most recent medical information into trusted, evidence-based recommendations that are proven to improve patient care, quality, and outcomes. UpToDate Anywhere will provide the DPH medical providers with access to more than 11,600 topics in 25 specialties, which are continuously updated and reviewed by leading experts. This resource will provide the clinicians with current evidence-based clinical guidelines, standards of care, and standards of practice in the provision of health center services.

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UTD's Subscription and License Terms are its standard commercial terms, as negotiated by the County, which contains terms that differ from the standard County contract. The non-standard terms include the following:

1. No termination for convenience.
  - The County standard contract includes the ability for the County to terminate the contract without cause by serving a written notice to the Contractor thirty (30) days in advance of termination.
2. Limitations of Liability limits all claims to the fees paid in the 12 months preceding the claim, but excludes indemnity obligations.
  - The County standard contract does not include a limitation of liability.
3. The agreement does not require UTD to meet the County insurance standards.
  - The County standard contract requires Contractors to carry appropriate insurance at limits under conditions determined by the County's Risk Management Department.
4. Jurisdiction is within the State of California.
  - The County standard contract requires the parties to agree to the exclusive jurisdiction of the state court located in the County of San Bernardino, for any and all disputes arising under the contract.

Potential impacts of these non-standard provisions include:

1. UTD caps its liability to the County at the fees paid in the 12 months preceding the claim for all claims arising under the contract except for its indemnity obligations. Claims could exceed the liability cap and the contract amount leaving the County financially liable for the excess.
2. The agreement does not include certain standard County insurance requirements, including the waiver of subrogation provision. This may allow UTD's insurer to bring suit against the County, which could result in expenses that exceed the total contract amount.
3. Jurisdiction is the State of California. This means that UTD could bring suit anywhere within the State, which may result in additional expenses that exceed the amount of the contract.

DPH recommends approval of the contract with UTD, including the non-standard terms, and it is to the County's benefit to have access to medical resources quickly in order to provide standard medical care that meets current evidence-based clinical guidelines, standards of care, and standards of practice in the provision of health center services to patients seen in the Federally Qualified Health Centers and Public Health Clinics. Based on review, UTD meets this standard uniformly for primary care providers who serve children, adolescents and adults.

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**PROCUREMENT**

UpToDate, Inc. was selected due to it being the only clinical decision support resource associated with improved outcomes. UTD is unmatched in depth and breadth of content: more than 11,000 topics in 25 specialties, continually updated and reviewed by leading experts. UTD helps clinics and providers meet rigorous quality standards. It is the clinical decision support service currently used by the County's Arrowhead Regional Medical Center. Purchasing concurs with the non-competitive justification based on the specialized expertise provided by UTD.

**REVIEW BY OTHERS**

This item has been reviewed by Human Services Contracts (Jennifer Mulhall-Daudel, Contracts Manager, 388-0241) on October 15, 2019; County Counsel (Bonnie Uphold, Deputy County Counsel, 387-5455) on October 15, 2019; Purchasing (Michelle Churchill, Supervising Buyer, 387-2070) on October 21, 2019; Finance (Paul Garcia, Administrative Analyst, 386-8392) on October 18, 2019; and County Finance and Administration (Tanya Bratton, Deputy Executive Officer, 388-0332) on October 17, 2019.

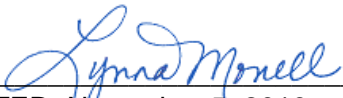
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Record of Action of the Board of Supervisors  
County of San Bernardino

**APPROVED (CONSENT CALENDAR)**

Moved: Robert A. Lovingood Seconded: Janice Rutherford  
Ayes: Robert A. Lovingood, Janice Rutherford, Dawn Rowe, Curt Hagman, Josie Gonzales

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: November 5, 2019



cc: PH- Greswit w/agree  
Contractor- C/O PH w/agree  
File- w/agree  
la 11/8/2019