



## **AGENDA**

### **KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS**

**Kern Medical Center  
1700 Mount Vernon Avenue  
Bakersfield, California 93306**

Regular Meeting  
Wednesday, June 15, 2022

11:30 A.M.

#### **BOARD TO RECONVENE**

Board Members: Alsop, Berjis, Bigler, Brar, Kitchen, McLaughlin, Pelz  
Roll Call:

CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT: ALL ITEMS LISTED WITH A "CA" ARE CONSIDERED TO BE ROUTINE AND NON-CONTROVERSIAL BY KERN COUNTY HOSPITAL AUTHORITY STAFF. THE "CA" REPRESENTS THE CONSENT AGENDA. CONSENT ITEMS WILL BE CONSIDERED FIRST AND MAY BE APPROVED BY ONE MOTION IF NO MEMBER OF THE BOARD OR AUDIENCE WISHES TO COMMENT OR ASK QUESTIONS. IF COMMENT OR DISCUSSION IS DESIRED BY ANYONE, THE ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND WILL BE CONSIDERED IN LISTED SEQUENCE WITH AN OPPORTUNITY FOR ANY MEMBER OF THE PUBLIC TO ADDRESS THE BOARD CONCERNING THE ITEM BEFORE ACTION IS TAKEN.

STAFF RECOMMENDATION SHOWN IN CAPS



PUBLIC PRESENTATIONS

- 1) This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. In addition, the Board may take action to direct the staff to place a matter of business on a future agenda. SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE AND SPELL YOUR NAME BEFORE MAKING YOUR PRESENTATION. THANK YOU!

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

- 2) On their own initiative, Board members may make an announcement or a report on their own activities. They may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Government Code section 54954.2(a)(2)) –

RECOGNITION

- 3) Presentation by the Chief Executive Officer recognizing Garth “Jon” Olango, M.D., for his outstanding leadership and service as President of Staff of the Medical Staff of Kern Medical Center from July 1, 2020 through June 30, 2022 –  
MAKE PRESENTATION

ITEMS FOR CONSIDERATION

CA

- 4) Proposed Resolution in the matter of making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings –  
APPROVE; ADOPT RESOLUTION

CA

- 5) Minutes for the Kern County Hospital Authority Board of Governors regular meeting on May 18, 2022 –  
APPROVE

CA

- 6) Proposed acceptance of donation from Safety National and MedPro for travel and related expenses for one Kern Medical Center employee to attend the American Society for Health Care Risk Management “ASHRM Express 2022” in Chicago, Illinois, from July 11-12, 2022 –  
APPROVE; ADOPT RESOLUTION

CA

- 7) Proposed Amendment No. 3 to Agreement 06816 with Health Advocates, LLC, an independent contractor, for accounts receivable and financial services for the period July 1, 2016 through June 30, 2022, extending the term for 90 days from July 1, 2020 through September 30, 2022, and increasing the maximum payable by \$1,050,000, from \$14,800,000 to \$15,850,000, to cover the extended term –  
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 8) Proposed Agreement with Michael J. Eagan, M.D., a contract employee, for professional medical services in the Department of Surgery from June 24, 2022 through June 23, 2025, in an amount not to exceed \$3,300,000, plus applicable benefits –  
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 9) Proposed Amendment No. 2 to Agreement 871-2015 with Shahab Hillyer, M.D., a contract employee, for professional services in the Department of Surgery, for the period January 1, 2016 through December 31, 2025, adding compensation for dual hospital coverage and services as Chief, Division of Urology, and increasing the maximum payable by \$667,200, from \$7,974,358 to \$8,641,558, to cover the term –  
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 10) Proposed Agreement with Wong Moon, M.D., a contract employee, for professional medical services in the Department of Surgery from August 20, 2022 through August 19, 2025, in an amount not to exceed \$2,740,625, plus applicable benefits –  
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 11) Proposed Amendment No. 1 to Agreement 032-2019 with M. Brandon Freeman, M.D., a contract employee, for professional services in the Department of Surgery, for the period July 17, 2019 through July 16, 2022, extending the term for 90 days from July 17, 2022 through October 21, 2022, and increasing the maximum payable by \$150,000, from \$1,800,000 to \$1,950,000, to cover the extended term –  
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 12) Proposed Amendment No. 4 to Agreement 529-2018 with County of Kern, as represented by the Kern County Sheriff's Office – Coroner Section, for morgue and autopsy services, for the period July 1, 2018 through June 30, 2022, extending the term for one year from July 1, 2022 through June 30, 2023, and increasing the maximum payable by \$80,000, from \$200,000 to \$280,000, to cover the extended term –  
APPROVE; AUTHORIZE CHAIRMAN TO SIGN

CA

- 13) Proposed renewal and binding of insurance coverages for hospital professional liability, general liability and umbrella/excess liability, workers' compensation and employers liability, automobile liability, heliport and non-owned aircraft liability, directors and officers liability, employment practices liability, healthcare regulatory liability, crime, privacy and security (cyber) liability, premises pollution liability, underground storage tank liability, employed lawyers professional liability, and fiduciary liability from July 1, 2022 through June 30, 2023, with option to finance selected premiums through PRISM and BankDirect Capital Finance in an amount not to exceed \$1,826,850 –  
APPROVE; AUTHORIZE CHIEF EXECUTIVE OFFICER TO SIGN COMMERCIAL INSURANCE PREMIUM FINANCE AND SECURITY AGREEMENT

CA

- 14) Proposed Sales Order (OPT-0297289) with Cerner Corporation, an independent contractor, containing nonstandard terms and conditions, for purchase of the Cerner/Tonic Patient Intake Solution, for a term of 66 months, effective June 15, 2022, in an amount not to exceed \$879,978

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APPROVE; AUTHORIZE CHAIRMAN TO SIGN

- 15) Report on the status of Cerner Electronic Health Record implementation –  
RECEIVE AND FILE

- 16) Kern County Hospital Authority Chief Financial Officer report –  
RECEIVE AND FILE

- 17) Kern County Hospital Authority Chief Executive Officer report –  
RECEIVE AND FILE

CA

- 18) Claims and Lawsuits Filed as of May 31, 2022 –  
RECEIVE AND FILE

ADJOURN TO CLOSED SESSION

CLOSED SESSION

- 19) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –

- 20) Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) –

- 21) CONFERENCE WITH LEGAL COUNSEL – FORMALLY INITIATED LITIGATION  
(Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D., et al. v. County of Kern, et al., Kern County Superior Court Case No. BCV-15-100647 –

- 22) CONFERENCE WITH LEGAL COUNSEL – FORMALLY INITIATED LITIGATION  
(Government Code Section 54956.9(d)(1)) Name of case: Kern County Hospital Authority, a Governmental entity v. California Department of Corrections and Rehabilitation, et al., Kern County Superior Court Case No. BCV-20-102979 DRL –

- 23) CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6)

RECONVENE FROM CLOSED SESSION

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

ADJOURN TO WEDNESDAY, JULY 20, 2022 AT 11:30 A.M.

### **SUPPORTING DOCUMENTATION FOR AGENDA ITEMS**

All agenda item supporting documentation is available for public review at Kern Medical Center in the Administration Department, 1700 Mount Vernon Avenue, Bakersfield, 93306 during regular business hours, 8:00 a.m. – 5:00 p.m., Monday through Friday, following the posting of the agenda. Any supporting documentation that relates to an agenda item for an open session of any regular meeting that is distributed after the agenda is posted and prior to the meeting will also be available for review at the same location.

### **AMERICANS WITH DISABILITIES ACT (Government Code Section 54953.2)**

The Kern Medical Center Conference Room is accessible to persons with disabilities. Disabled individuals who need special assistance to attend or participate in a meeting of the Kern County Hospital Authority Board of Governors may request assistance at Kern Medical Center in the Administration Department, 1700 Mount Vernon Avenue, Bakersfield, California, or by calling (661) 326-2102. Every effort will be made to reasonably accommodate individuals with disabilities by making meeting material available in alternative formats. Requests for assistance should be made five (5) working days in advance of a meeting whenever possible.

18) CLAIMS AND LAWSUITS FILED AS OF MAY 31, 2021 –  
RECEIVE AND FILE

- A) Service Employees International Union, Local 521, Charging Party v. Kern County Hospital Authority, Respondent, Unfair Practice Charge No. LA-CE-1580-M
- B) Claim in the matter of James Willard Rosbrugh



**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Proposed Resolution in the matter of making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings

**Recommended Action:** Approve; Adopt Resolution

**Summary:**

On March 17, 2020 Governor Newsom issued Executive Order N-29-20 due to the COVID-19 pandemic. These orders specified relaxed provisions of meetings under the Ralph M. Brown Act (California's open meeting law; "Brown Act") allowing meetings to be conducted through teleconferencing. Executive Order N-29-20 expired on September 30, 2021. In response, on September 16, 2021, Governor Newsom signed Assembly Bill (AB) 361, which amends Government Code Section 54953 clarifying the Brown Act regulations and restrictions relating to the use of teleconferencing to conduct public meetings.

**Discussion:**

Currently the Brown Act states that should a legislative body elect to use teleconferencing it must identify each teleconferencing location in the public notice and agenda. The agenda is required to be posted at all teleconferencing locations and all locations must be publicly accessible. Additionally, a quorum of the members of the legislative body must participate from a teleconferencing location that is physically within the jurisdictional boundaries of the public agency.

Governor Newsom issued Executive Order N-29-20 suspending the Brown Act requirements due to the COVID-19 pandemic with the intention of facilitating social distancing and the mitigation of COVID-19. The Executive Order expired on September 30, 2021. In response on September 16, 2021 Governor Newsom signed AB 361 to replace the expired Executive Order.

Similar to Executive Order N-29-20, AB 361 applies during a State of Emergency proclaimed by the Governor. In addition to the State of Emergency, one of the following conditions must apply:

- State or local officials have impose or recommended measures to promote social distancing,
- The legislative body is meeting to determine whether, because of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or
- The legislative body has determined that, because of the emergency, meeting in person presents imminent risks to the health or safety of attendees.

If the prerequisites mentioned above are met AB 361 provides an exemption to the regular Brown Act teleconferencing requirements and an alternate set of requirements will apply. Those requirements include:

- Adequate notice of the meeting and posting an agenda as required by the Brown Act;
- The agenda is not required to list each teleconference location or be physically posted at each teleconference location;
- If there is a disruption in the public broadcast or the call-in or internet-based meeting service, the legislative body must cease and take no further action on agenda items until public access is restored; and
- Local agencies cannot require that public comment be submitted prior to the meeting, and must allow for live public comment during the specified public comment period of the meeting.

AB 361 sunsets on January 1, 2024. If your Board determines that it is in the best interest of public health and safety to continue to hold virtual public meetings, continued reliance will require your Board to reevaluate and adopt a new resolution every 30 days.

Therefore, it is recommended that your Board adopt the attached Resolution.



**BEFORE THE BOARD OF GOVERNORS  
OF THE KERN COUNTY HOSPITAL AUTHORITY**

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In the matter of:

Resolution No. 2022-\_\_\_\_

**MAKING FINDINGS PURSUANT TO  
GOVERNMENT CODE SECTION 54953, AS  
AMENDED BY ASSEMBLY BILL 361, AND  
AUTHORIZING THE CONTINUED USE OF  
VIRTUAL MEETINGS**

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I, MONA A. ALLEN, Authority Board Coordinator for the Kern County Hospital Authority, hereby certify that the following Resolution, on motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, was duly and regularly adopted by the Board of Governors of the Kern County Hospital Authority at an official meeting thereof on the 15th day of June, 2022, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

**MONA A. ALLEN**  
Authority Board Coordinator  
Kern County Hospital Authority

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Mona A. Allen

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**RESOLUTION**

Section 1. WHEREAS:

(a) As a result of the COVID-19 pandemic, Governor Newsom issued Executive Order Nos. N-08-21, N-25-20 and N-29-20, which suspended certain provisions of the Ralph M. Brown Act to allow legislative bodies to conduct public meetings without strict compliance with the teleconferencing provisions of the Brown Act; and

(b) Assembly Bill 361, signed into law on September 16, 2021, amended Government Code section 54953, effective October 1, 2021, to provide relief from the teleconferencing provisions of the Brown Act under certain circumstances provided the legislative body makes certain findings; and

(c) As a result of the COVID-19 pandemic, the Governor proclaimed a state of emergency on March 4, 2020, in accordance with section 8625 of the California Emergency Services Act, and the state of emergency remains in effect; and

(d) As a result of the COVID-19 pandemic, the California Department of Public Health and County of Kern Public Health Services continue to recommend measures to promote social distancing.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Governors of the Kern County Hospital Authority, as follows:

1. This Board finds the facts recited herein are true, and further finds that this Board has jurisdiction to consider, approve, and adopt the subject of this Resolution.

2. This Board hereby finds that the state of emergency continues to directly impact the ability of the members of the Board of Governors to meet safely in person, and further that state and local officials continue to impose or recommend measures to promote social distancing.

3. This Board hereby authorizes the Board of Governors to continue to conduct public meetings in accordance with Government Code section 54953, as amended by Assembly Bill 361.

4. This Resolution will be in effect during the period in which state or local public officials impose or recommend measures to promote social distancing.

5. This Resolution shall take effect immediately upon its adoption and remain in effect until July 20, 2022.

6. This Board shall reevaluate the above findings on July 20, 2022, and every 30 days thereafter.

7. Resolution No. 2022-008, adopted by the Board of Governors on May 18, 2022, is hereby repealed and superseded by this Resolution.

8. This Board hereby directs staff to take all actions necessary to carry out the intent and purpose of this Resolution.

9. The Authority Board Coordinator shall provide copies of this Resolution to the following:

Members, Board of Governors  
Chief Executive Officer  
Legal Services Department



## **SUMMARY OF PROCEEDINGS**

### **KERN COUNTY HOSPITAL AUTHORITY BOARD OF GOVERNORS**

**Kern Medical Center  
1700 Mount Vernon Avenue  
Bakersfield, California 93306**

Regular Meeting  
Wednesday, May 18, 2022

11:30 A.M.

#### BOARD RECONVENED

Board Members: Alsop, Berjis, Bigler, Brar, Kitchen, McLaughlin, Pelz  
Roll Call: 5 Present; 2 Absent - Kitchen, McLaughlin

NOTE: The vote is displayed in bold below each item. For example, Alsop-McLaughlin denotes Director Alsop made the motion and Director McLaughlin seconded the motion.

CONSENT AGENDA/OPPORTUNITY FOR PUBLIC COMMENT: ALL ITEMS LISTED WITH A "CA" ARE CONSIDERED TO BE ROUTINE AND APPROVED BY ONE MOTION.

#### BOARD ACTION SHOWN IN CAPS

NOTE: DIRECTOR MCLAUGHLIN JOINED THE MEETING AFTER THE VOTE ON THE CONSENT AGENDA

#### PUBLIC PRESENTATIONS

- 1) This portion of the meeting is reserved for persons to address the Board on any matter not on this agenda but under the jurisdiction of the Board. Board members may respond briefly to statements made or questions posed. They may ask a question for clarification, make a referral to staff for factual information or request staff to report back to the Board at a later meeting. In addition, the Board may take action to direct the staff to place a matter of business on a future agenda. **SPEAKERS ARE LIMITED TO TWO MINUTES. PLEASE STATE AND SPELL YOUR NAME BEFORE MAKING YOUR PRESENTATION. THANK YOU!**

**JOSE OROZCO HEARD REGARDING SEIU, LOCAL 521 CONTRACT NEGOTIATIONS**

BOARD MEMBER ANNOUNCEMENTS OR REPORTS

- 2) On their own initiative, Board members may make an announcement or a report on their own activities. They may ask a question for clarification, make a referral to staff or take action to have staff place a matter of business on a future agenda (Government Code section 54954.2(a)(2)) –

**DIRECTOR BERJIS REPORTED ON THE UPCOMING THIRD ANNUAL SOUTHERN SAN JOAQUIN VALLEY RESEARCH FORUM ON THURSDAY, MAY 26, 2022 TO BE HELD AT BAKERSFIELD COLLEGE IN THE RENEGADE ROOM**

**CHAIRMAN BIGLER CONGRATULATED KERN MEDICAL CENTER REGISTERD NURSE RICO REYNOLDS ON HIS RECEIPT OF THE CSUB 2022 PRESIDENT’S MEDAL FOR OUTSTANDING GRADUATE**

RECOGNITION

- 3) Presentation by the Chief Executive Officer recognizing Norka Quillatupa, M.D., upon her receipt of the 2022 Outstanding Junior Clinician Educator of the Year Award from the American Geriatric Society –  
CHIEF EXECUTIVE OFFICER SCOTT THYGERSON MADE PRESENTATION
- 4) Presentation by the Chief Executive Officer recognizing the Oncology Service staff at Kern Medical Center for their contribution to community outreach –  
CHIEF EXECUTIVE OFFICER SCOTT THYGERSON MADE PRESENTATION; CHAIRMAN BIGLER EXPRESSED HIS APPRECIATION TO STAFF

ITEMS FOR CONSIDERATION

- CA  
5) Proposed Resolution in the matter of making findings pursuant to Government Code Section 54953, as amended by Assembly Bill 361, and authorizing the continued use of virtual meetings –  
APPROVED; ADOPTED RESOLUTION 2022-008  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**
- CA  
6) Minutes for the Kern County Hospital Authority Board of Governors regular meeting on April 20, 2022 –  
APPROVED  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**
- CA  
7) Proposed retroactive acceptance of donation from California Health Collaborative for travel and related expenses for one Kern Medical Center employee to attend the “2nd Annual Central Valley Lactation Conference” in Madera, California, on April 29, 2022 –  
APPROVED; ADOPTED RESOLUTION 2022-009  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**

CA

- 8) Proposed Agreement with Najib Ussef, M.D, a contract employee, for professional medical services in the Department of Surgery from August 20, 2022 through August 19, 2025, in an amount not to exceed \$2,777,500, plus applicable benefits –  
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 058-2022 SUBJECT TO APPROVAL AS TO FORM BY COUNSEL  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**

CA

- 9) Proposed retroactive Amendment No. 1 to Agreement 38519 for Personal/Professional Services with Tel-Tec Security System, Inc., an independent contractor, for badging and access control services, for the period May 9, 2019 through May 8, 2022, extending the term for three years from May 9, 2022 through May 8, 2025 –  
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 059-2022  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**

CA

- 10) Proposed Amendment No. 4 to Agreement 2016-041 with the County of Kern, as represented by the Administrative Office, Kern County Sheriff's Office, and Kern County Probation Department, for the provision of correctional medicine services to in-custody inmates and juvenile wards, for the period July 1, 2016 through June 30, 2022, extending the term for one year from July 1, 2022 through June 30, 2023 –  
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 060-2022  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**

CA

- 11) Proposed Injector Placement Agreement with Bracco Diagnostics, Inc., an independent contractor, containing nonstandard terms and conditions, for use of CT contrast injector equipment and software from May 18, 2022 through May 17, 2030, in an amount not to exceed \$8,100 –  
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 061-2022  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**

CA

- 12) Proposed Equipment Usage Agreement with Gen-Probe Sales and Service, Inc., an independent contractor, containing nonstandard terms and conditions, for purchase of assay processing device and test kits from May 18, 2022 through May 17, 2027, in an amount not to exceed \$1,400,000 –  
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 062-2022  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**

CA

- 13) Proposed Service Agreement with Healthfuse, LLC, an independent contractor, containing nonstandard terms and conditions, for revenue cycle performance management from June 1, 2022 through May 31, 2025, in an amount estimated not to exceed \$1,723,404 –  
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 063-2022  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**

CA

- 14) Proposed Material Transfer Agreement with University of Arkansas, Fayetteville, an independent contractor, containing nonstandard terms and conditions, for the transfer of specimens for use in the development of Valley Fever diagnostics, effective May 18, 2022 and continuing through the length of the study –  
APPROVED; AUTHORIZED CHAIRMAN TO SIGN AGREEMENT 064-2022; AUTHORIZED CHIEF EXECUTIVE OFFICER TO SIGN RELATED DOCUMENTS IN SUPPORT OF THE STUDY SUBJECT TO APPROVAL AS TO FORM BY COUNSEL  
**Pelz- Berjis: 5 Ayes; 2 Absent - Kitchen, McLaughlin**
- 15) Proposed Kern County Hospital Authority operating and capital budget for Fiscal Year 2022-2023 –  
CHIEF FINANCIAL OFFICER ANDREW CANTU, DIRECTORS BERJIS AND MCLAUGHLIN, AND CHIEF EXECUTIVE OFFICER SCOTT THYGERSON HEARD; APPROVED; REFERRED TO KERN COUNTY BOARD OF SUPERVISORS FOR APPROVAL  
**Berjis-Pelz; 6 Ayes 1 Absent - Kitchen**

NOTE: DIRECTOR BRAR LEFT THE MEETING PRIOR TO THE VOTE ON ITEM 16

- 16) Kern County Hospital Authority Chief Financial Officer report –  
CHIEF FINANCIAL OFFICER ANDREW CANTU, DIRECTORS BERJIS AND MCLAUGHLIN, AND CHIEF EXECUTIVE OFFICER SCOTT THYGERSON HEARD; RECEIVED AND FILED  
**Pelz-McLaughlin; 5 Ayes; 2 Absent - Brar, Kitchen**
- 17) Kern County Hospital Authority Chief Executive Officer report –  
CHIEF EXECUTIVE OFFICER SCOTT THYGERSON AND DIRECTOR BERJIS HEARD; RECEIVED AND FILED  
**Berjis-McLaughlin; 5 Ayes; 2 Absent - Brar, Kitchen**

CA

- 18) Claims and Lawsuits Filed as of April 30, 2022 –  
RECEIVED AND FILED  
**Berjis-Pelz: 5 Ayes; 2 Absent - Kitchen, McLaughlin**

ADJOURNED TO CLOSED SESSION

**Pelz-McLaughlin**

CLOSED SESSION

- 19) Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – SEE RESULTS BELOW
- 20) CONFERENCE WITH LEGAL COUNSEL – FORMALLY INITIATED LITIGATION  
(Government Code Section 54956.9(d)(1)) Name of case: Alizae Bagsby, a minor, by and through her guardian ad litem, Abigail Bagsby v. Kenneth Hutchins, P.A., an individual; Kern County Hospital Authority, a governmental entity; and DOES 1 through 10, inclusive, Kern County Superior Court Case No. BCV-20-102566 TSC – SEE RESULTS BELOW

RECONVENED FROM CLOSED SESSION

**McLaughlin-Pelz**

REPORT ON ACTIONS TAKEN IN CLOSED SESSION

Item No. 19 concerning Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) – HEARD; BY A UNANIMOUS VOTE OF THOSE DIRECTORS PRESENT (MOTION BY DIRECTOR BERJIS, SECOND BY DIRECTOR PELZ; 2 ABSENT - DIRECTORS BRAR AND KITCHEN), THE BOARD APPROVED ALL PRACTITIONERS RECOMMENDED FOR INITIAL APPOINTMENT, REAPPOINTMENT, REVIEW/RELEASE OF PROCTORING; AND VOLUNTARY RESIGNATION OF PRIVILEGES; NO OTHER REPORTABLE ACTION TAKEN

Item No. 20 concerning CONFERENCE WITH LEGAL COUNSEL – FORMALLY INITIATED LITIGATION (Government Code Section 54956.9(d)(1)) Name of case: Alizae Bagsby, a minor, by and through her guardian ad litem, Abigail Bagsby v. Kenneth Hutchins, P.A., an individual; Kern County Hospital Authority, a governmental entity; and DOES 1 through 10, inclusive, Kern County Superior Court Case No. BCV-20-102566 TSC – HEARD; NO REPORTABLE ACTION TAKEN

ADJOURNED TO WEDNESDAY, JUNE 15, 2022 AT 11:30 A.M.

**McLaughlin**

/s/ Mona A. Allen  
Authority Board Coordinator

/s/ Russell E. Bigler  
Chairman, Board of Governors  
Kern County Hospital Authority





**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Proposed acceptance of donation of travel and related expenses from Safety National and MedPro for ASHRM Express 2022

**Recommended Action:** Approve; Adopt Resolution

**Summary:**

The Authority's conflict of interest policy prohibits employees from receiving or accepting money or any other consideration from anyone other than the Authority for the performance of an act which the employee would be required or expected to render in the regular course of his or her employment.

Safety National covers the Authority's workers' compensation program; MedPro provides Hospital Professional Excess Liability insurance to the Authority. Safety National and MedPro have offered to donate to the Authority all travel and related expenses for one Kern Medical employee to attend ASHRM Express 2022, sponsored by the American Society for Health Care Risk Management, in Chicago, Illinois, from July 11-12, 2022. This training session is necessary in connection with official Authority business.

Kern Medical recommends your Board adopt the attached proposed resolution to accept the travel donation from Safety National and MedPro for travel and related expenses and authorize the Chief Executive Officer to designate one employee to attend this important conference.

**BEFORE THE BOARD OF GOVERNORS  
OF THE KERN COUNTY HOSPITAL AUTHORITY**

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In the matter of:

Resolution No. 2022-\_\_\_\_

**ACCEPTANCE OF DONATION OF TRAVEL  
AND RELATED EXPENSES FROM SAFETY  
NATIONAL AND MEDPRO FOR ASHRM  
EXPRESS 2022**

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I, MONA A. ALLEN, Authority Board Coordinator for the Kern County Hospital Authority, hereby certify that the following Resolution, on motion of Director \_\_\_\_\_, seconded by Director \_\_\_\_\_, was duly and regularly adopted by the Board of Governors of the Kern County Hospital Authority at an official meeting thereof on the 15th day of June, 2022, by the following vote, and that a copy of the Resolution has been delivered to the Chairman of the Board of Governors.

AYES:

NOES:

ABSENT:

**MONA A. ALLEN**  
Authority Board Coordinator  
Kern County Hospital Authority

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Mona A. Allen

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**RESOLUTION**

Section 1. WHEREAS:

(a) The conflict of interest policy for the Kern County Hospital Authority (“Authority”) prohibits Authority employees from receiving or accepting money or any other consideration from anyone other than the Authority for the performance of an act which the employee would be required or expected to render in the regular course of his or her employment; and

(b) Safety National provides coverage for the Authority's workers' compensation program; and

(c) MedPro provides Hospital Professional Excess Liability insurance to the Authority; and

(d) Safety National and MedPro have offered to donate to the Authority all travel and related expenses for one Authority employee to attend ASHRM Express 2022, sponsored by the American Society for Health Care Risk Management, in Chicago, Illinois, from July 11-12, 2022; and

(e) The training session is necessary in connection with official Authority business; and

(f) The Authority desires to obtain the donation of travel and related expenses from Safety National and MedPro to the Authority and will retain full control over the use of the donation; and

(g) Neither Safety National nor MedPro has made any restrictions as to how the donation may be used.

Section 2. NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Governors of the Kern County Hospital Authority, as follows:

1. This Board finds the facts recited herein are true, and further finds that this Board has jurisdiction to consider, approve, and adopt the subject of this Resolution.

2. This Board hereby accepts from Safety National and MedPro the donation of travel and related expenses to cover all costs for one Authority employee to travel to Chicago, Illinois, to attend ASHRM Express 2022 from July 11-12, 2022.

3. This Board authorizes the Chief Executive Officer to designate one Authority employee to attend ASHRM Express 2022 in Chicago, Illinois, from July 11-12, 2022.

4. The Authority Board Coordinator shall provide copies of this Resolution to the following:

Chief Financial Officer  
Legal Services Department  
Human Resources Department



**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Proposed Amendment No. 3 to the Financial Services Agreement with Health Advocates, LLC

**Recommended Action:** Approve; Authorize Chairman to sign

**Summary:** Kern Medical requests your Board approve the proposed Amendment No. 3 to the Financial Services Agreement (KCHA Agt. #06816PA) with Health Advocates, LLC to extend the term to allow Kern Medical to negotiate a new agreement. The initial term of the agreement was for a two (2) year period, extended for another four (4) years in subsequent amendments. The current term is set to expire on 6/30/2022 and this proposed amendment extends the term for three (3) months, effective July 1, 2022 through September 30, 2022, while Kern Medical works to negotiate a contract renewal or proposed recommendation for a replacement vendor.

<b>Agreement</b>	<b>Term</b>	<b>Purpose</b>	<b>Cost</b>
Financial Services 06816PA	07/01/2016 - 06/30/2018	Provide Eligibility and Third-Party Recovery Services	\$3,000,000
Amendment No. 1 058-2017	07/01/2018 – 06/30/2019	Extended term and maximum payable	\$1,000,000
Amendment No. 2 042-2019	07/01/2019 – 06/30/2022	Extended term, defined “accounts”, and updated the fee schedule and maximum payable	\$10,800,000
Proposed Amendment No. 3	07/01/2022 – 09/30/2022	Extends the term and the maximum payable	\$1,050,000

Therefore, it is recommended that your Board approve the proposed Amendment No. 3 with Health Advocates LLC for services in the Department of Financial Counseling extending the term by three (3) months to allow time to negotiate a new agreement, adding an additional one million fifty thousand (\$1,050,000) for a total maximum payable of fifteen million, eight hundred fifty thousand (\$15,850,000), and authorize the Chairman to sign.

**AMENDMENT NO. 3 TO  
FINANCIAL SERVICES AGREEMENT**

**BETWEEN KERN COUNTY HOSPITAL AUTHORITY AND HEALTH ADVOCATES, LLC**

The Financial Services Agreement ("Agreement") effective July 1, 2016, by and between **Kern County Hospital Authority**, a local unit of government, which owns and operates **Kern Medical Center** ("Client") and **Health Advocates, LLC** ("Health Advocates"), to provide Account Receivable/Financial Services is hereby amended as set forth below ("Third Amendment").

The purpose of this Third Amendment is to extend the term of the Agreement.

1. Section **TERM** in the Agreement will be amended to include the following as stated below and incorporated herein to the Agreement:

"2. The term of the Agreement will be extended for ninety (90) days beginning on July 1, 2022 (Effective Date) and will end on September 30, 2022 subject to the additional provisions regarding renewals and termination in the Agreement."

2. Section **PAYMENT OF FEES AND EXPENSES** subsection 1 of the Agreement will be deleted in its entirety and replaced with the following:

"1. Maximum Payable. The maximum payable under the Agreement will not exceed four million (\$4,000,000) dollars for the period of July 1, 2016 to June 30, 2019, will not exceed ten million, eight hundred thousand (\$10,800,000) dollars for the period of July 1, 2019 to June 30, 2022, and will not exceed one million fifty thousand (\$1,050,000) for the extension period of July 1, 2022 to September 30, 2022 for a total maximum payable of fifteen million, eight hundred fifty thousand (\$15,850,000) dollars."

3. The Agreement, as amended by Amendment No. 3 constitutes the entire agreement of the parties concerning its subject matter and supersedes all prior oral and written agreements, representations and understandings between the parties concerning such subject matter.

IN WITNESS TO THE FOREGOING, the Parties have executed this Amendment No. 3 as of the day and year first written above.

**Kern County Hospital Authority**

1700 Mount Vernort Avenue  
Bakersfield, CA 93306


By: \_\_\_\_\_  
Name: Russell Bigler  
Title: Chairman, Board of Governors  
Date: 06/15.2022  
Phone #: (661) 326-2102  
Fax #: (661) 326-2100  
Email: contracts@kernmedical.com

**Health Advocates, LLC**

21540 Plummer Street, Suite B  
Chatsworth, CA 91311

By:   
Name: Genaro Mitjans  
Title: COO  
Date: 6-7-2022  
Phone #: (818) 461-5824  
Fax #: (818) 995-9599  
Email: GenaroM@HealthAdvocates.com

APPROVED AS TO FORM  
Legal Services Department

By:   
Kern County Hospital Authority



**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Proposed Agreement with Michael J. Eagan, M.D., for professional medical services in the Department of Surgery

**Recommended Action:** Approve; Authorize Chairman to sign

**Summary:**

Kern Medical requests your Board approve an Agreement with Michael J. Eagan, M.D., a contract employee, for professional medical services in the Department of Surgery. Dr. Eagan, who is a fellowship trained orthopedic trauma surgeon, has been employed by Kern Medical since 2012.

The proposed Agreement is for a term of three years from June 24, 2022 through June 23, 2025. Dr. Eagan is paid based strictly on his productivity. The maximum payable will not to exceed \$3,300,000 over the three-year term of the Agreement. Dr. Eagan will continue to receive the standard complement of benefits offered to all physicians employed by Kern Medical.

Dr. Eagan's annual salary is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey for specialty and represents the reasonable fair market value compensation for the services provided by Dr. Eagan.

Therefore, it is recommended that your Board approve the Agreement with Michael J. Eagan, M.D., for professional medical services in the Department of Surgery from June 24, 2022 through June 23, 2025, in an amount not to exceed \$3,300,000 over the three-year term, and authorize the Chairman to sign.

**AGREEMENT FOR PROFESSIONAL SERVICES  
CONTRACT EMPLOYEE  
(Kern County Hospital Authority – Michael J. Eagan, M.D.)**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, between Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Michael J. Eagan, M.D. (“Physician”).

**I.  
RECITALS**

(a) Authority is authorized, pursuant to section 101852 of Part 4 of Division 101 of the Health and Safety Code, to contract for special services with individuals specially trained, experienced, expert, and competent to perform those services; and

(b) Authority requires the assistance of Physician to provide professional medical services in the Department of Surgery at KMC (the “Department”), as such services are unavailable from Authority resources, and Physician desires to accept employment on the terms and conditions set forth in this Agreement; and

(c) Physician has special training, knowledge and experience to provide such services; and

(d) Authority currently contracts with Physician as a contract employee for the provision of professional medical services in the Department and teaching services to resident physicians employed by Authority (Agt. #031-2019, dated June 19, 2019), for the period June 24, 2019 through June 23, 2022; and

(e) Each party expressly understands and agrees that Agt. #031-2019 is superseded by this Agreement as of the Commencement Date;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree as follows:

**II.  
TERMS AND CONDITIONS**

1. **Term.** The term of this Agreement shall be for a period of three (3) years, commencing as of June 24, 2022 (the “Commencement Date”), and shall end June 23, 2025 (the “Term”), unless earlier terminated pursuant to other provisions of this Agreement as herein stated. This Agreement may be renewed for additional terms of two (2) years each, but only upon mutual written agreement of the parties. As used herein, an “Employment Year” shall mean the annual period beginning on the Commencement Date and each annual period thereafter.

2. **Employment.** Authority hereby employs Physician for the practice of medicine in the care and treatment of patients at KMC, or at such other clinic sites as KMC may designate (collectively referred to as the “Practice Sites”). It is expressly understood and agreed that KMC shall have reasonable discretion to consolidate and relocate clinics operated by Authority and to re-designate Practice Sites served by Physician from time to time. Physician shall be subject to Authority’s employment policies, directives, rules and regulations as promulgated by Authority from time to time, including, but not limited to, those pertaining to employees.

3. **Representations and Warranties.** Physician represents and warrants to Authority and KMC, upon execution and throughout the Term of this Agreement, as follows: (i) Physician is not bound by any agreement or arrangement which would preclude Physician from entering into, or from fully performing the services required under this Agreement; (ii) Physician’s license to practice medicine in the state of California or in any other jurisdiction has never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to the terms of probation or other restriction; (iii) Physician’s medical staff privileges at any health care facility have never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction; (iv) Physician holds a valid Controlled Substance Registration Certificate issued by the Drug Enforcement Administration that has never been revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (v) Physician is not currently and has never been an Ineligible Person<sup>1</sup>; (vi) Physician is not currently the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff or peer review body; and (vii) Physician has, and shall maintain throughout the Term of this Agreement, an unrestricted license to practice medicine in the state of California and staff membership and privileges at KMC.

4. **Obligations of Physician.**

4.1 **Services.** Physician shall engage in the practice of medicine on a full-time basis exclusively as an exempt employee of Authority. Physician shall render those services set forth in Exhibit “A,” attached hereto and incorporated herein by this reference.

4.2 **Use of Premises.** Physician shall use the Practice Sites as designated by Authority or KMC exclusively for the practice of medicine in the care and treatment of patients and shall comply with all applicable federal, state, and local laws, rules and regulations related thereto.

4.3 **Qualifications.**

4.3.1 **Licensure.** Physician shall maintain a current valid license to practice medicine in the state of California at all times during the Term of this Agreement.

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<sup>1</sup> An “Ineligible Person” is an individual or entity who: (i) is currently excluded, debarred, suspended, or otherwise ineligible to participate in the federal health care programs or in federal procurement or non-procurement programs; or (ii) has been convicted of a criminal offense that falls within the range of activities described in 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.



4.3.2 Board Certification. Physician shall be board certified by the American Board of Orthopaedic Surgery in orthopedic surgery-general and maintain such certification at all times during the Term of this Agreement.

4.3.3 Medical Staff Status. Physician shall at all times during the Term of this Agreement be a member in good standing of the KMC Medical Staff with “active” staff status and hold all clinical privileges on the active Medical Staff appropriate to the discharge of his obligations under this Agreement.

4.3.4 TJC and ACGME Compliance. Physician shall observe and comply with all applicable standards and recommendations of The Joint Commission and Accreditation Council for Graduate Medical Education.

4.4 Loss or Limitation. Physician shall notify KMC in writing as soon as possible (but in any event within three (3) business days) after any of the following events occur: (i) Physician’s license to practice medicine in the state of California lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction; (ii) Physician’s Medical Staff privileges at KMC or any other health care facility are denied, suspended, revoked, terminated, relinquished under threat of disciplinary action or made subject to terms of probation or other restriction; (iii) Physician’s Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (iv) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (v) Physician becomes the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff or peer review body; or (vi) an event occurs that substantially interrupts all or a portion of Physician’s professional practice or that materially adversely affects Physician’s ability to perform Physician’s obligations hereunder.

4.5 Standards of Medical Practice. The standards of medical practice and professional duties of Physician at designated Practice Sites shall be in accordance with the KMC Medical Staff Bylaws, Rules, Regulations, and policies, the standards for physicians established by the state Department of Public Health and all other state and federal laws and regulations relating to the licensure and practice of physicians, and The Joint Commission.

4.6 Managed Care Contracting. Physician shall cooperate in all reasonable respects necessary to facilitate KMC’s entry into or maintenance of any third-party payer arrangements for the provision of services under any other public or private health and/or hospital care programs, including but not limited to insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations. To enable KMC to participate in any third-party payer arrangements, Physician shall, upon request: (i) enroll as a provider (if required by the third-party payer), separate from KMC, with any third-party payer or intermediate organization (including any independent practice association) (each, a “Managed Care Organization”) designated by KMC for the provision of professional services to patients covered by such Managed Care Organization; (ii) enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization; and/or (iii) enter into a written

agreement with KMC regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization.

4.7 Authorization to Release Information. Physician hereby authorizes Managed Care Organizations, government programs, hospitals and other third parties to release to KMC and its agents any information requested by KMC or its agents from time to time relating to Physician's professional qualifications or competency. Physician agrees to execute the Authorization to Release Information in the form set forth in Exhibit "B," attached hereto and incorporated herein by this reference, and to execute all other documents required by KMC from time to time and to otherwise fully cooperate with KMC to enable KMC and its agents to obtain such information from third parties.

4.8 Medical Records. Physician shall cause a complete medical record to be timely prepared and maintained for each patient seen by Physician. This record shall be prepared in compliance with all state and federal regulations, standards of The Joint Commission, and the KMC Medical Staff Bylaws, Rules, Regulations, and policies. Documentation by Physician shall conform to the requirements for evaluation and management (E/M) services billed by teaching physicians set forth in the Medicare Carriers Manual, Part 3, sections 15016-15018, inclusive. All patient medical records of Practice Sites, including without limitation, patient medical records generated during the Term of this Agreement, shall be the property of KMC subject to the rights of the respective patients. Upon the expiration or termination of this Agreement by either party for any reason, KMC shall retain custody and control of such patient medical records.

4.9 Physician Private Practice. Physician understands and agrees that he shall not enter into any other physician employment contract or otherwise engage in the private practice of medicine or provide similar services to other organizations, directly or indirectly, during the Term of this Agreement or any extensions thereof.

4.10 Proprietary Information. Physician acknowledges that during the Term of this Agreement Physician will have contacts with and develop and service KMC patients and referring sources of business of KMC. In all of Physician's activities, Physician, through the nature of his work, will have access to and will acquire confidential information related to the business and operations of KMC, including, without limiting the generality of the foregoing, patient lists and confidential information relating to processes, plans, methods of doing business and special needs of referring doctors and patients. Physician acknowledges that all such information is solely the property of KMC and constitutes proprietary and confidential information of KMC; and the disclosure thereof would cause substantial loss to the goodwill of KMC; and that disclosure to Physician is being made only because of the position of trust and confidence that Physician will occupy. Physician covenants that, except as required by law, Physician will not, at any time during the Term of this Agreement or any time thereafter, disclose to any person, hospital, firm, partnership, entity or organization (except when authorized in writing by KMC) any information whatsoever pertaining to the business or operations of KMC, any affiliate thereof or of any other physician employed by KMC, including without limitation, any of the kinds of information described in this paragraph.

4.11 Physician Covenants. Physician covenants that from the Commencement Date and continuing throughout the Term of this Agreement, Physician, unless otherwise permitted by the written consent of Authority shall not, on Physician's own account or as an employee, landlord, lender, trustee, associate, consultant, partner, agent, principal, contractor, owner, officer, director, investor, member or stockholder of any other person, or in any other capacity, directly or indirectly, in whole or in part: (i) engage in any activities that are in competition with KMC, including the operation of any medical practice or offering of any medical services that are similar to services offered at the Practice Sites; (ii) solicit or encourage the resignation of any employee of Authority or KMC with whom Physician had a working relationship during Physician's employment with Authority; (iii) solicit or divert patients with whom Physician had personal contact during such employment; or (iv) influence or attempt to influence any payer, provider or other person or entity to cease, reduce or alter any business relationship with Authority or KMC relating to the Practice Sites.

## 5. Compensation Package.

5.1 Annual Compensation. Physician shall work full time, which is a minimum of eighty (80) hours per biweekly pay period, and will be compensated with cash and other value as described below in this paragraph 5.1 ("Annual Salary").

5.1.1 Annual Salary. Authority shall pay Physician an Annual Salary comprised of (i) a base salary for teaching and administrative services based on the actual number of documented hours for assigned teaching and administrative duties multiplied by the current Medical Group Management Association Physician Compensation and Production Survey ("MGMA Survey") academic compensation rate of pay per hour and (ii) payment for care of KMC patients using the MGMA Survey physician compensation with more than one (1) year in the specialty for all physicians section. This section is divided into four categories: 25th percentile, median, 75th percentile and 90th percentile. A conversion factor will be established by taking each category and dividing the physician compensation in that category by the worked relative value unit ("Worked RVU") in that category. Physician will be compensated for each Worked RVU by multiplying the Worked RVU by the lowest conversion factor (25th percentile) for each KMC patient ("RVU Effort").

5.1.2 Salary Adjustment. KMC will establish an estimate ("Estimate") of Physician's RVU Effort using Physician's RVU Effort for the immediately preceding twelve (12) month period annualized. The Estimate will be divided by the number of Authority payroll periods in a calendar year in order to calculate the amount of RVU Effort to be paid to Physician each payroll period (the "Paycheck Amount"). Within thirty (30) days after the end of each quarter, KMC will calculate the RVU Effort for such immediately preceding quarter, and adjust the payment for RVU Effort accordingly (the "Actual Amount"). If the Estimate is lower than the Actual Amount, then such difference shall be paid to Physician within thirty (30) days after such calculation has been completed, or as of the effective date of any termination of this Agreement, whichever occurs sooner. If the Estimate exceeds the Actual Amount, then Physician shall pay such difference to KMC: (i) in a lump sum within thirty (30) days after such

calculation has been completed; or (ii) through a reduction in the Paycheck Amount during the next quarter; or (iii) in a lump sum as of the effective date of any termination of this Agreement, whichever occurs sooner. The Estimate shall be reestablished as of each Employment Year. **Physician hereby expressly grants to KMC the right to offset any amounts owed to KMC against any payment to be made to Physician by KMC pursuant to this paragraph if Physician fails to pay such excess to KMC.**

5.1.3 Time Logs. Physician shall, on a monthly basis on or before the fifth (5th) day of each calendar month during the Term of this Agreement, submit to KMC a written time log in the form attached hereto and incorporated herein as Exhibit “C,” detailing to KMC’s satisfaction the date, time, actual number of hours, and description of activities related to assigned teaching and administrative duties during the immediately preceding calendar month.

5.1.4 Limitations on Compensation. Authority shall exclude from payment for care of KMC patients any Worked RVU that is not reimbursed by Medicare or Medi-Cal, unless authorized in advance by KMC.

5.1.5 Biweekly Payment. Physician shall be paid biweekly on the same schedule as regular Authority employees. The exact date of said biweekly payments shall be at the sole discretion of Authority. All payments made by Authority to Physician shall be subject to all applicable federal and state taxes and withholding requirements.

5.1.6 Fair Market Value Compensation. The compensation provided under section 5.1 represents the parties’ good faith determination of the reasonable fair market value compensation for the services to be provided by Physician under this Agreement.

5.2 Excess Call Coverage. Authority shall pay Physician for excess call coverage as follows: (i) Physician shall be paid the greater of a fixed fee amount of \$2,500 or the Worked RVU per twenty-four (24) hour day for weekend<sup>2</sup> coverage that exceeds one (1) weekend per month; and (ii) Physician shall be paid the greater of a fixed fee amount of \$2,500 or the Worked RVU per twenty-four (24) hour day for weekday<sup>3</sup> coverage that exceeds one (1) weekday per week. All payments made by Authority to Physician shall be subject to all applicable federal and state taxes and withholding requirements.

5.3 Professional Fee Billing.

5.4.1 Assignment. KMC shall have the exclusive right and authority to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Physician during the Term of this Agreement. All professional fees generated by Physician during the Term of this Agreement, including without limitation,

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<sup>2</sup> For purposes of weekend call coverage, a “weekend” is defined as Friday through Sunday or, in the event of a holiday, Friday through Monday.

<sup>3</sup> For purposes of weekday call coverage, a “weekday” is defined as Monday through Thursday or, in the event of a holiday, Tuesday through Thursday.

both cash collections and accounts receivable, capitated risk pool fees, professional retainer fees, honoraria, professional consulting and teaching fees, and fees for expert testimony (but excluding Physician's private investment and nonprofessional income), will be the sole and exclusive property of KMC, whether received by KMC or by Physician and whether received during the Term of this Agreement or anytime thereafter. Physician hereby assigns all rights to said fees and accounts to KMC and shall execute all documents required from time to time by KMC and otherwise fully cooperate with KMC to enable KMC to collect fees and accounts from patients and third-party payers.

5.3.2 Remittance of Professional Fee Charges. Physician shall remit all professional fee charges to KMC within forty-five (45) days of the date direct patient care services are provided by Physician. Any professional fee charges not remitted by Physician to KMC within forty-five (45) days of the date of such service, or any charges for which relevant documentation has not been provided, will not be credited to Physician as Worked RVU.

5.4 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$3,300,000 over the three (3) year Term of this Agreement.

6. **Benefits Package.**

6.1 Retirement. Physician shall continue to participate in the Kern County Hospital Authority Defined Contribution Plan for Physician Employees (the "Plan"), a qualified defined contribution pension plan, pursuant to the terms of the instrument under which the Plan has been established, as from time to time amended. Physician is not eligible to participate in any other retirement plan established by Authority for its employees, including but not limited to the Kern County Employees' Retirement Association, and this Agreement does not confer upon Physician any right to claim entitlement to benefits under any such retirement plan(s).

6.2 Health Care Coverage. Physician shall continue to receive the same health benefits (medical, dental, prescription and vision coverage) as all eligible Authority employees. The employee share of cost is twenty percent (20%) of the current biweekly premium. Physician's initial hire date is the initial opportunity to enroll in the health plan. Physician must work at least forty (40) hours per biweekly pay period to be eligible for coverage.

6.3 Holidays. Physician shall be entitled to paid holidays subject to Authority policy, as amended from time to time. Physician will not be paid for banked holidays upon termination of employment.

6.4 Vacation. Physician shall retain his vacation credit balance, if any, as of the Commencement Date. Effective with the Commencement Date, Physician shall be entitled to vacation leave subject to Authority policy, as amended from time to time. Physician shall be paid for accrued and unused vacation leave, if any, upon termination or expiration of this Agreement calculated at Physician's current hourly rate (i.e., current Annual Salary divided by 2080 hours = hourly rate). All payments made by Authority to Physician under this paragraph will be subject to all applicable federal and state taxes and withholding requirements.

6.5 Sick Leave. Physician shall retain his sick leave credit balance, if any, as of the Commencement Date. Effective with the Commencement Date, Physician shall be entitled to sick leave subject to Authority policy, as amended from time to time. Physician will not be paid for accrued and unused sick leave upon termination of employment.

6.6 Education Leave. Physician shall receive eighty (80) hours paid education leave annually. The first eighty (80) hours will accrue on the Commencement Date. On each successive Employment Year, if any, an additional eighty (80) hours paid education leave will accrue. Education leave must be used within the year that it is accrued. Physician will not be paid for unused education leave upon termination of employment. The Department Chair must approve education leave in advance of use. Physician's participation in educational programs, services or other approved activities set forth herein shall be subordinate to Physician's obligations and duties under this Agreement.

6.7 CME Expense Reimbursement. Authority shall reimburse Physician for all approved reasonable and necessary expenditures related to continuing medical education in an amount not to exceed \$2,500 per Employment Year, payable in arrears, in accordance with Authority policy, as amended from time to time. This amount may not be accumulated or accrued and does not continue to the following Employment Year.

6.8 Flexible Spending Plan. Physician shall be eligible to participate in flexible spending plans to pay for dependent care, non-reimbursed medical expenses, and certain insurance premiums on a pre-tax basis through payroll deduction. This is a voluntary benefit that is paid by Physician if he elects to participate in the plan.

6.9 Attendance at Meetings. Physician shall be permitted to be absent from KMC during normal working days to attend professional meetings and to attend to such outside professional duties in the healthcare field as may be mutually agreed upon between Physician and the Department Chair. Attendance at such approved meetings and accomplishment of approved professional duties shall be fully compensated service time and will not be considered vacation or education leave.

6.10 Unpaid Leave of Absence. Physician may take an unpaid leave of absence in accordance with Authority policies in effect at the time the leave is taken.

6.11 Social Security. Physician is exempt from payment of Social Security taxes as the Kern County Hospital Authority Defined Contribution Plan for Physician Employees is a qualified alternative to the insurance system established by the federal Social Security Act.

6.12 Deferred Compensation. Physician shall be eligible to participate in the Kern County Deferred Compensation Plan ("457 Plan") on a pre-tax basis. Physician shall make all contributions if he elects to participate in the 457 Plan.

6.13 Disability Insurance. Physician shall be eligible to purchase Long Term Disability or Short Term Disability insurance coverage through payroll deduction on a post-tax basis. This is a voluntary benefit that is paid by Physician if he elects to participate in the plan.

6.14 Employee Assistance/Wellness Programs. Physician shall be eligible to participate in any Authority-sponsored employee assistance and employee wellness programs.

6.15 Limitation on Benefits. Except as expressly stated herein, Physician shall receive no other benefits from Authority.

7. Assignment. Physician shall not assign or transfer this Agreement or his obligations hereunder or any part thereof. Physician shall not assign any money due or which becomes due to Physician under this Agreement without the prior written approval of Authority.

8. Assistance in Litigation. Upon request, Physician shall support and assist Authority as a consultant or expert witness in litigation to which Authority is a party.

9. Authority to Incur Financial Obligation. It is understood that Physician, in his performance of any and all duties under this Agreement, has no right, power or authority to bind Authority to any agreements or undertakings.

10. Captions and Interpretation. Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the parties.

11. Choice of Law/Venue. This Agreement shall be construed and enforced under and in accordance with the laws of the state of California, with venue of any action relating to this Agreement in the County of Kern, state of California.

12. Compliance with Law. Physician shall observe and comply with all applicable Authority, local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which is hereby made a part hereof and incorporated herein by reference.

13. Confidentiality. Physician shall maintain confidentiality with respect to information that he receives in the course of his employment and not use or permit the use of or disclose any such information in connection with any activity or business to any person, firm or corporation whatsoever, unless such disclosure is required in response to a validly issued subpoena or other process of law or as required by Government Code section 6250 et seq. Upon completion of the Agreement, the provisions of this paragraph shall continue to survive.

14. Conflict of Interest. Physician covenants that he has no interest and that he will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law (Gov. Code, § 81000 et seq.) or that would otherwise conflict in any manner or degree with the performance of his services hereunder. It is understood and agreed that if such a financial interest does exist at the inception of this Agreement, Authority may terminate this Agreement immediately by giving written notice thereof.

15. **Counterparts.** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

16. **Dispute Resolution.** In the event of any dispute involving the enforcement or interpretation of this Agreement or any of the rights or obligations arising hereunder, the parties shall first attempt to resolve their differences by mediation before a mediator of their mutual selection. If the parties are, after mutual good faith efforts, unable to resolve their differences by mediation, the dispute shall be submitted for trial before a privately compensated temporary judge appointed by the Kern County Superior Court pursuant to Article VI, section 21 of the California Constitution and Rules 3.810 through 3.830 of the California Rules of Court. All costs of any dispute resolution procedure shall be borne equally by the parties.

17. **Enforcement of Remedies.** No right or remedy herein conferred on or reserved to Authority is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

18. **Indemnification.** Authority shall assume liability for and indemnify and hold Physician harmless from any and all claims, losses, expenses, costs, actions, settlements, attorneys' fees and judgments incurred by Physician or for which Physician becomes liable, arising out of or related to services rendered or which a third party alleges should have been rendered by Physician pursuant to this Agreement. Authority's obligation under this paragraph shall extend from Physician's first date of service to Authority and shall survive termination or expiration of this Agreement to include all claims that allegedly arise out of services Physician rendered on behalf of Authority; provided, however, that the provisions of this paragraph shall not apply to any services rendered at any location other than Practice Sites without approval by the Kern County Hospital Authority Board of Governors and, provided further, that Authority shall have no duty or obligation to defend, indemnify, or hold Physician harmless for any conduct or misconduct found to be intentional, willful, grossly negligent, or criminal.

19. **Invalidity of a Portion.** Should a portion, section, paragraph, or term of this Agreement be construed as invalid by a court of competent jurisdiction, or a competent state or federal agency, the balance of the Agreement shall remain in full force and effect. Further, to the extent any term or portion of this Agreement is found invalid, void or inoperative, the parties agree that a court may construe the Agreement in such a manner as will carry into force and effect the intent appearing herein.

20. **Modifications of Agreement.** This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

21. **Non-appropriation.** Authority reserves the right to terminate this Agreement in the event insufficient funds are appropriated or budgeted for this Agreement in any fiscal year. Upon such termination, Authority will be released from any further financial obligation to Physician, except for services performed prior to the date of termination or any liability due to



any default existing at the time this clause is exercised. Physician shall be given thirty (30) days' prior written notice in the event that Authority requires such an action.

22. **Nondiscrimination.** No party to this Agreement shall discriminate on the basis of race, color, religion, sex, national origin, age, marital status or sexual orientation, ancestry, physical or mental disability, medical conditions, political affiliation, veteran's status, citizenship or marital or domestic partnership status or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics.

23. **Non-waiver.** No covenant or condition of this Agreement can be waived except by the written consent of Authority. Forbearance or indulgence by Authority in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Physician. Authority shall be entitled to invoke any remedy available to Authority under this Agreement or by law or in equity despite said forbearance or indulgence.

24. **Notices.** Notices to be given by one party to the other under this Agreement shall be given in writing by personal delivery, by certified mail, return receipt requested, or express delivery service at the addresses specified below. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received four (4) days after deposit. A party may change the address to which notice is to be given by giving notice as provided above.

Notice to Physician:

Michael J. Eagan, M.D.  
12007 Harrington Street  
Bakersfield, California 93311

Notice to Authority:

Kern Medical Center  
1700 Mount Vernon Avenue  
Bakersfield, California 93306  
Attn.: Chief Executive Officer

25. **Relationship.** Authority and Physician recognize that Physician is rendering specialized, professional services. The parties recognize that each is possessed of legal knowledge and skill, and that this Agreement is fully understood by the parties, and is the result of bargaining between the parties. Each party acknowledges their opportunity to fully and independently review and consider this Agreement and affirm complete understanding of the effect and operation of its terms prior to entering into the same.

26. **Severability.** Should any part, term, portion or provision of this Agreement be decided finally to be in conflict with any law of the United States or the state of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.

27. **Sole Agreement.** This Agreement contains the entire agreement between the parties relating to the services, rights, obligations, and covenants contained herein and assumed by the parties respectively. No inducements, representations, or promises have been made, other than

those recited in this Agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect.

28. **Termination.**

28.1 **Termination without Cause.** Either party shall have the right to terminate this Agreement, without penalty or cause, by giving not less than ninety (90) days' prior written notice to the other party.

28.2 **Immediate Termination.** Notwithstanding the foregoing, Authority may terminate this Agreement immediately by written notice to Physician upon the occurrence of any of the following events: (i) Authority determines that Physician does not have the proper credentials, experience, or skill to perform the required services under this Agreement; (ii) Authority determines the conduct of Physician in the providing of services may result in civil, criminal, or monetary penalties against Authority or KMC; (iii) Physician violates any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or Practice Sites is subject; (iv) Physician engages in the commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial dishonesty against Authority or KMC; (v) the actions of Physician result in the loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal; (vi) Physician's license to practice medicine in the state of California lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction; (vii) Physician's Medical Staff privileges are denied, suspended, revoked, terminated, relinquished under threat of disciplinary action or made subject to terms of probation or other restriction; (viii) Physician's Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (ix) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (x) Physician fails to make a timely disclosure pursuant to paragraph 4.4; (xi) Physician engages in conduct that, in the sole discretion of Authority, is detrimental to patient care or to the reputation or operations of Authority and/or KMC; (xii) Physician breaches the confidentiality provisions of this Agreement; (xiii) Physician dies; (xiv) Physician fails to follow Authority's policies and procedures and other rules of conduct applicable to all employees of Authority, including without limitation, policies prohibiting sexual harassment; (xv) insubordination, flagrant tardiness, or interpersonal problems in the workplace with colleagues, patients or associates; or (xvi) Physician breaches any covenant set forth in paragraph 4.11.

29. **Effect of Termination.**

29.1 **Payment Obligations.** In the event of termination of this Agreement for any reason, Authority shall have no further obligation to pay for any services rendered or expenses incurred by Physician after the effective date of the termination, and Physician shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination.

29.2 Vacate Premises. Upon expiration or earlier termination of this Agreement, Physician shall immediately vacate KMC, removing at such time any and all personal property of Physician. KMC may remove and store, at the expense of Physician, any personal property that Physician has not so removed.

29.3 No Interference. Following the expiration or earlier termination of this Agreement, Physician shall not do anything or cause any person to do anything that might interfere with any efforts by Authority or KMC to contract with any other individual or entity for the provision of services or to interfere in any way with any relationship between KMC and any person who may replace Physician.

29.4 No Hearing Rights. Termination of this Agreement by Authority or KMC for any reason shall not provide Physician the right to a fair hearing or the other rights more particularly set forth in the KMC Medical Staff Bylaws.

30. **Liability of Authority.** The liabilities or obligations of Authority with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Authority and shall not be or become the liabilities or obligations of the County of Kern or any other entity, including the state of California.

[Signatures follow on next page]

IN WITNESS TO THE FOREGOING, the parties have executed this Agreement as of the day and year first written above.

PHYSICIAN

By: \_\_\_\_\_  
Michael J. Eagan, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By: \_\_\_\_\_  
Chairman  
Board of Governors

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Scott Thygerson  
Chief Executive Officer

APPROVED AS TO FORM:  
LEGAL SERVICES DEPARTMENT

By: \_\_\_\_\_  
Vice President & General Counsel  
Kern County Hospital Authority

**EXHIBIT “A”**  
**JOB DESCRIPTION**  
**Michael J. Eagan, M.D.**

**Position Description:** Reports to Chair, Department of Surgery and Chief, Division of Orthopedic Surgery; serves as full-time faculty member in the Department; provides no fewer than eighty (80) hours per pay period of service; works collaboratively with clinic and surgery staff and hospital administration to ensure efficient workflow, adequacy of support equipment, and superior patient experience.

**Essential Functions:**

1. **Clinical Responsibilities and Assignments:**
  - Provides service and improves efficiency for orthopedic clinic activities and surgical cases
  - Provides faculty service for acute trauma and fresh fracture call coverage; rounds and follows up as appropriate on patients admitted to KMC
  - Supervises orthopedic Physician Assistant activity and competence
  - Operating Room – minimum of three (3) full days per week
  - KMC, Stockdale Highway, Q Street, or other designated clinic sites – minimum of three (3) half-day clinics per week
  - Call coverage – one (1) day per week and one (1) weekend per month
  
2. **Administrative Responsibilities:**
  - Participates in clinical and administrative integration efforts across KMC as appropriate for orthopedic surgery ensuring proper program planning, resource allocation, analysis, communication and assessment
  - Gathers data through best practices and collaborates with other members of the Department and Division to recommend services that will increase productivity, minimize duplication of services, increase workflow efficiency, and provide the highest quality of care to KMC patients
  - Supports the Department Chair and Division Chief in developing monitoring tools to measure financial, access, quality, and satisfaction outcomes
  - Attends and actively participates in assigned Medical Staff and hospital committees
  - Participates in the preparation, monitoring, review, and performance of clinical activity in the Division
  - Participates in the quality improvement and risk management activities, including peer review and quality control functions as assigned to services in the Division
  - Provides didactic teaching and resident physician and medical student education as assigned and participates in setting goals and expectations for orthopedic surgery medical student rotations
  - Completes medical records in a timely fashion and works to improve the quality, accuracy, and completeness of documentation
  - Works collaboratively with other clinical departments to develop a cohesive and collaborative environment across departments with a focus of enhancing access to patient care for inpatient and outpatient services

- Follows and complies with the Medical Staff Bylaws, Rules, Regulations, and policies and Authority and KMC policies and procedures

**Employment Standards:**

One (1) year of post-residency experience in orthopedic surgery

AND

Possession of a current valid Physician's and Surgeon's Certificate issued by the state of California

AND

Certification by the American Board of Orthopaedic Surgery in orthopedic surgery-general

**Knowledge of:** The principles and practices of modern medicine; current techniques, procedures, and equipment applicable to orthopedic surgery; principles of effective supervision and program development.

[Intentionally left blank]

**EXHIBIT "B"**  
**AUTHORIZATION TO RELEASE INFORMATION**

**[Attached]**

**AUTHORIZATION TO RELEASE INFORMATION**

I, the undersigned physician, hereby authorize Kern Medical Center (“KMC”) and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, credentials competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG and RVU analyses, ancillary usage information and other utilization and quality related data.

I hereby release the Kern County Hospital Authority and KMC, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by KMC or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree that this authorization to release information shall remain effective until termination of my employment by the Kern County Hospital Authority and KMC. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to this request.

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Physician

---

Date



**EXHIBIT "C"**  
**TIME LOG FORM**

**[Attached]**

## TIME LOG FORM

\_\_\_\_\_  
 Physician Name \_\_\_\_\_  
 Signature / Date

\_\_\_\_\_  
 Department \_\_\_\_\_  
 Month / Year of Service \_\_\_\_\_  
 Total Hours / Month

Services Provided (please list specific activity performed) Date Hours

- |    |  |       |       |
|----|--|-------|-------|
| 1. | Medical Staff CME Activities                                   |       |       |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
| 2. | Hospital Staff Education and Training                          |       |       |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
| 3. | Clinical Supervision   |       |       |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
| 4. | Quality Improvement Activities (committees, case review, etc.) |       |       |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
| 5. | Administration Activities                                      |       |       |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
| 6. | Community Education  |       |       |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
| 7. | Medical Management Activities                                  |       |       |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
| 8. | Compliance Activities  |       |       |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
| 9. | Other Services   |       |       |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |
|    | _____  | _____ | _____ |



**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Proposed Amendment No. 2 to Agreement 871-2015 with Shahab Hillyer, M.D., for professional medical and administrative services in the Department of Surgery

**Recommended Action:** Approve; Authorize Chairman to sign

**Summary:**

Kern Medical requests your Board approve the proposed Amendment No. 2 with Shahab Hillyer, M.D., a contract employee, for professional medical and administrative services in the Department of Surgery. Dr. Hillyer, a fellowship trained urologist, has been employed by Kern Medical since January 1, 2016.

The proposed Amendment adds compensation for dual hospital coverage and services as Chief, Division of Urology. Dr. Hillyer, who has been appointed Chief, Division of Urology, will receive a stipend of \$50,000 annually (1,923.07 biweekly) for such services. Additionally, in anticipation of the future joint hospital coverage efforts in the Division of Urology with Adventist Health, a Dual Hospital Coverage Compensation Schedule has been developed in collaboration with Adventist Health. This schedule outlines what the passthrough compensation from Adventist Health to our employed urologists will be based on the number of full-time employed physician equivalents in the supergroup. Dual hospital coverage will not be required until there is a minimum of five urologists participating in the collective call pool. The schedule also allows for physicians to be compensated should they choose to provide dual hospital coverage voluntarily prior to five urologists participating in the call pool. The Amendment is effective June 15, 2022.

Therefore, it is recommended that your Board approve Amendment No. 2 to Agreement 871-2015 with Shahab Hillyer, M.D., for professional medical and administrative services in the Department of Surgery, for the period January 1, 2016 through December 31, 2025, adding compensation for dual hospital coverage and services as Chief, Division of Urology, increasing the maximum payable by \$667,200, from \$7,974,358 to \$8,641,558, to cover the term, and authorize the Chairman to sign.

**AMENDMENT NO. 2  
TO  
AGREEMENT FOR PROFESSIONAL SERVICES  
CONTRACT EMPLOYEE  
(Kern County Hospital Authority – Shahab Hillyer, M.D.)**

This Amendment No. 2 to the Agreement for Professional Services is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, between Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Shahab Hillyer, M.D. (“Physician”).

**RECITALS**

(a) Authority and Physician have heretofore entered into an Agreement for Professional Services (Kern County Agt. #871-2015, dated December 8, 2015) and Amendment No. 1 (Agt. #055-2021, dated September 15, 2021) (the “Agreement”), for the period January 1, 2016 through December 31, 2025, whereby Physician provides professional medical services in the Department of Surgery at KMC; and

(b) The parties agree to amend certain terms and conditions of the Agreement as hereinafter set forth; and

(c) The Agreement is amended effective, June 15, 2022;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree to amend the Agreement as follows:

1. Section 5, Compensation Package, paragraph 5.5, Maximum Payable, shall be deleted in its entirety and replaced with the following:

“5.5 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$8,641,558 over the ten (10) year Term of this Agreement.”

2. Section 5, Compensation Package, paragraph 5.7, Division Chief Stipend, shall be made part of the Agreement as follows:

“5.7 Division Chief Stipend. Authority shall pay Physician an annual stipend of \$1,923.07 biweekly, less all applicable federal and state taxes and withholdings, not to exceed \$50,000 annually for services as Chief, Division of Urology. Physician understands and agrees that he must remain in the position of Chief, Division of Urology as of each biweekly payout date in order to earn and receive the stipend payment.”

3. Section 5, Compensation Package, paragraph 5.8, Dual Hospital Coverage, shall be made part of the Agreement as follows:

5.8 Dual Hospital Coverage. Authority shall pay Physician for dual hospital coverage according to the call ratio and corresponding rates set forth in Exhibit “C,” Dual Hospital Coverage Compensation Schedule, attached hereto and incorporated herein by this reference.”

4. Exhibit “A,” Job Description, Position Description, shall be deleted in its entirety and replaced with the following:

**“Position Description.** Reports to Chair, Department of Surgery; serves as Chief, Division of Urology; serves an attending physician in the Department.”

5. All capitalized terms used in this Amendment and not otherwise defined, shall have the meaning ascribed thereto in the Agreement.

6. This Amendment shall be governed by and construed in accordance with the laws of the state of California.

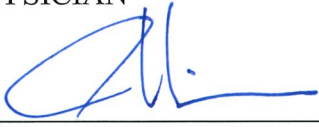
7. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which take together shall constitute one and the same instrument.

8. Except as provided herein, all other terms, conditions and covenants of the Agreement and any and all amendments thereto shall remain in full force and effect.

[Intentionally left blank]

IN WITNESS TO THE FOREGOING, the parties have executed this Amendment No. 2  
as of the day and year first written above.

PHYSICIAN

By   
\_\_\_\_\_  
Shahab Hillyer, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By \_\_\_\_\_  
Chairman  
Board of Governors

APPROVED AS TO CONTENT:

By \_\_\_\_\_  
Scott Thygerson  
Chief Executive Officer

APPROVED AS TO FORM:  
LEGAL SERVICES DEPARTMENT

By \_\_\_\_\_  
Vice President & General Counsel  
Kern County Hospital Authority

Amend2.Hillyer.082321

**EXHIBIT “C”**  
**DUAL HOSPITAL COVERAGE COMPENSATION SCHEDULE**  
**Shahab Hillyer, M.D.**

Physician shall be paid for dual hospital coverage (KMC and Adventist Health Bakersfield) based on a tiered call compensation schedule comprised of full-time employed physician equivalents in a “supergroup” of core physicians with an added differential when there are fewer than six (6) full time employed physician equivalents. Providers outside the supergroup may participate in call coverage. Dual hospital coverage is expected to commence when there is a minimum of five (5) urologists participating in the collective call pool (not five (5) full-time employed physician equivalents in the supergroup). Physician shall be paid at the 1:5 call ratio if Physician volunteers to provide dual hospital coverage prior to five (5) urologists participating in the collective call pool. The tiered call compensation, based on the number of full-time employed physician equivalents in the supergroup, is set forth below.

<b>Call Ratio</b>	<b>Weekday Rate (Monday-Friday)</b>	<b>Weekend Rate (Saturday/Sunday)</b>	<b>Differential Weekday</b>	<b>Differential Weekend</b>
1:4	Cover KMC Only			
1:5	\$1,000	\$1,200	\$600	\$400
1:6	\$1,000	\$1,200	\$0.00	\$0.00
1:7	\$500	\$600	\$0.00	\$0.00
1:8	\$0.00	\$0.00	\$0.00	\$0.00

[Intentionally left blank]



**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Proposed Agreement with Wong Moon, M.D., for professional medical services in the Department of Surgery

**Recommended Action:** Approve; Authorize Chairman to sign

**Summary:**

Kern Medical requests your Board approve an agreement with Wong Moon, M.D., a contract employee, for professional medical services in the Department of Surgery. Dr. Moon is a fellowship trained plastic, reconstructive, and hand surgeon.

The proposed Agreement is for a term of three years from August 20, 2022 through August 19, 2025. Dr. Moon will have a base salary of \$700,000 and will be eligible to earn an additional 30% of cash collections for all elective cosmetic procedures that are excluded from third-party payer reimbursement. In addition to his compensation package, Dr. Moon will receive the standard complement of benefits offered to all Kern Medical physicians. The maximum payable will not to exceed \$2,740,625 over the three-year term of the Agreement.

Dr. Moon's annual salary is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey for specialty and represents the reasonable fair market value compensation for the services to be provided by Dr. Moon.

Therefore, it is recommended that your Board approve the Agreement with Wong Moon, M.D., for professional medical services in the Department of Surgery from August 20, 2022 through August 19, 2025, in an amount not to exceed \$2,740,625 over the three-year term, and authorize the Chairman to sign.



**AGREEMENT FOR PROFESSIONAL SERVICES  
CONTRACT EMPLOYEE  
(Kern County Hospital Authority – Wong Moon, M.D.)**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, between Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and Wong Moon, M.D. (“Physician”).

**I.  
RECITALS**

(a) Authority is authorized, pursuant to section 101852 of Part 4 of Division 101 of the Health and Safety Code, to contract for special services with individuals specially trained, experienced, expert, and competent to perform those services; and

(b) Authority requires the assistance of Physician to provide professional medical services in the Department of Surgery at KMC (the “Department”), as such services are unavailable from Authority resources, and Physician desires to accept employment on the terms and conditions set forth in this Agreement; and

(c) Physician has special training, knowledge and experience to provide such services;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree as follows:

**II.  
TERMS AND CONDITIONS**

1. **Term.** The initial term of this Agreement (“Initial Term”) shall be for a period of three (3) years, commencing as of August 20, 2022 (the “Commencement Date”). At the end of the Initial Term and each Renewal Term (as hereinafter defined), if any, this Agreement may be renewed for two (2) additional terms of two (2) years each (“Renewal Term”), but only upon mutual written agreement of the parties. As used herein, the “Term” of this Agreement shall mean the Initial Term and all Renewal Terms. As used herein, an “Employment Year” shall mean the annual period beginning on the Commencement Date and each annual period thereafter.

2. **Employment.** Authority hereby employs Physician for the practice of medicine in the care and treatment of patients at KMC, or at such other clinic sites as KMC may designate (collectively referred to as the “Practice Sites”). It is expressly understood and agreed that KMC shall have reasonable discretion to consolidate and relocate clinics operated by Authority and to re-designate Practice Sites served by Physician from time to time. Physician shall be subject to Authority’s employment policies, directives, rules and regulations as promulgated by Authority from time to time, including, but not limited to, those pertaining to employees.

3. **Representations and Warranties.** Physician represents and warrants to Authority and KMC, upon execution and throughout the Term of this Agreement, as follows: (i) Physician is not bound by any agreement or arrangement which would preclude Physician from entering into, or from fully performing the services required under this Agreement; (ii) Physician's license to practice medicine in the state of California or in any other jurisdiction has never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to the terms of probation or other restriction; (iii) Physician's medical staff privileges at any health care facility have never been denied, suspended, revoked, terminated, voluntarily relinquished under threat of disciplinary action, or made subject to terms of probation or any other restriction; (iv) Physician holds a valid Controlled Substance Registration Certificate issued by the Drug Enforcement Administration that has never been revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (v) Physician is not currently and has never been an Ineligible Person<sup>1</sup>; (vi) Physician is not currently the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff or peer review body; and (vii) Physician has, and shall maintain throughout the Term of this Agreement, an unrestricted license to practice medicine in the state of California and staff membership and privileges at KMC.

4. **Obligations of Physician.**

4.1 **Services.** Physician shall engage in the practice of medicine on a full-time basis exclusively as an exempt employee of Authority. Physician shall render those services set forth in Exhibit "A," attached hereto and incorporated herein by this reference.

4.2 **Use of Premises.** Physician shall use the Practice Sites as designated by Authority or KMC exclusively for the practice of medicine in the care and treatment of patients and shall comply with all applicable federal, state, and local laws, rules and regulations related thereto.

4.3 **Qualifications.**

4.3.1 **Licensure.** Physician shall maintain a current valid license to practice medicine in the state of California at all times during the Term of this Agreement.

4.3.2 **Board Certification.** Physician shall be board certified by the American Board of Plastic Surgery in plastic surgery-general and surgery of the hand-subspecialty, and the American Board of Surgery in surgery-general, and maintain such certifications at all times during the Term of this Agreement.

4.3.3 **Medical Staff Status.** Physician shall at all times during the Term of this Agreement be a member in good standing of the KMC Medical Staff with "active" staff status and hold all clinical privileges on the active Medical Staff appropriate to the discharge of his obligations under this Agreement.

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<sup>1</sup> An "Ineligible Person" is an individual or entity who: (i) is currently excluded, debarred, suspended, or otherwise ineligible to participate in the federal health care programs or in federal procurement or non-procurement programs; or (ii) has been convicted of a criminal offense that falls within the range of activities described in 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.

4.3.4 TJC and ACGME Compliance. Physician shall observe and comply with all applicable standards and recommendations of The Joint Commission and Accreditation Council for Graduate Medical Education.

4.4 Loss or Limitation. Physician shall notify KMC in writing as soon as possible (but in any event within three (3) business days) after any of the following events occur: (i) Physician's license to practice medicine in the state of California lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction; (ii) Physician's Medical Staff privileges at KMC or any other health care facility are denied, suspended, revoked, terminated, relinquished under threat of disciplinary action or made subject to terms of probation or other restriction; (iii) Physician's Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (iv) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (v) Physician becomes the subject of a disciplinary or other proceeding or action before any governmental, professional, medical staff or peer review body; or (vi) an event occurs that substantially interrupts all or a portion of Physician's professional practice or that materially adversely affects Physician's ability to perform Physician's obligations hereunder.

4.5 Standards of Medical Practice. The standards of medical practice and professional duties of Physician at designated Practice Sites shall be in accordance with the KMC Medical Staff Bylaws, Rules, Regulations, and policies, the standards for physicians established by the state Department of Public Health and all other state and federal laws and regulations relating to the licensure and practice of physicians, and The Joint Commission.

4.6 Managed Care Contracting. Physician shall cooperate in all reasonable respects necessary to facilitate KMC's entry into or maintenance of any third-party payer arrangements for the provision of services under any other public or private health and/or hospital care programs, including but not limited to insurance programs, self-funded employer health programs, health care service plans and preferred provider organizations. To enable KMC to participate in any third-party payer arrangements, Physician shall, upon request: (i) enroll as a provider (if required by the third-party payer), separate from KMC, with any third-party payer or intermediate organization (including any independent practice association) (each, a "Managed Care Organization") designated by KMC for the provision of professional services to patients covered by such Managed Care Organization; (ii) enter into a written agreement with such Managed Care Organization as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization; and/or (iii) enter into a written agreement with KMC regarding global billing, capitation or other payment arrangements as may be necessary or appropriate for the provision of professional services to patients covered by such Managed Care Organization.

4.7 Authorization to Release Information. Physician hereby authorizes Managed Care Organizations, government programs, hospitals and other third parties to release to KMC and its agents any information requested by KMC or its agents from time to time relating to Physician's professional qualifications or competency. Physician agrees to execute the Authorization to Release Information in the form set forth in Exhibit "B," attached hereto and

incorporated herein by this reference, and to execute all other documents required by KMC from time to time and to otherwise fully cooperate with KMC to enable KMC and its agents to obtain such information from third parties.

4.8 Medical Records. Physician shall cause a complete medical record to be timely prepared and maintained for each patient seen by Physician. This record shall be prepared in compliance with all state and federal regulations, standards of The Joint Commission, and the KMC Medical Staff Bylaws, Rules, Regulations, and policies. Documentation by Physician shall conform to the requirements for evaluation and management (E/M) services billed by teaching physicians set forth in the Medicare Carriers Manual, Part 3, sections 15016-15018, inclusive. All patient medical records of Practice Sites, including without limitation, patient medical records generated during the Term of this Agreement, shall be the property of KMC subject to the rights of the respective patients. Upon the expiration or termination of this Agreement by either party for any reason, KMC shall retain custody and control of such patient medical records.

4.9 Physician Private Practice. Physician understands and agrees that he shall not enter into any other physician employment contract or otherwise engage in the private practice of medicine or provide similar services to other organizations, directly or indirectly, during the Term of this Agreement or any extensions thereof.

4.10 Proprietary Information. Physician acknowledges that during the Term of this Agreement Physician will have contacts with and develop and service KMC patients and referring sources of business of KMC. In all of Physician's activities, Physician, through the nature of his work, will have access to and will acquire confidential information related to the business and operations of KMC, including, without limiting the generality of the foregoing, patient lists and confidential information relating to processes, plans, methods of doing business and special needs of referring doctors and patients. Physician acknowledges that all such information is solely the property of KMC and constitutes proprietary and confidential information of KMC; and the disclosure thereof would cause substantial loss to the goodwill of KMC; and that disclosure to Physician is being made only because of the position of trust and confidence that Physician will occupy. Physician covenants that, except as required by law, Physician will not, at any time during the Term of this Agreement or any time thereafter, disclose to any person, hospital, firm, partnership, entity or organization (except when authorized in writing by KMC) any information whatsoever pertaining to the business or operations of KMC, any affiliate thereof or of any other physician employed by KMC, including without limitation, any of the kinds of information described in this paragraph.

4.11 Physician Covenants. Physician covenants that from the Commencement Date and continuing throughout the Term of this Agreement, Physician, unless otherwise permitted by the written consent of Authority shall not, on Physician's own account or as an employee, landlord, lender, trustee, associate, consultant, partner, agent, principal, contractor, owner, officer, director, investor, member or stockholder of any other person, or in any other capacity, directly or indirectly, in whole or in part: (i) engage in any activities that are in competition with KMC, including the operation of any medical practice or offering of any medical services that are similar to services offered at the Practice Sites; (ii) solicit or encourage the resignation of any

employee of Authority or KMC with whom Physician had a working relationship during Physician's employment with Authority; (iii) solicit or divert patients with whom Physician had personal contact during such employment; or (iv) influence or attempt to influence any payer, provider or other person or entity to cease, reduce or alter any business relationship with Authority or KMC relating to the Practice Sites.

## 5. **Compensation Package.**

5.1 **Annual Compensation.** Physician shall work full time, which is a minimum of eighty (80) hours per biweekly pay period, and will be compensated with cash and other value as described below in this paragraph 5.1 ("Annual Salary").

5.1.1 **Annual Salary.** Authority shall pay Physician an Annual Salary comprised of (i) a base salary for teaching and administrative duties and (ii) payment for care of KMC patients in the amount of \$700,000 per year, to be paid as follows: Physician shall be paid \$26,923.07 biweekly not to exceed \$700,000 annually. Physician understands and agrees that (i) the Annual Salary set forth in this paragraph 5.1 is calculated based on the current Medical Group Management Association Physician Compensation and Production Survey ("MGMA Survey") for specialty and (ii) Physician will maintain a median level (50th percentile) of worked relative value units ("Worked RVU") based on the current MGMA Survey and fulfill all the duties set forth in Exhibit "A" during the Initial Term of this Agreement.

5.1.2 **Biweekly Payment.** Physician shall be paid biweekly on the same schedule as regular Authority employees. The exact date of said biweekly payments shall be at the sole discretion of Authority. All payments made by Authority to Physician shall be subject to all applicable federal and state taxes and withholding requirements.

5.1.3 **Fair Market Value Compensation.** The compensation provided under section 5.1 represents the parties' good faith determination of the reasonable fair market value compensation for the services to be provided by Physician under this Agreement.

5.2 **Excess Call Coverage.** Authority shall pay Physician for excess call coverage as follows: (i) Physician shall be paid a fixed fee in the amount of \$750 per twenty-four (24) hour day for every weekday (Monday through Thursday) of call coverage assigned that exceeds one (1) in four (4) days per week; and (ii) Physician shall be paid a fixed fee in the amount of \$750 per twenty-four (24) hour day for every weekend (Saturday and Sunday) of call coverage that exceeds one (1) in four (4) weekends. All payments made by Authority to Physician shall be subject to all applicable federal and state taxes and withholding requirements.

5.3 **Elective Cosmetic Procedures.** Authority shall pay Physician a percentage of the cash collections for elective cosmetic procedures that are excluded from third-party payer reimbursement as follows: (i) Physician shall receive thirty percent (30%) of cash collections for office-/clinic-based cosmetic procedures; (ii) Physician shall receive thirty percent (30%) of cash collections for office/clinic injectables; and (iii) Physician shall receive thirty percent (30%) of case collections for elective cosmetic procedures performed in the outpatient surgery center. All

payments made by Authority to Physician shall be subject to all applicable federal and state taxes and withholding requirements.

#### 5.4 Starting Bonus.

5.4.1 Bonus. Physician shall receive a starting bonus in the amount of \$50,000, less all applicable federal and state taxes and withholdings, payable within ten (10) business days of the Commencement Date. Physician shall forfeit the starting bonus if he fails to report to work on the Commencement Date.

5.4.2 Repayment. In the event that Physician voluntarily terminates his employment with Authority for any reason whatsoever before the first anniversary of this Agreement, Physician will repay to Authority an amount equal to \$50,000 multiplied by the fraction, the numerator of which is three hundred sixty-five (365) less the number of days during which Physician was employed by Authority, and the denominator of which is three hundred sixty-five (365). Such repayment shall be made by Physician in full within thirty (30) days of the effective date of his termination of employment with Authority.

5.4.3 Offset. Physician hereby authorizes Authority to offset against and reduce any amounts otherwise due to Physician for any amounts in respect of the obligation to repay the starting bonus.

#### 5.5 Professional Fee Billing.

5.5.1 Assignment. KMC shall have the exclusive right and authority to set, bill, collect and retain all fees, including professional fees, for all direct patient care services provided by Physician during the Term of this Agreement. All professional fees generated by Physician during the Term of this Agreement, including without limitation, both cash collections and accounts receivable, capitated risk pool fees, professional retainer fees, honoraria, professional consulting and teaching fees, and fees for expert testimony (but excluding Physician's private investment and nonprofessional income, industry consulting, which includes honoraria and professional speaking and teaching fees, and fees for expert testimony provided outside the geographic area of Kern County), will be the sole and exclusive property of KMC, whether received by KMC or by Physician and whether received during the Term of this Agreement or anytime thereafter. Physician hereby assigns all rights to said fees and accounts to KMC and shall execute all documents required from time to time by KMC and otherwise fully cooperate with KMC to enable KMC to collect fees and accounts from patients and third-party payers.

5.5.2 Remittance of Professional Fee Charges. Physician shall remit all professional fee charges to KMC within forty-five (45) days of the date direct patient care services are provided by Physician. Any professional fee charges not remitted by Physician to KMC within forty-five (45) days of the date of such service, or any charges for which relevant documentation has not been provided, will not be credited to Physician as Worked RVU.

5.6 Maximum Payable. The maximum compensation payable under this Agreement shall not exceed \$2,740,625 over the three (3) year Initial Term of this Agreement.

6. **Benefits Package.**

6.1 Retirement. Physician shall participate in the Kern County Hospital Authority Defined Contribution Plan for Physician Employees (the “Plan”), a qualified defined contribution pension plan, pursuant to the terms of the instrument under which the Plan has been established, as from time to time amended. Physician is not eligible to participate in any other retirement plan established by Authority for its employees, including but not limited to the Kern County Employees’ Retirement Association, and this Agreement does not confer upon Physician any right to claim entitlement to benefits under any such retirement plan(s).

6.2 Health Care Coverage. Physician shall receive the same health benefits (medical, dental, prescription and vision coverage) as all eligible Authority employees. The employee share of cost is twenty percent (20%) of the current biweekly premium. Physician is eligible for coverage the first day of the biweekly payroll period coincident with or next following the day he completes one (1) month of continuous service. Physician’s initial hire date is the initial opportunity to enroll in the health plan. Physician must work at least forty (40) hours per biweekly pay period to be eligible for coverage.

6.3 Holidays. Physician shall be entitled to paid holidays subject to Authority policy, as amended from time to time. Physician will not be paid for banked holidays upon termination of employment.

6.4 Vacation. Physician shall be entitled to vacation leave subject to Authority policy, as amended from time to time. Physician shall be paid for accrued and unused vacation leave, if any, upon termination or expiration of this Agreement calculated at Physician’s current hourly rate (i.e., current Annual Salary divided by 2080 hours = hourly rate). All payments made by Authority to Physician under this paragraph will be subject to all applicable federal and state taxes and withholding requirements.

6.5 Sick Leave. Physician shall be entitled to sick leave subject to Authority policy, as amended from time to time. Physician will not be paid for accrued and unused sick leave upon termination of employment.

6.6 Education Leave. Physician shall receive eighty (80) hours paid education leave annually. The first eighty (80) hours will accrue on the Commencement Date. On each successive Employment Year, if any, an additional eighty (80) hours paid education leave will accrue. Education leave must be used within the year that it is accrued. Physician will not be paid for unused education leave upon termination of employment. The Department Chair must approve education leave in advance of use. Physician’s participation in educational programs, services or other approved activities set forth herein shall be subordinate to Physician’s obligations and duties under this Agreement.

6.7 CME Expense Reimbursement. Authority shall reimburse Physician for all approved reasonable and necessary expenditures related to continuing medical education in an amount not to exceed \$2,500 per Employment Year, payable in arrears, in accordance with Authority policy, as amended from time to time. This amount may not be accumulated or accrued and does not continue to the following Employment Year.

6.8 Flexible Spending Plan. Physician shall be eligible to participate in flexible spending plans to pay for dependent care, non-reimbursed medical expenses, and certain insurance premiums on a pre-tax basis through payroll deduction. This is a voluntary benefit that is paid by Physician if he elects to participate in the plan.

6.9 Attendance at Meetings. Physician shall be permitted to be absent from KMC during normal working days to attend professional meetings and to attend to such outside professional duties in the healthcare field as may be mutually agreed upon between Physician and the Department Chair. Attendance at such approved meetings and accomplishment of approved professional duties shall be fully compensated service time and will not be considered vacation or education leave.

6.10 Unpaid Leave of Absence. Physician may take an unpaid leave of absence in accordance with Authority policies in effect at the time the leave is taken.

6.11 Social Security. Physician is exempt from payment of Social Security taxes as the Kern County Hospital Authority Defined Contribution Plan for Physician Employees is a qualified alternative to the insurance system established by the federal Social Security Act.

6.12 Deferred Compensation. Physician shall be eligible to participate in the Kern County Deferred Compensation Plan ("457 Plan") on a pre-tax basis. Physician shall make all contributions if he elects to participate in the 457 Plan.

6.13 Disability Insurance. Physician shall be eligible to purchase Long Term Disability or Short Term Disability insurance coverage through payroll deduction on a post-tax basis. This is a voluntary benefit that is paid by Physician if he elects to participate in the plan.

6.14 Employee Assistance/Wellness Programs. Physician shall be eligible to participate in any Authority-sponsored employee assistance and employee wellness programs.

6.15 Relocation Reimbursement. Authority shall reimburse Physician for actual relocation expenses (defined as the packing, moving and unpacking of household goods and vehicles) and travel expenses (defined as lodging, meals, mileage and incidental expenses) associated in moving to Bakersfield, California, in an amount not to exceed \$30,000, payable in arrears, in accordance with Authority policy (no later than 90 days from the Commencement Date). Reimbursement of travel expenses will include per mile reimbursement for one (1) personal vehicle at the current privately owned vehicle (POV) mileage reimbursement rate established by the U.S. General Services Administration, meals and incidental expenses for Physician only at the current domestic per diem rates established by the U.S. General Services Administration for Kern County, and reasonable hotel accommodations not to exceed the



maximum allowable reimbursement rate including taxes established by Authority. Physician shall be deemed vested in reimbursement of relocation expenses in the amount of \$833.34 per month beginning on the last day of the month in which the relocation expenses are reimbursed to Physician. In the event Physician's employment is terminated by either party, with or without cause, then, on the effective date of such termination, Physician shall repay to Authority all amounts received in which Physician has not yet become vested.<sup>2</sup> Such reimbursement shall not be considered compensation for purposes of paragraph 5.6.

6.16 **Limitation on Benefits.** Except as expressly stated herein, Physician shall receive no other benefits from Authority.

7. **Assignment.** Physician shall not assign or transfer this Agreement or his obligations hereunder or any part thereof. Physician shall not assign any money due or which becomes due to Physician under this Agreement without the prior written approval of Authority.

8. **Assistance in Litigation.** Upon request, Physician shall support and assist Authority as a consultant or expert witness in litigation to which Authority is a party.

9. **Authority to Incur Financial Obligation.** It is understood that Physician, in his performance of any and all duties under this Agreement, has no right, power or authority to bind Authority to any agreements or undertakings.

10. **Captions and Interpretation.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the parties.

11. **Choice of Law/Venue.** This Agreement shall be construed and enforced under and in accordance with the laws of the state of California, with venue of any action relating to this Agreement in the County of Kern, state of California.

12. **Compliance with Law.** Physician shall observe and comply with all applicable Authority, local, state and federal laws, ordinances, rules and regulations now in effect or hereafter enacted, each of which is hereby made a part hereof and incorporated herein by reference.

13. **Confidentiality.** Physician shall maintain confidentiality with respect to information that he receives in the course of his employment and not use or permit the use of or disclose any such information in connection with any activity or business to any person, firm or corporation whatsoever, unless such disclosure is required in response to a validly issued subpoena or other process of law or as required by Government Code section 6250 et seq. Upon completion of the Agreement, the provisions of this paragraph shall continue to survive.

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<sup>2</sup> By way of example only, in the event Physician terminates his employment after twelve (12) months then Physician will be vested to the extent of \$10,000 in the relocation expenses described herein and will be obligated to repay Authority the amount of \$20,000. **In the event Physician fails to pay such amount to Authority, Physician expressly grants to Authority the right to offset any amounts owed to Authority against any payments made to Physician by Authority.**

14. **Conflict of Interest.** Physician covenants that he has no interest and that he will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law (Gov. Code, § 81000 et seq.) or that would otherwise conflict in any manner or degree with the performance of his services hereunder. It is understood and agreed that if such a financial interest does exist at the inception of this Agreement, Authority may terminate this Agreement immediately by giving written notice thereof.

15. **Counterparts.** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

16. **Dispute Resolution.** In the event of any dispute involving the enforcement or interpretation of this Agreement or any of the rights or obligations arising hereunder, the parties shall first attempt to resolve their differences by mediation before a mediator of their mutual selection. If the parties are, after mutual good faith efforts, unable to resolve their differences by mediation, the dispute shall be submitted for trial before a privately compensated temporary judge appointed by the Kern County Superior Court pursuant to Article VI, section 21 of the California Constitution and Rules 3.810 through 3.830 of the California Rules of Court. All costs of any dispute resolution procedure shall be borne equally by the parties.

17. **Enforcement of Remedies.** No right or remedy herein conferred on or reserved to Authority is exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

18. **Indemnification.** Authority shall assume liability for and indemnify and hold Physician harmless from any and all claims, losses, expenses, costs, actions, settlements, attorneys' fees and judgments incurred by Physician or for which Physician becomes liable, arising out of or related to services rendered or which a third party alleges should have been rendered by Physician pursuant to this Agreement. Authority's obligation under this paragraph shall extend from Physician's first date of service to Authority and shall survive termination or expiration of this Agreement to include all claims that allegedly arise out of services Physician rendered on behalf of Authority; provided, however, that the provisions of this paragraph shall not apply to any services rendered at any location other than Practice Sites without approval by the Kern County Hospital Authority Board of Governors and, provided further, that Authority shall have no duty or obligation to defend, indemnify, or hold Physician harmless for any conduct or misconduct found to be intentional, willful, grossly negligent, or criminal.

19. **Invalidity of a Portion.** Should a portion, section, paragraph, or term of this Agreement be construed as invalid by a court of competent jurisdiction, or a competent state or federal agency, the balance of the Agreement shall remain in full force and effect. Further, to the extent any term or portion of this Agreement is found invalid, void or inoperative, the parties agree that a court may construe the Agreement in such a manner as will carry into force and effect the intent appearing herein.

20. **Modifications of Agreement.** This Agreement may be modified in writing only, signed by the parties in interest at the time of the modification.

21. **Non-appropriation.** Authority reserves the right to terminate this Agreement in the event insufficient funds are appropriated or budgeted for this Agreement in any fiscal year. Upon such termination, Authority will be released from any further financial obligation to Physician, except for services performed prior to the date of termination or any liability due to any default existing at the time this clause is exercised. Physician shall be given thirty (30) days' prior written notice in the event that Authority requires such an action.

22. **Nondiscrimination.** No party to this Agreement shall discriminate on the basis of race, color, religion, sex, national origin, age, marital status or sexual orientation, ancestry, physical or mental disability, medical conditions, political affiliation, veteran's status, citizenship or marital or domestic partnership status or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics.

23. **Non-waiver.** No covenant or condition of this Agreement can be waived except by the written consent of Authority. Forbearance or indulgence by Authority in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by Physician. Authority shall be entitled to invoke any remedy available to Authority under this Agreement or by law or in equity despite said forbearance or indulgence.

24. **Notices.** Notices to be given by one party to the other under this Agreement shall be given in writing by personal delivery, by certified mail, return receipt requested, or express delivery service at the addresses specified below. Notices delivered personally shall be deemed received upon receipt; mailed or expressed notices shall be deemed received four (4) days after deposit. A party may change the address to which notice is to be given by giving notice as provided above.

Notice to Physician:

Wong Moon, M.D.  
9642 Rosecroft Drive  
Clarence Center, New York 14032

Notice to Authority:

Kern Medical Center  
1700 Mount Vernon Avenue  
Bakersfield, California 93306  
Attn.: Chief Executive Officer

25. **Relationship.** Authority and Physician recognize that Physician is rendering specialized, professional services. The parties recognize that each is possessed of legal knowledge and skill, and that this Agreement is fully understood by the parties, and is the result of bargaining between the parties. Each party acknowledges their opportunity to fully and independently review and consider this Agreement and affirm complete understanding of the effect and operation of its terms prior to entering into the same.

26. **Severability.** Should any part, term, portion or provision of this Agreement be decided finally to be in conflict with any law of the United States or the state of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions

shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the parties intended to enter into in the first instance.

27. **Sole Agreement.** This Agreement contains the entire agreement between the parties relating to the services, rights, obligations, and covenants contained herein and assumed by the parties respectively. No inducements, representations, or promises have been made, other than those recited in this Agreement. No oral promise, modification, change, or inducement shall be effective or given any force or effect.

28. **Termination.**

28.1 **Termination without Cause.** Either party shall have the right to terminate this Agreement, without penalty or cause, by giving not less than one hundred twenty (120) days' prior written notice to the other party.

28.2 **Immediate Termination.** Notwithstanding the foregoing, Authority may terminate this Agreement immediately by written notice to Physician upon the occurrence of any of the following events: (i) Authority determines that Physician does not have the proper credentials, experience, or skill to perform the required services under this Agreement; (ii) Authority determines the conduct of Physician in the providing of services may result in civil, criminal, or monetary penalties against Authority or KMC; (iii) Physician violates any federal or state law or regulatory rule or regulation or condition of accreditation or certification to which Authority or Practice Sites is subject; (iv) Physician engages in the commission of a material act involving moral turpitude, fraud, dishonesty, embezzlement, misappropriation or financial dishonesty against Authority or KMC; (v) the actions of Physician result in the loss or threatened loss of KMC's ability to participate in any federal or state health care program, including Medicare or Medi-Cal; (vi) Physician's license to practice medicine in the state of California lapses or is denied, suspended, revoked, terminated, relinquished or made subject to terms of probation or other restriction; (vii) Physician's Medical Staff privileges are denied, suspended, revoked, terminated, relinquished under threat of disciplinary action or made subject to terms of probation or other restriction; (viii) Physician's Controlled Substance Registration Certificate issued by the Drug Enforcement Administration is revoked, suspended, terminated, relinquished, placed on terms of probation, or restricted in any way; (ix) Physician becomes debarred, excluded, or suspended, or if any other event occurs that makes Physician an Ineligible Person; (x) Physician fails to make a timely disclosure pursuant to paragraph 4.4; (xi) Physician engages in conduct that, in the sole discretion of Authority, is detrimental to patient care or to the reputation or operations of Authority and/or KMC; (xii) Physician breaches the confidentiality provisions of this Agreement; (xiii) Physician dies; (xiv) Physician fails to follow Authority's policies and procedures and other rules of conduct applicable to all employees of Authority, including without limitation, policies prohibiting sexual harassment; (xv) insubordination, flagrant tardiness, or interpersonal problems in the workplace with colleagues, patients or associates; or (xvi) Physician breaches any covenant set forth in paragraph 4.11.

29. **Effect of Termination.**

29.1 Payment Obligations. In the event of termination of this Agreement for any reason, Authority shall have no further obligation to pay for any services rendered or expenses incurred by Physician after the effective date of the termination, and Physician shall be entitled to receive compensation for services satisfactorily rendered, calculated on a prorated basis up to the effective date of termination.

29.2 Vacate Premises. Upon expiration or earlier termination of this Agreement, Physician shall immediately vacate KMC, removing at such time any and all personal property of Physician. KMC may remove and store, at the expense of Physician, any personal property that Physician has not so removed.

29.3 No Interference. Following the expiration or earlier termination of this Agreement, Physician shall not do anything or cause any person to do anything that might interfere with any efforts by Authority or KMC to contract with any other individual or entity for the provision of services or to interfere in any way with any relationship between KMC and any person who may replace Physician.

29.4 No Hearing Rights. Termination of this Agreement by Authority or KMC for any reason shall not provide Physician the right to a fair hearing or the other rights more particularly set forth in the KMC Medical Staff Bylaws.

30. **Liability of Authority.** The liabilities or obligations of Authority with respect to its activities pursuant to this Agreement shall be the liabilities or obligations solely of Authority and shall not be or become the liabilities or obligations of the County of Kern or any other entity, including the state of California.

[Signatures follow on next page]

IN WITNESS TO THE FOREGOING, the parties have executed this Agreement as of the day and year first written above.

PHYSICIAN

By: Wong Moon  
Wong Moon, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By: \_\_\_\_\_  
Chairman  
Board of Governors

APPROVED AS TO CONTENT:

By: \_\_\_\_\_  
Scott Thygerson  
Chief Executive Officer

APPROVED AS TO FORM:  
LEGAL SERVICES DEPARTMENT

By: \_\_\_\_\_  
Vice President & General Counsel  
Kern County Hospital Authority

Agreement.Moon.051122

**EXHIBIT “A”**  
**JOB DESCRIPTION**  
**Wong Moon, M.D.**

**Position Description:** Reports to Chair, Department of Surgery; serves as a full-time core plastic surgery faculty member in the Department; work effort will be a minimum 2,500 hours annually in teaching, administrative, and clinical activity; day-to-day activities and clinical workload will include call coverage for trauma and emergency plastic surgery; provides comprehensive and safe clinical coverage for day-to-day operations, timely completion of surgery, direct patient care, scholarly research and resident education; works collaboratively with clinic and surgery staff and hospital administration to ensure efficient workflow, adequacy of support equipment, and superior patient experience.

**Essential Functions:**

1. Clinical Responsibilities and Assignments:
  - Coordinate with current plastic surgery faculty schedules and activities to provide service and improve efficiency for plastic surgery clinical activities
  - Conduct daily inpatient rounds
  - Provide service and improve efficiency for plastic surgery cases
  - Provide faculty service for plastic surgery call coverage
  - Supervise surgery Physician Assistant activity and competence
  - Operating Room – minimum of two (2) half days per week
  - KMC, Stockdale Highway, Truxtun Avenue, or other designated clinic sites – minimum of three (3) half-day clinics per week
  - Call coverage – weekday coverage, Monday through Thursday, one (1) in four (4) weekdays up to a maximum of 52 weekday call shifts per year; weekend coverage, one (1) in four (4) weekends up to a maximum of 13 weekends per year
  
2. Administrative Responsibilities:
  - Assist in clinical and administrative integration efforts across KMC as appropriate for plastic surgery assisting with proper program planning, surgeon recruitment and faculty development, resource allocation, analysis, communication and assessment
  - Gather data through best practices and collaborate with other members of the Department to recommend services that will increase productivity, minimize duplication of services, increase workflow efficiency, and provide the highest quality of care to KMC patients
  - Support the Department chair to develop monitoring tools to measure financial, access, quality and satisfaction outcomes for plastic surgery services
  - Attend and actively participate in assigned Medical Staff and hospital committees
  - Participate in clinical and administrative integration efforts across the hospital as appropriate for the Department ensuring proper program planning, resource allocation, analysis, communication, and assessment
  - Participate in the preparation, monitoring, review, and performance of clinical activity in the Department
  - Participate in the quality improvement and risk management activities, including peer review and quality control functions as assigned to services in the Department

- Provide didactic teaching and resident physician and medical student education as assigned and participate in setting goals and expectations for the surgery resident and medical student rotations
- Complete medical records in a timely fashion and work to improve the quality, accuracy, and completeness of documentation
- Work collaboratively with other clinical departments to develop a cohesive and collaborative environment across departments with a focus of enhancing access to patient care for inpatient and outpatient services
- Follow and comply with the Medical Staff Bylaws, Rules, Regulations, and policies and Authority and KMC policies and procedures

3. Teaching Responsibilities:

- Assist with didactic curriculum and teaching conference activity for plastic surgery
- Assist in resident research and scholarly activity

**Employment Standards:**

Completion of an accredited residency program in plastic surgery; one (1) year post-residency fellowship experience in hand surgery and microsurgical replantation and transplantation

AND

Possession of a current valid Physician's and Surgeon's Certificate issued by the state of California

AND

Certification by the American Board of Plastic Surgery in plastic surgery-general

**Knowledge of:** The principles and practices of modern medicine; current techniques, procedures, and equipment applicable to plastic surgery; principles of effective supervision and program development.

[Intentionally left blank]



**EXHIBIT "B"**  
**AUTHORIZATION TO RELEASE INFORMATION**

**[Attached]**

**AUTHORIZATION TO RELEASE INFORMATION**

I, the undersigned physician, hereby authorize Kern Medical Center (“KMC”) and its duly authorized representatives to obtain information from time to time about my professional education, training, licensure, credentials competence, ethics and character from any source having such information. This information may include, without limitation, peer review information, DRG and RVU analyses, ancillary usage information and other utilization and quality related data.

I hereby release the Kern County Hospital Authority and KMC, its authorized representatives and any third parties from any liability for actions, recommendations, statements, reports, records or disclosures, including privileged and confidential information, involving me that are made, requested, taken or received by KMC or its authorized representatives to, from or by any third parties in good faith and relating to or arising from my professional conduct, character and capabilities.

I agree that this authorization to release information shall remain effective until termination of my employment by the Kern County Hospital Authority and KMC. A duplicate of this authorization may be relied upon to the same degree as the original by any third party providing information pursuant to this request.

Wong Moon  
Physician

6/7/2022  
Date



**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Proposed Amendment No. 1 to Agreement 032-2019 with M. Brandon Freeman, M.D., for professional medical services in the Department of Surgery

**Recommended Action:** Approve; Authorize Chairman to sign

**Summary:**

Kern Medical requests your Board approve Amendment No. 1 to the Agreement with M. Brandon Freeman, M.D., a contract employee, for professional medical services in the Department of Surgery, for the period July 17, 2019 through July 16, 2022. Dr. Freeman, a plastic surgeon, has been employed by Kern Medical Center since 2008.

The proposed Amendment is extending the term of the Agreement by 90 days from July 17, 2022 through October 21, 2022, during which time a new agreement will be negotiated with Dr. Freeman. The Amendment increases the maximum payable by \$150,000, from \$1,800,000 to \$1,950,000, to cover the extended term.

Therefore, it is recommended that your Board approve the Amendment No. 1 to Agreement 032-2019 with M. Brandon Freeman, M.D., for professional medical services in the Department of Surgery, extending the term for 90 days from July 17, 2022 through October 21, 2022, increasing the maximum payable by \$150,000, from \$1,800,000 to \$1,950,000, to cover the extended term, and authorize the Chairman to sign.

**AMENDMENT NO. 1  
TO  
AGREEMENT FOR PROFESSIONAL SERVICES  
CONTRACT EMPLOYEE  
(Kern County Hospital Authority – M. Brandon Freeman, M.D.)**

This Amendment No. 1 to the Agreement for Professional Services is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, between the Kern County Hospital Authority, a local unit of government (“Authority”), which owns and operates Kern Medical Center (“KMC”), and M. Brandon Freeman, M.D. (“Physician”).

**RECITALS**

(a) Authority and Physician have heretofore entered into an Agreement for Professional Services (Kern County Agt. #032-2019, dated June 19, 2019) (the “Agreement”), for the period July 17, 2019 through July 16, 2022, whereby Physician provides professional medical services in the Department of Surgery at KMC; and

(b) The parties agree to amend certain terms and conditions of the Agreement as hereinafter set forth; and

(c) The Agreement is amended effective July 17, 2022;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree to amend the Agreement as follows:

1. Section 1, Term, shall be deleted in its entirety and replaced with the following:

“1. **Term.** The term of this Agreement shall commence as of July 17, 2019 (the “Commencement Date”), and shall end October 21, 2022 (the “Term”), unless earlier terminated pursuant to other provisions of this Agreement as herein stated. This Agreement may be renewed for additional terms, but only upon mutual written agreement of the parties. As used herein, an “Employment Year” shall mean the annual period beginning on the Commencement Date and each annual period thereafter.”

2. Section 5, Compensation Package, paragraph 5.4, Maximum Payable, shall be deleted in its entirety and replaced with the following:

“5.4 **Maximum Payable.** The maximum compensation payable under this Agreement shall not exceed \$1,950,000 over the Term of this Agreement.”

3. All capitalized terms used in this Amendment and not otherwise defined, shall have the meaning ascribed thereto in the Agreement.

4. This Amendment shall be governed by and construed in accordance with the laws of the state of California.

5. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

6. Except as provided herein, all other terms, conditions and covenants of the Agreement shall remain in full force and effect.

[Intentionally left blank]

IN WITNESS TO THE FOREGOING, the parties have executed this Amendment No. 1 as of the day and year first written above.

PHYSICIAN

By \_\_\_\_\_  
M. Brandon Freeman, M.D.

KERN COUNTY HOSPITAL AUTHORITY

By \_\_\_\_\_  
Chairman  
Board of Governors

APPROVED AS TO CONTENT:

By \_\_\_\_\_  
Scott Thygerson  
Chief Executive Officer

APPROVED AS TO FORM:  
LEGAL SERVICES DEPARTMENT

By \_\_\_\_\_  
Vice President & General Counsel  
Kern County Hospital Authority

Amend1.Freeman.060922



**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Proposed Amendment No. 4 to Agreement 529-2018 for Professional Services with the County of Kern

**Requested Action:** Approve; Authorize Chairman to sign

**Summary:**

Kern Medical requests your Board approve Amendment No. 4 to the Agreement for Professional Services with the County of Kern, which provides for transport and morgue services of deceased patients of Kern Medical and accommodations for Kern Medical performed autopsies through the Kern County Sherriff's Office – Coroner Section. This Agreement also allows Kern Medical to provide x-ray services upon request by the Kern County Coroner.

The Professional Services Agreement term is from July 1, 2018 through June 30, 2022. The Amendment, effective July 1, 2022, extends the term one year from June 30, 2022 to June 30, 2023, and increases the maximum payable by \$80,000 from \$200,000 to \$280,000, over the five-year term.

Therefore, it is recommended that your Board approve Amendment No. 4 to the Agreement for Professional Services with the County of Kern, effective July 1, 2022, extending the term one year from June 30, 2022 to June 30, 2023, and increasing the maximum payable by \$80,000 from \$200,000 to \$280,000, to cover the extended term, and authorize the Chairman to sign.

**AMENDMENT NO. 4 TO  
AGREEMENT FOR PROFESSIONAL SERVICES  
INDEPENDENT CONTRACTOR  
(Kern County Hospital Authority - County of Kern)**

THIS AMENDMENT NO. 4 to the Agreement for Professional Services ("Amendment") is made and entered into on \_\_\_\_\_, by and between the KERN COUNTY HOSPITAL AUTHORITY, a local unit of government, which owns and operates Kern Medical Center ("**Authority**") and the COUNTY OF KERN, a political subdivision of the State of California ("**County**"), which contains the constituent department of the Kern County Sheriff's Office – Coroner Section ("**Coroner**"), referred to as "**Party**" and collectively as "**Parties.**"

**RECITALS**

- A. Authority and County have heretofore entered into an Agreement for Professional Services (Kern County Agt. #529-2018, dated July 24, 2018), Amendment No. 1 (Kern County Agt. #127-2019, dated March 19, 2019), Amendment No. 2 (Kern County Agt. #373-2020, dated June 16, 2020), and Amendment No. 3 (Kern County Agt. #183-2021, dated April 13, 2021) for the period of July 1, 2018 through June 30, 2022, to define the relationship and services provided by each Party ("Agreement");
- B. The Parties agree to amend certain terms and conditions of the Agreement as hereinafter set forth; and
- C. The Agreement is amended effective as of July 1, 2022.

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter set forth and incorporating by this reference the foregoing recitals, the parties hereto agree to amend the Agreement as follow:

- 1. Section 2, Paragraph 1 shall be deleted in its entirety and replaced with the following:
  - "1. Term. The term of this Agreement shall commence on July 1, 2018 (the "Effective Date"), and shall end June 30, 2023, unless earlier terminated pursuant to other provisions of this Agreement as herein stated."
- 2. Section 2, Paragraph 4.5 shall be added with the following:
  - "4.5 Maximum Payable. The maximum payable under this Agreement shall not exceed \$280,000 for the five (5) year term.
- 3. Except as otherwise defined herein, all capitalized terms used in this Amendment have the meaning set forth in the Agreement.
- 4. This Amendment shall be governed by and construed in accordance with the laws of the state of California.



5. This Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
6. Except as provided herein, all other terms, conditions, and covenants of the Agreement and any and all amendments thereto shall remain in full force and effect.

IN WITNESS TO THE FOREGOING, the Parties have executed this Amendment No. 4 as of the day and year first written above.

COUNTY OF KERN

KERN COUNTY HOSPITAL AUTHORITY

By \_\_\_\_\_  
Chairman  
Board of Supervisors

By \_\_\_\_\_  
Russell Bigler  
Chairman, Board of Governors

APPROVED AS TO CONTENT:  
Kern County Sheriff's Office – Coroner Section

APPROVED AS TO CONTENT:  
Kern Medical Center

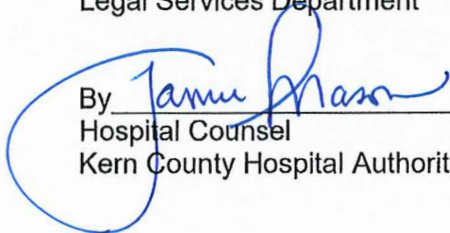
By \_\_\_\_\_  
Donny Youngblood  
Sheriff-Coroner-Public Administrator

By \_\_\_\_\_  
Tyler Whitezell  
Chief Operating Officer

APPROVED AS TO FORM:  
Office of County Counsel

APPROVED AS TO FORM:  
Legal Services Department

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

By  \_\_\_\_\_  
Hospital Counsel  
Kern County Hospital Authority





**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**SUBJECT:** Proposed renewal and binding of insurance coverages from July 1, 2022 through June 30, 2023, in an amount not to exceed of \$1,826,850

**RECOMMENDED ACTION:** Approve; Authorize Chief Executive Officer to sign the Commercial Insurance Premium Finance and Security Agreement with BankDirect Capital Finance

Kern Medical requests your Board's approval to renew and bind the following insurance coverages for the period July 1, 2022 through June 30, 2023:

- Hospital Professional Liability, General Liability and Umbrella/Excess Liability
- Workers' Compensation and Employers Liability
- Automobile Liability
- Heliport & Non-Owned Aircraft Liability
- Directors & Officers Liability
- Employment Practices Liability
- Healthcare Regulatory Liability
- Crime
- Privacy and Security (Cyber) Liability
- Premises Pollution Liability
- Underground Storage Tanks (UST) Liability
- Employed Lawyers Professional Liability
- Fiduciary Liability

**Hospital Professional Liability, General Liability and Umbrella/Excess Liability \***

Kern Medical recommends renewing coverage for Hospital Professional Liability, General Liability and Umbrella/Excess Liability with MagMutual/Professional Security Insurance Company and National Fire & Marine Insurance Company (MedPro).

- Insurance Carriers: MagMutual/Professional Security Insurance Company and National Fire & Marine Insurance Company (MedPro)
- A.M. Best Rating: MagMutual (A [Excellent] XI); MedPro (A++ [Superior] XV)
- Term: July 1, 2022 – July 1, 2023
- Coverage: Hospital Professional Liability insurance protects the organization, physicians and other licensed health care professionals from liability associated with wrongful practices resulting in bodily injury, medical expenses, and the cost of defending lawsuits related to such

- claims. General Liability insures against losses from bodily injury, personal injury and property damage related to non-medical practices. Umbrella/Excess Liability provides additional limits in excess of self-insured retentions and underlying coverages
- Limit per Medical Incident or per Occurrence and Aggregate: \$25,000,000
- Self-insured Retention (SIR):
  - \$2,000,000 per Professional Liability Claim / \$6,000,000 Aggregate
  - \$1,000,000 per General Liability Occurrence
- Underlying Coverages: Automobile Liability, Employers Liability and Heliport Liability
- Combined Annual Premium: \$778,979 (**3.3% increase** over last year in total)

### **Workers' Compensation and Employers Liability \***

Kern Medical recommends renewing coverage for Workers' Compensation and Employers Liability with Safety National Casualty Corporation.

- Insurance Carrier: Safety National Casualty Corporation
- A.M. Best Rating: A++ (Superior) XV
- Term: July 1, 2022 – July 1, 2023
- Coverage: This policy insures against losses from work-related bodily injury or disease and the common law liability of an employer for injuries sustained by employees
- Limit per Occurrence:
  - Workers' Compensation - Statutory
  - Employers Liability - \$5,000,000 and Aggregate
- SIR: \$1,000,000
- Annual Premium: \$175,572

### **Automobile Liability \***

Kern Medical recommends renewing coverage for Automobile Liability with Philadelphia Indemnity Insurance Company to cover 11 vehicles, two (2) RVs and three (3) trailers with specific coverages as expiring.

- Insurance Carrier: Philadelphia Indemnity Insurance Company
- A.M. Best Rating: A++ (Superior) XV
- Term: July 1, 2022 – July 1, 2023
- Coverage: This policy insures against losses from automobile accident-related injuries and property damage, including Owned, Non-Owned and Hired Automobiles
- Limit per Occurrence: \$1,000,000
- Deductible: \$1,000 for both comprehensive and collision (where coverage applies); \$5,000 for liability
- Annual Premium: \$20,489

### **Heliport Liability \***

Kern Medical recommends binding Heliport Liability coverage through National Union Fire Insurance.

- Insurance Carrier: National Union Fire Insurance Company of Pittsburg, PA
- A.M. Best Rating: A (Excellent) XV
- Term: July 1, 2022 – July 1, 2023

- Coverage: This policy insures against losses for injury to a third party or their property arising from the operation and maintenance of the hospital's helipad (e.g., damage caused to a vehicle from debris). The policy also protects the hospital against losses associated with non-owned aircraft (e.g., patient transport by helicopter)
- Limit per Occurrence and Aggregate: \$10,000,000
- Deductible: \$0
- Annual Premium: \$6,960

#### **Directors and Officers Liability \***

Kern Medical recommends renewing coverage for Directors and Officers Liability through Lloyd's of London (Beazley Syndicate).

- Insurance Carrier: Lloyd's Syndicate 2623/623 (Beazley)
- A.M. Best Rating: A (Excellent) XV
- Term: July 1, 2022 – July 1, 2023
- Coverage: This policy provides financial protection for managers against the consequences of actual or "wrongful acts" when acting within the scope of their managerial duties
- Limit Each Wrongful Act Claim and Aggregate: \$5,000,000
- SIR: \$200,000 / \$0 Non-Indemnifiable Claims
- Annual Premium: \$59,230 (**27.64% increase** over last year)

#### **Employment Practices Liability \***

Kern Medical recommends renewing Employment Practices Liability coverage through Lloyd's of London (Beazley Syndicate).

- Insurance Carrier: Lloyd's Syndicate 2623/623 (Beazley)
- A.M. Best Rating: A (Excellent) XV
- Term: July 1, 2022 – July 1, 2023
- Coverage: This policy insures against losses for wrongful acts, including wrongful termination, sexual harassment, discrimination, invasion of privacy, false imprisonment, breach of contract, and emotional distress
- Limit Each Wrongful Act Claim and Aggregate: \$5,000,000
- SIR: \$500,000; \$750,000 for High Wage Earner (>\$150K) & Mass/Class Action
- Annual Premium: \$88,844

#### **Healthcare Regulatory Coverage**

Kern Medical recommends the purchase of regulatory coverage through Certain Underwriters at Lloyds of London

- Insurance Carrier: Certain Underwriters at Lloyds of London
- A.M. Best Rating: A [Excellent] XV
- Term: July 1, 2022 – July 1, 2023
- Coverage: This policy insures against billing errors and omissions, including but not limited to Medicare/Medicaid audits, whistleblower (QuiTam) actions, commercial payer audit defense coverage, HIPAA investigations originating from Office of Civil Rights, and incidents arising from alleged EMTALA violations.

- Limit per Occurrence: \$5,000,000 (sublimit of \$2,500,000 for QuiTam actions)
- Deductible: \$250,000
- Annual Premium: \$80,180

### **Crime**

Kern Medical recommends continued participation in the Crime insurance program offered by Public Risk Innovation, Solution, and Management (PRISM).

- Insurance Carrier: National Union Fire Insurance Company of Pittsburgh, PA (AIG) and Berkley Insurance Company
- A.M. Best Rating: National Union (A [Excellent] XV); Berkley (A [Excellent] XV)
- Term: June 30, 2022 – June 30, 2023
- Coverage: This policy insures against employee theft, robbery, forgery, extortion, and computer fraud
- Limit per Occurrence: \$15,000,000
- Deductible: \$25,000
- Annual Premium: \$16,905

### **Privacy and Security (Cyber) Liability**

Kern Medical recommends continued participation in the Cyber Liability program offered by PRISM. Program details have not been finalized and will likely not be completed until July 1, 2022 or after. The following details are the specifics from last year and are used for reference. It is believed the program will be similar; however, changes (if any) have not been announced as the program is still being negotiated with the various carriers. Program details are not expected to be available until after the Authority's June Board of Governors meeting.

- Insurance Carrier: Primary program layer and breach notification through Lloyd's Syndicate 2623/623 (Beazley) and excess program layers through Greenwich Insurance Company (AXA XL), Crum & Forster Specialty Insurance Company, Liberty Surplus Insurance Corporation (Ironshore), Houston Casualty Company (Tokio Marine), and Zurich Insurance Plc (Zurich)
- A.M. Best Rating: Lloyd's/Beazley (A [Excellent] XV); AXA XL (A+ [Superior] XV); Crum & Forster (A [Excellent] XIV); Ironshore (A [Excellent] XV); Tokio Marine (A++ [Superior] XV); Zurich (A+ [Superior] XV)
- Term: July 1, 2022 – July 1, 2023
- Coverage: This policy insures against website media content liability (including cyber extortion, first party data protection and first party network business interruption) and privacy notification costs from data breaches in which patient and employee personal information, such as names, dates of birth, Social Security Numbers, credit card information, etc., is exposed and/or misappropriated
- Limit per Incident and Aggregate: \$12,000,000; \$750,000 for Business Interruption for Security Breach, Cyber Extortion and Data Recovery Costs
- SIR: \$100,000 and/or 100,000 Notified Individuals
- Annual Premium: \$555,000 (**237.54% increase** over last year; PRISM's recommendation is to budget high, as premiums have not yet been finalized; this is not confirmed to be a not-to-exceed number)

### **Premises Pollution Liability \***

Kern Medical recommends renewing Premises Pollution Liability coverage through Ascot Specialty Insurance Company (Ascot).

- Insurance Carrier: Ascot Specialty Insurance Company
- A.M. Best Rating: A (Superior) XIV
- Term: July 1, 2022 – July 1, 2023
- Coverage: Coverage for first-party claims arising from a pollution condition from premises, including clean-up, emergency response and business interruption; coverage for third-party bodily injury and property damage; coverage for transport of hazardous materials and non-owned disposal sites
- Limit per Pollution or Indoor Environmental Condition and Aggregate: \$1,000,000
- Deductible: \$25,000; \$100,000 for mold
- Annual Premium: \$14,463

### **Underground Storage Tank Liability \***

Kern Medical recommends renewing Underground Storage Tank Liability insurance through Great American Alliance Insurance Company for one underground storage tank containing 10,000 gallons of diesel fuel and the associated aboveground day tanks.

- Insurance Carrier: Great American Alliance Insurance Company
- A.M. Best Rating: A+ (Superior) XV
- Term: July 1, 2022 – July 1, 2023
- Coverage: Bodily Injury or Property Damage caused by a storage tank incident, including Corrective Action Costs and Legal Defense Expenses; meets requirements for Financial Responsibility
- Limit per Occurrence and Aggregate: \$1,000,000 / \$2,000,000
- Deductible: \$25,000
- Annual Premium: \$2,478

### **Employed Lawyers \***

Kern Medical recommends renewing Employed Lawyers Professional Liability coverage through Federal Insurance Company (Chubb).

- Insurance Carrier: Federal Insurance Company (Chubb)
- A.M. Best Rating: A++ (Superior) XV
- Term: 7/1/2022 – 7/1/2023
- Coverage: This policy provides professional liability coverage for three (3) employed lawyers and support staff from claims arising from their professional legal services
- Limit per Occurrence/Aggregate: \$1,000,000
- SIR: \$0 Non-Indemnified Person; \$5,000 Organization; \$25,000 Regulatory Defense Costs
- Annual Premium: \$2,597

### **Fiduciary Liability \***

Kern Medical recommends renewing Fiduciary Liability coverage through Hudson Insurance Company

- Insurance Carrier: Hudson Insurance Company
- A.M. Best Rating: A (Excellent) XV
- Term: 7/1/2022 – 7/1/2023
- Coverage: This policy provides coverage for the Defined Contribution Plan fiduciaries, as they can be held personally liable for losses to a benefit plan incurred because of their alleged errors or omissions or breach of their fiduciary duties
- Limit per Occurrence/Aggregate: \$3,000,000
- SIR: \$0 Non-Indemnifiable Losses of Covered Penalties; \$250,000 Class Action or Derivative Claim; \$50,000 All other Losses
- Annual Premium: \$8,703

**Total Annual Premiums:** \$1,810,400 (as recommended)

### **Premium Financing**

Kern Medical recommends financing the premiums as follows:

1. **PRISM** will provide in-house financing of Crime and Privacy and Security (Cyber) coverages for an additional fee of up to \$2,912 with the cost of coverage and financing split between 12 equal payments; and
2. **BankDirect Capital Finance** will finance those coverages identified with an \* symbol. Financing will require a 15% cash down payment (\$180,893), plus finance charges at a rate of 2.89% (up to \$13,538), for total payments not to exceed \$1,031,940, as set forth below:

Total Premium	\$1,199,294
Cash down payment	\$180,893
Amount financed	\$1,018,401
Finance charges (2.89%)	\$13,538
<b>Total payments</b>	<b>\$1,031,940</b>

Financing through BankDirect Capital Finance requires the signing of a separate Commercial Insurance Premium Finance and Security Agreement.

Attached for your ease of reference are a Proposed Program Summary and a Summary of Changes Per Policy Year from July 1, 2018 to the present.

Therefore, it is recommended that your Board approve the renewal and binding of insurance coverages from July 1, 2022 through June 30, 2023, with the option to finance selected premiums through PRISM and BankDirect Capital Finance, in an amount not to exceed \$1,826,850, and authorize the Chief Executive Officer to sign the Commercial Insurance Premium Finance and Security Agreement with BankDirect Capital Finance.





Line of Coverage	FY 18/19	FY 19/20	FY 20/21	FY 21/22	FY 22/23	% Change from 21/22 to 22/23
1 HPL/GL/UMB/Excess	\$ 671,110	\$ 692,447	\$ 726,649	\$ 754,108	\$ 778,979	3.30%
2 Auto	\$ 14,509	\$ 15,983	\$ 18,362	\$ 20,819	\$ 20,489	-1.59%
3 Heliport	\$ 6,019	\$ 6,441	\$ 7,403	\$ 8,143	\$ 6,960	-14.53%
4 Pollution	\$ 12,252	\$ 12,548	\$ 12,688	\$ 13,932	\$ 14,463	3.81%
5 UST	\$ 579	\$ 841	\$ 1,375	\$ 2,453	\$ 2,478	1.02%
6 D&O	\$ 21,243	\$ 29,408	\$ 39,197	\$ 46,405	\$ 59,230	27.64%
7 EPL	\$ 83,855	\$ 63,886	\$ 74,219	\$ 88,109	\$ 88,844	0.83%
8 EWC	\$ 130,463	\$ 126,533	\$ 132,988	\$ 162,138	\$ 175,572	8.29%
9 Crime	\$ 12,003	\$ 13,203	\$ 15,690	\$ 15,629	\$ 16,905	8.16%
10 Cyber/Excess/CEO	\$ 20,282	\$ 19,993	\$ 31,190	\$ 164,425	\$ 555,000	237.54%
11 Employed Lawyers	\$ 1,764	\$ 1,764	\$ 2,594	\$ 2,597	\$ 2,597	0.00%
12 Fiduciary Liability	\$ 6,018	\$ 6,518	\$ 6,518	\$ 7,921	\$ 8,703	9.87%
13 Regulatory Liability					\$ 80,180	
<b>Total</b>	<b>\$ 980,097</b>	<b>\$ 989,565</b>	<b>\$ 1,068,873</b>	<b>\$ 1,286,679</b>	<b>\$ 1,810,400</b>	<b>Total % Change 40.70%</b>

#### Summary of Significant Changes Per Policy Year

- 
- 1 HPL/GL/UMB/Excess** For **FY 18/19**, coverages and SIR's remain the same for both HPL and GL  
For **FY 19/20**, coverages and SIR's remain the same for both HPL and GL  
For **FY 20/21**, coverages and SIR's remain essentially the same for both HPL and GL with the exception that an aggregate (per policy term) SIR of \$6M has been included.  
For **FY 21/22**, KCHA's longtime incumbent carrier exited the CA hospital market and coverage was placed with a new carrier and substantially the same terms and limits.  
For **FY 22/23**, coverages and retentions remain essentially the same.
- 
- 2 Auto** For **FY 18/19**, both changes in coverage and the addition of the four previously uninsured trailers were recommended. Coverage changes included the deletion of Collision coverage from two 2001 Dodge Cargo Vans as the deductible was equitable to half the vehicle value. Other coverage changes included the deletion of Med Pay, UM and UIM coverages as these are essentially duplicative of other available coverages such as workers compensation. In addition, passengers were prohibited from being transported in a KCHA vehicle by policy.  
For **FY 19/20**, coverages and deductibles remain the same with the exception that a liability deductible of \$5k per claim was added and discovered after policy renewal.  
For **FY 20/21**, coverages and deductibles remain essentially the same.  
For **FY 21/22**, coverages and deductibles remain essentially the same; however, two (2) mobile vaccination units were added mid-term of FY 20/21 and continuing.  
For **FY 22/23**, coverages and deductibles remain essentially the same.
- 
- 3 Heliport** No changes had been made to this coverage since **FY 16/17**.  
For **FY 22/23**, the incumbent carrier increased premiums again and an alternate carrier offered greater coverage (\$10M incidental MedMal and Products/Completed operations) with all other limits and retentions stating the same but at a lesser cost.
- 
- 4 Pollution** No changes had been made to this coverage through **FY 18/19**.  
For **FY 19/20**, incumbent offered renewal terms with unfavorable coverage limitations and exclusions resulting in an action to place coverage with a competing carrier offering

coverage and pricing similar to expiring.

For **FY 20/21**, coverages and deductibles remain essentially the same.

For **FY 21/22**, incumbent carrier offered renewal terms but at a 55% increase; secured alternative with a smaller increase and similar terms and conditions but with a \$100k mold deductible.

For **FY 22/23**, terms reflect coverage is excess to other collectible insurance. Emergency and crisis management costs are no longer excluded for construction activities.

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**5 UST**

No changes have been made to this coverage through **FY 18/19**.

For **FY 19/20**, an audit of storage tanks revealed an additional two not previously disclosed to the carrier and needed to be added.

For **FY 20/21**, the addition of a temporary above-ground storage tank resulted in a premium increase.

For **FY 21/22**, the prior policy was cancelled/rewritten to align with other policy periods

For **FY 22/23**, coverages and deductibles remain essentially the same.

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**6 D&O**

No changes have been made to this coverage through **FY 18/19**.

For **FY 19/20**, the incumbent carrier offered unfavorable renewal terms resulting in a change of carrier including coverage and terms.

For **FY 20/21**, coverages and deductibles remain essentially the same; however, an increase in claim frequency has resulted in an unfavorable increase in premium.

For **FY 21/22**, continued claims frequency and market conditions resulted in an unfavorable increase in both premiums and terms. Specifically, the primary retention increased from \$100k to \$200k, the anti-trust retention increased from \$250k to \$350k and KCHA must consult with carrier's counsel before a layoff of 100 or more individuals within a 60 day period.

For **FY 22/23**, anti-trust retention increased from \$350k to \$500k and co-insurance for anti-trust increased from 0% to 10% as a result of unfavorable market conditions.

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**7 EPL**

No changes have been made to this coverage through **FY 18/19**.

For **FY 19/20**, the incumbent carrier offered unfavorable renewal terms resulting in a change of carrier including coverage and terms.

For **FY 20/21**, coverages and deductibles remain essentially the same; however, an increase in claim frequency has resulted in an unfavorable increase in premium.

For **FY 21/22**, continued claims frequency and market conditions has resulted in both an unfavorable increase in premiums and terms. Specifically, a higher retention of \$750k (vs. \$500k) for high wage earners (>\$150K) and a retention of \$750k (vs. \$500k) now applies to any mass/class action. Additionally, KCHA must consult with carrier's counsel before a layoff of 100 or more individuals within a 60 day period.

For **FY 22/23**, coverages and deductibles remain essentially the same.

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**8 EWC**

In **FY 18/19**, the incumbent carrier presented an unfavorable renewal premium despite a favorable loss history. A change in carrier resulted in a substantially lower premium with no material difference in coverage or a change from the \$1M SIR.

For **FY 19/20**, coverages and SIR remained the same with the incumbent carrier.

For **FY 20/21**, coverages and SIR remain essentially the same.

For **FY 21/22**, a modest base rate increase of 4% occurred; however, the majority of the premium increase was a direct result of the additional payroll added by the transfer of many Cantu employees to KCHA.

For **FY 22/23**, coverages and SIR remain essentially the same. Payroll continues to increase and so the premium commensurates with any increases in payroll.

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**9 Crime**

No significant changes have been made to this coverage since **FY 16/17**.  
For **FY 22/23**, PRISM now includes an exclusion for losses resulting directly from a cyberextortion event.

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**10 Cyber/Excess/CEO**

No changes have been made to this coverage through **FY 18/19**.  
For **FY 19/20**, higher limits and multiple broadening of coverages occurred  
For **FY 20/21**, overall limits increased with additional excess layers of coverage resulting in a premium increase also due to the presentation of a claim in FY 19/20  
For **FY 21/22**, a significant premium increase occurred as a result of both KCHA's cyber claim as well as the claims of other program members, market conditions, and claims within the public sector. Additionally, while total limits remained the same, many changes to sublimits became applicable including \$750k for cyber extortion, business interruption for security breach, and data recovery costs. Bricking sublimit increased from \$75k to \$100k. Primary retention increased from \$50k to \$100k. Extensive efforts were made to find a comparable program with more competitive pricing; however, both claims activity and market hardening provided no viable options.  
For **FY 22/23**, cyber market remains extremely hard. PRISM program is currently still negotiating renewal coverages and terms. Member entities advised to budget high at more than a 200% increase. Current market capacity does not provide KCHA an opportunity to qualify for competitive quotes elsewhere with similar coverages, retentions and other terms. PRISM program details not expected to be released before KCHA's June Board meeting or finalized until after July 1.

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**11 Employed Lawyers**

No changes had been made to this coverage since **FY 16/17**.  
For **FY 20/21**, the addition of an employed lawyer resulted in a modest increase in premium.  
For **FY 21/22**, there were no significant changes in terms or coverages with the exception of an increase in retention from \$5k to \$25k for regulatory defense costs.  
For **FY 22/23**, coverages and deductibles remain essentially the same.

---

**12 Fiduciary Liability**

No significant changes have been made to this coverage through **FY 18/19**.  
For **FY 18/19**, added 401(A) Plan though there was no charge until next term.  
For **FY 19/20**, Post Employment Health Plan added which increased premium along with 401(A) by \$500.  
For **FY 20/21**, coverages and deductibles remain essentially the same.  
For **FY 21/22**, carrier instituted a new sublimit of \$3M for class action and derivative and a new separate retention of \$250k for class action or derivative claims.  
For **FY 22/23**, coverages and deductibles remain essentially the same.

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**13 Regulatory Liability**

For **FY 22/23**, coverage is recommended as a new placement with no prior stand-alone coverage in existence.

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*Beginning FY 20/21, property, including earthquake, is not illustrated within this matrix as coverage for these policies require renewal in March of each respective year. Effective March 2020 and continuing annually, the Board was presented with specifics and recommendations for these coverages separately.*

**COMMERCIAL INSURANCE PREMIUM  
FINANCE AND SECURITY AGREEMENT**

THIS COMMERCIAL INSURANCE PREMIUM FINANCE AND SECURITY AGREEMENT (this "Agreement") is between Insured named below as borrower and BankDirect Capital Finance, a division of Texas Capital Bank ("BankDirect") as lender, concerning the financing of the premium(s) for one or more commercial insurance policies listed in the Schedule of Policies below (the "Loan"). The terms of this Agreement are stated below and on all subsequent pages of this document.

<b>Insured / Borrower ("Insured")</b> Name & Business Address (as stated in Policy) Kern County Hospital Authority 1700 Mount Vernon Ave Bakersfield, CA 93306  Telephone Number: 661-326-2000 Taxpayer ID #: XXXXX8278	<b>Insured's Agent or Broker ("Agent")</b> Name & Business Address Alliant Insurance Services, Inc. - San Francisco (Mission) 560 Mission Street, 6th Floor San Francisco, CA 94105  Telephone Number: 925-287-7263 Agency Code: ALLIANT-W07
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**SCHEDULE OF POLICIES (each, a "Policy")**

Policy Prefix and Number	Effective Date of Policy MM/DD/YY	Name & City of Insurance Company and Name & City of General or Policy Issuing Agent or Company Office	Type of Coverage	Policy Subject to Audit (✓)	Policy Term in Months Covered	Min Earned Prem %	Days to Cancel	Short Rate (✓)	Premium Amounts
TBD	7/1/2022	Professional Security Insurance Co PO Box 52979 Atlanta, GA 30355	PACKAGE		12	25%	10		Premium: \$623,490.00 Policy Fee: \$1,000.00 Broker Fee: \$0.00 Tax/Stamp: \$20,263.43 Inspection: \$0.00

Additional Policies are listed on the attached Schedule of Policies

**TOTAL PREMIUMS**

**\$1,199,294.27**

TOTAL PREMIUMS	DOWN PAYMENT	UNPAID PREMIUM BALANCE	FLORIDA DOC STAMP TAX Applicable in Florida only	AMOUNT FINANCED Amount of Loan provided to or on behalf of Insured	FINANCE CHARGE The dollar amount of interest the Loan will cost over the term of the Loan	TOTAL OF PAYMENTS Amount of interest and principal which will have been paid on the Loan after making all scheduled Loan payments	ANNUAL PERCENTAGE INTEREST RATE The cost of interest on the Loan as a yearly percentage rate.
\$1,199,294.27	\$180,892.89	\$1,018,401.38	\$0.00	\$1,018,401.38	\$13,538.22	\$1,031,939.60	2.89%

<b>Payment Schedule:</b> The Loan payment schedule will be:	<b>Number of Loan Payments</b>	<b>Amount of Each Loan Payment*</b>	<b>When Loan Payments are Due ("Due Dates")</b>	
			<b>First Due Date</b>	<b>Subsequent Monthly Due Dates**</b>
	10	\$103,193.96	8/1/2022	1st

\*Non-payment of the Loan may result in cancellation of any Policy. \*\*Subsequent payments are due on the same day of each succeeding period until paid in full.

**Prepayment:** Insured may prepay the outstanding principal balance of the Loan in full at any time. If Insured prepays the Loan in full, Insured will receive a refund of the unearned finance charge, calculated according to the Rule of 78's or the actuarial method as provided by applicable law. Minimum refund is \$1.

**Security Interest:** Insured assigns and grants a security interest to BankDirect as security for payment of all amounts payable under this Agreement, in all of Insured's right, title and interest in and to each Policy and all amounts which are or may become payable to Insured under or with reference to the Policies including, among other things, any gross unearned premiums, dividend payments, and all payments on account of loss which results in reduction of any unearned premium in accordance with the term(s) of said Policies.

**Delinquency Charge:** Insured agrees to pay a delinquency charge to BankDirect on any payment required to be made by Insured hereunder which is not received by BankDirect within five (5) days of its due date, unless a longer period is specified under applicable law, in which case the delinquency charge will be imposed on any payment not received by BankDirect within this longer period. The delinquency charge will be the lesser of: (1) 5% of the overdue amount; or (2) the maximum delinquency charge allowed by applicable law.

**Cancellation Charge:** If a default results in cancellation of a Policy, Insured agrees to pay a cancellation charge of \$25 or the maximum amount permitted by applicable law.

**IMPORTANT INFORMATION ABOUT YOUR LOAN:** To help the Federal government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies the Insured. We will require such information as we deem reasonably necessary to allow us to properly identify you, such as your name, address and Taxpayer ID # (TIN).

**NOTICE TO INSURED:** 1. DO NOT SIGN THIS AGREEMENT UNTIL YOU READ ALL PAGES OF THE AGREEMENT AND FILL IN ANY BLANK SPACES. 2. YOU ARE ENTITLED TO A COMPLETELY FILLED IN COPY OF THIS AGREEMENT. 3. YOU UNDERSTAND AND HAVE RECEIVED A COPY OF THIS AGREEMENT, KEEP IT TO PROTECT YOUR LEGAL RIGHTS. 4. UNDER THE LAW, YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND UNDER CERTAIN CONDITIONS TO OBTAIN A PARTIAL REFUND OF THE FINANCE CHARGE. 5. SEE ADDITIONAL PAGES FOR IMPORTANT INFORMATION.

**REPRESENTATIONS AND WARRANTIES:**

The undersigned Agent and Insured have read the Representations and Warranties on page two of this document, make all such representations and warranties and understand that BankDirect will rely on all such representations and warranties in determining whether or not to accept this Agreement, and agree to be bound by the terms of this Agreement. Insured further acknowledges that upon satisfactory completion of the Agreement, the undersigned Agent will receive from BankDirect \$2,490.00 for the origination and administration of this Agreement.

All Insureds must sign as named in Policies. If corporation, authorized officers must sign; if partnership, partner must sign as such; signatory acting in representative capacity represents that has authorized this transaction and has authorized signatory to receive all notices hereunder. By signing below Insured agrees to make all payments required by this Agreement and to be bound by all provisions of this Agreement, including those on page two. Insured is not required to enter into an insurance premium financing arrangement as a condition to the purchase of any insurance policy. The insured understands that the collection of the Down Payment is a condition precedent to the acceptance of this Agreement. If the Down Payment is dishonored for any reason, this Agreement may, at BankDirect's sole option, be rescinded, even if a notification of acceptance was issued by BankDirect, without further notice.

(Signature of Agent)

(Signature of Insured)

(Title) BANKDIRECT 3A 040114 -DS (Date)

Scott Thygerson, Chief Executive Officer

(Printed Name & Title)

(Date)

**Name of Insured: Kern County Hospital Authority**

**Insured (jointly and severally if more than one) agrees as follows:**

- 1. Promise to Pay.** In consideration of the payment by BankDirect of the Amount Financed, Insured agrees to pay the Down Payment to the insurance company(ies) listed in the Schedule of Policies, and Insured agrees to pay to the order of BankDirect all of the principal amount of the Loan, all interest thereon and all other amounts payable by Insured hereunder in accordance with the Payment Schedule and the other terms of this Agreement.
- 2. Representations and Warranties.** Insured represents and warrants that: (a) the Policies are in full force and effect; (b) the proceeds of the Loan are to be used to purchase insurance for business or commercial purposes; (c) all information provided herein or in connection with this Agreement is true, correct, complete and not misleading; (d) Insured has no indebtedness to the insurers issuing the Policies; (e) Insured is not insolvent nor presently the subject of any insolvency proceeding; and (f) the person signing this Agreement on behalf of Insured is authorized to do so.
- 3. Power of Attorney.** Insured hereby irrevocably appoints BankDirect as Attorney-in-Fact with full power of substitution and full authority upon the occurrence of an Event of Default (defined below) to (i) effect cancellation of the Policies, (ii) receive any unearned premium or other amounts with respect to the Policies assigned as security herein, (iii) sign any check or draft issued therefore in Insured's name and to direct the insurance companies to make said check or draft payable to BankDirect and (iv) sign any other instrument or document in the name of and on behalf of Insured to effectuate the purposes of this Agreement. Insured agrees that this appointment and authority cannot be revoked and is coupled with an interest and will terminate only after Insured's obligations under this Agreement are paid in full. Insured agrees that proof of mailing any notice hereunder constitutes proof of receipt of such notice.
- 4. Payments Received after Notice of Cancellation.** Insured agrees that any payments made and accepted after a Notice of Cancellation has been sent to any insurance company do not constitute reinstatement or obligate BankDirect to request reinstatement of such insurance Policy(ies), and Insured acknowledges that BankDirect has no authority or duty to reinstate coverage, and that such payments may be applied to Insured's obligations hereunder or under any other agreement with BankDirect, and any such payments will not affect BankDirect's rights or remedies under this Agreement.
- 5. Assignments.** Insured agrees not to assign any rights, interests or obligations under any Policy or this Agreement without the prior written consent of BankDirect, except that BankDirect's consent is not required for the rights or interests of mortgagees and loss payees. BankDirect may assign its rights and interests under this Agreement without Insured's consent, and all rights and interests conferred upon BankDirect under this Agreement shall inure to BankDirect's successors and assigns.
- 6. Insufficient Funds (NSF) Fees.** If an Insured's check or electronic funding is dishonored for any reason, Insured agrees to pay BankDirect a fee equal to \$25 or the maximum amount permitted by applicable law.
- 7. Default.** An Event of Default occurs when: (a) Insured does not pay any installment according to the terms of this Agreement or any other agreement; (b) Insured fails to comply with any of the terms of the Agreement; (c) any of the Policies are cancelled for any reason; (d) Insured or its insurance companies are insolvent or involved in a bankruptcy or similar proceeding as a debtor; (e) premiums increase under any of the Policies and Insured fails to pay such increased premiums within thirty (30) days of the notification; or (f) Insured is in default under any other agreement with BankDirect.
- 8. Rights Upon Default.** If an Event of Default occurs, BankDirect may at its option pursue any and all rights and remedies available, including but not limited to, the following: demand and receive immediate payment of the Loan and any other unpaid amounts due under this Agreement regardless of whether BankDirect has received any refund of unearned premium. BankDirect may take all necessary actions to enforce payment of any unpaid amounts due hereunder. To the extent not prohibited or limited by applicable law, BankDirect is entitled to collection costs and expenses paid or incurred by BankDirect as a result of or in connection with enforcing its rights and remedies under this Agreement and applicable law and to reasonable attorneys' fees if this Agreement is referred to an attorney who is not a salaried employee of BankDirect for collection or enforcement. BankDirect may cancel any or all of the Policies and collect any unearned premiums or other amounts payable under said Policies. Unearned premiums shall be payable to BankDirect only.
- 9. Right of Offset.** BankDirect may offset and deduct from any amounts BankDirect owes to Insured with respect to any Policies financed hereunder, any amounts which Insured owes to BankDirect under this Agreement or any other agreement to the extent permitted by applicable law.

**In connection with the Policies scheduled herein, Agent represents and warrants to BankDirect and its successors and assigns that:**

- 1. Payment.** Agent shall remit all funds received from BankDirect and Insured promptly to the insurance company(ies) issuing the financed policy(ies). Agent shall segregate and hold all payments received by it from Insured or any insurance company listed in the Schedule of Policies with respect to the Loan or this Agreement in trust for BankDirect, shall have no right or interest in any such payments and shall immediately deliver all such payments to BankDirect for application to Insured's obligations hereunder.
- 2. Signatures Genuine.** Insured's signature on both pages of this Agreement is genuine and authorized.
- 3. Authorization By Insured.** If this Agreement has been signed by Agent on behalf of Insured, Agent has been fully authorized to sign this Agreement on behalf of Insured and Insured has authorized this transaction. Agent has given Insured a complete copy of this Agreement.
- 4. Authority of Agent.** For each Policy, Agent signing this Agreement is either the authorized policy-issuing agent of the issuing insurance company(ies) or the broker placing the coverage directly with the issuing insurance company(ies), except as indicated on the Schedule of Policies. The person signing this Agreement on behalf of Agent is authorized to do so. Agent is neither authorized to receive any payments from Insured under this Agreement nor to make any representations to Insured for or on behalf of BankDirect.
- 5. Not Agent of BankDirect.** Agent is not an agent of BankDirect and is not authorized to bind BankDirect and has not made any representation to the contrary.
- 6. Recognition of Assignment.** Agent recognizes the security interest granted in this Agreement, whereby Insured assigns to BankDirect all unearned premiums, dividends and certain loss payments. Upon cancellation of any of the Policies, Agent agrees to pay BankDirect all unearned commissions and unearned premiums upon receipt. If such funds are not remitted to BankDirect within ten (10) days of receipt by Agent, Agent agrees to pay BankDirect interest on such funds at the maximum rate permitted under applicable law. Agent shall not deduct any amounts which Insured owes to Agent from any amounts owing to BankDirect hereunder.

**Total Premiums: \$1,199,294.27**

- 10. Finance Charge.** The Finance Charge includes interest on the outstanding principal amount of the Loan. The Finance Charge is computed using a 365-day year. Interest on the Loan shall accrue from the Effective Date of this Agreement or the earliest policy effective date indicated in the Schedule of Policies, whichever is earlier, and continue to accrue until the Loan is paid in full. If BankDirect terminates this Agreement after an Event of Default, Insured will pay interest on the outstanding principal balance of the Loan at the maximum rate permitted under applicable law from the date of such termination until Insured pays the Loan and all other amounts due under this Agreement in full.
- 11. Additional Premiums.** Insured agrees to promptly pay to each applicable insurance company any additional premiums due on any Policy.
- 12. Agent.** Agent is not the agent of BankDirect and Agent cannot bind BankDirect in any way. BankDirect is not Agent of any insurer and is not liable for any acts or omissions of any insurer. Agent is the agent of Insured, and Insured acknowledges that it has chosen to do business with Agent and the insurance companies issuing the Policies, and that the insolvency, fraud, defalcation or other action or failure to act by any of them shall not relieve or diminish Insured's obligations to BankDirect hereunder.
- 13. Corrections.** Except if prohibited by applicable law, BankDirect may correct any errors or omissions in this Agreement and if not known or corrected at the time of signature by or for Insured.
- 14. Force or Effect.** This Agreement shall have no force or effect until accepted in writing by BankDirect.
- 15. Limitation of Liability: Claims Against BankDirect.** Neither BANKDIRECT nor its assignee shall be liable for any loss or damage to the Insured by reason of failure of any insurance company to issue or maintain in force any of the Policies or by reason of the exercise by BANKDIRECT or its assignee of the rights conferred herein, including but not limited to BANKDIRECT's exercise of the right of cancellation, except in the event of willful or intentional misconduct by BANKDIRECT.
- 16. Governing Law.** This Agreement is governed by and construed and interpreted in accordance with the laws of the state where BankDirect accepts this Agreement. BankDirect shall, at its option, prosecute any action to enforce its rights and remedies hereunder in the Circuit Court of Cook County, Illinois, and Insured (i) irrevocably waives any objection to such venue and (ii) will honor any order issued by or judgment enforced in such court.
- 17. Miscellaneous.** All rights and remedies in this Agreement are cumulative and not exclusive. If any provision of this Agreement is determined to be invalid or unenforceable under applicable law, the remaining provisions of this Agreement shall continue to be in full force and effect. This Agreement constitutes the entire agreement between BankDirect and Insured with respect to its subject matter and may not be modified except as agreed upon in writing. BankDirect's acceptance of late or partial payments shall not be deemed a waiver by BankDirect of any provisions of this Agreement, and BankDirect is entitled to require Insured to strictly comply with the terms hereof. If any amount contracted for or received by BankDirect hereunder is determined to violate any applicable law, BankDirect may return such prohibited amount to Insured without any further liability therefor or in respect thereof to the fullest extent permitted by law. Any electronic signature or electronic record may be used in the formation of this Agreement, and the signatures of Insured and Agent and the record of this Agreement may be in electronic form (as those terms are used in the Uniform Electronic Transactions Act). A photocopy, a facsimile or other paper or electronic record of this Agreement shall have the same legal effect as a manually signed copy.
- 18. CALIFORNIA RESIDENTS: FOR INFORMATION CONTACT THE DEPARTMENT OF CORPORATIONS, STATE OF CALIFORNIA.** Insured agrees that, in accordance with Section 18608 of the California Financial Code, BankDirect's liability to Insured upon the exercise of BankDirect's authority to cancel the Policies shall be limited to the amount of the principal balance of this loan, except in the event of BankDirect's willful failure to mail the notice of cancellation required under California law.  
**New York Residents:** No charges imposed for obtaining and servicing the financed policies, pursuant to Section 2119 (formerly 129) of the New York Insurance Laws, are financed hereunder unless specified in the Schedule of Policies.

- 7. Down Payment.** The down payment and any other payments due from Insured which Agent has agreed to collect, have been collected from Insured.
- 8. Policies:** (a) are all cancelable by standard short-rate or pro-rata tables; (b) are not audit or reporting form policies or policies subject to retrospective rating, unless so indicated on the Schedule of Policies in this Agreement, and if so indicated, the deposit premiums are not less than the anticipated premiums to be earned for the full term of the Policies; (c) upon cancellation by Insured or BankDirect, do not require advance notice of cancellation to any party, other than any notice required to be given by BankDirect; (d) are in full force and effect and the premiums indicated are correct for the term of the Policies; (e) have not been financed on an installment payment plan provided by the insurance company(ies); (f) are all cancelable policies; (g) are written for a term of at least one year; (h) are not for personal, family or household purposes; and (i) have no exceptions other than those indicated and comply with BankDirect's eligibility requirements. All information in this Agreement pertaining to the Policies is complete and correct.
- 9. Insured:** (a) has not paid for the Policies other than as described in this Agreement; (b) has received a copy of this Agreement; and (c) is not the subject of any proceeding in bankruptcy, receivership or insolvency, or if Insured is the subject of such a proceeding, it is noted on the Agreement in the space in which Insured's name and address is placed. All information in this Agreement pertaining to Insured is complete and correct.
- 10. Miscellaneous.** Agent agrees to indemnify and pay BankDirect for and hold BankDirect harmless from and against any losses, costs, damages, fees and expenses (including reasonable attorneys' fees, court costs and collection costs) paid or incurred by BankDirect or its assignee as a result of or in connection with any untrue or misleading representation or warranty made by Agent hereunder, any breach by Agent of this Agreement, any error committed by Agent in completing or failing to complete any portion of this Agreement, or any violation by Agent of any applicable law. Agent shall promptly notify BankDirect of any unpaid increased premiums for the Policies. This Agreement is a valid and enforceable agreement between BankDirect and Agent and there are no defenses to it.

## Schedule of Policies

POLICY PREFIX AND NUMBER	EFFECTIVE DATE OF POLICY MM/DD/YY	NAME & CITY OF INSURANCE COMPANY AND NAME & CITY OF GENERAL AGENT OR COMPANY OFFICE	TYPE OF COVERAGE	POLICIES SUBJECT TO AUDIT (✓)	TERM IN MONTHS COVERED	MIN EARNED PREM	DAYS TO CANCEL	SHORT RATE (✓)	PREMIUM AMOUNTS
TBD	7/1/2022	National Fire & Marine Insurance Co 1314 Douglas St Ste 1400 Omaha, NE 68102	EXCESS LIABILITY		12	0%	10		Premium: \$122,600.00 Policy Fee: \$0.00 Broker Fee: \$0.00 Tax/Stamp: \$3,984.50 Inspection: \$0.00
	7/1/2022	Philadelphia Indemnity Insurance Company One Bala Plaza Ste 100 Bala Cynwyd, PA 19004	AUTO LIABILITY		12	0%	10		Premium: \$2,461.00 Policy Fee: \$0.00 Broker Fee: \$0.00 Tax/Stamp: \$28.16 Inspection: \$0.00
	7/1/2022	Safety National Casualty Corp 1832 Schuetz Rd St. Louis, MO 63146	WORKERS COMP - GUARANTEED COST		12	0%	10		Premium: \$175,572.00 Policy Fee: \$0.00 Broker Fee: \$0.00 Tax/Stamp: \$0.00 Inspection: \$0.00
	7/1/2022	National Union Fire Ins Co of Pittsburgh PA 175 Water St 18th Fl New York, NY 10038	HELIPAD LIABILITY		12	0%	10		Premium: \$6,960.00 Policy Fee: \$0.00 Broker Fee: \$0.00 Tax/Stamp: \$0.00 Inspection: \$0.00
	7/1/2022	Underwriters Lloyds London (IL) AmWINS Insurance Brokerage of California 444 S Flower St Ste 4500 Los Angeles, CA 90017	DIRECTORS & OFFICERS		12	0%	10		Premium: \$130,280.00 Policy Fee: \$0.00 Broker Fee: \$0.00 Tax/Stamp: \$4,234.10 Inspection: \$0.00
	7/1/2022	Federal Insurance Company 202B Hall's Mill Road Whitehouse Station, NJ 08889	LAWYER PROF LIABILITY		12	0%	10		Premium: \$2,597.00 Policy Fee: \$0.00 Broker Fee: \$0.00 Tax/Stamp: \$0.00 Inspection: \$0.00
	7/1/2022	Hudson Insurance Company AmWINS Insurance Brokerage of California 444 S Flower St Ste 4500 Los Angeles, CA 90017	FIDUCIARY		12	0%	10		Premium: \$8,703.00 Policy Fee: \$0.00 Broker Fee: \$0.00 Tax/Stamp: \$0.00 Inspection: \$0.00
	7/1/2022	Ascot Specialty Insurance Company 55 W 46th St 26th FL New York, NY 10036	POLLUTION		12	25%	10		Premium: \$14,008.00 Policy Fee: \$0.00 Broker Fee: \$0.00 Tax/Stamp: \$455.26 Inspection: \$0.00
	7/1/2022	Great American Insurance Company United Commercial Program Managers (UCPM) 335 E Germann Road Suite 340 Gilbert, AZ 85297	UNDERGROUN D STORAGE TANK		12	0%	10		Premium: \$2,303.00 Policy Fee: \$175.00 Broker Fee: \$0.00 Tax/Stamp: \$0.00 Inspection: \$0.00
	7/1/2022	Underwriters Lloyds London (IL) 150 North Field Drive Lake Forest, IL 60045	LIABILITY		12	0%	10		Premium: \$77,656.00 Policy Fee: \$0.00 Broker Fee: \$0.00 Tax/Stamp: \$2,523.82 Inspection: \$0.00
<b>PAGE 3 TOTALS</b>									<b>\$554,540.84</b>



# Cerner Update June 2022

# Index

1. Overview about Hospital Electronic Health Records (EHR)
2. History of EHR and Financial Systems at Kern Medical
3. System Requirements
4. Financial Impacts
5. System Improvements and Benefits
6. The Road Ahead



# Overview about EHRs

Why broad adoption by Hospitals and Health Systems:

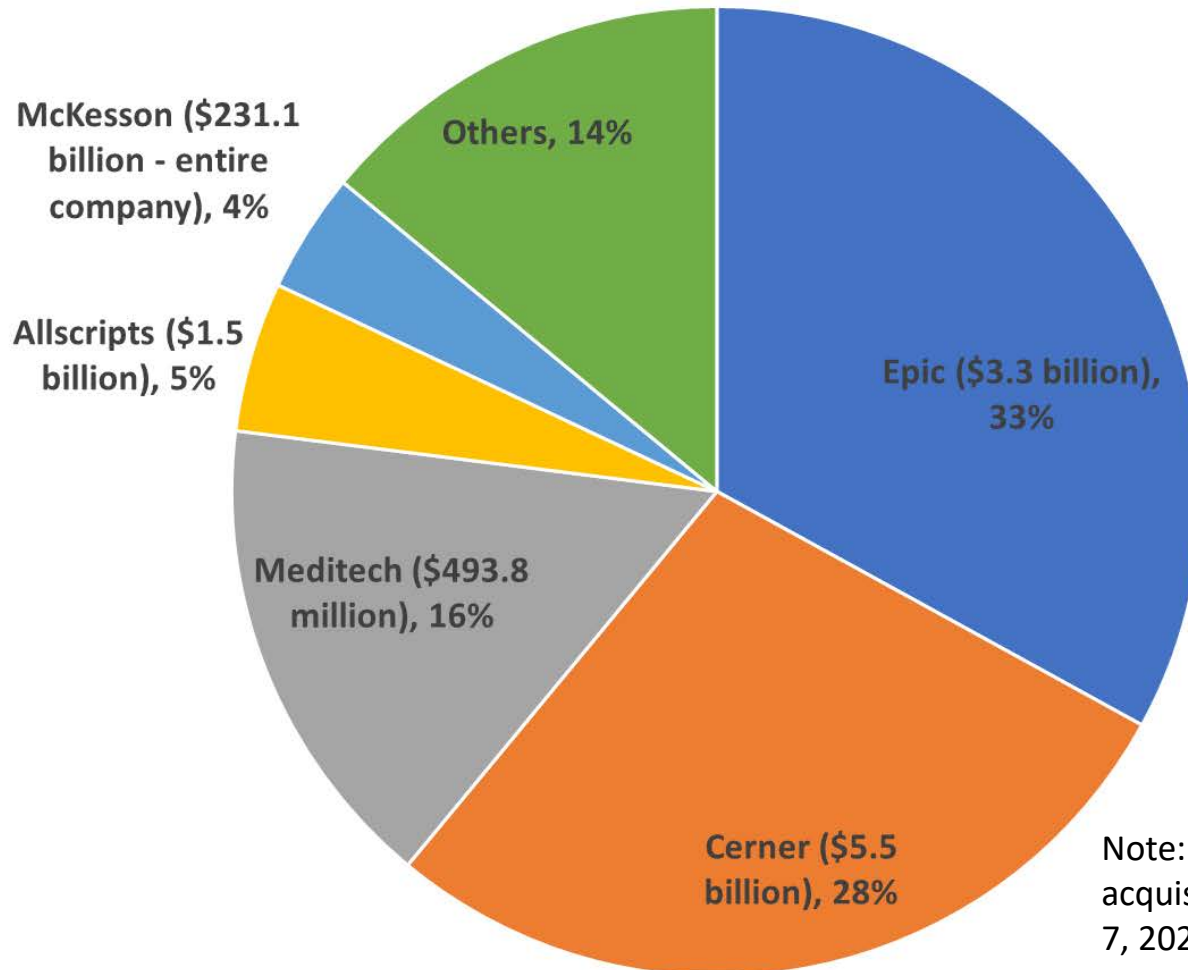
2009: Health Information Technology for Economic and Clinical Health Act (HITECH)

Required adoption and “Meaningful Use” of EHRs

“Carrot and Stick” incentives by CMS

Rationale: Improved efficiencies and enhanced quality of care

# National EHR Market Share



Note: Oracle completed acquisition of Cerner June 7, 2022.

Source: Healthcare IT Skills ([healthcareitskills.com](http://healthcareitskills.com)), Jan 3, 2022.

# Major Area Hospitals Use Cerner EHR

- Adventist Health Bakersfield and Adventist Health System
- Bakersfield Memorial, Mercy Hospitals, and Dignity Health System
- Kern Medical

# History of EHR and Financial Systems at Kern Medical (B.C. – Before Cerner)

Financial System: McKesson HBOC (installed in 1994)  
EHR: Medsphere administered Open Vista (installed in approx. 2009)

And a few of the rest:

SecurePass	Mirth Interfaces
One Content	Laserarc
OnBase	Contraxx
i2i	Cloverleaf
Trendstar	Carebridge
PeriCalm	

# Need

- Integrated
- Clinically-Driven
- Financial
- System

# Why

- Enhance the Quality of Patient Care
- Integrate Financials and Revenue Cycle
- Allow for Growth
- Data Governance and Reporting

# EHR and Financial System Expenses

Before Cerner (Medsphere EHR, McKesson HBOC Financials, Allscripts, All Other Systems)

Average Annual Spend: \$2.7 million

## Cerner Expenses through 12-Year Agreement

	Actual						Projected	Obligation				
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027
Per Year	\$106,342	\$2,335,366	\$19,076,513	\$ 9,973,411	\$ 7,972,386	\$ 5,740,918	\$ 5,784,844	\$ 5,637,544	\$ 5,222,388	\$ 5,184,472	\$ 5,158,142	\$ 5,128,860
Cume	\$106,342	\$2,441,708	\$21,518,220	\$ 31,491,631	\$39,464,017	\$45,204,935	\$50,989,779	\$56,627,323	\$61,849,710	\$67,034,183	\$72,192,325	\$77,321,185

Average Annual Cerner Spend over 12 Years: \$6.4 million

# Financial Benefits

	Actual 12 Mos Ended JUNE 2019	Actual 12 Mos Ended JUNE 2020	Actual 12 Mos Ended JUNE 2021	Actual 10 Mos Ended APRIL 2022	Annualized 12 Mos Ended JUNE 2022
<b>PATIENT REVENUES</b>					
Gross Patient Revenue	\$ 849,791,859	\$ 909,219,190	\$ 1,058,831,698	\$ 969,398,888	\$ 1,163,278,666
Net Revenue	\$ 204,741,683	\$ 223,869,106	\$ 248,055,518	\$ 227,466,273	\$ 272,959,527
<b>VOLUMES</b>					
Adjusted Patient Days	96,447	90,839	95,020	90,973	109,168
<b>OPERATING METRICS</b>					
Gross Patient Revenue Per Adjusted Patient Days	\$ 8,811	\$ 10,009	\$ 11,143	\$ 10,656	\$ 10,656
Net Revenue Per Adjusted Patient Days	\$ 2,123	\$ 2,464	\$ 2,611	\$ 2,500	\$ 2,500

# Physician Benefits

- Single **integrated platform** for documentation of inpatient and outpatient care
- Built-in **safety** features like:
  - Tall Man lettering of pharmaceuticals
  - Interaction checking
  - Duplicate order checking
  - Entry error parameters
- Smart templates and phrases to facilitate **rapid documentation**
- **Integration** with Surescripts and Vaccination Databases for populating meds and vaccinations
- CommonWell platform for viewing and incorporating external documents into the record
- **eRx** capability to eliminate paper scripts
- **Imaging** integration
- **Mobile** options to view/monitor data like fetalink



# Nursing Benefits

- **Increased transparency** across the entire health record and **increased efficiency** with the ability to pull data forward from previous visits
- **Ease of use** of the program itself/accessibility of information
- Increase in the visibility of **documentation compliance**
- Nursing documentation is **standardized** across all nursing departments
- Increased the ability to **integrate documentation across disciplines**, facilitating interdisciplinary collaboration
- **Increased patient safety** through automated workflows, documentation, and safety alerts
- **Increased collaboration specifically between providers and nursing.** It simply isn't possible to operate, document, or build workflows in a silo with Cerner
- **Increase in efficiency** by eliminating the second RN witness requirement for blood administration

# Quality Benefits

	Improved due to better data capture		Improved due to HealtheRegistries			
	Med Rec Post Discharge	Advanced Care Planning	Depression Follow-Up	Depression Remission	Depression Response	Concurrent Use of Opioids and Benzodiazepines
Year prior to Cerner implementation	62%	0%	28%	8%	12%	7%
Current performance	85%	87%	37%	9%	14%	3%

# What Cerner Allowed During Pandemic

## Plus Other Completed Projects

- Interface with CDPH, Immunization Registries
- COVID Expansion, Immunization and Employee Reporting, MyTurn
- HealtheRegistries
  
- Telestroke Upgrade
- Dragon Medical One Upgrade with results to Cerner
- MedSitter
- Upgrades - Cerner, Clairvia, Experian

# The Road Ahead

- Continued Growth (Q Street Imaging, Fixed Site MRI, 19<sup>th</sup> Street, Additional Physicians and Specialty Programs)
- Growth in Ambulatory Visits
- Improving our Digital Front Door
- Continuing Focus on Safety and Quality
- Enhance Care Integration as a System and with Outside Providers (Commonwell)
- Pursue additional revenue cycle opportunities
- Agility to Meet Kern County patient needs



**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Kern County Hospital Authority – April 2022

**Recommended Action:** Receive and File

**Summary:**

**Kern Medical Operations:**

Kern Medical key performance indicators:

- Average Daily Census of 155 for April is 14 more than the April budget of 141 and 18 less than the 173 average over the last three months
- Admissions of 1,553 for April are 156 more than the April budget of 797 and 94 more than the 1,459 average over the last three months
- Total Surgeries of 441 for April are 45 less than the April budget of 486 and 38 less than the 479 average over the last three months
- Clinic visits of 14,397 for April are 83 less than the April budget of 14,480 and 4,463 less than the 16,860 average over the last three months. The total includes 449 COVID-19 vaccination visits
- The April EBIDA and operating gain were driven by the recognition of prior year revenue as described below

The following items have budget variances for the month of April 2022:

**Patient Revenue:**

Gross patient revenue has a favorable budget variance for April and on a year-to-date basis mainly because of strong average daily census levels due to the pandemic. In addition, there has been an overall increase in revenue cycle efficiency due to the implementation of the Cerner electronic health record. Year-to-date gross patient revenue has increased 11% compared to prior year.

**Indigent Funding Revenue:**

Indigent funding has a favorable budget variance for the month due to the recognition of \$8 million of Global Payment Program (GPP) funds received in April 2022 that pertain to prior fiscal years. On a year-to-date basis, in addition to the GPP funds received and recognized in April 2022, the budget variance is favorable due to the recognition of other indigent program revenues that pertain to prior fiscal years that were received and recognized in March 2022.

**Other Operating Revenue:**

Other operating revenue has a favorable budget variance for April primarily because of the receipt of \$1.6 million of grant revenue from Kern Health Systems. Grant revenue is typically received inconsistently throughout the year. On a year-to-date basis, the favorable budget variance is mainly due to the receipt of funds from the County of Kern for the operation of COVID-19 testing facilities and COVID-19 mobile vaccination units. This revenue is offset by Kern Medical's costs to provide these services for the County of Kern.

**Other Non-Operating Revenue:**

Other non-operating revenue has a favorable budget variance for the month and on a year-to-date basis because of the recognition of a \$2 million per month program true up for the fiscal year, which will continue through May 2022.

**Nurse Registry Expense:**

Nurse registry expense is over budget for the month and on a year-to-date basis because of higher than average registry usage in the hospital due to high pandemic-related census levels and significant registry cost increases. Year-to-date registry expenses were over \$47 million compared to a planned budget of \$16 million. Federal American Rescue Plan Act (ARPA) funding has been used to offset a portion but does not resolve the entire expense variance.

**Medical Fees:**

Medical fees are over budget for the month because of higher than average expense for the Acute Care Surgery Medical Group, Inc. In addition, medical fees expenses were under accrued in the prior month for a few physicians. On a year-to-date basis, medical fees are under budget because several physicians either no longer provide services for Kern Medical, or they have provided relatively less services during the past few months than budgeted for in FY 2022.

**Other Professional Fees:**

Other professional fees are over budget for the month because of IT contract labor. IT contract labor was previously capitalized as part of construction-in-progress (CIP) projects that were recently completed. IT contract labor will transition to new CIP projects. Kern Medical also engaged Nash Healthcare Consulting to review hospital processes and procedures to support The Joint Commission accreditation process. On a year-to-date basis, other professional fees are over budget in part because of IT contract labor and also because there have been contract labor positions added to accommodate high census levels.

**Supplies Expense:**

Supplies expense is over budget for the month and on a year-to-date basis due in part to monthly Cerner software expenses that were part of an IT construction-in-progress project in prior year. These software costs were not budgeted for as supplies expenses in FY 2022. On a year-to-date basis, the continued operation of the outpatient pharmacy during the first half of the year is primarily responsible for the unfavorable budget variance.

**Purchased Services:**

Purchased services are under budget for the month because an accrual of \$400 thousand was reversed for the Housing Authority of the County of Kern. Housing Authority services were provided as part of the Whole Person Care (WPC) program and the program has now ended. On a year-to-date basis, purchased services are over budget due in large part to COVID-19 mobile clinic expenses that are reported on this line item. The mobile clinic expenses are offset by reimbursement received from the County of Kern and reported as other operating revenue.

**Other Expenses:**

Other expenses are over budget for the month due to being under accrued in the months of January 2022 through March 2022 for hospital bed rentals from Hill-Rom. On a year-to-date basis, other expenses are over budget because of higher than average repairs and maintenance expenses, the rental of an air conditioning and heating unit from Hertz Equipment Rental Company (HERC) for the MRI, the cost of additional hospital beds rented from Hill-Rom to accommodate high patient census levels, and because of higher than average utility costs.

**Depreciation and Amortization Expense:**

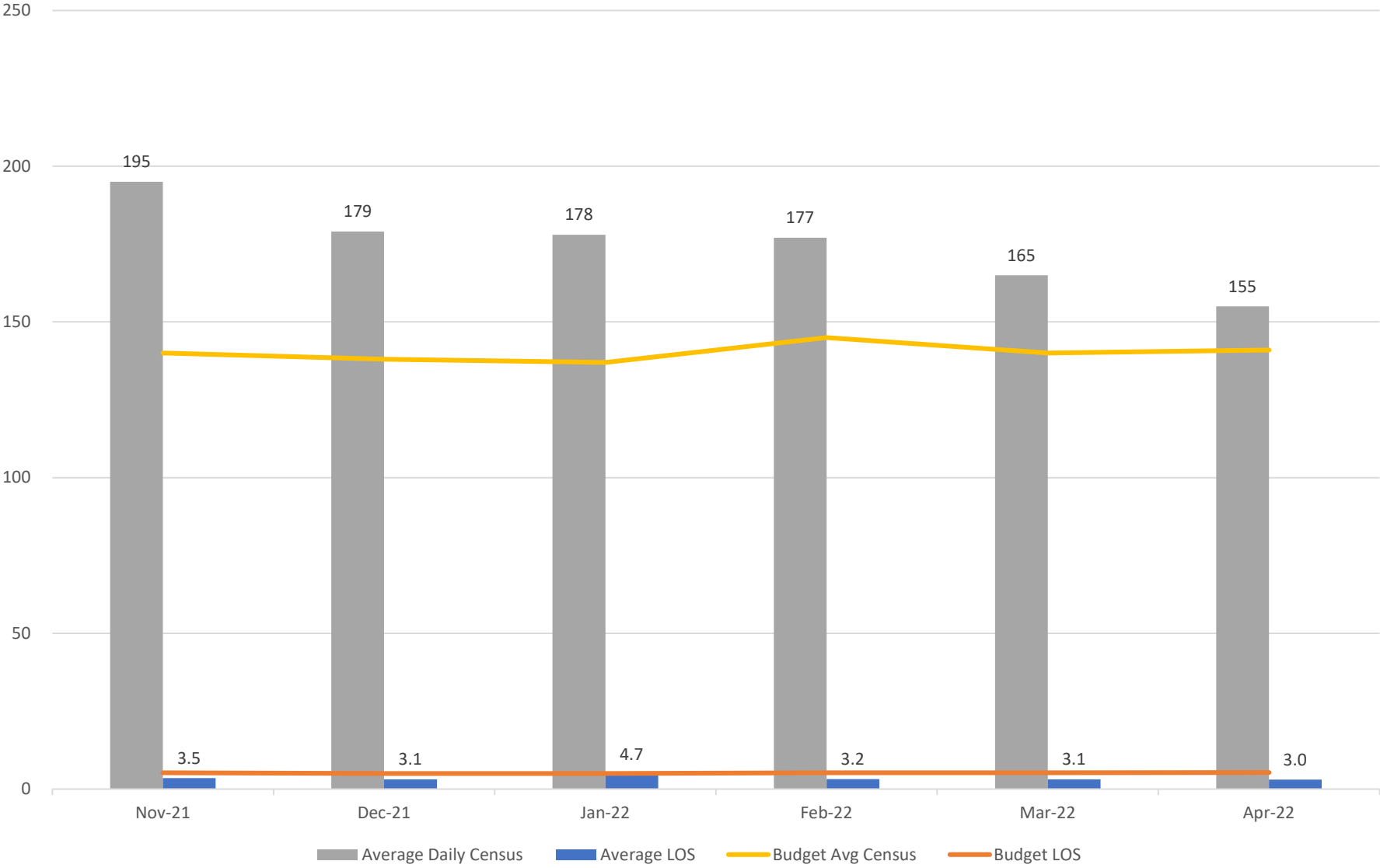
Depreciation expense is over budget for the month and year-to-date because of construction-in-progress (CIP) projects that were put into service and have now started depreciating each month.



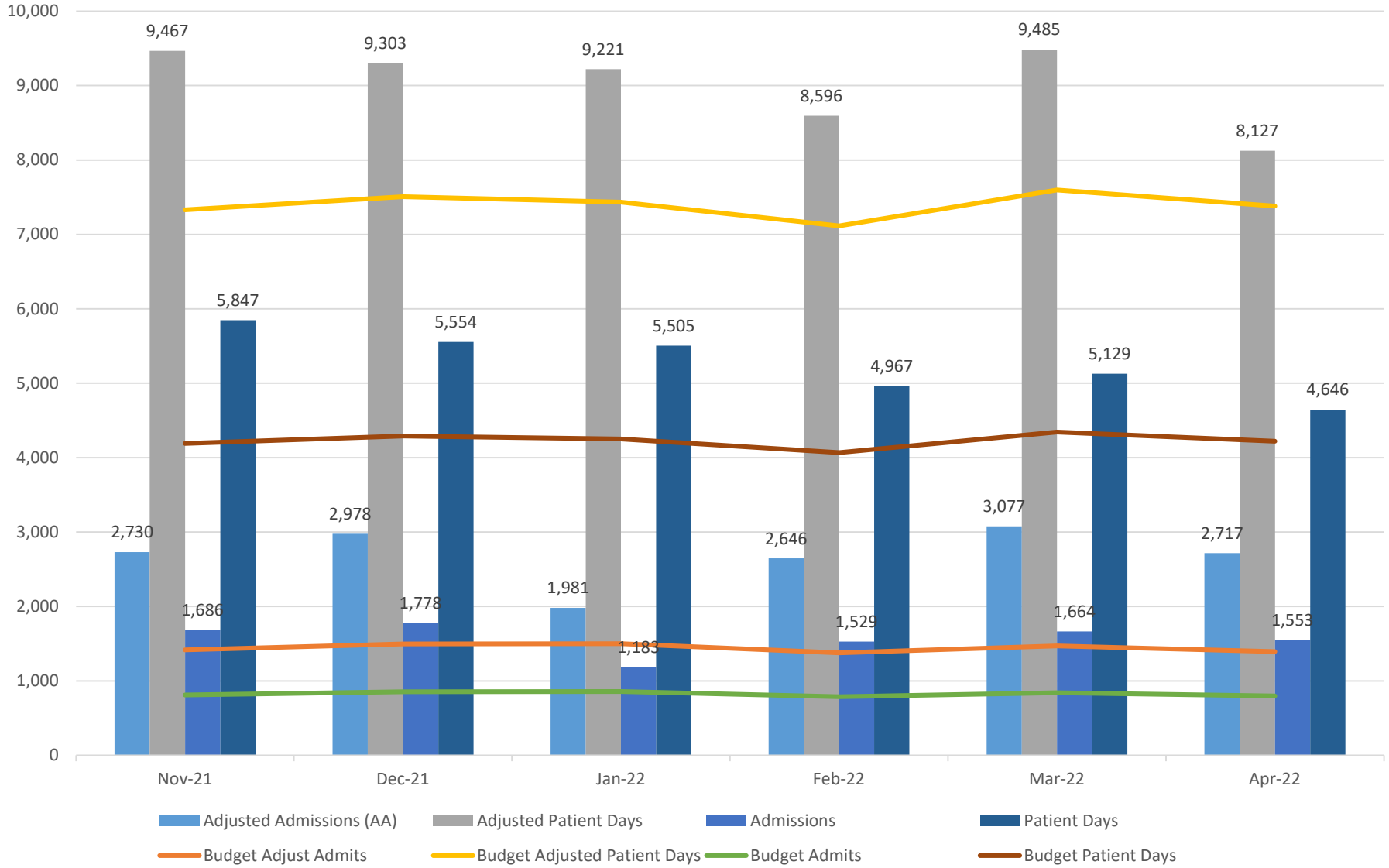
**BOARD OF GOVERNORS' REPORT  
KERN MEDICAL – APRIL 2022**



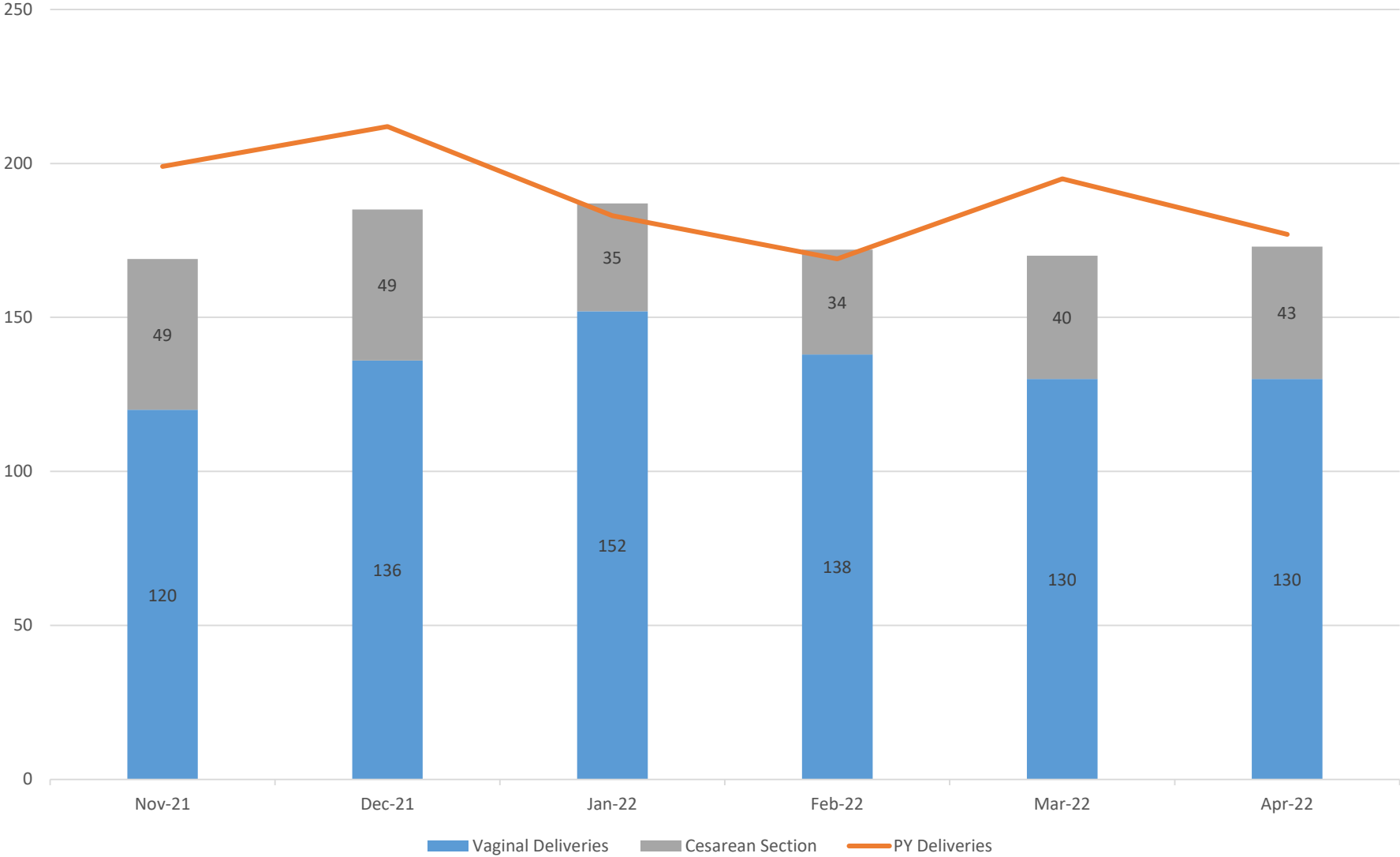
# Census & ALOS



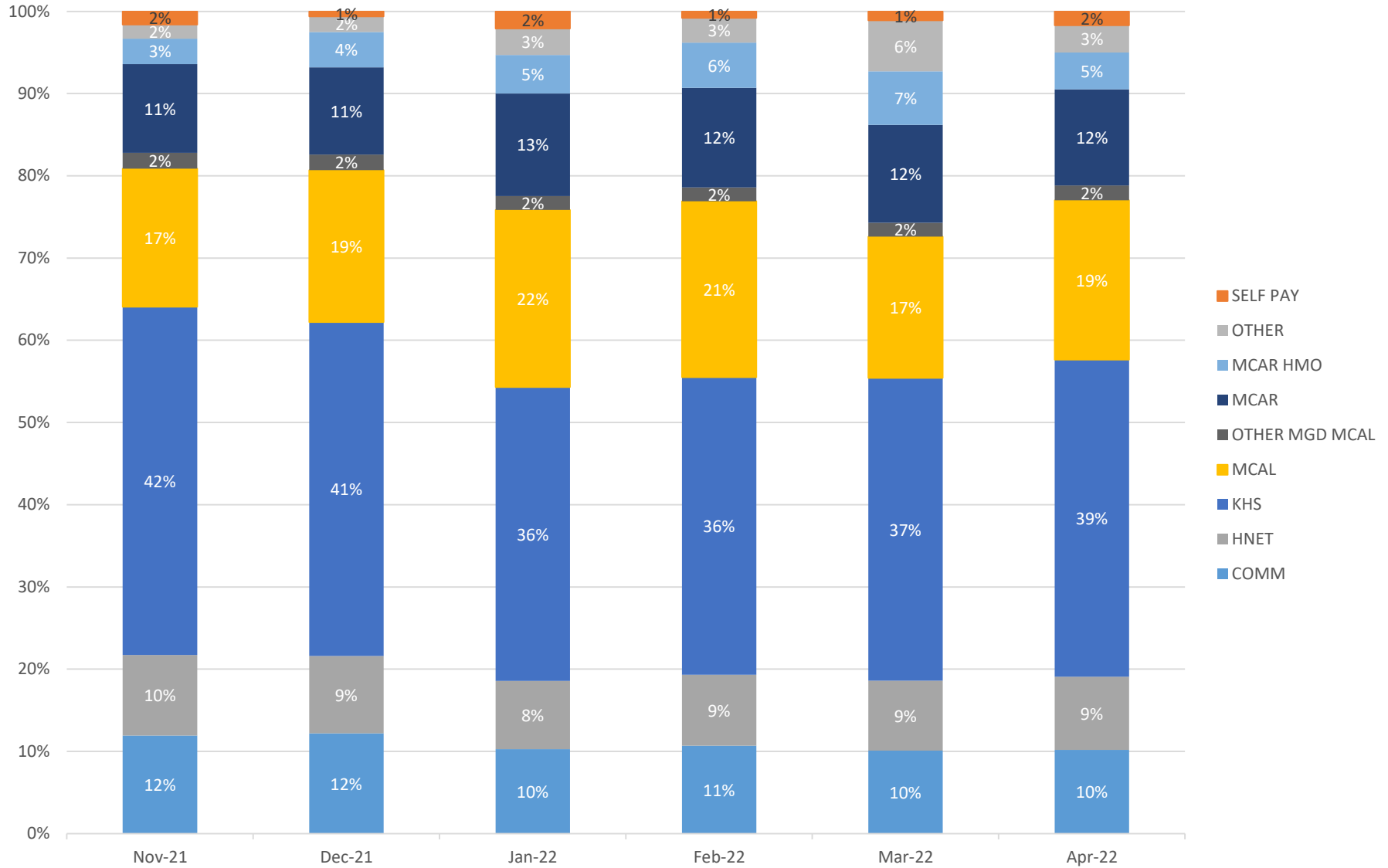
# Hospital Volumes



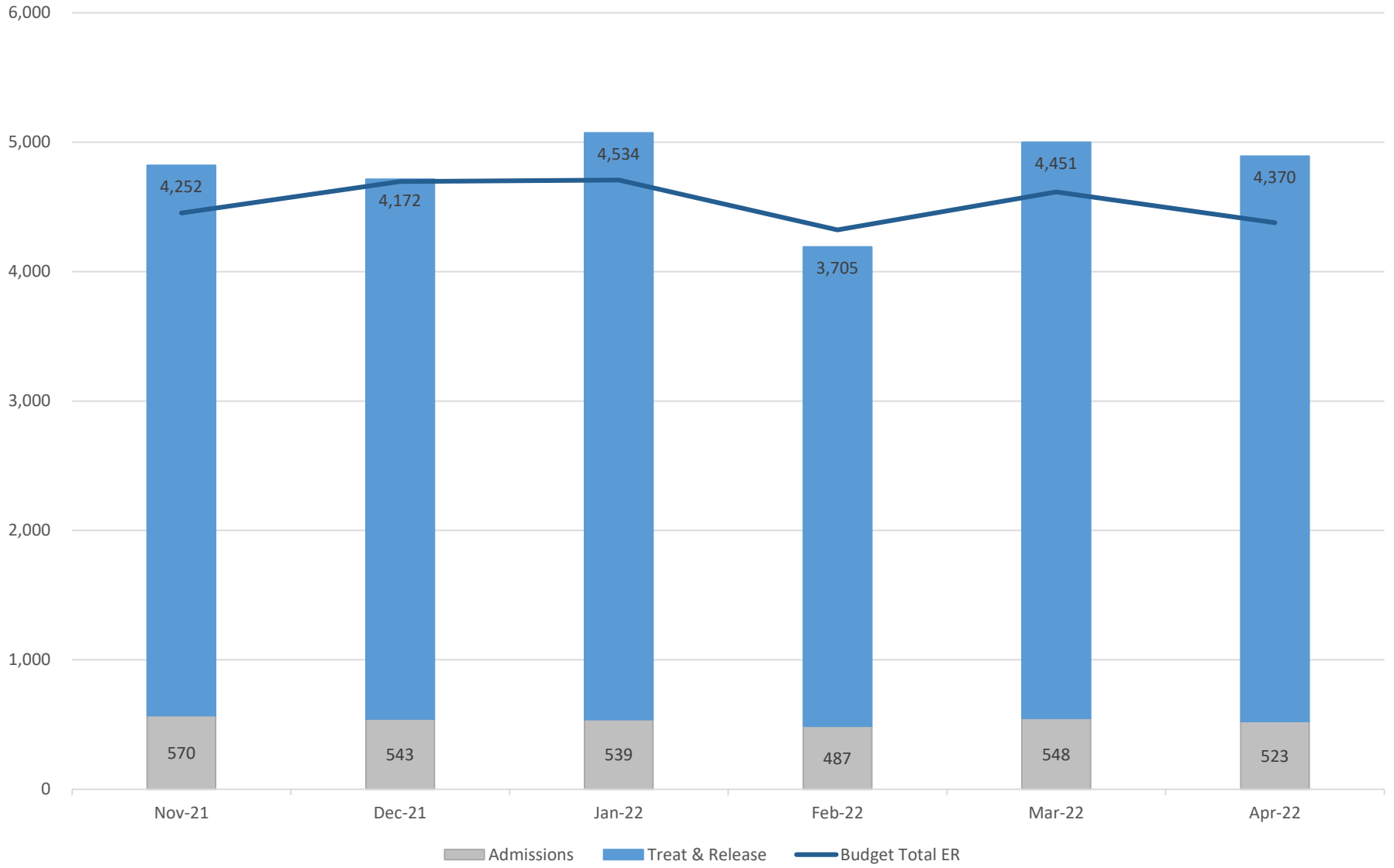
# Deliveries



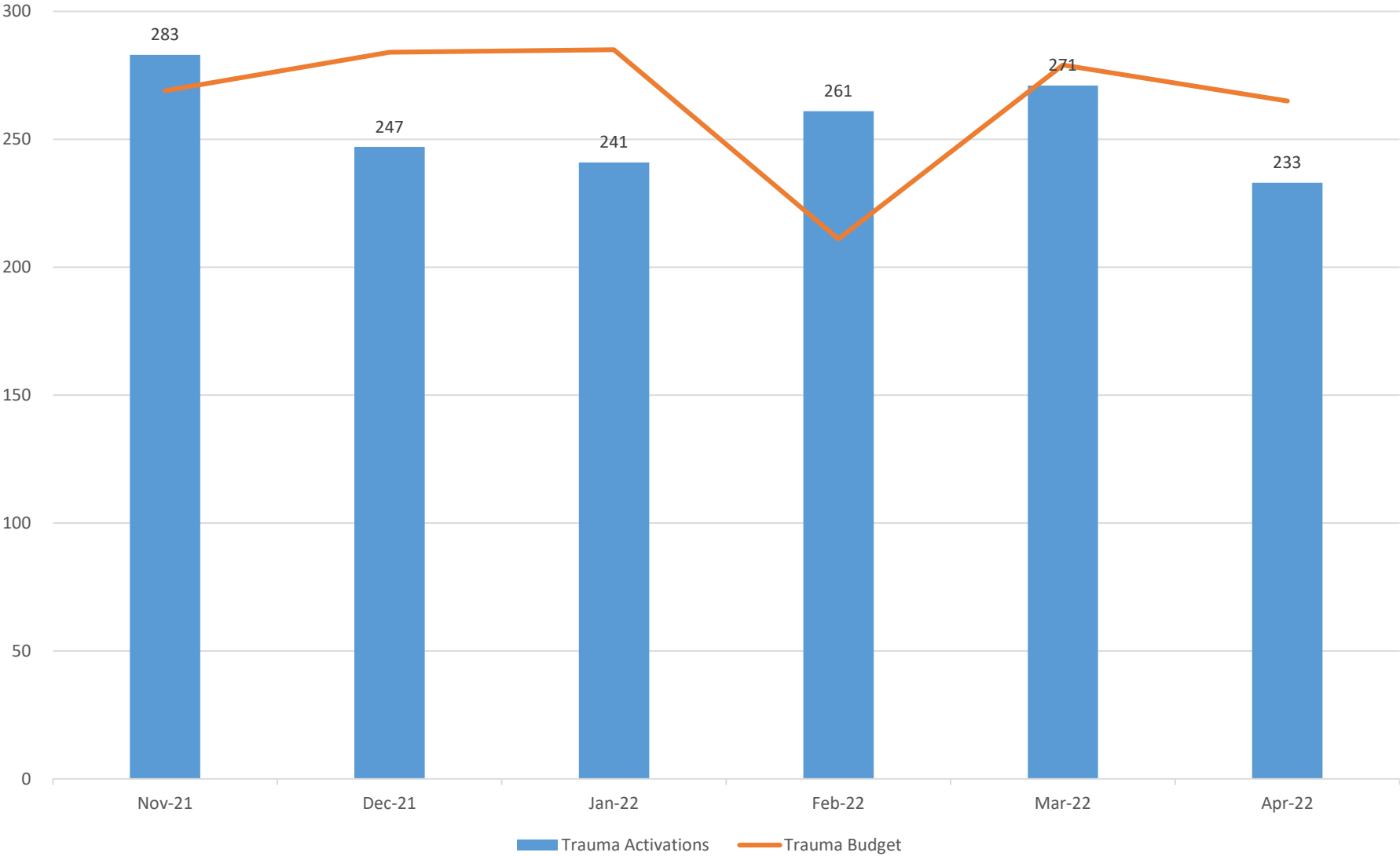
## PAYER MIX



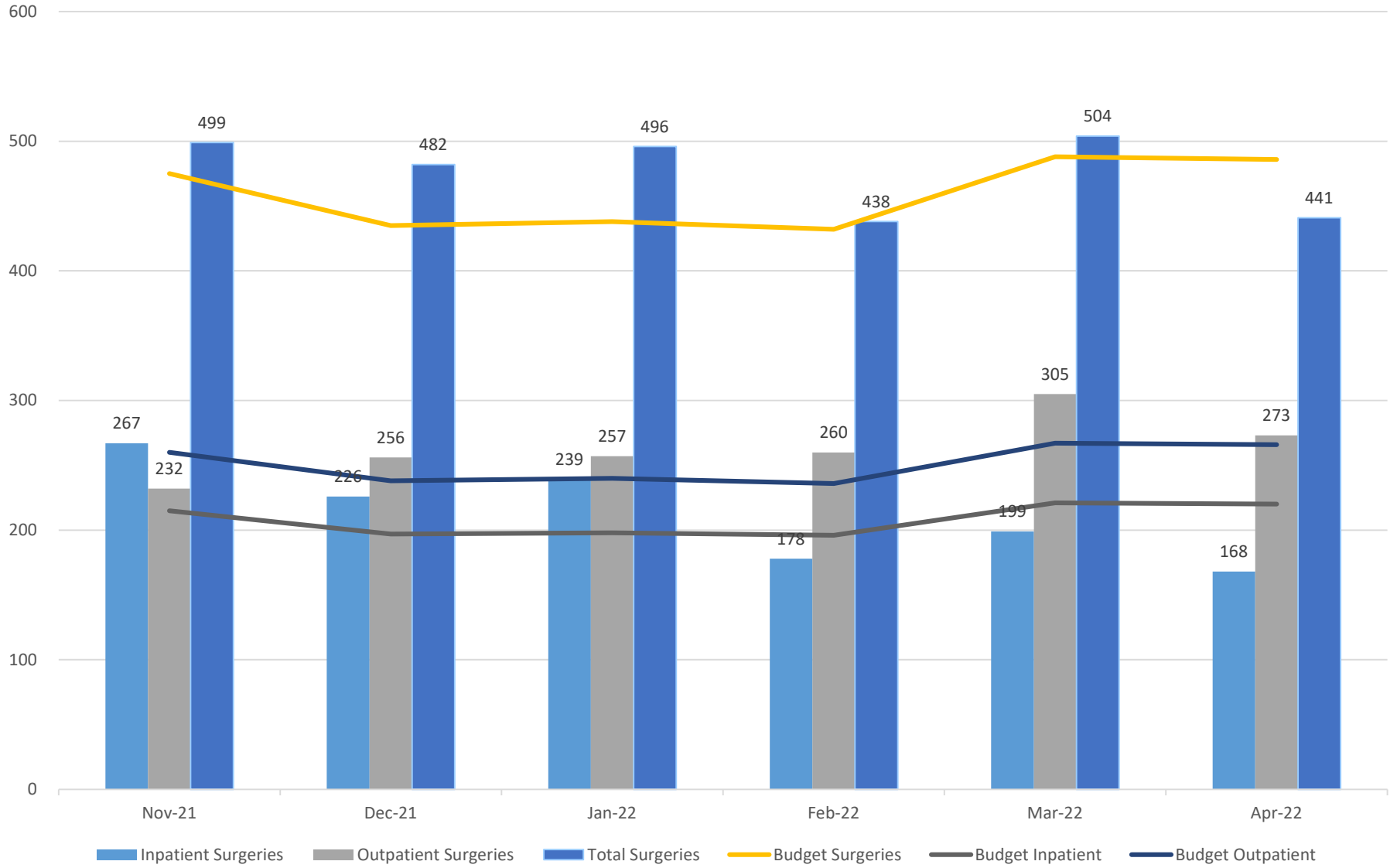
# Emergency Room Volume



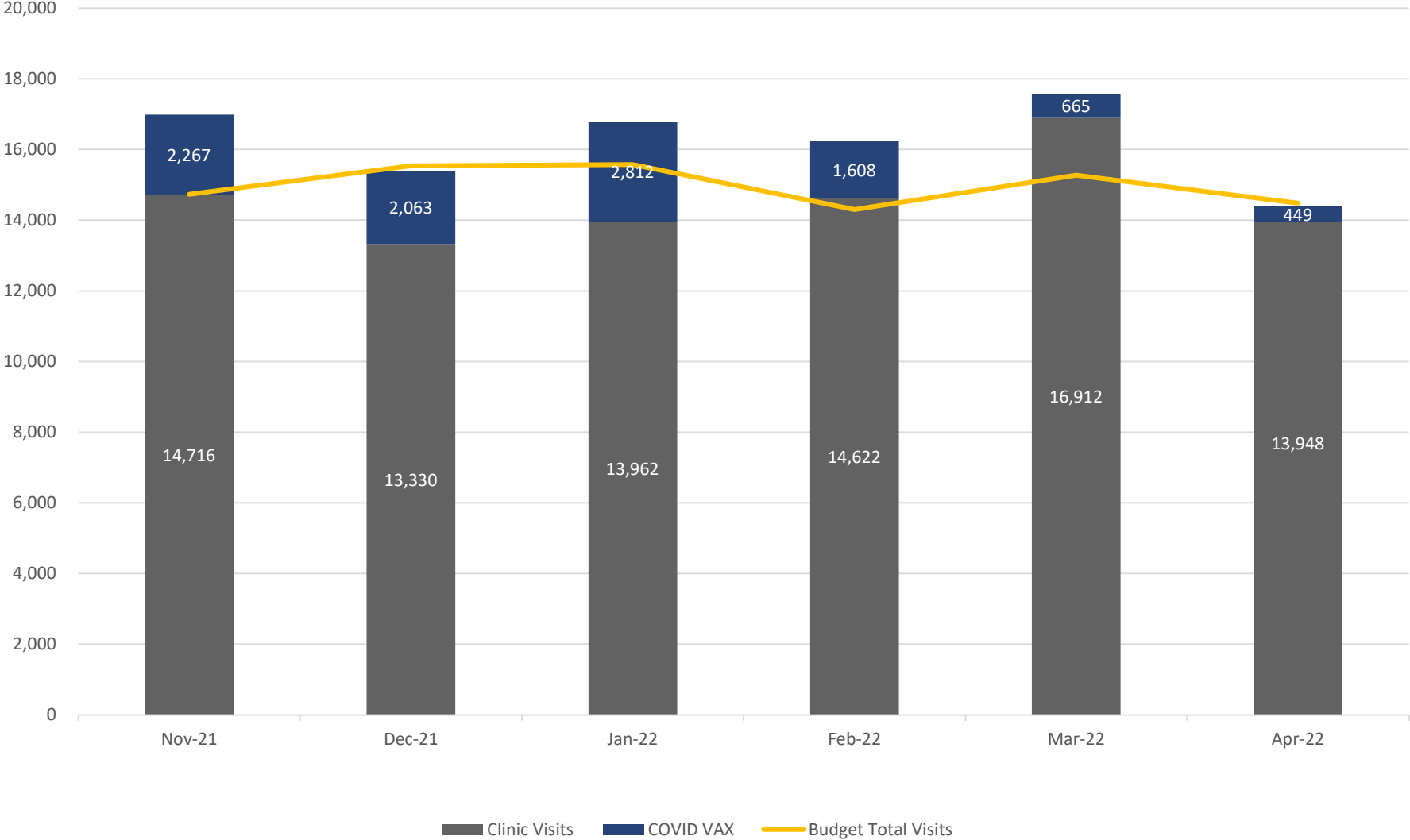
# Trauma Activations



# Surgical Volume

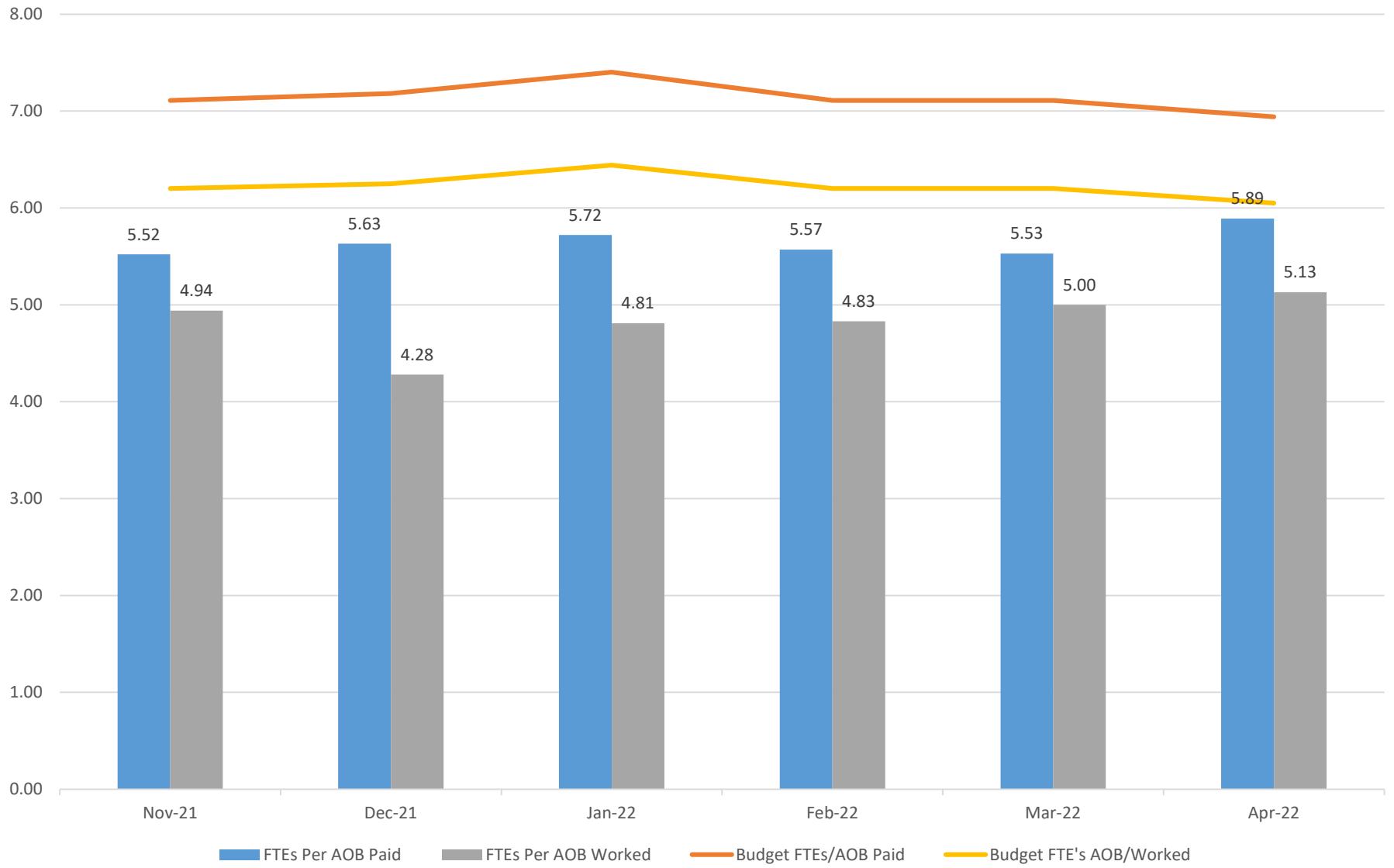


# Clinic Visits

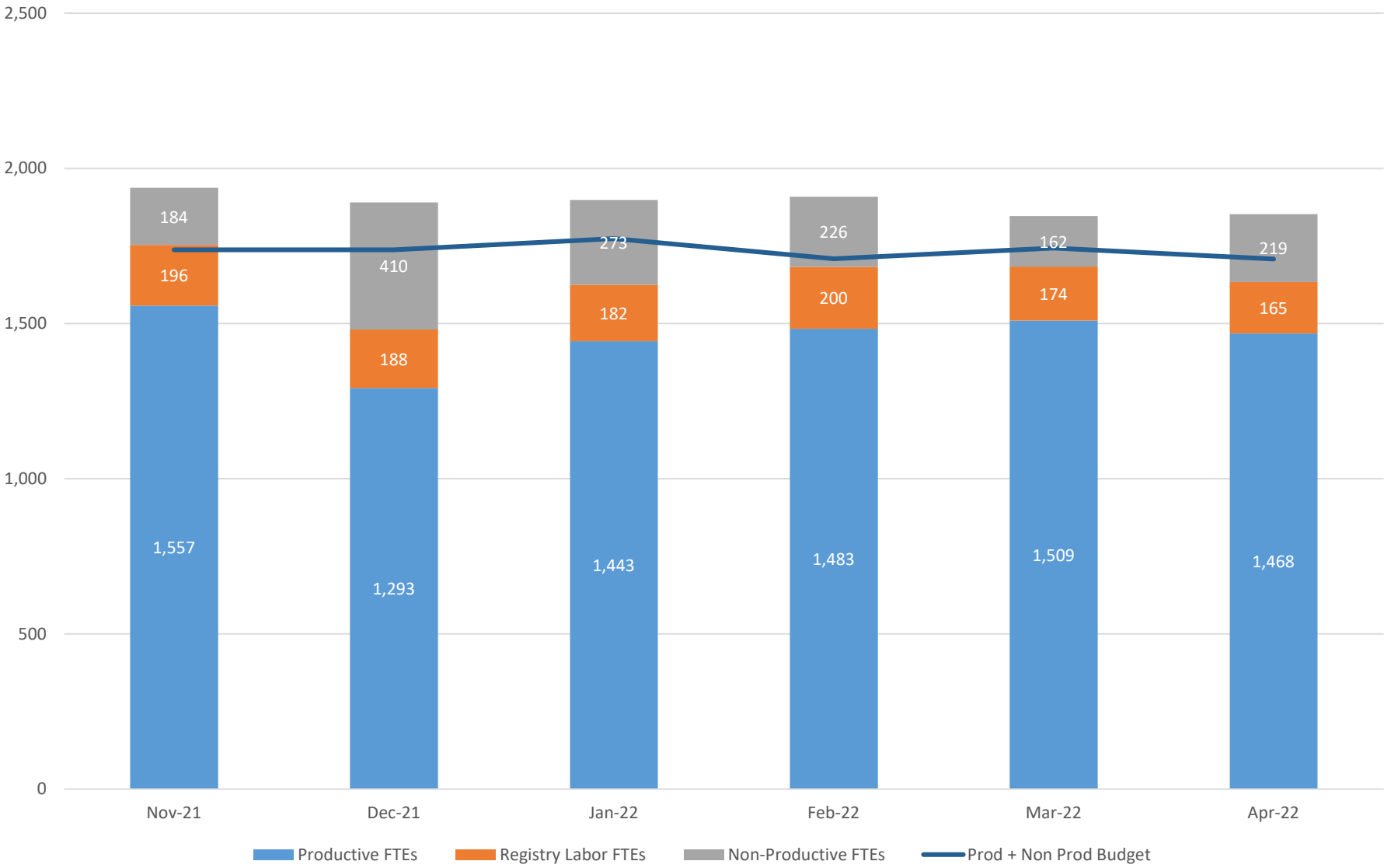




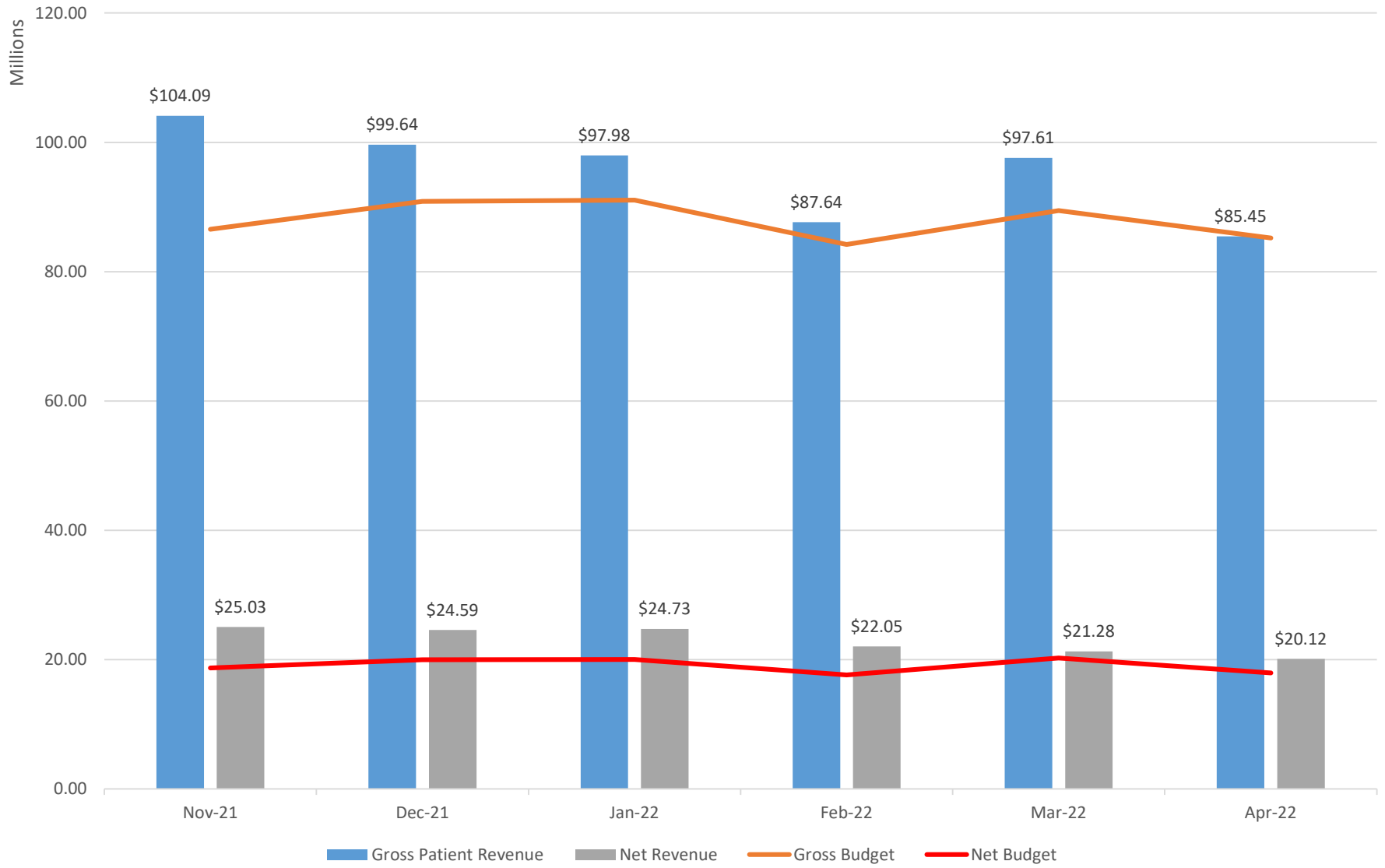
## Labor Metrics



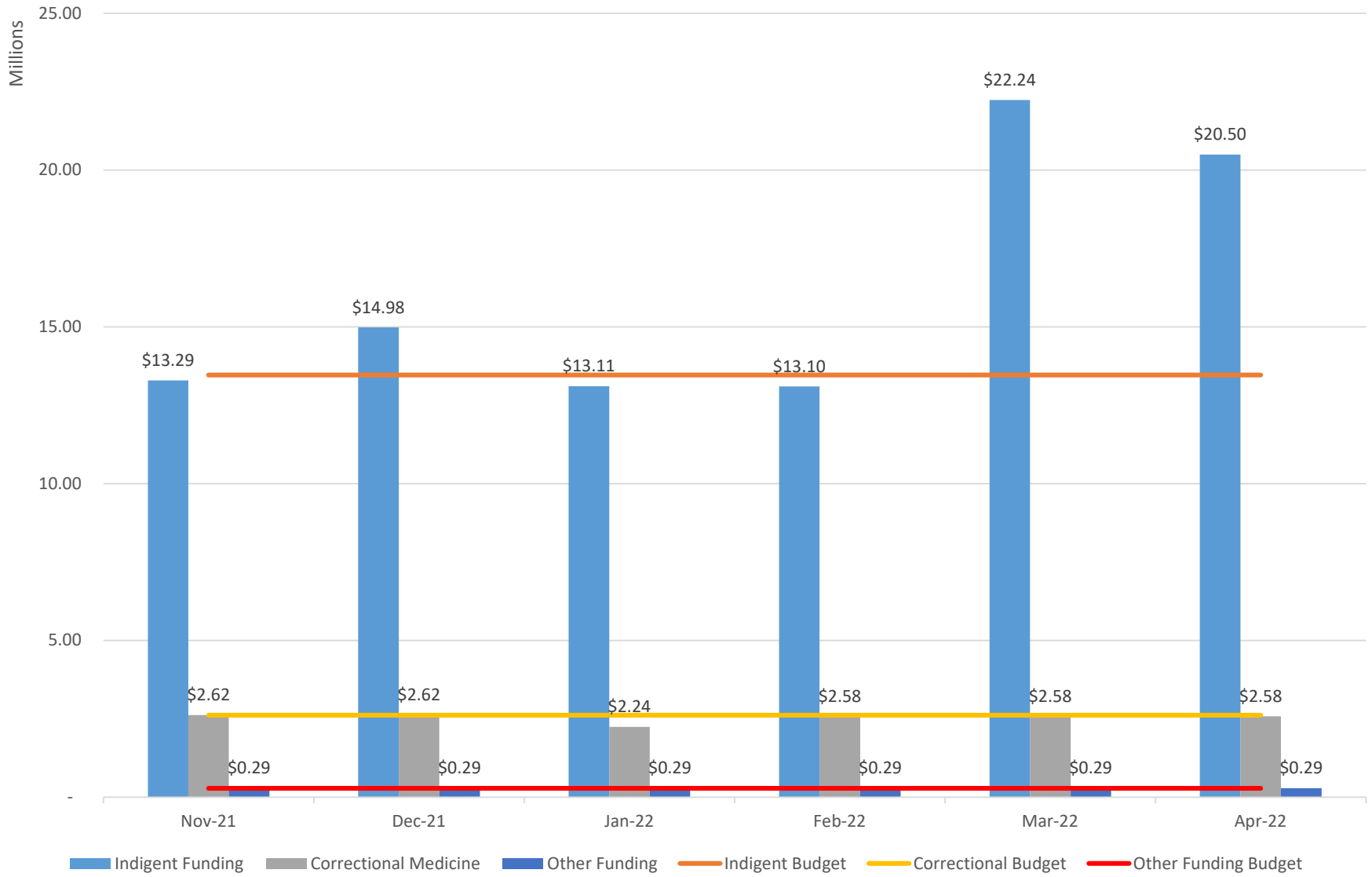
# Productivity



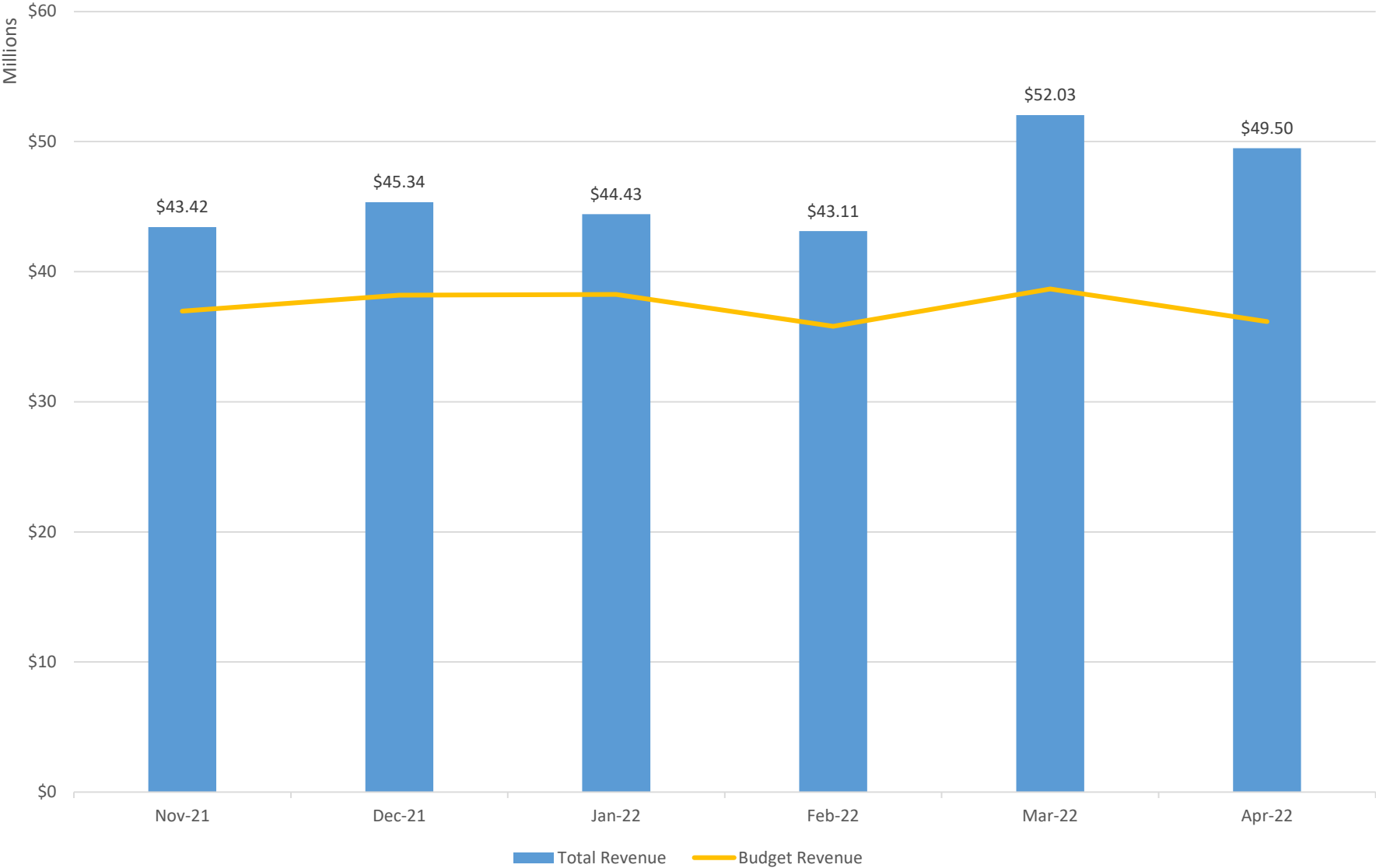
## Patient Revenue



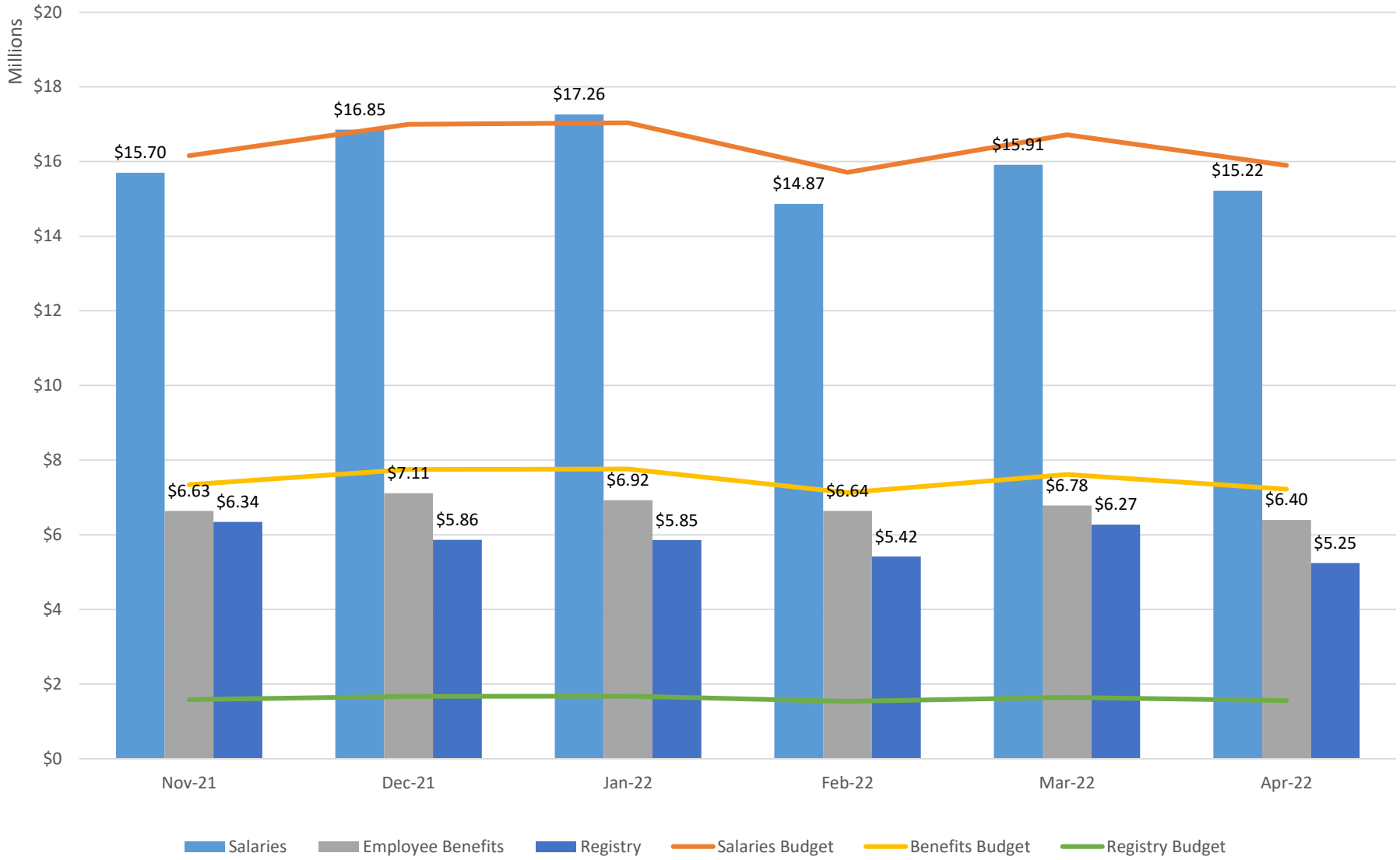
## Indigent & Correctional Revenue



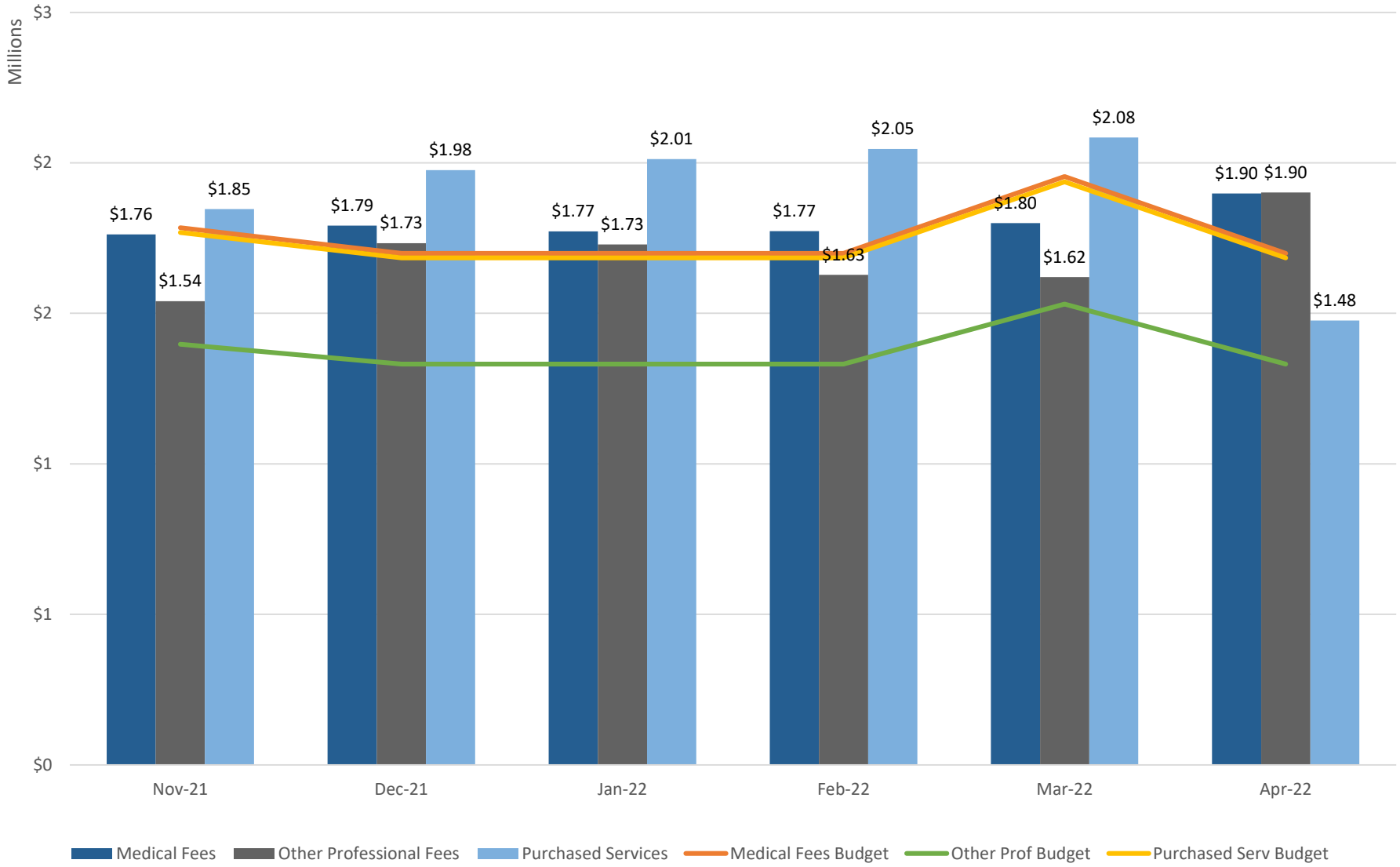
# Total Revenue



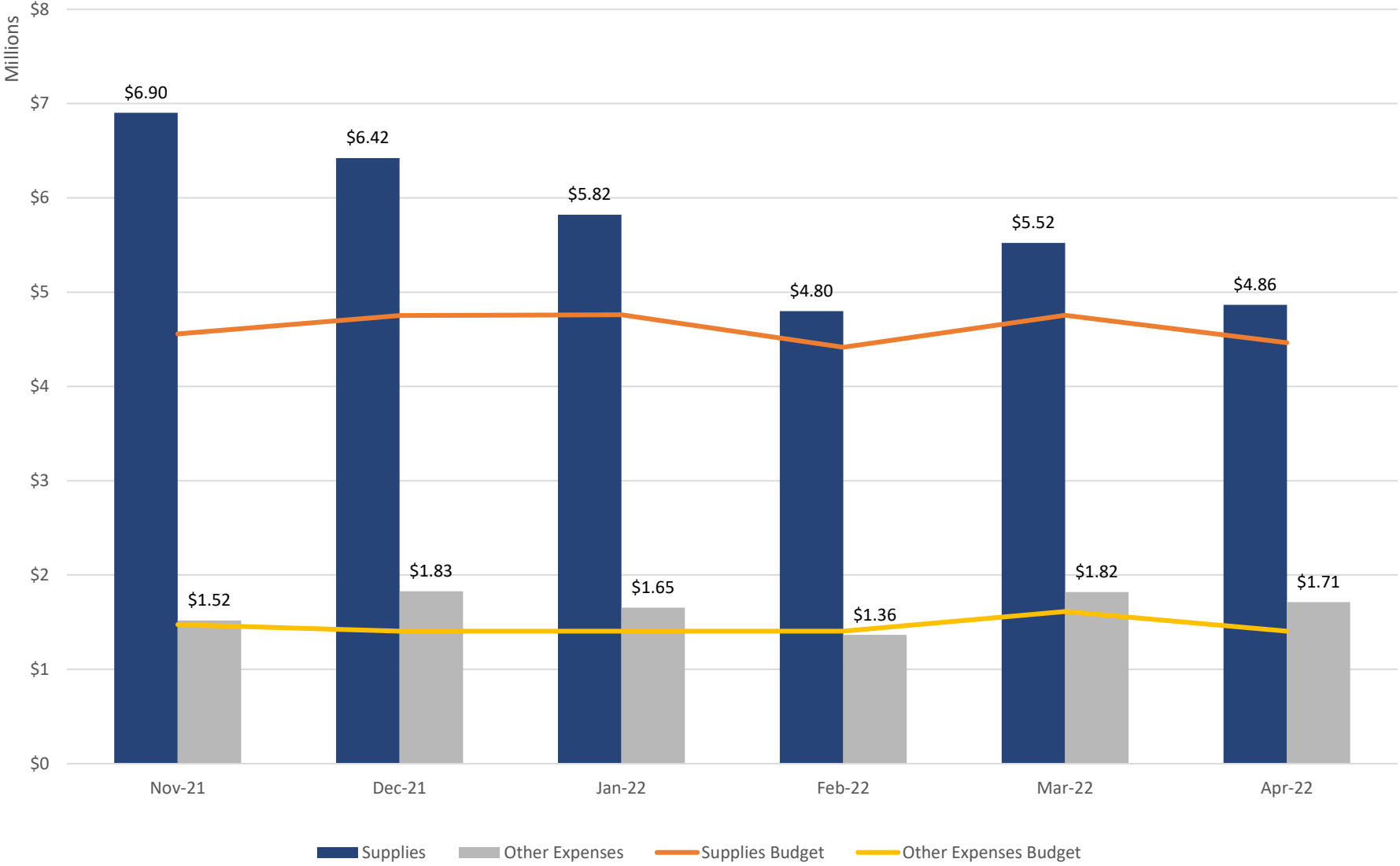
# Expenses



# Expenses

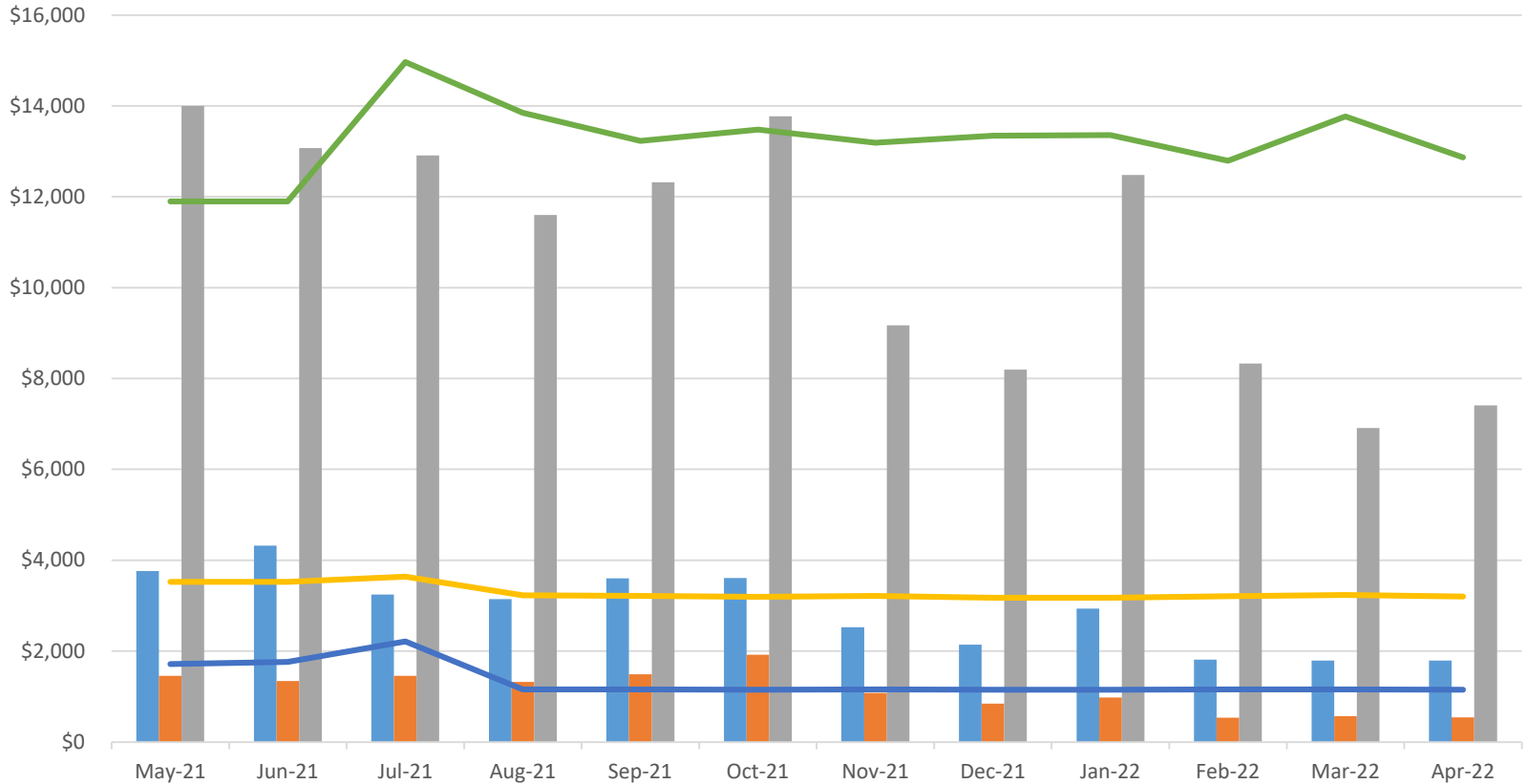


# Expenses



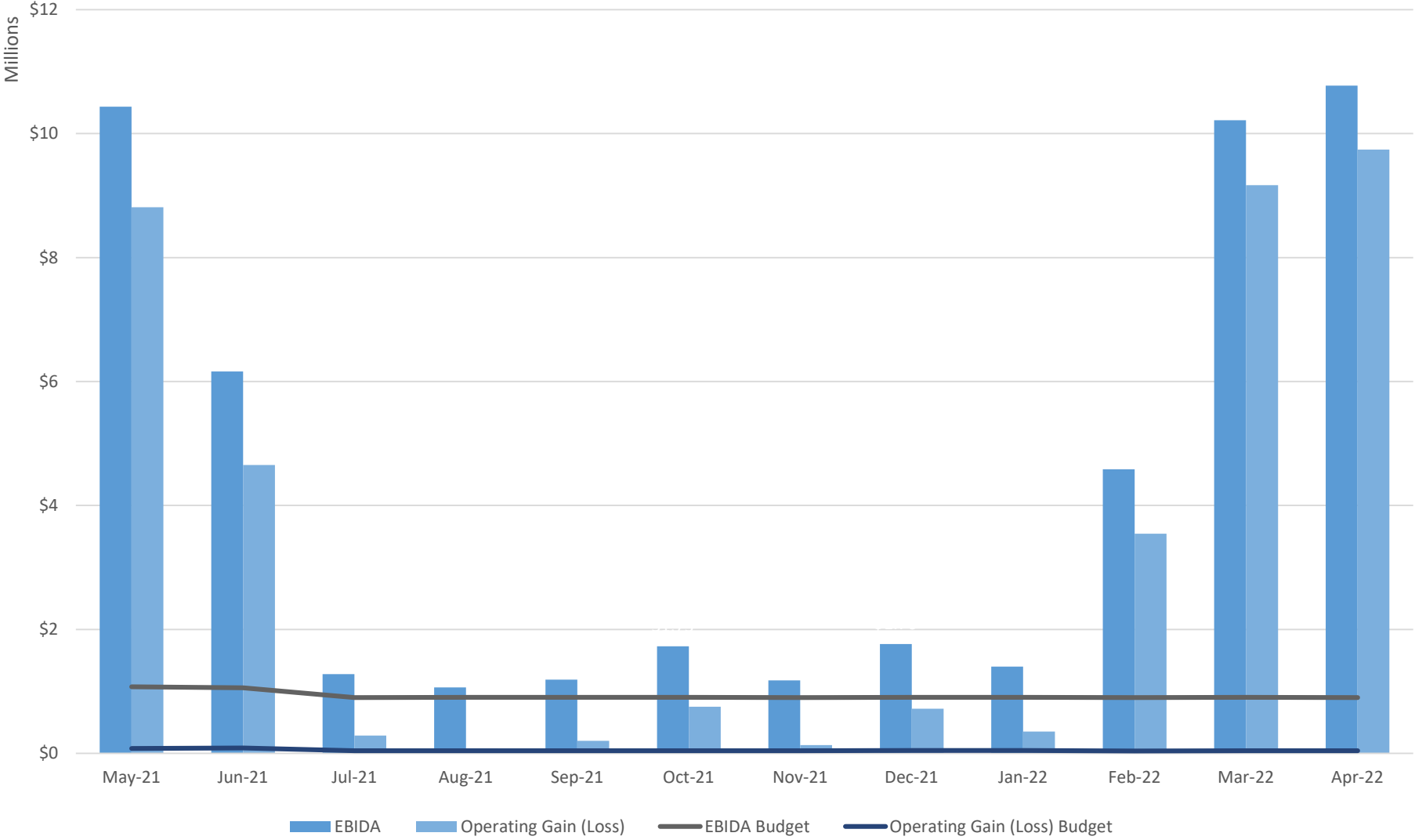


## Operating Metrics

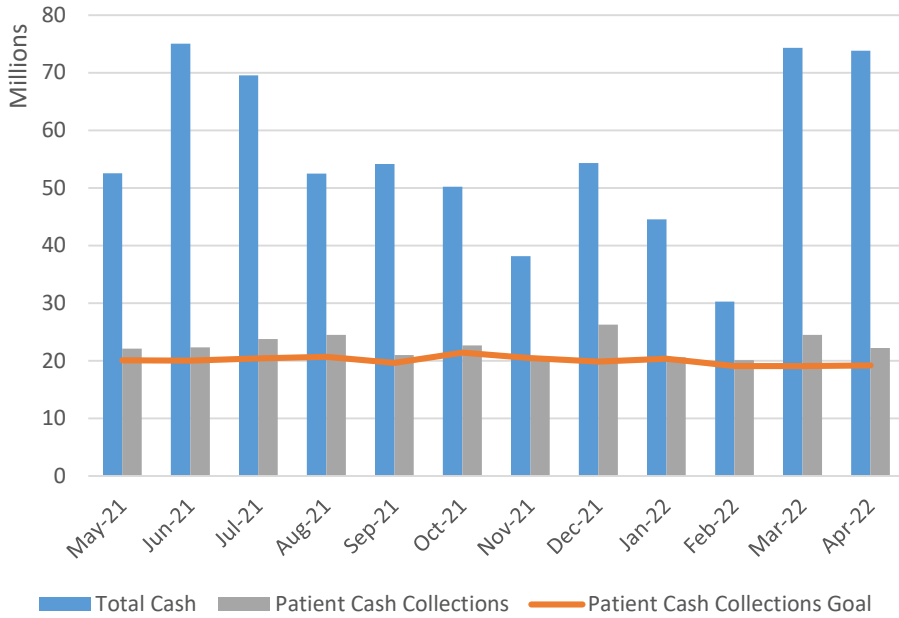


	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21	Dec-21	Jan-22	Feb-22	Mar-22	Apr-22
Supply Expense per AA	\$3,765	\$4,323	\$3,247	\$3,148	\$3,603	\$3,606	\$2,528	\$2,141	\$2,938	\$1,813	\$1,795	\$1,791
Pharm Cost per AA	\$1,458	\$1,345	\$1,457	\$1,319	\$1,492	\$1,918	\$1,081	\$846	\$982	\$538	\$568	\$543
Net Revenue Per AA	\$13,999	\$13,071	\$12,910	\$11,600	\$12,316	\$13,769	\$9,170	\$8,196	\$12,479	\$8,333	\$6,914	\$7,406
Budget Supp/AA	\$3,522	\$3,522	\$3,641	\$3,229	\$3,214	\$3,196	\$3,217	\$3,175	\$3,174	\$3,208	\$3,236	\$3,202
Budget Pharm/AA	\$1,714	\$1,764	\$2,217	\$1,156	\$1,155	\$1,154	\$1,156	\$1,153	\$1,153	\$1,154	\$1,156	\$1,154
Budget Net Rev/AA	\$11,900	\$11,897	\$14,966	\$13,848	\$13,228	\$13,477	\$13,187	\$13,344	\$13,359	\$12,793	\$13,771	\$12,868

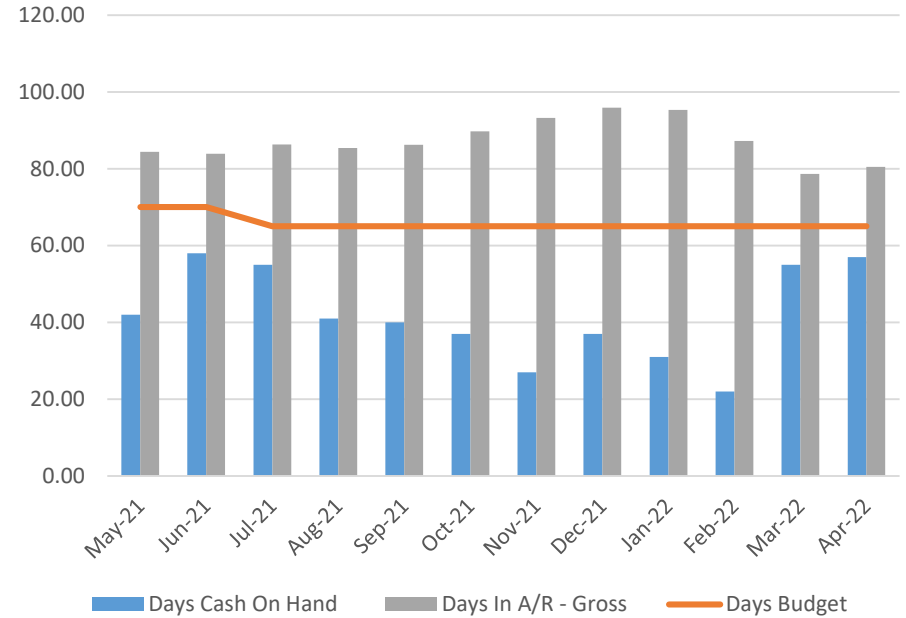
# EBIDA Rolling Year



### Cash Rolling Year



### AR Days Rolling Year



**KERN MEDICAL**  
**3-Month Trend Analysis: Revenue & Expense**  
 April 30, 2022

	FEBRUARY	MARCH	APRIL	BUDGET APRIL	VARIANCE POS (NEG)	PY APRIL
<b>Gross Patient Revenue</b>	\$ 87,636,700	\$ 97,607,248	\$ 85,451,968	\$ 85,186,851	0.3%	\$ 93,220,367
Contractual Deductions	(65,586,135)	(76,332,166)	(65,334,122)	(67,247,063)	(3%)	(68,459,290)
<b>Net Revenue</b>	22,050,565	21,275,083	20,117,846	17,939,788	12%	24,761,077
Indigent Funding	13,102,123	22,237,923	20,495,159	13,468,684	52%	37,236,471
Correctional Medicine	2,583,481	2,583,481	2,583,481	2,616,667	(1%)	2,531,665
County Contribution	285,211	285,211	285,211	282,894	1%	285,211
Incentive Funding	0	0	0	0	0%	41,667
<b>Net Patient Revenue</b>	38,021,379	46,381,697	43,481,696	34,308,033	27%	64,856,091
Gain/(Loss) on Health-Related Entity	0	0	0	0	0%	0
Other Operating Revenue	2,788,999	3,640,750	4,004,563	1,575,338	154%	3,232,964
Other Non-Operating Revenue	2,302,336	2,011,230	2,009,781	274,745	632%	(1,230,330)
<b>Total Revenue</b>	43,112,715	52,033,678	49,496,039	36,158,116	37%	66,858,725
<b>Expenses</b>						
Salaries	14,865,291	15,913,542	15,220,041	15,895,403	(4%)	15,383,985
Employee Benefits	6,636,609	6,781,663	6,400,347	7,219,330	(11%)	9,002,367
Registry	5,415,401	6,274,104	5,245,361	1,558,546	237%	2,245,519
Medical Fees	1,773,518	1,799,557	1,898,047	1,699,575	12%	1,749,903
Other Professional Fees	1,627,625	1,620,441	1,901,847	1,331,140	43%	1,525,326
Supplies	4,798,682	5,523,170	4,864,270	4,464,369	9%	6,065,140
Purchased Services	2,046,220	2,084,535	1,476,143	1,684,113	(12%)	2,145,648
Other Expenses	1,364,961	1,819,368	1,714,314	1,404,496	22%	3,468,616
Operating Expenses	38,528,307	41,816,379	38,720,371	35,256,972	10%	41,586,503
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 4,584,408	\$ 10,217,299	\$ 10,775,668	\$ 901,144	1,096%	\$ 25,272,222
EBIDA Margin	11%	20%	22%	2%	774%	38%
Interest	84,051	84,190	84,329	138,079	(39%)	123,018
Depreciation	661,829	670,027	655,476	466,931	40%	481,391
Amortization	295,228	295,228	295,228	254,168	16%	256,257
Total Expenses	39,569,414	42,865,824	39,755,403	36,116,151	10%	42,447,170
<b>Operating Gain (Loss)</b>	\$ 3,543,300	\$ 9,167,854	\$ 9,740,636	\$ 41,966	23,111%	\$ 24,411,556
<b>Operating Margin</b>	8.2%	17.6%	19.7%	0.12%	16,856%	36.51%

**KERN MEDICAL**  
**Year-to-Date: Revenue & Expense**  
 April 30, 2022

	ACTUAL FYTD	BUDGET FYTD	VARIANCE POS (NEG)	PY FYTD	PY VARIANCE POS (NEG)
<b>Gross Patient Revenue</b>	\$ 969,398,888	\$ 883,174,517	10%	\$ 874,162,517	11%
Contractual Deductions	(741,932,615)	(690,275,142)	7%	(665,734,848)	11%
<b>Net Revenue</b>	227,466,273	192,899,375	18%	208,427,670	
Indigent Funding	150,391,275	134,686,845	12%	154,578,788	(3%)
Correctional Medicine	25,692,617	26,166,667	(2%)	25,769,781	(0.3%)
County Contribution	2,852,424	2,828,937	1%	2,852,148	0.01%
Incentive Funding	0	0	0%	4,968,647	(100%)
<b>Net Patient Revenue</b>	406,402,588	356,581,823	14%	396,597,034	2%
Gain/(Loss) on Health-Related Entity	0	0	0%	0	0%
Other Operating Revenue	25,572,105	16,348,838	56%	19,746,168	30%
Other Non-Operating Revenue	8,403,155	2,784,082	202%	1,504,212	459%
<b>Total Revenue</b>	440,377,849	375,714,743	17%	417,847,415	5%
<b>Expenses</b>					
Salaries	161,381,509	165,007,886	(2%)	156,520,164	3%
Employee Benefits	68,684,133	75,095,361	(9%)	73,355,011	(6%)
Registry	47,438,811	16,211,977	193%	17,549,250	170%
Medical Fees	17,704,049	17,760,558	(0.3%)	17,267,639	3%
Other Professional Fees	15,887,593	13,794,816	15%	13,961,194	14%
Supplies	58,505,846	46,448,207	26%	56,107,735	4%
Purchased Services	19,094,577	17,744,695	8%	19,068,927	0.1%
Other Expenses	16,507,491	14,634,066	13%	17,575,702	(6%)
Operating Expenses	405,204,008	366,697,567	11%	371,405,623	9%
Earnings Before Interest, Depreciation, and Amortization (EBIDA)	\$ 35,173,841	\$ 9,017,177	290%	\$ 46,441,791	(24%)
EBIDA Margin	8%	2%	233%	11%	(28%)
Interest	844,211	1,380,794	(39%)	1,322,205	(36%)
Depreciation	6,689,154	4,669,306	43%	4,697,869	42%
Amortization	2,670,951	2,541,684	5.1%	2,562,575	4%
Total Expenses	415,408,325	375,289,350	11%	379,988,272	9%
<b>Operating Gain (Loss)</b>	\$ 24,969,524	\$ 425,393	5770%	\$ 37,859,142	(34%)
<b>Operating Margin</b>	6%	0.1%	4908%	9%	(37%)

**KERN MEDICAL  
BALANCE SHEET**

	APRIL 2022	APRIL 2021
<b>ASSETS:</b>		
<i><b>Total Cash</b></i>	<b>\$ 73,799,443</b>	<b>\$ 21,701,322</b>
Patient Receivables Subtotal	280,975,423	252,201,473
Contractual Subtotal	(232,183,705)	(209,592,603)
<i><b>Net Patient Receivable</b></i>	<b>48,791,718</b>	<b>42,608,870</b>
Total Indigent Receivable	138,656,131	167,808,561
Total Other Receivable	9,879,434	8,281,957
Total Prepaid Expenses	4,784,821	4,814,160
Total Inventory	4,119,695	6,094,696
<i><b>Total Current Assets</b></i>	<b>280,031,242</b>	<b>251,309,565</b>
Deferred Outflows of Resources	127,290,855	87,863,462
Total Land, Equipment, Buildings and Intangibles	223,380,485	196,125,916
Total Construction in Progress	5,113,975	24,481,080
<i><b>Total Property, Plant &amp; Equipment</b></i>	<b>228,494,460</b>	<b>220,606,995</b>
Total Accumulated Depr & Amortization	(134,742,916)	(122,941,878)
<i><b>Net Property, Plant, and Equipment</b></i>	<b>93,751,544</b>	<b>97,665,117</b>
<i><b>Total Long Term Assets</b></i>	<b>127,290,855</b>	<b>87,863,462</b>
<i><b>Total Assets</b></i>	<b>\$ 501,073,641</b>	<b>\$ 436,838,144</b>

## BALANCE SHEET

	APRIL 2022	APRIL 2021
<b>LIABILITIES &amp; EQUITY:</b>		
Total Accounts Payable	\$ 16,048,410	\$ 13,068,233
Total Accrued Compensation	34,015,050	39,839,526
Total Due Government Agencies	16,063,651	34,687,400
Total Other Accrued Liabilities	40,775,890	39,282,573
<b><i>Total Current Liabilities</i></b>	<b>106,903,002</b>	<b>126,877,732</b>
Unfunded Pension Liability	381,152,811	322,103,797
Other Long-Term Liabilities	64,286,919	96,456,658
<b><i>Total Long-Term Liabilities</i></b>	<b>445,439,730</b>	<b>418,560,455</b>
<b><i>Total Liabilities</i></b>	<b>552,342,732</b>	<b>545,438,187</b>
Fund Balance	36,714,022	36,714,022
Retained Earnings	(87,983,112)	(145,314,064)
<b><i>Total Fund Balance</i></b>	<b>(51,269,090)</b>	<b>(108,600,043)</b>
<b><i>Total Liabilities and Fund Balance</i></b>	<b>\$ 501,073,641</b>	<b>\$ 436,838,144</b>



**BOARD OF GOVERNORS  
KERN COUNTY HOSPITAL AUTHORITY REGULAR MEETING**

June 15, 2022

**Subject:** Kern County Hospital Authority Chief Executive Officer Report

**Recommended Action:** Receive and File

**Summary:**

The Chief Executive Officer of the Kern County Hospital Authority will provide your Board with a hospital-wide update.



**KERN COUNTY HOSPITAL AUTHORITY  
BOARD OF GOVERNORS  
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Health and Safety Code Section 101855(j)(2)

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on June 15, 2022, to discharge its responsibility to evaluate and improve the quality of care rendered by health facilities and health practitioners. The closed session involves:

  X   Request for Closed Session regarding peer review of health practitioners (Health and Safety Code Section 101855(j)(2)) –

**KERN COUNTY HOSPITAL AUTHORITY  
BOARD OF GOVERNORS  
PUBLIC STATEMENT REGARDING CLOSED SESSION**

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  X   Request for Closed Session regarding peer review of health facilities (Health and Safety Code Section 101855(j)(2)) –

**KERN COUNTY HOSPITAL AUTHORITY  
BOARD OF GOVERNORS  
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on June 15, 2022, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

- X   CONFERENCE WITH LEGAL COUNSEL – FORMALLY INITIATED LITIGATION  
(Government Code Section 54956.9(d)(1)) Name of case: Farzin Tayefeh, M.D.,  
et al. v. County of Kern, et al., Kern County Superior Court, Case No. BCV-15-  
100647 –

**KERN COUNTY HOSPITAL AUTHORITY  
BOARD OF GOVERNORS  
PUBLIC STATEMENT REGARDING CLOSED SESSION**

Government Code Section 54956.9

Based on the advice of Counsel, the Board of Governors is holding a closed session on June 15, 2022, to confer with, or receive advice from Counsel regarding pending litigation, because discussion in open session concerning this matter would prejudice the position of the authority in the litigation. The closed session involves:

- X   CONFERENCE WITH LEGAL COUNSEL – FORMALLY INITIATED LITIGATION  
(Government Code Section 54956.9(d)(1)) Name of case: Kern County Hospital Authority, a Governmental entity v. California Department of Corrections and Rehabilitation, et al., Kern County Superior Court Case No. BCV-20-102979 DRL  
–

**KERN COUNTY HOSPITAL AUTHORITY  
BOARD OF GOVERNORS  
PUBLIC STATEMENT REGARDING CLOSED SESSION**

On the recommendation of the Chief Executive Officer, the Board of Governors will hold a closed session on June 15, 2022, to consider:

- X   CONFERENCE WITH LABOR NEGOTIATORS - Agency designated representatives: Chief Executive Officer Scott Thygerson, and designated staff - Employee organizations: Service Employees International Union, Local 521 (Government Code Section 54957.6)