

# Trusted Senior Specialists, LLC - 2010

## MOLINA MEDICARE PRODUCER AGREEMENT

This Producer Agreement (“Agreement”) is made and entered into by one or more Molina Healthcare companies in California, Washington, Utah, Nevada, New Mexico, Texas, Ohio and Michigan, as applicable (“Molina Healthcare”), and Producer.

### RECITALS

- A. Producer is licensed under state insurance laws as an agent or broker, and is not employed by any Molina Healthcare company.
- B. Producer has submitted an Agent Appointment Application to Molina Healthcare, and Molina Healthcare has accepted the application.
- C. The Agent Appointment Application requires Producer to adhere to the terms of this Agreement, including the attached Business Associate Agreement and Medicare Program Requirements, with no further signature required of either party.
- D. Pursuant to the terms of an arrangement between Producer and an intermediary organization, such a Field Marketing Organization, Managing General Agent, General Agent, or equivalent, the intermediary organization is solely responsible for compensating Producer for any services provided pursuant to this Agreement.

Now, therefore, in consideration of the promises, covenants and warranties stated herein, Molina Healthcare and Producer agree as follows:

### Section 1 Definitions

- 1.1 “Molina Medicare” collectively refers to Molina Healthcare’s MA-PD plans that are marketed as Medicare Options Plus, Options Select, Options One, Options and Healthy Advantage. Molina Options Plus and Healthy Advantage are special needs plans (MA-SNP) that exclusively enroll dual eligible individuals. Molina Medicare Options, Options Select, and Options One are available to individuals who qualify for Medicare Advantage.

## Section 2 Producer's Responsibilities

- 2.1 **Marketing.** Producer agrees to market Molina Medicare in accordance with the terms and conditions of this Agreement, regulatory requirements and Molina Healthcare policies, which may be revised from time to time.
- 2.2 **Application Services.**
- a. Producer shall verify all enrollment applications for completeness and accuracy.
  - b. Producer agrees to review each completed application and to the best of Producer's ability ensure that the facts set forth by the beneficiary are true and correct.
  - c. The individual that markets Molina Medicare to the beneficiary shall sign the application and shall obtain the beneficiary's signature on the application.
  - d. Producer shall provide a monthly report to Molina Healthcare in a form and format as required by Molina Healthcare, and at a minimum that includes the name of each beneficiary who completed an application and the date the application was completed.
  - e. A copy of each application shall be faxed to (562) 499-0732 within two (2) business days of the beneficiary's signature, and the original application shall be mailed to 7050 Union Park Center, Suite 200 Midvale, Utah 84047 within three (3) business days of the beneficiary's signature.
  - f. Molina Healthcare may decline acceptance of any application deemed not acceptable by Molina or CMS, as Molina Healthcare shall determine in its sole discretion.
- 2.3 **Approved Materials.** Producer shall use only Molina Healthcare's enrollment applications and related forms that have been approved by CMS, and shall not use any forms that have not been approved by Molina Healthcare and CMS. Producer shall not modify or incorporate any non-approved materials into any approved materials without Molina Healthcare's prior written consent. In the event this Agreement terminates, Producer shall return to Molina Healthcare all unused marketing materials.
- 2.4 **Sales Surveys.** Molina Healthcare will conduct a post sales beneficiary telephone survey on 25% of enrollment applications. The average score on the post sales survey must remain above 85%. Any Producer who achieves a score of less than 85% will be suspended from marketing Molina Medicare and may be reinstated by Molina Healthcare in its sole discretion after receiving additional training.
- 2.5 **Licensure.** Producer represents and warrants that it possesses all insurance licenses (including certifications and registrations) required by law to perform the services described in this Agreement. Producer shall maintain any such licensure at Producer's

sole cost and expense. Producer shall immediately notify Molina Healthcare of any termination, suspension, expiration, disciplinary action or investigation of its license or any violation of insurance consumer protection or other laws or regulations.

- 2.6 **Separate Funds.** Producer shall not accept or receive funds from Enrollees, Beneficiaries, or CMS on behalf of Molina Healthcare at any time.
- 2.7 **Regulatory Compliance.** Producer agrees to comply with all applicable state and federal laws including, but not limited to, Medicare laws, regulations, CMS instructions, and CMS guidelines. Producer agrees any marketing by Producer must be done in accordance with all applicable Medicare laws, Part D laws, CMS policies, including CMS marketing guidelines, and all Federal health care laws (including civil monetary penalty laws).
- 2.8 **Marketing Through Unsolicited Contacts.** Producer acknowledges and agrees that unsolicited contact with beneficiaries is prohibited, including but not limited to the following:
- a. Outbound marketing calls, unless the beneficiary requested the call. This includes contacting existing members to market other Medicare products, except as permitted in the federal regulations. Producer must supply proof of beneficiary request for outbound contact if asked by Molina Healthcare
  - b. Calls to former members who have disenrolled, or to current members that are in the process of voluntarily disenrolling, to market plans or products, except as permitted in the federal regulations.
  - c. Calls to beneficiaries to confirm receipt of mailed information, except as permitted in the federal regulations.
  - d. Calls to beneficiaries to confirm acceptance of appointments made by third parties or independent Producers.
  - e. Approaching beneficiaries in common areas (i.e. parking lots, hallways, lobbies, etc.)
  - f. Calls or visits to beneficiaries who attended a sales event, unless the beneficiary gave express permission at the event for a follow-up call or visit.
- 2.9 **Cross-Selling.** Producer acknowledges and agrees that marketing non-health care related products (such as annuities and life insurance) to prospective enrollees during any Medicare Advantage or Part D sales activity or presentation is considered cross-selling and is a prohibited activity.

- 2.10 **Scope of Appointments.** To ensure beneficiaries have accurate information to make an informed choice about their Medicare benefits without being pressured, Producer agrees, at the time it initially meets with a beneficiary to discuss specific lines of plan business (examples of separate lines of business include Medigap, MA, and PDP), to inform the beneficiary of all products that will be discussed prior to any in-home appointment. Producer shall obtain written documentation that is signed by the beneficiary agreeing to the products that will be discussed during the appointment. Appointments made over the phone must be recorded in order to provide documentation. Producer shall supply written documentation or recorded documentation to Molina Healthcare upon request.
- 2.11 **Sales/Marketing in Health Care Settings.** Producer acknowledges and agrees that neither Producer nor Molina Healthcare may conduct sales activities in healthcare settings except in common areas. Common areas where marketing activities are allowed include areas such as hospital or nursing home cafeterias, community or recreational rooms, and conference rooms. If a pharmacy counter is located within a retail store, common areas would include the space outside of where patients wait for services or interact with pharmacy providers and obtain medications. Neither Producer nor Molina Healthcare shall conduct sales presentations and distributing and/or accepting enrollment applications in areas where patients primarily intend to receive health care services. These restricted areas generally include, but are not limited to, waiting rooms, exam rooms, hospital patient rooms, dialysis centers, and pharmacy counter areas (where patients wait for services or interact with pharmacy providers and obtain medications). Producer and Molina Healthcare are permitted to schedule appointments with beneficiaries residing in long-term care facilities only upon request by the beneficiary.
- 2.12 **Sales/Marketing at Educational Events.** Producer acknowledges and agrees that educational events may not include sales activities such as the distribution of marketing materials or the distribution or collection of plan applications.
- 2.13 **Prohibition on Provision of Meals.** Producer acknowledges and agrees that prospective enrollees shall not be provided meals, or have meals subsidized, at any event or meeting at which plan benefits are being discussed and/or plan materials are being distributed. Prospective enrollees may be provided refreshments and light snacks. Items similar to the following could generally be considered acceptable: fruit, raw vegetables, pastries, cookies or other small dessert items, crackers, muffins, cheese, chips, yogurt, and nuts.
- 2.14 **Records.** Producer shall keep full and complete records of all transactions pertaining to this Agreement and any and all other records pertaining to enrollments submitted and accepted hereunder and any and all other records that may be required by any governmental entity or regulatory agency in connection with Producer's relationship with Molina Healthcare, its enrollees, and the public.

- 2.15 **Enrollee Communications.** Producer shall forward to Molina Healthcare full particulars of any inquiries, information or correspondence it receives from beneficiaries within two (2) business days of receipt. In the event Producer receives any grievance or expression of dissatisfaction from a beneficiary, Producer shall inform Molina Healthcare in writing no later than the following business day. Producer shall forward information to beneficiaries within two (2) business days of Molina Healthcare's request.
- 2.16 **Molina Leads.** In the event Producer and Molina Healthcare contact the same prospective beneficiary regarding Molina Medicare, upon written notice from Molina Healthcare, Producer shall cease all marketing activities directed to that individual.
- 2.17 **HIPAA.** In performing the services described herein, Producer may from time to time use or disclose protected health information (as defined in the Health Insurance Portability and Accountability Act of 1996, "HIPAA") on behalf of Molina Healthcare. Producer shall comply with the terms of the Business Associate Agreement set forth at Exhibit B. Producer shall comply with all State and Federal confidentiality requirements.
- 2.18 **Non-Solicitation, Enrollees.** Producer shall not unilaterally solicit or encourage beneficiaries to select another health plan for the primary purpose of securing financial gain for Producer. Nothing in this provision is intended to limit Producer's ability to fully inform individuals of all available health plan options.
- 2.19 **Training, Testing.** Producer shall receive in-person or webinar training regarding Molina Medicare, and must receive a score of at least 85% on the test.

- 2.20 **Authorization.** Producer and shall not commence marketing Molina Medicare until Molina Healthcare approves Producer in writing. Molina Healthcare reserves the right to disapprove any application for any reason.
- 2.21 **Non-Exclusivity.** This Agreement shall not be construed to be an exclusive agreement between Producer and Molina Healthcare.

### Section 3 Molina's Responsibilities

- 3.1 **Marketing Materials and Forms.** Molina Healthcare shall provide Producer with all CMS-approved marketing materials to be used in connection with marketing Molina Medicare. Molina Healthcare shall also provide Producer with any and all forms to be used in connection with enrollment and the provision of other services under this Agreement.
- 3.2 **Enrollment.** Molina Healthcare shall receive completed enrollment applications from Producer and shall review such applications with respect to Molina Healthcare's enrollment criteria and submit complete applications to CMS. Molina Healthcare reserves the right to accept or reject any enrollment application, regardless of any determination made by Producer regarding completeness or eligibility.
- 3.3 **Over sight.** Molina Healthcare maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of Molina Healthcare's contract with CMS. Molina Healthcare shall, on an ongoing basis, monitor Producer's performance directly or through an auditing or consulting firm engaged by Molina Healthcare. In the event Producer fails to adequately perform the services described herein, Molina Healthcare may require corrective action or terminate the Agreement in accordance with Section 6.
- 3.4 **State Appointments.** Molina Healthcare is required to comply with state appointment laws. Molina Healthcare is also required to pay any fees that would be charged in connection with State appointment laws. Molina Healthcare is required to report the termination of any Producer, and the reason for the termination, to the State in which the Producer has been appointed in accordance with the State appointment law.

## Section 4 Compensation

- 4.1 **Compensation.** Pursuant to the terms of an arrangement between Producer and an intermediary organization, such as a Field Marketing Organization, Managing General Agent, General Agent, or equivalent, the intermediary organization is solely responsible for compensating Producer for marketing Molina Medicare. Producer shall have no claim against Molina Healthcare for payment for any services performed pursuant to this Agreement.
- 4.2 **Six-Year Compensation Cycle.** Producer's aggregate first year compensation shall not exceed two-hundred percent (200%) of the aggregate compensation in each individual subsequent renewal year, of which there must be a total of five (5) renewal years. Producer shall receive renewal compensation for the five-year renewal period (years two through six) as long as the beneficiary remains enrolled in Molina Medicare.

## Section 5 Term and Termination

- 5.1 **Term.** This Agreement shall commence on the date Molina Healthcare accepts the Agent Appointment Application and shall continue in full force and effect for one (1) year. Thereafter, this Agreement shall automatically renew for successive terms of one year each, unless either party terminates the Agreement in accordance with this Section.
- 5.2 **Termination without Cause.** Either party may terminate this Agreement at any time with or without cause upon thirty (30) days prior written notice to the other party.
- 5.3 **Termination for Breach.** Either party may terminate this Agreement upon fifteen (15) days prior written notice to the other party if the party to whom such notice is given is in material breach of this Agreement, provided that such breach is not cured to the non-breaching party's satisfaction within the fifteen (15) day notice period.

- 5.4 **Immediate Termination.** Molina Healthcare may terminate this Agreement immediately upon notice if Producer or its s, in the opinion of Molina Healthcare (i) violates any law, regulation or guideline applicable to Producer or its s including, but not limited to, any CMS requirement applicable to Molina Healthcare or Molina Medicare; (ii) is accused in writing of violating any such a law, regulation or guideline by any regulatory agency; (iii) engages in behavior that is unethical or harms the reputation of Molina Healthcare; (iv) demonstrates a rapid disenrollment rate in excess of 5% in any calendar month; or (v) makes a general assignment for the benefit of creditors or files a petition in bankruptcy. Any disenrollment resulting from a provider leaving the Molina Healthcare network will not be included in the 5%.

## Section 6 Miscellaneous

- 6.1 **Insurance.** Producer shall at all times maintain errors and omissions insurance in amounts consistent with industry standards, but not less than \$1,000,000 per occurrence and \$1,000,000 aggregate in a policy year. Upon request, Producer shall provide Molina Healthcare with written proof that satisfies the foregoing requirements.
- 6.2 **Independent Contractor.** Producer is at all times an independent contractor with respect to Molina Healthcare. Nothing contained herein is intended to create, nor shall it be construed to create, any relationship between the parties other than that of independent parties contracting with each other solely for the purpose of effectuating the provisions of this Agreement; neither is this Agreement intended, except as may otherwise be specifically set forth, to create a relationship of agency, representation, joint venture, or employment between the parties. The parties agree that no payroll or employment taxes of any kind shall be withheld or paid with respect to payments to Producer under this Agreement. The payroll or employment taxes that are the subject of this section include, but are not limited to, FICA, FUTA, federal personal income tax, state income tax, and state unemployment insurance tax. Producer shall pay any payroll or employment taxes that are due to any taxing authority by virtue of Producer's work under this Agreement. Producer shall comply with the applicable workers' compensation laws.
- 6.3 **Indemnification.** Each party shall indemnify and hold harmless the other party and its officers, directors, shareholders, employees, s, agents, and representatives from any and all liabilities, losses, damages, claims, and expenses of any kind, including costs and attorneys' fees, which result from the duties and obligations of the indemnifying party and/or its officers, directors, shareholders, employees, s, agents, and representatives under this Agreement.
- 6.4 **Dispute Resolution.** Any claim or controversy arising out of or in connection with this Agreement shall be resolved, to the extent possible, within forty-five (45) days through informal meetings and discussions between appropriate representatives of the parties. Any remaining claim or controversy shall be resolved through binding arbitration conducted by a single arbitrator in accordance with the AAA Commercial Arbitration Rules, then in effect, in Long Beach, California. The parties shall conduct a mandatory settlement conference at the initiation of arbitration, to be administered by AAA. The

arbitrator shall have no authority to award damages or provide a remedy that would not be available to such prevailing party in a court of law or award punitive damages. Each party shall bear its own costs and expenses, including its own attorneys' fees, and shall bear an equal share of the arbitrator's and administrative fees. The parties agree to accept any decision by the arbitrator as a final determination of the matter in dispute, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction. Arbitration must be initiated within one (1) year of the earlier of the date the claim or controversy arose, was discovered, or should have been discovered with reasonable diligence; otherwise it shall be deemed waived. The use of binding arbitration shall not preclude a request for equitable and injunctive relief made to a court of appropriate jurisdiction.

- 6.5 **Headings.** The section and paragraph headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.
- 6.6 **Assignment.** Producer shall not assign, sell or transfer this Agreement or any interest herein without the prior written consent of Molina Healthcare, and any unauthorized assignment or transfer of this Agreement or any interest therein shall be null and void.
- 6.7 **Waiver.** Waiver of a breach of any provision of this Agreement shall not be deemed a waiver of any other breach of the same or different provision.
- 6.8 **Severability.** In the event any provision of this Agreement is rendered invalid or unenforceable by any valid law or regulation of the State of California or of the United States, or declared void by any tribunal of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.
- 6.9 **Amendment.** Molina Healthcare may, without Producer's consent, immediately amend this Agreement to maintain consistency and/or compliance with any state or federal law, policy, directive, or government sponsored program requirement. Molina Healthcare may otherwise amend this Agreement upon thirty (30) days' prior written notice to Producer. If Producer does not deliver to Molina Healthcare a written notice of rejection of the amendment within that thirty (30) day period, the amendment shall be deemed accepted by and shall be binding upon Producer.
- 6.10 **Third Party Beneficiary.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the parties hereto and their successors and assigns.
- 6.11 **Notice.** Any notice required under this Agreement, shall be made in writing and given to the other party by U.S. mail, personal delivery, express delivery, or confirmed facsimile at the following addresses:

If to Producer:

Name:  
Title:  
Company:  
Address:

Tel:  
Fax:

If to Molina:           Richard G. Slaughter  
                                  200 Oceangate, Suite 100  
                                  Long Beach, CA 90802-4317  
                                  Tel: 888-562-5442  
                                  Fax: 562-628-2382

With a copy to:        Kelly Howard  
                                  National Broker Sales Manager  
                                  200 Oceangate, Suite 100  
                                  Long Beach, CA 90802-4317  
                                  Tel: 562-901-1078  
                                  Fax: 562-499-0732

- 6.12   Governing Law. This Agreement shall be governed by and construed according to the laws of the State of California.
- 6.13   Entire Agreement. This Agreement constitutes the entire Agreement of the parties with respect to the subject matter hereof. No promises, terms, conditions, or obligations other than those contained herein shall be valid or binding. Any prior agreements, statements, promises, either oral or written, made by any party or agent of any party that are not contained in this Agreement, are of no force or effect.
- 6.14   Subcontracts. To the extent Producer performs its obligations through any subcontractor, the subcontractor shall be subject to the prior approval of Molina Healthcare, the subcontract shall be in writing, and the subcontract shall incorporate, and require the subcontractor to comply with, the terms of this Agreement.
- 6.15   Attachments. Each of the attachments identified below is hereby made a part of this Agreement:

Exhibit A – Compensation Schedule  
Exhibit B - Business Associate Agreement  
Exhibit C - Medicare Program Requirements

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EXHIBIT A  
COMPENSATION SCHEDULE

Pursuant to the terms of an arrangement between Producer and an intermediary organization, such a Field Marketing Organization, Managing General Agent, General Agent, or equivalent, the intermediary organization is solely responsible for compensating Producer for marketing Molina Medicare. Producer shall have no claim against Molina Healthcare for payment for any services performed pursuant to this Agreement.

EXHIBIT B  
BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (“Addendum”) is entered into by and between Molina Healthcare and Producer (“Business Associate”).

RECITALS

WHEREAS, Molina Healthcare and Business Associate are parties to that certain Producer Agreement (the “Agreement”);

WHEREAS, Business Associate may create, receive, maintain, or transmit protected health information on behalf of Molina Healthcare in conjunction with the services described in the Agreements;

WHEREAS, such protected health information may be used or disclosed only in accordance with the Standards for Privacy of Individually Identifiable Health Information (the “Privacy Rule”) issued by the U.S. Department of Health and Human Services under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”);

WHEREAS, Business Associate must safeguard any electronic protected health information that it creates, receives, maintains, or transmits on behalf of Molina Healthcare as required by the Security Standards for the Protection of Electronic Protected Health Information issued by the U.S. Department of Health and Human Services under HIPAA (the “Security Rule”);

NOW THEREFORE, the parties agree as follows:

1. DEFINITIONS

Unless otherwise provided for in this Addendum, terms have the same meanings as set forth in the Privacy Rule and the Security Rule.

“Availability” means the property that data or information is accessible and useable upon demand by an authorized person.

“Business Associate” means an entity or a person that performs a function on behalf of, or provides a service to, Molina Healthcare that involves the creation, receipt, use or disclosure of PHI.

“Confidentiality” means the property that data or information is not made available or disclosed to unauthorized persons or processes.

“Electronic Protected Health Information” (“Electronic PHI”) means Protected Health Information that is transmitted by, or maintained in, electronic media.

“Integrity” means the property that data or information have not been altered or destroyed in an unauthorized manner.

“Protected Health Information” (“PHI”) means individually identifiable information, transmitted or maintained in any form or medium, relating to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or the past, present or future payment for health care provided to an individual, as more fully defined in 45 CFR § 160.103, and any amendments thereto.

“Privacy Rule” means the Standards for Privacy of Individually Identifiable Health Information, set forth at 45 CFR Parts 160 and 164.

“Security Incident” means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

“Security Rule” means the Security Standards for the Protection of Electronic Protected Health Information, set forth at 45 CFR Parts 160 and 164.

## 2. GENERAL PROVISIONS

2.1 Effect. This Addendum supplements and amends any agreements between the parties involving the disclosure of PHI by Molina Healthcare to Business Associate. To the extent of any conflict or inconsistency between this Addendum and the terms and conditions of any agreement, this Addendum will prevail.

2.2 Amendment. The parties agree to amend this Addendum as necessary to comply with the Privacy Rule, the Security Rule, and such other regulations promulgated by the Secretary of Health and Human Services pursuant to HIPAA.

## 3. SCOPE OF USE AND DISCLOSURE

3.1 Business Associate may use or disclose PHI as required to satisfy its obligations under the underlying Agreement referenced above, if such use or disclosure of PHI would not violate the Privacy Rule. Unless otherwise limited herein, Business Associate may use or disclose PHI:

- a. for Business Associate's proper management and administrative services;
- b. to carry out the legal responsibilities of Business Associate; or
- c. to provide data aggregation services relating to the health care operations of Molina Healthcare if required under the Agreement.

3.2 Business Associate shall not request, use or release more than the minimum amount of PHI necessary to accomplish the purpose of the use or disclosure. Business Associate hereby acknowledges that all PHI created or received from, or on behalf of, Molina Healthcare is the sole property of Molina Healthcare.

#### 4. OBLIGATIONS OF BUSINESS ASSOCIATE

Business Associate shall:

4.1 Use or disclose PHI only as permitted or required by this Addendum or as required by law.

4.2 Establish and use appropriate safeguards to prevent unauthorized use or disclosure of PHI.

4.3 Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of Molina Healthcare.

4.4 Immediately report to Molina Healthcare any unauthorized uses or disclosures of PHI, or security incident, of which it becomes aware. Business Associate shall take all reasonable steps to mitigate any harmful effects of such breach or security incident. Business Associate shall indemnify Molina Healthcare against any losses, damages, expenses or other liabilities including reasonable attorney's fees incurred as a result of, Business Associates or its agent's or subcontractor's, unauthorized use or disclosure of PHI.

4.5 Ensure that all of its subcontractors and agents are bound by the same restrictions and obligations contained herein, whenever PHI is made accessible to such subcontractors or agents.

4.6 Within ten (10) days of receiving a request, make all PHI and related information in its possession available as follows:

- a. To Molina Healthcare to the extent necessary to permit Molina Healthcare to respond to requests by individuals for access to their PHI for inspection and copying in accordance with 45 CFR § 164.524, to the extent the PHI is maintained in a Designated Record Set;
- b. To Molina Healthcare to the extent necessary to permit Molina Healthcare to make an accounting of disclosures of PHI about the individual, in accordance with 45 CFR § 164.528. At a minimum, Business Associate shall provide Molina Healthcare with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the PHI, and if known, the address of such entity or person, (iii) a brief description of the PHI disclosed, and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure.

4.7 Within fifteen (15) days of receiving a request from Molina Healthcare, incorporate any amendments or corrections to the PHI in accordance with the Privacy Rule, to the extent the PHI is maintained in a Designated Record Set.

4.8 Make its internal practices, books and records relating to the use or disclosure of PHI received from or on behalf of Molina Healthcare available to Molina Healthcare or the U. S. Secretary of Health and Human Services for purposes of determining compliance with the Privacy Rule.

4.9 Upon termination of the Agreement attached hereto, Business Associate shall retain all PHI created or received from, or on behalf of, Molina Healthcare and extend the protections of this Addendum to such information. Termination of the Agreement attached hereto shall not affect any of its provisions that, by wording or nature, are intended to remain effective and to continue in operation.

## 5. INDEMNIFICATION

Each party will indemnify and defend the other party of this Addendum from and against any and all claims, losses, damages, expenses or other liabilities, including reasonable attorney's fees, incurred as a result of the negligent acts or omissions of the negligent party occurring within the course and scope of this Addendum.

## 6. TERMINATION OF AGREEMENT

Notwithstanding any other provision in the underlying Agreement, Molina Healthcare may terminate this Addendum and the Agreement upon five (5) days written notice to Business Associate if Molina Healthcare determines, in its sole discretion, that Business Associate has violated a material term of this Addendum and such breach is not cured within such five (5) day period.

ATTACHMENT C  
MEDICARE PROGRAM REQUIREMENTS--DELEGATED SERVICES

This Attachment C sets forth language that applies to entities that perform administrative services on Molina Healthcare's behalf. This attachment shall be automatically modified to conform to subsequent amendments to Medicare program requirements. In the event of any inconsistency between the terms of this attachment and the Agreement, the terms of this attachment shall control.

1. Downstream Compliance.

Producer agrees to require all of its downstream, related entity(s), and transferees that provide any services benefiting Molina Healthcare's Medicare enrollees to agree in writing to all of the terms provided herein.

2. Medicare Compliance.

Producer agrees to with all applicable Medicare laws, regulations, and CMS instructions. (42 CFR 422.504(i)(4)(v)).

3. Confidentiality.

Producer agrees to comply with the confidentiality and enrollee record accuracy requirements set forth in 42 CFR 422.118. (42 CFR 422.504(a)(13)).

4. Right to Audit.

HHS, the Comptroller General, or their designees have the right to audit, evaluate, and inspect any books, contracts, records, including medical records and documentation that pertain to any aspect of services performed, reconciliation of benefit liabilities, and determination of amounts payable under the contract, or as the Secretary may deem necessary to enforce the contract. Producer agrees to make available, for the purposes specified in this paragraph, its premises, physical facilities and equipment, records relating to its Medicare enrollees, and any additional relevant information that CMS may require. HHS, the Comptroller General, or their designee's right to inspect, evaluate, and audit extends through ten (10) years from the end of the final contract period or completion of audit, whichever is later. (42 CFR 422.504(e)(2), 422.504(e)(3), 422.504(e)(4), and 422.504(i)(2)(ii)).

5. Responsibilities and Reporting Arrangements.

The Agreement specifies the delegated activities and reporting responsibilities. To the extent applicable, Producer shall support Molina Healthcare in complying with the reporting requirements set forth in 42 CFR 422.516 and 42 CFR 310 by providing relevant data . (42 CFR 504(a)(8)).

6. Revocation of Delegated Activities.

In the event CMS or Molina Healthcare determines, in its sole discretion, that Producer has not performed the delegated activities or functions satisfactorily, the delegated activities shall be revoked upon not less than five (5) days prior written notice.

7. Accountability.

Notwithstanding any relationship(s) Molina Healthcare may have with first tier, downstream, and related entities, Molina Healthcare maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of its contract with CMS. Any services or other activity performed by a first tier, downstream, or related entity in accordance with a contract or written agreement shall be consistent and comply with the Molina Healthcare's contractual obligations. (42 CFR 422.504(i)(1), and 422.504(i)(3)(iii)).

8. Credentialing.

In the event Molina Healthcare delegates credentialing activities to another organization, that organization's credentialing process will be reviewed and approved by Molina Healthcare, and such credentialing process will be audited by Molina Healthcare on an ongoing basis; further, the organization shall agree that its credentialing process will comply with all applicable NCQA standards. Molina Healthcare retains the right to approve, suspend, or terminate any credentialing delegation arrangement. (422.504(i)(4)), and 422.504(i)(5)).

9. Monitoring.

Notwithstanding any relationship(s) Molina Healthcare may have with first tier, downstream, and related entities, Molina Healthcare maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of its contract with CMS. Any services or other activity performed by a first tier, downstream, or related entity in accordance with a contract or written agreement shall be consistent and comply with the Molina Healthcare's contractual obligations. Molina Healthcare shall monitor the performance of first tier, downstream, and related entities. (42 CFR 422.504(i)(1), and 422.504(i)(4)).

10. Further Requirements.

Any services or other activity performed by a first tier, downstream, or related entity in accordance with a contract or written agreement shall be consistent and comply with Molina Healthcare's contractual obligations. In the event Molina Healthcare delegates selection of the

providers, contractors, or subcontractor to another organization, Molina Healthcare retains the right to approve, suspend, or terminate any such arrangement. (42 CFR 422.504(i)(3)(iii), 42 CFR 422.504(i)(4), and 42 CFR 422.504(i)(5)).

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EXHIBIT C  
Agent Appointment Application



By completing this Agent Appointment Application, the undersigned is applying to be a non-exclusive agent to Molina Healthcare for purposes of marketing Molina Medicare. "Molina Medicare" collectively refers to the MA-PD plans offered by Molina Healthcare health plans in California, Washington, Utah, Nevada, New Mexico, Texas, Ohio and Michigan.

PLEASE PRINT CLEARLY

Name \_\_\_\_\_ Alias/Other Names \_\_\_\_\_

Social Security # \_\_\_\_\_ Tax ID \_\_\_\_\_

Corporation Name \_\_\_\_\_ Appointment Type  Individual  Corporation

Birth Date \_\_\_\_\_ Mailing Preference  Home  Business

Home Address _____	Business Address _____
City _____ State _____ Zip _____	City _____ State _____ Zip _____
Home Phone _____	Business Phone _____

Fax Number \_\_\_\_\_ E-Mail (required) \_\_\_\_\_

Resident License State \_\_\_\_\_ License # \_\_\_\_\_

Non-Resident License States \_\_\_\_\_  
(Attach copies of all licenses for appointment)

Errors and Omissions coverage  Yes  No Name of carrier \_\_\_\_\_

Coverage amount \_\_\_\_\_

Background – Please provide a complete explanation of any “yes” answers on a separate sheet:

- Yes No 1. Have you ever had your insurance or securities license suspended, revoked or subject to disciplinary action, or have you ever had an application for an insurance license denied by any insurance department?
- Yes No 1. Have you ever been charged with, or indicted for, any criminal offense(s) other than civil traffic offenses?
- Yes No 1. Have you ever pled guilty, or nolo contendere, or been convicted of, any criminal offense(s) other than civil traffic offenses?
- Yes No 1. Had adjudication of guilt withheld, had a sentence imposed or suspended, had pronouncement of a sentence suspended, or been pardoned, fined, or placed on probation, for any criminal offense(s) other than civil traffic offenses?
- Yes No 1. Have you ever had a complaint filed against you with an insurance department, NASD or other regulatory agency or do you anticipate one being filed?
- Yes No 1. Have you been, within the last ten (10) years, a party to any civil action involving dishonesty, breach of trust, or a financial dispute?
- Yes No 1. Do you owe an insurance company or other person for any premiums collected or monies advanced?
- Yes No 1. Has any company or other person alleged that it has not received premiums or other monies due such company or person from you?
- Yes No 1. Do you agree to comply with CMS regulations for Medicare Advantage Organizations? Specifically, do you agree to avoid prohibited practices such as door to door marketing, offering inducements for enrollments or other unapproved promotional activities such as gift cards or cash incentives?
- Yes No 1. Do you agree to use ONLY marketing collaterals and advertisements that have been approved by CMS and Molina Healthcare in connection with marketing Molina Medicare?
- Yes No 1. Do you agree to refrain from engaging in misleading, confusing, or “high pressure” sales tactics as you market Molina Medicare?

Attestation and Agreement

By signing below, I attest I have thoroughly reviewed this Agent Appointment Application and have answered all questions to the best of my knowledge.

I acknowledge that by signing and submitting this Agent Appointment Application, I have agreed to comply with all of the terms and conditions of Molina Healthcare’s standard Producer Agreement, which includes a HIPAA Business Associate Agreement, and CMS Program Requirements. A copy of the Producer Agreement will be provided to me upon Molina Healthcare’s approval of this Agent Appointment Application.

I acknowledge that upon approval of this Agent Appointment Application, I will be an independent contractor, not an employee of Molina Healthcare. Accordingly, I will have no claim for vacation or sick leave, retirement benefits, Social Security, Workers’ Compensation benefits, disability or unemployment insurance benefits, or employee benefits of any kind.

I agree that I will not solicit individuals to enroll in Molina Medicare until I receive notification from Molina Healthcare that this Agent Appointment Application has been approved.

Applicant Signature \_\_\_\_\_ Date \_\_\_\_\_

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (All states except California, Minnesota and Oklahoma)

This Disclosure and Authorization is provided to you in connection with your application (Agent Appointment Application) to Molina Healthcare (the "Company") for status as a non-exclusive agent to market the Company's Medicare Advantage product (Molina Medicare) in the approved service area/s to individuals who are eligible to enroll in a Medicare Advantage plan.

The Company desires to procure a consumer or investigative consumer report (or both) ("Background Reports") regarding your background for use by the Company or any legal affiliate (sister company or parent-subsidiary relationship) in evaluating your application for status as a non-exclusive agent. Any Background Reports requested pursuant to your Authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may obtain copies of any Background Reports about you from the consumer reporting agency ("CRA") that produces them. You may also request more information about the nature and scope of such reports by submitting a written request to the Company. To obtain contact information regarding CRA or to submit a written request for more information, contact Mark L. Andrews, Esq., Chief Legal Officer, Molina Healthcare, Inc., 2277 Fair Oaks Blvd. #440; Sacramento, CA 95825; Fax 916-646-4572.

Attached for your information is a "Summary of Your Rights Under the Fair Credit Reporting Act."

AUTHORIZATION: I have submitted an Agent Appointment Application to the Company. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to the Company and its affiliates for the purpose of evaluating my application for status as a non-exclusive agent. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to Verifications, Inc. retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law. I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and the Company will, in that event, forward such revocation promptly to [Verifications, Inc.](#) that either prepared or is preparing Background Reports under this Disclosure and Authorization. This Authorization shall remain in full force and effect until the earlier of (i) written revocation as described above, or (ii) twelve (12) months following the date of my signature below. A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

\_\_\_\_\_  
(Print Full Name and Residence Address)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

DISCLOSURE AND AUTHORIZATION CONCERNING BACKGROUND REPORTS (California)

This Disclosure and Authorization is provided to you in connection with your application (Agent Appointment Application) to Molina Healthcare (the "Company") for status as a non-exclusive agent to market the Company's Medicare Advantage product (Molina Medicare) in the approved service area/s to individuals who are eligible to enroll in a Medicare Advantage plan.

The Company desires to procure a consumer or investigative consumer report (or both) ("Background Reports") regarding your background for use by the Company or any legal affiliate (sister company or parent-subsidiary relationship) in evaluating your application for status as a non-exclusive agent. Background Reports will be obtained through Verifications, Inc. Any Background Reports requested pursuant to your Authorization below may contain information bearing on your character, general reputation, personal characteristics, mode of living and credit standing. To the extent required by law, the Background Reports procured under this Disclosure and Authorization will be maintained as confidential.

You may request more information about the nature and scope of Background Reports produced by any consumer reporting agency ("CRA") by submitting a written request to Company. You should submit any such written request for more information to Mark L. Andrews, Esq.; Chief Legal Officer, Molina Healthcare, Inc.; 2277 Fair Oaks Blvd. #440; Sacramento, CA 95825; Fax 916-646-4572.

Attached for your information is a "Summary of Your Rights Under the Fair Credit Reporting Act." You will be provided with a copy of any Background Report procured by Company if you check the box below.

- By checking this box, I request a copy of any Background Report from any CRA retained by Company, at no extra charge.

Under section 1786.22 of the California Civil Code, you may view the file maintained on you by the CRA listed above. You may also obtain a copy of this file, upon submitting proper identification and paying the costs of duplication services, by appearing at the CRA in person or by mail; you may also receive a summary of the file by telephone. Verifications, Inc. is required to have personnel available to explain your file to you and Verifications, Inc. must explain to you any coded information appearing in your file. If you appear in person, you may be accompanied by one other person of your choosing, provided that person furnishes proper identification.

**AUTHORIZATION:** I have submitted an Agent Appointment Application to the Company. I have read and understand the above Disclosure and by my signature below, I consent to the release of Background Reports to the Company and its affiliates for the purpose of evaluating my application for status as a non-exclusive agent. I authorize all third parties who are asked to provide information concerning me to cooperate fully by providing the requested information to Verifications, Inc. retained by Company for purposes of the foregoing Background Reports, except records that have been erased or expunged in accordance with law. I understand that I may revoke this Authorization at any time by delivering a written revocation to Company and that Company will, in that event, forward such revocation promptly to Verifications, Inc. that either prepared or is preparing Background Reports under this Disclosure and Authorization. In no event, however, will this authorization remain in effect beyond twelve (12) months following the date of my signature below. A true copy of this Disclosure and Authorization shall be valid and have the same force and effect as the signed original.

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(Printed Full Name and Residence Address)

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(Signature)

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(Date)

## ATTACHMENT D

### MEDICARE PROGRAM REQUIREMENTS--DELEGATED SERVICES

This Attachment D sets forth language CMS requires Molina Healthcare to include in contracts between Molina Healthcare and entities that perform administrative services on Molina Healthcare's behalf. This attachment shall be automatically modified to conform to subsequent amendments to Medicare program requirements. In the event of any inconsistency between the terms of this attachment and the Agreement, the terms of this attachment shall control.

11. Downstream Compliance.

General Agent agrees to require all of its downstream, related entity(s), and transferees that provide any services benefiting Molina Healthcare's Medicare enrollees to agree in writing to all of the terms provided herein.

12. Medicare Compliance.

General Agent agrees to with all applicable Medicare laws, regulations, and CMS instructions. (42 CFR 422.504(i)(4)(v)).

13. Confidentiality.

General Agent agrees to comply with the confidentiality and enrollee record accuracy requirements set forth in 42 CFR 422.118. (42 CFR 422.504(a)(13)).

14. Right to Audit.

HHS, the Comptroller General, or their designees have the right to audit, evaluate, and inspect any books, contracts, records, including medical records and documentation that pertain to any aspect of services performed, reconciliation of benefit liabilities, and determination of amounts payable under the contract, or as the Secretary may deem necessary to enforce the contract. General Agent agrees to make available, for the purposes specified in this paragraph, its premises, physical facilities and equipment, records relating to its Medicare enrollees, and any additional relevant information that CMS may require. HHS, the Comptroller General, or their designee's right to inspect, evaluate, and audit extends through ten (10) years from the end of the final contract period or completion of audit, whichever is later. (42 CFR 422.504(e)(2), 422.504(e)(3), 422.504(e)(4), and 422.504(i)(2)(ii)).

15. Responsibilities and Reporting Arrangements.

The Agreement specifies the delegated activities and reporting responsibilities. To the extent applicable, General Agent shall support Molina Healthcare in complying with the reporting requirements set forth in 42 CFR 422.516 and 42 CFR 310 by providing relevant data . (42 CFR 504(a)(8)).

16. Revocation of Delegated Activities.

In the event CMS or Molina Healthcare determines, in its sole discretion, that General Agent has not performed the delegated activities or functions satisfactorily, the delegated activities shall be revoked upon not less than five (5) days prior written notice.

17. Accountability.

Notwithstanding any relationship(s) Molina Healthcare may have with first tier, downstream, and related entities, Molina Healthcare maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of its contract with CMS. Any services or other activity performed by a first tier, downstream, or related entity in accordance with a contract or written agreement shall be consistent and comply with the Molina Healthcare's contractual obligations. (42 CFR 422.504(i)(1), and 422.504(i)(3)(iii)).

18. Credentialing.

In the event Molina Healthcare delegates credentialing activities to another organization, that organization's credentialing process will be reviewed and approved by Molina Healthcare, and such credentialing process will be audited by Molina Healthcare on an ongoing basis; further, the organization shall agree that its credentialing process will comply with all applicable NCQA standards. Molina Healthcare retains the right to approve, suspend, or terminate any credentialing delegation arrangement. (422.504(i)(4)), and 422.504(i)(5)).

19. Monitoring.

Notwithstanding any relationship(s) Molina Healthcare may have with first tier, downstream, and related entities, Molina Healthcare maintains ultimate responsibility for adhering to and otherwise fully complying with all terms and conditions of its contract with CMS. Any services or other activity performed by a first tier, downstream, or related entity in accordance with a contract or written agreement shall be consistent and comply with the Molina Healthcare's contractual obligations. Molina Healthcare shall monitor the performance of first tier, downstream, and related entities. (42 CFR 422.504(i)(1), and 422.504(i)(4)).

20. Further Requirements.

Any services or other activity performed by a first tier, downstream, or related entity in accordance with a contract or written agreement shall be consistent and comply with Molina Healthcare's contractual obligations. In the event Molina Healthcare delegates selection of the providers, contractors, or subcontractor to another organization, Molina Healthcare retains the right to approve, suspend, or terminate any such arrangement. (42 CFR 422.504(i)(3)(iii), 42 CFR 422.504(i)(4), and 42 CFR 422.504(i)(5)).

# Request for Taxpayer Identification Number and Certification

**Give form to the  
requester. Do not  
send to the IRS.**

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return)	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶ .....	
<input type="checkbox"/> Exempt from backup withholding	
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Social security number								
or								
Employer identification number								

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

<b>Sign Here</b>	Signature of U.S. person ▶
	Date ▶

## Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

**U.S. person.** Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,