

January 8, 2013

RESOLUTION NO. 2012-113

**RESOLUTION BY THE FINANCE AND HUMAN RESOURCES COMMITTEE
AUTHORIZING A TWO YEAR CONTRACT WITH NAVICURE FOR CLEARING
HOUSE SERVICES FOR INSURANCE CLAIMS FOR THE BEHAVIORAL HEALTH
SERVICES DIVISION OF HUMAN SERVICES DEPARTMENT FOR 2013 AND 2014**

To the Honorable Members of the Racine County Board of Supervisors:

BE IT RESOLVED by the Racine County Board of Supervisors that a two (2)-
year contract with Navicure is authorized and approved.

BE IT FURTHER RESOLVED by the Racine County Board of Supervisors that
said contract that is attached hereto as "Exhibit A" and incorporated herein shall provide
that Navicure shall provide services as set out in the contract.

BE IT FURTHER RESOLVED that the Racine County Board of Supervisors
authorize changes to other terms and conditions of the contract as the Corporation
Counsel and the Finance Director deem necessary and appropriate.

BE IT FURTHER RESOLVED by the Racine County Board of Supervisors that
any two of the County Executive, the County Clerk and/or the County Board Chairman
are authorized to execute any contracts, agreements or other documents necessary to
carry out the intent of this resolution.

Respectfully submitted,

1st Reading _____

**FINANCE AND HUMAN RESOURCES
COMMITTEE**

2nd Reading _____

BOARD ACTION

Robert N. Miller, Chairman

Adopted _____

For _____

Against _____

Absent _____

Q.A. Shakoor, II, Vice-Chairman

VOTE REQUIRED: Majority

Thomas Pringle, Secretary

Prepared by:
Corporation Counsel

Gilbert Bakke

Donnie Snow

John A. Wisch

Jeff Halbach

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The foregoing legislation adopted by the County Board of Supervisors of Racine County, Wisconsin, is hereby:

Approved: _____

Vetoed: _____

Date: _____,

James A. Ladwig, County Executive

INFORMATION ONLY

WHEREAS, by purchasing a clearing house service, insurance claims for mental health and substance abuse services can be electronically processed and submitted in the format required by insurance companies; and

WHEREAS, this will allow Behavioral Health Services to collect the maximum revenues from the insurance companies and to meet the revenue that is budgeted.

NAVICURE LICENSE AGREEMENT

1. **Navicure Services.** Navicure warrants that (i) the Application will operate in all material respects in accordance with its written specifications and (ii) the Services selected on the Order Form (the "Order"), which is made a part hereof, will be provided in accordance with applicable law and industry standards, including HIPAA and its privacy and security provisions. Navicure and Customer hereby agree to the Business Associate Agreement attached hereto as Exhibit A, incorporated herein by reference and located on Navicure's website at http://www.navicure.com/documents/Business_Associate_Agreement_Exhibit_A.pdf.

a. **Navicure 3-Ring™ Policy.** Customer's calls will be answered by a member of Navicure's highly skilled client services team within three rings.

b. **Support Services/SLAs.** Navicure provides service hours Monday through Thursday, 8:30 a.m. – 7:00 p.m., and on Friday from 8:30 a.m. – 6:00 p.m., Eastern Standard Time. Calls must be made to 770-342-0800. If the Application is down in its entirety or Customer is completely unable to transmit claims or information, Navicure will respond within one (1) hour after such incident and provide updates at least twice each day until fully resolved. If the Application is experiencing intermittent problems that prevent Customer from processing claims and information as usual, Navicure will respond within three (3) hours and provide updates at least daily until the incident is fully resolved. For routine questions or requests, Navicure will respond within twenty-four (24) hours. Updates may be provided via Navicure's broadcast message system.

c. **Stress-Free Guarantee.** Customer may terminate this Agreement at any time during the six-month period beginning on the Go Live Date (defined below) by providing written notice to Navicure of such termination. Following the six-month anniversary of the Go Live Date, this provision shall not apply.

2. **Term and Termination.**

a. This Agreement is effective for an initial term beginning on the date it is signed by Customer (the "Effective Date") and ending twenty-four (24) months following the later of (i) the Effective Date or (ii) the date of successful transmission of a claim file between Customer and the Application (the "Go Live Date"). This Agreement shall renew for successive twenty-four (24) month terms unless either party gives written notice of termination at least ninety (90) days prior to the end of the current term. Either party may terminate this Agreement if the other (i) materially breaches this Agreement and such breach is not cured within thirty (30) days after written notice; or (ii) is insolvent or bankrupt.

b. If Customer terminates this Agreement prior to the expiration of any term other than due to Navicure's breach or bankruptcy, or if Navicure terminates due to Customer's breach, Customer will owe a fee equal to the contracted number of providers *times* the provider rate *times* the months remaining in the term. Customer agrees this fee is not a penalty but liquidated damages of Navicure.

3. **Payment.**

a. Billing shall commence on the Go Live Date. Customer shall pay each invoice by its due date, which shall be fifteen (15) days following issuance. Fees for processing Services are assessed in advance. Customer shall pay all taxes (excluding taxes based on the net income of Navicure), levies, or government charges. Navicure may charge a late fee equal to the lesser of 1.5% of past-due amounts per month or the highest rate allowed by law. If Customer's account is more than five (5) business days past due, Navicure may suspend service. If past-due amounts remain unpaid ten (10) days after written notice, Navicure may (reserving all other rights) terminate this Agreement. Customer shall be responsible for reasonable collection costs, including attorneys' fees.

b. Following the first anniversary of the Effective Date, Navicure may increase its fees annually upon ninety (90) days prior notice thereof, with such increase not to exceed the greater of 5% or the percentage increase in the CPI-U since the most recent adjustment of the applicable fee. Fees for services dependent upon U.S. postage rates shall automatically increase by the amount of any increase in such postage rates as of the effective date of the increase. Navicure may increase its fees upon notice thereof to offset other direct cost increases, such as regulatory fees, payer access fees or similar fees or costs.

c. Customer shall maintain an accurate provider count with Navicure. Navicure will bill Customer on a nonrefundable basis until Customer notifies Navicure that a provider is no longer active. Navicure may review Customer's provider count and adjust affected invoices if it reasonably determines that the number of providers submitting claims exceeds the number on the Order.

4. **Customer Responsibilities.**

Customer shall use the Services in accordance with applicable law and Navicure's terms and conditions of use. Each eligibility transaction shall be associated with a related claim transaction, with excess eligibility transactions to be billed on a per-transaction basis at \$.19 per transaction. Customer shall indemnify and hold Navicure, its directors and employees harmless from any and all losses, liabilities or expenses relating to Customer's breach of this Agreement or its use of the Services or Application.

5. **Confidential Information.** Each party shall keep confidential the other party's confidential information. Information made available by Navicure hereunder (including user documentation, the terms of this Agreement, and pricing for the Services) is proprietary and/or confidential to Navicure. Neither party will use or disclose the other party's confidential information other than as required or permitted by this Agreement. Navicure may de-identify data obtained via the Application and use it to prepare statistical analyses, reports or benchmarking data for Navicure's internal use and/or as permitted by law.

6. **Indemnification.** Navicure grants Customer a non-exclusive, nontransferable, limited license during the term of this Agreement to access and use Navicure's proprietary application (the "Application"). Navicure reserves all rights not expressly granted herein. Navicure will indemnify Customer against an award of damages made against Customer in a judgment by a court of competent jurisdiction arising out of a third-party claim against Customer that the Application infringes upon the intellectual property of such third party. If the use of the Application becomes, or in Navicure's opinion is likely to become, the subject of such a claim, Navicure, at its option, may either procure the right for Customer to continue to use the Application or replace or modify the Application. Alternatively, Navicure may terminate this Agreement upon written notice to Customer, without further obligation to Customer other than the refund of any unearned pre-paid fees. Customer must promptly notify Navicure in writing that such a claim has been or may be asserted, and must reasonably cooperate with Navicure. This is Customer's exclusive remedy for such claims.

7. **Disclaimer.** EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE SERVICES AND APPLICATION ARE PROVIDED HEREUNDER "AS IS" AND "AS AVAILABLE." NAVICURE DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. NAVICURE DOES NOT WARRANT THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

8. **Limitation of Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES OR COSTS (INCLUDING LOSSES RELATED TO DATA OR DATA INTEGRITY OR LOSS OF GOODWILL OR PROFIT), REGARDLESS OF THE FORM OF ACTION, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. THE TOTAL MAXIMUM LIABILITY OF NAVICURE, ITS AFFILIATES AND SUPPLIERS FOR ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT AND THE RELATED BUSINESS ASSOCIATE AGREEMENT WILL BE LIMITED TO THE SERVICE FEES PAID BY CUSTOMER IN THE THREE MONTHS PRECEDING THE CIRCUMSTANCES FIRST GIVING RISE TO SUCH CLAIMS, EVEN IF THE REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE. ACTIONS HEREUNDER MUST BE COMMENCED WITHIN THE MINIMUM PERIOD OF TIME TO WHICH THE PARTIES MAY LAWFULLY AGREE, OR WITHIN ONE (1) YEAR OF THE DATE THE ACTION FIRST ACCRUES, WHICHEVER IS LONGER.

9. **General Provisions.**

a. Neither party may assign the Agreement without the prior written consent of the other; provided, that Navicure may assign the Agreement to an affiliate or pursuant to a merger, consolidation, acquisition or sale of all or substantially all of its assets. This Agreement will be binding upon and inure to the benefit of the parties and their successors and permitted assigns (no third-party beneficiaries).

b. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. If a provision hereof is held to be invalid, illegal or unenforceable, the remainder of the Agreement will continue in full force and effect. The waiver of a breach hereunder will not constitute the waiver of any subsequent breach. The terms of purchase orders issued by Customer shall be of no force or effect. Modifications to this Agreement must be made in writing as an addendum signed by the parties' authorized representatives.

c. Neither party shall be responsible for failure to perform due to causes beyond its control. Navicure is not liable for damages due to Navicure's failure to perform not reported by Customer within thirty (30) days thereof. Navicure is not liable for the actions of third parties, including payer claims, eligibility or payment decisions. Navicure may use subcontractors to provide the Services.

d. This Agreement shall be construed in accordance with the laws of the State of Georgia, excluding its choice of law rules. The parties submit to the jurisdiction and venue of the courts located in Fulton County, Georgia.

e. Navicure shall provide notice to Customer via email. Customer shall provide notice to Navicure via email to support@navicure.com, with a copy sent via certified U.S. Mail to its corporate address. Refusal to accept delivery shall be deemed receipt. This Agreement may be executed in counterparts or with facsimile or electronic signatures, which shall be deemed original signatures.

Customer:

By:

Title:

Date ("Effective Date"):



ure: Navicure, Inc.

Title:



SALES ORDER FORM

Pricing concession effective contingent that Agreement is executed prior to Close of Business, Friday, December 28, 2012.

CUSTOMER INFORMATION:

Practice: Behavioral Health Services of Racine County
Contact: Anita Seils
Title: Account Supervisor
Address: 1717 Taylor Ave
 Racine, WI 53403

Sales Rep: Kennedy, Laura
Client Phone: 262-638-6693
Client Fax:
Expected Implementation Date:
Tax ID: 396005734
National MGMA Member:
National MGMA Member ID:

Monthly Services	Qty.	Unit Price	Price
Navicure Package:			
Navicure Connect			
Includes unlimited electronic claims processing, claims summary scoreboard, and electronic remittance advice.			
Full-Time Physician(s)	5.00	\$ 59.00	\$ 295.00
Mid-Level Provider(s)	0.00	\$ 29.50	\$ -
Part-Time Physician(s)	0.00	\$ 29.50	\$ -
Full-Time Equivalent(s) (FTE)*	5.00		
Package Options:			
Electronic Remittance Advice (per FTE / month)*	5.00	\$ -	Included
Includes 835 remittance where available from payers.			
Total Monthly Services			\$ 295.00
Enrollment Fee (per provider, per state for claims and remits)	All providers after go-live, \$60	5.00	\$ -
Implementation Fee	Original Retail: \$250		\$ -
Annual Maintenance Fee		\$ 250.00	
Total Setup & Implementation			\$ -

* Subscription fees are billed one month in advance.

Payment

Customer agrees to be billed on an invoice basis for the Services Fees as described in the Agreement. Please contact Navicure Accounting for automatic payment options such as a recurring credit card or ACH payment option.

Behavioral Health Services of Racine County
 BY:

NAVICURE, INC.
 BY:

(Authorized Signature)

(Authorized Signature)

(Print Name)

(Print Name)

(Print Title)

(Print Title)

(Date)

(Date)

Version 10.15.2012





Navicure, Inc.
 2055 Sugarloaf Parkway Suite 600
 Duluth, Georgia 30097
 Phone: 770-342-0200
 Fax: 678-221-0929

**ADDENDUM TO
 NAVICURE LICENSE AGREEMENT**

Client Name/Address	Behavioral Health Services of Racine County 1717 Taylor Ave Racine, WI 53403
Client Phone	262-638-6693

Addendum to Navicure License Agreement – valid if Sales Order Form, Navicure License Agreement and this Addendum executed prior to December 28, 2012.
Navicure and Customer agree to the following modifications to the Navicure License Agreement:

Provider Count Methodology: Monthly Fees and Enrollment / Setup Fees:

The parties agree that, for purposes of this Order:

1. Monthly fees as well as enrollment and/or setup fees will be determined using the following methodology:
 - a. The estimated average number of monthly claims to be processed is 1,500.
 - b. The number of Providers is 5, determined by dividing the estimated average number of monthly claims by 300 (1,500/300=5)
 - c. On a quarterly basis, either Party (Navicure or Customer) may review the previous 3 month claim volume to determine a new Average Monthly Claim Volume, and using the methodology above recalculate the number of equivalent providers.
 - d. Customer elects to purchase Navicure Connect \$59 per Provider according to the formula described above.
2. The applicable fee for Provider enrollment and set up will be multiplied by the *actual* number of Providers to determine the enrollment fees. Enrollment fees apply only to providers that are added after the go-live date.

Order Modifications:

1. Navicure agrees to provide Customer with one month of Navicure Processing Services (as specified in Customer's Sales Order Form, excluding transaction-based services such as patient statements), free of charge upon signing a standard Navicure license agreement at Navicure's standard retail rates on or prior to the deadline provided above.
2. Notwithstanding anything in the Agreement to the contrary, Navicure shall not increase Customer's service fees during the Initial Term of the Agreement except as may be necessary to offset certain direct cost increases as provided in Section 3b of the Agreement
3. Should this Agreement be terminated prior to the end of the Initial Term for any reason other than Navicure's bankruptcy or breach of the Agreement, Customer shall repay Navicure the value of free services provided hereunder.



By signing below, each party agrees to the terms of the Addendum as of the Effective Date.

Accepted By:

Accepted By:
NAVICURE INC.

Client

(Authorized Signature)

(Authorized Signature)

(Print Name)

(Print Name and Title)

(Print Title)

(Print Title)

(Effective Date)

(Date) v2011.03.01

