

EXHIBIT D
RETAIN FOR YOUR RECORDS, DO NOT RETURN

Crescent Health Solutions, Inc.
Antitrust Compliance Guidelines (“Guidelines”) for Contracting with Third-Party Payors

I. Background

Crescent Health Solutions, Inc. (“Crescent”) has been formed to develop and provide the benefits of a health care delivery system. The goals of Crescent are to provide access, improve choice, enhance the quality of health care delivered in Western North Carolina, and arrange to provide health care services in a more efficient and cost-effective manner.

At the present time, Crescent consists of hospitals and organized physician groups. In the future, Crescent may wish to extend membership to, or affiliate with other hospitals and organized physician groups. Collectively, and for purposes of these Guidelines, the current and future members or affiliates of Crescent shall be called “Providers.” Crescent may offer the services of its Providers to Payors, including without limitation employer self-funded plans, insurers, health maintenance organizations, and other organizations responsible for paying health care services.

Crescent intends to conduct its operations in strict compliance with state and federal antitrust laws. Crescent expects and requires that its members, officers, directors, managers, employees, affiliates (as defined in Crescent’s Antitrust Policy) and Providers do the same. Accordingly, Crescent adopts the following Guidelines for itself and for its members, officers, directors, managers, employees, affiliates, and Providers. These Guidelines are attached to and incorporated by reference in Crescent’s Antitrust Policy, to which all Crescent members, officers, directors, managers, employees, affiliates, and Providers have agreed in writing to be bound.

II. Payor Contracting

Crescent recognizes that otherwise independent providers who are not substantially integrated generally may not collectively agree on rates or charges. Providers who are not integrated must set their fees independently and must make independent decisions whether to contract with a particular Payor.¹

Crescent recognizes the need to set guidelines to ensure that decisions on pricing and contracting are made in an appropriate manner. Accordingly, Crescent will observe the following guidelines when contracting.

¹ At the present time, it is anticipated that most contracting opportunities presented to Crescent will be non-risk agreements. Should any agreements which contemplate the sharing of substantial financial risk be presented to Crescent, Crescent will adopt appropriate antitrust protocols for handling those contracts.

A. Messenger Model Procedures

For contracts that do not involve the sharing of substantial financial risk among individual Providers, Crescent may identify a messenger to act as a facilitator of arrangements between individual Providers and Payors. The messenger will be a person designated by Crescent who is not otherwise affiliated with any Provider. The messenger may be an employee of Crescent, if all the procedural requirements concerning the use and dissemination of confidential information set forth in these guidelines are strictly followed.

Crescent may ask each Provider to unilaterally determine its floor prices or rates or a conversion factor for providing services under fee-for-service contracts. This information will be provided directly to Crescent on forms and in the manner prescribed by Crescent. Each Provider may also be asked to execute an agreement authorizing Crescent to enter contracts on his or her behalf if the contract rate is at or above a “floor” rate unilaterally determined by the individual Provider. This process is called the “pre-authorization process.” The pre-authorization process is offered solely for the purpose of streamlining the contracting process within the legal boundaries of the messenger model.

Neither the Providers nor the messenger will share information concerning an individual Provider’s floor price or rate or conversion factor with any other Providers. The messenger will maintain the information related to each Provider’s floor prices or rates or conversion factor in such a way as to ensure its confidentiality from the other Providers of Crescent (including Providers acting in their capacity as directors or officers of Crescent). The messenger may not negotiate on behalf of Providers or otherwise facilitate collective decision making by Providers.

1. Payors Proposes Fee Schedule. When a Payor asks that Crescent enter a fee-for-service arrangement and the Payor proposes the fee schedule, Crescent may, at the written request of the Payor, review forms of contracts proposed by such a Payor and negotiate changes unrelated to price or other competitively sensitive terms that Crescent believes will make the contracts more acceptable to its Providers. Thereafter, the messenger will follow the steps outlined in subsections (a) and (b) below:
 - a. The messenger may transmit the Payor’s contract offer to all providers or to a subset thereof that best meets the Payor’s needs (the subset will be chosen by the Payor) for individual acceptance or rejection with such neutral explanations of the offers as may be necessary to assist the Providers in understanding and evaluating them. Providers will thereafter be given thirty (30) days to review the offer and to notify Crescent if they accept the offer and/or wish to make a counterproposal to the Payor. If no acceptance or counterproposal is received from the Provider within the thirty (30) day period, the Provider will be deemed to have rejected the offer. All counterproposals (and any responses thereto) will be passed from Payor to Provider in accordance with this provision; under no circumstances shall Crescent or the messenger negotiate fees or other competitively-sensitive terms on behalf of Providers. All compensation and other competitively sensitive information which Crescent transmits to or from Providers in Crescent’s capacity as messenger is confidential and will not be disclosed by Crescent to any Provider. Pursuant to Paragraph 3.1 (a) of the applicable Participation Agreement with Crescent, if a Provider rejects a contract opportunity primarily because of the Payor’s proposed compensation terms,

Provider is required to use good faith efforts to negotiate directly with the Payor to reach a mutually- satisfactory agreement with the Payor.

- b. At the written request of the Payor, and as an alternative to option (a) above, Crescent may also review Providers' unilaterally determined floor rates to ascertain the number of Providers who are willing to contract at the rate offered by the Payor and may advise the Payor of the number of Providers who will contract at that rate. If the Payor's offer meets or exceeds the Providers' unilaterally determined floor rates, Crescent may enter contracts on behalf of those providers who have elected to participate in the pre-authorization process. Any offers that do not meet the Providers' individually determined floor rates will be transmitted to the Providers for their individual consideration.

2. Payor Does Not Propose Fee Schedule. When a Payor asks Crescent to enter a fee-for-service arrangement and the Payor does not tender a fee schedule to Crescent, Crescent will follow the steps outlined below:

At the written request of the Payor, Crescent may review the forms of contract or terms proposed by such Payor and negotiate changes unrelated to price or other competitively sensitive terms that Crescent believes will make the contract more acceptable to its Providers. Crescent may provide the Payor with information concerning Providers' individually determined floor rates. Such information shall be furnished to the Payor for the sole purpose of enabling Payor to develop contract offers. The Payor is free to counter propose compensation terms which will be conveyed to the Providers via the messenger model.

If, after reviewing the fee information provided pursuant to this Section 2, a Payor offers compensation terms which meet or exceed the Providers' individually determined floor rates, the Payor, at its option, may utilize the pre-authorization process described above, or it may request Crescent to transmit the fee information to the Providers for their individual consideration. If the pre-authorization process is utilized, any offers that do not meet the Providers' individually determined floor rates will be transmitted to the Providers for their individual consideration.

3. Prohibited Actions. Except as specifically provided above, Crescent and the messenger shall not:
 - a. Agree or disagree on behalf of Providers, individually or collectively, to enter contracts;
 - b. State the terms (price or other) on which Providers, individually or collectively, will enter contracts with Payors, or negotiate price or other competitively sensitive terms;
 - c. Advise Providers whether they should or should not enter contracts with Payors;
 - d. Share information among Providers as to the terms (price or other) on which they contract to do business individually, or as to whether they are prepared individually to do business with any given Payor; nor
 - e. Prohibit individual Providers who wish to negotiate the offer with the Payor from doing so directly.

4. Information Regarding Provider's Fees. Crescent's messenger may provide Payors with information concerning its Providers' fees, which may include their usual and customary fees, and the fees at which they have stated their willingness to contract. The messenger may assist Payors in developing contract offers by taking the fee authorizations of the Providers and developing a schedule that can be presented to a Payor showing the percentages of participants in Crescent who have authorized contracts at various price levels. In doing so, Crescent and the messenger will observe the following guidelines:
 - a. Only the messenger will gather and disseminate the information;
 - b. Under no circumstances will Crescent or the messenger negotiate or agree to fees or other competitively sensitive terms on behalf of Providers;
 - c. The messenger will collect fee information from the Providers, and will maintain it in such a way as to ensure its confidentiality;
 - d. from other Providers (including Providers acting in their capacity as officers or managers of Crescent);
 - e. In his or her capacity as such, the messenger will act independently of the officers and managers of Crescent, and will be free to consult Crescent's legal counsel as he or she deems necessary, and to act on legal counsel's advice for protection of Crescent and its Providers;
 - f. For purposes of furnishing fee information to Payors, the messenger will provide actual information for all a sample of Providers, rather than typical or average fees; and
 - g. The messenger may discuss with Crescent's officers and directors any market considerations affecting prices, but will not discuss specific prices, price levels or price proposals.

B. Other Protocols for Payor Contracting

1. Provider "Firewalls"

Certain Providers are themselves self-insured employers who may choose to contract through Crescent with other Providers for employee health care. Thus, in its capacity as a Payor, a Provider may receive information concerning certain prices charged by another Provider who is otherwise a competitor. With respect to those situations, to ensure that there will be no inappropriate use of information concerning price and other competitively-sensitive terms, any Provider acting in the capacity of Payor (the "Payor-Provider") will establish a confidentiality barrier, or "firewall," between its employees who make pricing decisions and those who handle invoices, reimbursement requests, and similar documents and competitively sensitive information submitted by any other Provider (collectively, the "Confidential Information"). The Payor-Provider employees who receive such Confidential Information will not divulge it, either directly or indirectly, to any Payor-Provider employee or representative involved in making decisions concerning pricing or other competitively sensitive business terms.

2. Non-Exclusivity

Providers always remain free to contract or affiliate with any person or entity outside Crescent and to contact directly with Payors.