

ESTTA Tracking number: **ESTTA663513**

Filing date: **03/27/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91220652
Party	Defendant SISTERS OF CHARITY OF LEAVENWORTH HEALTH SYSTEM, INC.SYSTEM, INC.
Correspondence Address	CARL BARANOWSKI CARL BARANOWSKI 1601 GLEN AYR DR LAKEWOOD, CO 80215-3007  carl@baranowski.com
Submission	Answer and Counterclaim
Filer's Name	Govinda M. Davis
Filer's e-mail	gdavis@collenip.com, jhastings@collenip.com, docket@collenip.com
Signature	/Govinda M. Davis/
Date	03/27/2015
Attachments	R347 Answer and Counterclaims.pdf(59244 bytes ) R347 Exhibits A-F to Answer and Counterclaims.pdf(1750474 bytes )

### Registrations Subject to the filing

Registration No	554817	Registration date	02/12/1952
Registrant	BLUE CROSS AND BLUE SHIELD ASSOCIATION  CHICAGO, IL 60611 UNITED STATES		
Grounds for filing	The registered mark has been abandoned.		

### Goods/Services Subject to the filing

Class 036. First Use: 1934/12/00 First Use In Commerce: 1934/12/00  
All goods and services in the class are requested, namely: DISTRIBUTION OF HOSPITAL CARE ON A PRE-PAYMENT FINANCING BASIS

Registration No	1632320	Registration date	01/22/1991
Registrant	Blue Cross And Blue Shield Association  Chicago, IL 60601 UNITED STATES		
Grounds for filing	The registered mark has been abandoned.		

### Goods/Services Subject to the filing

Class 016. First Use: 1934/12/00 First Use In Commerce: 1934/12/00  
All goods and services in the class are requested, namely: EDUCATIONAL BOOKS, BINDERS, PRINTED FORMS, BUSINESS FORMS, HEALTHCARE TRADE JOURNALS, NOTEBOOKS, WRITING PAPER, ENVELOPES, PEN AND PENCILS

Registration No	1639079	Registration date	03/26/1991
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Registrant	Blue Cross and Blue Shield Association Chicago, IL 60601 UNITED STATES
Grounds for filing	The registered mark has been abandoned.

### Goods/Services Subject to the filing

Class 016. First Use: 1934/12/00 First Use In Commerce: 1934/12/00 All goods and services in the class are requested, namely: healthcare newsletter
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Registration No	3506616	Registration date	09/23/2008
Registrant	Blue Cross and Blue Shield Association 6th Floor Chicago, IL 60601 UNITED STATES		
Grounds for filing	The registered mark has been abandoned.		

### Goods/Services Subject to the filing

Class 035. First Use: 2007/05/31 First Use In Commerce: 2007/05/31 All goods and services in the class are requested, namely: Assessing healthcare service provider performance; providing specialty care centers, namely, conducting quality measurement, improvement and assurance surveys in hospitals to determine service quality
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Registration No	3506617	Registration date	09/23/2008
Registrant	Blue Cross and Blue Shield Association 6th Floor Chicago, IL 60601 UNITED STATES		
Grounds for filing	The registered mark has been abandoned.		

### Goods/Services Subject to the filing

Class 044. First Use: 2007/05/31 First Use In Commerce: 2007/05/31 All goods and services in the class are requested, namely: Providing centers for excellence programs in the field of healthcare, namely, providing health and medical care information to enable consumers to make more informed healthcare decisions in collaboration with health care providers to improve outcomes and affordability
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

-----X	)	
	)	
BLUE CROSS AND	)	
BLUE SHIELD ASSOCIATION	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No.: 91220652
	)	
SISTERS OF CHARITY OF	)	Serial No.: 86/233,170
LEAVENWORTH HEALTH	)	
SYSTEM, INC.,	)	
	)	
Applicant.	)	
-----X	)	

**ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIMS  
TO NOTICE OF OPPOSITION**

The Applicant, Sisters of Charity of Leavenworth Health System, Inc. (“Applicant”), answers the Notice of Opposition as follows:

1. Applicant denies the allegations of paragraph 1 of the Notice of Opposition, but admits that it caused to be filed with the United States Patent and Trademark Office Application No. 86/223,170 for “hospital administration services; Hospital management,” in International Class 035 and “Health care; hospitals,” in International Class 044.
2. Applicant lacks information or belief with regard to the allegation of paragraph 2 of the Notice of Opposition, and therefore, denies the allegation of paragraph 2.
3. Applicant lacks information or belief with regard to the allegation of paragraph 3 of the Notice of Opposition, and therefore, denies the allegation of paragraph 3.

4. Applicant lacks information or belief with regard to the allegation of paragraph 4 of the Notice of Opposition, and therefore, denies the allegation of paragraph 4.
5. Applicant lacks information or belief with regard to the allegation of paragraph 5 of the Notice of Opposition, and therefore, denies the allegation of paragraph 5.
6. Applicant lacks information or belief with regard to the allegation of paragraph 6 of the Notice of Opposition, and therefore, denies the allegation of paragraph 6.
7. Applicant lacks information or belief with regard to the allegation of paragraph 7 of the Notice of Opposition, and therefore, denies the allegation of paragraph 7.
8. Applicant lacks information or belief with regard to the allegation of paragraph 8 of the Notice of Opposition, and therefore, denies the allegation of paragraph 8.
9. Applicant denies the allegations of paragraph 9 of the Notice of Opposition.
10. Applicant denies the allegations of paragraph 10 of the Notice of Opposition.
11. Applicant denies the allegations of paragraph 11 of the Notice of Opposition.
12. Applicant denies the allegations of paragraph 12 of the Notice of Opposition.
13. Applicant denies the allegations of paragraph 13 of the Notice of Opposition.
14. Applicant denies the allegations of paragraph 14 of the Notice of Opposition.

#### **APPLICANT'S AFFIRMATIVE DEFENSES**

1. Opposer should be denied relief under the equitable doctrine of unclean hands because Opposer has improperly asserted one or more registrations as the basis of this Opposition that have either been cancelled by the United States Patent and Trademark Office, and/or without having *bona fide use in the ordinary course of trade* and continuous

commercial use in commerce in connection with some or all of the goods and services that are subject of the registrations pleaded in this Opposition.

2. Some or all of Opposer's pleaded marks are not famous pursuant to 15 U.S.C. § 1125(c).

3. There is no likelihood that consumers will confuse Applicant's Mark with Opposer's pleaded marks.

### **COUNTERCLAIMS**

1. The Counterclaim Petitioner, Sisters of Charity of Leavenworth Health System, Inc. ("Petitioner"), is a faith-based, nonprofit healthcare organization that operates eight hospitals, four safety net clinics, one children's mental health center and more than 190 ambulatory service centers in three states – Colorado, Kansas and Montana

2. Upon information and belief, counterclaim Respondent, Blue Cross and Blue Shield Association, is a national federation of 37 independent, community-based and locally operated companies.

3. Since as early as 1976, Petitioner has continuously used in commerce, a Greek Cross and heart design in association with its hospital and health care services.

4. Petitioner is the owner of U.S. Registration No. 1,766,130 of a Greek Cross and heart design for "hospital management services; medical referral services" in International Class 035; and "health care and hospital services; medical assistance, counseling, medical information services; medical laboratory services; home health care, nursing, outpatient and medical clinic services; hospice services; mental health services" in International Class 042

with a first use date of December 1976, a registration date of April 20, 1993 and renewed as of April 9, 2013. A copy of Petitioner's Registration No. 1,766,130 and the corresponding TESS printout showing status of the mark are annexed hereto and incorporated herein as "Exhibit A".

5. Petitioner's Registration No. 1,766,130 is an active registration in full force and effect on the Principal Register of the United States Patent and Trademark Office records.

6. Upon information and belief, Respondent, Blue Cross and Blue Shield Association, has never challenged Petitioner's right to use and/or register Petitioner's Greek Cross and heart design in connection with any or all of the services set forth in Petitioner's U.S. Registration No. 1,766,130 (hereinafter "Respondent").

7. Petitioner's Application No. 86/233,170 is an updated version of Petitioner's Greek Cross and heart design mark depicted in Petitioner's U.S. Registration No. 1,766,130 that has been now in use for almost forty (40) years without challenge by Respondent.

**Petition to Cancel Registration No. 0554817 for Greek Cross Design**

8. Petitioner repeats and re-avers the allegations contained in paragraphs 1 through 7 of its Counterclaim as if fully set forth herein.

9. As grounds for notices of opposition that it has filed over the past several years, Respondent asserted, *inter alia*, U.S. Registration No. 0554817 depicting a design mark of a Greek Cross (hereinafter the "'817 Registration"). A copy of the registration certificate, the corresponding TESS printout showing status of the mark, and specimen are annexed hereto and incorporated herein as "Exhibit B".

10. Respondent relies on, *inter alia*, its alleged rights in the '817 Registration as grounds for this Opposition proceeding.

11. The services that are the subject of the '817 Registration are “distribution of hospital care on a pre-payment financing basis” in International Class 036.

12. On or about December 7, 2011, Respondent caused to be filed with the United States Patent and Trademark Office a document entitled, *Combined Declaration of Use and/or Excusable Non-Use and Application for Renewal of Registration of a Mark Under Sections 8 and 9*, as it relates to the '817 Registration (hereinafter the “Section 8 and 9 Declaration”).

13. In support of its Section 8 and 9 Declaration filed with the United States Patent and Trademark Office, Respondent submitted specimens of use allegedly evidencing use of the '817 Registration in commerce in connection with all of the goods listed in the subject registration, “consisting of a(n) marketing materials on licensee’s website.”

14. The specimen submitted in connection with Respondent’s Section 8 and 9 Declaration filed in connection with the '817 Registration does not depict Respondent’s Greek Cross design mark anywhere on the specimen as used in association with the registered services.

15. At the time it submitted its Section 8 and 9 Declaration on or about December 7, 2011, Respondent had full knowledge that the Greek Cross design mark that is the subject of the '817 Registration was not being used in a *bona fide manner in the ordinary course of trade*, in commerce on or in connection with the specimens.

16. Upon information and belief, Respondent has abandoned its rights in and to the '817

Registration.

17. Petitioner has been, and is continued to be damaged, by maintenance of the '817 Registration.

**Petition to Cancel Registration No. 1,632,320 for Greek Cross Design**

18. Petitioner repeats and re-avers the allegations contained in paragraphs 1 through 7 of its Counterclaim as if fully set forth herein.

19. As grounds for notices of opposition that it filed over the past several years, Respondent asserted, *inter alia*, U.S. Registration No. 1,632,320 depicting a design mark of a Greek Cross (hereinafter the "'320 Registration"). A copy of the registration certificate and the corresponding TESS printout showing status of the mark are annexed hereto and incorporated herein as "Exhibit C".

20. Respondent relies on, *inter alia*, its alleged rights in the '320 Registration as grounds for this Opposition proceeding.

21. The services that are the subject of the '320 Registration are "educational books, binders, printed forms, business forms, healthcare trade journals, notebooks, writing paper, envelopes, pen and pencils" in International Class 016.

22. On information and belief, the '320 is an active registration on the Principal Register of the United States Patent and Trademark Office records.

23. On information and belief, in order to maintain the '320 Registration, Respondent was required to file a Combined Declaration of Use and/or Excusable Non-Use and Application for Renewal of Registration of a Mark under Sections 8 and 9 of the Trademark

Act on or before January 22, 2011.

24. Upon information and belief, Respondent failed to file a Section 8 and 9 combined declaration on or before January 22, 2011.

25. Upon information and belief, Respondent has statutorily abandoned its rights in and to the '320 Registration.

26. Petitioner has been, and is continued to be damaged, by maintenance of the '320 Registration.

**Petition to Cancel Registration No. 1,639,079 for Greek Cross Design**

27. Petitioner repeats and re-avers the allegations contained in paragraphs 1 through 7 of its Counterclaim as if more fully set forth herein.

28. As grounds for notices of opposition that it has filed over the past several years, Respondent has invoked, *inter alia*, U.S. Registration No. 1,639,079 depicting a design mark of a Greek Cross (hereinafter the "'079 Registration"). A copy of the registration certificate and the corresponding TESS printout showing status of the mark are annexed hereto and incorporated herein as "Exhibit D".

29. Respondent relies on, *inter alia*, its alleged rights in the '079 Registration as grounds for this Opposition proceeding.

30. The good that is the subject of the '079 Registration is a "healthcare newsletter" in International Class 016.

31. On information and belief, the '079 Registration is an active registration on the Principal Register of the United States Patent and Trademark Office records.

32. On information and belief, in order to maintain the '079 Registration, Respondent was required to file a Combined Declaration of Use and/or Excusable Non-Use and Application for Renewal of Registration of a Mark under Sections 8 and 9 of the Trademark Act on or before March 26, 2011.

33. Upon information and belief, Respondent failed to file a Section 8 and 9 combined declaration on or before March 26, 2011.

34. Upon information and belief, Respondent has statutorily abandoned its rights in and to the '079 Registration.

35. Petitioner has been, and is continued to be damaged, by maintenance of the '079 Registration.

**Petition to Cancel Registration No. 3,506,616 for BLUE DISTINCTION  
PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM**

36. Petitioner repeats and re-avers the allegations contained in paragraphs 1 through 7 of its Counterclaim as if more fully set forth herein.

37. As grounds for notices of opposition that it has filed over the past several years, Respondent has invoked, *inter alia*, U.S. Registration No. 3,506,616 for BLUE DISTINCTION PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM (hereinafter the "'616 Registration"). A copy of the registration certificate and the corresponding TESS printout showing status of the mark are annexed hereto and incorporated herein as "Exhibit E".

38. Respondent relies on, *inter alia*, its alleged rights in the '616 Registration as grounds for this Opposition proceeding.

39. The goods that are the subject of the '616 Registration are “assessing healthcare service provider performance; providing specialty care centers, namely, conducting quality measurement, improvement and assurance surveys in hospitals to determine service quality” in International Class 035.

40. On information and belief, the '616 Registration is an active registration on the Principal Register of the United States Patent and Trademark Office records.

41. On information and belief, in order to maintain the '616 Registration, Respondent was required to file a Combined Declaration of Use and/or Excusable Non-Use and Application for Renewal of Registration of a Mark under Sections 8 and 9 of the Trademark Act on or before September 23, 2014.

42. Upon information and belief, Respondent failed to file a Section 8 and 9 combined declaration on or before September 23, 2014.

43. Upon information and belief, Respondent has statutorily abandoned its rights in and to the '616 Registration.

44. Petitioner has been, and is continued to be damaged, by maintenance of the '616 Registration.

**Petition to Cancel Registration No. 3,506,617 for BLUE DISTINCTION  
PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM**

45. Petitioner repeats and re-avers the allegations contained in paragraphs 1 through 7 of its Counterclaim as if more fully set forth herein.

46. As grounds for notices of opposition that it has filed over the past several years, Respondent has invoked, *inter alia*, U.S. Registration No. 3,506,617 of BLUE

DISTINCTION PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM (hereinafter the “‘617 Registration”). A copy of the registration certificate and the corresponding TESS printout showing status of the mark are annexed hereto and incorporated herein as “Exhibit F”.

47. Respondent relies on, *inter alia*, its alleged rights in the ‘617 Registration as grounds for this Opposition proceeding.

48. The goods that are the subject of the ‘617 Registration are “providing centers for excellence programs in the field of healthcare, namely, providing health and medical care information to enable consumers to make more informed healthcare decisions in collaboration with health care providers to improve outcomes and affordability” in International Class 044.

49. Upon information and belief, the ‘617 Registration is an active registration on the Principal Register of the United States Patent and Trademark Office records.

50. Upon information and belief, in order to maintain the ‘617 Registration, Respondent was required to file a Combined Declaration of Use and/or Excusable Non-Use and Application for Renewal of Registration of a Mark under Sections 8 and 9 of the Trademark Act on or before September 23, 2014.

51. Upon information and belief, Respondent failed to file a Section 8 and 9 combined declaration on or before September 23, 2014.

52. Upon information and belief, Respondent has statutorily abandoned its rights in and to the ‘617 Registration.

53. Petitioner has been, and is continued to be damaged, by maintenance of the '617 Registration.

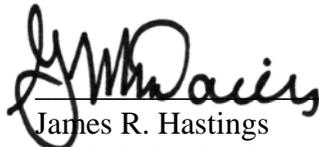
**PRAYER FOR RELIEF**

WHEREFORE, Applicant/Counterclaim Petitioner prays that:

1. Opposition No. 91220652 be dismissed in all respects;
2. Applicant's Serial No. 86/233,170 proceed to registration;
3. Counterclaim Respondent's Registration No. 0554817 of a Greek Cross Design be cancelled;
4. Counterclaim Respondent's Registration No. 1,632,320 of a Greek Cross Design be cancelled;
5. Counterclaim Respondent's Registration No. 1,639,079 of a Greek Cross Design be cancelled;
6. Counterclaim Respondent's Registration No. 3,506,616 for BLUE DISTINCTION PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM be cancelled;

7. Counterclaim Respondent's Registration No. 3,506,617 for BLUE DISTINCTION PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM be cancelled; and any and all other legal or equitable relief that the Board deems just and proper.

Respectfully submitted,



James R. Hastings  
Govinda M. Davis  
COLLEN IP

The Holyoke-Manhattan Building  
80 South Highland Avenue  
Ossining, New York 10562  
jhastings@collenip.com  
gdavis@collenip.com  
Tel.: (914) 941-5668  
Fax: (914) 941-6091

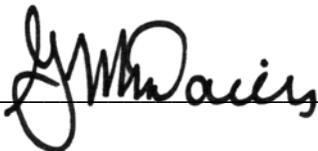
Dated: March 27, 2015

Enclosures: Exhibits A-F  
Payment for Cancellation Fees

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 03-2465.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING FILED ELECTRONICALLY WITH THE TRADEMARK TRIAL AND APPEAL BOARD OF THE UNITED STATES PATENT AND TRADEMARK OFFICE BY THE ELECTRONIC SYSTEM FOR TRADEMARK TRIALS AND APPEALS (ESTTA).

By: \_\_\_\_\_

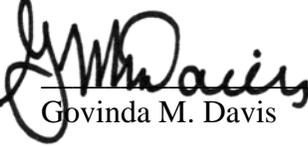


Date: March 27, 2015

**CERTIFICATE OF SERVICE**

I, Govinda M. Davis, do hereby certify that on March 27, 2015, a true copy of Applicant's Answer to Notice of Opposition and Counterclaims was duly served upon the Opposer's counsel of record by placing a true copy in the United States Mail with sufficient postage thereon to carry same to its destination via First Class Mail, and addressed to:

Hanson Bridgett LLP  
425 Market Street, 26th Floor  
San Francisco, CA 94105  
Attention: Mr. Garner K. Weng

  
Govinda M. Davis

# EXHIBIT A

Blue Cross & Blue Shield Association v Sisters of Charity  
Opposition No. 91220652  
Exhibit to Sisters of Charity of Levenworth Health System, Inc.'s Answer and Counterclaims

Int. Cls.: 35 and 42

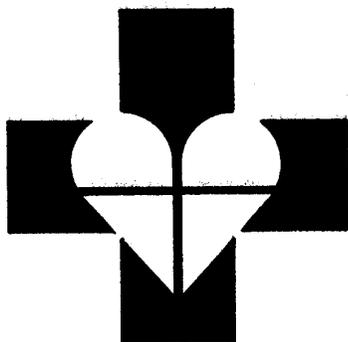
Prior U.S. Cls.: 100 and 101

**United States Patent and Trademark Office**

**Reg. No. 1,766,130**

Registered Apr. 20, 1993

**SERVICE MARK  
PRINCIPAL REGISTER**



SISTERS OF CHARITY OF LEAVENWORTH  
HEALTH SERVICES CORPORATION  
(KANSAS CORPORATION)  
4200 SOUTH 4TH STREET TRAFFICWAY  
CANTWELL HALL  
LEAVENWORTH, KS 66048

FOR: HOSPITAL MANAGEMENT SERVICES;  
MEDICAL REFERRAL SERVICES, IN CLASS  
35 (U.S. CL. 101).

FIRST USE 12-0-1976; IN COMMERCE  
2-10-1977.

FOR: HEALTH CARE AND HOSPITAL  
SERVICES; MEDICAL ASSISTANCE, COUN-  
SELLING, MEDICAL INFORMATION SERV-

ICES; MEDICAL LABORATORY SERVICES;  
HOME HEALTH CARE, NURSING, OUTPA-  
TIENT AND MEDICAL CLINIC SERVICES;  
HOSPICE SERVICES; MENTAL HEALTH  
SERVICES, IN CLASS 42 (U.S. CL. 100).

FIRST USE 12-0-1976; IN COMMERCE  
2-10-1977.

THE MARK CONSISTS OF A ROMAN CROSS  
AND A HEART SUPERIMPOSED UPON A  
GREEK CROSS.

SER. NO. 74-162,445, FILED 4-30-1991.

RANDY RICARDO, EXAMINING ATTORNEY



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**Goods and Services** IC 035. US 101. G & S: hospital management services; medical referral services. FIRST USE: 19761200. FIRST USE IN COMMERCE: 19770210

IC 042. US 100. G & S: health care and hospital services; medical assistance, counselling, medical information services; medical laboratory services; home health care, nursing, outpatient and medical clinic services; hospice services; mental health services. FIRST USE: 19761200. FIRST USE IN COMMERCE: 19770210

**Mark Drawing Code** (2) DESIGN ONLY

**Design Search Code** 02.11.01 - Hearts excluding hearts as carriers or depicted on playing cards  
24.13.02 - Cross, Greek (equal sides); Greek cross (equal sized lines)

**Serial Number** 74162445

**Filing Date** April 30, 1991

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** December 17, 1991

**Registration Number** 1766130

**Registration Date** April 20, 1993

**Owner** (REGISTRANT) SISTERS OF CHARITY OF LEAVENWORTH HEALTH SERVICES CORPORATION

CORPORATION KANSAS 2420 West 26th Avenue, Suite 300-D Denver COLORADO 80211

**Assignment Recorded** ASSIGNMENT RECORDED

**Attorney of Record** Carl Baranowski

**Description of Mark** Color is not claimed as a feature of the mark. The mark consists of a Roman cross and a heart superimposed upon a Greek cross.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20130409.

**Renewal** 2ND RENEWAL 20130409

**Live/Dead Indicator** LIVE

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# EXHIBIT B

Blue Cross & Blue Shield Association v Sisters of Charity  
Opposition No. 91220652  
Exhibit to Sisters of Charity of Leavenworth Health System, Inc.'s Answer and Counterclaims

Int. Cl.: 36

Prior U.S. Cl.: 102

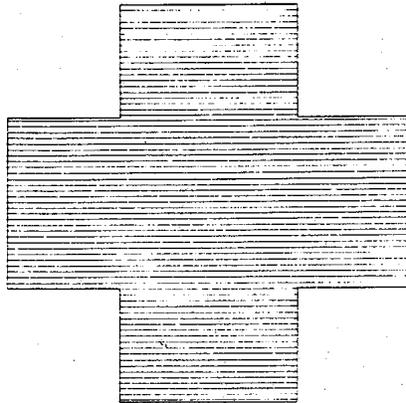
United States Patent and Trademark Office  
10 Year Renewal

Reg. No. 554,817

Registered Feb. 12, 1952

Renewal Term Begins Feb. 12, 1992

**SERVICE MARK  
PRINCIPAL REGISTER**



BLUE CROSS AND BLUE SHIELD AS-  
SOCIATION (ILLINOIS CORPORA-  
TION)  
676 N. ST. CLAIR ST.  
CHICAGO, IL 60611, BY ASSIGNMENT  
AND MERGER WITH AMERICAN  
HOSPITAL ASSOCIATION (ILLINOIS  
CORPORATION) CHICAGO, IL

THE DRAWING IS LINED TO INDI-  
CATE THE COLOR BLUE.

FOR: DISTRIBUTION OF HOSPITAL  
CARE ON A PRE-PAYMENT FINANC-  
ING BASIS, IN CLASS 102 (INT. CL. 36).  
FIRST USE 12-0-1934; IN COMMERCE  
12-0-1934.

SER. NO. 71-531,753, FILED 8-19-1947.

*In testimony whereof I have hereunto set my hand  
and caused the seal of The Patent and Trademark  
Office to be affixed on Apr. 28, 1992.*

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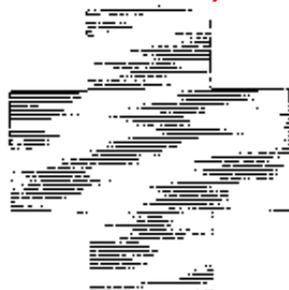
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Goods and Services IC 036. US 102. G & S: DISTRIBUTION OF HOSPITAL CARE ON A PRE-PAYMENT FINANCING BASIS. FIRST USE: 19341200. FIRST USE IN COMMERCE: 19341200

Mark Drawing Code (2) DESIGN ONLY

Design 24.13.02 - Cross, Greek (equal sides); Greek cross (equal sized lines)

Search Code 26.17.01 - Bands, straight; Bars, straight; Lines, straight; Straight line(s), band(s) or bar(s)
26.17.04 - Bands, vertical; Bars, vertical; Lines, vertical; Vertical line(s), band(s) or bar(s)
26.17.05 - Bands, horizontal; Bars, horizontal; Horizontal line(s), band(s) or bar(s); Lines, horizontal

Serial Number 71531753

Filing Date August 19, 1947

Current Basis 1A

Original Filing Basis 1A

Registration Number 0554817

Registration Date February 12, 1952

Owner (REGISTRANT) AMERICAN HOSPITAL ASSOCIATION CORPORATION ILLINOIS 18 EAST DIVISION STREET CHICAGO ILLINOIS

(LAST LISTED OWNER) BLUE CROSS AND BLUE SHIELD ASSOCIATION CORPORATION BY MERGER WITH ILLINOIS 676 N. ST. CLAIR ST. CHICAGO ILLINOIS 60611

Assignment Recorded ASSIGNMENT RECORDED

Attorney of

**Record** Melissa Rotunno

**Description of Mark** Color is not claimed as a feature of the mark. THE DRAWING IS LINED TO INDICATE THE COLOR BLUE.

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECTION 8(10-YR) 20120113.

**Renewal** 4TH RENEWAL 20120113

**Live/Dead Indicator** LIVE

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## We have the plan that's right for you

Choosing the right health insurance plan to fit your needs is important to you and your family. Compare our plans to find the coverage you need. You can get a quick quote before you apply.

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We have a wide range of plans to meet your needs.  
> [View all of our individual and family plans](#)

**Medicare and Retirement**  
Our [Medicare Supplement](#) and [Medicare Part D](#) plans can help cover medical and prescription expenses that Medicare doesn't.

\*Rate quoted is for a 30-year-old male non-smoker living in ZIP code 60045.

Individual & Family Plans starting at

**\$76** per month\*

[Get a free quote >](#)

Looking for coverage?

- Get started with the basics
- Browse individual and family plans
- Get a quick quote

Eligible or preparing for Medicare? [>](#)

New to Blue Cross and Blue Shield of Illinois? [>](#)

Shopping for Insurance?

[Quick Quote \(Under 65\)](#) [Shop by Price \(Under 65\)](#) [65+ Medicare Supplement Quote](#) [Medicare Part D Pricing](#)

Done Internet 100%

start | Inbox - Microsoft ... | WorldMark Plus - ... | Blue Cross Blue S... | 1:18 PM

Windows Internet Explorer window titled "Coverage Options - Blue Cross and Blue Shield of Illinois". The address bar shows "http://www.bcbsil.com/coverage/index.html". The browser menu includes File, Edit, View, Favorites, Tools, and Help. The page content is organized into three main columns:

- Individual and Family Plans:** Includes an image of a family and text explaining individual health insurance for those without employer coverage. A "Get a Quote" section features a calculator icon and a "Quick Quote" button.
- Medicare and Retirement:** Includes an image of an elderly couple and text explaining Medicare health insurance. It lists links for "View Medicare Supplement plans", "Learn more about our 2012 Medicare Part D (prescription) plans", and "Learn more about our 2011 Medicare Part D (prescription) plans".
- Employer-Offered Plans:** Includes an image of a group of people and text explaining employer-provided group coverage. A blue box asks "Looking for coverage for your employees?" and provides a link to "view our group options and other resources for employers".

The bottom of the browser window shows a taskbar with the Start button, open applications (Inbox - Microsoft, WorldMark Plus, Coverage Options, solid blue cross), and system tray icons. The system clock displays "1:24 PM".

Windows Internet Explorer window titled "Coverage Options - Blue Cross and Blue Shield of Illinois". The address bar shows "http://www.bcbsil.com/coverage/index.html".

The page content is organized into three main columns:

- Individual and Family Plans:** Includes a photo of a family and text explaining individual health insurance for those without employer coverage. A "Get a Quote" section features a calculator icon and a "Quick Quote" button.
- Medicare and Retirement:** Includes a photo of an elderly couple and text explaining Medicare coverage. It lists links for "View Medicare Supplement plans", "Learn more about our 2012 Medicare Part D (prescription) plans", and "Learn more about our 2011 Medicare Part D (prescription) plans".
- Employer-Offered Plans:** Includes a photo of a group of people and text explaining group coverage. A blue box asks "Looking for coverage for your employees?" and provides a link to "view our group options and other resources for employers".

The bottom of the browser window shows the taskbar with the Start button, open applications (Inbox - Microsoft, WorldMark Plus, Coverage Options, solid blue cross), and system tray icons. The system clock shows 1:24 PM.

# EXHIBIT C

Blue Cross & Blue Shield Association v Sisters of Charity  
Opposition No. 91220652  
Exhibit to Sisters of Charity of Levenworth Health System, Inc.'s Answer and Counterclaims

Int. Cl.: 16

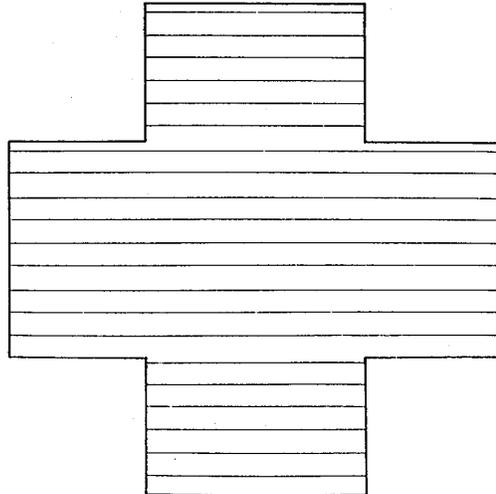
Prior U.S. Cl.: 37

**United States Patent and Trademark Office**

Reg. No. 1,632,320

Registered Jan. 22, 1991

**TRADEMARK  
PRINCIPAL REGISTER**



BLUE CROSS AND BLUE SHIELD ASSOCIATION (ILLINOIS NOT-FOR-PROFIT CORPORATION)  
676 NORTH ST. CLAIR STREET  
CHICAGO, IL 60611

FOR: EDUCATIONAL BOOKS, BINDERS, PRINTED FORMS, BUSINESS FORMS, HEALTHCARE TRADE JOURNALS, NOTEBOOKS, WRITING PAPER, ENVELOPES, PEN AND PENCILS, IN CLASS 16 (U.S. CL. 37).

FIRST USE 12-0-1934; IN COMMERCE 12-0-1934.

OWNER OF U.S. REG. NOS. 554,817, 1,425,238 AND OTHERS.

THE DRAWING IS LINED FOR THE COLOR BLUE.

SER. NO. 74-032,415, FILED 2-26-1990.

ELISE TENEN, EXAMINING ATTORNEY



United States Patent and Trademark Office

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TSDR ASSIGN Status TTAB Status ( Use the "Back" button of the Internet Browser to return to TESS)



Goods and Services IC 016. US 037. G & S: EDUCATIONAL BOOKS, BINDERS, PRINTED FORMS, BUSINESS FORMS, HEALTHCARE TRADE JOURNALS, NOTEBOOKS, WRITING PAPER, ENVELOPES, PEN AND PENCILS. FIRST USE: 19341200. FIRST USE IN COMMERCE: 19341200

Mark Drawing Code (2) DESIGN ONLY

Design Search Code 24.13.02 - Cross, Greek (equal sides); Greek cross (equal sized lines)

Serial Number 74032415

Filing Date February 26, 1990

Current Basis 1A

Original Filing Basis 1A

Published for Opposition October 2, 1990

Registration Number 1632320

Registration Date January 22, 1991

Owner (REGISTRANT) Blue Cross And Blue Shield Association not-for-profit corporation ILLINOIS 225 NORTH MICHIGAN AVENUE Chicago ILLINOIS 60601

Attorney of Record IRENE M. REININGER

Prior 0554817;0990414;1055560;1293243;1293244;1425238;AND OTHERS

**Registrations**

**Description of Mark** THE DRAWING IS LINED FOR THE COLOR BLUE.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL

**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010726.

**Renewal** 1ST RENEWAL 20010726

**Live/Dead Indicator** LIVE

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# EXHIBIT D

Blue Cross & Blue Shield Association v Sisters of Charity  
Opposition No. 91220652  
Exhibit to Sisters of Charity of Leavenworth Health System, Inc.'s Answer and Counterclaims

Int. Cl.: 16

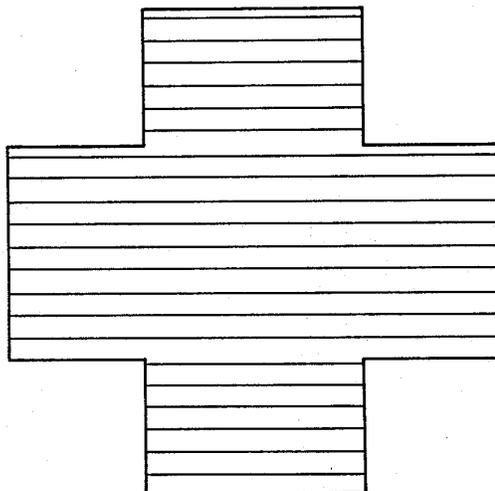
Prior U.S. Cl.: 38

**United States Patent and Trademark Office**

**Reg. No. 1,639,079**

Registered Mar. 26, 1991

**TRADEMARK  
PRINCIPAL REGISTER**



BLUE CROSS AND BLUE SHIELD ASSOCIATION (ILLINOIS NOT-FOR-PROFIT CORPORATION)  
676 NORTH ST. CLAIR STREET  
CHICAGO, IL 60611

FOR: HEALTHCARE NEWSLETTER, IN CLASS 16 (U.S. CL. 38).  
FIRST USE 12-0-1934; IN COMMERCE 12-0-1934.

OWNER OF U.S. REG. NOS. 554,817, 1,055,560 AND OTHERS.

THE DRAWING IS LINED FOR THE COLOR BLUE.

SER. NO. 74-055,846, FILED 5-4-1990.

ELISE TENEN, EXAMINING ATTORNEY



United States Patent and Trademark Office

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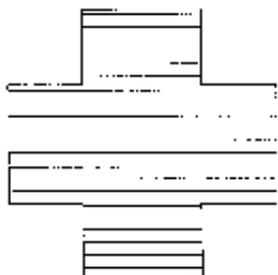
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**Goods and Services** IC 016. US 038. G & S: healthcare newsletter. FIRST USE: 19341200. FIRST USE IN COMMERCE: 19341200

**Mark Drawing Code** (2) DESIGN ONLY

**Design Search Code** 24.13.02 - Cross, Greek (equal sides); Greek cross (equal sized lines)

**Serial Number** 74055846

**Filing Date** May 4, 1990

**Current Basis** 1A

**Original Filing Basis** 1A

**Published for Opposition** January 1, 1991

**Registration Number** 1639079

**Registration Date** March 26, 1991

**Owner** (REGISTRANT) Blue Cross and Blue Shield Association NOT-FOR-PROFIT CORPORATION ILLINOIS 225 NORTH MICHIGAN AVENUE Chicago ILLINOIS 60601

**Attorney of Record** IRENE M. REININGER

**Prior Registrations** 0554817;0969385;0990414;1055560;AND OTHERS

**Description of Mark** The drawing is lined for the color blue.

**Type of Mark** TRADEMARK

**Register** PRINCIPAL  
**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20010726.  
**Renewal** 1ST RENEWAL 20010726  
**Live/Dead Indicator** LIVE

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# EXHIBIT E

Blue Cross & Blue Shield Association v Sisters of Charity  
Opposition No. 91220652  
Exhibit to Sisters of Charity of Leavenworth Health System, Inc.'s Answer and Counterclaims

**Int. Cl.: 35**

**Prior U.S. Cls.: 100, 101, and 102**

**Reg. No. 3,506,616**

**United States Patent and Trademark Office**

**Registered Sep. 23, 2008**

**SERVICE MARK  
PRINCIPAL REGISTER**

**BLUE DISTINCTION PROVIDER  
MEASUREMENT AND  
IMPROVEMENT PROGRAM**

BLUE CROSS AND BLUE SHIELD ASSOCIATION  
(ILLINOIS NON-PROFIT CORPORATION)  
6TH FLOOR  
225 NORTH MICHIGAN AVENUE  
CHICAGO, IL 60601

FOR: ASSESSING HEALTHCARE SERVICE PROVIDER PERFORMANCE; PROVIDING SPECIALTY CARE CENTERS, NAMELY, CONDUCTING QUALITY MEASUREMENT, IMPROVEMENT AND ASSURANCE SURVEYS IN HOSPITALS TO DETERMINE SERVICE QUALITY, IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 5-31-2007; IN COMMERCE 5-31-2007.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 554,488, 1,426,942, AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM", APART FROM THE MARK AS SHOWN.

SN 78-906,552, FILED 6-13-2006.

MARY ROSSMAN, EXAMINING ATTORNEY



United States Patent and Trademark Office

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### BLUE DISTINCTION PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM

<b>Word Mark</b>	BLUE DISTINCTION PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM
<b>Goods and Services</b>	IC 035. US 100 101 102. G & S: Assessing healthcare service provider performance; providing specialty care centers, namely, conducting quality measurement, improvement and assurance surveys in hospitals to determine service quality. FIRST USE: 20070531. FIRST USE IN COMMERCE: 20070531
<b>Standard Characters Claimed</b>	
<b>Mark Drawing Code</b>	(4) STANDARD CHARACTER MARK
<b>Serial Number</b>	78906552
<b>Filing Date</b>	June 13, 2006
<b>Current Basis</b>	1A
<b>Original Filing Basis</b>	1B
<b>Published for Opposition</b>	May 29, 2007
<b>Registration Number</b>	3506616
<b>Registration Date</b>	September 23, 2008
<b>Owner</b>	(REGISTRANT) Blue Cross and Blue Shield Association NON-PROFIT CORPORATION ILLINOIS 6th Floor 225 North Michigan Avenue Chicago ILLINOIS 60601
<b>Attorney of</b>	Melissa Rotunno

**Record**

**Prior Registrations** 0554488;1420888;1426942;AND OTHERS

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM" APART FROM THE MARK AS SHOWN

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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# EXHIBIT F

Blue Cross & Blue Shield Association v Sisters of Charity

Opposition No. 91220652

Exhibit to Sisters of Charity of Levenworth Health System, Inc.'s Answer and Counterclaims

**Int. Cl.: 44**

**Prior U.S. Cls.: 100 and 101**

**United States Patent and Trademark Office**

**Reg. No. 3,506,617**

**Registered Sep. 23, 2008**

**SERVICE MARK  
PRINCIPAL REGISTER**

**BLUE DISTINCTION PROVIDER  
MEASUREMENT AND  
IMPROVEMENT PROGRAM**

BLUE CROSS AND BLUE SHIELD ASSOCIATION  
(ILLINOIS NON-PROFIT CORPORATION)  
6TH FLOOR  
225 NORTH MICHIGAN AVENUE  
CHICAGO, IL 60601

FOR: PROVIDING CENTERS FOR EXCELLENCE  
PROGRAMS IN THE FIELD OF HEALTHCARE,  
NAMELY, PROVIDING HEALTH AND MEDICAL  
CARE INFORMATION TO ENABLE CONSUMERS  
TO MAKE MORE INFORMED HEALTHCARE DE-  
CISIONS IN COLLABORATION WITH HEALTH  
CARE PROVIDERS TO IMPROVE OUTCOMES  
AND AFFORDABILITY, IN CLASS 44 (U.S. CLS.  
100 AND 101).

FIRST USE 5-31-2007; IN COMMERCE 5-31-2007.

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 554,488, 1,426,942,  
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE  
RIGHT TO USE "PROVIDER MEASUREMENT  
AND IMPROVEMENT PROGRAM" , APART FROM  
THE MARK AS SHOWN.

SN 78-906,558, FILED 6-13-2006.

MARY ROSSMAN, EXAMINING ATTORNEY



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#### BLUE DISTINCTION PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM

**Word Mark** BLUE DISTINCTION PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM

**Goods and Services** IC 044. US 100 101. G & S: Providing centers for excellence programs in the field of healthcare, namely, providing health and medical care information to enable consumers to make more informed healthcare decisions in collaboration with health care providers to improve outcomes and affordability. FIRST USE: 20070531. FIRST USE IN COMMERCE: 20070531

**Standard Characters Claimed**

**Mark Drawing Code** (4) STANDARD CHARACTER MARK

**Serial Number** 78906558

**Filing Date** June 13, 2006

**Current Basis** 1A

**Original Filing Basis** 1B

**Published for Opposition** May 29, 2007

**Registration Number** 3506617

**Registration Date** September 23, 2008

**Owner** (REGISTRANT) Blue Cross and Blue Shield Association NON-PROFIT CORPORATION ILLINOIS 6th Floor 225 North Michigan Avenue Chicago ILLINOIS 60601

**Attorney of Record** Melissa Rotunno

**Prior Registrations** 0554488;1420888;1426942;AND OTHERS

**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PROVIDER MEASUREMENT AND IMPROVEMENT PROGRAM" APART FROM THE MARK AS SHOWN

**Type of Mark** SERVICE MARK

**Register** PRINCIPAL

**Live/Dead Indicator** LIVE

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