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Filing date: **04/24/2008**

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

Proceeding	91162940
Party	Plaintiff La Vida Medical Group, Inc.
Correspondence Address	Brian W. Kasell Jeffer, Mangels, Butler & Mangels 1900 Avenue of the Stars, 7th Floor Los Angeles, CA 90067-4308 UNITED STATES trademarkdocket@jmbm.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Jessica C. Bromall
Filer's e-mail	trademarkdocket@jmbm.com
Signature	/jessica c. bromall/
Date	04/24/2008
Attachments	Opposer Notice of Reliance.pdf ( 60 pages )(1098155 bytes )

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

LA VIDA MEDICAL GROUP, INC.,  Opposer,  v.  VIDACARE, INC.,  Applicant.	Opposition No.: 91/162,940  Application Serial No.: 78/267,318  Mark: VIDACARE  Published for Opposition: June 22, 2004  Atty. Ref. No.: 58668-0018
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Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451

**OPPOSER'S NOTICE OF RELIANCE**

Pursuant to Trademark Rule 2.122(e), 37 C.F.R. § 2.122(e), and Trademark Trial and Appeal Board Manual of Procedure Sections 703.02(b) and 708, opposer La Vida Medical Group, Inc. ("Opposer") hereby offers into evidence and gives notice that it will rely on the following documents in this proceeding:

Federal Registrations

Exhibit A: Certified copy of U.S. Registration No. 2,410,770, prepared and issued by the United States Patent and Trademark Office showing both the current status of and title to the attached registration.

Exhibit B: Certified copy of U.S. Registration No. 2,410,771, prepared and issued by the United States Patent and Trademark Office showing both the current status of and title to the attached registration.

### Discovery Records

Exhibit C: Applicant's Answers to Opposer's First Set of Interrogatories, served on February 11, 2008.

Exhibit D: Applicant's [Supplemental] Answers to Opposer's First Set of Interrogatories, served on March 18, 2008.

### Printed Publications

Opposer submits photocopies of the publications listed below, which are of general circulation among members of the public or that segment of the public which is relevant to the issues in this proceeding. The publications listed below are relevant to demonstrate the fame of Opposer's LA VIDA marks and Opposer's use of such marks prior to the date of first use claimed by Applicant.

Exhibit E: Print-out from publicly available section of Opposer's website, located at [www.lavidamed.com](http://www.lavidamed.com), dated April 23, 2008.

Exhibit F: Print out from publicly available section of Opposer's website, located at [www.lavidamed.com](http://www.lavidamed.com), dated April 23, 2008.

Exhibit G: Print-out from publicly available section of Opposer's website, located at [www.lavidamed.com](http://www.lavidamed.com), dated April 23, 2008.

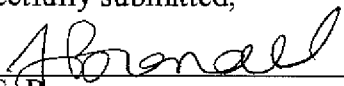
Exhibit H: Print-out of publicly available section of Opposer's website, located at [www.lavidamed.com](http://www.lavidamed.com), as it appeared on March 25, 2002, obtained from the publicly available web archive database located at [www.waybackmachine.org](http://www.waybackmachine.org), and printed on April 23, 2008.

Exhibit I: Print-out of publicly available section of Opposer's website, located at www.lavidamed.com, as it appeared on March 25, 2002, obtained from the publicly available web archive database located at www.waybackmachine.org, and printed on April 23, 2008.

Exhibit J: Print-out of publicly available section of Opposer's website, located at www.lavidamed.com, as it appeared on May 20, 2000, obtained from the publicly available web archive database located at www.waybackmachine.org, and printed on April 23, 2008.

Respectfully submitted,

Dated: April 24, 2008

  
\_\_\_\_\_  
Rod S. Berman  
Jessica C. Bromall  
JEFFER, MANGELS, BUTLER & MARMARO LLP  
1900 Avenue of the Stars, Seventh Floor  
Los Angeles, CA 90067  
(310) 203-8080  
E-mail: trademarkdocket@jmbm.com  
Attorneys for Opposer La Vida Medical Group, Inc.

**DECLARATION OF JESSICA C. BROMALL**

I, JESSICA C. BROMALL, declare:

1. I am an attorney at law duly licensed to practice before all of the courts of the State of California, and am an associate in the law firm of Jeffer, Mangels, Butler & Marmaro LLP, counsel for opposer La Vida Medical Group, Inc. ("Opposer") in this proceeding. Except as stated below, I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, I could and would testify competently thereto.

2. The document attached hereto as Exhibit A is a true and correct copy of a certified copy of U.S. Trademark Reg. No. 2,410,770, prepared and issued by the United States Patent and Trademark Office showing both the current status of and title to the attached registration.

3. The document attached hereto as Exhibit B is a true and correct copy of a certified copy of U.S. Trademark Reg. No. 2,410,771, prepared and issued by the United States Patent and Trademark Office showing both the current status of and title to the attached registration.

4. The document attached hereto as Exhibit C is a true and correct copy of Applicant's Answers to Opposer's First Set of Interrogatories, served on February 11, 2008.

5. The document attached hereto as Exhibit D is a true and correct copy of Applicant's [Supplemental] Answers to Opposer's First Set of Interrogatories, served on March 18, 2008.

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6. The document attached hereto as Exhibit E is a true and correct copy of pages I printed out from a publicly available section of Opposer's website, located at [www.lavidamed.com](http://www.lavidamed.com), on April 23, 2008.

7. The document attached hereto as Exhibit F is a true and correct copy of pages I printed out from a publicly available section of Opposer's website, located at [www.lavidamed.com](http://www.lavidamed.com), on April 23, 2008.

8. The document attached hereto as Exhibit G is a true and correct copy of pages I printed out from a publicly available section of Opposer's website, located at [www.lavidamed.com](http://www.lavidamed.com), on April 23, 2008.

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10. The document attached hereto as Exhibit I is a true and correct copy of a pages I printed out on April 23, 2008, from the publicly available web archive database located at [www.waybackmachine.org](http://www.waybackmachine.org), showing a publicly available section of Opposer's website as it appeared on March 25, 2002.

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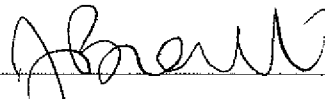
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11. The document attached hereto as Exhibit J is a true and correct copy of a pages I printed out on April 23, 2008, from the publicly available web archive database located at [www.waybackmachine.org](http://www.waybackmachine.org), showing a publicly available section of Opposer's website as it appeared on May 20, 2000.

I hereby declare and state that all statements made herein made of my own knowledge are true, and all statements made on information and belief are believed to be true and further these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the captioned opposition.



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JESSICA C. BROMALL

# EXHIBIT A



1695508

# THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

**UNITED STATES DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**April 16, 2008**

**THE ATTACHED U.S. TRADEMARK REGISTRATION 2,410,770 IS  
CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND  
EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN  
THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES  
PATENT AND TRADEMARK OFFICE.**

**REGISTERED FOR A TERM OF 10 YEARS FROM *December 05, 2000*  
SECTION 8 & 15**

**SAID RECORDS SHOW TITLE TO BE IN:**

***REGISTRANT***

**By Authority of the  
Under Secretary of Commerce for Intellectual Property  
and Director of the United States Patent and Trademark Office**

*L. Edele*

**L. EDELEN  
Certifying Officer**



**Int. Cl.: 42**

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

**Reg. No. 2,410,770**

**United States Patent and Trademark Office**

**Registered Dec. 5, 2000**

**SERVICE MARK  
PRINCIPAL REGISTER**



LA VIDA MEDICAL GROUP, INC. (CALIFORNIA CORPORATION)  
4161 REDONDO BEACH BOULEVARD, SUITE 201  
LAWDALE, CA 90260

FOR: PHYSICIAN SERVICES; COSMETIC AND PLASTIC SURGERY; MEDICAL SERVICES, NAMELY, EMERGENCY MEDICAL ASSISTANCE, MEDICAL CLINICS, MEDICAL COUNSELING, PROVIDING MEDICAL INFORMATION, MEDICAL LABORATORIES, MEDICAL RESEARCH, IN VITRO FERTILIZATION, MEDICAL TESTING; RENTAL OF

MEDICAL EQUIPMENT, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 12-31-1999; IN COMMERCE 12-31-1999.

THE DESIGN ELEMENT IN THE MARK CONSISTS OF A STYLIZED LETTER "V" FORMING THE TORSO OF STYLIZED HUMAN FIGURE.

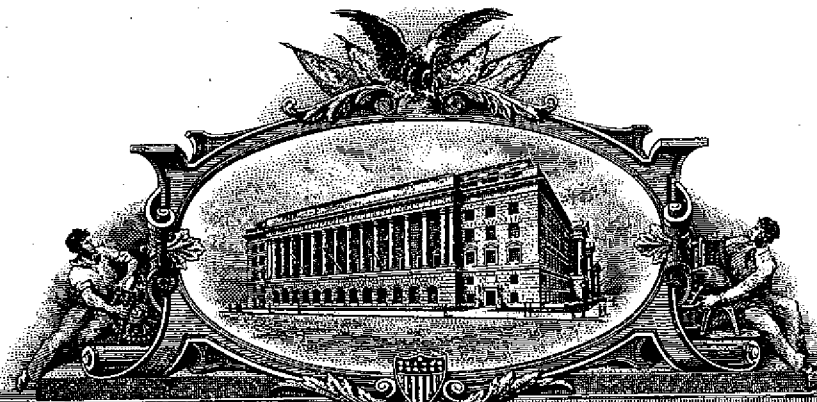
THE ENGLISH TRANSLATION OF "LA VIDA" IS "THE LIFE".

SER. NO. 75-898,657, FILED 1-19-2000.

BRIAN PINO, EXAMINING ATTORNEY

# EXHIBIT B

1695509



# THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

**UNITED STATES DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

**April 16, 2008**

**THE ATTACHED U.S. TRADEMARK REGISTRATION 2,410,771 IS CERTIFIED TO BE A TRUE COPY WHICH IS IN FULL FORCE AND EFFECT WITH NOTATIONS OF ALL STATUTORY ACTIONS TAKEN THEREON AS DISCLOSED BY THE RECORDS OF THE UNITED STATES PATENT AND TRADEMARK OFFICE.**

**REGISTERED FOR A TERM OF 10 YEARS FROM *December 05, 2000***

**SECTION 8 & 15**

**SAID RECORDS SHOW TITLE TO BE IN:**

***REGISTRANT***

**By Authority of the**

**Under Secretary of Commerce for Intellectual Property  
and Director of the United States Patent and Trademark Office**

*L. Edelen*

**L. EDELEN  
Certifying Officer**



Int. Cl.: 42

Prior U.S. Cls.: 100 and 101

Reg. No. 2,410,771

United States Patent and Trademark Office

Registered Dec. 5, 2000

**SERVICE MARK  
PRINCIPAL REGISTER**



LA VIDA MEDICAL GROUP, INC. (CALIFORNIA CORPORATION)  
4161 REDONDO BEACH BOULEVARD, SUITE 201  
LAWDALE, CA 90260

FOR: PHYSICIAN SERVICES; COSMETIC AND PLASTIC SURGERY; MEDICAL SERVICES, NAMELY, EMERGENCY MEDICAL ASSISTANCE, MEDICAL CLINICS, MEDICAL COUNSELING, PROVIDING MEDICAL INFORMATION, MEDICAL LABORATORIES, MEDICAL RESEARCH, IN VITRO FERTILIZATION, MEDICAL TESTING; RENTAL OF MEDICAL EQUIPMENT, IN CLASS 42 (U.S. CLS. 100 AND 101).

FIRST USE 12-31-1999; IN COMMERCE 12-31-1999.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MEDICAL GROUP & IPA", APART FROM THE MARK AS SHOWN.

THE DESIGN ELEMENT IN THE MARK CONSISTS OF A STYLIZED LETTER "V" FORMING THE TORSO OF STYLIZED HUMAN FIGURE.

THE ENGLISH TRANSLATION OF "LA VIDA" IS "THE LIFE".

SER. NO. 75-898,659, FILED 1-19-2000.

BRIAN PINO, EXAMINING ATTORNEY

# EXHIBIT C

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

La Vida Medical Group, Inc.,

*Opposer,*

v.

VidaCare Inc.

*Applicant.*

Opposition No. 91162940

**APPLICANT'S ANSWERS TO  
OPPOSER'S FIRST SET OF  
INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Applicant, VidaCare Inc., hereby responds to the First Set of Interrogatories of La Vida Medical Group, Inc. as follows:

Applicant's responses are made without in any way waiving or intending to waive, but on the contrary, preserving and intending to preserve:

1. All questions of authenticity, relevance, materiality, privilege and admissibility as evidence for any purpose of the information provided which may arise in any subsequent proceeding in, or the trial of, this or any other proceeding;
2. The rights to object to the use of said information at any subsequent proceeding in, or the trial of, this or any other proceeding, on any other grounds;
3. The right to object on any ground at any time to other interrogatories or other discovery involving said information or the subject matter thereof; and
4. The right to make additions and/or amendments to these responses if further discovery or investigation yields information called for in discovery.

### GENERAL OBJECTIONS

The following objections apply generally, and are incorporated by reference in the response to each interrogatory, where appropriate:

1. Applicant objects to Opposer's First Set of Interrogatories to the extent that they call for information or documents protected by the attorney-client privilege or attorney work-product doctrine.

2. Applicant objects to Opposer's First Set of Interrogatories to the extent that any of the interrogatories seek information which is based upon definitions which are not mutually acceptable, as being vague, overly broad and burdensome, not relevant to the subject matter of the proceeding, and not reasonable calculated to lead to the discovery of admissible evidence.

3. Applicant objects to Opposer's First Set of Interrogatories to the extent they seek confidential information, but will provide such confidential information pursuant to a Confidentiality Stipulation and Order when one is agreed upon and entered in this action.

4. Applicant objects to Opposer's Definitions and "Instructions" to the extent that they seek to impose any obligation or burden on Opposer not specifically required by the Trademark and Appeal Board rules of the Federal Rules of Civil Procedure.

Without waiving the general objections and the objections set forth in response to specific interrogatories, Applicant responds, within the limits of these objections, as set forth below.



## INTERROGATORIES

### INTERROGATORY NO. 1

State the address of all locations in which the Applicant carries on business.

### RESPONSE TO INTERROGATORY NO. 1:

VidaCare operates its New York State licensed, Medicaid HIV Special Needs Plan from its only office location at 120 Wall Street, 14<sup>th</sup> Floor, New York, NY 10005.

### INTERROGATORY NO. 2

Describe in detail any related companies of Applicant.

### RESPONSE TO INTERROGATORY NO. 2:

VidaCare is related to the AIDS Day Services Planning, Inc. (ADSPI) through common board members and management. ADSPI was the pre-operational planning entity, which helped start VidaCare.

### INTERROGATORY NO. 3

Describe in detail why Applicant decided to adopt Applicant's Mark for its services, including without limitation any alternative marks which were considered in the place of Applicant's Mark.

### RESPONSE TO INTERROGATORY NO. 3:

ADSPI held a contest to name the new HIV Special Needs Plan. The contest was open to the enrolled members of all the Adult Day Health Centers, which were members of ADSPI. "VidaCare" was the winning suggestion.

### INTERROGATORY NO. 4

Describe in detail each and every document which evidences, reflects, records, refers to, mentions or discusses the development, selection or adoption of Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 4:**

Applicant is still searching its records and believes there are no existing documents. However, to the extent such exists, they will be produced.

**INTERROGATORY NO. 5**

Describe in detail the circumstances in which Applicant first became aware of Opposer and Opposer's Marks, including the date, and identify the Person(s) acting on behalf of Applicant who first became aware of Opposer and Opposer's Marks.

**RESPONSE TO INTERROGATORY NO. 5:**

Applicant became aware of Opposer's mark when it filed the opposition and the Trademark Trial and Appeal Board served a copy of same on Applicant on November 15, 2004.

**INTERROGATORY NO. 6**

Identify any and all representatives of Applicant who knew of Opposer prior to the conception and adoption of Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 6:**

There are no representatives of Applicant who knew of Opposer prior to the conception and adoption of Applicant's Mark. As noted in response to Interrogatory No. 5, Applicant learned of Opposer when the opposition was filed.

**INTERROGATORY NO. 7**

Describe in detail any instances in which Applicant has received any oral or written communication which refers or relates in any way to Opposer and/or Opposer's Marks, and describe in detail all documents which refer or relate in any way to said communication.

**RESPONSE TO INTERROGATORY NO. 7:**

Applicant has not received any oral or written communication which refers or relates in any way to Opposer and/or Opposer's Marks.

**INTERROGATORY NO. 8**

Describe in detail all goods and/or services, including generic descriptions, offered or intended to expected to be offered, or rendered or expected to be rendered, by Applicant under or in connection with Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 8:**

VidaCare, Inc. is a NYS licensed HIV Special Needs Plan, also known as a prepaid health service plan that arranges for comprehensive medical assistance to persons enrolled in the Plan, who are New York City residents that are living with HIV/AIDS who also have Medicaid. VidaCare does not provide services for sale or purchase. VidaCare contracts with various healthcare facilities and providers - including hospitals, community based providers and private physicians - for the provision of related primary and specialty care, ancillary services and hospital services to its members.

**INTERROGATORY NO. 9**

For each of the goods and/or services described in the preceding Interrogatory, state the date of the first use and, if applicable, last use of Applicant's Mark in connection with such goods and/or services, and describe all documents relating to such use(s).

**RESPONSE TO INTERROGATORY NO. 9:**

VidaCare began operations in New York City in August 2003 and continues to operate in New York City in 2008.

**INTERROGATORY NO. 10**

Describe in detail the circumstances of first use of Applicant's Mark if any, in connection with any services anywhere and in interstate commerce, and describe in detail all documents referring or relating to such first use(s).

**RESPONSE TO INTERROGATORY NO. 10:**

VidaCare is licensed in New York State and operates in New York City only. There is no intention, nor plans, to operate outside of NYC and Westchester county which adjoins the five boroughs of New York City.

**INTERROGATORY NO. 11**

For each use of Applicant's Mark, describe the service(s) involved and whether Applicant itself performed each of the services sold, offered to be sold, or distributed under the Mark.

**RESPONSE TO INTERROGATORY NO. 11:**

VidaCare contracts with various healthcare facilities and providers - including hospitals, community based providers and private physicians - for the provision of related primary and specialty care, ancillary services and hospital services to its members.

**INTERROGATORY NO. 12**

State the names of the Persons employed in-house by Applicant in charge of marketing and advertising Applicant's services.

**RESPONSE TO INTERROGATORY NO.12:**

Maria Gonzalez, Director of Marketing/Enrollment, oversees the Plan's marketing and enrollment activities.

**INTERROGATORY NO. 13**

Describe in detail the distribution and marketing of any and all services and products under or in connection with Applicant's Mark, and describe each and every catalog, flyer, brochure, pamphlet, and price list, printed, used or distributed by Applicant which mentions or refers to services or products sold or offered for sale, or intended to be sold or offered for sale, under or in connection with Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 13:**

The Plan's marketing materials, which include a Plan specific brochure and State-mandated information, are distributed directly to potential applicants at HIV/AIDS organizations and the offices of contracted medical providers.

**INTERROGATORY NO. 14**

Describe in detail the persons and organizations to whom Applicant has made sales or offers for sale, or intends to make sale or offers for sale, of any services or products offered under or in connection with Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 14:**

VidaCare does not provide services for sale or purchase.

**INTERROGATORY NO. 15**

Describe in detail the general degree of care exercised by customers, and intended customers, in purchasing the services or products identified in the answer to Interrogatory No. 8 which are offered in connection with the Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 15:**

Given the nature and purpose of the services rendered by Applicant under the VIDACARE trademark, the question cannot be answered.

**INTERROGATORY NO. 16**

Describe in detail the marketing channels Applicant utilizes or intends to utilize in advertising its services or products identified in the answer to Interrogatory No. 9 which are offered, or intended to be offered, under or in connection with Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 16:**

VidaCare intends to market its HIV Special Needs Plan to Medicaid recipients in New York City through paid advertisements in local community papers and HIV/AIDS publications. Since the Plan's license and operations are limited to New York City, it is not cost-effective or productive to

advertise in national publications or entities whose distribution includes or focuses on non-New York City markets.

**INTERROGATORY NO. 17**

With respect to each of the services offered by Applicant under or in connection with Applicant's Mark, state the appropriate dollar amount of annual sales and revenues from the inception of use through the present, broken down by service and product, if any, and year.

**RESPONSE TO INTERROGATORY NO. 17:**

As previously stated, VidaCare does not sell services. As an insurer, the Plan has premium revenues, and as a purchaser of medical care for its members, the Plan pays medical claims, as follows:

	<i>Medicaid Premium Revenues</i>	<i>Medical Claims Payments to Provider</i>
2003	\$304,923	\$257,942
2004	\$1,982,513	\$1,536,519
2005	\$3,129,789	\$2,288,569
2006	\$5,825,295	\$4,201,450
2007	\$8,292,700	\$5,637,388

**INTERROGATORY NO 18**

State the approximate dollar amount of annual expenditures of Applicant for advertising and promoting the goods and/or services which are sold or offered for sale under or in connection with Applicant's Mark from the inception of use through the present, broken down by individual service and product, if any, and year.

**RESPONSE TO INTERROGATORY NO. 18:**

VidaCare's marketing budget reflects its New York City focused activities. In 2007, the Plan budgeted between 165,000 on marketing/advertisements and spent \$102,000.

**INTERROGATORY NO. 19**

Describe in detail each advertising campaign which focused on, highlighted, or otherwise promoted Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 19:**

While the New York City Department of Health Mental Health approved three (3) advertisements in 2007; the Plan will not release those ads until early 2008. These ads were also approved for use as flyers, and have been distributed as such.

**INTERROGATORY NO. 20**

Describe in detail the Market in which Applicant sells or offers for sale, or intends to sell or offer for sale, its services or products which are offered under or in connection with or bear Applicant's Mark. Market is defined as the level(s) of customers, including but not limited to retail, wholesale, distribution or manufacturing, and the business and profession of the customers sold to.

**RESPONSE TO INTERROGATORY NO. 20:**

As previously stated, VidaCare does not sell services. VidaCare markets/advertises its NYS licensed HIV Special Needs Plan in New York City only.

**INTERROGATORY NO. 21**

Describe in detail any and all incidents in which there has been actual confusion between Applicant's use or intended use of Applicant's Mark and Opposer's use of Opposer's Mark, including without limitation each inquiry Applicant has received as to whether the services Applicant offers, or intends to offer, under or in connection with Applicant's Mark are associated with, affiliated, sponsored by, or connected with Opposer.

**RESPONSE TO INTERROGATORY NO. 21:**

There have been no incidents of actual confusion.

**INTERROGATORY NO. 22**

Describe in detail any search(es) or investigations(s) of any records, such as U.S. Patent and Trademark Office records, state trademark records, trademark or trade publications, business directories, or the records of any trademark service organization, conducted by or on behalf of Applicant prior to Applicant's adoption or use of the Applicant's Mark, including without limitation those conducted in order to ascertain whether the Applicant's Mark might infringe the trademark rights of others.

**RESPONSE TO INTERROGATORY NO. 22:**

Applicant conducted a trademark search of VIDACARE in 2003. The search report is attached.

**INTERROGATORY NO. 23**

Describe in detail all documents and communications relating or referring to any survey, research report, market analysis, public opinion poll, or study of consumer reaction, including the results of any such undertaking, conducted by Applicant or on Applicant's behalf concerning either Opposer's Mark or Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 23:**

Applicant has not conducted any surveys, research reports, market analysis, public opinion polls, or studies of consumer reaction concerning either Opposer's Mark or Applicant's Mark.

Between 2001-2002, (before the incorporation of Applicant), ADSPI conducted a survey of approximately 250 AIDS Adult Day Health Care enrollees. These New York City residents were people living with HIV/AIDS (PWHAs) who had Medicaid. This group selected "VidaCare" as their preferred name for the new HIV Special Needs Plan. No other research, market analysis, polls or studies were conducted by the Plan. Given the shift in HIV/AIDS care delivery away from end-stage disease management to "living" with a chronic health condition; the word "Vida" which is Spanish for "life," when combined with the word "care," resonated for these PWHAs.



**INTERROGATORY NO. 24**

State the name of each Person who furnished any information on which any part of any answer to these Interrogatories is based, indicating for each Person identified each interrogatory or subpart which such Person answered or assisted in answering, and whether the information so furnished is within the personal knowledge of each Person and, if not within the Personal knowledge of such Person, describe the source of the information so furnished.

**RESPONSE TO INTERROGATORY NO. 24:**

Doug Wirth, Chief Executive Officer

Renee Martinez, former Chief Operating Officer

Charles G. Lief, former Board Member & Consulting CEO

Respectfully submitted,

VidaCare Inc.



Doug Wirth, CEO

Date: February 11, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing APPLICANT'S ANSWERS TO OPPOSER'S FIRST SET OF INTERROGATORIES was served by first class mail, postage prepaid, this 11<sup>th</sup> day of February, 2008 upon the following:

Rod S. Berman, Esq.  
Jessica G. Bromall, Esq.  
JEFFER, MANGELS, BUTLER & MARMARO LLP  
1900 Avenue of the Stars, 7<sup>th</sup> Floor  
Los Angeles, California 90067

  
JULIE B. SEYLER

# EXHIBIT D

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

La Vida Medical Group, Inc.,

*Opposer,*

v.

VidaCare Inc.

*Applicant.*

Opposition No. 91162940

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2. The rights to object to the use of said information at any subsequent proceeding in, or the trial of, this or any other proceeding, on any other grounds;
3. The right to object on any ground at any time to other interrogatories or other discovery involving said information or the subject matter thereof; and
4. The right to make additions and/or amendments to these responses if further discovery or investigation yields information called for in discovery.

## INTERROGATORIES

### INTERROGATORY NO. 1

State the address of all locations in which the Applicant carries on business.

### RESPONSE TO INTERROGATORY NO. 1:

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### INTERROGATORY NO. 2

Describe in detail any related companies of Applicant.

### RESPONSE TO INTERROGATORY NO. 2:

VidaCare is related to the AIDS Day Services Planning, Inc. (ADSPI) through common board members and management. ADSPI was the pre-operational planning entity, which helped start VidaCare.

### INTERROGATORY NO. 3

Describe in detail why Applicant decided to adopt Applicant's Mark for its services, including without limitation any alternative marks which were considered in the place of Applicant's Mark.

### RESPONSE TO INTERROGATORY NO. 3:

ADSPI held a contest to name the new HIV Special Needs Plan. The contest was open to the enrolled members of all the Adult Day Health Centers, which were members of ADSPI. "VidaCare" was the winning suggestion. Applicant has made a thorough and good faith search of its business records and archives and advises that there are no documents that evidence, reflect, record, refer to, mention or discuss the development, selection or adoption of Applicant's Mark.

Mr. Doug Wirth, the CEO of the company was not employed by VidaCare at the time of the contest. However, based on his understanding of what occurred, there was a general discussion that participants had with regard to a range of ideas and needs associated with

HIV/AIDS, care and services, living life and living longer, primary and preventative care, silence equals death, housing as health care, end homeless and ending AIDS, and health care as a right. "VIDA" meaning life was a powerful word that spoke to both Spanish-speaking and English speaking individuals. No additional information is available.

**INTERROGATORY NO. 4**

Describe in detail each and every document which evidences, reflects, records, refers to, mentions or discusses the development, selection or adoption of Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 4:**

Applicant has made a thorough and good faith search of its business records and archives and advises that there are no documents evidences, reflects, records, refers to, mentions or discusses the development, selection or adoption of Applicant's Mark.

Mr. Doug Wirth, the CEO of the company was not employed by VidaCare at the time of the contest. He has spoken with Renee Martinez, former Chief Operating Officer of VidaCare and Charles Lief, a former Board member and now consultant of VidaCare, and was advised that the mark VidaCare was selected because VIDA means "life" and the Plan's mission is to help facilitate "life care" and successfully "living" with the chronic health condition of HIV/AIDS.

**INTERROGATORY NO. 5**

Describe in detail the circumstances in which Applicant first became aware of Opposer and Opposer's Marks, including the date, and identify the Person(s) acting on behalf of Applicant who first became aware of Opposer and Opposer's' Marks.

**RESPONSE TO INTERROGATORY NO. 5:**

Applicant became aware of Opposer's mark when it filed the opposition and the Trademark Trial and Appeal Board served a copy of same on Applicant on November 15, 2004.

**INTERROGATORY NO. 6**

Identify any and all representatives of Applicant who knew of Opposer prior to the conception and adoption of Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 6:**

There are no representatives of Applicant who knew of Opposer prior to the conception and adoption of Applicant's Mark. As noted in response to Interrogatory No. 5, Applicant learned of Opposer when the opposition was filed.

**INTERROGATORY NO. 7**

Describe in detail any instances in which Applicant has received any oral or written communication which refers or relates in any way to Opposer and/or Opposer's Marks, and describe in detail all documents which refer or relate in any way to said communication.

**RESPONSE TO INTERROGATORY NO. 7:**

Applicant has not received any oral or written communication which refers or relates in any way to Opposer and/or Opposer's Marks.

**INTERROGATORY NO. 8**

Describe in detail all goods and/or services, including generic descriptions, offered or intended to expected to be offered, or rendered or expected to be rendered, by Applicant under or in connection with Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 8:**

VidaCare, Inc. is a NYS licensed HIV Special Needs Plan, also known as a prepaid health service plan that arranges for comprehensive medical assistance to persons enrolled in the Plan, who are New York City residents that are living with HIV/AIDS who also have Medicaid.

VidaCare does not provide services for commercial sale or purchase. VidaCare contracts with various healthcare facilities and providers - including hospitals, community based providers and private physicians - for the provision of related primary and specialty care, ancillary services and hospital services to its members.

**INTERROGATORY NO. 9**

For each of the goods and/or services described in the preceding Interrogatory, state the date of the first use and, if applicable, last use of Applicant's Mark in connection with such goods and/or services, and describe all documents relating to such use(s).

**RESPONSE TO INTERROGATORY NO. 9:**

VidaCare began operations in New York City in August 2003 and continues to operate in New York City in 2008.

**INTERROGATORY NO. 10**

Describe in detail the circumstances of first use of Applicant's Mark if any, in connection with any services anywhere and in interstate commerce, and describe in detail all documents referring or relating to such first use(s).

**RESPONSE TO INTERROGATORY NO. 10:**

VidaCare is licensed in New York State and operates in New York City only. There is no intention, nor plans, to operate outside of NYC and Westchester county which adjoins the five boroughs of New York City.

**INTERROGATORY NO. 11**

For each use of Applicant's Mark, describe the service(s) involved and whether Applicant itself performed each of the services sold, offered to be sold, or distributed under the Mark.



**RESPONSE TO INTERROGATORY NO. 11:**

VidaCare contracts with various healthcare facilities and providers - including hospitals, community based providers and private physicians - for the provision of related primary and specialty care, ancillary services and hospital services to its members.

**INTERROGATORY NO. 12**

State the names of the Persons employed in-house by Applicant in charge of marketing and advertising Applicant's services.

**RESPONSE TO INTERROGATORY NO.12:**

Maria Gonzalez, Director of Marketing/Enrollment, oversees the Plan's marketing and enrollment activities.

**INTERROGATORY NO. 13**

Describe in detail the distribution and marketing of any and all services and products under or in connection with Applicant's Mark, and describe each and every catalog, flyer, brochure, pamphlet, and price list, printed, used or distributed by Applicant which mentions or refers to services or products sold or offered for sale, or intended to be sold or offered for sale, under or in connection with Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 13:**

The Plan's marketing materials, which include a Plan specific brochure and State-mandated information, are distributed directly to potential applicants at HIV/AIDS organizations and the offices of contracted medical providers.

**INTERROGATORY NO. 14**

Describe in detail the persons and organizations to whom Applicant has made sales or offers for sale, or intends to make sale or offers for sale, of any services or products offered under or in connection with Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 14:**

Applicant maintains its response that VidaCare does not provide services for sale or purchase because it is not in the business of selling a commercial product. Applicant further supplements this response by stating:

- VidaCare is a non-for-profit organization that is authorized by the state of New York;
- Any individual who has Medicaid and who is living with HIV is eligible to enroll in VidaCare, a New York state authorized HIV Special Needs Plan, (“SNP”);
- If the individual enrolls in VidaCare, VidaCare is not only authorized, but is contractually obligated by the State of New York, to act as a coordinator and liaison between the individual living with HIV and their NY state Medicaid benefits;
- Thus VidaCare is not a fee for service commercial provider and does not make any profits;
- All of the members of VidaCare are Medicaid beneficiaries and therefore each member has access to their Medicaid benefits; and
- VidaCare works with its members to ensure that they get all of their Medicaid benefits in a manner that provides the most appropriate health care in the most cost-efficient manner.

**INTERROGATORY NO. 15**

Describe in detail the general degree of care exercised by customers, and intended customers, in purchasing the services or products identified in the answer to Interrogatory No. 8 which are offered in connection with the Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 15:**

To the best of Applicant's knowledge the individual who seeks out Applicant does so on a voluntary basis. Applicants, or potential members, do not pay for, nor do they purchase, services or products. Through word of mouth in the community that services individuals with HIV, the potential or new member learns that VidaCare (a) offers an extensive network of HIV specialist physicians and caregivers; (b) offers the additional support services that are specifically designed to assist individuals living with HIV and provides educational programs designed to promote health; as well as (c) offers health maintenance incentives that supports the individual in accessing preventative and primary care, knowing their lab results, and making informed decisions about their health care options.

**INTERROGATORY NO. 16**

Describe in detail the marketing channels Applicant utilizes or intends to utilize in advertising its services or products identified in the answer to Interrogatory No. 9 which are offered, or intended to be offered, under or in connection with Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 16:**

VidaCare intends to market its HIV Special Needs Plan to Medicaid recipients in New York City through paid advertisements in local community papers and HIV/AIDS publications. Since the Plan's license and operations are limited to New York City, it is not cost-effective or

productive to advertise in national publications or entities whose distribution includes or focuses on non-New York City markets.

**INTERROGATORY NO. 17**

With respect to each of the services offered by Applicant under or in connection with Applicant's Mark, state the appropriate dollar amount of annual sales and revenues from the inception of use through the present, broken down by service and product, if any, and year.

**RESPONSE TO INTERROGATORY NO. 17:**

As previously stated, VidaCare does not sell services. As an insurer, the Plan has Medicaid premium revenues, and as the payor of medical care for its members, the Plan has paid medical claims, as follows (subject to annual adjustments as claims may be submitted up to two years from the date of service):

	<i>Medicaid Premium Revenues</i>	<i>Medical Claims Payments to Provider</i>
2003	\$305,000	\$258,000
2004	\$1,992,000	\$1,537,000
2005	\$3,101,000	\$2,145,000
2006	\$5,743,000	\$3,642,000
2007	\$7,902,700	\$5,775,000

The above figures are estimates, which are adjusted periodically (monthly, quarterly and annually). Premium revenues and medical costs for prior periods are adjusted to reflect changes to Medicaid rates, covered benefits, contracted rates, timely filing claims submission standards, non-par/out-of-network filing parameters, and stop loss insurance adjustments.

**INTERROGATORY NO 18**

State the approximate dollar amount of annual expenditures of Applicant for advertising and promoting the goods and/or services which are sold or offered for sale under or in connection

with Applicant's Mark from the inception of use through the present, broken down by individual service and product, if any, and year.

**RESPONSE TO INTERROGATORY NO. 18:**

VidaCare's modest marketing budget reflects its New York City focused activities. In 2007, the Plan budgeted \$165,000 on marketing/advertisements and spent \$102,000. Applicant supplements its answer by stating its Marketing/Advertising expenditures for the periods 2003-2007 were between 1.1% and 1.6% of annual expenses, or approximately:

- 2003 - \$48,000;
- 2004 - \$44,000;
- 2005 - \$65,000;
- 2006 - \$88,000; and
- 2007 - \$102,000.

**INTERROGATORY NO. 19**

Describe in detail each advertising campaign which focused on, highlighted, or otherwise promoted Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 19:**

While the New York City Department of Health Mental Health approved three (3) advertisements in 2007; the Plan will not release those ads until early 2008 in local community papers. These ads were also approved for use as flyers, and have been distributed as such.

With respect to the years prior to 2007, there have been no posted paid advertisements.

While the City and State Health Departments approved marketing materials for distribution, no paid advertisements were place in any of the above periods. Several consultants and approximately 30 actual health plan members (called Peer Marketing Assistants) provide presentations and distribute approved promotional materials (brochures, flyers, and give away

items that cost under \$5 such as pens and pill boxes). These were distributed at health fairs, support groups, community meetings, city government benefit offices, and provider offices.

Applicant also states that there are approximately 65,000 persons living with HIV/AIDS in New York City and approximately 35,000 are eligible to join a NY licensed HIV Special Needs Plan. There are three HIV SNPs, including VidaCare. There are 3,000 HIV SNP members, of which VidaCare's membership of 600 constitutes 20%. HIV SNP enrollment is voluntary. Given the nature of the complex health and confidentiality needs of people living with HIV/AIDS, as well as the finite population eligible to join the Plan; VidaCare seeks to target its promotional activities to directly market at sites known to be serving this population. These targeted approaches are appropriate, prudent and cost effective.

**INTERROGATORY NO. 20**

Describe in detail the Market in which Applicant sells or offers for sale, or intends to sell or offer for sale, its services or products which are offered under or in connection with or bear Applicant's Mark. Market is defined as the level(s) of customers, including but not limited to retail, wholesale, distribution or manufacturing, and the business and profession of the customers sold to.

**RESPONSE TO INTERROGATORY NO. 20:**

As previously stated, VidaCare does not sell services. VidaCare markets/advertises its NYS licensed HIV Special Needs Plan in New York City only. Applicant further incorporates its responses to Interrogatory Nos. 14, 15 and 19 in their entireties as being responsive to this Interrogatory.

**INTERROGATORY NO. 21**

Describe in detail any and all incidents in which there has been actual confusion between Applicant's use or intended use of Applicant's Mark and Opposer's use of Opposer's Mark,

including without limitation each inquiry Applicant has received as to whether the services Applicant offers, or intends to offer, under or in connection with Applicant's Mark are associated with, affiliated, sponsored by, or connected with Opposer.

**RESPONSE TO INTERROGATORY NO. 21:**

There have been no incidents of actual confusion.

**INTERROGATORY NO. 22**

Describe in detail any search(es) or investigations(s) of any records, such as U.S. Patent and Trademark Office records, state trademark records, trademark or trade publications, business directories, or the records of any trademark service organization, conducted by or on behalf of Applicant prior to Applicant's adoption or use of the Applicant's Mark, including without limitation those conducted in order to ascertain whether the Applicant's Mark might infringe the trademark rights of others.

**RESPONSE TO INTERROGATORY NO. 22:**

Applicant conducted a trademark search of VIDACARE in 2003. The search report is attached.

**INTERROGATORY NO. 23**

Describe in detail all documents and communications relating or referring to any survey, research report, market analysis, public opinion poll, or study of consumer reaction, including the results of any such undertaking, conducted by Applicant or on Applicant's behalf concerning either Opposer's Mark or Applicant's Mark.

**RESPONSE TO INTERROGATORY NO. 23:**

Applicant has not conducted any surveys, research reports, market analysis, public opinion polls, or studies of consumer reaction concerning either Opposer's Mark or Applicant's Mark. Between 2001-2002, (before the incorporation of Applicant), ADSPI conducted a survey of approximately 250 AIDS Adult Day Health Care enrollees. These New York City residents

were people living with HIV/AIDS (PWHAs) who had Medicaid. This group selected "VidaCare" as their preferred name for the new HIV Special Needs Plan. No other research, market analysis, polls or studies were conducted by the Plan. Given the shift in HIV/AIDS care delivery away from end-stage disease management to "living" with a chronic health condition; the word "Vida" which is Spanish for "life," when combined with the word "care" ("life care") resonated for these PWHAs.

**INTERROGATORY NO. 24**

State the name of each Person who furnished any information on which any part of any answer to these Interrogatories is based, indicating for each Person identified each interrogatory or subpart which such Person answered or assisted in answering, and whether the information so furnished is within the personal knowledge of each Person and, if not within the Personal knowledge of such Person, describe the source of the information so furnished.

**RESPONSE TO INTERROGATORY NO. 24:**

Doug Wirth, Chief Executive Officer - Every Interrogatory Response.

Rence Martinez, former Chief Operating Officer - Response Nos. 3, 4, 14, 18, 19, 20

Charles G. Lief, former Board Member & Consulting CEO - Response Nos. 3, 4, 14 and 20.

Respectfully submitted,  
VidaCare Inc.



\_\_\_\_\_  
Doug Wirth, CEO

Date: March 18, 2008



# EXHIBIT E



## *An Industry Leader In The Competitive Managed Care Arena*

### OVERVIEW

La Vida Medical Group & IPA is a privately owned physician organization providing medical care to patients throughout Los Angeles County. The company's roots began in 1985 with a small network of physicians dedicated to providing superior care in the emerging managed care industry. Today, the organization has grown into a powerful network of about 3,500 physicians, working to optimize the delivery of medical services in today's complex health care marketplace. La Vida's provider network has a common mission: To provide high quality health care to an ethnically and culturally diverse population, more cost effectively, and with a higher level of service and caring than is available anywhere in Southern California.

La Vida is contracted with more than 450 primary care and over 3,000 specialist physicians, to provide care to members of more than 15 health care plans. Currently, La Vida has about 200,000 members, placing it in the ranks of the largest and most sophisticated physician groups in the region.

La Vida's current record increase in membership is largely due to the growth of its provider network, which is hand picked and unique. Solo-practitioners who have been providing care to Los Angeles County residents for many years, account for upwards of 90% of La Vida's provider network. In addition, they reflect the ethnic and cultural diversity of the communities in which they serve.

The economic realities of today's health care marketplace have given rise to fierce competition and profit margins that are slim, at best. There is constant attrition in the number of health plans and health care providers due to increased regulatory pressure. Instability, insolvency, forced acquisitions and mergers, have become the order of the day in an erstwhile benign environment.

Despite rate freezes and industry cutbacks, La Vida has remained an extremely viable enterprise, without skimping on quality, service, or excellence. Our providers and ultimately, our patients, have been the real beneficiaries of the stability and growth, which are direct outcomes of the La Vida way of doing business- by *Bringing Quality to Life!*

### *Cutting-edge Technology*

La Vida is proud to be a leader in medical information systems. We realize what others don't- "most physicians want to focus on providing care to their patients, not maneuvering through bureaucratic red tape..." La Vida has responded to this need by developing state-of-the-art

information distribution systems to alleviate the administrative burden on the physician.

The offices of our primary care physicians are equipped with the *La Vida Net* systems. Although equipped with patent-ready software, this user-friendly system offers physicians fast, reliable, access to eligibility information, authorizations and billing, while providing encounter data to the IPA. This technology is currently available at 140 physician locations that combined, account for over 60% of La Vida's membership. Additional installations are constantly being implemented, in our bid to remain at the forefront of the managed care delivery system.

### *Superior Customer Service*

La Vida offers superior customer service to its physicians and members and is committed to a "personal touch" approach to health care. Contracted physicians can expect phone calls to be returned the same day. Authorizations are approved and distributed in a timely manner. Claims for services are paid accurately and within 30 to 45 days of receipt. La Vida encourages physician participation in IPA decisions through voluntary weekly meetings at area hospitals. Any member who calls La Vida Medical Group & IPA can expect to be treated with utmost courtesy and respect.

## PRODUCTS & SERVICES

### *Core Business Function*

La Vida Medical Group & IPA capitalized on its depth of experience and expertise, in developing its core business functions, which include:

#### ■ Information Management.

La Vida's reliance on information processing as an integral part of Quality Service and Delivery dictated the development of a proprietary system to generate, organize, and utilize member and provider data banks. Designed to operate in a scalable and dynamic environment, it adroitly maneuvers through multiple tasks of effective IPA management, including: Electronic Eligibility (including member eligibility history and demographics; Authorization Tracking System; Claims Analysis; Credentialing Access and Document Repository; Real Time Financial Reporting; as well as Electronic Exchange & Communications. In terms of clinical management, La Vida physicians have at their disposal, information that had previously been inaccessible, enabling them to expertly disburse care among a diverse patient population, without a decrease in response time, detail, or quality. Using these tools, their resultant decisions have led to a marked decrease in incidents of avoidable hospitalization and unusually broad diagnostic parameters. By contrast, patient education and health maintenance procedures have shown a distinct upward trend.

Most recently, La Vida incorporated a state of the art integrated healthcare management information system which essentially provides ease and agility of viewing / sharing pertinent information and data between La Vida, it's physicians, health plans and even patients, where appropriate. By so doing, La Vida stays true to it's innovativeness and willingness to adapt to positive changes in healthcare management well before they are mandated. Thus HCC coding, CCS patient identification, encounter-based chronic disease management, health and wellness education and more, will all be enhanced.

#### ■ Provider Contracting.

La Vida employs Regional Network Managers and Business Development Managers, who negotiate and service physician contracts with the key emphasis being on service. Unlike other groups where physicians are simply part of a numbers game, the signing of the contract is not the highlight but rather the beginning of a close partnership. Business Development Managers pride themselves in understanding and managing the key elements of successful working relationships with physicians. Our goal in each individualized contractual agreement is to launch a strong, successful relationship that will promote growth and longevity for both the physician and La Vida. Once the physician is a part of the La Vida family, the Network Manager provides one on one, hands-on, on-site interaction on a monthly basis. This allows La Vida to keep its finger on the pulse of our providers' needs, eliminating guesswork, while improving efficiency and response time. Although we have earned the trust of our physicians, we do not rest on our laurels. Through self-evaluation and objective feedback from our physicians, we hold ourselves accountable to the high standards of quality and personalized service we have set in the industry.

#### ■ Provider Credentialing.

To ensure the very best care for our patients, La Vida institutes extensive background checks on physicians through electronic access to most Physician Reporting Agencies. Education and licenses are verified while malpractice complaints are carefully reviewed. In this manner, La Vida Medical Group & IPA has amassed the finest physician network, anywhere.

#### ■ Utilization and Quality Management.

A sophisticated systems component, which automatically generates and faxes pertinent forms to the appropriate physician's office, is at the heart of this department's effectiveness and success. The Utilization Management ("UM") team, processes authorizations and referrals with review by the Quality Management ("QM") team, to ensure compliance with CMS, DMHC & health plan and health plan guidelines. La Vida retains highly trained nurses, available 24 hours a day, to assist in authorizing inpatient care. In addition, they actively monitor all hospitalized patients, on an ongoing basis, to ensure they are receiving appropriate care. The tracking capability of La Vida's software also enables us to generate outcome analysis of inpatient admissions. The QM staff assists our exclusive providers with facility site reviews to ensure patient safety and compliance with regulatory agencies. The UM/QM/Credentialing Departments are instrumental for provider appointments, submission of provider to health plans, Health Education, Culture and Linguistics, Grievances, and overall satisfaction with Quality Management services. The QM/Credentialing Department has obtained delegation status with every health plan and received special commendation from LA Care. The department has established productivity standards and usually exceeds these thresholds.

#### ■ Claims Processing.

La Vida processes approximately 400,000 claims annually using the EZ-Cap 4.1 system. La Vida's Claims Department has received accolades from all of our contracted health plans for excellent audit scores on claims paid timely, efficiently and accurately. Check runs are weekly to all La Vida providers and it is a policy of La Vida Medical Group & IPA to ensure checks are mailed within 24 hours from the date of processing. Contracted providers have the option to submit claims

electronically. Reporting capabilities include analysis of virtually any combination of the following elements: health plan, product type, provider, claim status, procedure, diagnosis, place of service, authorization, date received, entered, paid. When necessary, claims are easily matched to related authorizations for accurate computation of IBNR obligations. La Vida is able to accept electronic claims submissions in NSF 2.0 format. Use of confidential log-ins and differing levels of access guarantees rigorous maintenance of system security for each cleared employee. In an aspect of the health care delivery system, where speed is of the essence but often comes at the cost of accuracy and due diligence, we are proud to stand head and shoulders above the rest.

■ Eligibility Reporting.

Each primary care physician's Member Eligibility Lists are made available monthly and are interactively updated by La Vida and the participating physicians. From these lists, Capitation payments are computed and cross-referenced. Salient features of La Vida's Eligibility Department include verification of eligibility for most health plans on-line; same day turnaround of eligibility enquires; immediate phone response; detailed e-lists which are printed and mailed by the 10<sup>th</sup> of every month.

■ Encounter Data.

La Vida boasts one of the most advanced encounter data collection systems in the industry. Primary care physicians have multiple options for electronic submission of encounter data to the IPA: through a "print-to-file" of their HCFA-1500 forms, submission of data in NSF 2.0 format, or through the use of La Vida's computer systems, as described above.

## CUSTOMERS & MARKETS SERVED

La Vida Medical Group & IPA serves a broad range of members in a variety of markets, from individuals eligible for Medicare to members of large employer groups. All of our patients have a common need to receive high-quality health care in an expeditious manner. Health plans, physicians, and patients constitute our client base. In addition, La Vida maintains business partnerships with numerous area hospitals.

### *Contracted Health Plans*

La Vida has contracts with 15 health plans to provide services to Commercial, Medicare and Medi-Cal members. This represents 200,000 or more people, whose lives are positively impacted by our dedication to ***Bringing Quality to Life!*** Our Honor Roll of V.I.P.s [Very Important Plans] in alphabetical order, includes:

- Aetna/US Healthcare
- Blue Cross of California
- Blue Shield of California
- Care 1st Health Plan
- Cigna Health plan
- Community Health Plan
- Health Net
- LA Care

- Molina
- Great West
- PacifiCare
- SCAN
- Secure Horizon
- UHP Healthcare
- Universal Care

*Affiliated Hospitals*

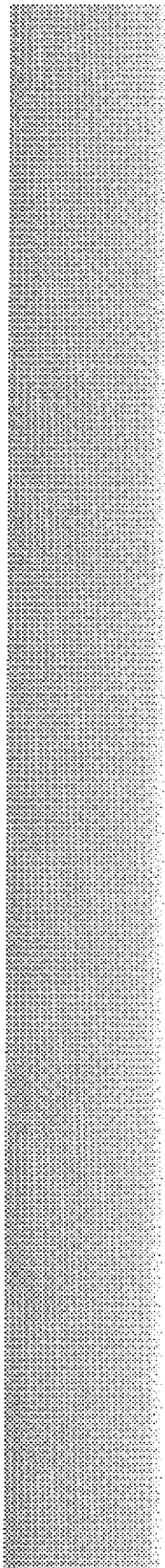
Some of the finest medical facilities in the region count on La Vida Medical Group & IPA as a solid "Go-to" partner in quality health care delivery. We are honored by the trust of the following V.I.P.s [Very Important Partners]:

- Catholic Healthcare West
  - St. Francis Medical Center
  - St. Vincent Medical Center
  - California Medical Center
  - Centinela Freeman Health Systems
  - Glendale Adventist Hospital
  - Glendale Memorial Hospital
  - Greater El Monte Hospital
  - Queen of Angels/Hollywood Presbyterian Hospital
  - St. Joseph's Medical Center
  - Suburban Medical Center
  - Memorial Hospital of Gardena
  - Long Beach Memorial Medical Center
  - Cedar Sinai Medical Center
  - Beverly Medical Center
  - Little Company of Mary Hospital
  - Little Company San Pedro Hospital
  - Garfield Medical Center
  - Monterey Park Hospital

*Service Area*

La Vida Medical Group & IPA is meticulously pursuing its goal of "blanketing the Southland with quality". While eschewing uncontrolled growth, we have successfully planned and implemented expansion into these V.I.P.s [Very Important Places]:

- Hawthorne/Inglewood



- Compton/Watts
- Carson/Gardena
- Torrance
- Harbor City
- Wilmington
- Redondo Beach
- Long Beach
- South Central Los Angeles
- Downtown Los Angeles
- Lynwood
- San Gabriel Valley
- San Fernando Valley
- Glendale/ Burbank
- San Pedro

# EXHIBIT F



## *FROM THE DESK OF THE PRESIDENT...*

Perhaps the most telling aspect of La Vida Medical Group is its name. Since its inception, we here at La Vida, have never lost sight of the fact that our business is ultimately about Life- the fullness, vibrancy and quality of life, for our patients. Both in our clinics and in our IPA physician's offices, patients are our motivation and inspiration, as we deal with the daily challenges and opportunities inherent in the health care delivery system. Consequently, a contagious enthusiasm, which is almost palpable, permeates our entire organization.

The 1980's were a period in which our fledgling company concentrated on establishing and developing business relationships and core systems across a broad spectrum, in an effort to gain a foothold in the emerging managed care industry. The 90's saw La Vida assembling a strong, cohesive, similarly motivated team of individuals, operating at the peak of their potential. Armed with a superior knowledge base and a mandate to be innovative, they were poised to make an impact!

As the year 2000 approached, our goals for the new millennium included expanding and recreating both our highly successful IPA and our innovative group models, by absorbing less successful groups / entities. With built in flexibility for adjustments to specific parameters unique to each situation, we knew we had a sound strategy and a winning combination. Consequently, La Vida embraced the challenge presented by the embattled Friendly Hills Clinics.

Upon acquisition of four Friendly Hills sites, our patient population surged, bringing us into the ranks of the largest and most influential managed care groups in Southern California. Beyond numbers we were determined to make a real difference in the healthcare paradigm. Therefore, exhaustive research and strategic planning was conducted before we committed to the acquisition of the Grand Avenue, Gardena, Fox Hills and Civic Center Clinics, creating the La Vida Multi-Specialty Medical Centers (La Vida MMC).

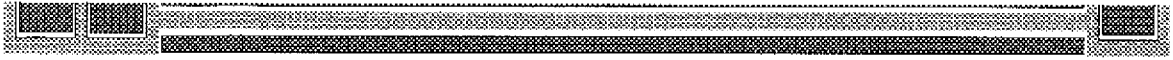
We created a unique model for the clinics that would ensure long term viability, while improving services to our entire patient population. One of the key aspects of this model was making the primary care physicians partners as opposed to employees. La Vida empowered them to make key decisions regarding the administration of their particular sites in addition to sharing in the incentive/risk pools. Our plan called for specialists to transition from being mere vendors to being an integral part of the La Vida Network by being contracted on a capitation or fee for service schedule.

This model was again put to test with La Vida's acquisition/ merger with the ailing Prairie medical Group in 2003. The result has been a positive turn around and a healthy outlook for La Vida Prairie. Today, in a paradigm where Friendly Hills, Med Partners, KPC and others failed, La Vida has been successful: Our Physician Partners are enthused and our multi-specialty centers are thriving.

A visionary approach characterizes our orientation to the unique challenges ahead. Consequently, our pre-emptive, anticipatory, stance is designed to propel us towards problem prevention as opposed to problem management as our style of doing business. In the arid landscape that is today's healthcare industry, La Vida Medical Group truly stands out as a refreshing alternative. We are innovative, motivated, and prepared!

Keeping ahead of technological, statutory, and fiscal developments that affect the health care industry, remains of paramount importance, as we seek to not only exceed the highest industry standards, but to set new one's for others to emulate. As we stay true to the original principles upon which La Vida Medical Group and IPA was founded, we can confidently assert to our clients and partners, "Go ahead, demand quality, expect excellence... we do!"

Bringing Quality to Life,  
Christopher C. Chidi, M.D.  
President



# EXHIBIT G

## PRESIDENT'S UPDATE

La Vida Medical Group & IPA continues to outpace industry expectations and forecasts in all major areas of operations, market share and profitability. It was recently ranked #1 in the state, in a major independent health plan audit. La Vida has the best accessibility to physicians, the highest patient satisfaction and the lowest percentage of grievances, etc.

Spurning the typical "bureaucratic pyramid" with its limitations, in favor of a "multi dimensional team" model of management has paid dividends for La Vida. The result is a company that is in demand as the "weight-bearing" half of several thriving partnerships. In order to effectively handle its increasing network, La Vida has implemented several key changes to its operations.

A few years ago, La Vida's Information Systems department transitioned to the EZ-Cap System, with its most notable application being "La Vida Net," which provides web-enabled access into the EZ-Cap system for our partners. The advantages are myriad. It offers almost unlimited capacity to handle exponential growth with minimized upgrade/transition time. In addition, a significant number of our new partners and providers are already familiar with the system, reducing training time. La Vida-Net offers fast and easy access to not only authorization and electronic claims submission but also to eligibility information/ status. The final frontier remained the ease of viewing and sharing real-time data between La Vida, our plan partners, hospitals, physicians, DHS and when appropriate, individual patients. With the recent inception of E-HealthLine, an innovative, integrated healthcare information management system, La Vida has stepped boldly into that frontier, establishing the pace for HCC coding, CCS identification and claims adjudication industry wide, while retaining all the fore-going advantages.

Building strong brand-name recognition for La Vida; making corporate image our #1 product and ensuring that the afore-mentioned is solidly backed by superior patient care, has been the singular focus of the Corporate Image and Visibility department. In conjunction with the Business Development / Network Management department, it has planned and successfully implemented Health fairs, Open houses, Flu / Vaccination clinics, Continuing Medical Education Conferences, etc.

La Vida is committed to developing a complete marketing program around physicians' practices, utilizing a blend of traditional and innovative marketing strategies. The success of this model is fueling the next phase of marketing, which will focus on physicians with new practices. The residency programs of our partner hospitals are ideal proving grounds for our motivated marketing team. La Vida is committed to building, supporting and fostering the medical communities around these hospitals, as well as furthering the career and business objectives of physicians new to private practice.

There is currently no other entity in the industry with the foresight, energy and expertise to successfully implement and sustain continued growth, profitability and impact in a challenging economic climate. La Vida looks forward to continuing its tradition of consistently delivering on its promise, one region, one group, one practice, one patient, at a time.

# EXHIBIT H



100 Beach Blvd.  
Suite 201  
Laguna Hills, CA 90260

Phone 310 214 8677  
Fax 310 214 8676



April 23, 2008

You are visitor number:

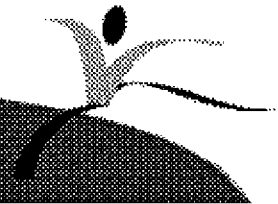


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# EXHIBIT I



<a href="#">Overview</a>	<a href="#">Products &amp; Services</a>	<a href="#">Members &amp; Markets</a>	<a href="#">Career Opportunities</a>	<a href="#">Contact La Vida</a>
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## Members & Markets

La Vida Medical Group & IPA serves a broad range of members in a variety of markets, from individuals eligible for MediCare and MediCal to members of large employer groups. All of our patients have a common need to receive high-quality health care in an expeditious manner. Health plans, physicians, and patients constitute our client base. In addition, La Vida maintains business partnerships with numerous area hospitals.

[Home](#)



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# EXHIBIT J

# La Vida Medical Group & IPA

[x Welcome](#)

[Home](#)

[x News](#)

[x Health Plan Products](#)

[x Services](#)

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## Welcome to Our Website

La Vida Medical Group & IPA is a full service association of over 200 Physicians and Medical Care Facilities. We are committed to providing affordable and quality care to our patient clients in the Southern California area through our affiliation with over 10 major Health Care Companies.



Much of our site is Under Construction. Check back with us frequently for new information and features which will be made available to both members and affiliated providers!

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## Company Profile

La Vida Medical Group & IPA provides primary medical and specialist physician care to individuals and families living in the geographic areas bordered by Inglewood on the north, Whittier on the east, Long Beach on the south and the Pacific Ocean on the west. We are contracted with many of the major health care providers serving that geographic area.

We are members of NIPAC, the National Independent Physicians Association Coalition and our physicians are all fully credentialed, established practitioners.

We provide 24 hour consultation to our members and work closely with the Health Plan Administrators to provide a high level of member service and response.

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## Contact Information

You can reach our organization by calling the number listed below and asking to speak with our marketing administrator, provider relations administrator, or group administrator. We encourage your inquiries and look forward to providing you and your family quality medical care.

**Telephone**

(310) 214-8677

**FAX**

(310) 214-8676

**Postal address**

4161 W. Redondo Beach Blvd. Suite 201 Lawndale, California  
90260

**Electronic mail**

General Information: [admin@lavidamed.com](mailto:admin@lavidamed.com)

Marketing: [marketing@lavidamed.com](mailto:marketing@lavidamed.com)

Member Relations: [utilize@lavidamed.com](mailto:utilize@lavidamed.com)

Provider Relations: [providers@lavidamed.com](mailto:providers@lavidamed.com)

Webmaster: [webmaster@lavidamed.com](mailto:webmaster@lavidamed.com)

Send mail to [webmaster@lavidamed.com](mailto:webmaster@lavidamed.com) with questions or comments about this web site.

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Last modified: March 19, 1998

**CERTIFICATE OF SERVICE**

It is hereby certified that a copy of the foregoing OPPOSER'S NOTICE OF RELIANCE  
has been sent by first class mail, postage prepaid to the attorney of record for Applicant:

Lawrence E. Abelman, Esq.  
Julie B. Seyler, Esq.  
Abelman, Frayne & Schwab  
666 Third Avenue  
New York, NY 10017-5612

Dated: April 24, 2008

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Michelle Boothby