

Ordinance No. \_\_\_\_\_

An ordinance proposed by initiative petition to add Article 7 to Chapter X of the Los Angeles Municipal Code, establishing the “Limit Excessive Healthcare Executive Compensation Ordinance.”

**THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:**

SECTION 1. *Name*

This measure shall be known as the “Limit Excessive Healthcare Executive Compensation Ordinance.”

SECTION 2. Section 107.00 is added to the Los Angeles Municipal Code to read:

Sec. 107.00. *Findings and Purposes*

This Ordinance, adopted by the People of the City of Los Angeles, makes the following Findings and has the following Purposes:

The promotion and safeguarding of public health, safety, and the general welfare is within the authority of the City of Los Angeles, granted to it by the Charter, the California Constitution, and the laws of this state. The People of the City are concerned with ever-rising healthcare costs within City borders, the difficulties that people living and working in the City face in finding high-quality, affordable, and accessible medical care, and the stark discrepancies between the compensation of hospital and other healthcare executives and frontline staff members.

The compensation paid to chief executive officers, executives, managers, and administrators of hospitals and other healthcare facilities is often excessive, unnecessary, and inconsistent with the mission of providing high-quality, affordable medical care for all. This is especially true in light of the glaring inequalities that the ongoing Covid-19 pandemic has exposed. Excessive compensation diverts funds that could be invested in providing high-quality care and expanding access to affordable medical care for all City residents, undermining public confidence that the chief concern of our major healthcare providers is serving the community, not enriching individuals. It is particularly problematic at nonprofit hospitals that do not live up to their obligations to serve the poor and uninsured. Executives, managers, and administrators of hospitals and other healthcare facilities can be reasonably compensated without receiving more than the President of the United States of America, currently \$450,000 per year. At \$450,000 per year in compensation, Los Angeles hospitals and healthcare facilities will be more than able to attract and retain effective executive leadership.

SECTION 3. Section 107.01 is added to the Los Angeles Municipal Code to read:

Sec. 107.01. *Healthcare Executive Compensation.*

a) Covered Compensation from any source for any Covered Executive shall not exceed the total compensation for the President of the United States, currently \$450,000, as set forth in section 102 of Title 3 of the United States Code.

b) Payments, compensation, or remuneration for work performed or services provided at or for a Covered Healthcare Facility by a Covered Executive shall count toward the limits set forth in this section even if made by a separate entity.

c) Payments, compensation, or remuneration by a separate entity that is purported not to be for work performed or services provided at or for a Covered Healthcare Facility by a Covered Executive but that is unreasonably disproportionate to its purported purpose, or designed to evade the limitations in this Section, shall constitute a violation of this Section.

d) The limitations in this Section shall apply to arrangements made or authorized on or after the date the City Clerk certified that the ordinance initiative petition containing this article had sufficient valid signatures to qualify the initiative ordinance enacting this article for the ballot.

SECTION 4. Section 107.02 is added to the Los Angeles Municipal Code to read:

*SEC. 107.02. Reporting and Disclosure.*

a) Every Covered Healthcare Facility shall maintain records for at least four (4) years showing compliance with the requirements of this article, including Covered Compensation for all Covered Executives; as well as such other information as the City shall from time to time require.

b) Within nine months after the close of the fiscal year, the Covered Healthcare Facility shall file a certification and annual report documenting compliance with this article, signed under penalty of perjury. The certification must be completed on a form provided by the City Attorney. The annual report must show all Covered Compensation for all Covered Executives that is within 75% of, at, or above the Covered Compensation allowed by this article.

c) The City Attorney shall have the authority to arrange for and conduct an audit for compliance with this "Reporting and Disclosure" section and this article. The City shall notify the Covered Healthcare Facility in writing at least seven (7) days prior to the date of the audit. The Covered Healthcare Facility shall make available for inspection and copying its books and records during regular business hours upon reasonable notice, and those of any relevant affiliate entity(ies). Refusal to allow or to permit such an audit after a lawful demand by the City Attorney constitutes a Willful Violation of this article.

SECTION 5. Section 107.03 is added to the Los Angeles Municipal Code to read:

*SEC. 107.03. Enforcement and Remedies.*

a) Any Person who violates any provision of this article shall be liable in a civil action brought by the City Attorney, by any Person aggrieved by a violation of this article, by

any entity a member of which is aggrieved by a violation of this article, or any other Person or entity acting on behalf of the public.

b) Any Person who violates any provision of this article may be liable for an amount up to \$1,000 for each violation. Each and every day during which any violation is committed, continued, or permitted is a separate violation of this article. Interest shall accrue at the rate of 10% per annum as penalties become due and payable.

c) Any Person committing a Willful Violation of any provision of this article shall, in addition to the penalties specified in this section, be subject to additional penalties in the amount of \$1,000 per Willful Violation. Each and every day during which a Willful Violation is committed, continued or permitted is a separate Willful Violation of this article.

d) Any Covered Healthcare Facility that fails to comply with the requirements of Section 107.02 shall be liable for an amount up to \$1,000 for each day a compliant report is delinquent.

e) Any Person, before filing a civil action pursuant to this section, must first file with the City Attorney a written request for the City Attorney to commence the action. The request shall contain a statement of the grounds for believing a cause of action exists. The City Attorney shall respond within 40 days after receipt of the request, indicating whether the City Attorney intends to file a civil action. If the City Attorney indicates in the affirmative, and files suit within 40 days thereafter, no other action may be brought unless the action brought by the City Attorney is dismissed without prejudice. If the City Attorney does not respond within 40 days, or if it responds that it will not bring any action, the Person who filed the request with the City Attorney is entitled to bring a civil action as provided for herein.

f) Actions brought for the same violation or violations shall, to the extent allowable by law, be consolidated or coordinated in the court where the first-filed action is pending.

g) Any Person acting on behalf of a governmental entity that brings a civil action in a court of competent jurisdiction against any Person violating this article, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate including, without limitation, the payment of twice the amount of the required refund, penalties, and interest due, up to the maximum amount allowable by law, and for injunctive relief, and shall be awarded reasonable attorneys' fees and expenses; provided however, that any non-governmental Person or entity enforcing this article on behalf of the public shall, upon prevailing, be entitled only to equitable, injunctive or restitution relief, and reasonable attorneys' fees and expenses.

h) A court of competent jurisdiction shall have the authority to reduce the civil penalties assessed on any Person upon a showing by that Person that the civil penalty amounts, under prevailing constitutional due process standards, are confiscatory.

i) No civil action alleging a violation of any provisions of this article shall be filed more than four years after the date of the violation.

j) Within twelve months after the close of the fiscal year, any Covered Executive receiving Covered Compensation shall refund the excess amounts, if any, above that permitted

by this article, plus 10% per annum interest on any excess compensation, and pay any applicable penalties. Failure or refusal to refund the excess is a Willful Violation of this article and subjects the Covered Executive and any other Persons responsible to all available enforcement mechanisms, including but not limited to those provided for in this article.

k) Any Person violating any provision of this article shall be required to reimburse the full costs of the City for investigating and prosecuting the violation upon presentation of a bill for such costs.

l) The City Attorney shall be authorized to coordinate the implementation and enforcement of this article, including delegating such authority to a designated agent, and may promulgate appropriate guidelines or rules for such purposes consistent with this article. Any guidelines or rules promulgated shall have the force and effect of law. The City shall appropriate sufficient funds to enable the City Attorney to implement and enforce this article.

SECTION 6. Section 107.04 is added to the Los Angeles Municipal Code to read:

SEC. 107.04. *Co-Existence with Other Available Relief.*

All rights and remedies provided by this article shall be in addition to and apply notwithstanding any other provision of local, state, or federal law.

SECTION 7. Section 107.05 is added to the Los Angeles Municipal Code to read:

SEC. 107.05. *Severability.*

It is the intent of the People that the provisions of this article are severable and that if any provision set forth in this article, or the application thereof to any Person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this article that can be given effect without the invalid provision or application.

SECTION 8. Section 107.06 is added to the Los Angeles Municipal Code to read:

SEC. 107.06. *Definitions and Coverage.*

- a) “City” means the City of Los Angeles.
- b) “City Attorney” means the City Attorney and his/her designees, delegates and representatives.
- c) “Covered Compensation” means all remuneration paid, earned, or accrued in a fiscal year for work performed or services provided, including the cash value of all remuneration in any medium other than cash, included benefits, except as otherwise specified herein.
  - (1) Covered Compensation includes, but is not limited to, wages; salary; paid time off; bonuses; incentive payments; lump-sum cash payments; the fair market value of below market rate loans or loan forgiveness; housing payments; payments for transportation, travel, meals, or other expenses in

excess of actual documented expenses incurred in the performance of duties; payments or reimbursement for entertainment or social club memberships; the cash value of housing, automobiles, parking, or similar benefits; scholarships or fellowships; the cash value of dependent care or adoption assistance or personal legal or financial services; the cash value of stock options or awards; payments or contributions for insurance, deferred compensation earned or accrued, or for severance or its equivalent.

- (2) Covered Compensation includes severance or similar post-service or post-employment arrangements.
- (3) Covered Compensation does not include contributions or payments required to be made to or from employee benefit plans covered by the Employee Retirement Income Security Act, 29 U.S.C. § 1001 et seq. (ERISA), nor the cost of any benefit or remuneration to the extent the inclusion of that benefit or remuneration in calculating total annual compensation would cause the limitation established by this subdivision to be preempted by federal law or to violate the state or federal constitution.

d) “Covered Executive” includes any individual who is employed at or by a Covered Healthcare Facility and whose primary duties are or were executive, managerial, or administrative for the Covered Healthcare Facility even if that individual also performs or performed other duties, and regardless of whether the individual is or was an employee or compensated pursuant to contract or subcontract.

- (1) Non-exclusive examples of Covered Executives include chief executive officers, chief executive managers, chief executives, executive officers, executive directors, chief financial officers, presidents, executive presidents, vice presidents, executive vice presidents, senior vice presidents, administrators, and other comparable positions.
- (2) Covered Executive does not include any medical or health care professionals whose primary duties are or were the provision of medical services, research, direct patient care, or other non-managerial, non-executive, and non-administrative services.

e) “Covered Healthcare Facility” means the following types of facilities, provided that they are privately owned and are located within the boundaries of the City:

- (1) A licensed general acute care hospital as defined in Section 1250(a) of the California Health and Safety Code.
- (2) A clinic, as defined in Section 1206(d) of the California Health and Safety Code, that is conducted, operated, or maintained as an outpatient department of a general acute care hospital or acute psychiatric hospital.

- (3) A licensed acute psychiatric hospital as defined in Section 1250(b) of the California Health and Safety Code, including an acute psychiatric hospital that is a distinct part of another health facility.
- (4) A licensed skilled nursing facility, as defined in Section 1250(c) of the California Health and Safety Code, that is a distinct part of a general acute care hospital or acute psychiatric hospital.
- (5) A licensed residential care facility for the elderly, as defined in Section 1569.2 of the California Health and Safety Code, that is located or licensed at the same address as an acute psychiatric hospital or is located on the same campus or parcel of real property as an acute psychiatric hospital.
- (6) All facilities that are part of an Integrated Healthcare Delivery System.

f) “Covered Physician Group” means a medical group practice, including a professional medical corporation as defined in Section 2406 of the California Business and Professions Code, another form of corporation controlled by physicians and surgeons, a medical partnership, or an independent practice association, provided that the group includes a total of 10 or more physicians.

g) “Fiscal Year” means for purposes of this article, the period set forth in Section 310 of the Charter.

h) “Integrated Healthcare Delivery System” means a system that includes both of the following: (1) one or more hospitals and (2) Covered Physician Groups, health care service plans, medical foundation clinics, or other facilities or entities, where the hospital or hospitals and other facilities or entities are related through:

- (1) Parent/subsidiary relationships, common ownership or control, or common boards of directors and shared senior management; or
- (2) A contractual relationship in which affiliated Covered Physician Groups or medical foundation clinics contract with a health care service plan, hospital or other part of the system, all operating under a common trade name; or
- (3) A contractual relationship in which a nonprofit health care service plan provides medical services to enrollees in a specific geographic region of the state through an affiliated hospital system, and contracts with a single Covered Physician Group in each geographic region of the state to provide medical services to a majority of the plan’s enrollees in that region.

i) “Person” means a natural person, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether foreign or domestic.

j) “Willful Violation” means a Covered Healthcare Facility’s, Covered Executive’s, or other Person’s intentional failure or refusal to comply with any provision of this article. Such failure or refusal need not be based on a deliberate malicious purpose or intent to defraud. A continued failure or refusal to perform anything required by this article shall be a Willful Violation if that failure or refusal continues after notification of non-compliance.