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Proposed Counsel to Debtors and  
Debtors in Possession

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA - LOS ANGELES DIVISION

In re:

BEVERLY COMMUNITY HOSPITAL  
ASSOCIATION, dba BEVERLY HOSPITAL  
(A NONPROFIT PUBLIC BENEFIT  
CORPORATION), *et al.*<sup>1</sup>

Debtors,

Lead Case No.: 2:23-bk-12359

Jointly administered with:

Case No: 2:23-bk-12360

Case No: 2:23-bk-12361

Hon. Sandra R. Klein

Chapter 11 Case

☒ Affects all Debtors

☐ Affects Beverly Community  
Hospital Association

☐ Montebello Community Health  
Services, Inc.

☐ Beverly Hospital Foundation

**DEBTORS' EMERGENCY MOTION  
FOR ENTRY OF AN ORDER  
(I) AUTHORIZING THE  
IMPLEMENTATION OF PROCEDURES  
TO PROTECT CONFIDENTIAL  
PATIENT INFORMATION, AND  
(II) GRANTING RELATED RELIEF**

Date: April [•], 2023

Time: TBD

Judge: [TBD]

Place: Zoom.Gov – or - Courtroom 1575  
255 E. Temple St.  
Los Angeles, CA 90012

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Beverly Community Hospital Association d/b/a Beverly Hospital (6005), Montebello Community Health Services, Inc. (3550), and Beverly Hospital Foundation (9685). The mailing address for the Debtors is 309 W. Beverly Blvd., Montebello, California 90640.



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1 **I.**

2 **RELIEF REQUESTED**

3 The above-captioned debtors and debtors in possession (collectively, the “Debtors”)<sup>2</sup> hereby  
4 move, on an emergency basis (this “Motion”), to seek entry of an order, substantially in the form  
5 attached hereto as **Exhibit A** (the “Order”): (a) authorizing the implementation of procedures to  
6 protect confidential patient information as set forth herein, and (b) granting related relief.

7 **II.**

8 **JURISDICTION AND VENUE**

9 The United States Bankruptcy Court for the Central District of California (the “Court”) has  
10 jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *General Order No. 13-05*  
11 (C.D. Cal. Jul. 1, 2013), and Rule 5011-1(a) of the Local Bankruptcy Rules for the United States  
12 Bankruptcy Court Central District of California (the “Local Bankruptcy Rules”). This is a core  
13 proceeding pursuant to 28 U.S.C. § 157(b).

14 Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

15 The bases for the relief requested herein are sections 105(a), 107, and 521(a)(1) of the  
16 Bankruptcy Code, Bankruptcy Rules 1007, 9018, and 9037, and Rule 5003-2(c) of the Local  
17 Bankruptcy Rules.

18 **III.**

19 **STATEMENT OF FACTS**

20 **A. The Debtors’ Background.**

21 Beverly Hospital is a nonprofit, 202-bed hospital in Montebello that serves low-income  
22 patients in the nearby Los Angeles area. As a safety net hospital, Beverly serves a geographic area  
23 where half of the populations lives under the 200% Federal Poverty Level. Beverly has been  
24 historically underfunded and, in the post-Covid economy, became increasingly cash-strapped. With  
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26 <sup>2</sup> A detailed description of the Debtors and their business, and the facts and circumstances supporting this Motion  
27 and the Debtors’ chapter 11 cases, are set forth in greater detail in the *Declaration of Alice Cheng in Support of the*  
28 *Debtors’ First Day Emergency Motions* (the “First Day Declaration”), filed contemporaneously with the Debtors’  
voluntary petitions for relief filed under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”),  
on the date hereof (the “Petition Date”). Capitalized terms used but not otherwise defined in this Motion have the  
meanings given to them in the First Day Declaration or elsewhere in this Motion.

1 91% of its patients relying on Medicare and Medi-Cal, the Hospital's financial struggles only  
2 worsened as the cost of labor, medical supplies and medicine ballooned while government  
3 reimbursement rates have stayed the same.

4 On the Petition Date, each of the Debtors filed a voluntary petition for relief under chapter  
5 11 of the Bankruptcy Code. The Debtors are operating their business and managing their properties  
6 as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.  
7 Concurrently with the filing of this Motion, the Debtors filed a motion requesting procedural  
8 consolidation and joint administration of these chapter 11 cases pursuant to Bankruptcy  
9 Rule 1015(b). No request for the appointment of a trustee or examiner has been made in these  
10 chapter 11 cases, and no committees have been appointed or designated.

11 **B. The Debtors' Patients.**

12 The Debtors request that this Court enact procedures to protect confidential information of  
13 current and former patients of the Debtors (the "Patients"). Specifically, the Debtors request that  
14 Kurtzman Carson Consultants LLC ("KCC"), the proposed claims agent in these chapter 11 cases  
15 (the "Claims Agent") be allowed to prepare, pursuant to section 521(a)(1)(A) and Bankruptcy Rule  
16 1007(a)(1), a separate creditor matrix of the Patients (the "Patient Matrix") and, pursuant to section  
17 521(a)(1)(B)(i) and Bankruptcy Rule 1007(b)(1)(A), separate schedules of claims that may be  
18 asserted by and against the Patients (the "Patient Schedules").<sup>3</sup> The Debtors request that the Claims  
19 Agent not be required to file the Patient Matrix or the Patient Schedules with this Court but that the  
20 Claims Agent be allowed to file a redacted version of the Patient Schedules that specifically redacts  
21 the names and addresses of the Patients; provided, however, that the Patient Matrix and the Patient  
22 Schedules may be reviewed by (a) this Court, (b) the U.S. Trustee for the Central District of  
23 California (the "U.S. Trustee"), (c) any applicable state regulatory agency (through the respective

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28 <sup>3</sup> To the extent that a Patient has filed a lawsuit against the Debtors, information about the lawsuit is not confidential  
and would be included in any relevant filings with this Court.

1 state attorney general),<sup>4</sup> and (d) any other party in interest that obtains, after notice and a hearing,  
2 authorization from this Court.

3 **IV.**

4 **BASIS FOR RELIEF**

5 The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) creates a duty  
6 for healthcare providers to maintain the confidentiality of patient information. Pursuant to HIPAA,  
7 certain regulations regarding such duties are set forth in 45 C.F.R. Parts 160, 162, and 164. These  
8 regulations impose stringent standards on healthcare providers and also establish significant  
9 penalties for any healthcare provider that improperly uses or discloses patient information.

10 Because the Debtors are healthcare providers that transmit health information in electronic  
11 form, they are considered to be “covered entities” under 45 C.F.R. § 160.103 and must therefore  
12 comply with the confidentiality requirements of HIPAA.<sup>5,6</sup> Such requirements prevent the Debtors  
13 from disclosing “protected health information,” except in limited circumstances. 45 C.F.R. §  
14 164.502. “Protected health information” includes information that “[r]elates to the past, present, or  
15 future physical or mental health or condition of an individual; the provision of healthcare to an  
16 individual; or the past, present, or future payment for the provision of healthcare to an individual.”  
17 45 C.F.R. § 160.103. The Debtors could be subjected to significant monetary penalties for the  
18 unauthorized disclosure of protected health information. 45 C.F.R. § 160.402.5.

19 The Debtors believe that the requirements to maintain patient confidentiality under HIPAA  
20 conflict with the requirements to disclose information under the Bankruptcy Code, specifically the  
21 duty to file a list of all creditors under section 521(a)(1)(A) and the duty to file schedules of all

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22 <sup>4</sup> Under 45 C.F.R. § 164.512(f)(1)(ii), protected health information may be disclosed in response to “(A) A court  
23 order . . . issued by a judicial officer [or] (C) An administrative request . . . , provided that: (1) The information  
24 sought is relevant and material to a legitimate law enforcement inquiry.”

25 <sup>5</sup> These regulations also apply to “business associates,” which includes persons who provide management, legal,  
26 accounting, and consulting services for a covered entity. 45 C.F.R. § 160.103. The Debtors have filed an  
application seeking to employ KCC as the Claims Agent. Because KCC is certified as HIPAA-compliant, it will  
be able to compile the names and addresses of the Patients in order to serve necessary notices and compile  
information needed for the Patient Schedules.

27 <sup>6</sup> Under 45 C.F.R. § 160.404, monetary penalties of up to \$50,000 could be imposed for each violation, up to an  
28 aggregate of \$1,500,000 for identical violations occurring during a calendar year. Such penalties can be imposed  
even if a person “did not know and, by exercising reasonable diligence, would not have known” that a violation  
occurred. 45 C.F.R. § 160.404(b)(2)(i).

1 assets and liabilities under section 521(a)(1)(B)(i). The Debtors therefore request that such patient  
2 information be protected (as set forth herein) pursuant to section 107(c), which allows a bankruptcy  
3 court, for cause, to protect an individual if disclosure would create an undue risk of unlawful injury.  
4 *See also* Fed. R. Bankr. P. 9018 (allowing a bankruptcy court to protect governmental matters that  
5 are made confidential by statute or regulation). The Debtors believe that the relief requested herein  
6 balances the need to maintain confidential patient information under HIPAA with the need for  
7 disclosure under the Bankruptcy Code.

8 **V.**

9 **EMERGENCY CONSIDERATION**

10 Bankruptcy Rule 6003 empowers a court to grant relief within the first 21 days after the  
11 petition date “to the extent that relief is necessary to avoid immediate and irreparable harm.” Fed.  
12 R. Bankr. P. 6003. Additionally, Local Bankruptcy Rule 2081-1(a)(12) allows a movant to request  
13 the type of relief herein for emergency consideration. For the reasons discussed above, (a)  
14 authorizing the implementation of procedures to protect confidential patient information, and (b)  
15 granting related relief as requested herein is integral to the Debtors’ ability to transition their  
16 operations into these chapter 11 cases. Failure to receive such authorization and other relief during  
17 the first 21 days of these chapter 11 cases would risk exposing the Debtors to liability under HIPAA.  
18 Moreover, the requested relief will save costs and avoid undue administrative burden and confusion  
19 only if granted before the applicable deadlines. Accordingly, the Debtors submit that they have  
20 satisfied the “immediate and irreparable harm” standard of Bankruptcy Rule 6003 and request that  
21 the Court approve the relief requested in this Motion on an emergency basis.

22 **VI.**

23 **WAIVER OF BANKRUPTCY RULE 6004(A) AND 6004(H)**

24 To implement the foregoing successfully, the Debtors seek a waiver of the notice  
25 requirements under Bankruptcy Rule 6004(a) and the 14-day stay of an order authorizing the use,  
26 sale, or lease of property under Bankruptcy Rule 6004(h).



VII.

NOTICE

The Debtors will provide notice of this Motion via first class mail, facsimile or email (where available) to: (a) the Office of the U.S. Trustee Region 16; (b) the holders of the 30 largest unsecured claims against the Debtors (on a consolidated basis); (c) U.S. Bank, N.A. and counsel thereto; (d) Hanmi Bank and counsel thereto; (e) the Internal Revenue Service; (f) the Office of the Attorney General of the State of California; (g) the National Association of Attorneys General; and (h) all other parties who have filed a request for special notice and service of papers with the clerk of this Court.

No prior request for the relief sought in this Motion has been made by the Debtors to this Court or any other court.

WHEREFORE, the Debtors respectfully request that the Court grant this Motion and enter an order in the form attached hereto as **Exhibit A**, granting the relief requested herein and granting such other relief as is just and proper.

Dated: April 19, 2023

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By

/s/ Jennifer L. Nassiri

Jennifer L. Nassiri

JUSTIN R. BERNBROCK  
JENNIFER L. NASSIRI  
CATHERINE JUN  
ROBERT B. McLELLARN  
ALEXANDRIA G. LATTNER

Proposed Counsel to Debtors and  
Debtors in Possession

**Exhibit A**

**Proposed Order**

EXHIBIT A

[Proposed Order]

UNITED STATES BANKRUPTCY COURT  
CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION

In re:

BEVERLY COMMUNITY HOSPITAL  
ASSOCIATION, dba BEVERLY HOSPITAL  
(A NONPROFIT PUBLIC BENEFIT  
CORPORATION), *et al*,<sup>1</sup>

Debtors,

- ☒ Affects all Debtors
- ☐ Affects Beverly Community  
Hospital Association
- ☐ Montebello Community Health  
Services, Inc.
- ☐ Beverly Hospital Foundation

Lead Case No.: 2:23-bk-12359

Jointly administered with:

Case No: 2:23-bk-12360

Case No: 2:23-bk-12361

Hon. Sandra R. Klein

Chapter 11 Case

**[PROPOSED] ORDER (I) AUTHORIZING  
THE IMPLEMENTATION OF  
PROCEDURES TO PROTECT  
CONFIDENTIAL PATIENT  
INFORMATION, AND (II) GRANTING  
RELATED RELIEF**

Date: April [•], 2023

Time: TBD

Judge: [TBD]

Place: Zoom.Gov – or - Courtroom 1575  
255 E. Temple St.  
Los Angeles, CA 90012

Upon the *Debtors' Emergency Motion for Entry of an Order (I) Authorizing the Implementation of Procedures to Protect Confidential Patient Information, and (II) Granting Related Relief* (the "Motion")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors") filed on April 19, 2023; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. § 1334; and this Court having found

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each debtor's federal tax identification number, are: Beverly Community Hospital Association d/b/a Beverly Hospital (6005), Montebello Community Health Services, Inc. (3550), and Beverly Hospital Foundation (9685). The mailing address for the Debtors is 309 W. Beverly Blvd., Montebello, California 90640.

<sup>2</sup> Capitalized terms not defined in this Interim Order shall have the meanings given to them in the Motion.

1 that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it  
2 may enter a final order consistent with Article III of the United States Constitution; and this Court  
3 having found that venue of this proceeding and the Motion in this district is permissible pursuant to  
4 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is  
5 in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this  
6 Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the  
7 Motion were appropriate under the circumstances and no other notice need be provided; and this  
8 Court having reviewed the Motion and having heard the statements in support of the relief requested  
9 therein at a hearing before this Court on April [ ], 2023 at [ ].m; and this Court having  
10 determined that the legal and factual bases set forth in the Motion and at the Hearing establish just  
11 cause for the relief granted herein and is necessary to avoid immediate and irreparable harm pursuant  
12 to Bankruptcy Rule 6003; and after due deliberation and sufficient cause appearing therefor,

13 **IT IS HEREBY ORDERED THAT:**

- 14 1. The Motion is GRANTED as set forth in this Order.
- 15 2. The Claims Agent shall prepare and maintain the Patient Matrix but shall not file it  
16 with this Court or otherwise disclose it to any other person, except as provided herein.
- 17 3. The Claims Agent shall prepare and maintain the Patient Schedules but shall not file  
18 them with this Court or otherwise disclose them to any other person, except as provided herein.
- 19 4. The Claims Agent shall prepare a redacted version of the Patient Schedules, which  
20 shall (a) redact the names and addresses of current and former Patients and (b) assign a unique  
21 identification number to each of the Patients (the "Redacted Patient Schedules").
- 22 5. The Debtors are ordered to file the Redacted Patient Schedules with this Court in  
23 accordance with Federal Rule of Bankruptcy Procedure 1007.
- 24 6. The Debtors are ordered to make the Patient Matrix and the Patient Schedules  
25 available to (a) this Court, (b) the United States Trustee, (c) any applicable state regulatory agency  
26 (through the respective state attorney general), and (d) any other party in interest but only after this  
27 Court, after notice and a hearing, enters an order authorizing such disclosure.

1           7.       This Order does not apply to any information of Patients that have filed lawsuits  
2 against the Debtors, and the Debtors shall disclose information about such Patients as required under  
3 the Bankruptcy Rules.

4           8.       The Debtors shall inform the U.S. Trustee and the Court promptly after denying any  
5 request for an unredacted document pursuant to this Order. Nothing herein precludes a party in  
6 interest's right to file a motion requesting that the Bankruptcy Court unseal the information redacted  
7 by this Order. The rights of all parties in these chapter 11 cases to object to the relief set forth in  
8 this Order, for any reason, including that the Debtors have not satisfied their burden under section  
9 107(c) of the Bankruptcy Code, are hereby preserved.

10          9.       The requirement under Local Bankruptcy Rule 9013-1(c) to file a memorandum of  
11 law in connection with the Motion is waived.

12          10.      Notice of the Motion as provided therein shall be deemed good and sufficient notice  
13 of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Bankruptcy Rules  
14 are satisfied by such notice.

15          11.      Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order  
16 are immediately effective and enforceable upon its entry.

17          12.      The Debtors are authorized to take all actions necessary to effectuate the relief  
18 granted in this Order in accordance with the Motion.

19          13.      This Court retains exclusive jurisdiction with respect to all matters arising from or  
20 related to the implementation, interpretation, and enforcement of this Order.

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