

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
JUSTIN R. BERNBROCK (*pro hac vice* admission pending)
2 CATHERINE JUN (*pro hac vice* admission pending)
ROBERT B. McCELLARN (*pro hac vice* admission pending)
3 321 North Clark Street, 32nd Floor
Chicago, Illinois 60654
4 Telephone: 312.499.6300
Email: jbernbrock@sheppardmullin.com
5 cjun@sheppardmullin.com
rmcellarn@sheppardmullin.com
6

JENNIFER L. NASSIRI, SBN 209796
7 ALEXANDRIA G. LATTNER, SBN 314855
1901 Avenue of the Stars, Suite 1600
8 Los Angeles, CA 90067-6055
Telephone: 310.228.3700
9 Email: jnassiri@sheppardmullin.com
alattner@sheppardmullin.com
10

11 Proposed Counsel to Debtors and Debtors in
Possession

12 UNITED STATES BANKRUPTCY COURT
13 CENTRAL DISTRICT OF CALIFORNIA, LOS ANGELES DIVISION
14

15 In re:

16 BEVERLY COMMUNITY HOSPITAL
ASSOCIATION, dba BEVERLY HOSPITAL
17 (A NONPROFIT PUBLIC BENEFIT
CORPORATION), *et al.*¹

18 Debtors,

- 19
- 20 ☒ Affects all Debtors
- 21 ☐ Affects Beverly Community
Hospital Association
- 22 ☐ Montebello Community Health
23 Services, Inc.
- 24 ☐ Beverly Hospital Foundation
25
- 26

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

Jointly administered with:

Case No: 2:23-bk-12360-SK

Case No: 2:23-bk-12361-SK

Hon. Sandra R. Klein

Chapter 11 Case

**INTERIM ORDER APPROVING
DEBTORS' EMERGENCY MOTION FOR
ENTRY OF INTERIM AND FINAL
ORDERS (I) AUTHORIZING THE
DEBTORS TO (A) CONTINUE TO
OPERATE THEIR CASH
MANAGEMENT SYSTEM, (B) HONOR
CERTAIN PREPETITION
OBLIGATIONS RELATED THERETO,
(C) MAINTAIN EXISTING BUSINESS
FORMS, AND (D) PERFORM
INTERCOMPANY TRANSACTIONS;**

27 ¹ 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),
28 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.

FILED & ENTERED

APR 21 2023

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY may DEPUTY CLERK

AND (II) GRANTING RELATED RELIEF

Date: April 21, 2023
Time: 2 p.m. Pacific Time
Judge: Hon. Sandra R. Klein
Place: Zoom.Gov – or - Courtroom 1575
255 E. Temple St.
Los Angeles, CA 90012

This Court, having considered the *Debtors' Emergency Motion for Entry of Interim and Final Orders (i) Authorizing the Debtors to (a) Continue to Operate Their Cash Management System, (b) Honor Certain Prepetition Obligations Related Thereto, (c) Maintain Existing Business Forms, and (d) Perform Intercompany Transactions, and (ii) Granting Related Relief* (the "Motion"),² 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 that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that it may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is permissible pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court on April 21, 2023 at 2:00 p.m.; and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein and is necessary to avoid immediate and irreparable harm pursuant to Bankruptcy Rule 6003; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

² Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Motion.

1 1. The Motion is GRANTED on an interim basis. Capitalized terms not defined in
2 this Order shall have the meanings given to them in the Utilities Motion.

3 2. The final hearing (the “Final Hearing”) on the Motion shall be held on May 17, at
4 9 a.m., prevailing Pacific Time. Any objections or responses to entry of a final order on the
5 Motion shall be filed on or before 12:00 p.m. noon, prevailing Pacific Time on May 3, 2023, and
6 served in accordance with the limited notice procedures. In the event no objections to entry of a
7 final order on the Motion are timely received, this Court may enter such final order without need
8 for the Final Hearing.

9 3. The Debtors are authorized to continue operating the Cash Management System,
10 honor their prepetition obligations related thereto, including, but not limited to, all obligations
11 related to the Commercial Card Program, and maintain existing Business Forms.

12 4. Subject to the other provisions of this Interim Order, the Debtors are authorized to:
13 (a) continue to use, with the same account numbers, the Bank Accounts in existence as of the
14 Petition Date without the need to comply with certain guidelines relating to bank accounts set
15 forth in the U.S. Trustee Guidelines; (b) treat the Bank Accounts for all purposes as accounts of
16 the Debtors as debtors-in-possession; (c) deposit funds in and withdraw funds from the Bank
17 Accounts by all usual means, including checks, wire transfers, and other debits; (d) continue using
18 the Commercial Card Program; and (e) to otherwise perform their obligations under the
19 documents governing the bank accounts. The Debtors are authorized to pay and/or reimburse the
20 Cash Management Banks in the ordinary course of business for any prepetition or postpetition
21 fees, costs, charges and expenses, and any amounts which are not so paid shall be entitled to
22 priority as administrative expenses pursuant to section 503(b)(1) of the Bankruptcy Code.

23 5. The Debtors are authorized, but not directed, to continue using, in their present
24 form, the Business Forms, as well as checks and other documents related to the Bank Accounts
25 existing immediately before the Petition Date, *provided, however*, that once the Debtors have
26 exhausted their existing stock of Business Forms and checks, they shall ensure that any new
27 Business Forms and checks are clearly labeled “Debtor-in-Possession,” *provided, further*, that
28

1 with respect to any Business Forms and checks that are generated electronically, the Debtors shall
2 ensure that such electronic Business Forms and checks are clearly labeled “Debtor-in-Possession.”

3 6. The Debtors are authorized to establish and operate new accounts as provided
4 under the terms of the DIP Agreement, or as will be decided and agreed upon by the Borrowers
5 and Lender, including but not limited to, the Clearing Accounts, Security Deposit Account, and
6 the Funded Reserve Account.

7 7. To the extent any Bank Accounts existing as of the Petition Date are not in
8 compliance with section 345(b) of the Bankruptcy Code or the U.S. Trustee Guidelines requiring
9 the Debtors to maintain all Bank Accounts at an Authorized Depository, the time within which the
10 Debtors must either come into compliance with section 345(b) of the Bankruptcy Code or make
11 such other arrangements as agreed to by the U.S. Trustee shall be extended to the earlier of: (i) 60
12 days after the Petition Date (without prejudice to further extensions upon agreement between the
13 Debtors and the U.S. Trustee); and (ii) confirmation of the Plan (which shall obviate the need for
14 the Debtors to come into compliance with section 345 and the U.S. Trustee Guidelines).

15 8. The Cash Management Banks are authorized, but not obligated, to continue to
16 maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors-in-
17 possession, without interruption and in the ordinary course, and to receive, process, honor, and
18 pay, to the extent of available funds, any and all checks, drafts, wires, credit card payments, and
19 ACH transfers issued and drawn on the Bank Accounts after the Petition Date by the holders or
20 makers thereof, as the case may be. Those certain existing deposit agreements between the
21 Debtors and the Cash Management Banks shall continue to govern the postpetition cash
22 management relationship between the Debtors and the Cash Management Banks, and all of the
23 provisions of such agreements, including, without limitation, the termination and fee provisions,
24 and any provisions relating to offset or charge back rights with respect to return items, shall
25 remain in full force and effect.

26 9. Immediately upon entry of this Interim Order, each of the Cash Management Banks
27 at which Bank Accounts that are subject to automatic transfers or “sweeps” as part of the Cash
28 Management System are maintained is authorized, but not obligated, without further order of this

1 Court, to recommence such transfers or sweeps without regard to whether the funds swept and/or
2 transferred include funds deposited prior to the Petition Date.

3 10. The Debtors and the Cash Management Banks may, without further order of this
4 Court, agree to and implement changes to the Cash Management System and procedures related
5 thereto in the ordinary course of business, including, without limitation, the opening of any new
6 bank accounts and the closing of any existing bank accounts, so long as (a) any such new account
7 is with an authorized depository by the U.S. Trustee pursuant to the U.S. Trustee Guidelines and
8 (b) the Debtors provide written notice to the U.S. Trustee, of the opening or closing of any such
9 account or any changes in Cash Management Systems within three (3) business days of such
10 opening or closing. Subject to the terms hereof, the Debtors are authorized, in the ordinary course
11 of business, to enter into any ancillary agreements, including new deposit account control
12 agreements, related to the foregoing, as they may deem necessary and appropriate.

13 11. The relief granted in this Interim Order is extended to any new bank account
14 opened by the Debtors in the ordinary course of business after the date hereof, which account shall
15 be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be
16 deemed a Cash Management Bank.

17 12. All banks maintaining any of the Bank Accounts that are provided with notice of
18 this Interim Order shall not honor or pay any bank payments drawn on the listed Bank Accounts or
19 otherwise issued before the Petition Date for which the Debtors specifically issue stop payment
20 orders in accordance with the documents governing such Bank Accounts.

21 13. Each of the Debtors' Cash Management Banks is authorized, but not obligated, to
22 debit the Debtors' accounts in the ordinary course of business without the need for further order of
23 this Court for all checks or other items deposited in one of the Debtors' Bank Accounts with such
24 Cash Management Banks prior to the Petition Date which have been dishonored or returned
25 unpaid for any reason, together with any fees and costs in connection therewith, to the same extent
26 the Debtors were responsible for such items prior to the Petition Date. The banks and financial
27 institutions on which checks were drawn or electronic payment requests made in payment of the
28 prepetition obligations approved herein are authorized, but not obligated, to receive, process,

1 honor, and pay all such checks and electronic payment requests when presented for payment, and
2 all such banks and financial institutions are authorized, but not obligated, to rely on the Debtors'
3 representations with respect to whether any check or other payment order drawn or issued by the
4 Debtor prior to the Petition Date should be honored and on the Debtor's designation of any
5 particular check or electronic payment request as approved by this Interim Order without any duty
6 of further inquiry and without liability for following the Debtors' instructions or relying on such
7 representations. For the avoidance of doubt, any instruments issued by one or more of the Debtors
8 prior to the Petition Date shall be deemed paid prior to the Petition Date even if not debited from
9 the Bank Account(s) of such Debtor(s) until after the Petition Date.

10 14. The Cash Management Banks are authorized, but not obligated, to debit the
11 Debtors' Bank Accounts in the ordinary course of business and without further order of the Court
12 on account of (a) all checks drawn on the Debtors' Bank Accounts that were cashed at the Cash
13 Management Banks' counters or exchanged for cashier's or official checks by the payees thereof
14 prior to the Petition Date and (b) all undisputed prepetition amounts outstanding as of the date
15 hereof, if any, owed to any Cash Management Bank as service charges for the maintenance of the
16 Cash Management system.

17 15. The Debtors are authorized, without further order of this Court, to pay all
18 applicable fees and expenses associated with the nature of the deposit and cash management
19 services rendered to the Debtors, whether arising prepetition or postpetition from the applicable
20 Bank Accounts, and further, to charge back to the appropriate accounts of the Debtors any
21 amounts resulting from returned checks or other returned items, including returned items that
22 result from ACH transactions, wire transfers, or other electronic transfers of any kind, regardless
23 of whether such returned items were deposited or transferred prepetition or postpetition and
24 regardless of whether the returned items relate to prepetition or postpetition items or transfers.

25 16. Notwithstanding any other provision of this Interim Order, any bank, including the
26 Cash Management Banks, may rely upon the representations of the Debtors with respect to
27 whether any check, draft, wire, or other transfer drawn or issued by the Debtors prior to the
28 Petition Date should be honored pursuant to any order of this Court, and any bank that honors a

1 prepetition check or other item drawn on any account that is the subject of this Interim Order: (a)
2 at the direction of the Debtors; (b) in a good-faith belief that this Court has authorized such
3 prepetition check or item to be honored; or (c) as a result of a mistake made despite
4 implementation of customary handling procedures, shall not be deemed to be, nor shall be, liable
5 to the Debtors, their estates, or any other party on account of such prepetition check or other item
6 being honored postpetition, or otherwise deemed to be in violation of this Interim Order. The
7 Debtors' Cash Management Banks shall not have any liability to any party for relying on such
8 directions of the Debtors. Further, the Cash Management Bank may rely, without a duty of
9 inquiry, upon the failure of the Debtors to issue a stop payment order with respect to any item,
10 whether such item is issued prepetition or postpetition, as a direction by the Debtors that such item
11 will be paid.

12 17. Any banks, including the Cash Management Banks, are further authorized, but not
13 obligated, to honor the Debtors' directions with respect to the opening and closing of any Bank
14 Account and accept and hold, or invest, the Debtors' funds in accordance with the Debtors'
15 instructions and the Debtors' Cash Management Banks shall not have any liability to any party for
16 relying on such directions.

17 18. The Debtors are authorized, but not directed, to continue performing under and
18 honoring their respective obligations, commitments, and transactions related to Intercompany
19 Transactions and Intercompany Claims in the ordinary course of business, consistent with
20 historical practice.

21 19. All postpetition Intercompany Transaction payments from a Debtor, other than
22 payments for goods or services in the ordinary course, that are authorized pursuant to this Order
23 are hereby accorded administrative expense status under section 503(b) of the Bankruptcy Code.

24 20. In connection with the Intercompany Transactions, the Debtors shall continue to
25 maintain current records with respect to all transfers of cash so that all Intercompany Transactions
26 may be readily ascertained, traced, and properly recorded on intercompany accounts and shall
27 make such records available to the U.S. Trustee.

28

1 21. To the extent any other order is entered by the Court authorizing and/or directing
2 the Cash Management Banks to honor checks, drafts, ACH transfers, or other electronic funds
3 transfers or any other withdrawals made, drawn, or issued in payment of prepetition claims, the
4 obligations to honor such items shall be subject to this Interim Order.

5 22. Nothing contained in the Motion or this Interim Order shall be construed to
6 (a) create or perfect, in favor of any person or entity, any interest in cash of a Debtor that did not
7 exist as of the Petition Date or (b) alter or impair the validity, priority, enforceability, or perfection
8 of any security interest or lien, in favor of any person or entity, that existed as of the Petition Date.

9 23. The Debtors are authorized to issue postpetition checks, or to effect postpetition
10 fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored
11 as a consequence of these chapter 11 cases with respect to prepetition amounts owed in connection
12 with the relief granted herein.

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

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

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

20 27. The Debtors are authorized to take all actions necessary to effectuate the relief
21 granted in this Interim Order.

22 ///

23 ///

24 ///

25 ///

26 ///


27 ///

28 ///

1 28. This Court retains exclusive jurisdiction with respect to all matters arising from or
2 related to the implementation, interpretation, and enforcement of this Interim Order.

3 # # #
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

23 Date: April 21, 2023


Sandra R. Klein
United States Bankruptcy Judge