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7 Debtors In Possession

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

10 In re

11 VERITY HEALTH SYSTEM OF
12 CALIFORNIA, INC., *et al.*,

13 Debtor and Debtor In
14 Possession.

15 Affects All Debtors

16 Affects Verity Health System of
17 California, Inc.

- 18 Affects O'Connor Hospital
- 19 Affects Saint Louise Regional Hospital
- 20 Affects St. Francis Medical Center
- 21 Affects St. Vincent Medical Center
- 22 Affects Seton Medical Center
- 23 Affects O'Connor Hospital Foundation
- 24 Affects Saint Louise Regional Hospital
Foundation

25 Affects St. Francis Medical Center of
26 Lynwood Foundation

- 27 Affects St. Vincent Foundation
- 28 Affects St. Vincent Dialysis Center, Inc.
- Affects Seton Medical Center Foundation
- Affects Verity Business Services
- Affects Verity Medical Foundation
- Affects Verity Holdings, LLC
- Affects De Paul Ventures, LLC
- Affects De Paul Ventures - San Jose
Dialysis, LLC

29 Debtors and Debtors In Possession.

Lead Case No. 2:18-bk-20151-ER

Jointly Administered With:

- Case No. 2:18-bk-20162-ER;
- Case No. 2:18-bk-20163-ER;
- Case No. 2:18-bk-20164-ER;
- Case No. 2:18-bk-20165-ER;
- Case No. 2:18-bk-20167-ER;
- Case No. 2:18-bk-20168-ER
- Case No. 2:18-bk-20169-ER;
- Case No. 2:18-bk-20171-ER;
- Case No. 2:18-bk-20172-ER;
- Case No. 2:18-bk-20173-ER;
- Case No. 2:18-bk-20175-ER;
- Case No. 2:18-bk-20176-ER;
- Case No. 2:18-bk-20178-ER;
- Case No. 2:18-bk-20179-ER;
- Case No. 2:18-bk-20180-ER;
- Case No. 2:18-bk-20181-ER

Chapter 11 Cases

Hon. Judge Ernest M. Robles

**EMERGENCY MOTION OF DEBTORS FOR
AUTHORITY TO: (1) CONTINUE USING
EXISTING CASH MANAGEMENT SYSTEM,
BANK ACCOUNTS AND BUSINESS FORMS;
(2) IMPLEMENT CHANGES TO THE CASH
MANAGEMENT SYSTEM IN THE ORDINARY
COURSE OF BUSINESS; (3) CONTINUE
INTERCOMPANY TRANSACTIONS;
(4) PROVIDE ADMINISTRATIVE EXPENSE
PRIORITY FOR POSTPETITION
INTERCOMPANY CLAIMS; AND (5) OBTAIN
RELATED RELIEF; MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT
THEREOF**

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[Filed Pursuant to: LBR 2081-1(a)(9) and 9075-1(a)]
[Declaration of Richard G. Adcock in Support of
Debtors' First Day Motions filed concurrently
herewith]

EMERGENCY HEARING:

Date: September 5, 2018
Time: 10:00 a.m.
Place: Courtroom 1568
U.S. Bankruptcy Court
255 East Temple Street
Los Angeles, CA 90012

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1 **Rules and Regulations**

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5 Rule 2015-223

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1 EMERGENCY MOTION

2 Verity Health System of California, Inc. (“VHS”) and the above-referenced affiliated
3 debtors (collectively, the “Debtors”), the debtors and debtors in possession in the above-captioned
4 chapter 11 bankruptcy cases (collectively, the “Cases”), hereby move, on an emergency basis (the
5 “Motion”), for the entry of an order, pursuant to §§ 105, 363, 364, 503 and 507 of title 11 of the
6 United States Code (the “Bankruptcy Code”),¹ authorizing the Debtors, subject to the terms of
7 any debtor in possession financing (“DIP”) and/or cash collateral agreement or order (each, a
8 “DIP Document”), to: (1) continue to use their cash management system, including the continued
9 maintenance of their existing bank accounts (three of which include passive investing) and
10 business forms; (2) implement changes to their cash management system in the ordinary course of
11 business, including opening new or closing existing bank accounts; (3) continue to perform under
12 and honor intercompany transactions in the ordinary course of business, in their business
13 judgment and in their sole discretion; (4) provide administrative expense priority for postpetition
14 intercompany claims, all as set forth in more detail below; and (5) obtain related relief.

15 The Debtors further request that the Court authorize the financial institutions at which the
16 Debtors maintain various bank accounts to (a) continue to maintain, service and administer the
17 Debtors’ bank accounts, and (b) debit the bank accounts in the ordinary course of business on
18 account of (i) wire transfers or checks drawn on the bank accounts, or (ii) undisputed service
19 charges owed to the banks for maintenance of the Debtors’ cash management system, if any.

20 In support of the Motion, the Debtors have separately filed the Declaration of Richard
21 Adcock in Support of Debtors’ First Day Motions (the “Adcock Declaration”).

22 SUMMARY OF REQUESTED RELIEF

23 As described in the Adcock Declaration, in the ordinary course of business, the Debtors
24 utilize an integrated cash management system to collect, concentrate and disburse funds generated
25 by their operations (the “Cash Management System”). In broad terms, the Debtors’ Cash
26 Management System is similar to the cash management systems used by other large groups or
27

28 ¹ All references to “§” or “sections” herein are to sections of the Bankruptcy Code.

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1 systems of businesses. The Cash Management System is tailored to meet the Debtors' operating
2 needs as an operator of a large health system that includes business entities, hospitals,
3 philanthropic foundations and a medical foundation. The Cash Management System enables the
4 Debtors to efficiently collect and disburse cash generated by their business, pay their financial
5 obligations, control and monitor funds and available cash at each entity, comply with the
6 requirements of their financing agreements, reduce administrative expenses, and obtain accurate
7 account balances and other financial data. It is critical that the Cash Management System remain
8 intact during these Cases to ensure seamless continuation of transactions and uninterrupted
9 collection of revenues and disbursement of internal, intercompany and third-party obligations,
10 and avoid irreparable harm to the Debtors' business and their Patients.

11 The Cash Management System currently comprises 63 accounts (the "Accounts"), listed
12 on **Exhibit "A"** hereto, with five commercial banks and one investment bank (collectively the
13 "Banks").² All except one of the non-investment Accounts are located at Banks designated as
14 authorized depositories by the Office of the United States Trustee for Region 16 (the "U.S.
15 Trustee"), pursuant to the U.S. Trustee's Operating Guidelines and Reporting Requirements for
16 Debtors in Possession and Trustees (the "UST Guidelines"). The Debtors intend to close the one
17 non-investment Account at a non-designated Bank following the Petition Date.

18 The Debtors request authority to continue utilizing the Accounts, subject to the terms of
19 the DIP Documents. Requiring the Debtors to close certain of the Accounts and open new ones
20 will disrupt the Debtors' cash flow – and, ultimately, impact patient care – because (i) the
21 depositors (some of which are governmental agencies) will not respond quickly to the change and
22 will likely continue to send deposits to the original deposit account, and (ii) the Debtors have
23 certain obligations (including for debt, pension and defined contribution) that they pay
24 exclusively by electronic funds transfer and changes to the payment accounts have the potential
25 of slowing down these crucial payments. Closing the Accounts will also increase the work of the
26 Debtors' accounting personnel, who are already busy addressing the many and varied issues

27 _____
28 ² The Debtors' Banks include Bank of America, N.A. ("BoA"), Wells Fargo, U.S. Bank National Association ("U.S.
Bank"), East West Bank, Tri Counties Bank and Morgan Stanley.

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1 related to these Cases. Closing the Accounts and opening new ones under the circumstances
2 described in the attached Memorandum of Points and Authorities would needlessly cost the
3 Debtors time and money at a time when they are trying to conserve both, and would result in no
4 discernible benefit to the Debtors' bankruptcy estates (the "Estates"), while potentially causing
5 irreparable harm thereto.

6 The Debtors also request authority to continue using their business forms without the
7 designation "Debtors in Possession" on them *for a limited time*. The Debtors' forms are either
8 electronically printed or can be electronically altered. The Debtors seek the authority of this
9 Court to utilize their electronically generated forms without the "Debtors in Possession"
10 designation until the adjustments to the software can be initiated and existing stock is exhausted.

11 Subject to the DIP Documents, the Debtors request that the Court authorize them to
12 continue using their Cash Management System in connection with the continued use of Accounts
13 and continued use of the Debtors' business forms; in furtherance thereof, the Debtors further
14 request that the Court authorize and direct the Banks to continue honoring the Debtors'
15 transactions.

16 The Debtors request that the relief sought herein be granted on an emergency basis
17 because the uninterrupted use of their Cash Management System, as described herein, is essential
18 to the Debtors' ability to maximize their postpetition operations and adjust smoothly to being
19 operating debtors in possession. Reestablishing and reconnecting deposits and billings to new
20 accounts would be impractical, costly, and an inefficient use of the Debtors' resources.³
21 Therefore, pursuant to Rule 2081-1(a)(9) of the Local Bankruptcy Rules of the United States
22 Bankruptcy Court for the Central District of California (the "LBR"), the Debtors request that this
23 Motion be heard on an emergency basis.

24 **ADDITIONAL INFORMATION**

25 The Motion is based on the Notice of Emergency Motions that will be filed and served
26 after obtaining a hearing date for the Debtors' "First Day Motions," the attached Memorandum of
27

28 ³ The majority of Accounts are at Banks that are designated by the U.S. Trustee as approved depositories.

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1 Points and Authorities, the concurrently filed Adcock Declaration, the arguments of counsel and
2 other admissible evidence properly brought before the Court at or before the hearing on this
3 Motion. In addition, the Debtors request that the Court take judicial notice of all documents filed
4 with the Court in this Case.

5 The Debtors will serve this Motion, the attached Memorandum of Points and Authorities,
6 the Adcock Declaration and Notice of Emergency Motions on: (i) the U.S. Trustee, (ii) all
7 alleged secured creditors, (iii) the United States of America and the State of California, (iv) the
8 fifty largest general unsecured creditors appearing on the list filed in accordance with Rule
9 1007(d) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), (v) any parties
10 requesting special notice, and (vi) the Banks. To the extent necessary, the Debtors request that
11 the Court waive compliance with LBR 9075-1(a)(6) and approve service (in addition to the means
12 of service set forth in such LBR) by overnight delivery. Among other things, the Notice of
13 Emergency Motions will provide that any opposition or objection to the Motion may be presented
14 at any time before or at the hearing regarding the Motion, but that failure to timely object may be
15 deemed by the Court to constitute consent to the relief requested herein. In the event that the
16 Court grants the relief requested by the Motion, the Debtors shall provide notice of the entry of
17 the order granting such relief upon each of the foregoing parties and any other parties in interest
18 as the Court directs. The Debtors submit that such notice is sufficient and that no other or further
19 notice be given.

20 **WHEREFORE**, the Debtors respectfully request that this Court enter an Order:

21 (i) Authorizing the Debtors, subject to the terms of the DIP Documents, to continue to
22 use their Cash Management System, including to maintain and continue using their existing
23 Accounts (including for passive investments) and business forms (until existing stock is
24 exhausted), as described in the attached Memorandum of Points and Authorities;

25 (ii) Authorizing the Debtors to implement changes to their Cash Management System
26 in the ordinary course of business, subject to the terms of the DIP Documents, including closing
27 the Accounts or opening new bank accounts;

28

1 (iii) Authorizing the Debtors to continue to perform under and honor intercompany
2 transactions related to the Cash Management System in the ordinary course of business, in their
3 business judgment and in their sole discretion, subject to the terms of the DIP Documents; and
4 providing administrative expense priority for postpetition intercompany claims based upon
5 transfers made using the Cash Management System;

6 (iv) Authorizing and directing the Banks to continue to maintain, service and
7 administer the Accounts in the ordinary course of business, including to honor postpetition checks
8 drawn on and transfers made from the Accounts; and requiring that, in the event the Banks refuse
9 to honor a check drawn or a transfer made on an Account maintained by it (provided there are
10 sufficient good funds in the account to complete the transfer), the Banks immediately turn over
11 the deposits held in the applicable Account upon the Debtors' request;

12 (v) Granting the Banks limited relief from the automatic stay to continue to offset
13 standard monthly bank fees against the Accounts in the same manner as such fees were offset
14 prepetition; and

15 (vi) Granting such other and further relief as is just and proper under the
16 circumstances.

17 Dated: August 31, 2018

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20 By /s/Tania M. Moyron
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 The Debtors in these Cases request authority to maintain and utilize their Cash
5 Management System. If the Debtors are required to close certain of the Accounts they need for
6 the smooth and uninterrupted operation of their business and open new ones, the deposit of the
7 payments they receive from hundreds of sources would be disrupted while the depositors (some
8 of which are governmental agencies) change their internal records regarding the new deposit
9 instructions, which can be a very lengthy process. Any interruption in the Debtors' cash flow
10 would certainly interfere with the continuity of the Debtors' operations, which could result in a
11 potentially harmful interruption of the Debtors' business, and could detrimentally impact patient
12 care. The Debtors' accounting staff, which also will be working on supplying all of the
13 information needed to meet the Debtors' chapter 11 reporting requirements, as well as performing
14 their regular tasks, would be further distracted by a needless, time-consuming exercise of closing
15 accounts, opening new ones, advising and explaining the same to interested parties, addressing
16 the logistical issues of getting the depositors to utilize the new accounts and getting checks
17 printed for the new disbursement accounts.

18 Accordingly, it is critical that the Debtors be allowed to maintain their existing Cash
19 Management System as described in this Memorandum of Points and Authorities and in the
20 attached *Emergency Motion of Debtors for Authority to (1) Continue Using Existing Cash*
21 *Management System, Bank Accounts and Business Forms, (2) Implement Changes to the Cash*
22 *Management System in the Ordinary Course of Business, (3) Continue Intercompany*
23 *Transactions, (4) Provide Administrative Expense Priority for Postpetition Intercompany Claims,*
24 *and (5) Obtain Related Relief.*

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II.

JURISDICTION

The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). The venue of these Cases is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

III.

STATEMENT OF FACTS

A. General Background

1. On August 31, 2018 (“Petition Date”), Verity Health System of California, Inc. (“VHS”) and the above-referenced affiliated debtors, the debtors and debtors in possession in the above-captioned chapter 11 bankruptcy cases (collectively, the “Debtors”), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”).⁴ Since the commencement of their cases, the Debtors have been operating their businesses as debtors in possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

2. Debtor VHS, a California nonprofit public benefit corporation, is the sole corporate member of the following five Debtor California nonprofit public benefit corporations that operate six acute care hospitals: O’Connor Hospital, Saint Louise Regional Hospital, St. Francis Medical Center, St. Vincent Medical Center, Seton Medical Center, and Seton Medical Center Coastsides (collectively, the “Hospitals”) and other facilities in the state of California. Seton Medical Center and Seton Medical Center Coastsides operate under one consolidated acute care license.

3. VHS, the Hospitals, and their affiliated entities (collectively, “Verity Health System”) operate as a nonprofit health care system, with approximately 1,680 inpatient beds, six active emergency rooms, a trauma center, eleven medical office buildings, and a host of medical specialties, including tertiary and quaternary care.

⁴ All references to “§” or “section” herein are to the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, as amended.

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1 4. The VHS affiliated entities, including the Debtors and non-debtor entities, are as
2 follows:

- 3 • O'Connor Hospital ("OCH")
- 4 • Saint Louise Regional Hospital ("SLRH")
- 5 • St. Francis Medical Center ("SFMC")
- 6 • St. Vincent Medical Center ("SVMC")
- 7 • Seton Medical Center ("SMC"), including Seton Medical Center Coastside
8 campus ("SMCC")
- 9 • Verity Business Services ("VBS")
- 10 • Marillac Insurance Company, Ltd.
- 11 • O'Connor Hospital Foundation ("OCH-F")
- 12 • Saint Louise Regional Hospital Foundation ("SLRH-F")
- 13 • St. Francis Medical Center of Lynwood Foundation ("SFMC-F")
- 14 • St. Vincent Medical Center Foundation ("SVMC-F")
- 15 • Seton Medical Center Foundation ("SMC-F")
- 16 • St. Vincent de Paul Ethics Corporation
- 17 • St. Vincent Dialysis Center ("SV Dialysis")
- 18 • De Paul Ventures, LLC
- 19 • De Paul Ventures - San Jose Dialysis, LLC
- 20 • De Paul Ventures - San Jose ASC, LLC
- 21 • Verity Medical Foundation ("VMF")
- 22 • Verity Holdings, LLC ("Holdings")

23 5. VMF, incorporated in 2011, is a medical foundation, exempt from licensure under
24 California Health & Safety Code § 1206(l). VMF contracts with physicians and other healthcare
25 professionals to provide high quality, compassionate, patient-centered care to individuals and
26 families throughout California. With more than 100 primary care and specialty physicians, VMF
27 offers medical, surgical and related healthcare services for people of all ages at community-based,
28 multi-specialty clinics conveniently located in areas served by the Debtor Hospitals. VMF holds
long-term professional services agreements with the following medical groups: (a) Verity
Medical Group; (b) All Care Medical Group, Inc.; (c) CFL Children's Medical Associates, Inc.;
(d) Hunt Spine Institute, Inc.; (e) San Jose Medical Clinic, Inc., D/B/A San Jose Medical Group;
and (f) Sports, Orthopedic and Rehabilitation Associates.

6. Holdings is a direct subsidiary of its sole member VHS and was created in 2016 to
hold and finance VHS' interests in four medical office buildings whose tenants are primarily
physicians, medical groups, healthcare providers, and certain of the VHS Hospitals. Holdings'
real estate portfolio includes more than 15 properties. Holdings is the borrower on approximately
\$66 million of non-recourse financing secured by separate deeds of trust and revenue and
accounts pledges, including the rents on each medical office building.

1 7. OCH-F, SLRH-F, SFMC-F, SVMC-F, and SMC-F handle fundraising and grant-
2 making programs for each of their respective Debtor Hospitals.

3 8. As of August 31, 2018, the Debtors have approximately 7,385 employees, of
4 whom 4,733 are full-time employees. Approximately 74% of these employees are represented by
5 collective bargaining units. A majority of the employees are represented by either the Service
6 Employees International Union (approximately 39% of employees) or California Nurses
7 Associations (approximately 22% of employees).

8 9. Each of the Debtors is exempt from federal income taxation as an organization
9 described in Section 501(c)(3) of the Internal Revenue Code of 1986, except for Holdings,
10 DePaul Ventures, LLC, and DePaul Ventures - San Jose Dialysis, LLC.

11 10. To date, no official committee or examiner has been appointed by the Office of the
12 United States Trustee in these chapter 11 Cases.

13 **B. Historical Challenges.**

14 11. The Hospitals and VMF were originally owned and operated by the Daughters of
15 Charity of St. Vincent de Paul, Province of the West (the “Daughters of Charity”), to support the
16 mission of the Catholic Church through a commitment to the sick and poor. The Daughters of
17 Charity began their healthcare mission in California in 1858 and they ministered to ill, poverty-
18 stricken individuals for more than 150 years. In March 1995, the Daughters of Charity merged
19 with Catholic Healthcare West (“CHW”). In June 2001, Daughters of Charity Health System
20 (“DCHS”) was formed, and in October 2001, the Daughters of Charity withdrew from CHW. In
21 2002, DCHS commenced operations and was the sole corporate member of the Hospitals, which
22 at that time were California nonprofit religious corporations.

23 12. Between 1995 and 2015, the Daughters of Charity and DCHS struggled to find a
24 solution to continuing operating losses, either through a sale of some or all of the hospitals or a
25 merger with a more financially sound partner. All these efforts failed. During these efforts,
26 however, the health system’s losses continued to mount, and the health system borrowed more
27 than \$500 million – including through a 2008 bond issuance (the “2008 Bonds”) – to fund
28 operations, acquire assets, fund needed capital improvements and/or refinance existing debt.

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1 13. Despite continuous efforts to improve operations, operating losses continued to
2 plague the health system due to, among other things, mounting labor costs, low reimbursement
3 rates and the ever-changing healthcare landscape. In 2013, DCHS actively solicited offers for
4 OCH, SLRH, SMC and SMCC. In 2013, to avoid failing debt covenants, the Daughters of
5 Charity Foundation, an organization separate and distinct from DCHS, donated \$130 million to
6 DCHS to allow it to retire the 2008 Bonds in the total amount of \$143.7 million.

7 14. In early 2014, DCHS announced that they were beginning a process to evaluate
8 strategic alternatives for the health system. Throughout 2014, DCHS explored offers to sell their
9 health system and, in October of 2014, they entered into an agreement with Prime Healthcare
10 Services and Prime Healthcare Foundation (collectively, "Prime") to sell the health
11 system. However, to keep the hospitals open, DCHS needed to borrow another \$125 million to
12 mitigate immediate cash needs during the sale process; in other words, to allow it to continue to
13 operate until the sale could be consummated. In early 2015, the California Attorney General
14 consented to the sale to Prime, subject to conditions on that sale that were so onerous that Prime
15 terminated the transaction.

16 15. In 2015, DCHS again marketed their health system for sale, and, again, focused on
17 offers that maintained the health system as a whole, and assumed all the obligations. In July
18 2015, the DCHS Board of Directors selected BlueMountain Capital Management LLC
19 ("BlueMountain"), a private investment firm, to recapitalize its operations and transition
20 leadership of the health system to the new Verity Health System (the "BlueMountain
21 Transaction").

22 16. In connection with the BlueMountain Transaction, BlueMountain agreed to make a
23 capital infusion of \$100 million to the hospital system, arrange loans for another \$160 million to
24 the health system, and manage operations of the health system, with an option to buy the health
25 system at a future time. In addition, the parties entered into a System Restructuring and Support
26 Agreement (the "Restructuring Agreement"), DCHS's name was changed to Verity Health
27 System, and Integrity Healthcare, LLC ("Integrity") was formed to carry out the management
28 services under a new management agreement.

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1 17. On December 3, 2015, the California Attorney General approved the
2 BlueMountain Transaction, subject to conditions. Despite BlueMountain's infusion of cash and
3 retention of various consultants and experts to assist in improving cash flow and operations, the
4 health system did not prosper.

5 18. In July 2017, NantWorks, LLC ("NantWorks") acquired a controlling stake in
6 Integrity. NantWorks brought in a new CEO, CFO, and COO. NantWorks loaned another \$148
7 million to the Debtors.

8 19. Despite the infusion of capital and new management, it became apparent that the
9 problems facing the Verity Health System were too large to solve without a formal court
10 supervised restructuring. Thus, despite VHS' great efforts to revitalize its Hospitals and
11 improvements in performance and cash flow, the legacy burden of more than a billion dollars of
12 bond debt and unfunded pension liabilities, an inability to renegotiate collective bargaining
13 agreements or payor contracts, the continuing need for significant capital expenditures for seismic
14 obligations and aging infrastructure, and the general headwinds facing the hospital industry, make
15 success impossible. Losses continue to amount to approximately \$175 million annually on a cash
16 flow basis.

17 20. Additional background facts on the Debtors, including an overview of the Debtors'
18 business, information on the Debtors' capital structure and additional events leading up to these
19 chapter 11 cases, are contained in the Adcock Declaration.

20 **C. Relevant Background to Motion**

21 21. As set forth above, as well as in the concurrently filed Adcock Declaration, the
22 Debtors maintain 63 Accounts with six Banks (five commercial and one investment), as further
23 detailed herein.⁵ Fifty-six of the Accounts are at BoA and three Accounts are at Wells Fargo,
24 which collectively comprise the Debtors' primary accounts; the Debtors also have miscellaneous
25 accounts at U.S. Bank, Tri Counties Bank (f/k/a First National Bank of Northern California), East
26 West Bank, Alliance Credit Union and Morgan Stanley.

27
28 ⁵ A full list of Accounts is included as Exhibit "A" hereto.

1 22. For the most part, the Debtors maintain separate cash systems that connect through
2 a complex series of intercompany transfers. From a broad perspective, (a) VHS, VBS and
3 Holdings each maintain three or four accounts, streamlined for operations; (b) each Hospital
4 maintains a lockbox account, gross revenue account, account payable and payroll account,⁶ while
5 some of the Hospitals also maintain capitation, patient trust and other Hospital-specific accounts
6 (as described further below); (c) each Philanthropic Foundation maintains a single fundraising
7 account, with the exception of the Philanthropic Foundations associated with OCH and SVMC,
8 which each also has an additional investment account into which investment-grade donations are
9 made; (d) VMF has a single active account for its operational purposes; and (e) one additional
10 Debtor, SV Dialysis, has a single account for facility-specific funding purposes.

11 23. By Debtor, the Accounts are as follows:

- 12 • VHS: four Accounts (BoA)
- 13 • VBS: three Accounts (BoA)
- 14 • Holdings: four Accounts (BoA)
- 15 • OCH: six Accounts (BoA)
- 16 • OCH-F: two Accounts (one at BoA, one at Morgan Stanley)
- 17 • SLRH: five Accounts (BoA)
- 18 • SLRH-F: one Account (BoA)
- 19 • SMC: five Accounts (BoA)
- 20 • SMC-F: two Accounts (one at Wells Fargo, the rest at BoA)
- 21 • SMCC: six Accounts (one at Tri Counties Bank, the rest at BoA)
- 22 • SFMC: eleven Accounts (one at U.S. Bank, the rest at BoA)
- 23 • SFMC-F: one Account (BoA)
- 24 • SVMC: eight Accounts (BoA)
- 25 • SVMC-F: two Accounts (one at BoA, one at EastWest Bank)
- 26 • SV Dialysis: one Account (BoA)

27 _____
28 ⁶ As a corporation operating two hospitals under a single, consolidated license, SMC maintains a single payroll account for SMC and SMCC.

- VMF: two Accounts (Wells Fargo)

24. Below is a further description of the Accounts by type and function.

(a) **Lockbox Accounts (BoA)**

OCH	Account No. xxxxxx2945 (the “OCH LB Account”) ⁷
SLRH	Account No. xxxxxx2926 (the “SLRH LB Account”)
SMC	Account No. xxxxxx2902 (the “SMC LB Account”)
SMCC	Account No. xxxxxx2907 (the “SMCC LB Account”)
SFMC	Account No. xxxxxx2940 (the “SFMC LB Sub-Account”)
	Account No. xxxxxx1057 (the “Cafeteria Account”)
SVMC	Account No. xxxxxx2964 (the “SVMC LB Account,” and together with the OCH LB Account, SLRH LB Account, SMC LB Account, SMCC LB Account, SFMC LB Sub-Account and Cafeteria Account, the “Hospital Lockbox Accounts”)
Holdings	Account No. xxxxxx1248 (the “Holdings MOB Account,” and together with the Hospital Lockbox Accounts, the “Lockbox Accounts”)

25. Each Hospital has a Lockbox Account. These are the accounts whereby the Debtors collect all payments and receipts, whether electronic or by check (mailed to BoA’s lockbox facility). Each Lockbox Account is subject to a Second Amended and Restated Government Receivables Account Agreement (“GRAA”), dated December 28, 2017, among the respective Hospitals, BoA as account bank, and U.S. Bank as both trustee under those certain bond and note indentures and master trustee under that certain master trustee indenture. The GRAA assigns control over each Lockbox Account to U.S. Bank as Collateral Agent, and restricts the Debtors’ access to the funds therein (as used herein, “Cash Collateral”) as of the occurrence of the Activation Effective Time (as defined therein). See GRAA, at §§ 1-2.

26. As long as the GRAA has not been “activated,”⁸ BoA automatically sweeps the funds in the Lockbox Accounts to the Hospitals’ respective Gross Revenue Accounts daily at approximately 4:00 p.m. BoA restricts any debit or transfers from the Lockbox Accounts other than the automated sweeps. As of the Petition Date, the automated sweep of the Lockbox

⁷ The Debtors will provide full Account numbers to the United States Trustee.

⁸ By separate and contemporaneous motion, the Debtors are requesting authority to access their cash collateral, which would include the funds in the Lockbox Accounts.

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1 Accounts will suspend unless and until the Court authorizes the Debtors to use the Cash
2 Collateral in the Lockbox Accounts, at which point the sweeps would be able to resume.⁹

3 27. SFMC also maintains the Cafeteria Account as a lockbox sub-account for purposes
4 of tracking deposits specific to that Hospital’s cafeteria, which was a specific internal request.
5 Holdings also maintains a separate Holdings MOB Account, which is a lockbox operated by BoA
6 that receives rent from tenants for space in the medical office buildings.

7 (b) Gross Revenue Accounts (BoA)

OCH	Account No. xxxxxx3900 (the “OCH GR Account”)
SLRH	Account No. xxxxxx3905 (the “SLRH GR Account”)
SMC	Account No. xxxxxx3887 (the “SMC GR Account”)
SMCC	Account No. xxxxxx3882 (the “SMCC GR Account”)
SFMC	Account No. xxxxxx3924 (the “SFMC GR Account”)
SVMC	Account No. xxxxxx3929 (the “SVMC GR Account,” and together with the OCH GR Account, SLRH GR Account, SMC GR Account, SMCC GR Account and SFMC GR Account, the “Gross Revenue Accounts”)

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13 28. Each Hospital has a Gross Revenue Account. Each Gross Revenue Account is
14 subject to a Second Amended and Restated Deposit Account Control Agreement (“DACA”),
15 dated December 28, 2017, among the respective Hospital, BoA as account bank, and U.S. Bank
16 as both trustee under those certain bond and note indentures and master trustee under that certain
17 master trustee indenture. The DACA assigns control over the account to U.S. Bank as Collateral
18 Agent, and restricts the Debtors’ access to the Cash Collateral therein as of the occurrence of the
19 Activation Effective Time (as defined therein). *See* DACA, at §§ 1-2.

20 29. As long as the DACA is not activated,¹⁰ daily at approximately 4:00 p.m, the
21 Gross Revenue Accounts are funded from the Lockbox Accounts through an automatic bank
22 sweep. The next day at approximately 7:00 a.m., BoA automatically sweeps the funds in the
23 Gross Revenue Accounts to the Hospitals’ respective AP Accounts (defined below), where they
24 become available for disbursement or transfer. BoA restricts any debit or transfers from the

25 _____
26 ⁹ By separate and contemporaneous motion, the Debtors are requesting authority to obtain DIP financing and use
27 their Cash Collateral. Pursuant to the DIP Documents, the DIP lender will seize control of the Lockbox Accounts
under new DACAs that will supersede the existing DACAs.

28 ¹⁰ By separate and contemporaneous motion, the Debtors are requesting authority to access their cash collateral,
which would include the funds in the Gross Revenue Accounts.

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1 Gross Revenue Accounts other than the automated sweeps. As of the Petition Date, the
2 automated sweep of the Gross Revenue Accounts will suspend unless and until the Court
3 authorizes the Debtors to use the Cash Collateral in the Lockbox Accounts, at which point the
4 sweeps would be able to resume.

5 30. Pursuant to the DIP Documents, during Pursuant to the DIP Documents, the DIP
6 lender will seize control of the Gross Revenue Accounts. The Debtors understand that the DIP
7 lender intends to eliminate the Gross Revenue Accounts' function in the Cash Management
8 System, and instead direct the automated sweep to process directly from the Lockbox Accounts to
9 a new DIP account held by the DIP lender, to be opened at JP Morgan Chase.

10 (c) Accounts Payable (BoA)

VHS	Account No. xxxxxx6440 (the "VHS AP Account")
OCH	Account No. xxxxxx6389 (the "OCH AP Account")
SLRH	Account No. xxxxxx6421 (the "SLRH AP Account")
SMC	Account No. xxxxxx6365 (the "SMC AP Account")
SMCC	Account No. xxxxxx6384 (the "SMCC AP Account")
SFMC	Account No. xxxxxx6407 (the "SFMC AP Account")
SVMC	Account No. xxxxxx6426 (the "SVMC AP Account")
VBS	Account No. xxxxxx6402 (the "VBS AP Account")
Holdings	Account No. xxxxxx1597 (the "Holdings AP Account," and together with the VHS AP Account, OCH AP Account, SLRH AP Account, SMC AP Account, SMCC AP Account, SFMC AP Account, SVMC AP Account and VBS AP Account, the "AP Accounts")

18 31. The Debtors' operating cash is primarily held in the AP Accounts at BoA. The
19 Debtors are permitted to disburse or transfer funds from their AP Accounts, but they first require
20 funding from other Accounts. Fund transfers among the Accounts is accomplished via BoA's
21 online portal, CashPro.

22 32. As noted above, daily at approximately 7:00 a.m, the Hospitals' AP Accounts are
23 funded from the Gross Revenue Accounts through an automatic bank sweep. On a daily basis,
24 Treasury¹¹ personnel prepare cash position reports and initiate any necessary transfers among the
25 AP Accounts to cover outstanding checks and any known wire transfers within or outside the
26 organization (e.g., internal transfers among accounts, debt payments, pension payments and
27

28 ¹¹ The Treasury function was systematized in October 2016.

1 miscellaneous vendor payments). Each Debtor writes its checks from its respective AP Account;
2 VHS also provides funding to the Accounts of other Debtors and certain non-debtor affiliates,
3 such as Marillac Insurance Company, from the VHS AP Account.¹² Holdings writes its checks
4 for medical office building expenses from the Holdings AP Account.

5 33. As described further below, on a weekly basis, the Debtors' respective accounting
6 personnel make transfers from the AP Accounts to the corresponding Payroll Accounts (defined
7 below) based on that week's payroll.

8 (d) Payroll Accounts (BoA)

VHS	Account No. xxxxxx1785 (the "VHS PR Account")
VBS	Account No. xxxxxx2982 (the "VBS PR Account")
OCH	Account No. xxxxxx3007 (the "OCH PR Account")
SLRH	Account No. xxxxxx7575 (the "SLRH PR Account")
SMC	Account No. xxxxxx3001 (the "SMC PR Account")
SFMC	Account No. xxxxxx3012 (the "SFMC PR Account")
SVMC	Account No. xxxxxx3017 (the "SVMC PR Account," and together with the VHS PR Account, VBS PR Account, OCH PR Account, SLRH PR Account, SMC PR Account and SFMC PR Account, the "Payroll Accounts")

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15 34. Each of VHS, OCH, SLRH, SMC, SFMC, SVMC and VBS is an employer with a
16 separate employer identification number, and processes its own payroll. As noted above, on a
17 weekly basis, generally on Tuesday and Wednesday (as applicable), these Debtors' respective
18 accounting personnel make transfers from the AP Accounts to the corresponding Payroll
19 Accounts. The Payroll Accounts require this funding to make payroll. The amount of such
20 transfers are based on that week's payroll, as provided by payroll personnel.¹³

21 35. ADP, a supplier of human resources and document services, provides VMF with
22 payroll management and administrative services and ADP draws funds from the VMF Checking
23 Account (defined below) to cover its payroll.

24
25
26 ¹² These intercompany transfers are generally effectuated between AP Accounts, and then the recipient Debtor will
27 either disburse funds directly or further transfer into its other account(s). The intercompany transfers are recorded as
28 such and reported daily.

¹³ By separate and contemporaneous motion, the Debtors are requesting authority to continue processing payroll in the ordinary course of business.

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(e) Capitation Accounts (BoA)

SFMC	Account No. xxxxxx1371 (the “SFMC AppleCare Account”)
	Account No. xxxxxx1357 (the “SFMC Conifer Account”)
	Account No. xxxxxx1845 (the “SFMC AllCare Account”)
	Account No. xxxxxx1840 (the “SFMC Healthcare LA Account”)
SVMC	Account No. xxxxxx0553 (the “SVMC Central Health Account”)
	Account No. xxxxxx3695 (the “SVMC Conifer Account,” and together with the SFMC AppleCare Account, SFMC Conifer Account, SFMC AllCare Account, SFMC Healthcare LA Account and SVMC Central Health Account, the “Capitation Accounts”)

36. SFMC and SVMC have contracted with certain health plans to provide hospital and other healthcare services on a risk basis for a specific patient population. SFMC and SVMC are paid a fixed amount for each member (i.e., patient) on a per month basis – known as “capitation.” In return for the capitation payments, SFMC and SVMC agree to arrange for hospital services for these members either at a Debtor Hospital (an “in network” provider) or at third-party hospital or other healthcare provider (the “Out of Network Providers”). The capitation payments are paid into the Lockbox Accounts for SFMC and SVMC, which are swept to SFMC and SVMC’s respective AP Accounts. SFMC and SVMC then fund the Capitation Accounts from the AP Accounts in order to pay claims for patient services to SFMC, SVMC and Out of Network Providers. The claims process and payments are administered by third-party management services organizations (“MSOs”) contracted with SFMC and SVMC. The MSOs are granted access to the Capitation Accounts to provide their management services and pay claims; the MSOs are *not* granted access to the full AP Accounts.

37. If the Out of Network Providers are not paid timely, they will cease providing services to the member-patients, risking the health and safety of such patient population. In addition, if the Out of Network Providers cease providing healthcare services, SFMC and SVMC may be in breach of their capitation contracts with health plans, which contracts require SFMC and SVMC to ensure an “adequate” network of healthcare providers are available to member-patients. Therefore, it is critically important to ensure that patient care services continue to be provided by Out of Network Providers by timely making the required payments.

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(f) Patient Trust Accounts

OCH	BoA Account No. xxxxxx2662 (the “OCH Trust Account”)
SMCC	Tri Counties Bank Account No. xx0055 (the “SMCC TC Trust Account”)
	BoA Account No. xxxxxx2907 (the “SMCC BoA Trust Account”) and together with the OCH Trust Account and SMCC TC Trust Account, the “Patient Trust Accounts”)

38. The Debtors offer certain long-term Patients (“Residents”) of the Hospitals and Skilled Nursing Facilities (“SNF”) the ability to fund patient trust accounts to have convenient access to funds they can use while in residence. Uses of the funds in these Patient Trust Accounts range from obtaining various items to make their Hospital stay more comfortable (e.g., clothing and sundries)¹⁴ to paying for actual costs of medical care. Residents may provide the funds directly, or have deposits made on their behalf (e.g., Social Security payments). In either case, the funds in the Patient Trust Accounts belong to the Residents and not the Debtors. However, the Debtors – and specifically, at this time, OCH and SMCC – hold these Patient Trust Accounts at the Banks on the Residents’ behalf.

39. SMCC recently opened a new Patient Trust Account, the SMCC BoA Trust Account, to migrate one SMCC Resident’s trust account from Tri Counties Bank, where it is the sole Debtor account, to BoA, which is both (a) the Debtors’ primary Bank holding more than 50 of their Accounts, and (b) on the U.S. Trustee’s list of approved depositories. SMCC only needs one of these accounts, and intends to close the SMCC TC Trust Account after the Petition Date.

(g) Philanthropic Accounts

OCH-F	BoA, Account No. xxxxxx3433 (the “OCHF Account”)
	Morgan Stanley, Account No. xxx-xxxxxx-037 (the “OCHF Investment Account”)
SLRH-F	BoA, Account No. xxxxxx2521 (the “SLRHF Account”)
SMC-F	BoA, Account No. xxxxxxxx2260 (the “SMCF Account”)
	Wells Fargo, Account No. xx0089 (the “Healy James TUA”)
SFMC-F	BoA, Account No. xxxxxx2809 (the “SFMCF Account”)
SVMC-F	BoA, Account No. xxxxxx3025 (the “SVMCF Account”)
	EastWest Bank, Account No. xx-xxxx1162 (the “SVMCF MMA Account”) and, together with the OCHF Account, OCH Investment Account, SLRHF Account, SMCF Account, Healy James TUA, SFMCF Account and SVMCF Account, the “Philanthropic Accounts”)

¹⁴ In this situation, the Hospital staff would make the purchase on the Resident’s behalf, and the expense would be reimbursed from the Patient Trust Account.

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1 40. The Philanthropic Foundations receive fundraising monies – including donor-
2 restricted cash – into their Philanthropic Accounts. Each month, the chief executive officer of a
3 Hospital may request funds from the respective Philanthropic Account for an identified need at
4 the Hospital, which, if approved, is then transferred to the Hospital’s AP Account. Certain
5 Philanthropic Foundations have received donations in the form of investments, which are held in
6 the OCHF Investment Account, Healy James TUA and SVMCF MMA Account. By their nature,
7 these accounts fluctuate with the stock market, but the Debtors do not actively trade or invest the
8 funds.

9 (h) VMF Accounts (Wells Fargo)

VMF	Account No. xxxxxx9996 (the “ <u>VMF Checking Account</u> ”)
	Account No. xxxxxx0010 (the “ <u>VMF Old Checking Account</u> ”)

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11 41. The VMF Checking Account is used for all VMF operational purposes. It receives
12 deposits (including provider payments) and issues checks. Among other things, it provides
13 funding to Verity Medical Group, P.C. The VMF Old Checking Account is a checking account
14 that can be used for disbursements and transfers, but currently has a zero balance and is not
15 currently used. Following the Petition Date, the Debtors intend to close the VMF Old Checking
16 Account.

17 (i) Miscellaneous Accounts

VHS	BoA, Account No. xxxxxx9250 (the “ <u>Self-Insurance Account</u> ”)
	BoA, Account No. xxxxxx2889 (the “ <u>Construction Escrow Account</u> ”)
SFMC	U.S. Bank, Account No. xxxxxxxx2162 (the “ <u>Career College Account</u> ”)
SVMC	BoA, Account No. xxxxxx0989 (the “ <u>SVMC Restricted Cash Account</u> ”)
SV Dialysis	BoA, Account No. xxxxxx8921 (the “ <u>SV Dialysis Account</u> ”)
Holdings	BoA, Account No. xxxxxx1975 (the “ <u>Holdings Savings Account</u> ”)
	BoA, Account No. xxxxxx1970 (the “ <u>Holdings Operating Account</u> ”)

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22 42. VHS opened the Self-Insurance Account when it transitioned to a self-insured
23 benefit system and needed an account that could receive electronic deposits. The Account
24 currently exclusively receives Continuation Health Coverage (COBRA)¹⁵ refunds in respect to
25 former employees into the COBRA Refund Account, and makes no disbursements.

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28 ¹⁵ See 26 U.S.C. § 4980B.

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1 43. VHS originally opened the Construction Escrow Account at BoA to streamline
2 reimbursements to certain construction consultants. However, the Construction Escrow Account
3 has never been funded or otherwise used. It has a zero balance, and could be closed or used for
4 another purpose.

5 44. SFMC operated a nursing career college, which closed in 2012. Former students
6 continue to remit tuition payments owing from their time in attendance, and such payments are
7 deposited into the Career College Account. The only funds disbursed from this account are to
8 pay merchant services relating to payments received by credit card.

9 45. SVMC has a Restricted Cash Account. This account contains various gifts made
10 to SVMC deemed to be restricted by the donors pursuant to certain donor agreements. The
11 Debtors have not historically disbursed funds from this account.

12 46. SV Dialysis maintains the Dialysis Account to receive electronic deposits from
13 Medicare (and other medical payment plans) to use as revenues for dialysis services.

14 47. Holdings has two additional accounts – the Holdings Savings Account and the
15 Holdings Operating Account – which receive collections and can make disbursements. At this
16 point, these accounts perform the same function as, and could be consolidated with, the Holdings
17 AP Account. After the Petition Date, the Debtors intend to merge the three accounts, with the
18 Holdings AP Account as the surviving operational account for Holdings.

19 (j) Flexible Spending Accounts (BoA)

OCH	Account No. xxxxxx2284 (the “OCH FS Account”)
SLRH	Account No. xxxxxx2307 (the “SLRH FS Account”)
SMC	Account No. xxxxxx2289 (the “SMC FS Account”)
SMCC	Account No. xxxxxx2302 (the “SMCC FS Account”)
SFMC	Account No. xxxxxx2487 (the “SFMC FS Account”)
SVMC	Account No. xxxxxx2062 (the “SVMC FS Account”)
VBS	Account No. xxxxxx3192 (the “VBS FS Account,” and together with the OCH FS Account, SLRH FS Account, SMC FS Account, SMCC FS Account, SFMC FS Account and SVMC FS Account, the “Flexible Spending Accounts”)

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26 48. The Flexible Spending Accounts are legacy flexible spending accounts used to pay
27 medical bills for the employees from tax deferred amounts that are deducted from employee pay
28 checks. These accounts were funded under the 2017 health benefits plan offered to employees.

1 At that time, the Debtors would transfer the necessary amounts from the respective AP Accounts
2 to the corresponding Flexible Spending Accounts upon elections made by the employee. For the
3 2018 plan year, the Debtors became self-insured, and no longer pay into the Flexible Spending
4 Accounts. The accounts are, therefore, no longer actively used but remain open until WageWorks
5 – the TPA for the 2017 plan year – confirms to the Debtors that no further funding is required in
6 connection with the 2017 plan. Once that happens, any remaining funds will be transferred up to
7 the respective Debtors’ AP Accounts, and the Flexible Spending Accounts may be closed.

8 **D. Balance in Accounts**

9 49. As of the Petition Date, the aggregate balance in the Accounts was approximately
10 \$81.2 million. BoA, U.S. Bank, Wells Fargo and EastWest Bank are approved depositories for
11 funds of debtors in possession by the U.S. Trustee, so the funds in these Accounts –
12 approximately \$79.4 million in aggregate – are protected as required by § 345 of the Bankruptcy
13 Code. Of their remaining Banks, (a) the Debtors’ Account at Morgan Stanley, holding
14 approximately \$241,400, is not used as an ordinary course depository account, and (b) the
15 Debtors’ are prepared to transition their Account at Tri Counties Bank, holding approximately
16 \$25,700, to one that is already open at BoA.

17 **IV.**

18 **DISCUSSION**

19 Statutory support for the requested relief exists pursuant to §§ 105(a) and 363(b)(1) and
20 (c)(1) and the “necessity of payment” doctrine. Section 363(c)(1) authorizes a debtor in
21 possession to enter into transactions in the ordinary course of business without notice and a
22 hearing; whereas § 363(b)(1) authorizes a debtor in possession to use property of the estate other
23 than in the ordinary course of business after notice and a hearing. The Debtors request to
24 continue using their Cash Management System in the ordinary course of business; but even if any
25 of the relief requested herein could be considered outside the ordinary course, the Court may
26 approve it.

27 Pursuant to § 105(a), “the court may issue any order, process, or judgment that is
28 necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Essentially,

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1 § 105(a) provides a statutory counterpart to the bankruptcy court's otherwise inherent and
2 discretionary equitable powers. *See In re Sasson*, 424 F.3d 864, 874 (9th Cir. 2005); *In re*
3 *Halvorson*, 581 B.R. 610, 636 n.91 (Bankr. C.D. Cal. 2018).

4 The Cash Management System constitutes an ordinary course and essential business
5 practice of the Debtors. The Cash Management System provides significant benefits to the
6 Debtors including, among other things, the ability to (a) control corporate and Hospital funds, (b)
7 ensure the maximum availability of funds when and where necessary, (c) ensure Resident access
8 to funds, and (d) reduce costs and administrative expenses by facilitating the movement of funds
9 and the development of more timely and accurate account information.

10 The operation of the Verity Health System and associated foundations requires that the
11 Cash Management System continue during the pendency of these Cases. As a practical matter,
12 because of the Debtors' history and structure, it would be extremely difficult and expensive to
13 establish and maintain a new cash management system; and it would be extraordinarily disruptive
14 and harmful to their operations at this early and critical stage of their Cases. Reestablishing and
15 reconnecting deposits and billings to new accounts would be impractical, costly, and an
16 inefficient use of the Debtors' resources. Any such disruption would have a severe, adverse, and
17 potentially irreparable impact upon the Estates. Consequently, maintaining the Cash
18 Management System is in the best interest of all parties in interest, including Patients.

19 The Court may exercise its equitable powers to grant the relief requested herein.
20 Permitting the Debtors to continue using their Cash Management System without interruption is
21 critical to the success of these Cases. As currently structured, the Debtors' Cash Management
22 System enables the Debtors to transfer their revenues, deposits and other receipts toward the
23 payment of their obligations, and recognizes the operation of the Debtors as an integrated health
24 system. Without the Cash Management System, the Debtors efforts to preserve and maximize
25 value would be impaired. It is well within the Court's equitable powers pursuant to §§ 105(a) and
26 363 to approve the relief requested herein.

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1 **A. Maintenance of the Accounts Is in the Best Interests of the Estates**

2 The UST Guidelines require chapter 11 debtors in possession to open new bank accounts
3 and close all existing accounts upon the commencement of their bankruptcy cases. The UST
4 Guidelines also require that new bank accounts be opened at certain financial institutions
5 designated as authorized depositories by the U.S. Trustee. *See* Notice Of Requirements For
6 Chapter 11 Debtors In Possession, available at www.usdoj.gov/ust/r16.

7 However, requiring the Debtors to close the Accounts and to open new ones will disrupt
8 the Debtors' business and cash flow, which could affect Patient care. Further, closing the
9 Accounts and opening new ones will also increase the work required of the Debtors' accounting
10 personnel who already are busy addressing the many and varied issues related to the
11 commencement of this Case, and would needlessly cost the Debtors time and money with no
12 discernible benefit to the Estate at a time when they are trying to conserve both.

13 LBR 2015-2 requires that a debtor comply with the UST Guidelines. The Debtors hereby
14 seek a waiver of the U.S. Trustee's requirements that they close the existing Accounts and open
15 new postpetition bank accounts at depositories authorized by the U.S. Trustee. The Debtors
16 request instead that they be allowed to convert the Accounts, which are already primarily at
17 depositories authorized by the U.S. Trustee, to "debtor in possession" accounts and continue to
18 utilize them as necessary to best serve their business needs.

19 Even though the Debtors have multiple accounts, each Debtor only utilizes one account
20 for its daily disbursements. As such, there will be no confusion of postpetition transactions with
21 prepetition ones. Requiring the Debtors to close the Accounts would serve no purpose but would,
22 as stated, delay the Debtors' ability to utilize their funds, put further burdens on accounting
23 personnel dealing with the Debtors' many financial issues and cost the Debtors time and money
24 better used in their efforts to maximize value of the Estate for their creditors.

25 Bankruptcy courts across the country routinely grant relief similar to that requested in this
26 Motion; because such considerations are so obvious, however, few decisions related to such
27 requests are published or reported. *But see In re Gen. Growth Props., Inc.*, 412 B.R. 609 (Bankr.
28 S.D.N.Y. 2009); *In re UAL Corp.*, No. 02-B-48191, 2002 WL 34344255 (Bankr. N.D. Ill. Dec. 9,

1 2002). Courts in this district have routinely (a) waived the strict enforcement of the U.S. Trustee
2 Guidelines requiring closing prepetition bank accounts and (b) approved the continued use of
3 existing cash management systems, including a hospital system's authority to continue using
4 prepetition bank accounts. *See, e.g., In re Victor Valley Cmty. Hosp.*, Case No. 10-39537-CB,
5 Docket No. 32 (Bankr. C.D. Cal. Sep. 17, 2010); *In re Downey Reg'l Med. Ctr.-Hosp., Inc.*, Case
6 No. 09-34714-BB, Docket No. 38 (Bankr. C.D. Cal. Sep. 17, 2009); *In re Z Gallerie*, Case No.
7 09-18400-VZ, Docket No. 46 (Bankr. C.D. Cal. Apr. 10, 2009). The Debtors respectfully submit
8 that continued use of the Accounts should be approved in these Cases as well.

9 **B. Granting Administrative Expense Priority to Postpetition Intercompany Claims Is**
10 **Necessary and Appropriate**

11 The Debtors' funds are aggregated in the Cash Management System. The Debtors track
12 all fund transfers in their accounting system and have the ability to account for all intercompany
13 transfers related to cash receipts and disbursements. Continuation of the intercompany transfers
14 in the Cash Management System is in the best interests of the Debtors, their Estates, and all
15 parties in interest. To ensure each individual Debtor will not fund, at the expense of its creditors,
16 the operations of another entity, the Debtors request that, pursuant to §§ 364(b), 503(b)(1) and
17 507(a)(2), all intercompany claims arising after the Petition Date be accorded administrative
18 expense priority.

19 **C. Honoring Certain Prepetition Obligations Related to the Cash Management System**
20 **Should Be Approved**

21 The Debtors incur periodic service charges and other fees from the Banks in connection
22 with the maintenance of the Cash Management System (collectively, the "Bank Fees"), which
23 average approximately \$113,400 per month, which the Debtors estimate that they owe as of the
24 Petition Date and is payable on September 15, 2018. Payment of any prepetition Bank Fees is in
25 the best interests of the Debtors and all parties in interest in these Cases, as it will prevent
26 unnecessary disruptions to the Cash Management System and ensure that the Debtors' receipt of
27 funds are not delayed. Further, because the Banks likely have setoff rights for the Bank Fees,
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1 payment of prepetition Bank Fees should not alter the rights of unsecured creditors in these
2 Cases.

3 **D. Authorizing and Directing the Banks to Honor Postpetition Checks and Granting**
4 **Banks Limited Relief from the Automatic Stay**

5 In relation to the above requested relief, the Debtors also request that the Court:
6 (i) authorize and direct the Banks to honor postpetition checks drawn on and transfers made from
7 the Accounts; (ii) require that in the event the Banks refuse to honor checks drawn on their
8 Accounts or transfer instructions made on their Accounts (provided there are sufficient good
9 funds in the account to honor the checks or transfer instructions and the checks are otherwise
10 properly payable), the Banks immediately turn over the deposits held in the applicable Accounts
11 upon the Debtors' request, and (iii) grant the Banks limited relief from the automatic stay to
12 continue to offset standard monthly or periodic bank fees against the Accounts in the same
13 manner as such fees were offset prepetition. Courts in this district have routinely granted this
14 relief, and the Debtors respectfully submit that the same relief should be approved in these Cases
15 as well. *See* citations, at 24, ll. 4-7, *supra*.

16 **E. Maintenance of the Debtors' Existing Business Forms Is in the Best Interests of the**
17 **Estates**

18 The Debtors are also requesting authority to continue using their business forms without
19 the designation "Debtors in Possession" on them for a limited time. Many of the Debtors'
20 business forms are electronically generated or, if printed, can be electronically altered. The
21 Debtors seek the authority of this Court to utilize their forms without the "Debtors in Possession"
22 designation until existing stock is exhausted, and until the Debtors can make the necessary
23 adjustments to their software so that these forms will contain the phrase "Debtors in Possession."

24 Courts in this district routinely grant authority to continue using existing business forms in
25 chapter 11 cases until new forms can be printed and their current stock is depleted. *See* citations,
26 at 24, ll. 4-7, *supra*. Such authority is routinely granted excusing a business enterprise from
27 suffering the disruption and expense of immediately replacing or otherwise placing the "Debtors
28 in Possession" designation on all of their pre-existing business forms, hampering the

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1 administration of a chapter 11 case to the further economic detriment of creditors while the new
2 forms are being generated, all because it is counter-productive to the purpose of the bankruptcy
3 filing.

4 Accordingly, the Debtors respectfully request continued use of their existing business
5 forms as set forth above, until existing stock is exhausted.

6 **F. The Court Should Authorize the Banks to Immediately Release Any and All**
7 **Administrative Holds and/or Freezes That They May Have on the Accounts**

8 The United States Supreme Court as well as courts within the Ninth Circuit have
9 discussed whether the placement of an administrative “freeze” or hold on a debtor’s bank account
10 violates the automatic stay; and their holdings depend on several factors including under which
11 chapter of the Bankruptcy Code the case is proceeding and what, if any, setoff rights the bank
12 holds. *See, e.g., Citizens Bank of Md. v. Strumpf*, 516 U.S. 16 (1995); *In re Mwangi*, 764 F.3d
13 1168 (9th Cir. 2014); *In re Tuscan Ranch, Inc.*, No. BAP AZ-11-1045, 2012 WL 603639, at *6
14 (B.A.P. 9th Cir. Feb. 2, 2012).

15 The Debtors are not seeking any determination from the Court at this time with respect to
16 the validity or the permissibility of the policy described above. Nonetheless, as the Debtors are
17 seeking to keep the Cash Management System in place, and concurrently requesting authority to
18 immediately pay prepetition payroll, in an abundance of caution, the Debtors respectfully request
19 that the Court exercise its authority pursuant to § 105 and authorize the immediate release on all
20 holds or freezes on the Accounts.

21 **V.**

22 **CONCLUSION**

23 For the foregoing reasons, the Debtors respectfully request that this Court enter an Order:

24 (a) Authorizing the Debtors to continue to use their Cash Management System,
25 subject to the terms of the DIP Documents, including to maintain and continue using their
26 existing Accounts (including for passive investments) and business forms (until existing stock is
27 exhausted);

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1 (b) Authorizing the Debtors to implement changes to their Cash Management System
2 in the ordinary course of business, subject to the terms of the DIP Documents, including closing
3 the Accounts or opening new bank accounts;

4 (c) Authorizing the Debtors to continue to perform under and honor intercompany
5 transactions related to the Cash Management System in the ordinary course of business, in their
6 business judgment and in their sole discretion, subject to the terms of the DIP Documents; and
7 providing administrative expense priority for postpetition intercompany claims based upon
8 transfers made using the Cash Management System;

9 (d) Authorizing and directing the Banks to continue to maintain, service and
10 administer the Accounts in the ordinary course of business, including to honor postpetition checks
11 drawn on and transfers made from the Accounts; and requiring that, in the event the Banks refuse
12 to honor a check drawn or a transfer made on an Account maintained by it (provided there are
13 sufficient good funds in the account to complete the transfer), the Banks immediately turn over
14 the deposits held in the applicable Account upon the Debtors' request;

15 (e) Granting the Banks limited relief from the automatic stay to continue to offset
16 standard monthly bank fees against the Accounts in the same manner as such fees were offset
17 prepetition, including those fees accrued prepetition in the amount of \$113,400; and

18 (f) Granting such other and further relief as is just and proper under the
19 circumstances.

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Dated: August 31, 2018

DENTONS US LLP
SAMUEL R. MAIZEL
JOHN A. MOE, II
TANIA M. MOYRON

By /s/Tania M. Moyron
Tania M. Moyron

Proposed Attorneys for the Chapter 11 Debtors
and Debtors In Possession

EXHIBIT A

EXHIBIT A

EXHIBIT A

	Bank	Debtor	Type	Description	Account No.
1	Bank of America	Verity Health System of California, Inc.	Disbursement	Account Payable	xxxxxx6440
2	Bank of America	Verity Health System of California, Inc.	Disbursement	Payroll	xxxxxx1785
3	Bank of America	Verity Health System of California, Inc.	Savings	Self-Insurance	xxxxxx9250
4	Bank of America	Verity Health System of California, Inc.	Savings	Construction Escrow	xxxxxx2889
5	Bank of America	O'Connor Hospital	Collection	Lockbox	xxxxxx2945
6	Bank of America	O'Connor Hospital	Sweep	Gross Revenue	xxxxxx3900
7	Bank of America	O'Connor Hospital	Disbursement	Account Payable	xxxxxx6389
8	Bank of America	O'Connor Hospital	Disbursement	Payroll	xxxxxx3007
9	Bank of America	O'Connor Hospital	Trust	Patient Trust	xxxxxx2662
10	Bank of America	O'Connor Hospital	Trust	Flexible Spending	xxxxxx2284
11	Bank of America	O'Connor Hospital Foundation	Trust	Philanthropic	xxxxxx3433
12	Bank of America	Saint Louise Regional Hospital	Collection	Lockbox	xxxxxx2926
13	Bank of America	Saint Louise Regional Hospital	Sweep	Gross Revenue	xxxxxx3905
14	Bank of America	Saint Louise Regional Hospital	Disbursement	Account Payable	xxxxxx6421
15	Bank of America	Saint Louise Regional Hospital	Disbursement	Payroll	xxxxxx7575
16	Bank of America	Saint Louise Regional Hospital	Trust	Flexible Spending	xxxxxx2307
17	Bank of America	Saint Louise Regional Hospital Foundation	Trust	Philanthropic	xxxxxx2521
18	Bank of America	St. Francis Medical Center	Collection	Lockbox	xxxxxx2940
19	Bank of America	St. Francis Medical Center	Collection	Lockbox – Cafeteria	xxxxxx1057
20	Bank of America	St. Francis Medical Center	Sweep	Gross Revenue	xxxxxx3924
21	Bank of America	St. Francis Medical Center	Disbursement	Account Payable	xxxxxx6407
22	Bank of America	St. Francis Medical Center	Disbursement	Payroll	xxxxxx3012
23	Bank of America	St. Francis Medical Center	Disbursement	Capitation	xxxxxx1371
24	Bank of America	St. Francis Medical Center	Disbursement	Capitation – Conifer	xxxxxx1357
25	Bank of America	St. Francis Medical Center	Disbursement	Capitation – AllCare	xxxxxx1845
26	Bank of America	St. Francis Medical Center	Disbursement	Capitation – Healthcare LA	xxxxxx1840
27	Bank of America	St. Francis Medical Center	Trust	Flexible Spending	xxxxxx2487
28	Bank of America	St. Francis Medical Center of Lynwood Foundation	Trust	Philanthropic	xxxxxx2809
29	Bank of America	St. Vincent Medical	Collection	Lockbox	xxxxxx2964

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30	Bank of America	St. Vincent Medical Center	Sweep	Gross Revenue	xxxxxx3929
31	Bank of America	St. Vincent Medical Center	Disbursement	Account Payable	xxxxxx6426
32	Bank of America	St. Vincent Medical Center	Disbursement	Payroll	xxxxxx3017
33	Bank of America	St. Vincent Medical Center	Disbursement	Capitation – Central Health	xxxxxx0553
34	Bank of America	St. Vincent Medical Center	Disbursement	Capitation – Conifer	xxxxxx3695
35	Bank of America	St. Vincent Medical Center	Trust	Restricted Cash	xxxxxx0989
36	Bank of America	St. Vincent Medical Center	Trust	Flexible Spending	xxxxxx2062
37	Bank of America	St. Vincent Medical Center Foundation	Trust	Philanthropic	xxxxxx3025
38	Bank of America	Seton Medical Center	Collection	Lockbox	xxxxxx2902
39	Bank of America	Seton Medical Center	Sweep	Gross Revenue	xxxxxx3887
40	Bank of America	Seton Medical Center	Disbursement	Account Payable	xxxxxx6365
41	Bank of America	Seton Medical Center	Disbursement	Payroll	xxxxxx3001
42	Bank of America	Seton Medical Center	Trust	Flexible Spending	xxxxxx2289
43	Bank of America	Seton Medical Center Coastside	Collection	Lockbox	xxxxxx2907
44	Bank of America	Seton Medical Center Coastside	Sweep	Gross Revenue	xxxxxx3882
45	Bank of America	Seton Medical Center Coastside	Disbursement	Account Payable	xxxxxx6384
46	Bank of America	Seton Medical Center Coastside	Trust	Patient Trust	xxxxxx2907
47	Bank of America	Seton Medical Center Coastside	Trust	Flexible Spending	xxxxxx2302
48	Bank of America	Seton Medical Center Foundation	Trust	Philanthropic	xxxxxxxx2260
49	Bank of America	Verity Business Services	Disbursement	Account Payable	xxxxxx6402
50	Bank of America	Verity Business Services	Disbursement	Payroll	Account No. xxxxxx2982
51	Bank of America	Verity Business Services	Trust	Flexible Spending	xxxxxx3192
52	Bank of America	St. Vincent Dialysis	Collection	Dialysis	xxxxxx8921
53	Bank of America	Verity Holdings, LLC	Collection	Lockbox – MOB	xxxxxx1248
54	Bank of America	Verity Holdings, LLC	Disbursement	Account Payable	xxxxxx1597
55	Bank of America	Verity Holdings, LLC	Savings	Savings	xxxxxx1975
56	Bank of America	Verity Holdings, LLC	Savings	Operating	xxxxxx1970
57	EastWest Bank	St. Vincent Medical Center Foundation	Money Market	Philanthropic	xx-xxxx1162
58	Morgan Stanley	O’Connor Hospital Foundation	Trust – Investment	Philanthropic	xxx-xxxxx-037
59	Tri Counties Bank	Seton Medical Center Coastside	Trust	Patient Trust	xx0055
60	U.S. Bank	St. Francis Medical	Collection	Career College	xxxxxxxx2162

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		Center			
61	Wells Fargo	Seton Medical Center Foundation	Trust	Philanthropic	xx0089
62	Wells Fargo	Verity Medical Foundation	Collection/ Disbursement	Checking	xxxxxx9996
63	Wells Fargo	Verity Medical Foundation	Collection/ Disbursement	Checking	xxxxxx0010

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 601 South Figueroa Street, Suite 2500, Los Angeles, CA 90017:

A true and correct copy of the document entitled (*specify*): **EMERGENCY MOTION OF DEBTORS FOR AUTHORITY TO: (1) CONTINUE USING EXISTING CASH MANAGEMENT SYSTEM, BANK ACCOUNTS AND BUSINESS FORMS; (2) IMPLEMENT CHANGES TO THE CASH MANAGEMENT SYSTEM IN THE ORDINARY COURSE OF BUSINESS; (3) CONTINUE INTERCOMPANY TRANSACTIONS; (4) PROVIDE ADMINISTRATIVE EXPENSE PRIORITY FOR POSTPETITION INTERCOMPANY CLAIMS; AND (5) OBTAIN RELATED RELIEF; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the document will be served by the court via NEF and hyperlink to the document. On (*date*) **August 31, 2018**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) **August 31, 2018**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **August 31, 2018**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

BY PERSONAL DELIVERY

Hon. Ernest M. Robles
US Bankruptcy Court
Central District of California
Edward R. Roybal Building & Courthouse
255 E. Temple Street, Suite 1560/Ctrm. 1568
Los Angeles, CA 90012

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

August 31, 2018 Christina O'Meara
Date *Printed Name*

/s/Christina O'Meara
Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.