

1 RESOLUTION NO.

2 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BROWARD  
3 COUNTY, FLORIDA, IMPOSING A NON-AD VALOREM SPECIAL ASSESSMENT  
4 WITHIN BROWARD COUNTY PURSUANT TO THE BROWARD COUNTY LOCAL  
5 PROVIDER PARTICIPATION FUND ORDINANCE FOR THE PURPOSE OF  
6 BENEFITING ASSESSED PROPERTIES THROUGH ENHANCED MEDICAID AND  
7 MEDICAID MANAGED CARE PAYMENTS FOR LOCAL SERVICES; ESTABLISHING  
8 THE ASSESSMENT RATE AND ASSESSMENT AMOUNT FOR EACH ASSESSED  
9 PROPERTY AND ESTABLISHING AN ASSESSMENT ROLL; AUTHORIZING A  
10 METHOD OF COLLECTION; AND PROVIDING FOR SEVERABILITY AND AN  
11 EFFECTIVE DATE.

12  
13 WHEREAS, annually, hospitals in Broward County ("Hospitals") provide millions of  
14 dollars of uncompensated care to uninsured persons and those who qualify for Medicaid,  
15 but Medicaid on average covers only sixty percent (60%) of the costs of the health care  
16 services provided by Hospitals to Medicaid-eligible persons, leaving such Hospitals with  
17 significant uncompensated costs ("Medicaid Shortfall");

18 WHEREAS, the State of Florida ("State") received federal authority to establish the  
19 Statewide Medicaid Managed Care Hospital directed payment program ("DPP") to offset  
20 the Medicaid Shortfall and to improve the quality of care provided to Florida's Medicaid  
21 population;

22 WHEREAS, a number of Hospitals impacted by the Medicaid Shortfall requested  
23 that the Broward County Board of County Commissioners ("Board") impose a non-ad  
24 valorem special assessment upon certain real property interests held by the Hospitals to  
25 help finance the non-federal share of the State's Medicaid program;

26 WHEREAS, on May 10, 2022, the Board adopted the Broward County Local  
27 Provider Participation Fund Ordinance, Article V of Chapter 16 of the Broward County  
28 Code of Ordinances ("Ordinance"), authorizing the Board to levy a uniform non-ad  
29 valorem special assessment, which is fairly and reasonably apportioned among the  
30 Hospitals' property interests within the County's jurisdictional limits, for the purpose of  
31 benefiting Assessed Properties, as defined in the Ordinance, through enhanced Medicaid  
32 and Medicaid managed care payments for Local Services as set forth in the Ordinance  
33 ("Assessment");

34 WHEREAS, the Ordinance provides that to levy the Assessment, the Board must  
35 adopt a resolution that shall describe (a) the Medicaid payments proposed for funding  
36 from proceeds of the Assessment; (b) the benefits to the Assessed Properties; (c) the  
37 methodology for computing the Assessment; and (d) the method of collection;

38 WHEREAS, only real property interests belonging to the Hospitals will be subject  
39 to the Assessment authorized herein;

40 WHEREAS, the funding raised by the Assessment will, through intergovernmental  
41 transfers ("IGTs") consistent with federal guidelines, support additional funding for  
42 Medicaid and Medicaid managed care payments to Hospitals;

WHEREAS, the Board finds that the Hospital properties assessed will benefit directly and specially from the Assessment as a result of the above-described additional funding provided to the Hospitals;

WHEREAS, the Board has determined that a logical relationship exists between the services provided by the Hospitals, which will be supported by the Assessment, and the special and particular benefit to the real property of the Hospitals;

WHEREAS, leveraging additional federal support through the above-described IGTs to fund Medicaid and Medicaid managed care payments to the Hospitals for health care services directly and specifically benefits the Hospitals' property interests and supports their continued ability to provide those services;

WHEREAS, the Board finds that the proposed Assessment is properly apportioned and will be assessed upon all Hospitals at a uniform rate in compliance with 42 C.F.R. § 433.68(d); and

WHEREAS, the Board desires to levy the Assessment to support the provision of additional funding for Medicaid and Medicaid managed care payments to the Assessed Properties pursuant to the Ordinance, NOW, THEREFORE,

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BROWARD COUNTY, FLORIDA:

Section 1. Recitals.

The recitals and the findings therein as set forth in the preamble to this Resolution are true, accurate, and incorporated by reference herein as though set forth in full hereunder.

65           Section 2.   Definitions.

66           All capitalized words and terms not otherwise defined herein shall have the  
67 meanings set forth in the Ordinance.

68           Section 3.   Special Assessment.

69           The Assessment shall be imposed, levied, collected, and enforced against  
70 Assessed Properties located within the County. Proceeds from the Assessment shall be  
71 used to benefit Assessed Properties through a directed payment program that will benefit  
72 the Assessed Properties through enhanced Medicaid and Medicaid managed care  
73 payments for Local Services.

74           When imposed, the Assessment shall constitute a lien upon the Assessed  
75 Properties owned by Hospitals and/or a lien upon improvements on the Assessed  
76 Properties made by Hospital leaseholders equal in rank and dignity with the liens of all  
77 state, county, district, or municipal taxes and other non-ad valorem assessments.  
78 Payments made by Assessed Properties may not be passed along to patients of the  
79 Assessed Property as a surcharge or as any other form of additional patient charge.  
80 Failure to pay may cause foreclosure proceedings, which could result in loss of title, to  
81 commence.

82           Section 4.   Assessment Scope, Basis, and Use.

83           Funds generated from the Assessment shall be used only to:

84           (a)   Provide to the Florida Agency for Health Care Administration (“Agency”) the  
85 non-federal share for Medicaid and Medicaid managed care hospital directed payments  
86 to be made directly or indirectly in support of Hospitals serving Medicaid beneficiaries;  
87 and

88 (b) Reimburse the County for administrative costs associated with the  
89 implementation of the Assessment authorized by the Ordinance.

90 If at the end of the Fiscal Year additional amounts remain in the Local Provider  
91 Participation Fund, the Board is hereby authorized (1) to retain such amounts in the fund  
92 to transfer to the Agency in the following Fiscal Year for use as the non-federal share of  
93 Medicaid and Medicaid managed care hospital directed payments, or (2) if requested to  
94 do so by the Assessed Properties, to refund to Assessed Properties, in proportion to  
95 amounts paid during the Fiscal Year, all or a portion (as applicable) of the unutilized Local  
96 Provider Participation Fund.

97 If, after the Assessment funds are transferred to the Agency, the Agency returns  
98 some or all of the transferred funding to the County (including, but not limited to, a return  
99 of the non-federal share after a disallowance of matching federal funds), the Board is  
100 hereby authorized to (1) refund to Assessed Properties, in proportion to amounts paid in  
101 during the Fiscal Year, the amount of such returned funds, or (2) retain such amounts in  
102 the Local Provider Participation Fund to transfer to the Agency in the next Fiscal Year for  
103 use as the non-federal share of Medicaid and Medicaid managed care hospital directed  
104 payments.

#### 105 Section 5. Computation of Assessment.

106 For the Fiscal Year commencing October 1, 2022, the Assessment shall equal  
107 0.18% of gross patient revenue for each Assessed Property specified in the Non-Ad  
108 Valorem Assessment Roll attached as Exhibit A, which the Board hereby approves. The  
109 amount of the Assessment required of each Assessed Property may not exceed an  
110 amount that, when added to the amount of other hospital assessments levied by the state

or local government, exceeds the maximum percent of the aggregate net patient revenue of all Assessed Hospitals in the County permitted by 42 C.F.R. § 433.68(f)(3)(i)(A). The Assessment for each Assessed Property has been derived from data contained in cost reports and/or in the Florida Hospital Uniform Reporting System, as available from the Agency.

Section 6. Timing and Method of Collection.

The amount of the Assessment is to be collected pursuant to the alternative method outlined in Section 197.3631, Florida Statutes, and the procedure outlined in Section 16-132 of the Ordinance. Broward County shall provide Assessment invoices by first-class mail to each Institutional Health Care Provider who shall submit payment of the Assessment on or before November 30, 2022. No act of error or omission on the part of Broward County, its officers, employees, or agents shall operate to release or discharge any obligation for payment of the Assessment imposed by the Board under the Ordinance and this Resolution.

Section 7. Responsibility for Enforcement.

Broward County shall maintain the duty to enforce the prompt collection of the Assessment by the means provided herein and as provided by law. The duties related to collection of Assessments may be enforced by suit in a court of competent jurisdiction, or by other appropriate proceedings or actions.

Section 8. Severability.

If any portion of this Resolution is determined by any court to be invalid, the invalid portion will be stricken, and such striking will not affect the validity of the remainder of this Resolution. If any court determines that this Resolution, in whole or in part, cannot be

134 legally applied to any individual, group, entity, property, or circumstance, such  
135 determination will not affect the applicability of this Resolution to any other individual,  
136 group, entity, property, or circumstance.

137 Section 9. Effective Date.

138 This Resolution is effective upon adoption.

ADOPTED this            day of            , 2022.

**PROPOSED**

Approved as to form and legal sufficiency:  
Andrew J. Meyers, County Attorney

By: /s/ Christina A. Blythe                      08/24/2022  
Christina A. Blythe                              (date)  
Assistant County Attorney

By: /s/ Annika E. Ashton                      08/24/2022  
Annika E. Ashton                              (date)  
Deputy County Attorney

Exhibit A  
Assessment Roll

| Organization                   | Facility                                                        | Address                                          | Rate        | Payment     |
|--------------------------------|-----------------------------------------------------------------|--------------------------------------------------|-------------|-------------|
| Catholic Health Services       | St John's Rehabilitation Hospital                               | 3075 NW 35th Ave., Lauderdale Lakes, FL 33311    | Gross 0.18% | \$28,795    |
| Cleveland Clinic Health System | Cleveland Clinic Hospital                                       | 2950 Cleveland Clinic Blvd., Weston, FL 33331    | Gross 0.18% | \$2,456,302 |
| Encompass Health               | Encompass Sunrise Rehabilitation Hospital                       | 4399 N Nob Hill Rd., Sunrise, FL 33351           | Gross 0.18% | \$138,248   |
| HCA                            | HCA Florida Northwest Hospital (fka Northwest Med Ctr)          | 2801 N State Rd 7, Margate, FL 33063             | Gross 0.18% | \$3,977,701 |
| HCA                            | HCA Florida University Hospital (fka Plantation Hospital)       | 401 NW 42nd Ave., Plantation, FL 33317           | Gross 0.18% | \$7,261,571 |
| HCA                            | HCA Florida Woodmont Hospital (fka University Hosp and Med Ctr) | 7201 N University Dr., Tamarac, FL 33321         | Gross 0.18% | \$2,093,145 |
| HCA                            | HCA Florida Westside Hospital (fka Westside Regional Med Ctr)   | 8201 W Broward Blvd., Plantation, FL 33324       | Gross 0.18% | \$4,152,690 |
| Kindred Healthcare             | Kindred Hosp - So FL - Ft. Lauderdale                           | 1516 E Las Olas Blvd., Fort Lauderdale, FL 33301 | Gross 0.18% | \$768,437   |
| Larkin Comm. Hosp. System      | Larkin Community Hospital Behavioral Health Services            | 1200 N 35 Ave., Hollywood, FL 33021              | Gross 0.18% | \$64,871    |
| Trinity Health                 | Holy Cross Hospital                                             | 4725 N Federal Hwy, Fort Lauderdale, FL 33308    | Gross 0.18% | \$2,978,319 |
| UHS                            | Fort Lauderdale Hospital                                        | 5757 N Dixie Hwy, Oakland Park, FL 33334         | Gross 0.18% | \$174,594   |