

Competitive Impact Conditions

These Competitive Impact Conditions will be imposed via a court order, imposing injunctive terms, settling *Pasadena Hospital Assoc. and Cedars-Sinai Health System v. California Dept. of Justice, et al.*, in Los Angeles County Superior Court, Case No. 21STCP00978. These Competitive Impact Conditions will replace Exhibit 3 to the Attorney General's conditional approval of the proposed change of governance and control of Pasadena Hospital Association, through its Affiliation Agreement with Cedars-Sinai Medical Center, dated December 10, 2020. This stipulation and order does not change the remaining non-competitive impact conditions set out in the Attorney General's conditional approval of the transaction nor replace Exhibit 4. The injunctive terms are as follows:

1. Definitions.

"Cedars-Sinai" means Cedars-Sinai Health System and, after the Closing Date, includes Huntington Hospital.

"Closing Date" is used as defined in the Consent Letter.

"Commercial or Government-Sponsored Product" means a commercial or government-sponsored product (e.g., Medicare Advantage plans or Medi-Cal managed care plans) offered by a Payer.

"Consent Letter" means the Attorney General's conditional consent of the proposed change of governance and control of Pasadena Hospital Association, through its Affiliation Agreement with Cedars-Sinai Medical Center, dated December 10, 2020.

"Controlled Hospital" means for purposes of this settlement any hospital that is controlled by Cedars-Sinai as of the Closing Date. As of the Closing Date, the Controlled Hospitals are Cedars-Sinai Medical Center, Cedars-Sinai Marina del Rey Hospital, Torrance Memorial Medical Center and Huntington Hospital. For any hospital acquired pursuant to California Corporations Code section 5920 by Cedars-Sinai after the Closing Date, the Attorney General may request that the Court add that hospital to this definition after consulting with Cedars-Sinai.

"Contract Terms" means the conditions under which a Controlled Hospital is willing to contract with a Payer, including price and reimbursement terms, terms under which the Controlled Hospital will participate as a network provider (including a provider in a tiered network), terms relating to utilization review, information or data disclosure and sharing, and terms relating to quality of care.

“Huntington Hospital” has the same meaning as “Huntington Memorial Hospital,” as defined in footnote 1 of the Consent Letter.

“Order Date” means the date that the stipulation and order is entered by the Court in *Pasadena Hospital Assoc. v. California Dept. of Justice*, No. 21STCP00978. “Payer” means a company that provides health insurance policies or makes hospital networks accessible for L.A. residents. The term “Payer” includes self-funded employers that do the foregoing, as well as independent physician associations (e.g., Heritage Provider Network (“Heritage”) or HealthCare Partners, now known as Optum (“HealthCare Partners”), who in turn provide capitated services, under a limited or restricted Knox-Keane license from the Department of Managed Health Care, to any Payer who sells any commercial, Medicare, and Medi-Cal healthcare plans of any kind or makes any networks available to self-insured employers, union trusts, and/or state and local government entities. Examples of Payers include Aetna Health of California, Aetna Health Management, Aetna Life Insurance Co., Anthem Blue Cross Inc./Blue Cross of California, California Physician Services (d/b/a Blue Shield of California), Cigna HealthCare of California, Inc., Cigna Health and Life Insurance Co., Heritage, HealthCare Partners, Health Net of California, Inc., The Local Initiative Health Authority for Los Angeles County (d/b/a L.A. Care Health Plan), United Healthcare of California (and their subdivisions, subsidiaries, successors, assigns, and affiliates), and IPAs such as Optum Healthcare, Prospect Medical Group, St. Joseph Health, Heritage Provider Network, and Memorial Care Medical Group. However, the term “Payer” does not include (a) Kaiser Foundation Health Plan Inc., Kaiser Foundation Hospitals, The Permanente Medical Groups or Kaiser Permanente Insurance Corporation, individually or collectively, or (b) any commercial health plans or networks co-branded with any healthcare provider other than Huntington Hospital (although “Payers” can include capitated IPAs affiliated with healthcare providers other than Huntington Hospital that contract, or seek to contract, with non-healthcare provider affiliated Payers).

2. For ten years from the Order Date, unless a Payer voluntarily requests otherwise, Cedars-Sinai will not expressly or implicitly condition the participation of, or impose any Contract Terms concerning, a Controlled Hospital, including prices or any other conditions, on the participation of, or any Contract Terms concerning, one or more other Controlled Hospitals, with any Payer. This prohibition on conditioning of participation or Contract Terms across Controlled Hospitals includes:
 - (a) Engaging a Payer in “all-or-nothing” contracting for hospital services by expressly or impliedly requiring the Payer to contract with all Controlled Hospitals and not permitting the Payer to contract with individual Controlled Hospitals, including by conditioning the participation, pricing, or Contract Terms of a Controlled Hospital in a Commercial or Government-Sponsored Product on any of the following:

- (i) the participation or Contract Terms of another Controlled Hospital in the same or any other Commercial or Government-Sponsored Product offered by the Payer,
 - (ii) the pricing of another Controlled Hospital in the same or any other Commercial or Government-Sponsored Product offered by the Payer, or
 - (iii) the status (including the decision on whether to include or exclude) a Controlled Hospital in the Payer's center of excellence program (or other program designed to differentiate hospitals based on their quality of care, their cost, or other consideration), or the exclusion of any third party's hospital in the Payer's center of excellence program (or other similar program); or
- (b) Explicitly or implicitly penalizing a Payer for contracting with individual Controlled Hospitals, including setting significantly higher than existing contract prices or out-of-network fees for any or all Controlled Hospitals, should the Payer choose to contract with less than all of the Controlled Hospitals. If a Controlled Hospital is not contracted with a Payer, such Controlled Hospital will be subject to reimbursement from that Payer as determined under 28 CCR 1300.71(a)(3)(B).
- (c) Interfering with, or otherwise engaging in any action, direct or indirect, to prevent the introduction or promotion of new narrow, tiered, or steering Commercial or Government-Sponsored Products or value-based benefit designs for Commercial or Government-Sponsored Products (i.e., benefit designs that attempt to reward providers for affordability and/or quality), including reference pricing.
3. For five years from the Order Date, the maximum that Cedars-Sinai may charge a Payer for any Commercial or Government-Sponsored Product of a Payer for hospital services that are being performed at Huntington Hospital as of the Closing Date will be governed by the applicable payment provisions in the Contract Terms that are in effect between Huntington Hospital and that Payer, subject to any renewal Contract Terms that are negotiated in compliance with these Competitive Impact Conditions, so long as such annual price increases do not exceed 4.8% per year.
 4. For ten years from the Order Date, Cedars-Sinai will not enter into any amendment to any agreement with a Payer that would violate Competitive Impact Condition #2 above. For five years from the Order Date, Cedar-Sinai shall not enter into any amendment to any agreement with a Payer that would violate Competitive Impact Condition #3; for the next five years, Cedars-Sinai shall only enter into any amendment to any agreement with a Payer that would violate Competitive Impact Condition #3 insofar as an existing agreement between that Payer and Huntington

Hospital allows or does not prohibit negotiated renewal Contract Terms.

5. Retaliation or threats of retaliation based on any Payer, entity, or individual having provided information in conjunction with these conditions to any party, the Monitor, or the Court is prohibited.
6. At the option of a Payer, and with the concurrence of the Attorney General, the Monitor, and the Court, a Payer may request separate negotiating teams and firewalls between Cedars-Sinai and Huntington to remedy violation(s) of Competitive Impact Conditions #2 and #4 (to the extent that Competitive Impact Condition #4 relates to Competitive Impact Condition #2). This specific remedy shall not operate in derogation of any other remedy that the Attorney General may seek for any violation of these conditions from the Court, including an award of attorneys' fees and costs.
7. The Attorney General will have the right to appoint a person selected as described in this Competitive Impact Condition #7 (the "Monitor") to perform the services described in Competitive Impact Condition #7.
 - (a) *Selection:* The Attorney General has the sole discretion to select the Monitor subject to consultation with Cedars-Sinai and the agreement of the Court. To be qualified to serve as a Monitor, a candidate must disclose to the Attorney General and to Cedars Sinai any potential conflict of interest, be experienced with managed care contracting in general, if not also knowledgeable as to managed care contracting in California, and be knowledgeable about federal and California antitrust law. Cedars-Sinai will disclose candidates it proposes to serve as the Monitor to the Attorney General and the Attorney General will disclose candidates it proposes to serve as the Monitor to Cedars-Sinai. The Attorney General and Cedars-Sinai shall consider diversity, equity, and inclusion in proposing candidates to serve as the Monitor. The Attorney General will give due consideration to any candidates proposed by Cedars-Sinai and Cedars-Sinai will give due consideration to any candidates proposed by the Attorney General. Any interviews of any candidates will be jointly conducted by Cedars-Sinai and the Attorney General. Within 90 days from the Order Date, the Attorney General will promptly apply to the Court for appointment of the selected Monitor. In the event that the Court rejects the Attorney General's selection of the Monitor, the Attorney General may re-do the selection process subject to the directions of the Court and select another Monitor. Not later than thirty (30) days after the Attorney General's selection of the Monitor, Cedars Sinai shall execute an agreement that, subject to the prior approval of the Attorney General, confers on the Monitor those rights, powers, and authorities necessary to permit the Monitor to perform his/her duties and responsibilities described in Competitive Impact Condition #7(b) below. Cedars-Sinai may require the Monitor and each of the Monitor's staff and experts to sign a customary confidentiality agreement; provided however, that such

agreement shall not restrict the Monitor from providing any information to the Attorney General. Cedars-Sinai will be solely responsible for the expenses of the selected Monitor, including staff and experts of the Monitor, in performing the services described in Competitive Impact Condition #7(b) below.

- (b) *Powers*: The Monitor shall have the following powers to the extent necessary to monitor compliance with Competitive Impact Conditions #2, #3, #4, and #5: to investigate Cedars-Sinai's compliance with such Competitive Impact Conditions; to take complaints from Payers, Cedars-Sinai, or from the Attorney General (with reasonable notice to be provided thereafter to all parties); to inspect records and compel disclosure of confidential documents subject to any demonstrated legally recognized privilege and appropriate confidentiality protections; to interview witnesses (if Cedars-Sinai employees, then subject to reasonable prior notice and the opportunity for Cedars-Sinai to have counsel present); to hire staff and experts; and to make recommendations concerning enforcement to the Attorney General and to the Court.
 - (c) *Duty to Cooperate*: Cedars-Sinai shall cooperate with the Monitor in the performance of the Monitor's work and shall take no action to interfere with or impede the Monitor's ability to monitor compliance with this Order.
 - (d) *Reporting*: Cedars-Sinai shall provide annual reports to the Monitor of Cedars Sinai's efforts to comply with Competitive Impact Conditions #2, #3, and #4. Within a reasonable time from the date the Monitor receives these reports, the Monitor will be obligated to report in writing to the Attorney General and Cedars-Sinai as to any and all concerns as set out in these annual reports regarding Cedars-Sinai's performance of their respective obligations under Competitive Impact Conditions #2, #3, and #4.
- 8. Cedars-Sinai shall pay to the Attorney General as compensation for his use of competitive impact expert and other costs the sum of \$450,000.
 - 9. The order entered by the Court shall last for ten (10) years from the Order Date. The Attorney General may apply to the Court for a three-year extension of Competitive Impact Conditions #2, #4 (to the extent that Competitive Impact Condition #4 relates to Competitive Impact Condition #2), #5, #6 and #7. The Court must consider whether Cedars-Sinai has been found to have committed a material violation of the Competitive Impact Conditions within the preceding ten (10) years in determining whether to grant the extension request.