

**KAMALA D. HARRIS**  
**Attorney General**

**State of California**  
**DEPARTMENT OF JUSTICE**



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August 15, 2013

**Sent Via Email and U.S. Mail**

Heather Conwell, RN, VP Nursing  
Downey Regional Medical Center  
11500 Brookshire Avenue  
Downey, CA 90241

RE: Proposed Change in Governance of Downey Regional Medical Center

Dear Ms. Conwell:

Pursuant to Corporations Code section 5920 *et seq.*, the Attorney General hereby conditionally consents, to the change in governance of Downey Regional Medical Center and the Member Substitution Agreement entered into by and among Downey Regional Medical Center, Inc., Downey Regional Medical Center – Hospital, Inc., and InterHealth Corp.

Corporations Code section 5923, and California Code of Regulations, title 11, section 999.5, subdivision (f), set forth factors that the Attorney General shall consider in determining whether to consent to a proposed transaction between nonprofit corporations. The Attorney General has considered such factors and consents to the proposed transaction subject to the attached conditions that are incorporated by reference herein.

Thank you for your cooperation throughout the review process.

Sincerely,

[Original Signed]

WENDI A. HORWITZ  
Deputy Attorney General

For KAMALA D. HARRIS  
Attorney General

Attachment  
cc: Kevin Duthoy, Esq.

**Conditions to Change in Governance of Downey Regional Medical Center<sup>1</sup> and  
Approval of the Member Substitution Agreement by and among Downey Regional Medical  
Center, Inc., Downey Regional Medical Center - Hospital, Inc., and InterHealth Corp.**

**I.**

These Conditions shall be legally binding on Downey Regional Medical Center, Inc., a California nonprofit public benefit corporation, Downey Regional Medical Center - Hospital, Inc., a California nonprofit public benefit corporation, and InterHealth Corp., a California nonprofit public benefit corporation, any other subsidiary, parent, general partner, manager, member, affiliate, successor, or assignee of Downey Regional Medical Center – Hospital, Inc.<sup>2</sup>, Downey Regional Medical Center, Inc., and InterHealth Corp., any entity succeeding thereto as a result of the Member Substitution, merger or acquisition of all or substantially all of the assets of Downey Regional Medical Center – Hospital, Inc., or the real property on which Downey Regional Medical Center, is located, any and all current and future owners, managers, lessees, or operators of Downey Regional Medical Center, and any and all current and future lessees and owners of the real property on which Downey Regional Medical Center is located.

**II.**

The transaction approved by the Attorney General consists of the Member Substitution Agreement dated June 14, 2013, Amendment No. 1 to the Member Substitution Agreement dated July 23, 2013, and any other documents referenced in the Member Substitution Agreement including, but not limited to, any amended and restated articles of incorporation and bylaws for Downey Regional Medical Center – Hospital, Inc., DRMC Properties Inc.<sup>3</sup>, a California corporation, and Memorial Trust Foundation of Downey Regional Medical Center<sup>4</sup>, a California nonprofit public benefit corporation. Downey Regional Medical Center, Inc., Downey Regional Medical Center – Hospital, Inc., and InterHealth Corp. shall fulfill the terms of the Member Substitution Agreement and any other documents referenced therein, and the Amendment No. 1 to the Member Substitution Agreement. Downey Regional Medical Center, Inc., Downey Regional Medical Center – Hospital, Inc., and InterHealth Corp. shall notify the Attorney

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<sup>1</sup> Throughout this document, the term “Downey Regional Medical Center” shall mean the general acute care hospital located at 11500 Brookshire Avenue, Downey, CA 90241, and any other clinics, laboratories, units, services, or beds included on the license issued to Downey Regional Medical Center by the California Department of Public Health, effective June 30, 2013, unless otherwise indicated. Any reference to Downey Regional Medical Center includes and incorporates PIH Health Hospital Downey.

<sup>2</sup> Any reference to Downey Regional Medical Center – Hospital, Inc. includes and incorporates PIH Health Hospital Downey, Inc.

<sup>3</sup> Any reference to DRMC Properties, Inc. includes and incorporates Downey Properties, Inc.

<sup>4</sup> Any reference to Memorial Trust Foundation of Downey Regional Medical Center includes and incorporates PIH Health Hospital Downey Memorial Trust Foundation.



General in writing of any proposed modification or rescission of any of the terms of the Member Substitution Agreement and/or the Amendment No. 1 to the Member Substitution Agreement. Such notifications shall be provided at least thirty days prior to their effective date in order to allow the Attorney General to consider whether they affect the factors set forth in Corporations Code section 5923.

### III.

For five years from the closing date of the Member Substitution Agreement, Downey Regional Medical Center and all future owners, managers, lessees, or operators of Downey Regional Medical Center shall be required to provide written notice to the Attorney General thirty days prior to entering into any agreement or transaction to do any of the following:

- (a) Sell, transfer, lease, exchange, option, convey, manage, or otherwise dispose of Downey Regional Medical Center;
- (b) Transfer control, responsibility, management, or governance of Downey Regional Medical Center. The substitution or addition of a new corporate member or members of Downey Regional Medical Center, Downey Regional Medical Center, Inc., Downey Regional Medical Center – Hospital, Inc., and InterHealth Corp. that transfers the control of, responsibility for or governance of Downey Regional Medical Center, shall be deemed a transfer for purposes of this Condition. The substitution or addition of one or more members of the governing body of Downey Regional Medical Center, Downey Regional Medical Center, Inc., Downey Regional Medical Center – Hospital, Inc., and InterHealth Corp., or any arrangement, written or oral, that would transfer voting control of the members of the governing body of Downey Regional Medical Center, Downey Regional Medical Center, Inc., Downey Regional Medical Center – Hospital, Inc., and InterHealth Corp. shall also be deemed a transfer for purposes of this Condition.

### IV.

For five years from the closing date of the Member Substitution Agreement unless otherwise stated, Downey Regional Medical Center shall be operated and maintained as a licensed general acute care hospital (as defined in California Health and Safety Code Section 1250) and shall maintain and provide the following health care services:

- a) Twenty-four hour emergency medical services as currently licensed (minimum of 22 Emergency beds/stations) with the same types and levels of services as currently provided<sup>5</sup>;
- b) Intensive Care services as currently licensed (minimum of 8 beds), with the same types and levels of services as currently provided;

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<sup>5</sup> The term “currently provided” means types and levels of services provided as of January 1, 2013.

c) Coronary Care services as currently licensed (minimum of 10 beds), with the same types and levels of services as currently provided; and

d) Women's health and reproductive services, with the same types and levels of services as currently provided, for ten years from the closing date of the Member Substitution Agreement.

Downey Regional Medical Center shall not place all or any portion of its above-listed licensed-bed capacity or services in voluntary suspension or surrender its license for any of these beds or services.

## V.

For five years from the closing date of the Member Substitution Agreement, Downey Regional Medical Center shall:

a) Be certified to participate in the Medi-Cal program.

b) Maintain Medi-Cal Managed Care contract(s) to provide the same types and levels of emergency and non-emergency services at Downey Regional Medical Center to Medi-Cal beneficiaries (both Traditional Medi-Cal and Medi-Cal Managed Care) as required in these Conditions, on the same terms and conditions as other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause.

c) Have a Medicare Provider Number to provide the same types and levels of emergency and non-emergency services at Downey Regional Medical Center to Medicare beneficiaries (both Traditional Medicare and Medicare Managed Care) as required in these Conditions.

d) Maintain Medicare Managed Care contract(s) to provide the same types and levels of emergency and non-emergency services at Downey Regional Medical Center to Medi-Cal beneficiaries (both Traditional Medicare and Medicare Managed Care) as required in these Conditions, on the same terms and conditions as other similarly situated hospitals offering substantially the same services, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contract is terminated for cause.

## VI.

For five years from the closing date of the Member Substitution Agreement, Downey Regional Medical Center shall maintain the following contracts and amendments, without any loss, interruption of service or diminution in quality, or gap in contracted hospital coverage, unless the contracts are terminated for cause, and shall provide the same services specified therein:

a) Agreement for participation in the Hospital Preparedness Program with the Los Angeles County, signed January 1, 2013, to remain in effect until June 30, 2017;



b) Agreement for participation in the Impacted Hospital Program with Los Angeles County, amended June 9, 2010, with a one year extension option until June 30, 2014, or the re-opening of Martin Luther King Jr. Hospital.

## VII.

For six fiscal years from the closing date of the Member Substitution Agreement, Downey Regional Medical Center shall provide an annual amount of Charity Care (as defined below) at Downey Regional Medical Center equal to or greater than \$3,988,626 (the "Minimum Charity Care Amount"). For purposes hereof, the term "charity care" shall mean the amount of charity care costs (not charges) incurred by Downey Regional Medical Center in connection with the operation and provision of services at Downey Regional Medical Center. The definition and methodology for calculating "charity care" and the methodology for calculating "costs" shall be the same as that used by the California Office of Statewide Health Planning and Development (OSHPD) for annual hospital reporting purposes.<sup>6</sup> Downey Regional Medical Center shall use charity care and collection policies that comply with Federal and California law. The planning of, and any subsequent changes to, the charity care and collection policies, and charity care services provided at Downey Regional Medical Center shall be decided upon by the Downey Regional Medical Center's Board of Directors.

Downey Regional Medical Center's obligation under this Condition shall be prorated on a daily basis if the closing date of the Member Substitution Agreement is a date other than the first day of Downey Regional Medical Center's fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Charity Care Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Riverside-Orange County Consolidated Metropolitan Statistical Area Base Period: 1982-84=100" (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of charity care provided at Downey Regional Medical Center for any fiscal year is less than the Minimum Charity Care Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Downey Regional Medical Center shall pay an amount equal to the deficiency to a tax-exempt entity that provides direct health care services to residents in Downey Regional Medical Center's service area (19 ZIP codes), as defined on page 20 of the Health Care Impact Report, dated July 8, 2013, and attached hereto as Exhibit 1. Such payment shall be made within four months following the end of such fiscal year.

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<sup>6</sup> OSHPD defines charity care by contrasting charity care and bad debt. According to OSHPD, "the determination of what is classified as . . . charity care can be made by establishing whether or not the patient has the ability to pay. The patient's accounts receivable must be written off as bad debt if the patient has the ability but is unwilling to pay off the account."

## VIII.

For six fiscal years from the closing date of the Member Substitution Agreement, Downey Regional Medical Center shall provide an annual amount of Community Benefit Services at Downey Regional Medical Center equal to or greater than \$423,856 (the "Minimum Community Benefit Services Amount"). The planning of, and any subsequent changes to, the community benefit services provided at Downey Regional Medical Center shall be decided upon by the Downey Regional Medical Center's Board of Directors.

Downey Regional Medical Center's obligation under this Condition shall be prorated on a daily basis if the effective date of the Member Substitution Agreement is a date other than the first day of Downey Regional Medical Center's fiscal year.

For the second fiscal year and each subsequent fiscal year, the Minimum Community Benefit Services Amount shall be increased (but not decreased) by an amount equal to the Annual Percent increase, if any, in the 12 Months Percent Change: All Items Consumer Price Index for All Urban Consumers in the Los Angeles-Riverside-Orange County Consolidated Metropolitan Statistical Area Base Period: 1982-84=100" (CPI-LA, as published by the U.S. Bureau of Labor Statistics).

If the actual amount of community benefit services provided at Downey Regional Medical Center for any fiscal year is less than the Minimum Community Benefit Services Amount (as adjusted pursuant to the above-referenced Consumer Price Index) required for such fiscal year, Downey Regional Medical Center shall pay an amount equal to the deficiency to one or more tax-exempt entities that provide community benefit services for residents in Downey Regional Medical Center's service area (19 ZIP codes), as defined on page 20 of the Health Care Impact Report, dated July 8, 2013, and attached hereto as Exhibit 1. Such payment shall be made within four months following the end of such fiscal year.

## IX.

InterHealth Corp. shall make the capital expenditures as required under section 3.9, entitled "Capital Commitments," in the Member Substitution Agreement (attached hereto as Exhibit 2).

## X.

For six fiscal years from the closing date of the Member Substitution Agreement, Downey Regional Medical Center shall submit to the Attorney General, no later than four months after the conclusion of each fiscal year, a report describing in detail compliance with each Condition set forth herein. The Chairman of the Board of Directors of Downey Regional Medical Center and the Chief Executive Officer at Downey Regional Medical Center shall each certify that the report is true and correct and provide documentation of the review and approval of the report by the Downey Regional Medical Center Board of Directors.



## **XI.**

At the request of the Attorney General, the Downey Regional Medical Center, Downey Regional Medical Center, Inc., Downey Regional Medical Center - Hospital, Inc., and InterHealth Corp. shall provide such information as is reasonably necessary for the Attorney General to monitor compliance with these Conditions and the terms of the transaction as set forth herein. The Attorney General shall, at the request of a party and to the extent provided by law, keep confidential any information so produced to the extent that such information is a trade secret or is privileged under state or federal law, or if the private interest in maintaining confidentiality clearly outweighs the public interest in disclosure.

## **XII.**

The Attorney General reserves the right to enforce each and every Condition set forth herein to the fullest extent provided by law. Pursuant to Government Code section 12598, the Attorney General's office shall also be entitled to recover its attorney fees and costs incurred in remedying each and every violation.

**EXHIBIT 1**



## IV. The Hospital's Service Area Analysis

### Definition of the Hospital's Service Area

The table below shows that 19 ZIP Codes comprise the Hospital's service area. The 19 ZIP Codes account for 82.2% of the Hospital's inpatient discharges in CY 2011. The top seven ZIP Codes account for 58.5% of inpatient discharges. The Hospital's market share in the service area was 9.9% in 2011.

**Downey Regional Medical Center  
Patient Origin  
CY 2011**

ZIP Code	Community	Market Share	Discharges	Percent of Total	Cumulative Percent
90241	Downey	37.3%	1,679	14.1%	14.1%
90650	Norwalk	9.9%	1,216	10.2%	24.2%
90280	South Gate	13.6%	1,071	9.0%	33.2%
90242	Downey	24.2%	1,022	8.6%	41.7%
90201	Bell	8.4%	692	5.8%	47.5%
90202	Bell Gardens	83.2%	685	5.7%	53.3%
90240	Downey	27.3%	628	5.3%	58.5%
90706	Bellflower	6.3%	491	4.1%	62.6%
90262	Lynwood	5.7%	401	3.4%	66.0%
90723	Paramount	7.4%	393	3.3%	69.3%
90255	Huntington Park	5.3%	371	3.1%	72.4%
90660	Pico Rivera	4.0%	286	2.4%	74.8%
90270	Maywood	6.5%	177	1.5%	76.3%
90001	Los Angeles	2.5%	158	1.3%	77.6%
90221	Compton	2.1%	123	1.0%	78.6%
90670	Santa Fe Springs	7.3%	119	1.0%	79.6%
90040	Los Angeles	8.6%	112	0.9%	80.5%
90703	Cerritos	2.5%	107	0.9%	81.4%
90701	Artesia	4.0%	85	0.7%	82.2%
<i>Subtotal</i>			<u>9,816</u>	<u>82.2%</u>	
All Other			2,132	17.8%	100.0%
<b>TOTAL</b>			<u><u>11,948</u></u>	<u><u>100.0%</u></u>	

Source: OSHPD Inpatient Database, 2011 and Claritas, Inc.

Note: Excludes normal new borns (MS-DRG 795); includes all types of care.

\*90202 is a P.O. Box ZIP Code.

Clients/California Attorney General/Downey\_Regional\_Medical\_Center/Planning/[DRM C\_Pt\_Origin.xlsx]Patient Origin Table

**EXHIBIT 2**



Hospital, MTF and DRMC Properties shall continue to be owned by each such entity following the Closing.

**3.5. Post-Closing Operations.** Following the Closing, PIH Health Hospital Downey shall continue to operate as a general acute care hospital and shall maintain the ownership of all of DRMC Hospital's assets and will continue responsibility for all of DRMC Hospital's debts and liabilities. Likewise, DRMC Hospital's affiliated corporations, MTF and DRMC Properties, respectively, shall continue to operate as before and maintain ownership of and responsibility for their respective assets and liabilities.

**3.6. Licensure and Services.** PIH Health commits to the following for a minimum five (5) year period following the Closing: to maintain DRMC Hospital's general acute care hospital license; to continue to operate a basic emergency medical service at the same level as currently operated by DRMC Hospital; to continue to operate DRMC as a general acute care hospital in a manner reasonably comparable with its current operation subject to changes or modifications to current services as may be appropriate to respond or adapt to (1) DRMC's financial condition or performance; (2) the general environment of standards of practice for the delivery of medical, hospital and healthcare services; (3) federal, state or local laws, rules or regulations; (4) the evolving healthcare needs in the communities served by DRMC; (5) medical or healthcare science innovation or technology; (6) the availability of other healthcare resources in the communities served by DRMC, including those offered by PIH Health Hospital; or (7) the breach of the Transaction Documents by DRMC.

**3.7. Medical Staff.** Following the Closing, PIH Health Hospital Downey will recognize and retain the existing medical staff organization, its members and their respective clinical privileges. DRMC Hospital's medical staff existing medical staff bylaws, rules and regulations will remain in effect, subject only to those changes as may be necessary by reason of the Contemplated Transactions, best practices, or legal requirements. DRMC Hospital's medical staff leadership and office will continue to serve to the remainder of their respective terms of office as determined under the existing bylaws, rules and regulations of the DRMC Hospital medical staff.

**3.8. Management and Employees.** Following the Closing, PIH Health Hospital Downey will continue to employ substantially all of the employees currently employed by DRMC Hospital (i.e., non-physician nursing, technical, supervisory, management and other employees). PIH Health Hospital Downey employees will retain equivalent part-time or full-time status at compensation rates and with employee benefits that are reasonably comparable and market-competitive to existing rates and employee benefits for similarly situated employees in DRMC Hospital's geographic area. DRMC Hospital Employees shall receive credit for prior employment with DRMC Hospital for purposes of determining employee benefit plans, seniority, and other relevant purposes, as well as previously accrued but unpaid PTO. PIH Health will abide by the terms and conditions of existing employment agreements for members of DRMC senior management.

**3.9. Capital Commitments.** In consideration for the agreements of DRMCI and DRMC Hospital set forth in Section 3.1 hereof and the consummation of the Contemplated

Transactions, PIH Health will cause DRMC Hospital to make the following capital commitments during the five (5) years immediately following the Closing Date:

3.9.1. Fund and complete any required seismic improvements to the DRMC Hospital campus in amounts not to exceed twenty million dollars (\$20,000,000).

3.9.2. Perform/construct needed infrastructure updates including cardiac catheterization lab, IT systems, power, etc., approximating five million dollars (\$5,000,000)/yr./5 years.

3.9.3. Minimum requirements to maintain DRMC Hospital as a licensed general acute care hospital.

3.9.4. Undertake a Campus-wide capital upgrade plan following study on budgeting and-resources during the first year of operations as PIH Health Hospital Downey.

3.10. Satisfaction of Major Obligations. In consideration for the agreements of DRMC and DRMC Hospital set forth in Section 3.1 hereof and the consummation of the Contemplated Transactions, PIH Health will commit to accrue, meet or satisfy certain existing financial obligations of DRMC Hospital as follows:

3.10.1. Taxable Series 2012 Bonds issued through Independent Cities Financing Authority for approximately twenty-one million six hundred thousand dollars (\$21,600,000).

3.10.2. Tax-Exempt CHFFA Series 1993 bonds for approximately eleven million dollars (\$11,000,000).

3.10.3. Asset-backed accounts receivable working capital/revolving credit facility for approximately seventeen million dollars (\$17,000,000) (amount owed fluctuates with DRMC Hospital's working capital cycle).

3.10.4. PIH Health will abide by or cause PIH Health Hospital Downey to abide by DRMC Hospital's Plan of Reorganization dated effective March 6, 2012, including:

a. The payment of \$8,622,424.62 to Class 5 general unsecured creditors in the aggregate, which amount is of the remaining 45% of claim value due under the terms and conditions of the Plan, together with additional payment of \$862,242.46, which is the 10% bonus payable in the event DRMC Hospital affiliates with a non-profit entity, on the terms provided for under the Plan. To the extent amounts remain outstanding and unpaid to Class 5 members, additional annual 3% interest payments that might hereafter become due will be made when due. PIH Health reserves the right to accelerate the timing of payments on terms more favorable than the Plan provides to the Class 5 members.

b. The payment of \$4,558,800.00 to Class 6 Risk Share creditors in the aggregate, or any lesser amount not paid of that balance if paid in whole or