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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

CALIFORNIA HOSPITAL ASSOCIATION,

Petitioner,

vs.

OFFICE OF HEALTH CARE AFFORDABILITY; CALIFORNIA DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION; ELIZABETH LANDSBERG, in her official capacity as Director of the OFFICE OF HEALTH CARE AFFORDABILITY and Director of the CALIFORNIA DEPARTMENT OF HEALTH CARE ACCESS AND INFORMATION; and THE HEALTH CARE AFFORDABILITY BOARD,

Respondents.

Case No. CPF-25-519370

PETITIONER'S OPPOSITION TO RESPONDENTS' DEMURRER

[*Petitioner's Objections to Respondents' Request for Judicial Notice in Support of Demurrer to Petition for Writ of Mandate filed concurrently herewith*]

Judge: Hon. Joseph M. Quinn
Date: February 17, 2025
Time: 9:00 a.m.
Dept.: 302

Action Filed: October 15, 2025
Trial Date: None Set

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Petitioner California Hospital Association ("CHA") hereby opposes the Demurrer filed by Respondents Office of Health Care Affordability; California Department of Health Care Access and Information; Elizabeth Landsberg, in her official capacity as Director of the Office Of Health Care Affordability and Director of the California Department of Health Care Access and Information; and The Health Care Affordability Board (collectively, "OHCA" or "Respondents").

I. INTRODUCTION

California's hospitals are the backbone of our state's health care system. They ensure that all Californians have access to high quality health care, providing services regardless of income or health coverage. Indeed, hospitals provide more than one billion dollars of free or discounted care annually. In addition, most hospitals operate emergency departments that are open 24/7, and treat everyone who arrives there. The health care safety net that Californians rely upon is not possible without a thriving network of hospitals statewide. (Pet. ¶¶ 1, 2, 128, 154, 168.)

Yet, about one-half of our hospitals are in the red. (Pet. ¶ 136.) Hospital bankruptcies are becoming more common—just months ago, at the close of 2025, Oroville Hospital filed a bankruptcy petition. Hospitals' financial struggles will only be exacerbated by the recent Medicare and Medicaid funding reductions in the One Big Beautiful Bill Act, which are estimated to reduce payments to California hospitals by between $66 billion and $128 billion over the next ten years, in addition to significantly higher uncompensated care costs faced by hospitals due to contracted enrollment in government sponsored programs. (Pet. ¶ 8.) Hospitals treating patients most at risk of forgoing needed care—those who live in rural areas or without insurance, for example—will be hit hardest.

The cost targets that OHCA adopted will strain hospitals to a breaking point, threatening access to care, equity of care, and quality of care. The only way for many hospitals to meet these cost targets will be to reduce services and staff, as the cost targets are estimated to result in 75% of California's hospitals operating at a loss. (Pet. ¶ 1.) Our already fragile health care delivery system should not have this burden forced on it now, particularly in light of the arbitrary and capricious way that OHCA developed and is implementing the cost targets.

CHA brings this action on behalf of its members to preserve the financial viability of

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California's hospitals and equitable access to high quality health care while OHCA fulfills its objective to increase health care affordability. These goals are not in conflict. Rather, CHA has been committed to working with OHCA to adopt cost targets that are reasonable and rational, participating fully in OHCA's administrative process. Unfortunately, OHCA adopted cost targets that are wholly at odds with the information that stakeholders presented to it. The cost targets will assuredly compromise access to quality health care and lead to significant reductions in the health care workforce in direct contravention of the Legislature's mandate. CHA had no other choice but to seek relief through the judiciary.

This Court should proceed with adjudicating CHA's claims. The Demurrer provides no basis for why this Court should not do so. As a threshold matter, CHA has standing. CHA has a special interest over and above the interest of the public at large in enforcing the Legislature's mandates that OHCA consider access, quality, and workforce stability when setting cost targets, developing the hospital sector, and designating high-cost hospitals. Moreover, CHA's member hospitals, as of January 1, 2026, are faced with limitations on their revenue year-over-year so that they will either have to reduce expenses by making cuts to services and staff to stay financially solvent, or roll the dice with an ill-defined and uncertain enforcement process and face the prospect of significant sanctions, including monetary penalties. This is harm, it is concrete, and it is imminent. CHA's standing is also evident under the doctrine of public interest standing, given CHA's goal of upholding the quality and availability of hospital care. There will be dire consequences to the accessibility and quality of health care services if the adopted cost targets are implemented. Preserving access to quality health care is at the heart of the public interest.

Moreover, the Demurrer barely engaged on the underlying legal theories of CHA's Petition—perhaps because any argument that CHA has not sufficiently pleaded its case at this stage in the litigation is without merit. The Petition sufficiently alleges OHCA adopted cost targets that are at odds with the Legislature's intent that OHCA ensure access to and quality of health care and promote workforce stability, in addition to addressing affordability. The Petition also sufficiently alleges OHCA acted prematurely and arbitrarily in adopting hospital sector cost targets and improperly designated hospitals as high-cost. Critically, OHCA did not even attempt to

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address CHA's claims that the cost targets violate the constitutional rights of CHA members or that OHCA violated the California Administrative Procedures Act ("APA") by promulgating the "high-cost" hospital methodology. OHCA's failure to address these claims is reason alone for this Court to overrule the Demurrer. In any event, CHA sufficiently pleaded its case, and it has standing. This Court should overrule the Demurrer and address the critical issues CHA raises.

II. FACTUAL BACKGROUND

The Legislature created OHCA under the California Health Care Quality and Affordability Act in 2022 to promote affordability while maintaining access, quality, equity, and workforce stability. (Pet. ¶¶ 31–32, 85.) OHCA is required to adopt cost targets informed by historical cost data and economic indicators, consider labor costs and state mandates, and ensure its actions do not compromise patient care or the health care workforce. (*Id.* at ¶¶ 36–37, 85.) Rather than following this statutory framework, OHCA acted prematurely and arbitrarily. (See, e.g., *id.* at ¶¶ 12–13, 60, 82–83, 180, 223–227.) The Legislature intentionally provided a phased timeline—requiring only a statewide cost target for 2025 and deferring sector-specific cost targets until 2028—so OHCA could gather comprehensive data and evaluate impacts before implementing sector-specific targets. (*Id.* at ¶¶ 40–41, 86.) But OHCA rushed ahead, creating a hospital sector and a hospital sector cost target of 3.5% in early 2025 without completing baseline analyses or finalizing a methodology for measuring compliance, even though the enforcement period has already begun as of January 2026. (*Id.* at ¶¶ 5, 59–65, 86, 180, 214–239.) OHCA compounded these errors by designating certain hospitals as "high-cost" and applying an even stricter target of 1.8%, using flawed criteria that ignore geographic cost differences, payer mix, and statutory equity adjustments, among other methodological defects. (*Id.* at ¶¶ 73–81, 143–157, 240–256.)

OHCA's actions directly contravene its statutory duties. OHCA disregarded evidence and public comments warning that its targets would destabilize hospitals, force service cuts, and trigger workforce reductions. (See, e.g., *id.* at ¶¶ 111–193, 214–249.) Stakeholders repeatedly urged OHCA to make compliance with OHCA's targets attainable without harming patients, and offered concrete ways OHCA could do this—for example, by taking into consideration unprecedented federal funding cuts, rising labor costs, and significant seismic safety mandates.

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(See, e.g., *id*. at ¶¶ 7–9, 68, 92–94, 144, 160–175, 224–225.) Instead, OHCA adopted targets that threaten the viability of California's health care delivery system, contrary to OHCA's statutory mandates. (See, e.g., *id*. at ¶¶ 9, 54–55, 67–69, 76, 115, 145–157, 173, 181–204, 227.)

CHA challenges OHCA's actions now because, among the many issues raised in CHA's Petition, hospitals must now make material changes to their operations while not knowing exactly how cost target compliance will be measured, despite the enforcement period beginning in January 2026. (*Id*. at ¶¶ 40, 82–83, 205.) Hospitals' abilities to care for patients are threatened under this unlawful framework. (See, e.g., *id*. at ¶¶ 82–83, 205–213.) CHA seeks judicial intervention to preserve access, quality, and workforce stability, consistent with OHCA's statutory obligations.

III. LEGAL STANDARD

In reviewing a demurrer, "courts must assume the truth of the complaint's properly pleaded or implied factual allegations." (*Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081.) The pleading's "allegations must be liberally construed," (Code Civ. Proc., § 452), which means "the reviewing court draws inferences favorable to the plaintiff, not the defendant." (*Perez v. Golden Empire Transit Dist.* (2012) 209 Cal.App.4th 1228, 1238.) "If the factual allegations of the complaint are adequate to state a cause of action under any legal theory, the demurrer must be overruled." (*Charpentier v. Los Angeles Rams Football Co., Inc.* (1999) 75 Cal.App.4th 301, 307; accord, *Quelimane Co. v. Stewart Title Guaranty Co.* (1998) 19 Cal.4th 26, 38.) A pleading states a cause of action if it "contain[s] sufficient facts to apprise the defendant of the basis upon which the plaintiff is seeking relief." (*Perkins v. Sup. Ct.* (1981) 117 Cal.App.3d 1, 6.) "If a complaint does not state a cause of action, but there is a reasonable possibility that the defect can be cured by amendment, leave to amend must be granted." (*Quelimane Co.*, 19 Cal.4th at p. 39.)

IV. ARGUMENT

Under OHCA's unlawful cost target scheme, CHA's member hospitals have a stark choice: face cuts to critical services, laying off thousands of workers, and incurring other economic regulatory burdens to meet arbitrary cost targets, or risk opaquely-applied sanctions. CHA and its members are grappling with this reality now—to their detriment—regardless of whether any hospital ever exceeds a cost target. This is not what the Legislature intended and CHA has

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standing to ask this Court to address OHCA's errors.

A. CHA and Its Members Have Standing to Bring This Challenge.

1. CHA and Its Members Have a Beneficial Interest.

CHA and its members have standing, as they easily satisfy the "broad" beneficial interest standard for writ relief. (*California Hospital Assn. v. Maxwell-Jolly* (2010) 188 Cal.App.4th 559, 569.) They have a "special interest over and above the interest of the public at large" in enforcing the Legislature's mandates that OHCA consider access, quality, and workforce stability when setting cost targets, developing the hospital sector, and designating high-cost hospitals. (*See ibid*.) This is because the flawed cost targets that OHCA promulgated threaten hospitals' abilities to deliver high quality care to all patients by forcing hospitals to forego revenue that would otherwise maintain and grow service lines and the workforce who supports them. (Pet. ¶¶ 122, 137, 200.) CHA seeks to prevent such threats to access to care by asking this Court to compel OHCA to comply with Health and Safety Code sections 127500 et seq.[1] This is more than enough to confer standing. (*California Hospital Assn.*, 188 Cal.App.4th at p. 569 ["CHA has standing to enforce the Department's duties" to follow the law when setting Medi-Cal rates].)

2. Complying with the Cost Targets Results in an Injury in Fact.

So too do CHA and its members meet the "equivalent . . . federal injury in fact test, which requires a party to prove by a preponderance of the evidence that it has suffered an invasion of a legally protected interest that is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical." (*Associated Builders and Contractors, Inc. v. San Francisco Airports Com.* (1999) 21 Cal.4th 352, 362 [quotations omitted].) Compliance with the cost targets will cause CHA's members to suffer concrete, particularized, and imminent harms. Importantly, this confers associational standing on CHA. (See *California Community Choice Assn. v. Public Utilities Com.* (2024) 103 Cal.App.5th 845, 853; *Property Owners of Whispering Palms, Inc. v. Newport Pacific, Inc.* (2005) 132 Cal.App.4th 666, 673; *Association for Los Angeles Deputy Sheriffs v. Macias* (2021) 63 Cal.App.5th 1007, 1020.) Indeed, CHA's members otherwise have

[1] All further section references are to the Health and Safety Code, unless otherwise specified.

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standing to sue in their own right, as demonstrated by the harms articulated in CHA's Petition and herein, and OHCA does not contest that CHA satisfies the other two elements of associational standing. (See Dem. 11 [citing *Am Meat Inst v. Leeman* (2009) 180 Cal.App.4th 728, 766 n.11].)

The cost targets threaten hospitals with "lost money or property—economic injury—[which] is itself a classic form of injury in fact." (*Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 323.) To comply, hospitals must limit reimbursement received for providing care, so their revenue in 2026 does not increase annually by more than 3.5% for most hospitals, and 1.8% for seven supposed high-cost hospitals (with lower cost targets for subsequent years). (Pet. ¶¶ 5, 35, 65, 81.) The cost targets thus diminish hospitals' "present or future property interest[s]" by restricting future revenues. (See *Kwikset Corp.*, 51 Cal.4th 310, 323 [analyzing injury in fact in context of Proposition 64 and unfair competition claims].) And insurance companies are already limiting hospital payment rates due to the cost targets, (Pet. ¶ 8), causing hospitals to "surrender in a transaction more, or acquire in a transaction less, than [they] otherwise would." (*Kwikset Corp.*, 51 Cal.4th at p. 323.) This is an economic injury in fact that gives hospitals standing to sue in their own right. (See, e.g., *Friends of the Earth, Inc. v. Laidlaw Environmental Services (TOC), Inc.* (2000) 528 U.S. 167, 184; *Zolly v. City of Oakland* (2022) 13 Cal.5th 780, 789; *Agan v. Carroll County, Ga.* (N.D. Ga., Oct. 25, 2005, No. CIV. 3:04-CV-0037-JT) 2005 WL 2875097, at *3 .)

Further, the cost targets compromise hospitals' ability to provide access to high quality care. With the reality of increased expenses year-over-year,[2] (Pet. ¶¶ 91–95, 121), a limitation on revenue will result in hospitals having to: (1) close or reduce service lines, such as emergency room services or obstetrical services, which will reduce the local communities' access to vital care (*id*. at ¶¶ 1, 8, 11, 126–128, 147); (2) lay off significant numbers of health care workers, which will leave hospitals understaffed and jeopardize quality of care for their patients (*id*. at ¶¶ 1, 7, 138, 146); (3) shrink workforce training and graduate medical education programs, which will negatively impact future workforce development (*id*. at ¶¶ 93, 139–140, 149, 156); (4) reduce services in underserved areas (*id*. at ¶¶ 122, 125, 128, 167); and/or (5) reduce investment in life-

[2] Many hospitals project expenses higher than the cost targets. (See, e.g., Pet. ¶¶ 7, 48, 121, 138.)

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saving specialty treatments and drugs (*id*. at ¶¶ 6, 120, 189, 238). These impairments to hospitals' "ability to provide the services [they were] formed to provide" also meet the injury in fact standard. (*East Bay Sanctuary Covenant v. Trump* (9th Cir. 2018) 932 F.3d 742, 765; *Nnebe v. Daus* (2d Cir. 2011) 644 F.3d 147, 157 ["only a 'perceptible impairment' of an organization's activities is necessary for there to be an 'injury in fact'"].)

The cost targets also threaten "increased regulatory burden[s]" on hospitals. (*Contender Farms, L.L.P. v. U.S. Dept. of Agriculture* (5th Cir. 2015) 779 F.3d 258, 266; see also *State Nat. Bank of Big Spring v. Lew* (D.C. Cir. 2015) 795 F.3d 48, 53, quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561–562.) As noted above, compliance will result in reductions in service lines and workforce, which in turn trigger strict regulatory requirements such as providing notice and holding public hearings before closing certain services. (Health & Saf. Code, § 1255.25.) This also independently satisfies the injury in fact requirement. (See *Contender Farms*, 779 F.3d at 266.) Similarly, diversion of resources such as the time of hospital compliance, clinical, and human resources personnel to ensuring service and workforce reductions are carried out in a legal and reasonable manner also constitutes an injury in fact.[3] (*California Medical Assn.*, 14 Cal.5th at 1095 ["an organization's diversion of resources," such as expending "staff time or other resources on responding to a new threat to its mission," can establish "economic injury in fact"]; *America's Health Ins. Plans v. Hudgens* (11th Cir. 2014) 742 F.3d 1319, 1334 [holding association of insurance plans had standing to challenge new state laws that would require plans to take on additional burdens, including "increased employee time" to monitor compliance].)

Last, all of these injuries are imminent. CHA's members must take action <u>now</u> to comply with the 2026 cost targets, and the enforcement period began this month. (Pet. ¶¶ 4, 5, 7.)

3. <u>*Not* Complying with the Cost Targets Also Results in an Injury in Fact.</u>

CHA and its members face a Hobson's choice. If hospitals do not comply with the cost

[3] CHA itself has also suffered an economic injury through diversion of personnel and other resources to respond to OHCA's promulgation of the sectors and cost targets as well as to CHA members' concerns—resources that are finite and would otherwise have been deployed to assist CHA's members in other ways. (See *California Medical Assn. v. Aetna Health of California Inc.* (2023) 14 Cal.5th 1075 at pp. 1088–1089.)

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targets, they risk penalties from OHCA. (See Health & Saf. Code, § 127502.5, subds. (a)(4), (h).) The potential monetary sanctions, reputational harm, and disruption to patient care for a noncompliant hospital are substantial. (Pet. ¶ 211.) This is sufficient to show standing. (*America's Health Ins. Plans*, 742 F.3d at p. 1327 [association had standing to bring a pre-enforcement challenge against new laws because members would be forced to comply or risk penalties].)

Moreover, the risk of penalties is concrete, particularized, and imminent, contrary to OHCA's conjectures otherwise. (Dem. 12, 13.) As explained in a case OHCA itself cited, "a realistic danger of sustaining a direct injury as a result of the statute's operation or enforcement" is sufficient to confer standing. (*Dominguez v. Bonta* (2022) 87 Cal.App.5th 389, 413, quoting *Coral Construction, Inc. v. City and County of San Francisco* (2006) 116 Cal.App.4th 6, 25; see also *Santa Monica Mun. Employees Assn. v. City of Santa Monica* (1987) 191 Cal.App.3d 1538, 1547–1548 [The injury in fact test can be satisfied by a harm that "is potential rather than definite"].) Such is the case here where section 127502.5(a) mandates OHCA to "enforce the cost targets. . . in a manner that ensures compliance with targets" and the agency's leadership has repeatedly stated its intent to pursue strict enforcement. (Pet. ¶ 82.) And, although the statutes governing OHCA provide for an opportunity for hospitals to obtain waivers from the enforcement process, OHCA previously indicated its intent to allow only narrow opportunities for waivers. (Pet. ¶ 83.) In fact, during its October of 2025 board meeting, OHCA indicated that it does not intend to implement a formal waiver process at all. (Declaration of Sophia TonNu in Support of Demurrer, Ex. C64, p. 54.)[4] This realistic possibility of enforcement actions means that hospitals must take action imminently to either comply or face uncertain penalties, and therefore confers standing.

In any event, OHCA provides no basis for showing that CHA does not have standing. OHCA's reliance on *Pacific Legal Foundation v. California Coastal Com.* (1982) 33 Cal.3d 158 is inapposite—it is about ripeness, not standing. Moreover, that case concerned a policy applicable to parties seeking a permit to develop their property, not to all property owners. (*Id*. at p. 163.) There

[4] CHA opposes OHCA's Request for Judicial Notice ("RJN") because it does not constitute a complete administrative record, as noted in CHA's concurrently filed Opposition to RJN. Nonetheless, CHA cites this particular point to illustrate that hospitals must act now to avoid the enforcement process, particularly since OHCA does not contemplate entertaining waiver requests.

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is no such distinction here. The cost targets apply to all hospitals, the enforcement period has begun for all hospitals, and all hospitals face harm by complying with the cost targets. The Petition established a beneficial interest and an injury in fact and OHCA cannot show otherwise.

B. CHA and Its Members Have Public Interest Standing.

It is axiomatic that access to health care, which includes the financial survival of the state's hospitals and safety net system, is in the public interest. CHA and its members have public interest standing to protect such access. (See *Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166.) Public interest standing is an exception to the beneficial interest requirement that "has often been invoked by California courts" to "promote[] the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a public right." (*Green v. Obledo* (1981) 29 Cal.3d 126, 144.) Such is the case here where CHA seeks to compel OHCA's performance of its statutory duties (Pet. ¶¶ 18, 272, 274; see also *Diaz v. Quitoriano* (1969) 268 Cal.App.2d 807, 811 [department's performance of their "legislatively declared purpose" and "duty" was "a matter of public right"].)

Public interest standing applies, like here, when the agency's duties are "sharp" (i.e., clear and well-defined) and the public need for enforcement is "weighty." (*Citizens for Amending Proposition L v. City of Pomona* (2018) 28 Cal.App.5th 1159, 1174.) Courts have determined compliance with clear legal requirements, the crux of CHA's challenge here, meet the "sharpness" test. (*Id.* at p. 1177.) And the public interest in health care is undeniably weighty. "[T]he provision of 'health care has a special moral status and therefore a particular public interest.'" (*Potvin v. Metropolitan Life Ins. Co.* (2000) 22 Cal.4th 1060, 1070.) It has long been recognized that the public has a strong interest in receiving high quality and competent medical care (*Powell v. Bear Valley Community Hospital* (2018) 22 Cal.App.5th 263, 274), and "preserving the availability of medical care throughout the state" (*Fein v. Permanente Medical Group* (1985) 38 Cal.3d 137, 166). Indeed, the Court of Appeal had "no difficulty placing the financial survival of four hospitals within the county into the category of 'widespread public interest.'" (*Integrated Healthcare Holdings, Inc. v. Fitzgibbons* (2006) 140 Cal.App.4th 515, 524 [analyzing whether an email related to an acquisition of hospitals concerned a matter of public interest under the anti-SLAPP

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statute].) This public interest is threatened by OHCA's failure to comply with its statutory duties to ensure access and quality of health care. CHA's public interest standing is justified.

The Demurrer fails to provide any basis for concluding that CHA does not have public interest standing. OHCA complains that CHA is taking a "third bite at the apple" because it already submitted public comments regarding hospitals' concerns to the Legislature and to OHCA. (Dem. 16.) But that is exactly what CHA was supposed to do (see § 127502(m)), and CHA's participation in the public comment process does not prohibit its challenge now. Otherwise, judicial review of agency actions would be eviscerated as stakeholders who provide public comment to the agency would then be prohibited from challenging the agency action in court; this is clearly not the law. Neither is CHA's continued advocacy "disruptive to the administrative process."[5] (Dem. 16–17.) CHA need not wait for the enforcement methodologies to be finalized before challenging the sectors and cost targets. (See *American Farm Bureau Federation v. U.S. E.P.A.* (3d Cir. 2015) 792 F.3d 281, 293 ["In general, regulated entities that assert likely economic injury have standing even before the challenged regulatory action fully takes effect."].) This is particularly true where CHA is challenging the grave deficiencies of OHCA's decisions that have already been finalized and have already caused harm. (Pet. ¶¶ 14–15.) Delaying a challenge to the cost targets until there is an enforcement action misses the point. Long before any enforcement action, all hospitals—not just any hospital ultimately subject to an enforcement action—are incurring the harms discussed above.

OHCA's assertions that CHA seeks only to "advance its own economic interests at the expense of the public" and is "driven by personal objectives rather than broader public concerns" are a distraction. (Dem. 17–18.) CHA's advocacy is aligned with the public interest. "Matters of public interest . . . include activities that involve private persons and entities, especially when a large, powerful organization may impact the lives of many individuals." (*Integrated Healthcare*

[5] To the extent OHCA presumes that the Legislature intended to insulate it from such advocacy (Dem. 17), that is a presumption too far. Policy is not promulgated in a vacuum, particularly where the authorizing statutes demand public meetings to discuss stakeholder recommendations. (§ 127502(m).) In any case, no "protection" is warranted here where the Petition raised issues fit for resolution and hardship will result without court consideration. (See *Pacific Legal Foundation*, 33 Cal.3d at 171.)

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Holdings, Inc., 140 Cal.App.4th at p. 523.) Given the nature of services provided by hospitals and the importance of these facilities to their surrounding communities, courts have long held that hospitals are "affected with the public interest and involved in the distribution of essential services."[6] (*Wilson v. California Health Facilities Com.* (1980) 110 Cal.App.3d 317, 325; accord, *Tunkl v. Regents of University of Cal.* (1963) 60 Cal.2d 92, 104 [hospitals operations "necessarily affect the public interest"]; see *Succinate v. Willow Creek Care Ctr.* (2003) 108 Cal.App.4th 13, 22.) The interests CHA seeks to protect here include equitable access for the public to high quality health care services, which is assuredly in the public interest.

And while OHCA may prefer to litigate the cost targets with a particular hospital, OHCA provides no authority that precludes CHA from bringing this challenge on behalf of its members. It cannot. (See *California Community Choice Assn.*, 103 Cal.App.5th at 853.) Thus, even if the Court were to find that CHA and its members do not have a beneficial interest, they would still have public interest standing to enforce OHCA's compliance with its statutory duties.

C. <u>This Action Is Ripe for Judicial Resolution.</u>

While the Demurrer makes no explicit mention of ripeness, to the extent OHCA intended to reach this question by arguing that judicial review is premature (Dem. 15-17), the controversy in this case is undoubtedly ripe for judicial review. CHA challenges specific actions <u>already taken</u> by OHCA that have created a concrete dispute. (See *supra*, Sections A, B.) CHA is not seeking "purely advisory opinions" regarding a "hypothetical set of facts." (*Pacific Legal Foundation*, 33 Cal.3d at pp. 170–171.) The challenged agency actions are set forth in a developed administrative record, as is required by law, so the facts in this case "have sufficiently congealed to permit an intelligent and useful decision to be made." (*Ibid*.)

Judicial review at this juncture is not only appropriate but also necessary, given that CHA members must imminently implement comprehensive changes to their operations to comply with the cost targets for 2026, which OHCA is required to enforce, as discussed above. Reversing those

[6] The fact that CHA is a trade association seeking to advance its members' economic interests is no bar to public interest standing. (See *Save the Plastic Bag Coalition*, 52 Cal.4th 155 [association of plastic bag manufacturers had public interest standing to challenge a city's ordinance banning distribution of plastic bags at the point of sale].)

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systemic changes, such as rehiring workers who were let go and have moved on to other positions or re-opening shuttered service lines, will be costly and arduous, if not impossible. The impact of OHCA's cost targets forces hospitals "to choose at once between complying with regulations of questionable validity and risking" enforcement penalties—this Court should not "defer a decision on the validity of" the cost targets. (See *Pacific Legal Foundation*, 33 Cal.3d at pp. 163, 172 [discussing *Abbott Laboratories v. Gardner* (1967) 387 U.S. 136, 152]; see also *id*. at pp. 172–174.)

There is also widespread public interest in ensuring that OHCA complies with its statutory duty to promote quality and accessibility of health care, including hospital care. Intervention by the Court should not be deferred. (See *Vandermost v. Bowen* (2012) 53 Cal.4th 421, 452 [ripeness requirement "should not prevent courts from resolving concrete disputes if the consequence of a deferred decision will be lingering uncertainty in the law, especially when there is widespread public interest in the answer to a particular legal question."].)

D. The Demurrer Fails Because the Petition Is Well-Pleaded.

1. The Petition Is Sufficiently Pleaded Because It Is Based on Multiple Viable Theories of Liability that OHCA Wholly Failed to Address in Its Demurrer.

The Demurrer must be overruled as a matter of law because OHCA left unaddressed multiple viable theories of liability set forth in the Petition. "A demurrer must dispose of an entire cause of action to be sustained. . . Thus, a court must overrule a demurrer to a cause of action if it is based on at least one viable theory of liability." (*Thompson v. Spitzer* (2023) 90 Cal.App.5th 436, 451–452, as modified on denial of reh'g (May 5, 2023).) The Demurrer is completely devoid of any reference to CHA's: (1) allegations that this Court must compel OHCA to perform its mandatory or ministerial duties, (2) constitutional claims, and (3) California Administrative Procedure Act ("APA") arguments (collectively, the "Unaddressed Theories"), despite CHA raising them again and again in the Petition.[7] (Pet. ¶¶ 18–21; 109–193, 214–256, 261, 272–280, 287–288 [OHCA disregarded statutory mandates]; ¶¶ 98–105, 109–112, 194–213, 278, 280, 288

[7] OHCA also failed to engage with CHA's declaratory relief claims, cursorily implying in the Demurrer headings that OHCA intended to address "both counts." (Dem. 11, 14, 18.)

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[OHCA acted unconstitutionally]; ¶¶ 106–108, 257–267, 277, 289 [OHCA violated the APA].)

The Unaddressed Theories are viable and well-pleaded, as summarized below:

- Ministerial duty claims: courts may compel public agencies to perform ministerial or mandatory duties. (*Ellena v. Department of Ins.* (2014) 230 Cal.App.4th 198, 205.) Such duty exists where a statute "clearly defines the specific duties or course of conduct that a governing body must take." (*Ibid*.) As the Petition makes clear, sections 127500 et seq. establish ministerial duties that OHCA did not perform. (Pet. ¶¶ 18–21, 35–46, 84–193, 214–288.)
- Takings Clause claims: price and rate regulations may result in regulatory takings where rates are set too low. (*20th Century Ins. Co. v. Garamendi* (1994) 8 Cal.4th 216, 295; *Fisher v. City of Berkeley* (1984) 37 Cal.3d 644, 683.) The Petition states as much, and sufficiently pleaded that OHCA set the cost targets so low as to jeopardize hospital operations and violate the constitutional rights of CHA members. (Pet. ¶¶ 18–21, 98–100, 194–204, 278–280, 288.)
- Due process claims: price and rate regulations may violate due process rights where there is insufficient notice, vagueness, or unjust results. (*Kerman Telephone Co. v. Public Utilities Com* (2023) 94 Cal.App.5th 920, 931–932; *Kavanau v. Santa Monica Rent Control Bd.* (1997) 16 Cal.4th 761, 771, 772, 778.) The Petition sufficiently pleaded that OHCA has not articulated its enforcement methodology, leaving hospitals uncertain how to proceed and vulnerable to penalties without notice, contrary to the due process rights of CHA members. (Pet. ¶¶ 18–21, 98–105, 196, 205–213.)
- APA claims: "underground regulations" are invalid because they are not promulgated according to the APA. (*Naturist Action Com. v. Department of Parks & Recreation* (2009) 175 Cal.App.4th 1244, 1250.) The Petition sufficiently pleaded that OHCA's high-cost hospital methodology meets this standard and therefore is unenforceable. (Pet. ¶¶ 106–108, 257–281.)

CHA "alleged facts entitling [it] to some form of relief."[8] (*Woods v. Superior Court* (1981) 28 Cal.3d 668, 673.) The Demurrer must be overruled.

2. CHA Sufficiently Pleaded Facts that OHCA Abused Its Discretion.

[8] OHCA cannot dispose of the Unaddressed Theories now. (*Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764 [points raised for the first time in a reply brief ordinarily not considered].)

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Similarly, the Demurrer fails because CHA pleaded facts that OHCA abused its discretion. OHCA's actions are subject to "effective judicial review," meaning that in applying the arbitrary and capricious test, this Court "must ensure that [OHCA] has adequately considered all relevant factors, and has demonstrated a rational connection between those factors, the choice made, and the purposes of the enabling statute."[9] (*California Hotel and Motel Assn v. Industrial Welfare Com.* (1970) 25 Cal.3d 200, 213 [emphasis added].) There is no rational connection here.

Sections 127500 et seq. require OHCA to, among other things: (1) maintain quality and improve affordability, access, and equity; (2) promote workforce stability, primary care, and behavioral health; (3) set cost targets informed by relevant data, including health care economic factors and delivery system characteristics; (4) use transparent methodologies; and (5) consider input from the Advisory Committee and public comments. (See, e.g., Pet. ¶¶ 84–86.) But OHCA did not do this when establishing the cost targets, the hospital sector, or designating high-cost hospitals. (Pet. ¶¶ 7–9, 18–21, 68, 92–97, 109–267, 272–280, 287–288.) To name just a few examples of OHCA's failure to rationally connect the purposes of the statutes to OHCA's actions:

- The cost targets threaten access, equity, and quality, without any assurance of improved affordability for California residents and patients. Numerous comments anticipated "reductions in preventative and outpatient care and staffing in ambulatory care settings, overburdened emergency departments and inpatient settings . . . increased wait times and acuity of patients, and an inability to make needed infrastructure investments to create a safe space for patients and workers" (Pet. ¶ 122) as well as cuts to trauma, labor and delivery, and behavioral health services (*id.* at ¶ 200), all of which could "have a disparate impact on already vulnerable groups" (*id.* at ¶ 122), including seniors and people with disabilities (*id.* at ¶ 123), causing quality and access to suffer (*id.* at ¶¶ 9, 130, 143–157, 181–189). This is especially true for providers and patients reliant on Medicaid. (*Id.* at ¶¶ 129, 153.) Moreover, OHCA has provided no assurance of increased affordability. (*Id.* at ¶¶ 176–179.)

[9] Contrary to OHCA's implication otherwise, courts do more than simply assess whether an agency was "fraudulent or so palpably unreasonable and arbitrary" or there "was no conceivable basis" for the action. (Dem. 18–19.) Courts are responsible for "scrutinizing the agency's use of its discretion." (*McBail & Co. v. Solano County LAFCO* (1998) 62 Cal.App.4th 1223, 1228.)

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- The cost targets undermine workforce stability. Labor costs increased more than the cost targets allow. (*Id*. ¶ 137.) As a result, hospitals predict thousands of job cuts, wage reductions, and stalled workforce development efforts, to the detriment of care. (*Id*. at ¶¶ 137–142.)
- OHCA used incomplete and flawed data to generate the cost targets. OHCA did not account for inflation, labor costs, technology costs, seismic mandates, demographic changes, or other underlying drivers of health care costs such as low Medicaid reimbursement. (*Id*. at ¶¶ 8, 68, 158–175, 190–193, 225, 251.) Nor did OHCA consider how COVID-19 and the massive health care funding cuts in the One Big Beautiful Bill Act impact health care spending. (*Ibid*.)
- OHCA prematurely developed hospital sector cost targets three years ahead of the statutory timeline (*id*. at ¶¶ 61–63, 214–227, 234–239) without adequate consideration of a critical Baseline Report and analysis of access, equity, and workforce impacts. (*Id*. at ¶¶ 228–233.)
- OHCA did not follow section 127502 in designating high-cost hospitals. (*Id*. at ¶¶ 240–256.)
- The enforcement period has begun without any compliance guidance. (*Id*. at ¶¶ 180, 205–213.)

OHCA's "lengthy" process does not save the agency. (Dem. 18–19.) No number of meetings could equate OHCA's proceedings with the type of rational process that is required, particularly where OHCA continually contradicted or did not acknowledge and respond to stakeholder feedback explaining how OHCA failed to consider its statutory mandates in sections 127500 et seq. (See *California Hospital Assn.*, 188 Cal.App.4th at 580 [methodology improper "without first considering the impact on the statutory factors of efficiency, economy, quality, and access to care"].) A demurrer cannot be sustained in light of such allegations. (See *People v. Plains All American Pipeline, L.P.* (2024) 101 Cal.App.5th 872, 884–885, review denied (Aug. 14, 2024) [overruling demurrer where petition alleged misinterpretation of law]; see also *Coelho v. State Personnel Bd*. (1989) 209 Cal.App.3d 968, 971 [demurrer improper where petitioner alleged board abused its discretion].)

In any event, leave to amend should be granted if this Court sustains the Demurrer. (*Quelimane Co.*, 19 Cal.4th at p. 39; *Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349.)

V. CONCLUSION

This Court should overrule the Demurrer.

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DATED: January 15, 2026

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PROOF OF SERVICE

CHA v. OHCA et al.
Case No. CPF-25-519370

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 1875 Century Park East, Suite 1600, Los Angeles, CA 90067.

On January 15, 2026, I served true copies of the following document described as **PETITIONER'S OPPOSITION TO RESPONDENTS' DEMURRER** on the interested parties in this action as follows:

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BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document to be sent from e-mail address treiss@hooperlundy.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 15, 2026, at Los Angeles, California.

Tia Reiss

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