

1 [Urging Brown and Toland Medical Group]

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3 **Resolution urging Brown and Toland to cease requiring exclusivity of physicians to**
4 **participate in the Brown and Toland Preferred Network, in violation of the policy of the**
5 **City and County of San Francisco and the state and federal and which is affecting the**
6 **well being of the Chinese Community in San Francisco.**
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8 WHEREAS, Chinese Hospital is a unique, nonprofit acute-care healthcare provider
9 within the City and County of San Francisco, with a long and rich history of providing access
10 to culturally competent health care services for the Chinese Community for over 100 years,
11 and is the last independent private hospital in San Francisco; and,

12 WHEREAS, Chinese Hospital provides the highest percentage of care to Medicare and
13 Medi-Cal eligible San Francisco residents of any hospital in the City other than San Francisco
14 General Hospital (92% share of total hospital patient days in 2005); and,

15 WHEREAS, Chinese Community Health Care Association (CCHCA) is a non-profit,
16 mutual benefit association of over 165 physicians which has served the Chinese community
17 for over twenty years; and,

18 WHEREAS, Chinese Community Health Plan (CCHP) is a wholly-owned subsidiary of
19 Chinese Hospital, was established over twenty years ago to provide a culturally sensitive and
20 affordable health insurance option to small community employers and individuals who are
21 generally not served by the broader health insurance marketplace; and,

22 WHEREAS, Chinese Community Health Plan supported the Hotel Employees and
23 Restaurant Employees Union Local 2 by extending health coverage to Local 2 employees
24 during their lock-out by large hotel employers during December 2004 and January 2005, to
25 assure that hotel workers and their families covered by CCHP did not face a health care crisis

1 during this difficult period and was made without regard to the outcome of the trust fund
2 negotiations; and,

3 WHEREAS, The Chinese Hospital and CCHCA together serve San Francisco Health
4 Plan (SFHP), the county Medicaid health plan, as the second largest non-county group
5 provider serving over 7000 Medicaid, Healthy Families, and Healthy Kids members in the
6 County; and,

7 WHEREAS, These three entities (Chinese Hospital, CCHCA, and CCHP) serve as an
8 integrated delivery system (Chinese Integrated Health System) by providing health plan
9 products and services to meet the special cultural needs of the Chinese American community
10 in San Francisco, and providing these services at the lowest price in the local marketplace;
11 and,

12 WHEREAS, The Chinese Integrated Health System delivers care to over 27,000
13 enrolled members, the majority of whom are senior citizens, monolingual, indigent, and/or
14 surviving at a significantly lower socioeconomic status; and,

15 WHEREAS, Brown and Toland Medical Group (BTMG) is attempting to enroll over 50%
16 of CCHCA physicians into their exclusive preferred network and thereby force their
17 resignation from CCHCA thus seriously impeding the ability of the network from meeting the
18 health care needs of members; and,

19 WHEREAS, The loss of a significant number of physicians from CCHCA would also
20 seriously impede the ability of the CCHP to provide health care service to all plan members,
21 including one of the largest Medicare Advantage programs in San Francisco many of whom
22 are dual eligible (Medicare / Medicaid) members, and thereby may place its HMO license in
23 jeopardy; and,

24 WHEREAS, The actions of BTMG, which threaten a loss of most of the CCHCA
25 physicians and the potential inability of CCHP to continue to operate, would deprive the

1 community of affordable, culturally competent care, and add to the burden of the County of
2 San Francisco to care for these safety net patients; and,

3 WHEREAS, BTMG is demanding exclusivity which would prevent Chinese community
4 physicians from participating in the Chinese Community Health Care Association (CCHCA),
5 an independent physicians association (IPA) medical group that has been in existence since
6 1982; and,

7 WHEREAS, BTMG is by far the dominant independent physicians practice association
8 in San Francisco, with approximately 1,500 affiliated physicians; and,

9 WHEREAS, BTMG controls healthcare for approximately 190,000 HMO patient lives in
10 the San Francisco market, with an additional 30,000-40,000 preferred provider organization
11 (PPO) patients; and,

12 WHEREAS, BTMG thus controls close to 80 percent of the non-Kaiser managed care
13 market in San Francisco, whether measured by doctors or patients; and,

14 WHEREAS, the only other IPAs competing in the San Francisco Market area CCHCA,
15 Hill Physicians, and Physicians Independent Medical Group ("PIMG"), none of which have
16 more than 200 affiliated physicians; and,

17 WHEREAS, BTMG's current market dominance requires that CCHCA doctors (and
18 also doctors affiliated with either Hill Physicians or PIMG) also must affiliate with BTMG in
19 order to maintain strong, fully enrolled, practices, and accordingly, approximately 140 of the
20 CCHCA-affiliated doctors are also affiliated with BTMG; and,

21 WHEREAS, BTMG is the result of the 1997 merger of 410 UCSF physicians with the
22 physicians formerly affiliated with California Pacific Medical Center, which upon merger
23 established the largest IPA in San Francisco, with control of the City's HMO physician
24 services market; and,

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1 WHEREAS, promptly after its creation through merger in 1997, BTMG continued to
2 aggressively recruit additional physicians from competing IPA's, including during 1998-1999,
3 the aggressive recruitment of physicians affiliated with St. Luke's Hospital to BTMG, and
4 requiring those recruited doctors to admit their patients needing hospital services exclusively
5 to either UCSF or CMPC, to the great financial injury of St. Luke's Hospital; and,

6 WHEREAS, The United States Federal Trade Commission determined, following an
7 investigation conducted in 2001-2003, that BTMG was using its monopoly position to conspire
8 with many of its is affiliated physicians to fix prices charged to the non-Kaiser health plans for
9 physician services; and,

10 WHEREAS, The United States Federal Trade Commission sued BTMG in 2003 for
11 unlawfully fixing and increasing prices charged to the non-Kaiser health plans for physician
12 services, including for PPO physician services; and,

13 WHEREAS, BTMG entered a consent decree in 2004, under which it was forbidden
14 from negotiating or fixing PPO pricing on behalf of or for any physicians, but is again
15 attempting to further increase its monopoly position; and,

16 WHEREAS, Previously BTMG has allowed non-exclusive affiliations for its member
17 physicians, as this was necessary to maintain a competitive market for physician services;
18 and,

19 WHEREAS, BTMG has recently changed its position, and is now actively pressuring
20 many CCHCA physicians, currently also affiliated with BTMG on a non-exclusive basis to sign
21 agreements that call for an exclusive relationship with BTMG, and consequently, would force
22 their resignation from CCHCA and the Chinese Hospital network; and,

23 WHEREAS, BTMG has offered these targeted physicians significant monetary and
24 other inducements to resign from CCHCA so as to become exclusively affiliated with BTMG;
25 these "inducements" include not only large signing bonuses, but also the threat that

1 physicians who do not "go along" will receive substantially less compensation and will be
2 discriminated against in other ways; and,

3 WHEREAS, The clear effect of BTMG targeted solicitation of many of CCHCA's key
4 specialists and primary care physician members, is to obtain their resignation from CCHCA,
5 and to move the patients loyal to those physicians out of the Chinese Hospital system, thus
6 depriving patients of the most culturally appropriate care; and,

7 WHEREAS, Because many patients tend to be loyal to their primary care physicians
8 they trust, as well as to the specialists whose care they need, it could therefore be expected
9 that such patients currently enrolled with the targeted CCHCA doctors may, following their
10 doctor's resignation from CCHCA, move from Chinese Community Health Plan and enroll
11 themselves (and their family members) into other health plans with which BTMG contracts;
12 and,

13 WHEREAS, BTMG's current physician exclusivity solicitation program threatens similar
14 injury to the two other remaining IPAs in San Francisco and to the hospitals with which they
15 are affiliated; and,

16 WHEREAS, As BTMG further increases its market power by demanding exclusive
17 affiliation of key physicians in the San Francisco market, it will become even more difficult for
18 other medical practice associations, or independent physician practices, to be formed, grow or
19 compete; and,

20 WHEREAS, The exclusive provider agreements BTMG is inducing San Francisco
21 doctors to enter into threatens an unreasonable restraint of critical physician and hospital
22 services in San Francisco and further threatens grave injury to the Chinese Community and
23 general public of all the people of San Francisco; now, therefore, be it

24 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
25 find it contrary to the public welfare and policy of this city and county for any physicians'

1 independent practice association (IPA) to require or condition affiliation or membership on the
2 affiliated doctor resigning from or agreeing not to join, any other IPA serving this city and
3 county; and be it,

4 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
5 Francisco support the Chinese community in San Francisco in stopping Brown and Toland
6 from requiring exclusivity of physicians to participate in the Brown and Toland Preferred
7 Network; and, be it,

8 FURTHER RESOLVED, That the Board of Supervisors supports a City Attorney
9 investigation of Brown and Toland regarding their requirement of exclusivity of physicians to
10 participate in the Brown and Toland Preferred Network that could bring harm to the health of
11 the people of San Francisco.

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