

O R D I N A N C E  
N U M B E R 2 0 2 1 -

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4 AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS  
5 OF CHARLOTTE COUNTY, FLORIDA, AMENDING CHAPTER 2-3  
6 OF THE CODE OF LAWS AND ORDINANCES OF CHARLOTTE  
7 COUNTY, FLORIDA, AUTHORIZING CREATION OF CHARLOTTE  
8 COUNTY LOCAL PROVIDER PARTICIPATION FUND UNDER THE  
9 AUTHORITY OF ARTICLE VIII, SECTION 1(G) OF THE  
10 CONSTITUTION OF THE STATE OF FLORIDA AND THE  
11 CHARLOTTE COUNTY HOME RULE CHARTER AND SPECIFYING  
12 THE METHOD OF SETTING AND COMPUTING ANNUAL NON-AD  
13 VALOREM SPECIAL ASSESSMENTS TO BE DEPOSITED INTO  
14 THE FUND AND SPECIFYING AUTHORIZED USES FOR THE FUND  
15 PROCEEDS.  
16

17 **WHEREAS**, the hospitals in Charlotte County’s jurisdiction (the “Hospitals”)  
18 annually provide millions of dollars of uncompensated care to persons who qualify for  
19 Medicaid because Medicaid, on average, covers only 60% of the costs of the health  
20 care services actually provided by Hospitals to Medicaid-eligible persons, leaving  
21 hospitals with significant uncompensated costs (“Medicaid shortfall”); and

22 **WHEREAS**, the State of Florida (the “State”) received federal authority to  
23 establish the Statewide Medicaid Managed Care hospital directed payment program  
24 (the “DPP”) to offset Hospitals’ Medicaid shortfall and improve quality of care provided  
25 to Florida’s Medicaid population; and

26 **WHEREAS**, some impacted hospitals have asked Charlotte County (the  
27 “County”) to impose an assessment upon certain real property owned by the  
28 Hospitals to help finance the non-federal share of the State’s Medicaid program; and

29 **WHEREAS**, the only properties to be assessed are the real property sites of  
30 the Hospitals; and

31           **WHEREAS**, the funding raised by the County assessment will, through  
32 intergovernmental transfers (“IGTs”) provided consistent with federal guidelines,  
33 support additional funding for Medicaid payments to Hospitals to address the  
34 Medicaid shortfall; and

35           **WHEREAS**, the County acknowledges that the Hospital properties assessed  
36 will benefit directly and especially from the assessment as a result of the above-  
37 described additional funding provided to said Hospitals; and

38           **WHEREAS**, the County has determined that a logical relationship exists  
39 between the Medicaid services provided by the Hospitals, which will be supported by  
40 the assessment, and the special and particular benefit to the real property of the  
41 Hospitals; and

42           **WHEREAS**, the County has an interest in promoting access to health care for  
43 its low-income and under-insured residents; and

44           **WHEREAS**, leveraging additional federal support through the above-  
45 described IGTs to fund payments to the Hospitals for health care services provided  
46 to Medicaid-eligible persons directly and specifically benefits the Hospitals’ properties  
47 and supports their continued ability to provide those services; and

48           **WHEREAS**, imposing an assessment limited to Hospital properties to help  
49 fund the provision of Medicaid services and the achievement of certain quality  
50 standards by the Hospitals to residents of the County is a valid public purpose that  
51 benefits the health, safety, and welfare of the citizens of the County; and

52           **WHEREAS**, the assessment ensures the financial stability and viability of the  
53 Hospitals providing such Medicaid services; and

54           **WHEREAS**, the Hospitals are important contributors to the overall County's  
55 economy, and the financial benefit to these Hospitals directly and specifically  
56 supports their mission, as well as their ability to grow, expand, and maintain their  
57 facilities in concert with the population growth in the jurisdiction of the County; and

58           **WHEREAS**, the County finds the assessment will enhance the Hospitals'  
59 ability to grow, expand, maintain, improve, and increase the value of their properties  
60 and facilities under all present circumstances and those of the foreseeable future;  
61 and

62           **WHEREAS**, the County is proposing a properly apportioned assessment by  
63 which all Hospitals will be assessed a uniform amount that is compliant with 42 C.F.R.  
64 § 433.68(d); and

65           **WHEREAS**, the adoption of this ordinance will enable the County to levy a  
66 uniform, non-ad valorem special assessment, which is fairly and reasonably  
67 apportioned among the Hospitals' properties within the County's jurisdictional limits,  
68 to establish and maintain a system of funding for IGTs to support the non-federal  
69 share of Medicaid payments, thus directly and specially benefitting Hospital  
70 properties; and

71           **WHEREAS**, for the first year of the assessment the County finds that the  
72 alternative method, as specified in Section 197.3631, Fla. Stat., for the assessment  
73 and collection of the non-ad valorem special assessment is appropriate but in future  
74 tax years may elect to use the uniform method if approved by the County.

75           **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
76 **COMMISSIONERS OF CHARLOTTE COUNTY, FLORIDA:**

77 **SECTION 1.** Chapter 2-3 of the Charlotte County Code, is hereby amended, by  
78 adding a new Article VII, as follows:

79 Sec.2-3-105. - Title.

80 This Article VII shall be known and may be cited as the "Charlotte County Local  
81 Provider Participation Fund."

82 Sec.2-3-106. - Authority.

83 Pursuant to Article VIII, Section 1(G) of the Constitution of the State of Florida,  
84 Chapter 125 of the Florida Statutes, and Article I of the Charlotte County Home Rule  
85 Charter, the Board is hereby authorized to impose a special assessment against  
86 private for-profit and not-for-profit hospitals located within the County to fund the non-  
87 federal share of Medicaid payments associated with Local Services.

88 Sec.2-3-107. - Purpose.

89 The non-ad valorem special assessment authorized by this article shall be imposed,  
90 levied, collected, and enforced against Assessed Properties located within the  
91 County. Proceeds from the Assessment shall be used to benefit Assessed Properties  
92 through enhanced Medicaid payments for Local Services. When imposed, the  
93 Assessment shall constitute a lien upon the Assessed Properties equal in rank and  
94 dignity with the liens of all state, county, district, or municipal taxes and other non-ad  
95 valorem assessments. Failure to pay may cause foreclosure proceedings, which  
96 could result in loss of title, to commence. The Assessment shall be computed and  
97 assessed only in the manner provided in this Ordinance.

98 Sec. 2-3-108. - Alternative Method.

99 This Ordinance shall be deemed to provide an additional and alternative method, as  
100 specified in § 197.3631, Fla. Stat., for the assessment and collection of the non-ad  
101 valorem special assessment described herein. The Ordinance shall be regarded as  
102 supplemental and additional to powers conferred by other laws and shall not be  
103 regarded as in derogation of any powers now existing, or which may exist hereafter.  
104 This Ordinance, being necessary for the health, safety, and welfare of the inhabitants  
105 of the County, shall be liberally construed to effect the purposes hereof.

106 Sec. 2-3-109. - Definitions.

107 When used in this Ordinance, the following terms shall have the following meanings,  
108 unless the context clearly requires otherwise:

109            *Annual Final Assessment Resolution* means the resolution described in  
110 Section 2-3-117, or, if necessary, Section 2-3-118 hereof, which shall be the final  
111 proceeding for the imposition of an Assessment, and which shall establish the rate  
112 for the non-ad valorem assessment for a specific Fiscal Year.

113            *Assessed Property* means an Institutional Health Care Provider holding a right  
114 of possession and right of use to real property in the County through an ownership  
115 interest, thus making the property subject to the Assessment.

116            *Assessment* means a non-ad valorem special assessment imposed by the  
117 County on Institutional Health Care Providers located in the County limits to fund the  
118 non-federal share of Medicaid and Medicaid managed care payments directed to  
119 hospitals providing Local Services in the County.

120            *Assessment Coordinator* means the person appointed by the County  
121 Administrator to administer the Assessment imposed pursuant to this Article, or such  
122 person's designee.

123            *Assessment Resolution* means the resolution described in Section 2-3-113  
124 hereof.

125            *Board* means the Board of County Commissioners of Charlotte County,  
126 Florida.

127            *Charter* shall mean the home rule charter of Charlotte County, Florida.

128            *Comptroller* means the Charlotte County Comptroller, ex officio Clerk to the  
129 Board, or other such person as may be duly authorized to act on such person's behalf.

130            *County* means Charlotte County, Florida.

131            *Fiscal Year* means the period commencing on October 1 of each year and  
132 continuing through the next succeeding September 30, or such other period as may  
133 be prescribed by law as the fiscal year for the County.

134            *Institutional Health Care Provider* means a private for-profit or not-for-profit  
135 hospital that provides inpatient hospital services.

136            *Local Services* means the provision of inpatient and outpatient hospital  
137 services to Medicaid, indigent, and uninsured members of the Charlotte County  
138 community.

139            *Non-Ad Valorem Assessment Roll* means the special assessment roll  
140 prepared by the County.

141           *Ordinance* means the Charlotte County Local Provider Participation Fund  
142 ordinance.

143           *Tax Collector* means the Charlotte County Tax Collector.

144   Sec. 2-3-110. - Interpretation.

145   Unless the context indicates otherwise, the terms “hereof,” “hereby,” “herein,”  
146 “hereto,” “hereunder” and similar terms refer to this Article. The term “hereafter”  
147 means after, and the term “heretofore” means before the effective date of the  
148 Ordinance.

149   Sec. 2-3-111. - Scope of Assessment.

150   Pursuant to § 125.01, Fla. Stat., the Board is hereby authorized to create a non-ad  
151 valorem special assessment that shall be imposed, levied, collected, and enforced  
152 against Assessed Property to fund the non-federal share of Medicaid payments  
153 benefitting Assessed Properties providing Local Services in the County. Funds  
154 generated as a result of the Assessment shall be held in a separate account called  
155 the local provider participation fund and shall be available to be used only to (1)  
156 provide to the Florida Agency for Health Care Administration the non-federal share  
157 for Medicaid payments to be made directly or indirectly in support of hospitals serving  
158 Medicaid beneficiaries and (2) reimburse the County for administrative costs  
159 associated with the implementation of the Assessment authorized by this Ordinance,  
160 as further specified in the Assessment Resolution.

161   The Assessment will be broad based, and the amount of the Assessment must be  
162 uniformly imposed on each Assessed Property. The Assessment may not hold  
163 harmless any Institutional Health Care Provider, as required under 42 U.S.C. §  
164 1396b(w). As set forth in Section 2-3-106, the Assessment shall constitute a lien upon  
165 the Assessed Properties equal in rank and dignity with the liens of all state, county,  
166 district, or municipal taxes and other non-ad valorem assessments. In addition to  
167 other remedies available at law or equity, the enforcement of the aforesaid  
168 Assessment shall be at the same time and in like manner as ad valorem taxes and  
169 subject to all ad valorem tax enforcement procedures afforded to the official annual  
170 real property tax notice.

171   Creation and implementation of the Assessment will not result in any additional  
172 pecuniary obligation on the County, Board, or County residents. The Assessment  
173 shall be imposed, levied, collected, and enforced against only Assessed Properties,  
174 and the Assessment Resolution shall provide that the County’s administrative costs  
175 shall be reimbursed from the collected amounts. The County’s administrative costs  
176 shall not exceed \$150,000. Any reasonable expenses the County incurs to collect

177 delinquent assessments, including any attorney's fees incurred as a result of  
178 contracting with an attorney to represent the county in seeking and enforcing the  
179 collection of delinquent assessments, are not subject to the limitation on  
180 administrative costs.

181 Sec. 2-3-112. - Computation of Assessment.

182 The annual Assessment shall be specified for each Assessed Property. The Board  
183 shall set the Assessment in amounts that in the aggregate will generate sufficient  
184 revenue to fund the non-federal share of Medicaid payments associated with Local  
185 Services to be funded by the Assessment.

186 The amount of the Assessment required of each Assessed Property may not exceed  
187 an amount that, when added to the amount of other required assessments, equals  
188 an amount of revenue that exceeds the maximum percent of the aggregate net patient  
189 revenue of all Assessed Hospitals in the County permitted by 42 C.F.R. §  
190 433.68(f)(3)(i)(A). Assessments for each Assessed Property will be derived from data  
191 contained in the Florida Hospital Uniform Reporting System, as available from the  
192 Florida Agency for Health Care Administration.

193 Sec. 2-3-113. - Assessment Resolution.

194 The Assessment Resolution shall describe (a) the Medicaid payments proposed for  
195 funding from proceeds of the Assessment; (b) the benefits to the Assessment  
196 Properties associated with the Assessment; (c) the methodology for computing the  
197 assessed amounts; and (d) the method of collection, including how and when the  
198 Assessment is to be paid.

199 Sec. 2-3-114. - Non-Ad Valorem Assessment Roll.

200 The Assessment Coordinator shall prepare, or direct the preparation of, the Non-Ad  
201 Valorem Assessment Roll, which shall contain the following:

202 a) The names of the Assessed Properties; and

203 b) The Assessment rate and amount of the Assessment to be imposed against  
204 each Assessed Property based on the Assessment Resolution.

205 The Non-Ad Valorem Assessment Roll shall be retained by the Assessment  
206 Coordinator and shall be open to public inspection. The foregoing shall not be  
207 construed to require that the Assessment Roll be in printed form if the amount of the  
208 Assessment for each Assessed Property can be determined by use of a computer  
209 terminal available to the public.

210 Sec. 2-3-115. - Notice by Publication.

211 Upon completion of the Non-Ad Valorem Assessment Roll, the Assessment  
212 Coordinator shall publish once in a newspaper of general circulation within the County  
213 a notice stating that the Board, at a regular, adjourned, or special meeting on a certain  
214 day and hour, not earlier than 20 calendar days from such publication, will hear  
215 objections of all interested persons to approve the aforementioned Non-Ad Valorem  
216 Assessment Roll. Such notice shall include:

- 217 a) The Assessment rate;
- 218 b) The procedure for objecting to the Assessment rate;
- 219 c) The method by which the Assessment will be collected; and
- 220 d) A statement that the Non-Ad Valorem Special Assessment Roll is available for  
221 inspection at the Office of the Assessment Coordinator.

222 Sec. 2-3-116. - Notice by Mail.

223 In addition to the published notice required by Section 2-3-115, but only for the first  
224 fiscal year in which an Assessment is imposed by the Board against Assessed  
225 Properties, the Assessment Coordinator shall provide notice of the proposed  
226 Assessment by first class mail to the Assessed Properties. Such notice shall include:

- 227 a) The purpose of the Assessment;
- 228 b) The Assessment rate to be levied against each Assessed Property;
- 229 c) The unit of measurement applied to determine the Assessment;
- 230 d) The total revenue to be collected by the County from the Assessment;
- 231 e) A statement that failure to pay the Assessment will cause a tax certificate to  
232 be issued against the property or foreclosure proceedings, either of which may  
233 result in a loss of title to the property;
- 234 f) A statement that all affected and/or interested parties have a right to appear at  
235 the hearing and to file written objections with the Board within 20 days of the  
236 notice; and
- 237 g) The date, time, and place of the hearing.

238 Notice shall be mailed at least 20 calendar days prior to the hearing to each Assessed  
239 Property at such address as is shown on the Assessment Roll. Notice shall be  
240 deemed mailed upon delivery thereof to the possession of the United States Postal  
241 Service. The Assessment Coordinator may provide proof of such notice by affidavit.  
242 Failure of the Assessed Property to receive such notice, because of mistake or



243 inadvertence, shall not affect the validity of the Assessment Roll or release or  
244 discharge any obligation for payment of the Assessment imposed by the Board  
245 pursuant to this Article.

246 Sec. 2-3-117. - Adoption of Assessment Resolution and Non-Ad Valorem  
247 Assessment Roll.

248 At the time named in the notice, the Board shall receive and consider any written  
249 objections of interested persons. All objections to the Assessment Resolution and  
250 Non-Ad Valorem Assessment Roll shall be made in writing and filed with the  
251 Assessment Coordinator at or before the time or adjourned time of such hearing. At  
252 the date and time named in the notice, the Board may adopt the Assessment  
253 Resolution and Non-Ad Valorem Assessment Roll which shall:

- 254 a) Set the rate of the Assessment to be imposed;
- 255 b) Approve the Non-Ad Valorem Assessment Roll, with such amendments as it  
256 deems just and right; and
- 257 c) Affirm the method of collection.

258 The County retains all discretion in determining whether to adopt an Annual Final  
259 Assessment Resolution, and such discretion includes whether any Hospitals object  
260 to the proposed assessment.

261 Sec. 2-3-118. - Annual Final Assessment Resolution.

262 The Board may revise the Non-Ad Valorem Assessment Roll during the Fiscal Year  
263 to modify the Assessment rate. If the Board amends the rate, the Board must adopt  
264 an Annual Final Assessment Resolution during the Fiscal Year to memorialize the  
265 final rate applicable for the Fiscal Year.

266 Sec. 2-3-119. - Effect of Annual Final Assessment Resolution.

267 The adoption of the Annual Assessment Resolution or, where applicable, the Annual  
268 Final Assessment Resolution, shall be the final adjudication of the issues presented  
269 (including, but not limited to, the method of apportionment and Assessment, the  
270 Assessment rate, the initial rate of Assessment, the Non-Ad Valorem Assessment  
271 Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated  
272 in a court of competent jurisdiction to secure relief within 20 days from the date of  
273 Board action on the Annual Final Assessment Resolution. The Non-Ad Valorem  
274 Assessment Roll shall be delivered to the Tax Collector or such other official as the  
275 Board by resolution shall designate.

276 Sec. 2-3-120. - Method of Collection.

277 The amount of the assessment is to be collected pursuant to the Alternative Method,  
278 as specified in the Assessment Resolution.

279 Sec.2-3-121. - Refunds.

280 If, at the end of the Fiscal Year, additional amounts remain in the local provider  
281 participation fund, the Board is hereby authorized to make refund to Assessed  
282 Properties in proportion to amounts paid in during the Fiscal Year for all or a portion  
283 of the unutilized local provider participation fund.

284 Sec. 2-3-122. - Responsibility for Enforcement.

285 The County and its agent, if any, shall maintain the duty to enforce the prompt  
286 collection of the Assessment by the means provided herein. The duties related to  
287 collection of assessments may be enforced at the suit of any holder of obligations in  
288 a court of competent jurisdiction by mandamus or other appropriate proceedings or  
289 actions.

290 Sec. 2-3-123. - Correction of Errors and Omissions.

291 No act of error or omission on the part of the Comptroller, Property Appraiser, Tax  
292 Collector, Assessment Coordinator, Board, or their deputies or employees shall  
293 operate to release or discharge any obligation for payment of the Assessment  
294 imposed by the Board under the provision of this Chapter.

295 Sec. 2-3-124. - Limitations on Surcharges

296 Payments made by Assessed Properties under this article may not be passed along  
297 to patients of the Assessed Property as a surcharge or as any other form of additional  
298 patient charge.

299 **SECTION 2. APPLICABILITY.**

300 It is hereby intended that this Ordinance shall constitute a uniform law applicable in  
301 all unincorporated areas of Charlotte County, Florida, and to all incorporated areas of  
302 Charlotte County where there is no existing conflict of law or municipal ordinance.

303 **SECTION 3. SEVERABILITY.**

304 If any portion of this Ordinance is held invalid or declared to be unconstitutional,  
305 inoperative, or void by any court of competent jurisdiction, such holdings shall not  
306 affect the validity of the remainder of this Ordinance.

307 **SECTION 4. RESOLUTION OF CONFLICT OF LAWS.**

308 In all instances where Florida law, as evidenced by the Florida Administrative Code,  
309 Florida Statutes, applicable case law or otherwise, mandates standards or  
310 requirements that are stricter than the provisions of this Ordinance, or where a matter  
311 is addressed by Florida law that is not addressed by this Ordinance, then said law  
312 shall govern. In situations where this Ordinance addresses a matter in a manner that  
313 is stricter than that of Florida law, the provisions of this Ordinance shall control.

314 **SECTION 5. INCLUSION IN THE CHARLOTTE COUNTY CODE.**

315 The provisions of this Ordinance shall be included and incorporated in the Charlotte  
316 County Code, as an addition or amendment thereto, and shall be appropriately  
317 renumbered to conform to the uniform numbering system of the Charlotte County  
318 Code, once established.

319 **SECTION 6. FILING OF ORDINANCE.**

320 In accordance with the provisions of § 125.66, Fla. Stat., a certified copy of this  
321 Ordinance shall be filed with the Florida Department of State.

322 **SECTION 7. EFFECTIVE DATE.**

323 This Ordinance shall become effective as provided by law.

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325 [SIGNATURE PAGE FOLLOWS]

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PASSED AND DULY ADOPTED this \_\_\_ of \_\_\_\_\_, 2021.

BOARD OF COUNTY COMMISSIONERS  
OF CHARLOTTE COUNTY, FLORIDA

By: \_\_\_\_\_  
William G. Truex, Chairman

ATTEST:  
Roger D. Eaton, Clerk of the Circuit  
Court and Ex-officio Clerk to the  
Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

By: \_\_\_\_\_  
Janette S. Knowlton, County Attorney  
LR21-0497 \_\_\_ / PSP