

OPTION 1 .

ORDINANCE NO. _____

An ordinance proposed by initiative petition to add Article 7.5 to Chapter XVIII of the Los Angeles Municipal Code, establishing the "Healthcare Workers Minimum Wage Ordinance."

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Name

This measure shall be known as the "Healthcare Workers Minimum Wage Ordinance."

Sec. 2. Article 7.5 is added to Chapter XVIII of the Los Angeles Municipal Code to read:

SEC. 187.50. FINDINGS AND PURPOSES.

This Ordinance, adopted by the People of the City of Los Angeles, makes the following findings and has the following purposes:

In the City of Los Angeles, healthcare workers are integral to our wellbeing. Healthcare workers have risked their own health to ensure all residents have access to healthcare. While healthcare providers have seen drastic increases in profits, even during the COVID-19 pandemic, workers are still underpaid and struggle to afford housing and other basic needs. Our healthcare workers have been and continue to be the backbone of the COVID-19 response over the past two years and deserve to be fairly compensated for keeping us safe while facing risks to themselves and their families.

Workforce Shortages and Retention

Hospitals, health systems, and clinics are facing staffing shortages that could jeopardize the availability of care in Los Angeles, especially in our most vulnerable communities. For example, American Hospital Association survey data show that between 2019 and 2020, job vacancies for various types of nursing personnel increased by up to 30%, and even more for some critical positions such as respiratory therapists. In addition, the healthcare industry is competing with other economic sectors to fill non-clinical positions such as cleaning staff, food service workers, and IT administrators.

Healthcare workers are on the front lines, dealing with the emotional, mental, and physical fallout of providing healthcare during a pandemic. A 2021 Washington Post-Kaiser Family Foundation survey found that nearly 30% of healthcare workers are considering leaving their profession altogether, and

nearly 60% reported impacts to their mental health stemming from their work during the COVID-19 pandemic. A 2020 survey found nursing assistants, with a median income under \$30,000, had a turnover rate of 27% per year, significantly higher than the turnover rate of 16% for registered nurses, whose median income is \$73,300.

Healthcare Industry Profits

While healthcare workers are experiencing unprecedentedly difficult working conditions and burnout, hospital systems made huge profits in the billions of dollars during the pandemic, with increasing profit margins. The healthcare industry needs to use some of its profits to fairly compensate workers who are sacrificing every day to care for their patients.

Cost of Living

Income inequality and housing uncertainty have been exacerbated by the COVID-19 pandemic and will continue to be an issue long afterwards. With rising housing costs, healthcare workers are being forced to live further from their places of work, increasing their stress in already stressful times. Raising the minimum wage can help stabilize the incomes of healthcare workers who are low-wage earners.

Solution – Raise Minimum Wage

In recent years, Los Angeles has passed living wage ordinances for airport employees and hotel workers, resulting in higher pay and real benefits for working families. Given the ongoing conditions in the healthcare industry, this rational policy should be applied to healthcare workers. Adequate compensation will help address the burnout, retention challenges, and worker shortages affecting healthcare workers in Los Angeles.

SEC. 187.51. DEFINITIONS.

The following definitions shall apply to this article:

A. “City” means the City of Los Angeles.

B. “Covered Healthcare Facility” means the following types of facilities, provided that they are privately owned and are located within the boundaries of the City:

1. A licensed general acute care hospital as defined in Section 1250(a) of the California Health and Safety Code.

2. A clinic, as defined in Section 1206(d) of the California Health and Safety Code, that is conducted, operated, or maintained as an outpatient department of a general acute care hospital or acute psychiatric hospital.

3. A licensed acute psychiatric hospital as defined in Section 1250(b) of the California Health and Safety Code, including an acute psychiatric hospital that is a distinct part of another health facility.

4. A licensed skilled nursing facility, as defined in Section 1250(c) of the California Health and Safety Code, that is a distinct part of a general acute care hospital or acute psychiatric hospital.

5. A licensed residential care facility for the elderly, as defined in Section 1569.2 of the California Health and Safety Code, that is located or licensed at the same address as an acute psychiatric hospital or is located on the same campus or parcel of real property as an acute psychiatric hospital.

6. A licensed chronic dialysis clinic as described in Section 1204(b)(2) of the California Health and Safety Code.

7. All facilities that are part of an Integrated Healthcare Delivery System.

C. "Covered Physician Group" means a medical group practice, including a professional medical corporation as defined in Section 2406 of the California Business and Professions Code, another form of corporation controlled by physicians and surgeons, a medical partnership, or an independent practice association, provided that the group includes a total of 10 or more physicians.

D. "Division" means the Office of Wage Standards of the Bureau of Contract Administration.

E. "Employee" has the same meaning as in Section 2775 of the California Labor Code.

F. "Employer" means any Person, including a corporate officer or executive, who directly or indirectly or through any other Person, including through the services of a temporary service, staffing agency, or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee.

G. "Healthcare Worker" means an Employee who is employed to work at or by a Covered Healthcare Facility to provide patient care, healthcare services, or services supporting the provision of healthcare. "Healthcare Worker" includes a clinician, professional, non-professional, nurse, certified nursing assistant, aide, technician, maintenance worker, janitorial or housekeeping staffperson, groundskeeper, guard, food service worker, laundry worker, pharmacist, nonmanagerial administrative worker and business office clerical worker, but does not include a manager or supervisor. A "Healthcare Worker" works at a Covered Healthcare Facility only if that individual's primary work assignment is physically located at one or more such facilities; for example, delivery workers employed principally outside a Covered Healthcare Facility are not Healthcare Workers for purposes of this article unless employed by such a facility.

H. "Integrated Healthcare Delivery System" means a system that includes both of the following: (1) one or more hospitals and (2) Covered Physician Groups, health care service plans, medical foundation clinics, or other facilities or entities, where the hospital or hospitals and other facilities or entities are related through:

1. Parent/subsidiary relationships, common ownership or control, or common boards of directors and shared senior management; or
2. A contractual relationship in which affiliated Covered Physician Groups or medical foundation clinics contract with a health care service plan, hospital or other part of the system, all operating under a common trade name; or
3. A contractual relationship in which a nonprofit health care service plan provides medical services to enrollees in a specific geographic region of the state through an affiliated hospital system, and contracts with a single Covered Physician Group in each geographic region of the state to provide medical services to a majority of the plan's enrollees in that region.

I. "Minimum Wage" means the minimum amount that must be paid to Employees as compensation for their labor, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation. "Minimum Wage" does not include bonuses, shift differentials, premium pay, reimbursement or allowances for work-related equipment or other expenses, credits for meals or lodging, tips, gratuities, or the cost of medical, dental, retirement or similar benefits.

J. "Person" means an individual, corporation, partnership, limited partnership, limited liability partnership, limited liability company, business trust, estate, trust, association, joint venture, agency, instrumentality, or any other legal or commercial entity, whether domestic or foreign.

SEC. 187.52. PAYMENT OF MINIMUM WAGE TO HEALTHCARE WORKERS.

A. An Employer shall ensure that each Healthcare Worker it employs, or over whom it exercises control, is paid a Minimum Wage equivalent to no less than the hourly rate set forth herein or under the authority of this article for hours worked within the geographic boundaries of the City.

B. The Minimum Wage for Healthcare Workers shall be as follows:

1. On the effective date of this article, the Minimum Wage shall be no less than \$25 per hour.

2. On January 1, 2024, and annually thereafter, the Minimum Wage shall increase based on the annual increase in the cost of living, as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the Los Angeles metropolitan area (Los Angeles-Riverside-Orange County, CA), which is published by the Bureau of Labor Statistics. The Division shall publish a bulletin announcing the adjusted rates, which shall take effect on January 1 of each year.

C. An Employer may not fund the Minimum Wage increases required by this article in any of the following ways:

1. Reducing Healthcare Workers' premium pay rates or shift differentials;

2. Reducing vacation, healthcare, or other non-wage benefits of any Healthcare Worker;

3. Reducing Healthcare Workers' hours of work;

4. Laying off Healthcare Workers; or

5. Increasing charges to any Healthcare Worker for parking, work-related materials or equipment.

D. An Employer is in violation of Section 187.52 C. if the Minimum Wage requirements of this article are a motivating factor in the Employer's decision to take any of the actions described in Section 187.52 C.1.-C.5., unless the Employer proves that it would have taken the same action at the time that it did irrespective of the operation of this article.

SEC. 187.53. RETALIATION.

No Employer shall discharge, terminate a contract with, reduce compensation to, or otherwise discriminate against or take adverse action against any Healthcare Worker for opposing any practice proscribed by this article, for participating in proceedings related to this article, for seeking to enforce rights under this article by any lawful means, or for otherwise asserting rights under this article. Protections of this section shall apply to any Healthcare Worker who mistakenly, but in good faith, alleges noncompliance with this article. Taking any adverse action against a Healthcare Worker within 90 days of the Healthcare Worker's exercise of rights protected under this article shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

SEC. 187.54. ENFORCEMENT AND IMPLEMENTATION.

A. The provisions of this article shall be subject to the procedures, rights, remedies, duties, penalties, and enforcement mechanisms provided for under Article 8 of Chapter XVIII of the Los Angeles Municipal Code, the Los Angeles Office of Wage Standards Ordinance, including Sections 188.03 (Postings and Payroll Records); 188.05 (Enforcement); 188.06 (Notice of Correction); 188.07 (Employee Remedies for Violations); 188.08 (Administrative Fines and Penalties for Violations); 188.09 (Additional Remedies); 188.10 (Administrative Appeal) and 188.11 (Other Remedies Not Affected). For purposes of enforcement and implementation of this article, references to Employers in Article 8 shall be deemed to refer to Employers as defined under this article, and references to Employees in Article 8 shall be deemed to refer to Healthcare Workers as defined under this article. All substantive rights provided under this article shall be eligible for enforcement and implementation through Article 8, including the rights of a Healthcare Worker or other Person acting on behalf of the public to bring a civil action against an Employer violating this article, and the remedies available in such an action.

B. The Division shall bear administrative responsibilities under this article and is authorized to promulgate rules and regulations and issue determinations and interpretations relating to this article that are consistent with its purposes.

SEC. 187.55. NO WAIVER OF RIGHTS.

Any waiver by a Healthcare Worker of any or all of the provisions of this article or of rights or protections afforded under the authority of this article shall be deemed contrary to public policy and shall be void and unenforceable.

SEC. 187.56. COEXISTENCE WITH OTHER AVAILABLE RELIEF.

The provisions of this article shall not be construed as limiting any Healthcare Worker's right to obtain relief to which the Healthcare Worker may be entitled at law or in equity.

SEC. 187.57. ONE-YEAR COURT-GRANTED WAIVER.

This article is not intended to cause reduction in employment or work hours for Healthcare Workers. Therefore, a court may grant a one-year waiver from the Minimum Wage requirements of this article if an Employer can demonstrate by substantial evidence that compliance with this article would raise substantial doubt about the Employer's ability to continue as a going concern under generally accepted accounting standards. The evidence must include documentation of the Employer's financial condition, as well as the condition of any parent or affiliated entity, and evidence of the actual or potential direct financial impact of compliance with this article. A one-year waiver granted by a court pursuant to this section does not exempt an Employer from complying with any and all federal, state, or local laws and regulations, including any other applicable federal, state, or local minimum wage requirement.

SEC. 187.58. CONFLICTS.

Nothing in this article shall be interpreted or applied so as to create any power or duty in conflict with any federal or state law.

SEC. 187.59. SEVERABILITY.

If any subsection, sentence, clause, phrase, or provision of this article is found invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

Sec 3. Section 188.01 of the Los Angeles Municipal Code is amended as follows:

"This article is adopted pursuant to the powers vested in the City of Los Angeles under the laws and Constitution of the State of California and the City Charter, including but not limited to, the police powers vested in the City pursuant to Article XI, Section 7 of the California Constitution and Section 1205(b) of the California Labor Law to ensure compliance with the Los Angeles Minimum Wage law, Los Angeles Municipal Code Section 187.00, *et seq.* and

the Los Angeles Healthcare Workers Minimum Wage Ordinance, Los Angeles Municipal Code Section 187.50, *et seq.*”

Sec. 4. Effective Date

If the City Council approves this measure, or if a majority of the voters pass this Ordinance, it shall take effect on the earliest date allowed by law.

Sec. 5. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By



DANIA MINASSIAN
Deputy City Attorney

Date

6/13/22

File No. 22-1100-S4

M:\GENERAL COUNSEL DIVISION\ORDINANCES AND REPORTS\ORDINANCES - FINAL YELLOW\Healthcare Facilities
Minimum Wage Ordinance-Option 1 FINAL.docx]

The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____