

**MOTION BY SUPERVISORS MARK RIDLEY-THOMAS
AND ZEV YAROSLAVSKY**

DECEMBER 20, 2011

**Safe Ways to Achieve and Maintain Optimum Weight: Public Health
Consumer Protection**

On Tuesday, December 13, 2011, the U.S. Food and Drug Administration (FDA) announced that warning letters were sent to eight Southern California weight loss centers and the marketing firm 1-800- GET-THIN LLC for misleading marketing practices in promoting the Lap-Band ® procedure. The FDA warned that 1-800-GET-THIN's advertisements failed to reveal material facts, including relevant risk information regarding the use of the Lap-Band ®, age and other qualifying requirements for the Lap-Band ® procedure, and the need for ongoing modification of eating habits, as provided in the approved Lap-Band ® labeling. Therefore, the FDA stated that the advertisements are misleading.

The Lap-Band ® is an FDA-approved gastric by-pass device for weight loss in obese adults who have a body mass index of 30 or more as well as an obesity-related medical condition, such as type II diabetes or heart disease.

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According to the 2007 LA County Health Survey, 22.2% of adults in Los Angeles County (County) were obese. The 1-800- GET-THIN billboards, radio and television ads are featured prominently throughout the County. Based upon the FDA's warning, these advertisements do not state material facts about the risks associated with the use of this medical device. The advertisements do not provide required risk information, including warnings, precautions, possible side effects and contraindications. The FDA's warnings raise significant concerns about the vulnerability of all County residents to these advertisements, particularly those who suffer from morbid obesity and wish to find a cure.

Medical experts and the FDA agree that the Lap-Band ® procedure is an aggressive treatment for obesity and should only be considered in clinically severe obesity cases. There is no panacea for obesity, including the Lap-Band ® weight loss procedure. However, there are proven strategies, when sustained over time, which can help people achieve a healthier weight, and decrease the risk for diabetes, heart disease and other chronic diseases. The best approach to weight management combines a lower calorie diet with increased physical activity. Successful weight loss strategies embrace small changes, moderate weight losses and reasonable goals. In addition, healthy environments that provide access to nutritious foods and safe places to recreate are necessary to support individual efforts. Many of our County departments, particularly the Department of Public Health, local health care providers, schools and

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community based organizations are taking the issue of obesity and its health care complications seriously and have committed resources to increase the public's awareness on effective approaches to achieve a healthier weight, including education promotion and policy development.

THEREFORE, WE MOVE THAT THE BOARD OF SUPERVISORS:

1. Direct the Director of Public Health and Health Officer to report back in sixty days on efforts to inform the public of safe and effective alternative methods to achieve and maintain a healthier weight;
2. Direct the Chief Executive Officer (CEO) and Director of Public Health to develop a plan to identify medical products and services that are being marketed in a dangerously misleading manner;
3. Direct County Counsel to report back in thirty days on legal options to ensure truthful advertising of aggressive obesity treatment procedures in unincorporated areas in a manner that would comply with the First Amendment of the United States Constitution and other laws; and
4. Direct the CEO to pursue legislation that would strengthen the regulation and oversight of surgical centers and clinics performing aggressive and invasive obesity treatment cosmetic procedures to ensure quality of care standards are in place at these clinics and checked by the appropriate credentialing agencies.