



DEPARTMENT OF JUSTICE

Antitrust Division

United States, et al. v. UnitedHealth Group Incorporated, et al.; Proposed Final

Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)-(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Maryland in *United States of America et al. v. UnitedHealth Group Incorporated, et al.*, Civil Action No. 1:24-cv-03267. On November 12, 2024, the United States filed a Complaint alleging that UnitedHealth Group Incorporated's proposed acquisition of Amedisys, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. § 18, and that Amedisys, Inc. violated Section 7A of the Clayton Act, 15 U.S.C. § 18a. The proposed Final Judgment requires UnitedHealth Group Incorporated and Amedisys, Inc. to divest certain home health, hospice, and palliative care branches and agencies to BrightSpring Health Services, Inc. and The Pennant Group, Inc., and/or to another acquirer acceptable to the United States. It additionally requires Amedisys to pay a \$1.1 million civil penalty for violation of the HSR Act and to conduct antitrust compliance training for certain Amedisys employees.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at <http://www.justice.gov/atr> and at the Office of the Clerk of the United States District Court for the District of Maryland. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such

comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the *Federal Register*. Comments should be submitted in English and directed to Jill C. Maguire, Acting Chief, Healthcare and Consumer Products Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 4100, Washington, DC 20530 (email address: ATR.Public-Comments-Tunney-Act-MB@usdoj.gov).

Suzanne Morris,
Deputy Director Civil Enforcement Operations,
Antitrust Division.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

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115 S. LaSalle Street, Floor 23
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STATE OF NEW JERSEY
124 Halsey Street – 5th Floor
Newark, NJ 07102

and

STATE OF NEW YORK
28 Liberty Street
New York, NY 10005,

Plaintiffs,

v.

UNITEDHEALTH GROUP
INCORPORATED
9900 Bren Road East
Minnetonka, MN 55343

and

AMEDISYS, INC.
3854 American Way, Suite A
Baton Rouge, LA 70816,

Defendants.

Case No. 1:24-cv-03267
Judge James K. Bredar

COMPLAINT

1. Millions of older Americans, some of the most vulnerable patients in our healthcare system, benefit from receiving skilled healthcare in their homes. These

patients, who may need extra assistance after a recent hospitalization or require help to manage chronic conditions like heart failure, diabetes, or lung disease, get the chance to recover at home instead of in hospitals or rehabilitation facilities. Millions more hospice patients choose to spend their final days in the comfort of their own homes. Receiving critical healthcare services, emotional support, therapy services, and quality-of-life assistance in the familiarity of their homes allows hospice patients to live out their last days with dignity as pain-free and peacefully as possible.

2. UnitedHealth Group Incorporated (“UnitedHealth”) and Amedisys, Inc. (“Amedisys”) are two of the largest home health and hospice service providers in the country. Today, competition between UnitedHealth and Amedisys benefits millions of Americans who need home health or hospice services. But the proposed merger between UnitedHealth and Amedisys would forever eliminate that competition. Under the law, the proposed merger is presumptively anticompetitive and illegal. The United States and the state Attorneys General of Maryland, Illinois, New Jersey, and New York bring this action to preserve competition in markets that impact many of the most vulnerable patients in America during their most vulnerable moments.

3. The fact that this merger would extinguish competition at the expense of Americans is not a secret. Indeed, both UnitedHealth and Amedisys recognize the value that direct competition between the two companies provides to patients today. As Amedisys’s former CEO and current Board Chairman said, the “pure competition” between Amedisys and UnitedHealth means the two companies “keep each other honest and we keep driving better and better quality. And who benefits from it? Our patients.” Today, UnitedHealth and Amedisys compete vigorously against each other across their home health and hospice businesses. Amedisys celebrates “stealing share” from UnitedHealth and develops its strategy with UnitedHealth in mind. For its part, UnitedHealth has aspired to “put a dent in Amedisys.” Now, by seeking to acquire

Amedisys, UnitedHealth would expand its home health and hospice presence to an additional five states as well as gain nearly 500 locations across 32 states where it already competes.

4. Competition between the two companies also benefits the skilled nurses who provide home health and hospice services. UnitedHealth and Amedisys are each other's "biggest competition" for employing nurses providing those services. UnitedHealth identifies Amedisys as among its "Main 3" competitors for nurses, targets Amedisys as its "first line of attack" in recruiting campaigns, and celebrates "kicking [Amedisys's] [*]ss in hiring." Nurses who provide home health and hospice services receive better wages and other employment terms as a result of the direct competition between UnitedHealth and Amedisys.

5. UnitedHealth's plan to extinguish Amedisys as a competitor is the result of an intentional, sustained strategy of acquiring, rather than beating, competition. In 2022, UnitedHealth had concluded that home healthcare—including home health and hospice services—would "grow exponentially as the baby boom ages and as Millennials move into older cohorts." Recognizing that it could not "build enough capacity internally" to quickly establish the kind of outsized grip on the industry it has amassed elsewhere, in February 2023 UnitedHealth acquired LHC Group, Inc. ("LHC"), which was, at the time, the nation's third- largest home health provider and a large hospice provider. Now under UnitedHealth's umbrella, LHC is the second-largest home health provider.

6. Just months after completing its acquisition of LHC, UnitedHealth saw an opportunity to grow even larger. In May 2023, Amedisys—the largest home health and hospice company in the country as of 2022—agreed to merge with infusion provider OptionCare. But the merger between Amedisys and OptionCare presented a competitive threat to UnitedHealth's goal to "grow exponentially." To prevent that from happening,

UnitedHealth was willing to pay. And pay it did, both through what is commonly known as a “breakup fee” to OptionCare for terminating its merger with Amedisys, and then separately by enticing Amedisys with a \$3.3 billion merger offer. Even though Amedisys’s Chief Financial Officer and Chief Operating Officer acknowledged in handwritten notes that the OptionCare deal would be better for both employees and patients, Amedisys ultimately agreed to be subsumed into UnitedHealth’s fold.

7. The competition at stake with the proposed merger of UnitedHealth and Amedisys is significant. Unlike OptionCare, which did not compete directly with Amedisys, UnitedHealth and Amedisys are direct competitors. If this merger proceeds, the combination of UnitedHealth and Amedisys would result in UnitedHealth’s control of 30 percent or more of the home health or hospice services in eight states.

8. The two companies are such large competitors that their proposed merger is presumptively anticompetitive and illegal in hundreds of local markets across America, implicating billions of dollars in commerce.

9. The anticompetitive effects of this merger impact patients, as well as those who do the hard work of caring for those patients: by reducing competition for nursing services. In hundreds of labor markets throughout the country, UnitedHealth’s acquisition of Amedisys would eliminate a competing employer and thereby deprive nurses of valuable competition for pay and other employment terms. In short, vulnerable patients and valued nurses in each of these local markets would have fewer choices for home health and hospice services (or for employment) because of the unlawful consolidation of two of the largest competing home health and hospice providers—UnitedHealth and Amedisys.

10. Recognizing the illegal and anticompetitive impact of the proposed merger, Defendants propose to divest assets in hundreds of separate markets to VitalCaring Group (“VitalCaring”).

11. The proposed divestiture, however, will not eliminate the threat to competition presented by the merger. VitalCaring will not replace the competitive intensity lost by the merger. The company has operated for only three years, and the hodgepodge of assets that it would acquire would nearly double VitalCaring's size immediately. Not only does VitalCaring's quality lag behind both UnitedHealth and Amedisys, but several of VitalCaring's previously acquired assets saw quality decrease post-acquisition. VitalCaring's private equity investors have significantly written down their valuations of the company due to its poor financial performance.

12. Worse still, VitalCaring faces a lawsuit in Delaware Chancery Court seeking nearly half-a-billion dollars stemming from its current CEO's alleged breaches of contractual and fiduciary duties while leading a rival home health and hospice provider, Encompass Home Health ("Encompass"). In a related action, a Texas state court held that while CEO of Encompass, VitalCaring's current CEO ran VitalCaring "from the shadows," and in violation of her contractual duties to Encompass.

13. Even if VitalCaring were an adequate buyer, the divestiture does not resolve the competitive overlap in over 100 home health and hospice markets across 19 states and the District of Columbia, accounting for well in excess of \$1 billion in total commerce. Nor does the divestiture address the harm to thousands of home health and hospice nurses in labor markets across 18 states. And the divestiture creates a new presumptively anticompetitive and illegal overlap around Biloxi and Gulfport, Mississippi.

14. In December 2023, as part of the proposed acquisition, Amedisys chose to certify that its submission complied with the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act"). The production was not complete and did not include a statement identifying what was missing, as required by statute. Despite knowing about the infirmities of its production and the inaccuracy of its certification, Amedisys

only attempted to rectify the issue months later, after the United States discovered the issues and notified the company of the multiple problems with its HSR Act compliance.

15. Beyond the markets at issue here, this merger would also affect American healthcare more broadly. If UnitedHealth succeeds in buying one of its most significant competitors in these presumptively anticompetitive markets, the nation's three largest home health providers would be owned by the nation's two largest Medicare Advantage insurers—UnitedHealth, through LHC and Amedisys, and Humana, through Kindred (which Humana purchased in 2021). This merger would also further consolidate UnitedHealth's standing as the dominant force in nearly every corner of the American healthcare system. Over the past three years, UnitedHealth has spent more than \$36 billion acquiring companies in a variety of healthcare settings, turning itself into the largest commercial health insurer in the United States; the largest employer of physicians; the second-largest pharmacy benefit manager; and one of the largest healthcare technology and service vendors.

16. UnitedHealth's acquisition of Amedisys would ensure that UnitedHealth, not competition, would determine outcomes for patients in home health and hospice and for the nurses that provide those services in hundreds of local markets across the country.

17. The vulnerable patients who receive vital home health and hospice services, as well as the nurses who provide those services, deserve the benefits of competition between UnitedHealth and Amedisys. Patients and nurses should not bear the risk of harm from the proposed merger. Nor should they have to accept the gamble that an unproven and struggling divestiture partner can replace the competition that the merger would eliminate.

18. For these reasons, and those detailed below, UnitedHealth's proposed acquisition of Amedisys threatens to substantially lessen competition in local home

health, hospice, and nurse labor markets throughout the country. As a result, the United States and the Attorneys General of Maryland, Illinois, New Jersey, and New York respectfully request that the Court enjoin the merger pursuant to Section 7 of the Clayton Act, 15 U.S.C. § 18. The United States also respectfully requests that the Court impose civil penalties on Amedisys for its failure to comply with the HSR Act.

I. HOME HEALTH AND HOSPICE PROVIDE CRITICAL CARE TO VULNERABLE PATIENTS

19. Home health and hospice services allow millions of vulnerable Americans to rehabilitate, manage chronic conditions, or cope with the end of their lives where they are most comfortable—at home.

20. Home health patients often need extra assistance after a recent hospitalization or are managing chronic conditions like heart failure, diabetes, lung disease, or dementia. Unsurprisingly, they often prefer to receive skilled nursing and therapy services in the comfort of their homes rather than in rehabilitation hospitals or nursing homes. Receiving care at home from skilled nurses and other healthcare professionals helps home health patients regain independence and enjoy the simple pleasures of life—“to walk outside, check the mail or pick up and hold their grandchild.”

21. Hospice services allow patients, usually seniors, who face terminal conditions such as cancer, heart failure, or lung disease, to enjoy the last days of their lives primarily in their own homes. Receiving nursing care, emotional support, therapy, and quality-of-life assistance in the familiarity of their homes allows hospice patients to spend their last days as pain-free and peacefully as possible. Hospice providers offer a wide range of services to support the physical, psychosocial, spiritual, and emotional needs of terminally ill patients and their family members. Hospice care is provided by interdisciplinary teams of doctors, nurses, therapists, aides, chaplains, counselors, social workers, and volunteers.

22. Because these services are typically offered to patients in their homes, home health and hospice are fundamentally local businesses. Patients generally seek care from home health and hospice agencies that operate in the area around a patient's home. State laws and regulations often limit the areas in which home health and hospice providers can offer services. And providers, like UnitedHealth and Amedisys, tailor services to meet the needs of local populations and employ nurses who are within commuting distance of the patients they serve.

23. Patients can receive home health services while enrolled either in traditional Medicare or Medicare Advantage. Traditional Medicare is a program administered by the Centers for Medicare and Medicaid Services ("CMS") for people aged 65 years or older, or people younger than 65 if they have a disability or specified diseases. By contrast, Medicare Advantage is a program administered by private insurance plans that is an alternative to traditional Medicare. Approximately half of Medicare-eligible patients use Medicare Advantage. Both CMS, which directly pays for services provided to patients enrolled in traditional Medicare, and Medicare Advantage insurers prefer that eligible patients use home health services for post-acute care because doing so is significantly less expensive than receiving similar care provided in hospitals, rehabilitation centers, or skilled nursing facilities.

24. With respect to hospice, traditional Medicare pays for nearly all hospice services provided in the United States, including for seniors who are otherwise covered by Medicare Advantage. Under Medicare, patients become eligible for hospice coverage once a doctor certifies that a patient has less than six months left to live, and the patient has chosen to stop any care that aims to cure their underlying disease or illness. This requirement distinguishes hospice from nearly all other healthcare services, which are curative and therefore not substitutes for hospice.

25. Home health and hospice services rely on the ability and expertise of

skilled nurses, among other specialists, to provide effective, high-quality, and personalized care. Home health and hospice nurses develop close and meaningful relationships with patients, which many nurses find particularly fulfilling. These nurses spend hours with patients in their homes to provide care and comfort, which can influence patients' recovery and satisfaction with care. Thus, patients benefit when home health and hospice providers attract high quality, compassionate nurses who can help improve patients' condition or care for them in their final days.

26. Within home health and hospice, Medicare regulations and state licensure laws distinguish between two different types of nurses: registered nurses ("RNs") and licensed practical nurses or licensed vocational nurses ("LPN/LVNs").¹ As providers of basic medical care, LPN/LVNs are restricted in their scope of duties; they cannot perform initial assessments of patients or work without supervision. By contrast, home health and hospice RNs can perform more advanced clinical duties; they conduct specific types of visits, coordinate care, and supervise other members of a patient's care team, including LPN/LVNs.

27. Home health and hospice nursing differ substantially from other types of nursing. Many home health and hospice nurses prefer to remain in home health and hospice rather than move to a different specialty. Compared to many other types of nursing, home health and hospice typically involve fewer and more flexible hours and greater independence, especially compared to the rigid shifts often required in hospitals. Further, home health and hospice nurses may find their work less hectic than treating acute-care patients in hospitals. And hospice nurses, unlike those in other specialties (including home health), focus on the care, comfort, and quality of life of terminal patients instead of curing these patients. In so doing, they bring compassion to the

¹ Licensed practical nurses and licensed vocational nurses have the same responsibilities, educational preparation, roles, and skill sets, but the name of the position varies between states.

emotionally taxing circumstances of working with terminally ill patients. Many hospice nurses feel a specific “calling” to the field. Hospice nursing is “a hard role to fill,” given that the job is “fundamentally helping people die.”

28. Nursing positions in hospitals differ substantially from home health and hospice nursing positions. Hospital nurses work at a fixed location and work side-by-side with doctors and other nurses to provide round-the-clock care; conversely, home health and hospice nurses travel to patients’ homes and largely work alone. In the fast-paced and often unpredictable hospital environment, acute-care nurses tend to numerous, very sick patients whose conditions can quickly deteriorate, whereas home health and hospice nurses visit patients who are stable enough to be at home. RNs in hospitals also tend to earn significantly more than RNs working in home health and hospice.

II. UNITEDHEALTH AND AMEDISYS COMPETE VIGOROUSLY TO PROVIDE HOME HEALTH AND HOSPICE SERVICES

A. UnitedHealth and Amedisys Are Two of the Three Largest Home Health and Hospice Providers in the United States

29. UnitedHealth is a vertically integrated healthcare behemoth and the fifth-largest company in the United States, with revenues of \$372 billion in 2023. By 2022, it concluded that home healthcare—including home health and hospice—would “grow exponentially as the baby boom ages and as Millennials move into older cohorts,” and thus folded LHC into its Optum Health business after acquiring LHC in February 2023. LHC itself grew by rolling up rival home health and hospice providers, acquiring 44 home health or hospice companies across more than 20 states from 2020 to 2023. Through LHC, UnitedHealth now operates over 530 home health locations and over 120 hospice locations, and employs more than 5,000 nurses who provide home health and hospice services. In 2022, LHC collected around \$2.3 billion in revenue, making about 12 million visits annually to patients in 37 states and the District of Columbia.

30. As of 2023, Amedisys is the third-largest provider of both home health and hospice services in the United States. In 2023, Amedisys earned \$2.2 billion in revenue and provided 10.6 million visits to patients in 37 states and the District of Columbia. Like UnitedHealth, Amedisys has grown through acquisitions, having spent more than \$1 billion on acquisitions since 2019. Currently, Amedisys operates over 340 home health locations and over 160 hospice locations, and employs over 3,600 nurses who provide home health and hospice services.

B. UnitedHealth and Amedisys Are Significant Competitors in Home Health and Hospice Services

31. As two of the largest home health providers, UnitedHealth and Amedisys compete head-to-head in many local markets. Before UnitedHealth's acquisition of LHC, Amedisys's former CEO remarked that LHC was "defined by [Amedisys] and will have to keep up with [Amedisys]." Amedisys strategizes to "tak[e] share" and "steal" share from UnitedHealth in local markets, even monitoring UnitedHealth/LHC's expansion following acquisitions.² After UnitedHealth announced its acquisition of LHC in 2023, Amedisys's senior executives told investors that this purchase gave Amedisys a chance to steal share from LHC in overlapping markets. Likewise, UnitedHealth competes to "stand out from" and "put a dent in" Amedisys. UnitedHealth/LHC found it "very frustrating" that Amedisys had "gain[ed] on us" in local markets and lamented "being second choice" to Amedisys.

32. UnitedHealth and Amedisys consistently identify each other as significant home health competitors. They carefully monitor each other's initiatives and performance in home health, and UnitedHealth relishes opportunities to make "competitive move[s] to block Amedisys."

² For clarity, "UnitedHealth/LHC" is used only in the context of actions taken by LHC before being acquired by UnitedHealth. After that acquisition, LHC is another subsidiary in UnitedHealth's holdings, and is accordingly encompassed in the definition of "UnitedHealth."

33. UnitedHealth and Amedisys acknowledge that they also compete directly in local markets to provide hospice services. They monitor each other's earnings calls and financial performance for information about each other's hospice businesses. UnitedHealth notes when Amedisys's hospice business is "kicking [UnitedHealth's] teeth in" and when its hospice earnings lag behind those of Amedisys. UnitedHealth also monitors Amedisys's hospice acquisitions and, in one instance, expressed concern about Amedisys purchasing a hospice agency because "Amedisys does a lot of things that we do not do—if they get a foothold in [the] county, they will likely push us out." Amedisys similarly tracks UnitedHealth on numerous metrics, including UnitedHealth's hospice admissions and service offerings.

C. UnitedHealth and Amedisys Compete on Quality and Service Offerings in Home Health and Hospice

34. To win patients, home health and hospice providers distinguish themselves on numerous factors, including quality of care and service offered to patients. Although efforts to increase or maintain quality and service are costly, higher quality and better service allow UnitedHealth and Amedisys to attract patients directly and to appeal to healthcare providers for patient referrals. As the CEO of UnitedHealth's LHC acknowledged, quality is "critically important" in these industries: "everything is kind of focused and geared towards ensuring we're the highest quality provider[] generating the best outcomes that we can."

35. Home health and hospice providers, including UnitedHealth and Amedisys, receive most of their patients through referrals from other healthcare providers, such as hospitals, physician practices, and skilled nursing facilities. These referral sources identify which patients in their care need home health or hospice services and often provide information to patients and their families to help them select a provider. UnitedHealth and Amedisys compete head-to-head for referrals, tracking each

other's strategies and responding to each other's strategic decisions with the goal of stealing share. For home health services, companies with more capacity can get more referrals (and thus more share) because they can accept more patients. Accordingly, their significant capacity differentiates UnitedHealth and Amedisys from smaller companies with less capacity. Indeed, in the words of Amedisys's former CEO and current chairman, "[t]he winners in our world will be those companies that have the capacity to fulfill the demand."

36. In home health, UnitedHealth and Amedisys compete on a variety of quality dimensions, including delivering better clinical outcomes and lower readmission rates to hospitals and skilled nursing facilities. One quality metric considered by patients and by referral sources when guiding patients are CMS's "star ratings," comprised of CMS-published reports summarizing how individual home health agencies perform on various measures in aggregated fashion. CMS also makes star ratings available on its "Care Compare" website, which patients can consult when researching home health providers in their local area. Both UnitedHealth and Amedisys compete against one another for higher star ratings. As Amedisys's former CEO and current Board Chairman explained, high star ratings equate to a "[r]eferrals increase" and improvements in "[v]olume and revenues," since patients "flock[] to care centers with higher Medicare Star Ratings."

37. CMS quality metrics are also a dimension of competition in hospice. CMS tracks individual hospice provider locations on a variety of metrics representing hospice quality. These quality metrics cover processes at the time of admission, care processes during the hospice period, and the quantity of care provided in a patient's last few days. CMS also surveys the family caregivers of patients who died while under hospice care. This survey is used to create hospice-specific star ratings, which have been published along with other hospice quality measures on CMS's Care Compare website

since August 2022.

38. In both home health and hospice, UnitedHealth and Amedisys compete to obtain high quality scores from CMS. As a result, the two companies constantly compare their quality scores and compete for improved scores, celebrating when their respective numbers increase and the other's do not. When Amedisys has higher scores on CMS measures, UnitedHealth endeavors to raise its own scores in response, and UnitedHealth's sales representatives tout higher CMS quality scores as a differentiator from other providers, including Amedisys. For its part, Amedisys arms its sales representatives with its CMS quality scores emblazoned on customized marketing materials.

39. In addition to competing on quality metrics, UnitedHealth and Amedisys laud their ability to admit home health patients quickly, a fact valuable to both patients and referral sources. Defendants also offer specialty home health programs tailored to specific patients. For example, Defendants develop programs aimed at managing specific conditions, such as heart failure or respiratory disease, and deploy them in local areas where those conditions are prevalent. Further, they compete by offering patients more touchpoints with clinicians outside of in-home visits, such as having their staff call patients to follow up. These efforts can meet additional patient needs and drive better patient outcomes, manifesting, for instance, in lower hospital readmission rates. Many of Defendants' smaller, local competitors lack the resources to invest in larger workforces and programs, such as local quality improvement coordinators, that create these advantages.

40. Similarly, in hospice, Defendants strive to admit patients quickly and offer specialty programs tailored to specific hospice patients—such as veterans or those suffering from dementia, heart failure, or pulmonary conditions, as well as therapies and services not covered by the Medicare hospice benefit. They also compete by offering

palliative care, which focuses on relieving the symptoms of serious illness. Palliative care can be a gateway for patients who may need hospice in the near future and is another way that UnitedHealth and Amedisys generate hospice referrals. UnitedHealth considers adding palliative care programs—which are generally not profitable standing alone—in locations where it would help its local hospice provider compete and considers palliative care a “HUGE differentiator” for its hospice business. As with home health services, UnitedHealth and Amedisys can invest in these types of hospice-specific programs to a degree that their smaller competitors typically cannot match. UnitedHealth and Amedisys

Compete on Price and Quality to Provide Home Health Services to Medicare Advantage Insurers

41. Home health providers like UnitedHealth and Amedisys also compete on price and quality to be in-network with third-party Medicare Advantage plans. CMS pays private insurers a set amount for each member enrolled in the insurer’s Medicare Advantage plan. In turn, the plans want to increase profits, improve benefits for their members, and offer low premiums, which they can do by controlling the costs of third-party medical providers such as home health agencies. Medicare Advantage insurers must include coverage for home health services in their insurance offerings.

42. To reduce the costs of these services, Medicare Advantage insurers seek out favorable rates and terms when contracting with home health providers to deliver services across the local areas where their members reside. Medicare Advantage insurers’ members pay less for in-network home health services than for out-of-network services; as a result, in-network home health providers are likely to attract more members from an insurer than are out-of-network providers. These dynamics drive home health providers, including UnitedHealth and Amedisys, to compete by offering lower rates and better terms to third-party Medicare Advantage insurers for inclusion in insurers’ networks. Amedisys, for example, acknowledges that rates with Medicare Advantage plans are

“driven down by price competition.” UnitedHealth’s insurance arm acts accordingly, as it has attempted to resist rate increases from Amedisys for UnitedHealth’s own insurance plans by “cit[ing] that [Amedisys’s] rates are in line with another national provider with a similar footprint (most likely LHC Group).”

D. UnitedHealth and Amedisys Compete to Hire and Retain Home Health and Hospice Nurses, Including Those with Experience in These Fields

43. Today, Defendants employ thousands of home health and hospice nurses and compete intensely to hire and retain them. Both companies must continuously hire new nurses to expand their presence and to replace nurses who leave. Home health and hospice nurses can play UnitedHealth and Amedisys off each other during hiring negotiations, resulting in higher pay or better conditions of employment.

44. UnitedHealth and Amedisys consider each other close, substantial competitors in recruiting home health and hospice nurses. UnitedHealth/LHC identified Amedisys as one of its “[m]ain 3” competitors to assess when preparing a report on the value proposition for its home health and hospice employees. UnitedHealth also compares itself to Amedisys on other facets, including working culture, diversity and inclusion, application process, and Glassdoor ratings. Likewise, Amedisys “compare[s] recruiting strategies with close competitors,” including UnitedHealth.

45. As direct competitors, UnitedHealth and Amedisys try to recruit each other’s nurses. For example, UnitedHealth/LHC developed a recruitment plan to target Amedisys’s home health and hospice nurses in the Northeast and Midwest. UnitedHealth and Amedisys have also tried to poach each other’s nurses following acquisitions, leadership changes, and other major company events. For instance, a UnitedHealth/LHC Vice President of Clinical Support worried, “[w]ell I can[’]t have [Amedisys] competing with my team. . . I have 40 more people to hire and I don’t want Amed[isys] to take

them!” Conversely, after UnitedHealth announced its acquisition of LHC, Amedisys believed that LHC’s impending ownership by UnitedHealth created the “potential opportunity to grab LHC employees as a result of their acquisition” and sent out a mass email to all LHC employees it had on record “targeting them in all [of Amedisys’s] activities!!”

46. In response to this competition for nurses, UnitedHealth and Amedisys have increased compensation. For example, UnitedHealth retained a nurse who planned to leave for Amedisys by offering her a “market match” to increase her pay. Similarly, Amedisys increased its sign-on bonus for a nurse position in Lafayette, Louisiana, after hearing that UnitedHealth was offering a higher bonus, and in Chattanooga, Tennessee, Amedisys offered a \$10,000 retention bonus to keep a home health nurse in Amedisys’s “endless battle with LHC” for the highest quality nurses.

47. To ensure their benefit offerings remain competitive, UnitedHealth and Amedisys each track the benefits that the other offers its home health and hospice nurses. UnitedHealth compares its health insurance premiums to Amedisys’s to provide “a competitive benefits package for [its] employees,” and tracks Amedisys’s provision of fleet cars—a highly desirable benefit for some home health and hospice nurses, who travel frequently as part of their job. In turn, Amedisys compares its full suite of benefits—including health insurance, disability insurance, paid leave, and 401(k) matches—to UnitedHealth’s when setting its benefits package.

III. THE PROPOSED ACQUISITION THREATENS TO SUBSTANTIALLY LESSEN COMPETITION FOR HOME HEALTH, HOSPICE, AND NURSE EMPLOYMENT

48. UnitedHealth’s proposed acquisition of Amedisys would be the largest and most significant instance of a trend towards concentration in the home health and hospice markets. This proposed acquisition, on its own terms, threatens to substantially

lessen competition in hundreds of local markets for home health or hospice services across the country. It would eliminate the fierce head-to-head competition between UnitedHealth and Amedisys that has improved home health and hospice quality and service, helped control home health costs for Medicare Advantage plans, and enhanced compensation and other employment terms for the nurses critical to providing care in these markets.

49. The proposed acquisition would eliminate the benefits of competition between UnitedHealth and Amedisys. Quality and service would likely either deteriorate or improve more slowly without that competition. UnitedHealth's competitors, many of whom lack the quality, capacity, or resources to compete with UnitedHealth as robustly as Amedisys can, are unable to replace that lost competition. Further, given the high demand for home health services, there are many local areas in which smaller home health providers frequently cannot accept new patients. In these capacity-constrained markets, patients in the local area cannot be placed into home health, and insurers may struggle to control their costs. Combining UnitedHealth and Amedisys—two of the three largest home health providers with substantial capacity to accept new patients and provide high-quality care—would give UnitedHealth significant and additional bargaining leverage with third-party Medicare Advantage insurers and enable UnitedHealth to command higher reimbursement rates.

50. So, too, the acquisition threatens to substantially lessen competition in the employment prospects, compensation, and other employment terms for home health nurses and hospice nurses. Today, these nurses benefit from direct competition between UnitedHealth and Amedisys to employ them; the complete loss of that competition that would inevitably follow this merger would harm them as well. Experienced home health and hospice nurses, many of whom prefer the unique attributes of home health and hospice nursing, would likely be directly and negatively impacted by the diminished

labor-market competition between Defendants.

51. In addition to the elimination of beneficial head-to-head competition, in hundreds of local markets for home health services, hospice services, and nursing employment, UnitedHealth's post-merger market share and concentration levels would be so high that the proposed merger is presumptively anticompetitive and illegal.

A. Relevant Markets for Home Health Services

1. Home Health Is a Relevant Service Market

52. Home health services is a relevant service market, and the sale of those services to Medicare Advantage plans is also a relevant service market. In Medicare Advantage markets, insurers negotiate on price with home health providers, unlike in traditional Medicare markets, where CMS sets compensation rates for home health providers.

53. Most patients who can receive home health services prefer to do so rather than remain in an inpatient facility. As well, both CMS and Medicare Advantage insurers recognize that, in addition to satisfying patient demand, home health services are cost effective relative to inpatient or post-acute care received in a facility. UnitedHealth, Amedisys, and other industry participants treat home health services as distinct from other healthcare services when organizing and reporting on their businesses, and CMS has distinct criteria, often mirrored by Medicare Advantage insurers, that providers and patients must meet to offer or receive home health services.

54. Home health services are used predominantly by patients who are insured by Medicare, either through traditional Medicare or Medicare Advantage plans. For traditional Medicare, home health providers are reimbursed for services provided to patients at non-negotiable rates set by statute and by regulations promulgated by CMS. In contrast to traditional Medicare, Medicare Advantage insurers negotiate with home health providers on rates and terms. Unlike traditional Medicare, patients covered by

Medicare Advantage, who often have lower than average incomes, may receive a more limited number of home health visits, owe a co-pay or co-insurance for home health services, and can be restricted to home health providers in their insurer's network. These practical indicia and market realities establish that home health services is a relevant services market.

55. Home health services satisfy the well-accepted “hypothetical monopolist” test set forth in the DOJ and Federal Trade Commission’s (“FTC”) *Merger Guidelines*.³ The hypothetical monopolist test helps determine if a group of products or services is sufficiently broad to be a properly defined antitrust market. If a single firm (i.e., a hypothetical monopolist) that controlled all sellers of a set of products or services would impose a small but significant and non-transitory increase in price (“SSNIP”) or other worsening of terms (“SSNIPT”) without losing sufficient customers to make the SSNIP or SSNIPT unprofitable, then that group of products or services is a properly defined antitrust product or service market.

56. Home health services satisfy the hypothetical monopolist test. Patients would not substitute to other healthcare services (for example, receiving post-acute care in a hospital) to deter a hypothetical monopolist of home health services from imposing a SSNIPT.

57. Similarly, home health services sold to Medicare Advantage insurers satisfy the hypothetical monopolist test. Medicare Advantage insurers and their members would not substitute to other healthcare services in sufficient numbers to deter a hypothetical monopolist of home health services from imposing a SSNIP or SSNIPT.⁴

2. *Local Areas Where Patients Are Treated Constitute Relevant*

³ Dep’t of Justice & Fed. Trade Comm’n, *Merger Guidelines* (2023), available at <https://www.justice.gov/atr/merger-guidelines>.

⁴ In the alternative, even if home health services provided to traditional Medicare patients were analyzed as a separate relevant service market, the proposed acquisition is unlawful.

Geographic Markets for Home Health Services

58. Home health patients receive care in their homes from professionals who travel to them. In turn, those professionals typically travel within areas that are a reasonable commute to the home health patients that they serve and the offices of the agencies that employ them. So, patients seeking home health services can only practicably turn to agencies who have offices and offer services where those patients live. Medicare Advantage insurers—who market and sell their insurance plans at the county level—require in-network home health agencies in the local areas where their members live. Moreover, in many areas, laws and regulations, such as certificate of need laws, limit the geographic area that a home health provider can serve. As a result, competition to serve patients primarily occurs locally.

59. Localized markets where UnitedHealth or Amedisys treat home health patients are relevant geographic markets in which to assess the competitive effects of the proposed acquisition. A hypothetical monopolist of home health services in each localized geography would profitably impose a SSNIPT (for example, provide fewer services) or, for Medicare Advantage plans, either a SSNIP (for example, higher rates) or a SSNIPT.

3. The Proposed Acquisition Is Presumptively Anticompetitive and Illegal in Hundreds of Home Health Markets

60. Under controlling law, the merger would increase concentration enough to render it presumptively anticompetitive and illegal. *See United States v. Phila. Nat’l Bank*, 374 U.S. 321, 362–64 (1963); *Merger Guidelines*, § 5.3. The proposed acquisition would result in a presumptively unlawful increase in concentration in hundreds of local home health markets, and local markets for home health services sold to Medicare Advantage plans, in at least 23 states and the District of Columbia. Appendix A is a non-exhaustive list of Defendants’ home health locations in markets that, after the

proposed merger, would become highly concentrated and in which anticompetitive effects can therefore be presumed. The proposed merger is presumptively unlawful in all of these markets. In some of these local markets, Defendants' post-merger share would reach monopoly levels. For example, in Maryland's Eastern Shore, UnitedHealth would control more than 75% of home health services provided to traditional Medicare and Medicare Advantage patients. Under any plausible geographic market definition, the volume of commerce in presumptively unlawful home health markets is at least \$1.6 billion annually.

B. Relevant Markets for Hospice Services

1. Hospice Services Provided to Medicare Beneficiaries Is a Relevant Service Market

61. Traditional Medicare covers the vast majority of hospice services in the United States. For hospice providers to be reimbursed by traditional Medicare, their services must satisfy distinct CMS regulations unique to hospice. Defendants and other industry participants regard hospice services as distinct from other healthcare services in how they organize and report on their businesses. These practical indicia and market realities establish that hospice services provided to Medicare patients is a relevant service market.

62. A hypothetical monopolist of hospice services provided to traditional Medicare patients would likely impose a SSNIPT without losing sales sufficient to make its worsened terms, including decreased quality or service, unprofitable. In the face of a SSNIPT, traditional Medicare patients would continue to require hospice services, and patients would not shift to services other than hospice in sufficient numbers to make the SSNIPT unprofitable.

2. Local Areas Where Patients Are Treated Constitute Relevant Geographic Markets for Hospice Services

63. Hospice patients typically receive care in their homes from caregivers who travel to them. And, in turn, those hospice caregivers typically travel within areas that are a reasonable commute to the hospice patients that they serve and the offices of the agencies that employ them. So, patients seeking hospice care can only practicably turn to agencies who have offices and offer services where those patients live. As with home health, in many areas, certificate of need laws, other laws, or regulations limit the geographic area that a hospice provider can serve. Hospice competition therefore primarily occurs locally.

64. Localized markets where UnitedHealth or Amedisys treat hospice patients are relevant geographic markets in which to assess the competitive effects of the proposed acquisition. A hypothetical monopolist of all hospice services provided to traditional Medicare patients in each localized market would profitably impose a SSNIPT.

3. *The Proposed Acquisition Is Presumptively Anticompetitive and Illegal in Dozens of Hospice Markets*

65. The proposed acquisition would result in a presumptively unlawful increase in concentration in dozens of hospice markets in at least eight states. Appendix B is a non-exhaustive list of Defendants' hospice locations in markets that, after the proposed merger, would become highly concentrated and in which anticompetitive effects can therefore be presumed. The merger is presumptively unlawful in all of these markets.

66. As with home health, UnitedHealth's acquisition of Amedisys would result in near-monopoly shares in some local markets. In the area of Parkersburg, West Virginia, for example, after the transaction, UnitedHealth would control more than 90% of hospice services provided to traditional Medicare patients. Under any plausible geographic market definition, the volume of commerce in presumptively unlawful

hospice markets is at least \$300 million annually.

C. Relevant Markets for the Labor of Home Health and Hospice Nurses

1. Home Health and Hospice Nurses Are Relevant Labor Markets

67. RNs and LPN/LVNs working in home health are each a relevant labor market. RNs working in hospice constitute a separate relevant labor market. The characteristics of home health and hospice work distinguish the nurses who work in these markets from one another, as well as from nurses who work in other healthcare settings. Home health and hospice nursing each involve providing different services to treat different patients in their homes and offer different compensation and working conditions from each other and from other nursing opportunities. Both nurses and employers recognize that home health and hospice nursing have different characteristics from nursing services provided in other settings. These practical indicia and market realities establish that both employment for home health nurses and hospice nurses are each relevant labor markets.

68. A hypothetical monopsonist employer (i.e., a monopolist purchaser of labor) of either home health or hospice nurses would be able to impose a SSNIPT in the form of lower wages, worse benefits or other employment terms, or worse working conditions. Not enough home health or hospice nurses would shift to alternative forms of nursing to make a SSNIPT unprofitable.

2. The Relevant Geographic Markets for Nurse Labor Are Local

69. Nurses who work in home health or hospice settings commute to multiple patients each day and to the offices of the agencies that employ them. Thus, the areas where they offer services must be within a reasonable distance of their homes. This means that home health and hospice nurses can only practicably turn to alternative employers who have offices and serve patients residing within a reasonable commuting distance. As a result, the relevant geographic markets for home health and hospice nurse

labor are the county or set of counties where a predominant number of nurses reside who are willing to commute to the patients of UnitedHealth or Amedisys for their home health or hospice locations. A hypothetical monopsonist in each of the local markets for home health and hospice nurses would profitably impose a SSNIPT. In response to a SSNIPT, home health and hospice nurses are unlikely to relocate themselves (and potentially their families) outside of their local area to work for another home health or hospice provider or to leave either home health or hospice employment.

3. *The Transaction Is Presumptively Anticompetitive and Illegal in Hundreds of Labor Markets*

70. The proposed acquisition would result in a presumptively unlawful increase in concentration in hundreds of local labor markets in at least 24 states. Appendix C is a non-exhaustive list of Defendants' locations in markets in which the transaction would result in a significantly increased concentration for the employment of home health and hospice nurses. In each of these markets, UnitedHealth's proposed acquisition of Amedisys is presumptively unlawful. UnitedHealth's acquisition of Amedisys would cause the combined firm to have near total monopsony shares in several markets. For example, in Maryland's Eastern Shore, after the transaction, UnitedHealth would employ more than 70% of both home health RNs and LPN/LVNs. Under any plausible geographic market definition, the presumptively unlawful labor markets would impact at least 8,000 nurses.

IV. **DEFENDANTS' PROPOSED DIVESTITURES FAIL TO ELIMINATE THE PROPOSED ACQUISITION'S THREAT TO COMPETITION**

71. For some markets in which the proposed transaction results in presumptively unlawful increases in concentration, UnitedHealth proposes to divest home health and hospice locations to a much smaller competitor, VitalCaring. But VitalCaring is unlikely to replace the competition that would be lost by UnitedHealth's acquisition of

Amedisys, or eliminate the threat to competition the acquisition poses; VitalCaring is an unproven company with only three years of operational experience, poor financial performance, and potentially catastrophic legal exposure.

72. Unlike Defendants' successful home health and hospice businesses, VitalCaring has struggled. Founded in 2021, VitalCaring is owned equally by two private equity firms, The Vistria Group ("Vistria") and Nautic Partners ("Nautic"), as well as VitalCaring's current CEO. To date, VitalCaring's business, which consists of 57 home health and 7 hospice locations in six states in the southeastern United States, performs less than a million visits annually and has continued to underperform financially. VitalCaring's valuation has plummeted since the end of 2021, and its two private equity owners have significantly written down their investments in the company. If the merger is consummated and the divestiture occurs, VitalCaring would acquire—and need to successfully integrate—mix-and-match assets that would double its current size, as well as begin providing services in new local markets in many states where it has no current presence, all in order to have any hope of matching Defendants' present services. VitalCaring's quality metrics also fall short of both Defendants', and, after acquisition by VitalCaring, other providers saw their quality scores decline.

73. Worse still, VitalCaring faces significant liability stemming from Ms. Anthony's alleged breaches of her fiduciary duties to her former employer, rival Encompass (now Enhabit). A Texas state court found in 2022 that VitalCaring's current CEO violated her contractual obligations to Encompass. Specifically, that while CEO of Encompass, she clandestinely worked with Nautic and Vistria "from the shadows" to form VitalCaring before she formally joined it, poaching many of Encompass's employees in the process. These same facts underpin Enhabit's pending lawsuit filed in the Delaware Court of Chancery against VitalCaring, several of its executives and directors, and its private-equity sponsors for aiding Ms. Anthony's alleged breaches of

her fiduciary duties. Enhabit seeks nearly half a billion dollars in damages, and a decision in the case is expected any day. An adverse judgment in this lawsuit could imperil VitalCaring's corporate viability or its ability to operate the divested assets with the competitive intensity sufficient to replace the competition lost from Defendants' unlawful merger.

74. Apart from VitalCaring's inadequacies that draw into question whether a divestiture of any assets to it could be successful, UnitedHealth's divestiture would still leave over 100 home health, hospice, and nurse labor markets unremedied. UnitedHealth's acquisition of Amedisys would increase concentration in these markets to levels at which anticompetitive effects are presumed and the transaction is unlawful. These unremedied markets annually generate at least a billion dollars in revenue and serve at least 200,000 patients; they also employ at least 4,000 nurses.

75. Further, UnitedHealth's proposed divestiture would also create an additional anticompetitive overlap in the area of Biloxi and Gulfport, Mississippi. In this market, VitalCaring's acquisition of divestiture assets would increase concentration to a level that is presumptively unlawful.

V. NO COUNTERVAILING FACTORS REBUT THE PRESUMPTION OF COMPETITIVE HARM FROM THE PROPOSED ACQUISITION

76. Entry or expansion by other home health and hospice providers would not alleviate the substantial harm to competition threatened by this proposed merger. Home health and hospice markets feature high barriers to entry and expansion. Among other barriers to entry, laws and regulations, such as certificate of need laws, prevent or significantly delay new entry in many areas. UnitedHealth's and Amedisys's strategies of growth by acquiring other home health and hospice providers reflect the difficulty of entry or expansion in home health and hospice services.

77. In addition, the merger is unlikely to generate verifiable, merger-

specific efficiencies in the relevant markets, let alone enough to sufficiently prevent or outweigh the significant anticompetitive effects that are likely to occur.

VI. AMEDISYS VIOLATED SECTION 7A OF THE CLAYTON ACT

A. The HSR Act and HSR Rules

78. The HSR Act, also known as Section 7A of the Clayton Act, 15 U.S.C. § 18a, is an essential part of modern antitrust enforcement. Among other things, it requires the buyer and seller of voting securities or assets above a certain value⁵ to notify the DOJ's Antitrust Division and the FTC prior to consummating the acquisition, so as to provide the agencies with sufficient opportunity to review proposed transactions and to determine whether to seek an injunction to prevent transactions that may violate the antitrust laws.

79. Section 7A(e) of the HSR Act authorizes the investigating agency to require merging parties to produce "additional information or documentary material relevant to the proposed acquisition." 15 U.S.C. § 18a(e)(1)(A). Demands for information under Section 7A(e) are commonly known as "Second Requests." Second Requests prevent the parties from closing their transaction until 30 days after the parties have provided the investigating agency with "all the information and documentary material" requested. 15 U.S.C. § 18a(e)(2)(A). A party that does not provide all materials required by the Second Request must provide "a statement of the reasons for such noncompliance." 15 U.S.C. § 18a(e)(2)(B). The FTC, with the concurrence of the Antitrust Division, is authorized to promulgate rules defining terms used in the Act and other rules that are necessary and appropriate to carry out the purposes of the notification and waiting period provisions. 15 U.S.C. § 18a(d)(2). The HSR Act Rules are promulgated at 16 C.F.R. §§ 801–803.

80. For transactions such as the proposed acquisition of Amedisys, the

⁵ UnitedHealth's \$3.3 billion acquisition of Amedisys is subject to the HSR Act's notification requirements.

waiting period ends 30 days after a party provides all the information required by the Second Request or provides a partial response along with a statement of reasons for noncompliance. 15 U.S.C. §§ 18a(b)(1)(B), (e)(2)(b). Accordingly, the HSR Rules require that a party's final submission in response to a Second Request be accompanied by a certification attesting that the information provided is "true, correct, and complete in accordance with the statute and rules." 16 C.F.R. § 803.6(a)(2), (b); Notification and Report Form, appendix to 16 C.F.R. pt. 803.

81. Under Section 7A(g) of the Clayton Act, 15 U.S.C. § 18a(g), a corporation that fails to comply with the HSR Act is liable to the United States for a civil penalty for each day it is in violation. The maximum amount of civil penalty during the period relevant to this Complaint was \$51,744 per day. Federal Civil Penalties Inflation Adjustment Act of 2015, Pub. L. 114-74 § 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990); Rule 1.98, 16 C.F.R. § 1.98, 89 Fed. Reg. 1,445 (Jan. 10, 2024).

B. Despite Providing an Erroneous and Inaccurate Submission, Amedisys Certified That It Was Complete and Did Not Identify What Was Missing

82. On July 5, 2023, UnitedHealth and Amedisys filed HSR notifications with the FTC and the Antitrust Division. On August 4, 2023, the Antitrust Division issued Second Requests to UnitedHealth and Amedisys requiring documents, data, and information about the companies, the industry, and the merger. These Second Requests included detailed instructions for compliance. If any responsive documents or information had been lost or destroyed, Section (e)(2)(B) of the HSR Act, Section 803.3 of the HSR Rules, and Instruction 15 of the Second Requests required each Defendant to inform the Antitrust Division and explain what happened.

83. In summer 2023, Amedisys first became aware of a potential problem

with the email archiving system that it relied on to maintain documents related to litigation or responsive to regulatory requests. This problem persisted for an approximately 30-day period between May– June 2023, coinciding with UnitedHealth and Amedisys’s negotiation of their proposed merger. After discovery of the problem with the email archiving system, the May–June 2023 emails were not recovered from that system, and the issue remained unresolved by the vendor on December 18, 2023.

84. On December 18, 2023, Amedisys certified that that it had complied with its Second Request and that its response was “true, correct, and complete in accordance with the statute and rules” as required by Section 803.6 of the HSR Rules. But that certification was erroneous and inaccurate because Amedisys failed to provide a statement of reasons for its partial compliance with the Second Request and to disclose the missing emails from May–June 2023, during which UnitedHealth and Amedisys were negotiating the proposed merger.

85. Amedisys also failed to produce any hard copy documents from any custodian prior to its December 18, 2023 certification, despite Amedisys’s knowledge of the existence of such hard copy documents. For example, in his June 2023 book, Amedisys’s former CEO and current Chairman of the Board touted his copious handwritten notes about his “Amedisys journey.”

86. Amedisys also knew of, but failed to produce, text messages for over half of its custodians prior to its December 18, 2023 certification. In a few instances, some text messages called for by the Second Request may have been permanently lost.

87. Amedisys did not acknowledge its deficiencies until the Division found and presented evidence of them. For over eight months after its erroneous and inaccurate December 18, 2023 certification, Amedisys produced more than 2.5 million additional documents— including hundreds of thousands of emails, hard copy documents, and text messages that pre- dated its December 18, 2023 certification—to

complete its response to the Second Request. These post-December 18, 2023 productions represent a greater volume of documents than Amedisys produced before certifying compliance with the Second Request on December 18, 2023. And these belated productions included materials from earlier in 2023 that were clearly relevant to the potential impact of this merger on competition in the markets for home health and hospice services and for nurses' labor. They included, for example: an email from Amedisys's current CEO to other C-Suite executives debating the risks related to the transaction and likely divestitures; a text message from Amedisys's Senior Vice President of Revenue Cycle Management discussing how UnitedHealth is "[l]ocking up the home health and hospice market in many locations;" and a hard copy document from Amedisys's Chief Financial Officer and Chief Operating Officer describing UnitedHealth's offer as "opportunistic."

88. More than eight months after its erroneous and inaccurate certification, on August 26, 2024, Amedisys submitted a second certification in accordance with Section 803.6 of the Rules attesting compliance with its Second Request.

89. Amedisys was continuously in violation of the requirements of the HSR Act each day beginning on December 18, 2023, until it submitted a second certification attesting that it had submitted a complete response to its Second Request on August 26, 2024.

VII. JURISDICTION AND VENUE

90. Plaintiff United States brings this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. § 25, to restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

91. Plaintiff States, by and through their respective Attorneys General, bring this action in their respective sovereign capacities and as *parens patriae* on behalf of the citizens, general welfare, and economy of their respective States under their

statutory, equitable, or common law powers, and pursuant to Section 16 of the Clayton Act, 15 U.S.C. § 26, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. § 18.

A. Jurisdiction

92. Defendants are both engaged in, and their activities substantially affect, interstate commerce. UnitedHealth provides home health and hospice services in many states. Amedisys also provides home health and hospice services in numerous states. The Court therefore has subject-matter jurisdiction over this action under 15 U.S.C. § 25 and 28 U.S.C. §§ 1331, 1337(a), and 1345.

B. Personal Jurisdiction and Venue

93. Defendants conduct business within the District of Maryland; UnitedHealth has 14 home health locations in Maryland, and Amedisys has 12 home health and hospice locations in the state. UnitedHealth also has both an orientation and training center and a separate “Network Management” center in Columbia, Maryland, as well as a remote billing office, that employs 100 individuals, in Frederick, Maryland to support its home health business. Defendants are thus subject to personal jurisdiction within this District and venue is proper under 15 U.S.C. § 22 and 28 U.S.C. § 1391.

VIII. VIOLATIONS ALLEGED

COUNT I: SECTION 7 OF THE CLAYTON ACT

(By Plaintiffs Against UnitedHealth and Amedisys)

94. Plaintiffs hereby incorporate paragraphs 1 through 93 above as if set forth fully herein.

95. Unless enjoined, the effect of the proposed acquisition may be to substantially lessen competition for home health services in hundreds of local markets throughout the United States (“relevant home health markets”), in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, by:

a. Increasing concentration in the relevant home health markets to levels that are so clearly indicative of lessened competition as to render UnitedHealth's acquisition presumptively unlawful;

b. Eliminating head-to-head competition in the relevant home health markets;

c. Stagnating or worsening non-price dimensions of competition, such as quality and service, in the relevant home health markets;

d. Raising prices and worsening terms for patients in markets for home health services sold to Medicare Advantage; and

e. Reducing competition generally in the relevant home health markets.

96. Unless enjoined, the effect of the proposed acquisition may be to substantially lessen competition for hospice services provided to traditional Medicare beneficiaries in dozens of local markets throughout the United States ("relevant hospice markets"), in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, by:

a. Increasing concentration in the relevant hospice markets to levels that are so clearly indicative of lessened competition as to render UnitedHealth's acquisition presumptively unlawful;

b. Eliminating head-to-head competition in the relevant hospice markets;

c. Stagnating or worsening non-price dimensions of competition, such as quality and service, in the relevant hospice markets; and

d. Reducing competition generally in the relevant hospice markets.

97. Unless enjoined, the effect of the proposed acquisition may be to substantially lessen competition for the labor of home health and hospice nurses in hundreds of local markets throughout the United States ("relevant labor markets"), in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, by:

a. Increasing concentration in the relevant labor markets to levels that are

so clearly indicative of lessened competition as to render UnitedHealth's acquisition presumptively unlawful;

- b. Eliminating head-to-head competition in the relevant labor markets for (1) home health nurses and (2) hospice nurses;
- c. Stagnating or worsening wages and other employment terms in the relevant labor markets; and
- d. Reducing competition generally in the relevant labor markets.

COUNT II: VIOLATION OF THE HSR ACT

(By the United States Against Amedisys)

98. Plaintiff United States hereby incorporates paragraphs 1 through 97 above as if set forth fully herein.

99. On December 18, 2023, Amedisys chose to submit to the Antitrust Division a certification attesting that it had complied with its Second Request and that its response was "true, correct, and complete" in accordance with the statute and the Rules. At the time of the certification, as Amedisys was aware, its response was not true, correct, or complete in accordance with the statute and the Rules. Amedisys did not identify, as required by statute, the information missing from its production.

100. Amedisys submitted a second certification attesting compliance with its Second Request on August 26, 2024, asserting that its compliance was complete.

101. Amedisys was in continuous violation of the requirements of the HSR Act each day beginning on December 18, 2023, until at least August 26, 2024.

IX. REQUEST FOR RELIEF

102. Plaintiffs collectively request that, as to Defendants, the Court:

- a. Adjudge and decree UnitedHealth's acquisition of Amedisys to violate Section 7 of the Clayton Act, 15 U.S.C. § 18;
- b. Permanently enjoin Defendants from consummating the proposed

acquisition or from entering into or carrying out any other contract, agreement, or understanding, the effect of which would be to combine UnitedHealth and Amedisys;

c. Award Plaintiffs an amount equal to their costs and fees incurred in bringing this action; and

d. Grant Plaintiffs other such relief that the Court deems just and proper.

103. Plaintiff United States requests that, as to Defendant Amedisys, the Court:

a. Adjudge and decree that Defendant Amedisys violated the HSR Act, 15 U.S.C. § 18a, and that Defendant Amedisys was in violation of the Act for, at a minimum, each day of the period from the time of its erroneous and inaccurate certification on December 18, 2023, through at least the date it re-certified compliance on August 26, 2024;

b. Order Defendant Amedisys to pay the United States an appropriate civil penalty as provided by the HSR Act, 15 U.S.C. § 18a(g), the Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Pub. L. 114-74, 129 Stat. 599 (2015) (amending the Federal Civil Penalties Inflation Adjustment Act, Pub. L. 101-410, 104 Stat. 890 (codified at 28 U.S.C. § 2461 note)), and the Federal Trade Commission Rule 16 C.F.R. Part 1, 89 Fed. Reg. 1446 (Jan. 10, 2024);

c. Award Plaintiff an amount equal to its costs and fees incurred in bringing this action;

d. Grant Plaintiff other such relief that the Court deems just and proper.

Dated: November 12, 2024

Respectfully submitted,

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,
Et al.,

Plaintiffs,

v.

UNITEDHEALTH GROUP
INCORPORATED

and

AMEDISYS, INC.

Defendants.

Case No. 1:24-cv-03267
Judge James K. Bredar

PROPOSED FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, along with the Attorneys General of Maryland, Illinois, New Jersey, and New York (collectively, the “Plaintiff States”), filed their Complaint on November 12, 2024;

AND WHEREAS, the United States, Plaintiff States, and Defendants, UnitedHealth Group Incorporated and Amedisys, Inc., have consented to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party relating to any issue of fact or law;

AND WHEREAS, Defendants agree to make certain divestitures and to undertake certain actions to resolve claims that Defendants’ merger would allegedly violate Section 7 of the Clayton Act, 15 U.S.C. § 18, and Defendant Amedisys agrees to undertake certain actions to resolve the claim that Amedisys allegedly violated Section 7A of the Clayton Act, also known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (“HSR Act”), 15 U.S.C. § 18a;

AND WHEREAS, Defendants represent that the divestitures and other relief required by this Final Judgment can and will be made and that Defendants will not later raise a claim of hardship or difficulty as grounds for asking the Court to modify any provision of this Final Judgment or claim that any provision of this Final Judgment is unenforceable because it is unclear or ambiguous;

NOW THEREFORE, it is ORDERED, ADJUDGED, AND
DECREED:

I. JURISDICTION

The Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act (15 U.S.C. § 18) and against Defendant Amedisys under Section 7A of the Clayton Act (15 U.S.C. § 18a).

II. DEFINITIONS

As used in this Final Judgment:

A. “UnitedHealth” means Defendant UnitedHealth Group Incorporated, a Delaware corporation with its headquarters in Eden Prairie, Minnesota, its successors and assigns, and its subsidiaries, and divisions, and controlled groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

B. “Amedisys” means Defendant Amedisys, Inc., a Delaware corporation with its headquarters in Baton Rouge, Louisiana, its successors and assigns, and its subsidiaries, and divisions, and controlled groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. “BrightSpring” means BrightSpring Health Services, Inc., a Delaware corporation with its headquarters in Louisville, Kentucky, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. “Pennant” means The Pennant Group, Inc., a Delaware corporation with its headquarters in Eagle, Idaho, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

E. “Acquirer(s)” means BrightSpring, Pennant, or another entity approved by the United States, in its sole discretion, to which Defendants divest the Divestiture Assets.

F. “Additional Divestiture Assets” means the home health branches or agencies listed in Schedule C.

G. “Additional Regulatory Approval(s)” means any approval or clearance from any local, state, or federal healthcare authority (including approval from any certificate-of-need authority or the Centers for Medicare and Medicaid Services) for the Schedule B Assets (without reducing the service areas of the Schedule B Assets as they existed as of July 17, 2025) required to: (i) operate as home health branches or agencies separately from any home health branch or agency that will not be divested to an Acquirer pursuant to this Final Judgment; or (ii) be reassigned to home health agencies that either are already owned by an Acquirer as of the date of the initial filing of the Proposed Final Judgment in this matter or will be owned by an Acquirer following a divestiture required by this Final Judgment.

H. “Divestiture Assets” means:

1. all of Defendants’ rights, titles, and interests in and to the following property and assets, wherever located, related to or used in the branches and agencies identified in the Divestiture Schedules and used in the business of providing home health or hospice services:

1. all branch or agency offices and facilities, and all other real property, including fee simple interests, real property leasehold interests and renewal

rights thereto, improvements to real property, and options to purchase any adjoining or other property, together with all buildings, facilities, and other structures;

2. all contracts, contractual rights, or other agreements, commitments, and understandings relating to employment of Relevant Personnel who elect employment with an Acquirer pursuant to Paragraph IV.M within 180 calendar days of the Divestiture Date;

3. all interests in any joint venture listed in Schedule D;

4. all contracts, contractual rights, and customer relationships, and all other agreements, and commitments, including supply agreements, teaming agreements, and leases, and all outstanding offers or solicitations to enter into a similar arrangement;

5. all licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations, including those issued or granted by any governmental organization, and all pending applications or renewals;

6. records and data reflecting (a) current and historical patient contact information, claims and remittance information, clinical information, underlying electronic data, and files that contain any current or historical patient records, (b) employment, wage, salary, and personnel records relating to Relevant Personnel who elect employment with an Acquirer pursuant to Paragraph IV.M within 180 calendar days of the Divestiture Date, (c) customer lists, accounts, sales, and credit records, and (d) production, repair, maintenance, and performance records; and

2. all of Defendants' rights, titles, and interests in and to all other property and assets, tangible and intangible, wherever located, primarily related to or used in the branches and agencies identified in the Divestiture Schedules and used in the business of providing home health or hospice services, including:

1. all tangible personal property, including fixed assets,

machinery and manufacturing equipment, tools, vehicles, inventory, materials, office equipment and furniture, computer hardware, and supplies;

2. all records and data not described in Paragraph II.H.1.f, including manuals and technical information Defendants provide to their own employees, customers, suppliers, agents, or licensees;

3. all intellectual property owned, licensed, or sublicensed, either as licensor or licensee, including (a) patents, patent applications, and inventions and discoveries that may be patentable, (b) registered and unregistered copyrights and copyright applications, and (c) registered and unregistered trademarks, trade dress, service marks, trade names, and trademark applications; and

4. all other intangible property, including (a) commercial names and d/b/a names, (b) technical information, (c) know-how, trade secrets, design protocols, specifications for materials, specifications for parts, specifications for devices, safety procedures (e.g., for the handling of materials and substances), quality assurance and control procedures, and (d) design tools and simulation capabilities.

Provided, however, that the assets specified in this Paragraph II.H do not include the Excluded Assets, Payer Contracts, or Shared Contracts.

I. “Divestiture Date” means the date, separately for each Acquirer, on which any Divestiture Assets or Additional Divestiture Assets are divested to that Acquirer pursuant to this Final Judgment. There may be multiple Divestiture Dates.

J. “Divestiture Schedules” means the home health, hospice, or palliative care branches or agencies listed in Schedules A and B and, if the conditions in Paragraph IV.B are satisfied, the Additional Divestiture Assets listed in Schedule C.

K. “Excluded Assets” means the assets listed in Schedule E.

L. “Including” means including, but not limited to.

M. “Merger Clearances” refers to the completion of any notice and

waiting period prescribed by Ind. Code § 25-1-8.5-4 or the suspensory review period prescribed by West Virginia Code §16-2D-8.

N. “Payer Contracts” means contracts, contractual rights, customer relationships, agreements, commitments, or understandings with any private payer relating to negotiated rates for home health or hospice services.

O. “Regulatory Approval(s)” means any approval or clearance from any local, state, or federal healthcare authority (including approval from any certificate-of-need authority or the Centers for Medicare and Medicaid Services), or any notice to such an authority, required for Acquirers to own or operate each branch and agency listed in Schedule A within its service area as of July 17, 2025.

P. “Relevant Personnel” means all full-time, part-time, or contract employees (including nurses, other healthcare professionals, and business development and account executives) of the Defendants, wherever located, who: (i) were assigned solely to a branch or agency listed in the Divestiture Schedules as of July 17, 2025; (ii) conduct patient visits and who treated patients assigned to the branches and agencies identified in the Divestiture Schedules in at least 50% of their patient visits conducted between July 1, 2024 and June 30, 2025; or (iii) if not responsible for patient visits, spent at least 50% of their time between July 1, 2024 and June 30, 2025, supporting the branches and agencies identified in the Divestiture Schedules. *Provided, however,* that (a) Relevant Personnel does not include employees employed by the Salisbury, Maryland branch listed in Schedule A (CMS Branch ID 21Q711000) as of July 17, 2025, except for those personnel whom Defendants have agreed will be subject to Paragraph IV.M; and (b) Relevant Personnel includes personnel employed by the HomeCall Salisbury, Maryland branch located at 910 Eastern Shore Drive, Salisbury, Maryland (CMS Branch ID 21Q7066007) as of July 17, 2025. The United States, in its sole discretion, will resolve any disagreement relating to which employees are Relevant Personnel.

Q. “Schedule B Assets” means the home health branches or agencies listed in Schedule B.

R. “Shared Contracts” means contracts, contractual rights, agreements, commitments, or understandings that relate to both a branch or agency listed in the Divestiture Schedules and a branch or agency retained by the Defendants.

III. APPLICABILITY

A. This Final Judgment applies to UnitedHealth and Amedisys, as defined above, and all other persons in active concert or participation with any Defendant who receive actual notice of this Final Judgment.

B. If, prior to complying with Section IV and Section V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of business units that include the Divestiture Assets, Defendants must require any purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from BrightSpring or Pennant.

IV. DIVESTITURES

A. For each of the respective divestitures required pursuant to this Paragraph IV.A, Defendants are ordered and directed, within 75 calendar days after the Court’s entry of the Asset Preservation/Hold Separate Stipulation and Order in this matter or within 60 calendar days of receipt of all necessary Merger Clearances, whichever is later, to divest the relevant Divestiture Assets, except for the Additional Divestiture Assets, in a manner consistent with this Final Judgment to BrightSpring and Pennant, as specified in the Divestiture Schedules, or to another Acquirer acceptable to the United States, in its sole discretion, after consultation with any affected Plaintiff State. The United States, in its sole discretion, may agree to one or more extensions of this time period and will notify the Court of any extensions. For the avoidance of doubt, the timelines set forth above shall apply individually to each specific divestiture transaction

such that the Merger Clearances required for one divestiture transaction will not provide a basis to delay the closing of another divestiture transaction.

B. If at any time after the Court's entry of the Asset Preservation/Hold Separate Stipulation and Order in this matter, an Acquirer is notified in writing of a final determination (1) by a state or local healthcare authority that a Schedule B Asset will not be permitted to maintain home health operations in its service area as it existed as of July 17, 2025, because the Schedule B Asset did not receive a necessary Additional Regulatory Approval, as a result of that Schedule B Asset not being associated with an Additional Divestiture Asset; or (2) by the Centers for Medicare & Medicaid Services ("CMS") that Acquirer will not be permitted to bill for the treatment of Medicare or Medicaid patients by (i) obtaining a CMS Certification Number ("CCN") or enrolling under the CCN of an agency owned by the Acquirer, or (ii) before obtaining a CCN or enrolling under the CCN of an agency owned by the Acquirer, using a Billing Services Agreement, then Defendants must, within 75 calendar days from the date of the notification to that Acquirer, divest to the Acquirer the Additional Divestiture Assets originally associated with the Schedule B Asset, unless a longer period is approved by the United States in its sole discretion. *Provided, however*, that if any Additional Regulatory Approvals for one or more Schedule B Asset have not been obtained within 18 months after the Court's entry of the Asset Preservation/Hold Separate Stipulation and Order in this matter, Defendants must divest the corresponding Additional Divestiture Assets to the relevant Acquirer. If the United States determines, in its sole discretion, that Defendants are using best efforts to obtain Additional Regulatory Approvals and the Acquirer is likely to obtain Additional Regulatory Approvals if additional time is granted, the United States will agree to one or more extensions of the 18- month time period and will notify the Court of any extensions.

C. Defendants must use best efforts to facilitate BrightSpring, Pennant, or

another Acquirer to obtain the Regulatory Approvals and the Additional Regulatory Approvals as promptly as possible.

D. For all contracts, agreements, and customer relationships (or portions of such contracts, agreements, and customer relationships) included in the Divestiture Assets, Defendants must assign or otherwise transfer all contracts, agreements, and customer relationships to Acquirers within the deadlines set forth in Paragraph IV.A and, if applicable IV.B; *provided, however*, that for any contract or agreement that requires the consent of another party to assign or otherwise transfer, Defendants must use best efforts to accomplish the assignment or transfer. Defendants must not interfere with any negotiations between Acquirers and a contracting party.

E. For all joint ventures listed in Schedule D, Defendants must assign or otherwise transfer all interests in the joint ventures to an Acquirer within the deadlines set forth in Paragraph IV.A; *provided, however*, that for any contract or agreement that requires the consent of another party to assign or otherwise transfer, Defendants must use best efforts to accomplish the assignment or transfer. Defendants must not interfere with any negotiations between any Acquirer and any other party to joint venture listed in Schedule D. For 12 months following entry of the Final Judgment, Defendants may not, without the prior written authorization of the United States in its sole discretion, enter into any new joint venture relating to the provision of home health or hospice care with any of the parties to the joint ventures listed in Schedule D where such new joint venture would operate within the service area of a joint venture in Schedule D.

F. Defendants must use best efforts to divest the Divestiture Assets as expeditiously as possible. Defendants must take no action that would jeopardize the completion of the divestitures ordered by the Court, including any action to impede the permitting, operation, or divestiture of the Divestiture Assets.

G. Unless the United States otherwise consents in writing, the divestitures

pursuant to this Final Judgment must include the entire Divestiture Assets and must be accomplished in such a way as to satisfy the United States, in its sole discretion, after consultation with any affected Plaintiff State, that the Divestiture Assets can and will be used by Acquirers as part of viable, ongoing businesses providing home health care and hospice care.

H. The divestiture must be made to Acquirers that, in the United States' sole judgment, after consultation with any affected Plaintiff State, have the intent and capability, including the necessary managerial, operational, technical, and financial capability, to compete effectively in the provision of home health care and hospice care in the areas in which the Divestiture Assets are located.

I. The divestiture must be accomplished in a manner that satisfies the United States, in its sole discretion, after consultation with any affected Plaintiff State, that none of the terms of any agreement between an Acquirer and Defendants give Defendants the ability unreasonably to raise an Acquirer's costs, to lower an Acquirer's efficiency, to lower an Acquirer's quality, or otherwise interfere in the ability of an Acquirer to compete effectively in the provision of home health care and hospice care in the area in which the Divestiture Asset to be acquired by the Acquirer is located.

J. Divestiture of the Divestiture Assets may be made to one or more Acquirers, provided that it is demonstrated to the sole satisfaction of the United States, after consultation with any affected Plaintiff State, that the criteria required by Paragraphs IV.G, IV.H, and IV.I will still be met.

K. In the event Defendants are attempting to divest the Divestiture Assets to an Acquirer other than BrightSpring or Pennant, Defendants promptly must make known, by usual and customary means, the availability of the Divestiture Assets. Defendants must inform any person making an inquiry relating to a possible purchase of the Divestiture Assets that the Divestiture Assets are being divested in accordance with

this Final Judgment and must provide that person with a copy of this Final Judgment. Defendants must offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets that are customarily provided in a due diligence process; *provided, however*, that Defendants need not provide information or documents subject to the attorney-client privilege or work-product doctrine. Defendants must make all information and documents available to the United States and any affected Plaintiff State at substantially the same time that the information and documents are made available to any prospective Acquirer.

L. Defendants must provide prospective Acquirers with (1) access to make inspections of the Divestiture Assets; (2) access to all environmental, zoning, state licenses, certificates from the Centers for Medicare and Medicaid Services, certificates of needs (or equivalent documents), and other permitting documents and information relating to the Divestiture Assets; and (3) access to all financial, operational, or other documents and information relating to the Divestiture Assets that would customarily be provided as part of a due diligence process. Defendants also must disclose all encumbrances on any part of the Divestiture Assets, including on intangible property.

M. Defendants must cooperate with and assist Acquirers in identifying and, at the option of Acquirers, hiring all Relevant Personnel, including:

1. Within 10 business days following the entry of the Asset Preservation/Hold Separate Stipulation and Order in this matter, Defendants must identify all Relevant Personnel to Acquirers, the United States, and any affected Plaintiff State, including by providing organization charts covering all Relevant Personnel.

2. Within 10 business days following receipt of a request by an Acquirer, the United States, any affected Plaintiff State, or the monitor, Defendants must provide to that Acquirer, the United States, any affected Plaintiff State, and the monitor

additional information relating to Relevant Personnel, including name, job title, reporting relationships, past experience, responsibilities, training and educational histories, relevant certifications, and job performance evaluations. Defendants must also provide to Acquirers, the United States, and the monitor information relating to current and accrued compensation and benefits of Relevant Personnel, including most recent bonuses paid, aggregate annual compensation, current target or guaranteed bonus, if any, any retention agreement or incentives, and any other payments due, compensation or benefits accrued, or promises made to the Relevant Personnel. If Defendants are barred by any applicable law from providing any of this information, Defendants must provide, within 10 business days following receipt of the request, the requested information to the full extent permitted by law and also must provide a written explanation of Defendants' inability to provide the remaining information, including specifically identifying the provisions of the applicable laws. Defendants' obligations under this Paragraph IV.M.2 will expire 180 calendar days after the Court's entry of the Asset Preservation/Hold Separate Stipulation and Order.

3. At the request of an Acquirer, Defendants must promptly make Relevant Personnel available for private interviews with that Acquirer during normal business hours at a mutually agreeable location.

4. Defendants must not interfere with any effort by an Acquirer to employ any Relevant Personnel. Interference includes offering to increase the compensation or improve the benefits of Relevant Personnel unless (a) the offer is part of an increase in compensation or improvement in benefits that is company-wide or for the Defendants' entire home health or entire hospice care business, or (b) the offer is approved by the United States in its sole discretion. Defendants' obligations under this Paragraph IV.M.4 will expire 180 calendar days after the Court's entry of the Asset Preservation/Hold Separate Stipulation and Order.

5. For Relevant Personnel who elect employment with an Acquirer within 180 calendar days of the Divestiture Date, Defendants must waive all non-compete and non-disclosure agreements; vest and pay to the Relevant Personnel (or to an Acquirer for payment to the employee) on a prorated basis any bonuses, incentives, other salary, benefits, or other compensation fully or partially accrued at the time of the transfer of the employee to an Acquirer; vest any unvested pension and other equity rights; and provide all other benefits that those Relevant Personnel otherwise would have been provided had the Relevant Personnel continued employment with Defendants, including any retention bonuses or payments. Defendants may maintain reasonable restrictions on disclosure by Relevant Personnel of Defendants' proprietary non-public information that is unrelated to the Divestiture Assets and not otherwise required to be disclosed by this Final Judgment.

6. For a period of 180 calendar days from the Divestiture Date, Defendants may not solicit to re-hire Relevant Personnel who were hired by an Acquirer unless (a) an individual is terminated or laid off by an Acquirer or (b) an Acquirer agrees in writing that Defendants may solicit to re-hire that individual. Nothing in this Paragraph IV.M.6. prohibits Defendants from advertising employment openings using general solicitations or advertisements and re-hiring Relevant Personnel who apply for an employment opening through a general solicitation or advertisement.

N. Defendants must warrant to each Acquirer that (1) the Divestiture Assets will be operational and without material defect on the date of their transfer to the Acquirer; (2) there are no material defects in the environmental, zoning, state licenses, certificates from the Centers for Medicare and Medicaid Services, certificates of need (or equivalent documents), or other permits relating to the operation of the Divestiture Assets; and (3) Defendants have disclosed all encumbrances on any part of the Divestiture Assets, including on intangible property. Following the sale of the Divestiture

Assets, Defendants must not undertake, directly or indirectly, challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

O. Defendants must use best efforts to assist Acquirers to obtain all necessary licenses, registrations, and permits to operate the Divestiture Assets. Until an Acquirer obtains the necessary licenses, registrations, and permits, Defendants must provide that Acquirer with the benefit of Defendants' licenses, registrations, and permits to the full extent permissible by law.

P. Defendants must make best efforts to transition the Divestiture Assets from each respective Defendant's instance of Homecare Homebase to each Acquirer's electronic health record system within 240 calendar days of the Divestiture Date.

Q. At the option of Acquirer, and subject to approval by the United States in its sole discretion, on or before the Divestiture Date, Defendants must enter into one or more contracts to provide transition services, which may include management service agreements and employee leasing agreements, related to human resources, employee health and safety, information technology services and support, clinical service delivery, clinical operations support, real estate, finance, accounting and tax, expense processing, cost reporting, legal, risk, and compliance, revenue cycle management, sales, and billing services for a period of up to 365 calendar days on terms and conditions reasonably related to market conditions for the provision of the transition services. At the option of an Acquirer, subject to approval by the United States in its sole discretion, Defendants must enter into one or more extensions of any such contracts for a total of up to an additional 180 calendar days, on terms and conditions reasonably related to market conditions for the provision of the transition services. Any amendment to or modification of any transition services contract or extension to a transition services contract must be approved by the United States, in its sole discretion. If an Acquirer seeks an extension of

the term of any contract for transition services, Defendants must notify the United States in writing (i) at least 30 calendar days prior to the date the contract expires or (ii) within three calendar days of an Acquirer notifying Defendant it is seeking an extension. An Acquirer may terminate a contract (including an extension) for transition services, or any portion of a contract (including an extension) for transition services, without cost or penalty at any time upon 30 calendar days' written notice. As described further in Section XII, employees of Defendants tasked with providing transition services to an Acquirer must not share any competitively sensitive information of an Acquirer with any other employee of Defendants, except that those tasked with providing transition services may share competitively sensitive information if the sharing is reasonably necessary for the employees' duties regarding transition services, or with any employees of a different Acquirer.

R. If any term of an agreement between Defendants and an Acquirer, including an agreement to effectuate the divestiture required by this Final Judgment, varies from a term of this Final Judgment, to the extent that Defendants cannot fully comply with both, this Final Judgment determines Defendants' obligations.

V. APPOINTMENT OF DIVESTITURE TRUSTEE

A. If Defendants have not divested all of the Divestiture Assets within the period specified in Paragraphs IV.A and, if applicable, IV.B, Defendants must immediately notify the United States and any affected Plaintiff State of that fact in writing. Upon application of the United States, which Defendants may not oppose, the Court will appoint a divestiture trustee selected by the United States and approved by the Court to effect the divestiture of any of the Divestiture Assets that have not been sold during the time periods specified in Paragraphs Paragraph IV.A and, if applicable, Paragraph IV.B.

B. After the appointment of a divestiture trustee by the Court, only the

divestiture trustee will have the right to sell those Divestiture Assets that the divestiture trustee has been appointed to sell. The divestiture trustee will have the power and authority to accomplish the divestitures to Acquirers acceptable to the United States, in its sole discretion, after consultation with any affected Plaintiff State, at a price and on terms obtainable through reasonable effort by the divestiture trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and will have other powers as the Court deems appropriate. The divestiture trustee must sell the Divestiture Assets as quickly as possible.

C. Defendants may not object to a sale by the divestiture trustee on any ground other than malfeasance by the divestiture trustee. Objections by Defendants must be conveyed in writing to the United States and the divestiture trustee within 10 calendar days after the divestiture trustee has provided the notice of proposed divestiture required by Section VI.

D. The divestiture trustee will serve at the cost and expense of Defendants pursuant to a written agreement, on terms and conditions, including confidentiality requirements and conflict of interest certifications, approved by the United States in its sole discretion.

E. The divestiture trustee may hire at the cost and expense of Defendants any agents or consultants, including investment bankers, attorneys, and accountants, that are reasonably necessary in the divestiture trustee's judgment to assist with the divestiture trustee's duties. These agents or consultants will be accountable solely to the divestiture trustee and will serve on terms and conditions, including confidentiality requirements and conflict-of-interest certifications, approved by the United States in its sole discretion.

F. The compensation of the divestiture trustee and agents or consultants hired by the divestiture trustee must be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement that provides the divestiture trustee with

incentives based on the price and terms of the divestiture and the speed with which it is accomplished. If the divestiture trustee and Defendants are unable to reach agreement on the divestiture trustee's compensation or other terms and conditions of engagement within 14 calendar days of the appointment of the divestiture trustee by the Court, the United States, in its sole discretion, may take appropriate action, including by making a recommendation to the Court. Within three business days of hiring an agent or consultant, the divestiture trustee must provide written notice of the hiring and rate of compensation to Defendants and the United States.

G. The divestiture trustee must account for all monies derived from the sale of the Divestiture Assets by the divestiture trustee and all costs and expenses incurred, and the divestiture trustee must submit that accounting to the Court for approval. After approval by the Court of the divestiture trustee's accounting, including fees for unpaid services and those of agents or consultants hired by the divestiture trustee, all remaining money must be paid to Defendants, and the trust will then be terminated.

H. Defendants must use best efforts to assist the divestiture trustee to accomplish the required divestitures. Subject to reasonable protection for trade secrets, other confidential research, development, or commercial information, or any applicable privileges, Defendants must provide the divestiture trustee and agents or consultants retained by the divestiture trustee with full and complete access to all personnel, books, records, and facilities of the Divestiture Assets. Defendants also must provide or develop financial and other information relevant to the Divestiture Assets that the divestiture trustee may reasonably request. Defendants must not take any action to interfere with or to impede the divestiture trustee's accomplishment of the divestitures.

I. The divestiture trustee must maintain complete records of all efforts made to sell the Divestiture Assets, including by filing monthly reports with the United States and any affected Plaintiff State setting forth the divestiture trustee's efforts to

accomplish the divestitures ordered by this Final Judgment. The reports must include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the Divestiture Assets and must describe in detail each contact.

J. If the divestiture trustee has not accomplished the divestitures ordered by this Final Judgment within 180 calendar days of appointment, the divestiture trustee must promptly provide the United States and any affected Plaintiff State with a report setting forth: (1) the divestiture trustee's efforts to accomplish the required divestitures; (2) the reasons, in the divestiture trustee's judgment, why the required divestitures have not been accomplished; and (3) the divestiture trustee's recommendations for completing the divestitures. Following receipt of that report, the United States may make additional recommendations to the Court. The Court thereafter may enter such orders as it deems appropriate to carry out the purpose of this Final Judgment, which may include extending the trust and the term of the divestiture trustee's appointment by a period requested by the United States.

K. The divestiture trustee will serve until divestiture of all Divestiture Assets is completed or for a term otherwise ordered by the Court.

L. If the United States determines that the divestiture trustee is not acting diligently or in a reasonably cost-effective manner, the United States may recommend that the Court appoint a substitute divestiture trustee.

VI. NOTICE OF PROPOSED DIVESTITURE

A. Within two business days following execution of a definitive agreement with an Acquirer to divest any of the Divestiture Assets to an Acquirer other than the Acquirer specified in Schedules A, B, and C, Defendants or the divestiture trustee, whichever is then responsible for effecting the divestitures, must notify the

United States and any affected Plaintiff State of the proposed divestiture. If the divestiture trustee is responsible for completing the divestiture, the divestiture trustee also must notify Defendants. The notice must set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets.

B. After receipt by the United States and any affected Plaintiff State of the notice required by Paragraph VI.A, the United States, after consultation with any affected Plaintiff State, may make one or more requests to Defendants or the divestiture trustee for additional information concerning the proposed divestiture, the proposed Acquirer, and other prospective Acquirers. Defendants and the divestiture trustee must furnish any additional information requested within 15 calendar days of the receipt of each request unless the United States provides written agreement to a different period.

C. Within 45 calendar days after receipt of the notice required by Paragraph VI.A or within 20 calendar days after the United States has been provided the additional information requested pursuant to Paragraph VI.B, whichever is later, the United States will provide written notice to Defendants and any divestiture trustee that states whether the United States, in its sole discretion, after consultation with any affected Plaintiff State, objects to the proposed Acquirer or any other aspect of the proposed divestitures. Without written notice that the United States does not object, a divestiture may not be consummated. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph V.C of this Final Judgment. Upon objection by Defendants pursuant to Paragraph V.C, a divestiture by the divestiture trustee may not be consummated unless approved by the Court.

VII. FINANCING

Defendants may not finance all or any part of any Acquirer's purchase of all or part of the Divestiture Assets.

VIII. ASSET PRESERVATION AND HOLD SEPARATE OBLIGATIONS

Defendants must take all steps necessary to comply with the Asset Preservation/Hold Separate Stipulation and Order entered by the Court.

IX. AFFIDAVITS

A. Within 20 calendar days of entry of the Asset Preservation/Hold Separate Stipulation and Order, and every 30 calendar days thereafter until the divestitures required by this Final Judgment have been completed, each Defendant must deliver to the United States and the Plaintiff States an affidavit, signed by each Defendant's Chief Development Officer and Chief Legal Officer, describing in reasonable detail the fact and manner of that Defendant's compliance with this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

B. In the event Defendants are attempting to divest the Divestiture Assets to an Acquirer other than BrightSpring or Pennant, each affidavit required by Paragraph IX.A must include: (1) the name, address, and telephone number of each person who, during the preceding 30 calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, an interest in the Divestiture Assets and describe in detail each contact with such persons during that period; (2) a description of the efforts Defendants have taken to solicit buyers for and complete the sale of the Divestiture Assets and to provide required information to prospective Acquirers; and (3) a description of any limitations placed by Defendants on information provided to prospective Acquirers. Objection by the United States to information provided by Defendants to prospective Acquirers must be made within 14 calendar days of receipt of the affidavit, except that the United States may

object at any time if the information set forth in the affidavit is not true or complete.

C. Defendants must keep all records of any efforts made to divest the Divestiture Assets and, if applicable, Additional Divestiture Assets, until one year after all divestitures required by this Final Judgment have been completed.

D. Within 20 calendar days of entry of the Asset Preservation/Hold Separate Stipulation and Order, Defendants must separately deliver to the United States and the Plaintiff States an affidavit signed by each Defendant's Chief Development Officer and Chief Legal Officer that describes in reasonable detail all actions that Defendant has taken and all steps that Defendant has implemented on an ongoing basis to comply with Section VIII of this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

E. If a Defendant makes any changes to actions and steps described in affidavits provided pursuant to Paragraph IX.D, the Defendant must, within 15 calendar days after any change is implemented, deliver to the United States and any affected Plaintiff State an affidavit describing those changes.

F. Defendants must keep all records of any efforts made to comply with Section VIII until one year after all divestitures required by this Final Judgment have been completed.

X. APPOINTMENT OF MONITOR

A. Upon application of the United States, which Defendants may not oppose, the Court will appoint a monitor selected by the United States in its sole discretion, after consultation with Plaintiff States, and approved by the Court. Defendants may propose monitor candidates to the United States. Once approved, the court-appointed monitor should be considered by the United States and Defendants to be an arm and representative of the Court.

B. The monitor will have the power and authority to monitor Defendants'

compliance with the terms of this Final Judgment and the Asset Preservation/Hold Separate Stipulation and Order entered by the Court and will have other powers as the Court deems appropriate. The monitor will have no responsibility or obligation for the operation of the Divestiture Assets or the operation of Defendants' businesses. No attorney-client relationship will be formed between Defendants and the monitor.

C. The monitor will have the authority to take such steps as, in the judgment of the monitor and the United States, may be necessary to accomplish the monitor's responsibilities. The monitor may seek information from Defendants' personnel, including in-house counsel, compliance personnel, and internal auditors. Defendants must establish a policy, annually communicated to all employees, that employees may disclose any information to the monitor without reprisal for such disclosure. Defendants must not retaliate against any employee or third party for disclosing information to the monitor.

D. Defendants may not object to actions taken by the monitor in fulfillment of the monitor's responsibilities under any Order of the Court on any ground other than malfeasance by the monitor. Disagreements between the monitor and Defendants related to the scope of the monitor's responsibilities do not constitute malfeasance. Objections by Defendants must be conveyed in writing to the United States, any affected Plaintiff State, and the monitor within 20 calendar days of the monitor's action that gives rise to Defendants' objection, or the objection is waived.

E. The monitor will serve at the cost and expense of Defendants pursuant to a written agreement, on terms and conditions, including confidentiality requirements and conflict of interest certifications, approved by the United States in its sole discretion. If the monitor and Defendants are unable to reach such a written agreement within 14 calendar days of the Court's appointment of the monitor, or if the United States, in its sole discretion, declines to approve the proposed written agreement, the United States, in

its sole discretion, may take appropriate action, including making a recommendation to the Court, which may set the terms and conditions for the monitor's work, including compensation, costs, and expenses.

F. The monitor may hire, at the cost and expense of Defendants, any agents and consultants, including investment bankers, attorneys, and accountants, that are reasonably necessary in the monitor's judgment to assist with the monitor's duties. These agents or consultants will be directed by and solely accountable to the monitor and will serve on terms and conditions, including confidentiality requirements and conflict-of-interest certifications, approved by the United States in its sole discretion. Within three business days of hiring any agents or consultants, the monitor must provide written notice of the hiring and the rate of compensation to Defendants and the United States.

G. The compensation of the monitor and agents or consultants retained by the monitor must be on reasonable and customary terms commensurate with the individuals' experience and responsibilities.

H. The monitor must account for all costs and expenses incurred.

I. Defendants' failure to promptly pay the monitor's accounted-for costs and expenses, including for agents and consultants, will constitute a violation of this Final Judgment and may result in sanctions ordered by the Court. If Defendants make a timely objection in writing to the United States to any part of the monitor's accounted-for costs and expenses, Defendants must establish an escrow account into which Defendants must pay the disputed costs and expenses until the dispute is resolved.

J. Defendants must use best efforts to cooperate fully with the monitor and to assist the monitor to monitor Defendants' compliance with their obligations under this Final Judgment and the Asset Preservation/Hold Separate Stipulation and Order. Subject to reasonable protection for trade secrets, other confidential research, development, or commercial information, or any applicable privileges, Defendants must

provide the monitor and agents or consultants retained by the monitor with full and complete access to all personnel (current and former), agents, consultants, books, records, and facilities as reasonably necessary, as determined by the United States in its sole discretion, to carry out the monitor's duties. Defendants may not take any action to interfere with or to impede accomplishment of the monitor's responsibilities.

K. The monitor must investigate and report on Defendants' compliance with this Final Judgment and the Asset Preservation/Hold Separate Stipulation and Order, including (i) whether each of the Divestiture Assets has been divested in the time periods set forth in Paragraph IV.A and, if applicable, IV.B; (ii) Defendants' and Acquirers' efforts to obtain Merger Clearances; (iii) Defendants' and Acquirers' efforts to obtain Regulatory Approval(s) and Additional Regulatory Approval(s), including as set forth in Paragraph IV.C; (iv) Defendants' efforts to migrate the data contained in the Divestiture Assets' instance(s) of Homecare Homebase or any other electronic medical record, billing, financial, or employee management system from Defendants' systems to the Acquirers' respective systems, and (v) whether Defendants have complied with their obligations under Paragraphs IV.C-F, and IV.K-Q.

L. The monitor must provide periodic reports to the United States and any affected Plaintiff State setting forth Defendants' efforts to comply with their obligations under this Final Judgment and under the Asset Preservation/Hold Separate Stipulation and Order. The United States, in its sole discretion, will set the frequency of the monitor's reports, but, at minimum, the monitor must provide reports every 90 calendar days.

M. Within 30 calendar days after appointment of the monitor by the Court, and on a yearly basis thereafter, the monitor must provide to the United States and Defendants a proposed written work plan consistent with the monitor's responsibilities as set forth in this Section X. Defendants may provide comments on the proposed written

work plan to the United States and the monitor within 14 calendar days after receipt, after which the monitor must produce a final work plan to the United States and Defendants, for approval by the United States in its sole discretion. Any disputes between Defendants and the monitor with respect to any written work plan will be decided by the United States in its sole discretion. The United States retains the right, in its sole discretion, to require changes or additions to a work plan at any time.

N. The monitor may communicate *ex parte* with the Court when, in the monitor's judgment, such communication is reasonably necessary to the monitor's duties under this Final Judgment, including if Defendants fail to pay the monitor's costs and expenses in a timely manner or otherwise violate this Final Judgment.

O. With respect to the Divestiture Assets listed in Schedule A, the monitor will serve until 90 calendar days after the completion of all Regulatory Approvals. With respect to the Divestiture Assets listed in Schedule B, the monitor will serve until 90 calendar days after the later of the completion of (1) all Additional Regulatory Approvals, or (2) the divestiture of any Additional Divestiture Assets. The United States, in its sole discretion, may determine if a shorter period is appropriate.

P. If the United States determines that the monitor is not acting diligently or in a reasonably cost-effective manner, or if the monitor resigns or becomes unable to accomplish the monitor's duties, the United States may recommend that the Court appoint a substitute.

XI. COMPLIANCE INSPECTION

A. For the purposes of determining or securing compliance with this Final Judgment or of related orders such as the Asset Preservation/Hold Separate Stipulation and Order or of determining whether this Final Judgment should be modified or vacated, upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division and reasonable notice to Defendants, Defendants must permit,

from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States:

1. to have access during Defendants' business hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents, wherever located, in the possession, custody, or control of Defendants relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Defendants' officers, employees, or agents, wherever located, who may have their individual counsel present, relating to any matters contained in this Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, Defendants must submit written reports or respond to written interrogatories, under oath if requested, relating to any matters contained in this Final Judgment.

XII. FIREWALLS

A. Defendants must implement and maintain effective procedures to prevent Acquirers' competitively sensitive information from being shared or disclosed, by or through implementation and execution of the obligations required by this Final Judgment and any associated agreements, including agreements entered pursuant to Paragraph IV.Q, by the employees of Defendants tasked with providing transition services to Acquirers (collectively "Firewall Employees") and any other employees of Defendants.

B. Defendants must, within 30 calendar days of the entry of the Asset Preservation/Hold Separate Stipulation and Order, submit to the United States and the

Plaintiff States a compliance plan setting forth in detail the procedures Defendants propose to implement to effect compliance with this Section XII. The United States must inform Defendants within 10 business days of receipt whether, in its sole discretion, the United States approves or rejects Defendants' compliance plan. Within 10 business days of receiving a notice of rejection, Defendants must submit a revised compliance plan. The United States may request that the Court determine whether Defendants' proposed compliance plan fulfills the requirements of this Section XII.

C. At minimum, an effective compliance plan must include, for all Firewall Employees, prior to rendering services under any transition services contract, (1) initial written notice, followed by quarterly written reminders, (2) initial training, followed by training on a yearly basis, (3) provision of written acknowledgment of the obligations of this Section XII, (4) policies and technical controls prohibiting any employee of Defendants with any management, strategy, sales, or network negotiation responsibilities (wherever located at Defendants) from accessing or using data relating to the Divestiture Assets, (5) technical controls segregating data relating to the Divestiture Assets from data relating to any other home health or hospice agencies owned or controlled by Defendants, and (6) electronic logs tracking the access or downloading of any data relating to the Divestiture Assets. Defendants must maintain these electronic logs tracking the access or downloading of any data relating to the Divestiture Assets for four years after rendering the last services under any transition services contract. The form of all written notifications or policies must be approved by the United States in its sole discretion.

D. Defendants must maintain complete records of all written notices, permission and access logs, training employee acknowledgments, and all other efforts made to comply with this Section XII for four years following the completion of all divestitures required by this Final Judgment.

E. Defendants' obligations under this Section XII will expire at the completion of the Defendants' obligations under Paragraph IV.Q, except that (i) Defendants' obligations under Paragraph XII.D continue for the period described in that Paragraph and (ii) Defendants' obligations under Paragraph XII.A will continue until Defendants certify in writing to the United States and any affected Plaintiff State that all of Acquirers' competitively sensitive information received by Defendants has either been destroyed (consistent with applicable law) or returned to Acquirers or is no longer readily accessible to employees of Defendants in the ordinary course of business (e.g., information is on backup tapes).

XIII. NO REACQUISITION

Defendants may not reacquire any part of or any interest in the Divestiture Assets during the term of this Final Judgment without prior written authorization of the United States.

XIV. SECTION 7A CIVIL PENALTIES AND ANTITRUST COMPLIANCE TRAINING

A. As satisfaction for the United States' claim under section 7A (15 U.S.C. § 18a) against Defendant Amedisys, within 30 days of entry of this Final Judgment, Amedisys must pay to the United States a civil penalty in the amount of one million one hundred thousand dollars (\$1,100,000). Amedisys must also, within 365 calendar days of the Court's entry of the Asset Preservation/Hold Separate Stipulation and Order, conduct antitrust compliance training, the form and content of which must be approved by the United States in its sole discretion, for (i) Amedisys's corporate leadership (comprising the Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief People Officer, Chief Information Officer, Chief Compliance Officer, Chief Strategy Officer, and Chief Legal Officer) and their direct reports; and (ii) Amedisys's field leadership for all lines of business (comprising the Vice Presidents,

Senior Vice Presidents, and Presidents). Within 370 calendar days of entry of the Asset Preservation/Hold Separate Stipulation and Order, the Chief Legal Officer of UnitedHealth must submit an affidavit certifying compliance with this training requirement. The United States, in its sole discretion, may approve a different signatory for the affidavit. Payment of the civil penalty must be made by wire transfer of funds or cashier's check. Prior to making a wire transfer, Defendant must contact the Budget and Fiscal Section of the Antitrust Division's Executive Office at ATR.EXO-FiscalInquiries@usdoj.gov for instructions. A payment made by cashier's check, must be made payable to the: United States Department of Justice – Antitrust Division and delivered to:

Chief, Budget & Fiscal Section
Executive Office, Antitrust Division
United States Department of Justice
Liberty Square Building
450 5th Street, NW Room 3016
Washington, D.C. 20530

B. In the event of a default or delay in payment, interest at the rate of 18 percent per annum will accrue from the date of the default to the date of payment.

XV. PUBLIC DISCLOSURE

A. No information or documents obtained pursuant to any provision in this Final Judgment, including reports the monitor provides to the United States and the Plaintiff States pursuant to Paragraphs X.K and X.L, may be divulged by the United States, the Plaintiff States, or the monitor to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States or the Plaintiff States are a party, including grand-jury proceedings, for the purpose of evaluating a proposed Acquirer or securing compliance with this Final Judgment, or as otherwise required by law.

B. In the event that the monitor receives a subpoena, court order, or other court process seeking or requiring production of information or documents obtained

pursuant to any provision in this Final Judgment, including reports the monitor provides to the United States and the Plaintiff States pursuant to Paragraphs X.K and X.L, the monitor must notify the United States, the Plaintiff States, and Defendants immediately and prior to any disclosure, so that Defendants may address such potential disclosure and, if necessary, pursue alternative legal remedies, including if deemed appropriate by Defendants, intervention in the relevant proceedings.

C. In the event of a request by a third party, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 or similar state disclosure laws, for disclosure of information obtained pursuant to any provision of this Final Judgment, the United States will act in accordance with that statute and the Department of Justice regulations at 28 C.F.R. part 16, including the provision on confidential commercial information at 28 C.F.R. § 16.7, and the Plaintiff States will act in accordance with their applicable disclosure laws. Defendants submitting information to the Antitrust Division or the Plaintiff States should designate the confidential commercial information portions of all applicable documents and information under 28 C.F.R. § 16.7. Designations of confidentiality expire 10 years after submission, “unless the submitter requests and provides justification for a longer designation period.” *See* 28 C.F.R. § 16.7(b).

D. If at the time that Defendants furnish information or documents to the United States or the Plaintiff States pursuant to any provision of this Final Judgment, Defendants represent and identify in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, “Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure,” the United States and the Plaintiff States must give Defendants 10 calendar days’ notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

XVI. RETENTION OF JURISDICTION

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XVII. ENFORCEMENT OF FINAL JUDGMENT

A. The United States, or the Plaintiff States with respect to Divestiture Assets located in their respective states, retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. In a civil contempt action, a motion to show cause, or a similar action brought by the United States or any affected Plaintiff State relating to an alleged violation of this Final Judgment, the United States or any affected Plaintiff State may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

B. The Final Judgment should be interpreted to give full effect to the procompetitive purposes of Section 7 of the Clayton Act and Section 7A of the Clayton Act and Regulations promulgated thereunder. Defendants may be held in contempt of, and the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying ordinary tools of interpretation, is stated specifically and in reasonable detail. In any such interpretation, the terms of this Final Judgment should not be construed against any party as the drafter. As stated in Paragraph X.B, the monitor overseeing the Defendants' compliance with the terms of this Final Judgment and the Asset Preservation/Hold Separate Stipulation and Order will have no responsibility or obligation for the operation of the Divestiture Assets or the operation of Defendants' businesses.

C. In an enforcement proceeding in which the Court finds that Defendants

have violated this Final Judgment, the United States may apply to the Court for an extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States or any affected Plaintiff State to enforce this Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendant must reimburse the United States or any affected Plaintiff State for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce this Final Judgment, including during the investigation of the potential violation.

D. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that a Defendant violated this Final Judgment before it expired, the United States may file an action against that Defendant in this Court requesting that the Court order: (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure the Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section XVII.

XVIII. EXPIRATION OF FINAL JUDGMENT

Unless the Court grants an extension, this Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court, Defendants, and the Plaintiff States that the divestitures have been completed and continuation of this Final Judgment is no longer necessary or in the public interest.

XIX. RESERVATION OF RIGHTS

This Final Judgment terminates only the claims stated in the Complaint against Defendants and does not affect other charges or claims the United States or the Plaintiff States may file.

XX. PUBLIC INTEREST DETERMINATION

The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and, if applicable, any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

[Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16]

United States District Judge

Schedule A

	Service	CCN	CMS Branch	Address	Acquirer
	Line		ID		
1	Hospice	011662	N/A	1706 HIGHWAY 78 E, JASPER, AL, 35501	Pennant
2	Home Health	017014	01Q7014000	1979 AL HWY.157, CULLMAN, AL, 35058	Brightspring
3	Home Health	017020	01Q7020000	3262 OLD SHELL ROAD SUITE B MOBILE, AL 36607	Pennant
4	Home Health	017037	01Q7037000	400 S. UNION STREET, SUITE 285, MONTGOMERY, AL 36104	Brightspring
5	Home Health	017039	01Q7039000	400 MERIDIAN STREET SUITE 100, HUNTSVILLE, AL, 35801	Brightspring
6	Home Health	017069	01Q7069000	200 W. LAUREL AVENUE, SUITE 210, FOLEY, AL, 36535	Pennant
7	Home Health	017069	01Q7069001	107 NORTH HOYLE AVENUE, BAY MINETTE, AL, 36507	Pennant
8	Home Health	017072	01Q7072000	525 GREENVILLE BYPASS, GREENVILLE, AL, 36037	Brightspring
9	Home Health	017085	01Q7085000	640 W. FORT WILLIAMS STREET, SUITE A, SYLACAUGA, AL, 35150	Brightspring
10	Home Health	017086	01Q7086000	15 CLAIBORNE STREET, SUITE C, CAMDEN, AL, 36726	Brightspring
11	Home Health	017088	01Q7088000	102 2ND AVENUE, SE, FAYETTE, AL, 35555	Brightspring
12	Home Health	017094	01Q7094000	104C NORTHWOOD DR., SUITE A-1, CENTRE, AL, 35960	Brightspring
13	Home Health	017097	01Q7097000	83825 HIGHWAY 9, ASHLAND, AL, 36251	Brightspring

14	Home Health	017100	01Q7100000	234 1ST AVENUE SW, SUITE 2, HAMILTON, AL, 35570	Brightspring
15	Home Health	017107	01Q7107000	222-224 7TH STREET SOUTH, CLANTON, AL 35045	Brightspring
16	Home Health	017115	01Q7115000	300 MEDICAL CENTER DRIVE, SUITE 102, GADSDEN, AL 35903	Brightspring
17	Home Health	017118	01Q7118000	14765 COURT STREET, MOULTON, AL, 35650	Brightspring
18	Home Health	017123	01Q7123000	1806 44TH STREET, VALLEY, AL, 36854	Brightspring
19	Home Health	017129	01Q7129000	2178 MOORES MILL ROAD, AUBURN, AL, 36830	Brightspring
20	Home Health	017158	01Q7158000	124 MCCURDY AVE S SUITE C, RAINSVILLE, AL, 35986	Brightspring
21	Home Health	017159	01Q7159000	2560 COUNTY ROAD 112, DOTHAN, AL, 36303	Brightspring
22	Home Health	017163	01Q7163000	15 MAYFIELD STREET, MONROEVILLE, AL, 36460	Brightspring
23	Home Health	017165	01Q7165000	412 S. COURT STREET SUITE 403, FLORENCE, AL, 35630	Brightspring
24	Home Health	017327	01Q7327000	1301 HIGHWAY 78 E., SUITE E & D, JASPER, AL 35501	Brightspring
25	Home Health	017328	01Q7328000	2554 DOUGLAS AVENUE, BREWTON, AL, 36426	Brightspring
26	Home Health	047056	04Q7056000	307 W. STILLWELL AVENUE, DEQUEEN, AR, 71832	Brightspring
27	Home Health	047057	04Q7057000	404 LLAMA DRIVE, SEARCY, AR, 72143	Brightspring
28	Home Health	047057	04Q7057001	10800 FINANCIAL CENTER PKWY, SUITE 485, LITTLE ROCK, AR, 72211	Brightspring

29	Home Health	047080	04Q7080000	2236 HARRISON STREET, BATESVILLE, AR, 72501	Brightspring
30	Home Health	047108	04Q7108000	1103 E MAIN ST., SUITE C, MOUNTAIN VIEW, AR, 72560	Brightspring
31	Home Health	108168	10Q8168000	8880 UNIVERSITY PARKWAY, SUITE B, PENSACOLA, FL, 32514	Brightspring
32	Home Health	117010	11Q7010000	101 E. 2ND AVENUE, SUITE 200, ROME, GA, 30161	Brightspring
33	Home Health	117010	11Q7010001	117 JOHN PHILLIPS ROAD, CEDARTOWN, GA, 30125	Brightspring
34	Home Health	117010	11Q7010002	10891 COMMERCE ST, SUITE A, SUMMERVILLE, GA, 30747	Brightspring
35	Home Health	117010	11Q7010003	162 W MAIN STREET, SUITE 302, CARTERSVILLE, GA, 30120	Brightspring
36	Home Health	117025	11Q7025000	4106 COLUMBIA ROAD, SUITE 202, MARTINEZ, GA, 30907	Brightspring
37	Home Health	117053	11Q7053000	1105 PLAZA AVENUE, SUITE A, EASTMAN, GA, 31023	Brightspring
38	Home Health	117053	11Q7053002	145 E. PEACOCK STREET,SUITE 3, COCHRAN, GA, 31014	Brightspring
39	Home Health	117053	11Q7053003	205 INDUSTRIAL BOULEVARD, DUBLIN, GA, 31021	Brightspring
40	Home Health	117068	11Q7068000	1101 N. LIBERTY STREET, WAYNESBORO, GA, 30830	Brightspring
41	Home Health	117068	11Q7068001	632 FERNCREST DRIVE, SANDERSVILLE, GA, 31082	Brightspring
42	Home Health	117087	11Q7087000	1221 W. 4TH ST, STE 7, ADEL, GA, 31620	Pennant

43	Home Health	117087	11Q7087002	515 NORTH SAINT AUGUSTINE ROAD, SUITES E & F, VALDOSTA, GA, 31601	Pennant
44	Home Health	117101	11Q7101000	157 ADAMS DRIVE, DEMOREST, GA, 30535	Brightspring
45	Home Health	117105	11Q7105000	320 LANIER AVE W, SUITES 240 & 250, FAYETTEVILLE, GA, 30214	Brightspring
46	Home Health	117105	11Q7105001	2927 ETHERIDGE MILL RD, GRIFFIN, GA, 30224	Brightspring
47	Home Health	117123	11Q7123000	115 NORTHWEST MAIN STREET, VIDALIA, GA, 30474	Brightspring
48	Home Health	117135	11Q7135000	1760 BASS ROAD, SUITE 103, MACON, GA, 31210	Brightspring
49	Home Health	117135	11Q7135001	470 SOUTH HOUSTON LAKE ROAD, SUITE B, WARNER ROBINS, GA, 31088	Brightspring
50	Home Health	117135	11Q7135002	116 WRIGHTS DRIVE, MILLEDGEVILLE, GA, 31061	Brightspring
51	Home Health	117142	11Q7142000	1710 BOULEVARD SQUARE, SUITE C, WAYCROSS, GA, 31501	Brightspring
52	Home Health	117153	11Q7153000	2131 & 2133 PACE STREET, COVINGTON, GA 30014	Brightspring
53	Home Health	117156	11Q7156000	915 INTERSTATE RIDGE DRIVE, SUITE A1, GAINESVILLE, GA, 30501	Brightspring
54	Home Health	117158	11Q7158000	9 PARK OF COMMERCE BLVD, SUITE 201, SAVANNAH, GA 31405	Brightspring
55	Home Health	117308	11Q7308000	136 REMCO SHOPS LANE, RINGGOLD, GA, 30736	Brightspring
56	Home Health	117316	11Q7316000	302 WESTSIDE DRIVE, DOUGLAS, GA, 31533	Brightspring

57	Home Health	117317	11Q7317000	664 SCRANTON ROAD, SUITE 204, BRUNSWICK, GA, 31520	Brightspring
58	Home Health	117318	11Q7318000	1200 BROOKSTONE CENTRE PARKWAY, SUITE 210, COLUMBUS, GA, 31904	Brightspring
59	Home Health	117318	11Q7318002	300 WEST BROOME STREET, SUITE 108, LAGRANGE, GA, 30240	Brightspring
60	Home Health	148004	14Q8004000	1901 FRANK SCOTT PKWY., SUITE 4 O'FALLON, IL 62269	Brightspring
61	Home Health	157221	15Q7221000	303 QUARTERMASTER COURT, JEFFERSONVILLE, IN, 47130	Brightspring
62	Home Health	157583	15Q7583000	2200 LAKE AVE SUITE 150, FORT WAYNE, IN, 46805	Brightspring
63	Home Health	187059	18Q7059000	13101 MAGISTERIAL DRIVE SUITE 101, LOUISVILLE, KY, 40223	Brightspring
64	Home Health	187093	18Q7093000	101 BRUCE PROFESSIONAL PLAZA, MOUNT STERLING, KY, 40353	Brightspring
65	Home Health	187119	18Q7119000	937 CAMPBELLSVILLE ROAD SUITE 903, COLUMBIA, KY, 42728	Brightspring
66	Home Health	187119	18Q7119004	1724 ROCKINGHAM AVENUE SUITE 300, BOWLING GREEN, KY, 42104	Brightspring
67	Home Health	187119	18Q7119005	1332 NORTH RACE STREET, GLASGOW, KY, 42141	Brightspring
68	Home Health	187119	18Q7119006	124 FOOTHILLS AVENUE, ALBANY, KY, 42602	Brightspring
69	Home Health	187119	18Q7119007	102 SOUTH MAIN STREET, GREENSBURG, KY, 42743	Brightspring

70	Home Health	187119	18Q7119009	40 TURPEN COURT SUITE A, SOMERSET, KY, 42503	Brightspring
71	Home Health	187119	18Q7119010	175 WEST BEAR TRACK ROAD, CAMPBELLSVILLE, KY, 42718	Brightspring
72	Home Health	187119	18Q7119015	1690 RING ROAD SUITE 200, ELIZABETHTOWN, KY, 42701	Brightspring
73	Home Health	187143	18Q7143000	9000 WESSEX PLACE SUITE 304, LOUISVILLE, KY, 40222	Brightspring
74	Home Health	187163	18Q7163000	2480 FORTUNE DRIVE SUITE 120, LEXINGTON, KY, 40509	Brightspring
37	Home Health	117053	11Q7053000	1105 PLAZA AVENUE, SUITE A, EASTMAN, GA, 31023	Brightspring
38	Home Health	117053	11Q7053002	145 E. PEACOCK STREET,SUITE 3, COCHRAN, GA, 31014	Brightspring
39	Home Health	117053	11Q7053003	205 INDUSTRIAL BOULEVARD, DUBLIN, GA, 31021	Brightspring
40	Home Health	117068	11Q7068000	1101 N. LIBERTY STREET, WAYNESBORO, GA, 30830	Brightspring
41	Home Health	117068	11Q7068001	632 FERNCREST DRIVE, SANDERSVILLE, GA, 31082	Brightspring
42	Home Health	117087	11Q7087000	1221 W. 4TH ST, STE 7, ADEL, GA, 31620	Pennant
43	Home Health	117087	11Q7087002	515 NORTH SAINT AUGUSTINE ROAD, SUITES E & F, VALDOSTA, GA, 31601	Pennant
44	Home Health	117101	11Q7101000	157 ADAMS DRIVE, DEMOREST, GA, 30535	Brightspring
45	Home Health	117105	11Q7105000	320 LANIER AVE W, SUITES 240 & 250, FAYETTEVILLE, GA, 30214	Brightspring

46	Home Health	117105	11Q7105001	2927 ETHERIDGE MILL RD, GRIFFIN, GA, 30224	Brightspring
47	Home Health	117123	11Q7123000	115 NORTHWEST MAIN STREET, VIDALIA, GA, 30474	Brightspring
48	Home Health	117135	11Q7135000	1760 BASS ROAD, SUITE 103, MACON, GA, 31210	Brightspring
49	Home Health	117135	11Q7135001	470 SOUTH HOUSTON LAKE ROAD, SUITE B, WARNER ROBINS, GA, 31088	Brightspring
50	Home Health	117135	11Q7135002	116 WRIGHTS DRIVE, MILLEDGEVILLE, GA, 31061	Brightspring
51	Home Health	117142	11Q7142000	1710 BOULEVARD SQUARE, SUITE C, WAYCROSS, GA, 31501	Brightspring
52	Home Health	117153	11Q7153000	2131 & 2133 PACE STREET, COVINGTON, GA 30014	Brightspring
53	Home Health	117156	11Q7156000	915 INTERSTATE RIDGE DRIVE, SUITE A1, GAINESVILLE, GA, 30501	Brightspring
54	Home Health	117158	11Q7158000	9 PARK OF COMMERCE BLVD, SUITE 201, SAVANNAH, GA 31405	Brightspring
55	Home Health	117308	11Q7308000	136 REMCO SHOPS LANE, RINGGOLD, GA, 30736	Brightspring
56	Home Health	117316	11Q7316000	302 WESTSIDE DRIVE, DOUGLAS, GA, 31533	Brightspring
57	Home Health	117317	11Q7317000	664 SCRANTON ROAD, SUITE 204, BRUNSWICK, GA, 31520	Brightspring
58	Home Health	117318	11Q7318000	1200 BROOKSTONE CENTRE PARKWAY, SUITE 210, COLUMBUS, GA, 31904	Brightspring
59	Home Health	117318	11Q7318002	300 WEST BROOME STREET, SUITE 108, LAGRANGE, GA, 30240	Brightspring

60	Home Health	148004	14Q8004000	1901 FRANK SCOTT PKWY., SUITE 4 O'FALLON, IL 62269	Brightspring
61	Home Health	157221	15Q7221000	303 QUARTERMASTER COURT, JEFFERSONVILLE, IN, 47130	Brightspring
62	Home Health	157583	15Q7583000	2200 LAKE AVE SUITE 150, FORT WAYNE, IN, 46805	Brightspring
63	Home Health	187059	18Q7059000	13101 MAGISTERIAL DRIVE SUITE 101, LOUISVILLE, KY, 40223	Brightspring
64	Home Health	187093	18Q7093000	101 BRUCE PROFESSIONAL PLAZA, MOUNT STERLING, KY, 40353	Brightspring
65	Home Health	187119	18Q7119000	937 CAMPBELLSVILLE ROAD SUITE 903, COLUMBIA, KY, 42728	Brightspring
66	Home Health	187119	18Q7119004	1724 ROCKINGHAM AVENUE SUITE 300, BOWLING GREEN, KY, 42104	Brightspring
67	Home Health	187119	18Q7119005	1332 NORTH RACE STREET, GLASGOW, KY, 42141	Brightspring
68	Home Health	187119	18Q7119006	124 FOOTHILLS AVENUE, ALBANY, KY, 42602	Brightspring
69	Home Health	187119	18Q7119007	102 SOUTH MAIN STREET, GREENSBURG, KY, 42743	Brightspring
70	Home Health	187119	18Q7119009	40 TURPEN COURT SUITE A, SOMERSET, KY, 42503	Brightspring
71	Home Health	187119	18Q7119010	175 WEST BEAR TRACK ROAD, CAMPBELLSVILLE, KY, 42718	Brightspring
72	Home Health	187119	18Q7119015	1690 RING ROAD SUITE 200, ELIZABETHTOWN, KY, 42701	Brightspring
73	Home Health	187143	18Q7143000	9000 WESSEX PLACE SUITE 304, LOUISVILLE, KY, 40222	Brightspring

74	Home Health	187163	18Q7163000	2480 FORTUNE DRIVE SUITE 120, LEXINGTON, KY, 40509	Brightspring
63	Home Health	187059	18Q7059000	13101 MAGISTERIAL DRIVE SUITE 101, LOUISVILLE, KY, 40223	Brightspring
64	Home Health	187093	18Q7093000	101 BRUCE PROFESSIONAL PLAZA, MOUNT STERLING, KY, 40353	Brightspring
65	Home Health	187119	18Q7119000	937 CAMPBELLSVILLE ROAD SUITE 903, COLUMBIA, KY, 42728	Brightspring
66	Home Health	187119	18Q7119004	1724 ROCKINGHAM AVENUE SUITE 300, BOWLING GREEN, KY, 42104	Brightspring
67	Home Health	187119	18Q7119005	1332 NORTH RACE STREET, GLASGOW, KY, 42141	Brightspring
68	Home Health	187119	18Q7119006	124 FOOTHILLS AVENUE, ALBANY, KY, 42602	Brightspring
69	Home Health	187119	18Q7119007	102 SOUTH MAIN STREET, GREENSBURG, KY, 42743	Brightspring
70	Home Health	187119	18Q7119009	40 TURPEN COURT SUITE A, SOMERSET, KY, 42503	Brightspring
71	Home Health	187119	18Q7119010	175 WEST BEAR TRACK ROAD, CAMPBELLSVILLE, KY, 42718	Brightspring
72	Home Health	187119	18Q7119015	1690 RING ROAD SUITE 200, ELIZABETHTOWN, KY, 42701	Brightspring
73	Home Health	187143	18Q7143000	9000 WESSEX PLACE SUITE 304, LOUISVILLE, KY, 40222	Brightspring
74	Home Health	187163	18Q7163000	2480 FORTUNE DRIVE SUITE 120, LEXINGTON, KY, 40509	Brightspring

75	Home Health	187168	18Q7168000	2200 EAST PARRISH AVENUE, SUITE 103E, OWENSBORO, KY, 42303	Brightspring
76	Home Health	187171	18Q7171000	833 VALLEY COLLEGE DRIVE SUITE 5, LOUISVILLE, KY, 40272	Brightspring
77	Home Health	187302	18Q7302000	1539 GREENUP AVE SUITE 503, ASHLAND, KY, 41101	Brightspring
78	Hospice	191534	N/A	4017 COMMON STREET, LAKE CHARLES, LA, 70607	Brightspring
79	Home Health	217045	21Q7045000	134 INDUSTRY LANE, SUITE 3, FOREST HILL, MD 21050	Brightspring
80	Home Health	217048	21Q7048000	511 JERMOR LANE SUITE 200, WESTMINSTER, MD, 21157	Brightspring
81	Home Health	217048	21Q7048001	7360 GUILFORD DRIVE SUITE 201- A, FREDERICK, MD, 21704	Brightspring
82	Home Health	217111	21Q7111000	6512 DEER POINTE DRIVE SUITE B, SALISBURY, MD 21804-1669	Brightspring
83	Home Health	217111	21Q7111001	604 SUNBURST HWY, CAMBRIDGE, MD, 21613	Brightspring
84	Home Health	257087	25Q7087000	18 MELODY LANE, COLLINS, MS, 39428	Brightspring
85	Home Health	257087	25Q7087001	132 MAYFAIR ROAD SUITE 1, HATTIESBURG, MS, 39402	Brightspring
86	Home Health	257100	25Q7100000	925 TOMMY MUNRO DR SUITE K, BILOXI, MS, 39532	Brightspring
87	Home Health	257103	25Q7103000	2080 SOUTH FRONTAGE ROAD SUITE 105, VICKSBURG, MS, 39180	Brightspring
88	Home Health	257103	25Q7103001	310 BYRAM PLACE SUITE E, BYRAM, MS, 39272	Brightspring

89	Home Health	257103	25Q7103002	4294 LAKELAND DRIVE SUITE 200, FLOWOOD, MS, 39232	Brightspring
90	Home Health	257121	25Q7121000	2900 NORTH HILLS STREET, MERIDIAN, MS, 39305	Brightspring
91	Home Health	257143	25Q7143000	11010 HIGHWAY 49 SUITE 4, GULFPORT, MS, 39503	Brightspring
92	Home Health	267499	26Q7499000	1226 LINN STREET, SUITE F, SIKESTON, MO, 63801	Brightspring
93	Home Health	317006	31Q7006000	149 LEFANTE WAY, SUITE 144 & 146, BAYONNE, NJ, 07002	Brightspring
94	Home Health	337268	33Q7268000	105 EARHART DRIVE, SUITE 100, AMHERST, NY, 14221	Brightspring
95	Home Health	337268	33Q7268001	608 W. 3RD STREET, SUITE 608A, JAMESTOWN, NY, 14701	Brightspring
96	Home Health	337268	33Q7268002	88 N. MAIN STREET, WELLSVILLE, NY, 14895	Brightspring
97	Home Health	368268	36Q8268000	606 WASHINGTON BLVD, BELPRE, OH, 45714	Brightspring
98	Home Health	397767	39Q7767000	4000 TOWN CENTER BLVD, SUITE 260, CANONSBURG, PA, 15317	Brightspring
99	Home Health	427034	42Q7034000	901 W. MEETING ST, SUITE 201, LANCASTER, SC 29720	Brightspring
100	Home Health	427058	42Q7058000	1945 W. PALMETTO STREET, SUITE 105, FLORENCE, SC, 29501	Brightspring
101	Home Health	427119	42Q7119000	690 MEDICAL PARK DR, SUITE 400, AIKEN, SC, 29801	Brightspring
102	Home Health	427300	42Q7300000	802 EAST MARTINTOWN ROAD, SUITE 401, NORTH AUGUSTA, SC, 29841	Brightspring

103	Hospice	441529	N/A	116 JACK WHITE DRIVE, SUITE 6, KINGSPORT, TN, 37664	Pennant
104	Hospice	441529	N/A	903 MAIN STREET, NEW TAZEWELL, TN, 37825	Pennant
105	Hospice	441547	N/A	4435 VALLEY VIEW DRIVE, SUITE 104, KNOXVILLE, TN, 37917	Pennant
106	Hospice	441578	N/A	3301 WEST ANDREW JOHNSON HIGHWAY, SUITE 102, MORRISTOWN, TN, 37814	Pennant
107	Hospice	441581	N/A	1939 CEDAR STREET, SUITE A, MCKENZIE, TN 38201	Pennant
108	Hospice	441581	N/A	37 SANDSTONE CIRCLE, SUITE 96, JACKSON, TN 38305	Pennant
109	Hospice	441581	N/A	1539 ASHLAND CITY ROAD, STE C, CLARKSVILLE, TN 37040	Pennant
110	Home Health	447138	44Q7138000	1010 PLEASANT GROVE PLACE, SUITE 200, MT. JULIET, TN, 37122	Pennant
111	Home Health	447138	44Q7138001	2527 HIGHWAY 111 NORTH, SUITE A, COOKEVILLE, TN, 38506	Pennant
112	Home Health	447150	44Q7150000	1225 E. WEISGARBER ROAD, SUITE 370S, KNOXVILLE, TN, 37909	Pennant
113	Home Health	447176	44Q7176000	117 C EAST BRYANT STREET, SMITHVILLE, TN 37166	Pennant
114	Home Health	447176	44Q7176002	1101 NEAL STREET, SUITE 101, COOKEVILLE, TN, 38501	Pennant
115	Home Health	447176	44Q7176004	417 NORTH CHANCERY STREET, MCMINNVILLE, TN 37110	Pennant
116	Home Health	447176	44Q7176005	115 WINWOOD DRIVE, SUITE 210, LEBANON, TN 37087	Pennant

117	Home Health	447230	44Q7230000	900 E. HILL AVE, SUITE 310, KNOXVILLE, TN, 37915	Pennant
118	Home Health	447230	44Q7230002	629 SMITHVIEW DR, MARYVILLE, TN, 37803	Pennant
119	Home Health	447230	44Q7230003	1101 FOX MEADOWS BLVD., SUITE 104, SEVIERVILLE, TN, 37862	Pennant
120	Home Health	447269	44Q7269000	2440 OAKLAND DRIVE NW, CLEVELAND, TN, 37311	Pennant
121	Home Health	447277	44Q7277000	1255 LYNNFIELD ROAD, SUITE 110, MEMPHIS, TN, 38119	Pennant
122	Home Health	447277	44Q7277001	1921 HIGHWAY 51 SOUTH, UNIT C, COVINGTON, TN, 38019	Pennant
123	Home Health	447278	44Q7278000	8 STONEBRIDGE BOULEVARD SUITE L, JACKSON, TN, 38305	Pennant
124	Home Health	447278	44Q7278001	2490 PARR AVENUE SUITE 1, DYERSBURG, TN, 38024	Pennant
125	Home Health	447278	44Q7278002	331 JIM ADAMS DRIVE SUITE A, PARIS, TN, 38242	Pennant
126	Home Health	447278	44Q7278003	880 PICKWICK STREET, UNIT 1, SAVANNAH, TN, 38372	Pennant
127	Home Health	447278	44Q7278004	1509 E REELFOOT AVENUE, UNION CITY, TN, 38261	Pennant
128	Home Health	447451	44Q7451000	1655 WYNNE ROAD SUITE 101, CORDOVA, TN, 38016	Pennant
129	Home Health	447471	44Q7471000	2030 HAMILTON PLACE, SUITE 120, CHATTANOOGA, TN, 37421	Pennant
130	Home Health	447500	44Q7500000	3301 WEST ANDREW JOHNSON HIGHWAY, SUITE 100, MORRISTOWN, TN, 37814	Pennant

131	Home Health	447500	44Q7500004	661 E. BROADWAY BLVD, SUITE A, JEFFERSON CITY, TN, 37760	Pennant
132	Home Health	447513	44Q7513000	220 TOWN CENTER PARKWAY, SUITE 105, SPRING HILL, TN, 37174	Pennant
133	Home Health	447513	44Q7513001	762 HIGHWAY 46 S, DICKSON, TN, 37055	Pennant
134	Home Health	447513	44Q7513007	125 TOWN CREEK ROAD E, SUITE 4, LENOIR CITY, TN 37772	Pennant
135	Home Health	447528	44Q7528000	661 E. BROADWAY BLVD, SUITE B2, JEFFERSON CITY, TN, 37760	Pennant
136	Home Health	447528	44Q7528001	116 JACK WHITE DRIVE, SUITE 10, KINGSPORT, TN, 37664	Pennant
137	Home Health	447538	44Q7538000	8245 TOURNAMENT DRIVE SUITE 255, MEMPHIS, TN, 38125	Pennant
138	Home Health	447552	44Q7552000	4245 NORTH OCOEE STREET, SUITE 4, CLEVELAND, TN, 37312	Pennant
139	Home Health	447558	44Q7558000	900 CONFERENCE DRIVE, SUITE 1A, GOODLETTSVILLE, TN 37072	Pennant
140	Home Health	447563	44Q7563000	537 STONECREST PARKWAY, SUITE 109, SMYRNA, TN 37167	Pennant
141	Home Health	447563	44Q7563001	1127 E. COLLEGE STREET, SUITE B, PULASKI, TN 38478	Pennant
142	Home Health	447563	44Q7563002	220 TOWN CENTER PARKWAY, SUITE 201, SPRING HILL, TN 37174	Pennant
143	Home Health	497289	49Q7289000	6 DOCTORS DRIVE, SUITE A, EMPORIA, VA, 23847	Brightspring
144	Home Health	497463	49Q7463000	1330 ARMORY DRIVE, FRANKLIN, VA 23851	Brightspring
145	Hospice	511509	N/A	417 GRAND PARK DRIVE, SUITE 204, PARKERSBURG, WV, 26105	Brightspring

146	Hospice	511516	N/A	21 EAST MAIN STREET, SUITE 301, BUCKHANNON, WV 26201	Brightspring
147	Home Health	517054	51Q7054000	108 SUNSET DRIVE, BECKLEY, WV, 25801	Brightspring
148	Home Health	517054	51Q7054001	545 AIRPORT ROAD SUITE 101, BLUEFIELD, WV, 24701	Brightspring
149	Home Health	517074	51Q7074000	2200 GRAND CENTRAL AVE. SUITE 101, VIENNA, WV, 26105	Brightspring
150	Home Health	517074	51Q7074001	208 STONE STREET, RIPLEY, WV, 25271	Brightspring
151	Home Health	517115	51Q7115000	2345 CHESTERFIELD AVENUE SUITE 201, CHARLESTON, WV, 25304	Brightspring
152	Home Health	517115	51Q7115001	5447 MAPLE LANE SUITE A, FAYETTEVILLE, WV, 25840	Brightspring
153	Home Health	517115	51Q7115002	8942 SENECA TRAIL SOUTH, RONCEVERTE, WV, 24970	Brightspring
154	Home Health	517115	51Q7115003	3135 16TH STREET SUITE 22, HUNTINGTON, WV, 25701	Brightspring
155	Home Health	517122	51Q7122000	5007 MID ATLANTIC DRIVE, MORGANTOWN, WV, 26508	Brightspring
156	Home Health	517122	51Q7122001	67 CASINO DRIVE SUITE 104, ANMOORE, WV, 26323	Brightspring
157	Home Health	517122	51Q7122002	215 WARWOOD AVENUE, WHEELING, WV, 26003	Brightspring
158	Palliative Care	DY5311 / 0685	N/A	4435 VALLEY VIEW DRIVE, SUITE 102, KNOXVILLE, TN, 37917	Pennant

Schedule B

	Service	CCN	CMS Branch	Address	Acquirer
	Line		ID		
1	Home Health	047010	04Q7010000	117 NORTHRIDGE DRIVE SUITE C, VAN BUREN, AR, 72956	Brightspring
2	Home Health	317017	31Q7017000	777 PASSAIC AVENUE, SUITE 595, CLIFTON, NJ, 07012	Brightspring
3	Home Health	317017	31Q7017005	299 MARKET ST, STE 400, SADDLE BROOK, NJ, 07663	Brightspring
4	Home Health	447107	44Q7107003	2690 MADISON STREET SUITE 200, CLARKSVILLE, TN, 37043	Pennant
5	Home Health	447291	44Q7291000	119 & 121 NORTH IRWIN ST., MANCHESTER, TN, 37355	Pennant
6	Home Health	497275	49Q7275001	1077 SPRUCE STREET, MARTINSVILLE, VA, 24112	Brightspring

Schedule C

	Service	CCN	CMS Branch	Address	Acquirer
	Line		ID		
1	Home Health	047010	04Q7010001	83 W COLT SQUARE DR, FAYETTEVILLE, AR, 72703	Brightspring
2	Home Health	317017	31Q7017004	1700 ROUTE 23 N, SUITE 125, WAYNE, NJ, 07470	Brightspring
3	Home Health	317017	31Q7017006	299 CHERRY HILL ROAD, SUITE 302, PARSIPPANY, NJ, 07054	Brightspring
4	Home Health	447107	44Q7107000	783 OLD HICKORY BLVD SUITE 300, BRENTWOOD, TN, 37027	Pennant
5	Home Health	447291	44Q7291003	215 CASTLEWOOD DRIVE, SUITE C, MURFREESBORO, TN, 37129	Pennant
6	Home Health	497275	49Q7275000	5221 VALLEY PARK DRIVE SUITE 1A, ROANOKE, VA, 24019	Brightspring
7	Home Health	497275	49Q7275003	2050 LANGHORNE ROAD SUITE 103, LYNCHBURG, VA, 24501	Brightspring
8	Home Health	497275	49Q7275004	305 N WASHINGTON AVENUE SUITE 305, PULASKI, VA, 24301	Brightspring

Schedule D

	Counterparty ("JV Partner")	JV Legal Entity Name(s)	JV DBA(s)	Service Lines in JV(s)	Divested Service Lines	Acquirer
1	UHS Ventures, Inc. c/o University of Tennessee Medical Center	University of TN Medical Center Home Care Services University of TN Medical Center Home Care Services, LLC Morristown- Hamblen HomeCare and Hospice, LLC University of TN Medical Center Home Care Services, LLC LHCG CXXXII, LLC	University of TN Medical Center Home Care Services - Home Health University of TN Medical Center Home Health Services University of TN Medical Center Hospice Services University of TN Medical Center Home Care Services, LLC - Hospice University of TN Medical Center Palliative Care Services	Home Health, Hospice, Palliative Care	Home Health, Hospice, Palliative Care	Pennant
2	Clay County Healthcare Authority	Clay County Hospital Home Care, LLC	Clay County Hospital Home Care	Home Health	Home Health	BrightSpring
3	Fayette Medical Center	Fayette Medical Center HomeCare, LLC	Fayette Medical Center HomeCare	Home Health	Home Health	BrightSpring

4	Marion Regional Medical Center d/b/a NMMC- Hamilton	Marion Regional HomeCare, LLC	Marion Regional HomeCare	Home Health	Home Health	BrightSpring
5	East Alabama Health Care Authority d/b/a East Alabama Medical Center	East Alabama Medical Center HomeCare, LLC	HomeCare of East Alabama Medical Center	Home Health	Home Health	BrightSpring
6	EAMC-Lanier, LLC	LHCG LI, LLC	EAMC - Lanier Home Health	Home Health	Home Health	BrightSpring
7	Northeast Georgia Health Resources	LHCG CLXI, LLC	Northeast Georgia Home Health	Home Health	Home Health	BrightSpring
8	University Health Resources, Inc. ("UHR")	Eastern Georgia Partnership, LLC	Trinity Home Health, Trinity Home Health of Aiken, Trinity Hospice, Trinity Hospice of Aikem, University Home Health Services	Home Health, Hospice	Home Health	BrightSpring
9	Board of Trustees of the University of Arkansas acting for and on behalf of University of Arkansas for Medical Sciences	UAMS Health Comprehensive Care at Home, LLC	UAMS Health- Home Health, an Amedisys Partner	Home Health, Hosptial at Home	Home Health	BrightSpring

10	Attentus Moulton, LLC	Amedisys Home Health, a Lawrence Medical Center Partner, LLC	Amedisys Home Health, a Lawrence Medical Center Partner	Home Health	Home Health	BrightSpring
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Schedule E to the proposed Final Judgment

Excluded Assets
The Alabama state trademarks for “ALABAMA HOMECARE” (No. 111 – 632) and “COOSA VALLEY HOMECARE” (No. 111 – 532), and unregistered equivalents of and commercial names and d/b/a names incorporating the same.
All commercial names and d/b/a names incorporating “LHC”, “LHC Group”, “Amedisys”, “Suncrest”, “Suncrest Omni”, “Housecalls Hospice”, “Housecalls Home Health”, “Omni Homecare”, “Home Care Solutions”, “Willcare”, “Georgia Home Health”, “Alabama Hospice Care”, “Patient Care”, “Erlanger”, “Deaconess HomeCare”, and/or “Tennova”, as well as the logos used at the branches and facilities operating under such names.
All licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations, including those issued or granted by any governmental organization, and all pending applications or renewals for the agency with a parent location at 5221 Valley Park Drive Suite 1A, Roanoke, VA, 24019 (CCN 497275), provided however that this will cease to be an Excluded Asset if the location at 5221 Valley Park Drive Suite 1A, Roanoke, VA, 24019 (CMS Branch ID 49Q7275000) is divested pursuant to Paragraph IV.B.
All licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations, including those issued or granted by any governmental organization, and all pending applications or renewals for the agency with a parent location at 783 Old Hickory Blvd Suite 300, Brentwood, TN, 37027 (CCN 447107), provided however that this will cease to be an Excluded Asset if the location at 783 Old Hickory Blvd Suite 300, Brentwood, TN, 37027 (CMS Branch ID 44Q7107000) is divested pursuant to Paragraph IV.B.

Excluded Assets
The right to operate in Morris County, NJ held on July 17, 2025 by the agency with parent location at 777 Passaic Avenue, Suite 595, Clifton, NJ, 07012 (CCN 317017). <i>Provided, however,</i> that Excluded Assets do not include any licenses, permits, certifications, approvals, consents, registrations, waivers, or authorizations held on July 17, 2025 by the agency with parent location at 777 Passaic Avenue, Suite 595, Clifton, NJ, 07012 (CCN 317017) that are required to operate in Bergen County, NJ and Passaic County, NJ.
All of the rights, titles, and interests of Eastern Georgia Partnership, LLC in and to property and assets, tangible and intangible, primarily used to support hospice locations at 4106 Columbia Road, Suite 201, Martinez, GA 30907 and 690 Medical Park Drive, Suite 200, Aiken, SC 29801
All of the rights, titles, and interests of UAMS Health Comprehensive Care at Home, LLC in and to property and assets, tangible and intangible, primarily used to support hospital at home or other high acuity care locations at 4301 West Markham Street, Little Rock, AR 72205 and 10800 Financial Center Pkwy, Suite 485, Little Rock, AR 72211, including the License Agreement, dated as of October 7, 2022, by and among UAMS Health Comprehensive Care at Home, L.L.C., Board of Trustees of the University of Arkansas, acting for and on behalf of the University of Arkansas for Medical Sciences and Contessa Health Management, LLC.

Excluded Assets
All assets primarily relating to or used in the business of providing home health services by the location at 6512 Deer Pointe Drive Suite B, Salisbury, MD 21804 (CMS Branch ID 21Q7111000) other than the real estate lease, Certificate of Need, license, Medicare/Medicaid identifiers, and all other licenses, registrations, and permits required to operate the agency with parent location at 6512 Deer Pointe Drive Suite B, Salisbury, MD 21804 (CCN 217111) within its service area as of July 17, 2025.
All information technology hardware and equipment at branches and agencies identified in the Divestiture Schedules other than computer monitors, keyboards, and mice for desktop computers.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA,
Et al.,

Plaintiffs,

v.

UNITEDHEALTH GROUP
INCORPORATED

and

AMEDISYS, INC.

Defendants.

Case No. 1:24-cv-03267

Judge James K. Bredar

COMPETITIVE IMPACT STATEMENT

In accordance with the Antitrust Procedures and Penalties Act, 15 U.S.C. §§ 16(b)–(h) (the “APPA” or “Tunney Act”), the United States of America files this Competitive Impact Statement related to the proposed Final Judgment filed in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On June 26, 2023, UnitedHealth Group Incorporated (“UnitedHealth”) agreed to acquire Amedisys, Inc. (“Amedisys”) for approximately \$3.3 billion. The United States, along with the Attorneys General of Maryland, Illinois, New Jersey, and New York (collectively, the “Plaintiff States”), filed a civil antitrust Complaint on November 12, 2024, seeking to enjoin the proposed acquisition. The Complaint alleges that UnitedHealth’s acquisition threatens to substantially lessen competition in local home health, hospice, and nurse labor markets throughout the country in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. In the Complaint, the United States also alleges that Amedisys erroneously and inaccurately certified compliance with its obligations under

Section 7A of the Clayton Act, also known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (“HSR Act”), in violation of the HSR Act, 15 U.S.C. § 18a.

After eight months of intensive litigation, the United States and Plaintiff States reached a proposed settlement with UnitedHealth and Amedisys. The litigation resulted in a significantly larger divestiture package than had been previously offered by Defendants as well as new divestiture buyers more likely to successfully replicate competition in their service areas. With the benefit of discovery, Plaintiffs concluded that the proposed settlement, embodied in a proposed Final Judgment and an Asset Preservation and Hold Separate Stipulation and Order (“Stipulation and Order”) filed on August 7, 2025 (ECF Nos. 198-1 and 198-2), is designed to remedy most of the lost competition that would otherwise have resulted from UnitedHealth’s acquisition of Amedisys. The proposed Final Judgment is also designed to remedy Amedisys’s HSR Act violation.

Under the proposed Final Judgment, which is explained more fully below, Defendants are required to divest 152 home health, 11 hospice, and 1 palliative care locations in local markets in 19 states throughout the country to BrightSpring Health Services, Inc. (“BrightSpring”), The Pennant Group, Inc. (“Pennant”), or another acquirer acceptable to the United States. Additionally, under the proposed Final Judgment, Defendant Amedisys is required to (1) pay to the United States a civil penalty of one million one hundred thousand dollars (\$1,100,000) within thirty days of entry of the proposed Final Judgment and (2) conduct antitrust compliance training, approved by the Antitrust Division, for certain Amedisys employees, within 365 calendar days of the Court’s entry of the Stipulation and Order.

Under the terms of the Stipulation and Order, Defendants must take certain steps to operate, preserve, and maintain the full economic viability, marketability, and competitiveness of the assets that must be divested. In addition, management, sales, and

operations of the assets that must be divested must be held entirely separate, distinct, and apart from Defendants' other operations. The purpose of these terms in the Stipulation and Order is to ensure that competition is maintained during the pendency of the required divestitures.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. DESCRIPTION OF EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS

A. The Defendants and the Proposed Transaction

At the time the Complaint was filed, UnitedHealth was the fifth-largest company in the United States. Today, UnitedHealth is the fourth-largest company in the United States, with revenues of more than \$400 billion in 2024. It is a vertically integrated corporation, comprising the largest commercial health insurer; the largest employer of physicians; the third-largest pharmacy benefit manager; and one of the largest healthcare technology and service vendors in the United States. This transaction represents UnitedHealth's second major home health and hospice services acquisition in under three years. In February 2023, UnitedHealth acquired LHC Group, Inc. ("LHC"), which is currently the nation's largest home health provider and a large provider of hospice services. Before being acquired by UnitedHealth, LHC collected approximately \$2.3 billion in revenue in 2022, making about 12 million visits to patients in 37 states and the District of Columbia that year. Through LHC, UnitedHealth now operates over 530 home health locations and over 120 hospice locations and employs more than 5,000 nurses who provide home health and hospice services.

UnitedHealth's acquisition target, Amedisys, is the second-largest home health provider and third-largest provider of hospice services in the United States. In 2024, Amedisys earned approximately \$2.3 billion in revenue and provided more than 10.7 million visits to patients in 38 states and the District of Columbia. Amedisys currently operates over 340 home health locations and over 160 hospice locations and employs more than 3,600 nurses who provide home health and hospice services.

Pursuant to an agreement and plan of merger dated June 26, 2023, as amended, UnitedHealth proposes to acquire Amedisys for approximately \$3.3 billion.

B. Competitive Effects of This Transaction

1. Relevant Markets

a. *Home Health Markets*

As alleged in the Complaint, home health services is a relevant service market under Section 7 of the Clayton Act. Home health consists of skilled nursing and therapy services that are provided to millions of Americans each year in the comfort of their homes. Home health patients may need help recovering from recent hospitalizations or managing chronic conditions but are well enough to require only part-time or intermittent care that can be provided at home.

Most patients who receive home health services are seniors enrolled in either traditional Medicare, administered by the Centers for Medicare and Medicaid Services ("CMS"), or privately administered Medicare Advantage plans. Medicare Advantage plans negotiate with home health providers, such as UnitedHealth's LHC subsidiary and Amedisys, for the amounts that a Medicare Advantage plan will reimburse the provider for the home health services it renders to patients insured by that plan. For traditional Medicare enrollees, reimbursement amounts are not negotiated. They are set by CMS. Both CMS and Medicare Advantage plans prefer that eligible patients use home health

services because these services are more cost effective than options for care provided in hospitals, rehabilitation centers, or skilled nursing facilities.

b. *Hospice Markets*

As alleged in the Complaint, hospice services provided to Medicare beneficiaries is a relevant service market under Section 7 of the Clayton Act. Each year in the United States, hospice services allow millions of patients, usually seniors, who face terminal conditions to enjoy the last days of their lives primarily in their own homes. Hospice providers and the interdisciplinary teams of doctors, nurses, therapists, aides, chaplains, counselors, and social workers they employ offer a wide range of services to support the physical, psychosocial, spiritual, and emotional needs of terminally ill patients and their family members.

Traditional Medicare covers the vast majority of hospice services in the United States. For hospice providers to be reimbursed by traditional Medicare, their services must satisfy distinct CMS regulations unique to hospice, and CMS tracks individual hospice provider locations on a variety of hospice quality metrics. Under Medicare, patients become eligible for hospice coverage once a doctor certifies that a patient has less than six months left to live, and the patient has chosen to stop any care that aims to cure their underlying disease or illness. This requirement distinguishes hospice from nearly all other healthcare services, which are curative.

c. *Home Health and Hospice Nurses*

As alleged in the Complaint, registered nurses (“RNs”) working in home health and hospice and licensed practical nurses or licensed vocational nurses (“LPN/LVNs”) working in home health are each a relevant labor market. Home health and hospice services rely on skilled nurses to provide effective, high-quality, and personalized care. Home health and hospice nurses develop close and meaningful relationships with patients, which many nurses find particularly fulfilling. These nurses spend hours in

patients' homes providing care and comfort, which can influence patients' recovery and satisfaction with their treatment. Home health and hospice nursing differ from other types of nursing and generally involve fewer and more flexible hours and greater independence. For example, nurses in hospitals work at a fixed location and side-by-side with doctors and other nurses to provide around-the-clock care, while home health and hospice nurses travel to patients' homes and largely work alone. The Complaint also alleges that hospice nurses often particularly feel a specific "calling" to the field.

State licensure laws and both state and Medicare regulations specific to home health and hospice distinguish between RNs and LPN/LVNs. As providers of basic medical care, LPN/LVNs have a smaller scope of duties. In home health, they cannot perform initial assessments of patients or work without supervision. Home health and hospice RNs can perform more advanced clinical duties, including conducting specific types of visits, coordinating care, and supervising other members of a patient's care team, including LPN/LVNs.

2. Geographic Markets

Because home health and hospice services are typically offered to patients in their homes, physicians, hospitals, and other healthcare facilities generally refer patients to home health and hospice agencies that operate in the local area around, and are willing to send their nurses and other caregivers to, a patient's home. State laws and regulations often limit the areas in which home health and hospice providers can offer services. Accordingly, the relevant geographic markets for home health and hospice services are local areas around patient homes. For home health and hospice nurses, their job opportunities are bounded by the time it takes them to travel to the homes of the patients they care for. As a result, the relevant geographic markets for home health and hospice nurse labor markets are the local areas around these nurses' homes where they can travel

to care for patients. The Complaint alleges that hundreds of local home health, hospice, and nursing markets will be affected by UnitedHealth's acquisition of Amedisys.

3. Competitive Effects

As alleged in the Complaint, UnitedHealth's acquisition of Amedisys would increase concentration enough to render the acquisition presumptively anticompetitive in hundreds of local home health markets, local hospice markets, and local home health and hospice nurse labor markets. According to the Complaint, the acquisition would also eliminate substantial competition that occurs directly between UnitedHealth and Amedisys. The loss of this direct or "head-to-head" competition between the Defendants is another reason the acquisition would be anticompetitive.

a. *Home Health and Hospice Markets*

Currently, both UnitedHealth and Amedisys compete fiercely against each other to care for home health and hospice patients in numerous local markets. This head-to-head competition takes many forms. For example, each company competes against the other to gain preference with referral sources such as the physicians, hospitals, and other healthcare providers that refer patients to home health and hospice services. The companies further compete against each other with their ability to admit home health and hospice patients quickly. UnitedHealth and Amedisys also compete by offering patients more touchpoints with nurses outside of in-home visits, such as having their staff call patients to follow up, because having those additional touchpoints is valuable to patients. In addition, UnitedHealth and Amedisys compete on their selection of specialty home health and hospice programs offered to patients.

As alleged in the Complaint, in home health and hospice, UnitedHealth and Amedisys compete on a variety of quality dimensions, including delivering better clinical outcomes and lower readmission rates to hospitals and skilled nursing facilities. One key metric that UnitedHealth and Amedisys compete heavily on are CMS "star ratings." CMS

“star ratings” are a rating system that CMS publishes online in which the performance of home health and hospice agencies are rated on a scale of one to five stars. The companies constantly compare their quality scores to each other and celebrate when their respective scores increase and their competitor’s do not.

In addition, as alleged in the Complaint, home health providers like UnitedHealth and Amedisys compete on price and quality to be in-network with Medicare Advantage plans. Because Medicare Advantage insurers’ members pay less for in-network home health services than for out-of-network services, in-network home health providers are likely to attract more members from an insurer than are out-of-network providers. UnitedHealth and Amedisys compete by offering lower rates and better terms to third-party Medicare Advantage insurers for inclusion in insurers’ networks.

The acquisition would eliminate the benefits of competition for home health and hospice services between UnitedHealth and Amedisys. The Complaint alleges that non-price dimensions of home health and hospice services, including the quality of the services, would likely either deteriorate or improve more slowly than they would if competition still existed between the two companies. The Complaint further alleges that the proposed acquisition may increase the price of home health services or worsen the terms on which these services are provided for patients covered by Medicare Advantage plans.

b. *Home Health and Hospice Nurses*

As alleged in the Complaint, Defendants each employ thousands of home health and hospice nurses and compete intensely to hire and retain them. UnitedHealth and Amedisys try to poach each other’s nurses by offering higher pay or better conditions of employment. Their poaching efforts are especially intense following acquisitions, leadership changes, and other major company events. UnitedHealth identified Amedisys as one of its main competitors when reporting on its value proposition for its home health

and hospice employees. The two rivals use the other as a comparison when creating competitive benefits offerings. For example, UnitedHealth tracks Amedisys's provision of fleet cars—a highly desirable benefit for some home health and hospice nurses, who travel frequently as part of their job—while Amedisys compares its full suite of benefits, including health insurance, disability insurance, paid leave, and 401(k) matches, to UnitedHealth's. In addition to this enterprise-level competition, there are numerous examples of both companies making competing employment offers to individual nurses and of nurses using these rival offers to improve the terms of their employment.

As the Complaint alleges, UnitedHealth's acquisition of Amedisys may substantially lessen competition for home health and hospice nurses, affecting their employment choices, compensation, and other employment terms.

4. Difficulty of Entry and Expansion

Sufficient, timely entry of additional competitors into the relevant home health, hospice, and nurse labor markets is unlikely to prevent the harm to competition that is likely to result from UnitedHealth's acquisition of Amedisys. Expansion among existing competitors is similarly unlikely to occur in a sufficient and timely fashion to prevent harm to patients and nurses. Home health and hospice markets feature high barriers to entry and expansion. Among other barriers to entry, laws and regulations, such as certificate of need laws, prevent or significantly delay new entry in many areas. UnitedHealth's strategy of growth by acquiring other home health and hospice providers reflects the difficulty of entry or expansion in home health and hospice services.

C. Amedisys's Violation of Section 7A

As the Complaint alleges, Amedisys violated Section 7A of the Clayton Act, 15 U.S.C. § 18a, by providing to the United States an erroneous and inaccurate certification related to its production of documents and information during the Antitrust Division's investigation into this acquisition.

As part of its investigation of this acquisition, on August 4, 2023, the Antitrust Division required Amedisys to produce “additional information or documentary material relevant to the proposed acquisition” under Section 18a(e)(1)(A) of the Clayton Act, which is known as a “Second Request.” The Second Request included detailed instructions for compliance. Amedisys was required to provide the Antitrust Division with “all the information and documentary material” responsive to the Second Request; if all materials were not provided, Amedisys was required to also include “a statement of the reasons for such noncompliance.” 15 U.S.C. §§ 18a(e)(2)(A), 18a(e)(2)(B); 16 C.F.R. §§ 801–803.

Amedisys first certified to the United States that it had complied with the Second Request on December 18, 2023, attesting that the information provided by Amedisys was “true, correct, and complete in accordance with the statute and rules.”⁶ Amedisys did not submit a statement of reasons for non-compliance, indicate that it had chosen not to produce relevant materials in its possession, or explain that certain relevant materials were no longer retrievable.⁷ Prior to its December 18, 2023 certification of compliance, Amedisys failed to produce large swaths of emails, texts, and hard copy documents:

Emails: Amedisys first became aware of a potential problem with its email archiving system in summer 2023. This problem persisted for a period between May and June 2023 that coincided with UnitedHealth and Amedisys’s merger negotiations. By October 2023, Amedisys understood that it could not locate these archived emails, and, as of December 18, 2023, the issue remained unresolved.

⁶ 16 C.F.R. § 803.6(a)(2), (b); Notification and Report Form, appendix to 16 C.F.R. pt. 803; *see* 15 U.S.C. §§ 18a(b)(1)(B), (e)(2)(b). Amedisys submitted its first certification of compliance with the Second Request on December 18, 2023.

⁷ “A complete response shall be supplied to each item on the Notification and Report Form and to any request for additional information pursuant to section 7A(e) and § 803.20. Whenever the person filing notification is unable to supply a complete response, that person shall provide, for each item for which less than a complete response has been supplied, a statement of reasons for noncompliance.” 16 C.F.R. § 803.3.

Text messages: Without informing the Antitrust Division, Amedisys unilaterally determined that it did not need to collect or produce text messages for over half of its custodians prior to its December 18, 2023 certification.

Hard copy documents: Amedisys also knew of, but failed to produce, any hard copy documents from any custodian prior to its December 18, 2023 certification (despite its former CEO and current Chairman of the Board touting his work-related notetaking in a book published immediately before Defendants announced this proposed acquisition).

Despite the significant known issues described above, Amedisys still certified compliance on December 18, 2023. Amedisys did not acknowledge any of these deficiencies until months later, when the Antitrust Division discovered and presented evidence of them to Amedisys. Even then, Amedisys continued to delay producing relevant documents and refused for months to make the individual who certified compliance with the Second Request available for examination.

After Amedisys submitted its erroneous and inaccurate December 18, 2023 certification, Amedisys produced more than 2.5 million additional relevant documents—substantially more than it had produced in its original production—to complete its Second Request response, including hundreds of thousands of emails, hard copy documents, and text messages that predated its December 18, 2023 certification. These subsequent productions more than doubled Amedisys’s pre-December 18, 2023 productions and included materials clearly relevant to the potential impact of this acquisition on competition in the markets for home health and hospice services and for nurses’ labor.

More than eight months after its initial certification, on August 26, 2024, Amedisys submitted a second certification in accordance with 16 C.F.R. § 803.6 attesting compliance with its Second Request.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

A. Divestitures

The relief required by the proposed Final Judgment is designed to remedy the loss of competition alleged in the Complaint in many local markets for home health services, hospice services, and home health and hospice nursing by establishing in those markets at least two independent and economically viable competitors. Paragraph IV.A of the proposed Final Judgment requires Defendants, within seventy-five (75) calendar days after the Court's entry of the Stipulation and Order in this matter or within sixty (60) calendar days of receipt of all necessary Merger Clearances, to divest all offices and contracts related to the 152 home health, 11 hospice, and 1 palliative care branches and agencies identified in the Divestiture Schedules attached to the proposed Final Judgment, as well as the interests in all joint ventures associated with those branches and agencies, to BrightSpring, Pennant, or an alternative buyer acceptable to the United States, in its sole discretion. The assets must be divested in such a way as to satisfy the United States, in its sole discretion, that the assets can and will be operated by the acquirer as a viable, ongoing business that can compete effectively in these local markets for home health services, hospice services, and home health and hospice nursing. Defendants must take all reasonable steps necessary to accomplish the divestitures quickly and must cooperate with the acquirer.

1. Divestiture Assets

Paragraph IV.A of the proposed Final Judgment requires Defendants to divest all offices and contracts related to the 152 home health, 11 hospice, and 1 palliative care branches and agencies identified in the Divestiture Schedules attached to the proposed Final Judgment. The home health agencies and branches being divested provide care in 18 states, while the hospice agencies being divested provide care in 4 states, and the palliative care location serves patients in Tennessee. The divestitures will be made to

BrightSpring, Pennant, and/or to another acquirer acceptable to the United States, in its sole discretion after consultation with any affected Plaintiff State.

Six of the home health locations that Paragraph IV.A of the proposed Final Judgment requires Defendants to divest share licenses or certifications and CMS identification numbers with home health locations that Defendants will retain after the acquisition. Paragraph IV.B of the proposed Final Judgment requires Defendants to divest up to 8 additional home health locations if the acquirers of the 6 “sharing” divested locations receive a final written determination that they are (a) not able to obtain the necessary regulatory approvals to maintain the home health operations of the divested locations as they existed as of July 17, 2025 or (b) not permitted to bill CMS for the treatment of Medicare or Medicaid patients. In addition, Defendants must divest these additional 8 home health locations if the necessary regulatory approvals for the associated “sharing” divested location have not been obtained within 18 months after the entry of the Stipulation and Order in this matter, unless the United States determines, in its sole discretion, that Defendants are using best efforts to obtain the necessary regulatory approvals and are likely to succeed if provided with additional time.

2. Relevant Personnel

The proposed Final Judgment contains provisions intended to facilitate the acquirer’s efforts to hire certain employees. The proposed Final Judgment requires that the Divestiture Assets include the employment contracts for more than 1,800 “Relevant Personnel,” i.e., full-time, part-time, or contract employees (including nurses, other healthcare professionals, and business development and account executives) of the Defendants, wherever located, whose work supports the operation of the Divestiture Assets, i.e., the divested home health, hospice, and palliative care agencies and branches described above. Among other requirements, Defendants must waive all non-compete and non-disclosure agreements, vest all unvested pension and other equity rights, provide

any pay pro rata, provide all compensation and benefits that those employees have fully or partially accrued, and provide all other benefits that the employees would generally be provided had those employees continued employment with Defendants, including, but not limited to, any retention bonuses or payments. The United States retains sole discretion to resolve any disagreement relating to which employees are Relevant Personnel.

3. Transition Services Agreements

The proposed Final Judgment requires Defendants to provide certain transition services to maintain the viability and competitiveness of the divestiture assets during the transition to the acquirers. Paragraph IV.Q of the proposed Final Judgment requires Defendants, at an acquirer's option, to enter into a transition services agreement for services related to human resources, employee health and safety, information technology services and support, clinical service delivery, clinical operations support, real estate, finance, accounting and tax, expense processing, cost reporting, legal, risk, and compliance, revenue cycle management, sales, and billing services for a period of up to 365 calendar days on terms and conditions reasonably related to market conditions for the provision of the transition services. An acquirer may terminate the transition services agreement, or any portion of it, without cost or penalty at any time upon 30 days' notice. The paragraph further provides that the United States, in its sole discretion, may approve one or more extensions of a transition services agreement for a total of up to an additional 180 calendar days and that any amendments to or modifications of any provisions of a transition services agreement are subject to approval by the United States in its sole discretion.

4. Firewalls

The proposed Final Judgment requires that Defendants implement and maintain effective procedures to prevent divestiture acquirers' competitively sensitive information from being shared or disclosed by Defendants' employees working to effectuate the

divestitures to Defendants' employees engaged in competing with BrightSpring, Pennant, or other acquirers. These obligations extend at least until an acquirer's competitively sensitive information is no longer readily accessible to Defendants' employees in the ordinary course of business.

5. Divestiture Trustee

If Defendants do not accomplish the divestitures within the period prescribed in Paragraph IV.A, or, if applicable, Paragraph IV.B of the proposed Final Judgment, Section V of the proposed Final Judgment provides that the Court will appoint a divestiture trustee selected by the United States to effect the divestiture. If a divestiture trustee is appointed, the proposed Final Judgment provides that Defendants must pay all costs and expenses of the trustee. The divestiture trustee's commission must be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After the divestiture trustee's appointment becomes effective, the trustee must provide monthly reports to the United States setting forth his or her efforts to accomplish the divestiture. If the divestiture has not been accomplished within 180 calendar days of the divestiture trustee's appointment, the United States may make recommendations to the Court, which will enter such orders as appropriate, in order to carry out the purpose of the Final Judgment, including by extending the term of the divestiture trustee's appointment.

6. Monitor

The proposed Final Judgment provides that the United States may select a monitoring trustee to be recommended to and appointed by the Court. The monitor will have the power and authority to investigate and report on Defendants' compliance with the terms of the proposed Final Judgment and the Stipulation and Order, including (i) whether the divestitures have been effected as required under the proposed Final Judgment; (ii) Defendants' efforts to migrate the data related to the divested assets

contained in the electronic medical record, billing, financial, or employee management system from Defendants' systems to the systems of BrightSpring, Pennant, or another acquirer, and (iii) whether Defendants have complied with their obligations related to Relevant Personnel and transition services, among other obligations (*e.g.*, Paragraphs IV.C-F and IV.K-Q of the proposed Final Judgment). The monitoring trustee will not have any responsibility or obligation for the operation of the Divestiture Assets or Defendants' businesses. The monitoring trustee will serve at Defendants' expense, on such terms and conditions as the United States approves, and Defendants must assist the monitoring trustee in fulfilling his or her obligations. The monitoring trustee will provide periodic reports to the United States and will serve until 90 calendar days after the completion of all Regulatory Approvals related to divestitures, or the divestiture of any additional assets.

B. Amedisys's 7A Violation

1. Civil Penalty

A company's failure to comply with the HSR Act makes it liable to the United States for a civil penalty for each day it is in violation. 15 U.S.C. § 18a(g). The maximum amount of civil penalty during the period relevant to this Complaint was \$51,744 per day.⁸ The Complaint alleges that Amedisys violated the requirements of the HSR Act each day beginning on December 18, 2023, when it submitted its erroneous and inaccurate certification, until it submitted a second certification attesting that it had submitted a complete response to its Second Request on August 26, 2024. The United States has accepted \$1.1 million—less than the maximum penalty permitted under the HSR Act—as an appropriate civil penalty for settlement purposes for this matter only. The penalty here is appropriate because Amedisys agreed to take corrective action

⁸ Federal Civil Penalties Inflation Adjustment Improvements Act of 2015, Pub. L. No. 114-74 § 701, 129 Stat. 599–600 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990); Rule 1.98, 16 C.F.R. § 1.98, 89 Fed. Reg. 1,445 (Jan. 10, 2024).

internally and because it is willing to resolve the matter by the proposed Final Judgment, thereby avoiding the risks and costs associated with litigation.

2. Corrective Action

As satisfaction for the United States' claim under Section 7A (15 U.S.C. § 18a) against Amedisys, within 30 days of the Court's entry of the Final Judgment, Amedisys must pay to the United States a civil penalty in the amount of \$1.1 million. In addition, Paragraph XIV.A of the proposed Final Judgment requires that Amedisys, within 365 calendar days of the Court's entry of the Stipulation and Order, conduct antitrust compliance training, the form and content of which must be approved by the United States in its sole discretion, for (i) Amedisys's corporate leadership and their direct reports, and (ii) certain of Amedisys's field leadership for all lines of business. Within 370 calendar days of entry of the Court's entry of the Stipulation and Order, UnitedHealth's Chief Legal Officer must submit an affidavit certifying compliance with this training requirement.

C. Other Provisions to Ensure Compliance

The proposed Final Judgment also contains provisions designed to promote compliance with and make enforcement of the Final Judgment as effective as possible. Paragraph XVII.A of the proposed Final Judgment provides that the United States retains and reserves all rights to enforce the Final Judgment, including the right to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for

compliance with the Final Judgment with the standard of proof that applies to the underlying offense that the Final Judgment addresses.

Paragraph XVII.B provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment should be interpreted to give full effect to the procompetitive purposes of Sections 7 and 7A of the Clayton Act. Defendants agree that they will abide by the proposed Final Judgment and that they may be held in contempt of the Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph XVII.C provides that, if the Court finds in an enforcement proceeding that a Defendant has violated the Final Judgment, the United States may apply to the Court for an extension of the Final Judgment, together with such other relief as may be appropriate. In addition, to compensate American taxpayers for any costs associated with investigating and enforcing violations of the Final Judgment, Paragraph XVII.C provides that, in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved before litigation, the Defendant must reimburse the United States for attorneys' fees, experts' fees, and other costs incurred in connection with that effort to enforce the Final Judgment, including the investigation of the potential violation.

Paragraph XVII.D states that the United States may file an action against a Defendant for violating the Final Judgment for up to four years after the Final Judgment has expired or been terminated. This provision is meant to address circumstances such as when evidence that a violation of the Final Judgment occurred during the term of the Final Judgment is not discovered until after the Final Judgment has expired or been terminated or when there is not sufficient time for the United States to complete an investigation of an alleged violation until after the Final Judgment has expired or been

terminated. This provision, therefore, makes clear that, for four years after the Final Judgment has expired or been terminated, the United States may still challenge a violation that occurred during the term of the Final Judgment.

Finally, Section XVIII of the proposed Final Judgment provides that the Final Judgment will expire ten years from the date of its entry, except that after five years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestitures have been completed and continuation of the Final Judgment is no longer necessary or in the public interest.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE PLAINTIFFS

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment neither impairs nor assists the bringing of any private antitrust damages action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States

written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the Federal Register, or within 60 days of the first date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the U.S. Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time before the Court's entry of the Final Judgment. The comments and the response of the United States will be filed with the Court. In addition, the comments and the United States' responses will be published in the *Federal Register* unless the Court agrees that the United States instead may publish them on the U.S. Department of Justice, Antitrust Division's internet website.

Written comments should be submitted in English to:

Jill C. Maguire

Acting Chief, Healthcare & Consumer Products Section

Antitrust Division

United States Department of Justice

450 Fifth St. NW, Suite 4100

Washington, DC 20530

ATR.Public-Comments-Tunney-Act-MB@usdoj.gov

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

As an alternative to the proposed Final Judgment, the United States considered continuing its litigation, including its request for a permanent injunction against UnitedHealth's acquisition of Amedisys and additional monetary penalties against

Amedisys, through a full trial on the merits. Under the circumstances present here, however, the United States concludes that entry of the proposed Final Judgment is in the public interest insofar as it avoids the time, expense, and uncertainty of a full trial on the merits.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

Under the Clayton Act and APPA, proposed Final Judgments, or “consent decrees,” in antitrust cases brought by the United States are subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment “is in the public interest.” 15 U.S.C. § 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the Court’s inquiry is necessarily a limited one as the government is entitled to “broad discretion to settle with the defendant within the reaches of the public interest.” *United States v. Microsoft*

Corp., 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States v. U.S. Airways Grp., Inc.*, 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the “court’s inquiry is limited” in Tunney Act settlements); *United States v. InBev N.V./S.A.*, No. 08-1965 (JR), 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that a court’s review of a proposed Final Judgment is limited and only inquires “into whether the government’s determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanisms to enforce the final judgment are clear and manageable”); *United States v. Charleston Area Med. Ctr., Inc.*, No. 2:16-3664, 2016 U.S. Dist. LEXIS 145963 at *5–6 (S.D.W.V. Oct. 21, 2016) (“In evaluating whether the proposed final judgment is in the public interest, the inquiry is ‘a narrow one.’” (quoting *Massachusetts v. Microsoft Corp.*, 372 F.3d 1199, 1236 (D.C. Cir. 2004))).

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA, a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government’s complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may not “make de novo determination of facts and issues.” *United States v. W. Elec. Co.*, 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft*, 56 F.3d at 1460–62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *3. Instead, “[t]he balancing of competing social and political interests affected by a proposed antitrust decree must be left, in the first instance, to the discretion of the Attorney General.” *W. Elec. Co.*, 993 F.2d at 1577 (quotation marks omitted). “The court should also bear in mind the *flexibility* of the

public interest inquiry: the court’s function is not to determine whether the resulting array of rights and liabilities is the one that will *best* serve society, but only to confirm that the resulting settlement is within the *reaches* of the public interest.” *Microsoft*, 56 F.3d at 1460 (quotation marks omitted); *see also United States v. Deutsche Telekom AG*, No. 19-2232 (TJK), 2020 WL 1873555, at *7 (D.D.C. Apr. 14, 2020). More demanding requirements would “have enormous practical consequences for the government’s ability to negotiate future settlements,” contrary to congressional intent. *Microsoft*, 56 F.3d at 1456. “The Tunney Act was not intended to create a disincentive to the use of the consent decree.” *Id.*

The United States’ predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft*, 56 F.3d at 1461 (recognizing courts should give “due respect to the Justice Department’s . . . view of the nature of its case”); *United States v. Iron Mountain, Inc.*, 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) (“In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.” (internal citations omitted)); *United States v. Republic Servs., Inc.*, 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting “the deferential review to which the government’s proposed remedy is accorded”); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (“A district court must accord due respect to the government’s prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case.”). The ultimate question is whether “the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the ‘reaches of the public interest.’” *Microsoft*, 56 F.3d at 1461 (*quoting W. Elec. Co.*, 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint and does not authorize the Court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459; *see also U.S. Airways*, 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev*, 2009 U.S. Dist. LEXIS 84787, at *20 ("[T]he 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged"). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using judgments proposed by the United States in antitrust enforcement, and added the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." Pub. L. No. 108-237, § 221, 118 Stat. 668–69 (codified as amended at 15 U.S.C. § 16(e)(2); *see also U.S. Airways*, 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: "The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973)

(statement of Sen. Tunney). “A court can make its public interest determination based on the competitive impact statement and response to public comments alone.” *U.S. Airways*, 38 F. Supp. 3d at 76 (citing *Enova Corp.*, 107 F. Supp. 2d at 17).

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

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Respectfully submitted,

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