

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

OPTUM, INC. and
OPTUM SERVICES, INC.,

Plaintiffs,

v.

DAVID WILLIAM SMITH,

Defendant.

Civil Action No.: 19-cv-10101

COMPLAINT

Plaintiffs Optum, Inc. and Optum Services, Inc. (together, “Optum”), by and through their undersigned counsel, hereby bring the following Complaint against Defendant David William Smith (“Smith”) for breach of contract and misappropriation of trade secrets under state and federal law.

NATURE OF THE CASE

1. Smith was a senior executive at Optum who, during his employment, was repeatedly and extensively exposed to Optum’s trade secrets and played an integral role developing Optum’s critical strategies for its Corporate Strategy and Product business units.
2. Smith now intends to work for Optum’s competitor, TCORP62018 LLC (“ABC”), as Director of Product Strategy and Research, in violation of his restrictive covenants with Optum.
3. Optum commences this action to enforce its contractual rights and to protect its confidential, competitive information. Among other things, Smith will be unable to perform his anticipated role at ABC without using and/or disclosing Optum’s information.
4. In the days and weeks leading up to his resignation, during which time Smith was

in negotiations to join ABC, Smith engaged in the following conduct:

- On the same day that he talked with ABC, and just one minute before printing his résumé, Smith printed an Optum document marked “Confidential” that contains, among other things, Optum’s highly confidential information including an in-depth market analysis of the healthcare industry, and Optum’s potential opportunities in and solutions for the changing healthcare market;
- He approached several Optum employees seeking Optum’s confidential information that was unrelated to his own job duties at Optum and for which he had no legitimate business need;
- On the same day as receiving a verbal offer from ABC, he attended an all-day, cross-team strategy meeting at which he gained access to Optum’s highly-confidential competitive information; and
- After receiving a written offer from ABC, and just one day before he informed Optum that he planned to resign, he printed an Optum document marked “Confidential” that contains, among other things, Optum’s highly confidential information concerning its product portfolio performance, new product development, and product job family and assessment plan.

5. Moreover, to date, Smith and ABC have been unable or unwilling to provide any substantive insight as to what Smith will be doing in his new role for ABC. In the absence of any such clarity, Optum can only conclude that Smith’s role as “Director of Product Strategy and Research” at ABC will be broad and substantially similar to his former role at Optum and, importantly, implicate Optum’s trade secrets.

PARTIES

6. Optum, Inc. is a Delaware corporation with a principal place of business at 11000 Optum Circle, Eden Prairie, Minnesota.

7. Optum Services, Inc., is a Delaware corporation with a principal place of business at 11000 Optum Circle, Eden Prairie, Minnesota.

8. David William Smith is a natural person who, upon information and belief, is a citizen of Newton, Massachusetts.

JURISDICTION AND VENUE

9. Subject matter jurisdiction exists pursuant to 28 U.S.C. § 1331 because this civil action arises in part under the Federal Defend Trade Secrets Act (“DTSA”), 18 U.S.C. 1836, *et seq.*

10. Subject matter jurisdiction also exists pursuant to 28 U.S.C § 1332 because there is complete diversity of citizenship between Plaintiffs, on the one hand, and Defendant, on the other hand, and the amount in controversy exceeds \$75,000, exclusive of interest.

11. Venue is proper pursuant to 28 U.S.C § 1391 because, upon information and belief, Smith is a resident of Massachusetts.

FACTUAL BACKGROUND

OPTUM AND THE HIGHLY COMPETITIVE
BUSINESS OF HEALTH SERVICES

12. Optum, a fast-growing subsidiary of UnitedHealth Group Incorporated (“UHG”), is a leading information and technology-enabled health services business dedicated to modernizing the healthcare system and improving the lives of people and their communities.

13. With over 160,000 employees worldwide, Optum services virtually every dimension of the health system across the United States and globally. Through its three primary business units – OptumRx, OptumInsight, and OptumHealth – Optum leverages its core competencies in data analytics, pharmacy care services, population health management, healthcare delivery, healthcare operations, and advisory services to work with a diverse set of clients that include payers, healthcare providers, employers, governments, life sciences companies, and consumers.

14. To date, Optum has served over 124 million individuals, 200 health plans, 67,000 pharmacies, and 100,000 physicians, practices, and healthcare facilities, as well as companies, including JPMorgan Chase & Co. (“JPMorgan”) and certain subsidiaries of Berkshire Hathaway.

15. Optum has recently received recognition for its innovative solutions by two global research and consulting firms.

16. Most recently, Frost & Sullivan awarded Optum its 2018 North America Company of the Year Award for Optum's strong focus on next-generation population health management ("PHM") solutions. Specifically, Optum earned recognition in the PHM market with its integrated analytics and care coordination platforms, its expert advisory services, and clinical services that augment client capabilities.

17. Optum was also named as a leader in three categories measured by Everest Group's 2017 PEAK Matrix™ Assessment: Healthcare Provider Information Technology Services; Healthcare Payer Information Technology Services; and Healthcare Consulting.

18. In January 2018, Amazon, JPMorgan, and Berkshire Hathaway announced that they "are partnering on ways to address healthcare for their U.S. employees, with the aim of improving employee satisfaction and reducing costs." The press release ("ABC Press Release"), titled "Amazon, Berkshire Hathaway and JPMorgan to partner on U.S. employee healthcare," was released through Business Wire and is available at <https://www.businesswire.com/news/home/20180130005676/en/Amazon-Berkshire-Hathaway-JPMorgan-Chase-partner-U.S.>

19. Their new venture – which is currently registered as "TCORP62018 LLC" and alternatively nicknamed "ABJ" and "ABC" after the three founding companies (it is referred to herein as "ABC") – is reportedly working on comprehensive healthcare solutions for each of its founding companies.

20. According to one Bloomberg article, ABC will ultimately "make those innovations available freely to other companies, meaning that if it's successful, its effects could be felt more broadly among the more than 150 million people in the U.S. who get their health

insurance through work.” The Bloomberg article, titled “Amazon-Berkshire-JPMorgan Health Venture Takes Aim at Middlemen,” is available at <https://www.bloomberg.com/news/articles/2018-06-24/amazon-berkshire-jpmorgan-health-venture-takes-aim-at-middlemen>.

21. While the full scope of ABC’s ultimate activities is still unknown, the expectation is that the venture aims to disrupt the healthcare industry as it exists today.

22. Against this quickly evolving and highly competitive backdrop, Optum’s continued success depends largely on preserving its intellectual property, including its trade secrets, maintaining the goodwill of its customers and business partnerships, and retaining and relying on its top-level talent.

OPTUM’S CONFIDENTIAL INFORMATION

23. Among other things, Optum’s success is directly tied to its trade secrets and other proprietary, confidential information. Optum’s trade secrets are among Optum’s most important assets.

24. Optum has a broad portfolio of trade secrets across its multiple businesses and business units. Optum’s trade secrets include, without limitation, information concerning its:

- overall corporate roadmap;
- corporate strategies and business plans;
- merger and acquisition targets;
- overall product roadmap;
- product strategies and business plans;
- current product portfolio performance (including, for each product and product line, up-to-date sales momentum data, profit and loss information, return on invested capital, projected financial growth, market opportunity, and net promoter performance);

- analyses concerning product performance and opportunities (including where to prioritize investments of human capital and financial resources, as well as where to limit or avoid investments);
- data and advanced analytics (including its initiatives concerning artificial intelligence and broad data science capabilities);
- customer lists and information;
- supplier and vendor lists;
- business relationships with, *e.g.*, pharmaceutical manufacturers and the details concerning those relationships (including detailed information concerning the rebates Optum receives from certain pharmaceutical manufacturers for certain drugs);
- other strategic partnerships; and
- other competitively-sensitive information that is not generally available to the public.

25. Optum's trade secrets are mission-critical, competitively sensitive, confidential information that Optum has developed and implemented through a significant investment of time, labor, and capital. They provide Optum with a strong competitive advantage at almost every level of the market, including among payers, providers, and patients. Optum therefore derives significant economic value and advantage from maintaining the secrecy of its trade secrets.

26. If a competitor were to obtain Optum's trade secrets, it could, among other things: use Optum's corporate and product roadmaps, strategies, and business plans to position and inform its own competitive strategies; anticipate and divert or plan around Optum's acquisition targets; draw upon Optum's product performance analyses to determine what products and product lines to pursue, and which dead ends to avoid; more quickly develop its own competitive products and services, and offer them at lower costs; approach and divert Optum's customers and business partners; and negotiate competitive trade agreements with pharmaceutical

manufacturers by leveraging in negotiations the rebates Optum receives on certain drugs. Any of these would harm Optum by undercutting its position in the market.

27. Accordingly, to preserve its competitive edge, Optum takes proactive measures to maintain the strict confidentiality of its trade secrets. Among other things, Optum password protects its computers and other systems using confidential, employee-specific identification numbers (“MSIDs”) and passwords; requires its employees to change their MSID passwords every 90 days; uses firewalls and anti-malware on its computers and servers; provides access to its sensitive information only to those employees with a need to know the information; requires keycard access to its office buildings; requires its key employees to sign agreements containing nondisclosure obligations and other restrictive covenants; requires its employees to acknowledge its Code of Conduct and Employee Handbook, which contain policies regarding the maintenance of confidentiality of Optum’s trade secrets and other confidential information, as well as the proper use of its confidential information and IT systems; requires third-party partners and potential partners to sign nondisclosure agreements; requires that employees undergo periodic training on information security; marks certain confidential information as “Confidential”; periodically reminds employees of their nondisclosure obligations with regard to specific confidential information; assigns code names to highly confidential projects; and retains outside data protection consultant companies.

DEFENDANT SMITH’S EMPLOYMENT WITH OPTUM

28. Defendant David William Smith joined Optum in July 2016 as Vice President, Corporate Strategy. Although his official title later changed to Vice President, Product, he spent most of his employment performing work for both the Corporate Strategy and Product units.

29. With respect to his work for the Corporate Strategy unit, Smith reported directly to Head of Corporate Strategy and Business Acceleration, Steven Wolin (“Wolin”). With

respect to his work for the Product unit, Smith reported to Senior Vice President, Head of Corporate Product, Nick Seddon (“Seddon”).

30. In his roles at Optum, Smith was repeatedly and extensively exposed to Optum’s trade secrets and other confidential information, described above, and played an integral role in developing strategies for Optum to compete in the marketplace.

31. On the Corporate Strategy side, Smith worked extensively on Optum’s strategy initiatives. Just before his resignation, Smith reviewed the output of a four-month project to redefine Optum’s overall corporate strategy for the next three to five years. Through the entirety of his work for the Corporate Strategy business unit, and given his access to the results of Optum’s recent strategy project, Smith became keenly aware of Optum’s corporate roadmap, corporate strategies, business plans, and acquisition targets.

32. On the Product side, Smith was instrumental in helping to determine which specific products and product lines Optum should prioritize and, conversely, which did not merit a commensurate investment of talent or capital.

33. In the 18 months leading up to his resignation, Smith played a key role in performing a comprehensive review of Optum’s product portfolio, helping to amass and synthesize information concerning the performance (and projected performance) of each of Optum’s products and product lines, analyze market opportunities, and direct Optum’s strategies for developing a stronger product portfolio in the coming years. As a result, Smith developed a deep understanding of Optum’s product roadmap and proprietary business plans. Indeed, at the time of his resignation, Smith was one of fewer than 50 people at the company who had access to Optum’s consolidated set of profit and loss statements at a product-line level for the entire company.

34. Throughout his employment, Smith frequently attended meetings at which Optum's highly confidential information was discussed.

35. On December 6, 2018 – on the same day that Smith received a verbal offer from ABC and just one week before he resigned from Optum – Smith attended a highly confidential, all-day, cross-team strategy meeting (the “Offsite Meeting”), the content of which he helped to develop. Among other things, the meeting included several deep-dive discussions concerning Optum's product portfolios, product development plans, capital planning initiatives, enterprise strategies, and a number of other specific initiatives. By helping to plan and, later, attending the meeting, Smith was privy to some of Optum's most confidential business information.

SMITH'S RESTRICTIVE COVENANTS WITH OPTUM

36. In recognition of Smith's position and his access to Optum's trade secrets and other confidential information, and in exchange for equity in shares of UHG, Smith agreed to several nondisclosure, noncompete, and nonsolicitation restrictive covenants. These are reflected in several agreements (“the Agreements”), specifically, a 2017 Nonqualified Stock Option Award (the “2017 NQ Award Agreement”), a 2017 Restricted Stock Unit Award (the “2017 RSU Award Agreement”), a 2018 Nonqualified Stock Option Award (the “2018 NQ Award Agreement” and, together with the 2017 NQ Award Agreement, the “NQ Awards”), and a 2018 Restricted Stock Unit Award (the “2018 RSU Award Agreement” and, together with the 2017 RSU Award Agreement, the “RSU Awards”). The Agreements are attached, respectively, as Exhibits 1-4.

37. For the purposes of the restrictive covenants contained in the Agreements, the Agreements define “Company” as UHG and all of its subsidiaries and/or affiliates, including Optum. *See* NQ Awards, ¶ 4; RSU Awards, ¶ 8.

38. In the Agreements, Smith agreed to not disclose Optum’s Confidential Information, or to use it for any purpose other than to perform his work for Optum. *See* NQ Awards, ¶ 4(a); RSU Awards, ¶ 8(a).

39. Smith also agreed that, during his employment and for at least one year following the termination of his employment, he would not:

- (i) Engage in or participate in any activity that competes, directly or indirectly, with any [Optum] activity, product or service that [Smith] engaged in, participated in, or had Confidential Information about during [Smith’s] last 36 months of employment with [Optum]; or
- (ii) Assist anyone in any of the activities listed above.

See NQ Awards, ¶ 4(c); RSU Awards, ¶ 8(c).

40. Smith also agreed that, during his employment and for at least two years following the termination of his employment, he would not “[r]aid, hire, employ, recruit or solicit” any Optum employee possessing its confidential information, or “[i]nduce or influence” any such employee “to terminate his, her or its employment or other relationship with the Company,” or assist anyone to do the same. NQ Awards, ¶ 4(b); RSU Awards, ¶ 8(b).

41. These restrictive covenants apply “on a nationwide basis anywhere in the United States” because Optum’s “business competes on a nationwide basis.” *See* NQ Awards, ¶ 4(d); RSU Awards, ¶ 8(d).

42. Smith agreed that the restrictive covenants in his Agreements are reasonable and necessary to protect Optum’s legitimate business interests. *See* NQ Awards, ¶ 4; RSU Awards, ¶ 8.

43. In the Agreements, Smith further agreed that, if he violated any of the restrictive covenants in his Agreements, he would be required to (1) “repay or otherwise reimburse the Company . . . an amount having a value equal to the aggregate Fair Market Value of the shares of

Common Stock underlying such Restricted Stock Unit Awards on the date the Restricted Stock Units became vested”; and (2) “repay or otherwise reimburse the Company, upon demand, an amount in cash or Common Stock having a value equal to . . . the aggregate proceeds received from such sale of the net Option Shares acquired after payment of the Exercise Price and any applicable taxes.” *See* NQ Awards, ¶ 3(a); RSU Awards, ¶ 7(a).

44. In addition to the 1,580 option shares and 289 restricted stock units that Optum gave Smith in exchange for his nondisclosure, noncompete, and nonsolicitation restrictions, Optum employed Smith and provided him with substantial benefits. Specifically, Optum provided Smith a substantial base salary (starting at \$200,000 annualized), a \$25,000 sign-on bonus, and other benefits. Relying on the strength of its covenants, Optum also provided Smith with access to its trade secrets during his employment.

45. In addition to the Agreement, Smith acknowledged his obligations under Optum’s Code of Conduct and Employee Handbook, including his obligation not to use or disclose Optum’s sensitive, confidential, proprietary, or trade secret information. *See* The Code of Conduct and Employee Handbook Acknowledgment Form, attached as Exhibit 5, pp. 2-3.

SMITH’S DECISION TO JOIN ABC AND RESIGNATION FROM OPTUM

46. Smith applied for a position at ABC on September 28, 2018.

47. Smith spoke or interviewed with ABC officials starting on October 18, 2018 and continuing through mid-December 2018.

48. ABC made a verbal offer of employment to Smith on December 6, 2018.

49. ABC made a formal written offer to Smith on December 7, 2018.

50. Smith signed the written offer on December 11, 2018.

51. On or about December 11, 2018, Smith told Seddon that he was planning to resign from Optum.

52. On the morning of December 13, 2018, Smith told Wolin that he would be resigning from Optum to join ABC.

53. In his conversation with Wolin, Smith described his anticipated role as building and leading a “research team” for ABC. Smith did not provide any further detail about what he would be doing there.

54. At the time, Wolin told Smith that he was uncomfortable with Smith’s plans to join ABC – a competitor of Optum that is expected to be a disrupter in the healthcare industry – and that Smith would have an issue with his noncompete and equity grants under the Agreements. Smith responded that he had spoken with a lawyer and did not think that his noncompete would be an issue.

55. Although Smith offered to stay at Optum until his start date at ABC, the risks that he posed in light of his employment plans were too great to permit him to continue to maintain access to Optum’s information.

56. On the afternoon of December 13, 2018, Optum placed Smith on administrative leave and terminated his access to Optum’s systems.

SMITH’S PRE-DEPARTURE MISCONDUCT

57. Since Smith’s resignation, Optum has attempted to assess the risk posed by Smith in his planned work for ABC. In addition to the grave concerns that Optum has based simply on the depth of Smith’s knowledge of Optum’s business, products, and strategic plans, Optum’s concerns regarding Smith’s employment plans are exacerbated by his pre-resignation conduct.

58. As described below, during the time that Smith was engaging in discussions with ABC about his employment there, Smith continued to acquire – and even affirmatively seek out – Optum’s most confidential, competitively-sensitive, strategic information.

*With Undisclosed Plans to Leave for ABC, Smith
Attended a Confidential, High-Level Company Meeting*

59. On December 6, 2018 – on the same day that he received his verbal offer from ABC – Smith attended the Offsite Meeting. Based on the timeline of his employment discussions with ABC, it is apparent that Smith was planning to work at ABC by the time he chose to attend the Offsite Meeting.

60. Given Smith’s apparent plans to join ABC, Smith should, under no circumstances, have attended the Offsite Meeting where he knew he would receive some of Optum’s most sensitive competitive information. Not only would this information provide a tremendous unfair competitive advantage to ABC, it is information of a type and nature that he could not perform his proposed duties (*i.e.*, the typical duties of someone in the position of Director of Product Strategy and Research) for ABC without drawing upon it.

*With Undisclosed Plans to Leave for ABC, Smith
Asked Junior Colleagues for Top Secret, Competitive Information*

61. In addition, during the timeframe when Smith was apparently planning to join ABC, Smith actively sought to obtain Optum’s trade secrets – for which he had no business need even if he had planned to stay at Optum – from his colleagues.

62. On or around December 4, 2018, one of Smith’s colleagues informed Wolin that Smith had requested certain confidential company information from several junior members on Wolin’s team.

63. The confidential information Smith requested had nothing to do with Smith’s role or responsibilities at Optum. Smith therefore did not have any legitimate business reason for requesting the information.

64. Smith requested the information from the team’s most junior employees. Optum believes that Smith approached the team’s most junior employees for the information because

they might feel more compelled (as a matter of deference to seniority) to provide the requested information to him.

65. Both of Smith's supervisors, Wolin and Seddon, therefore felt that Smith's conduct in this regard was inappropriate. They discussed and planned to raise the issue with Smith. Wolin and Seddon never had the chance to raise the issue, however, because Smith announced his resignation just a few days later.

Smith Accessed Optum Trade Secrets Prior to Resigning

66. Optum has recently uncovered forensic evidence that Smith accessed its trade secrets and other confidential information in the days and weeks leading up to his resignation (during which time it appears that he was already planning to join ABC).

67. For example, on October 29, 2018, at approximately 9:51 a.m. (Central Time), Smith printed a document with the file name "20180912 Project Orange Factbook vFINAL.pdf" (hereinafter, the "Factbook"). The Factbook, which is a 65-page PDF, is titled "Market Segment Trends Factbook" and dated September 12, 2018.

68. The Factbook, which is marked "Confidential," contains Optum's highly-confidential, competitive information, including Optum's in-depth analysis of healthcare trends among consumers, employers, payers, government entities, providers, and Pharmacy Benefit Managers ("PBMs") and other life sciences entities. The Factbook also identifies Optum's potential opportunities in, and solutions for, the changing healthcare market. A redacted copy of the Factbook is attached as Exhibit 6. (All pages that have been redacted in their entirety are omitted from Exhibit 6.)

69. Smith had no reason to print this document for his work responsibilities at Optum.

70. Just one minute after printing the Factbook, Smith printed his résumé. Smith interviewed or communicated with ABC on the same day.

71. On information and belief, Smith printed the Factbook for the purpose of obtaining Optum's confidential information for use in his interview with ABC as part of his efforts to secure a position there.

72. On December 10, 2018 – one day before he informed Optum that he planned to resign – Smith printed out a document with the file name “OES Socialization Deck for OET_v20181126FINAL.pptx” (hereinafter, the “OES Deck”).

73. The OES Deck, which is marked “Confidential,” bears the title “Optum Enterprise Strategy” and is dated Fall 2018. It contains highly confidential and up-to-date information concerning Optum's product portfolio performance, new product development, and product job family and assessment plan. The document is forward-looking and would cause Optum irreparable harm if it fell into the hands of a competitor. Redacted copies of the OES Deck, in presentation and notes view, are attached as Exhibit 7 (separated by tabs).

74. At the time that he printed the OES Deck, Smith had no reason to print this document for his work responsibilities at Optum.

UHG SENDS LETTERS TO SMITH AND ABC RAISING ITS CONCERNS;
ABC AND SMITH POSIT THAT ABC DOES NOT COMPETE WITH OPTUM

75. In order to enforce Optum's contractual rights and protect Optum's confidential information, on December 21, 2018, UHG sent letters to Smith and ABC outlining its concerns regarding Smith's employment plans and his pre-departure conduct. Copies of the letters are attached as Exhibits 8 and 9.

76. The Chief Legal Officer of UHG spoke with ABC's General Counsel on December 27, 2018. During the conversation, ABC stated that it would push out Smith's January 2 start date while UHG and ABC continued discussions.

77. During the call, ABC also informed UHG that Smith's title at ABC will be "Director of Strategy & Research," a title that suggests that Smith's role is far broader than the description he provided when he resigned from Optum and disclosed his plans to work at ABC.

78. Also during the call, ABC and UHG agreed to speak again on January 2 to accommodate holiday schedules. In the interim, ABC agreed not to start Smith and UHG agreed not to file a lawsuit.

79. The next day, on December 28, 2018, ABC's General Counsel sent UHG a letter, a copy of which is attached as Exhibit 10. In the letter, among other things, ABC took the position that "there is no product or service competition between UnitedHealth and [ABC], nor does [ABC] anticipate that there will be any such initiatives or activities that would violate Mr. Smith's non-compete covenant."

80. Also on December 28, 2018, counsel for Smith sent a response letter to UHG. The letter is attached as Exhibit 11. Similar to ABC, Smith took the position that ABC and Optum are not competitors because ABC "has no products" and "does not compete for business with Optum."

81. In his letter, Smith also represented that he had not been given a job description, but "expects that his initial tasks will be in-depth research focused on the delivery and costs of health care for the over one million individuals covered by the health plans of Amazon, Berkshire Hathaway and JPMorgan Chase."

82. On January 2, 2019, UHG's Chief Legal Officer again spoke with ABC's General Counsel. During the conversation, ABC represented that it did not have a job description for Smith and, moreover, did not even know what the full scope of his responsibilities at ABC would be.

83. On January 3, 2019, UHG sent ABC a letter reiterating its continuing concerns about Smith's anticipated employment with ABC. In the letter, UHG requested, among other things, a commitment by ABC to provide sufficient information necessary for UHG to fully assess the risks posed to Optum's trade secrets. The letter is attached as Exhibit 12.

84. In lieu of responding to UHG's January 3 letter, on or around January 4, 2019, ABC hired another Optum employee, Caitlin Fleming ("Fleming"), who served as Director, Product at Optum. During her Optum employment, Fleming reported to Smith. Like Smith, Fleming had routine access to some of Optum's most confidential information including its trade secrets. Based on this recent event, Optum believes that Smith helped to solicit Fleming on behalf of ABC, in violation of his employee nonsolicitation restriction. Indeed, on December 7, the same day that Smith received his formal written offer from ABC, he scheduled a meeting with Fleming in a location "TBD."

85. To date, despite UHG's multiple requests, ABC and Smith have refused to shed any further light on Smith's anticipated role or responsibilities or, for that matter, ABC's current or planned business activities for the next year.

ABC IS A COMPETITOR OF OPTUM;
SMITH'S EMPLOYMENT WITH ABC THREATENS OPTUM'S TRADE SECRETS

86. Contrary to ABC's and Smith's representations, ABC's public statements demonstrate that ABC provides or intends to provide health care services, which compete with Optum's services, to the same client base.

87. Although vague, Amazon, JPMorgan, and Berkshire Hathaway, have made the following statements regarding their plans for ABC:

- "The initial focus of the new company will be on technology solutions that will provide U.S. employees and their families with simplified, high-quality and transparent healthcare at a reasonable cost." See ABC Press Release.

- “[ABC’s] goal is to create solutions that benefit [its three partners’] U.S. employees, their families and, potentially, all Americans.” *See id.*
- “[T]he venture will seek to target three kinds of waste in the health-care system: administrative costs, high prices and improper health-care usage.” Bloomberg, “Amazon-Berkshire-JPMorgan Health Venture Takes Aim at Middlemen,” available at <https://www.bloomberg.com/news/articles/2018-06-24/amazon-berkshire-jpmorgan-health-venture-takes-aim-at-middlemen> (quoting Dr. Atul Gawande, ABC’s recently-appointed leader).

88. These statements indicate that ABC will first focus on the employees of its three partner companies and later seek to offer its products and services to the general public. Two of ABC’s three partner companies (JPMorgan and Berkshire Hathaway) are currently Optum customers. Accordingly – at least with respect to JPMorgan and Berkshire Hathaway – ABC will very soon be a direct competitor, if it is not already.

89. The public has similarly recognized ABC as a competitor and a disruptive force in the healthcare market. As one Forrester senior analyst recognized, “Working out the business with their own employees first would be a smart way to test out the product before opening it up to the general market . . . and that could be a game changer.” *See* NBC News, “Amazon, Chase, and Berkshire Hathaway partner up to disrupt health care,” available at <https://www.nbcnews.com/business/business-news/bezos-buffett-dimon-join-create-independent-health-care-company-n842546>.

90. With respect to Smith, he is, or will be in the near future, helping to “improv[e] health outcomes, patient satisfaction and cost” for the employees of Amazon, JPMorgan, and Berkshire Hathaway as ABC’s Director, Strategy and Research. Exh. 10.

91. As Smith's December 28, 2018 letter represents, some of Smith's initial research will focus on the delivery and costs of health care for over one million individuals.

92. Given the broad-reaching and high-level nature of Smith's role, Smith is, or will be in the near future, engaging in activities that compete, directly or indirectly, with Optum, or assisting ABC in such activities – all in violation of his noncompete restrictions.

93. Given the similarity in his anticipated role at ABC, as Director, Strategy and Research, to his previous roles at Optum as Vice President, Product and Vice President, Corporate Strategy, Smith will be unable to perform his role with ABC without using and/or disclosing Optum's trade secrets.

94. ABC's and Smith's refusal to provide more information about what Smith will be doing at ABC suggests that ABC hired Smith because of what he knows about Optum's business, not to fill a role ABC had already created.

95. Smith's position with ABC now poses a direct threat to Optum's trade secrets and other confidential information, which could have a detrimental impact on Optum's value and competitive advantage.

96. If Smith is permitted to work for ABC, he will inevitably use Optum's trade secrets to expedite ABC's development of competitive capabilities and products. Even if those products take more than a year to commercialize, Smith's assistance in the process of beginning to develop them now is a direct competitive harm to Optum.

97. On information and belief, ABC's hiring of Smith is part of ABC's larger plan to lift Optum's model or, at the very least, to duplicate or develop similar products and services. In September 2018, ABC named Jack Stoddard ("Stoddard") as its Chief Operating Officer. Stoddard is a former, high-level UnitedHealth Group employee who has reportedly represented

himself as Optum’s co-creator (a fact that Optum disputes). With Stoddard’s help and direction, ABC hired Smith just a few months later, in December 2018, and Fleming shortly after that.

COUNT I

BREACH OF CONTRACT

98. Optum repeats and incorporates herein by reference the allegations set forth in each of the foregoing paragraphs.

99. On March 1, 2017, Smith accepted the 2017 NQ Award Agreement.

100. On March 1, 2017, Smith accepted the 2017 RSU Award Agreement.

101. On February 22, 2018, Smith accepted the 2018 NQ Award Agreement.

102. On February 22, 2018, Smith accepted the 2018 RSU Award Agreement.

103. The Agreements were each supported by valid and sufficient consideration.

104. The restrictive covenants contained in the Agreements are between UHG and Optum, on the one hand, and Smith, on the other hand. *See* NQ Awards, ¶ 4 (defining “Company” for purposes of restrictive covenants); RSU Awards, ¶ 8 (same).

105. In the Agreements, Smith agreed to not disclose Optum’s confidential information, or to use it for any other purpose than to perform his work for Optum. *See* NQ Awards, ¶ 4(a); RSU Awards, ¶ 8(a).

106. Smith also agreed that, for at least one year following the termination of his employment, he would not “[e]ngage in or participate in any activity that competes, directly or indirectly, with any [Optum] activity, product or service that [Smith] engaged in, participated in, or had Confidential Information about during [Smith’s] last 36 months of employment with [Optum] . . . or . . . [a]ssist anyone in any of the activities listed above.” *See* NQ Awards, ¶ 4(c); RSU Awards, ¶ 8(c).

107. Smith also agreed that, during his employment and for at least two years following the termination of his employment, he would not “[r]aid, hire, employ, recruit or solicit” any Optum employee possessing its confidential information, or “[i]nduce or influence” any such employee “to terminate his, her or its employment or other relationship with the Company,” or assist anyone to do the same. NQ Awards, ¶ 4(b); RSU Awards, ¶ 8(b).

108. Smith’s restrictive covenants apply “on a nationwide basis anywhere in the United States” because Optum’s “business competes on a nationwide basis.” *See* NQ Awards, ¶ 4(d); 2017 RSU Awards, ¶ 8(d).

109. The protection of Optum’s confidential information, including trade secrets, is a legitimate business interest that may be protected by way of a restrictive covenant agreement.

110. The restrictions contained in the Agreements are reasonably necessary to protect Optum’s legitimate business interests.

111. By accepting employment with ABC, a competitor of Optum, during his noncompete period, in the United States, Smith has breached the express terms of the Agreements.

112. By engaging or participating in activities that compete with Optum, and/or assisting ABC to engage in competing activities, during his noncompete period, in the United States, Smith has breached the express terms of the Agreements.

113. By soliciting Fleming, a then-Optum employee possessing its confidential information, during his nonsolicitation period, in the United States, Smith has breached the express terms of the Agreements.

114. Smith’s competitive employment with ABC jeopardizes Optum’s trade secrets and confidential information.

115. Optum has reason to believe that Smith will inevitably and imminently use or disclose Optum's trade secrets and confidential information in violation of his Agreements.

116. After being reminded of his obligations by Optum, Smith has chosen to violate his obligations under the Agreements.

117. Smith is, therefore, in breach of the Agreements.

118. As a result of Smith's breaches of contract, Optum has suffered and will continue to suffer both irreparable harm and monetary damages in an amount to be determined at trial, which include without limitation the fair market value of the equity that was provided to Smith in exchange for the covenants, plus interest.

COUNT II

MISAPPROPRIATION OF TRADE SECRETS UNDER MUTSA

119. Optum repeats and incorporates herein by reference the allegations set forth in each of the foregoing paragraphs.

120. Optum's confidential information described above constitutes trade secrets within the meaning of the Massachusetts Uniform Trade Secrets Act (M.G.L. c. 93 §§ 42-42G).

121. Optum expended significant amounts of time and expense developing its proprietary, confidential information, including its trade secrets, all of which are highly valuable to Optum and integral to its competitive edge in the market.

122. In his position with Optum, Smith had access to Optum's trade secrets and other nonpublic confidential information that is of extraordinary value to Optum.

123. Optum took reasonable efforts to preserve the confidentiality of this information by, among many other things, requiring Smith to enter into the Agreements, which expressly impose confidentiality obligations.

124. Optum derives an economic and competitive value and advantage over its competitors as a result of its confidential information, including trade secrets.

125. Smith has misappropriated and/or threatened to misappropriate Optum's confidential information, including trade secrets, by improper means by, among other things: (1) accepting employment with a competitor (ABC), in violation of his Agreements, in a role in which Smith will inevitably draw upon Optum's trade secrets as he performs a job for a direct competitor; (2) during the time he knew he would be leaving Optum to join a competitor, attending a highly-confidential Optum meeting concerning its forward-looking strategies; and (3) during the time he knew he would be leaving Optum to join a competitor, accessing Optum's highly confidential documents concerning, among other things, its market analysis, product portfolio, and competitive strategies.

126. Smith's acts of misappropriation occurred on or after October 1, 2018.

127. Optum is entitled to actual damages pursuant to M.G.L. c. 93, § 42B (effective October 1, 2018).

128. Smith's conduct was willful and/or malicious, entitling Optum to exemplary damages under M.G.L. c. 93, § 42B(b) (effective October 1, 2018).

129. As a result of Smith's misappropriation, Optum has suffered, and will continue to suffer, both irreparable harm and monetary damages in an amount to be proven at trial.

COUNT III

MISAPPROPRIATION OF TRADE SECRETS UNDER DTSA

130. Optum repeats and incorporates herein by reference the allegations set forth in each of the foregoing paragraphs.

131. Optum's confidential information described above constitutes trade secrets within the meaning of the Defend Trade Secrets Act (18 U.S.C. 1839(3)).

132. Optum's trade secrets relate to products and/or services used in, or intended for use in, interstate or foreign commerce.

133. Optum expended significant amounts of time and expense developing its proprietary, confidential information, including its trade secrets, all of which are highly valuable to Optum and integral to its competitive edge in the market.

134. In his position with Optum, Smith had access to Optum's trade secrets and other nonpublic confidential information that is of extraordinary value to Optum.

135. Optum took reasonable efforts to preserve the confidentiality of this information by, among many other things, requiring Smith to enter into the Agreements, which expressly impose confidentiality obligations.

136. Optum derives an economic and competitive value and advantage over its competitors as a result of its confidential information, including trade secrets.

137. Smith has misappropriated and/or threatened to misappropriate Optum's confidential information, including trade secrets, by improper means by, among other things: (1) accepting employment with a competitor (ABC), in violation of his Agreements, in a role in which Smith will inevitably draw upon Optum's trade secrets as he performs a job for a direct competitor; (2) during the time he knew he would be leaving Optum to join a competitor, attending a highly-confidential Optum meeting concerning its forward-looking strategies; and (3) during the time he knew he would be leaving Optum to join a competitor, accessing Optum's highly confidential documents concerning, among other things, its market analysis, product portfolio, and competitive strategies.

138. Smith's acts of misappropriation occurred after May 11, 2016.

139. Smith's conduct was willful and/or malicious, entitling Optum to exemplary damages under 18 U.S.C. 1836(b)(3)(C).

140. As a result of Smith's misappropriation, Optum has suffered, and will continue to suffer, both irreparable harm and monetary damages in an amount to be proven at trial.

PRAYER FOR RELIEF

WHEREFORE, for the reasons set forth above, Optum respectfully requests that this Court:

A. Grant temporary, preliminary, and permanent injunctive relief enjoining David William Smith from working for TCORP62018 LLC ("ABC") or otherwise violating his Agreements.

B. Grant temporary, preliminary, and permanent injunctive relief enjoining David William Smith from using or disclosing Optum's trade secrets and other confidential information including, without limitation, its information concerning Optum's: corporate roadmap(s); corporate strategies and business plans; merger and acquisition targets; product roadmap(s); product strategies and business plans; current product portfolio performance (including, for each product and product line, up-to-date sales momentum data, profit and loss information, return on invested capital, projected financial growth, market opportunity, and net promoter performance); analyses concerning product performance and opportunities (including where to prioritize investments of human capital and financial resources, as well as where to limit or avoid investments); data and advanced analytics (including its initiatives concerning artificial intelligence and broad data science capabilities); customer lists and information; supplier and vendor lists; business relationships with, *e.g.*, pharmaceutical manufacturers and the details concerning those relationships (including detailed information concerning the rebates Optum receives from certain pharmaceutical manufacturers for certain drugs); other strategic partnerships; and other competitively sensitive information that is not generally available to the public.

- C. Enter judgment for Optum on all Counts in this Complaint, and award damages to Optum in an amount to be determined at trial, together with interest and costs; and
- D. Award all other relief this Court determines is appropriate.

Respectfully submitted,

OPTUM, INC. and
OPTUM SERVICES, INC.

By their attorneys,

/s/ Russell Beck

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Dated: January 16, 2019

CERTIFICATE OF SERVICE

I hereby certify that this document has been filed through the CM/ECF system on January 16, 2019, and will be served electronically to the registered participants as identified on the Notice of Electronic Filing through the Court's transmission facilities, and that non-registered participants have been served this day by mail.

/s/ Russell Beck

EXHIBIT 1

UNITEDHEALTH GROUP

NONQUALIFIED STOCK OPTION AWARD

Award Date 02/08/2017	Option Shares 872	Exercise Price \$160.3100	Expiration Date 02/08/2027
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THIS CERTIFIES THAT UnitedHealth Group Incorporated (the “Company”) has on the award date specified above (the “Award Date”) granted to

DAVID W SMITH

(the “Optionee”) the option (the “Option”) to purchase that number of shares of UnitedHealth Group Incorporated Common Stock, \$.01 par value per share (the “Common Stock”), indicated above (the “Option Shares”). The Option that this Award represents will expire on the expiration date indicated above (the “Expiration Date”), unless it is terminated prior to that time in accordance with this Award.

The Option Shares represented by this Award shall become exercisable as follows: 25% on each of the first, second, third and fourth anniversaries, unless this Option shall have terminated or the vesting shall have accelerated as provided in this Award. Once this Option has become exercisable for all or a portion of the Option Shares, it will remain exercisable for all or such portion of the Option Shares, as the case may be, until the Option expires or is terminated as provided in this Award.

By accepting this Award, the Optionee acknowledges that the Optionee will not have any of the rights of a shareholder with respect to the Option Shares until the Option has been duly exercised and the exercise price indicated above (the “Exercise Price”) and applicable withholding taxes paid in accordance with this Award. The Optionee further acknowledges and agrees that the Company may deliver, by electronic mail, the use of the Internet, including through the website of the agent appointed by the Committee to administer the UnitedHealth Group Incorporated 2011 Stock Incentive Plan (the “Plan”), the Company intranet web pages or otherwise, any information concerning the Company, this Award, the Plan pursuant to which the Company granted this Award, and any information required by the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

This Option is subject to the further terms and conditions set forth below and to the terms of the Plan. A copy of the Plan is available upon request. In the event of any conflict between the terms of the Plan and this Award, the terms of the Plan shall govern. Any terms not defined herein shall have the meaning set forth in the Plan.

* * * * *

1. Nonqualified Option. The Company does not intend that the Option shall be an Incentive Stock Option governed by the provisions of Section 422 of the Internal Revenue Code of 1986, as amended.

2. Termination of Option. The Option shall terminate on the Expiration Date. The Option shall terminate prior to the Expiration Date if the Optionee ceases to be employed by the Company or any Affiliate, except that:

(a) *General.* Except as expressly provided in Section 10 or this Section 2, if prior to vesting of the Options as set forth herein, the Optionee ceases to be an employee of the Company or any Affiliate for any reason (voluntary or involuntary), then the Optionee may, at any time within the Exercise Period (as defined below), exercise the Option to the extent of the full number of Option Shares which were exercisable and which the Optionee was entitled to purchase under the Option on the date of the termination of his or her employment.

(b) *Death or Long-Term Disability.* If the Optionee dies while employed by the Company or any Affiliate, or if the Optionee's employment by the Company or any Affiliate is terminated due to the Optionee's failure to return to work as the result of a long-term disability which renders the Optionee incapable of performing his or her duties as determined under the provisions of the Company's long-term disability insurance program ("Disability"), then: (i) all unvested Option Shares hereunder shall immediately vest and be exercisable, and (ii) the Optionee (or the Optionee's personal representatives, administrators or guardians, as applicable, or any person or persons to whom the Option is transferred by will or the applicable laws of descent and distribution) may (subject to earlier expiration on the Expiration Date) at any time within a period of five years after the Optionee's death or Disability, or for such other longer period established at the discretion of the Committee, exercise the Option to the extent of the full number of Option Shares which are exercisable following such vesting.

(c) *Severance.* Subject to Section 10, if Optionee's employment with the Company or any Affiliate terminates at a time when Optionee is not eligible for Retirement (as defined below) and, in the circumstances, Optionee is entitled to severance or separation pay, the following provisions will apply. If the Optionee is entitled to severance under the Company's severance pay plan as in effect on the date hereof and the Optionee is not eligible for Retirement (as defined below) at the time of termination of employment, then the Option shall continue to vest and become exercisable for the period of such severance. If Optionee is entitled to severance under an employment agreement entered into with the Company, then the Option shall continue to vest and become exercisable for the period of such severance that Optionee is entitled to receive as of the date hereof. If the Optionee is entitled to separation pay other than under the Company's severance pay plan or an employment agreement, then vesting of the Option shall continue for the lesser of the period (i) the Optionee would have received payments under the severance pay plan as in effect on the date hereof, had the Optionee been eligible for such payments; or (ii) of separation pay. In either case, should the Optionee be paid in a lump sum versus bi-weekly payments, the Option shall continue to vest for the time in which severance or separation pay would have been paid had it been paid bi-weekly. Any portion of the Option that vests after the Optionee's termination of employment pursuant to this Section 2(c) may be exercised during the Exercise Period

(as defined below). For avoidance of doubt, any Options that are unvested on the date of termination of Optionee's employment and do not vest under the schedule set forth herein during the applicable severance or separation pay period identified above in this Section 2(c) shall be forfeited.

(d) *Retirement.* If the Optionee's employment by the Company or any Affiliate is terminated and at the time of termination the Optionee is eligible for Retirement, then (i) the Option shall continue to vest and become exercisable as if such termination of employment had not occurred and (ii) the Optionee may, at any time within the shorter of (1) the Expiration Date of the Option, or (2) a period of five years after such termination of employment or for such other longer period established at the discretion of the Committee, exercise the Option to the extent of the full number of Option Shares which are then exercisable.

(e) For the purposes of this Award, "Exercise Period" shall mean the greater of: (i) a period of three months after the date of termination of the Optionee's employment; (ii) a period of three months after vesting ceases as provided in Section 2(c) if Optionee receives severance or separation pay; or (iii) such other longer period established at the discretion of the Committee. This Option shall in no event be exercisable after the Expiration Date.

(f) For purposes of this Award, "Retirement" means the termination of employment of an Optionee who is age 55 or older with at least ten years of Recognized Employment with the Company or any Affiliate other than by reason of (i) death or Disability or (ii) Cause.

(g) For purposes of this Award, "Recognized Employment" shall include only employment since the Optionee's most recent date of hire by the Company or any Affiliate, and shall not include employment with a company acquired by UnitedHealth Group or any Affiliate before the date of such acquisition.

3. Forfeiture of Option and Shares. This section sets forth circumstances under which the Optionee shall forfeit all or a portion of the Options, or be required to repay the Company for the value realized in respect of all or a portion of the Options.

(a) *Violation of Restrictive Covenants.* If the Optionee violates any provision of the Restrictive Covenants in Section 4 of this Award, then any (i) unvested Options and (ii) Options that vested within one year prior to the Optionee's termination of employment with the Company or any Affiliate or at any time after such termination of employment and that have not been exercised shall be immediately cancelled and rendered null and void without any payment therefor (the "Forfeited Options"). If any such Forfeited Options have been exercised prior to the Optionee's violation of the Restrictive Covenants, the Optionee shall be required to repay or otherwise reimburse the Company, upon demand, an amount in cash or Common Stock having a value equal to the amount described in this Section 3(a) below.

To the extent that such Option Shares have been sold, the amount shall be the aggregate proceeds received from such sale of the net Option Shares acquired after

payment of the Exercise Price and any applicable taxes (“Net Option Shares”). To the extent that the Net Option Shares have not been sold at the time Company demand is made, the amount shall be the aggregate Fair Market Value of the Net Option Shares on the date the Forfeited Options were exercised.

(b) *In General.* This section does not constitute the Company’s exclusive remedy for the Optionee’s violation of the Restrictive Covenants or commission of fraudulent conduct. As the forfeiture and repayment provisions are not adequate remedies at law, the Company may seek any additional legal or equitable remedy, including injunctive relief, for any such violations. The provisions in this section are essential economic conditions to the Company’s grant of Options to the Optionee. By receiving the grant of Options hereunder, the Optionee agrees that the Company may deduct from any amounts it owes the Optionee from time to time (such as wages or other compensation, deferred compensation credits, vacation pay, any severance or other payments owed following a termination of employment, as well as any other amounts owed to the Optionee by the Company) to the extent of any amounts the Optionee owes the Company under this section. The provisions of this section and any amounts repayable by the Optionee hereunder are intended to be in addition to any rights to repayment the Company may have under Section 304 of the Sarbanes-Oxley Act of 2002 and other applicable law.

4. Restrictive Covenants. In consideration of the terms of this Award and the Company’s sharing of Confidential Information with the Optionee, the Optionee agrees to the Restrictive Covenants set forth below. For purposes of these Restrictive Covenants, the “Company” means UnitedHealth Group Incorporated and all of any Affiliate and other affiliates.

(a) Confidential Information. The Optionee will be given access to and provided with sensitive, confidential, proprietary and trade secret information (“Confidential Information”) in the course of the Optionee’s employment. Examples of Confidential Information include: inventions; new product or marketing plans; business strategies and plans; merger and acquisition targets; financial and pricing information; computer programs, source codes, models and databases; analytical models; customer lists and information; and supplier and vendor lists and other information which is not generally available to the public. The Optionee agrees not to disclose or use Confidential Information, either during or after the Optionee’s employment with the Company, except as necessary to perform the Optionee’s duties or as the Company may consent in writing.

(b) Non-Solicitation. During the Optionee’s employment and for the greater of two years after the termination of the Optionee’s employment for any reason whatsoever, or the period of time for which the Option remains exercisable, the Optionee may not, without the Company’s prior written consent, directly or indirectly, for the Optionee or for any other person or entity, as agent, employee, officer, director, consultant, owner, principal, partner or shareholder, or in any other individual or representative capacity:

- (i) Solicit or conduct business with any business competitive with the Company from any person or entity: (A) who was a Company provider or customer within the 12 months before Optionee’s

employment termination and with whom Optionee had contact regarding the Company's activity, products or services, or for whom Optionee provided services or supervised employees who provided those services, or about whom the Optionee learned Confidential Information during employment related to the Company's provision of products or services to such Company provider or customer, or (B) was a prospective provider or customer the Company solicited within the 12 months before Optionee's employment termination and with whom Optionee had contact for the purposes of soliciting the person or entity to become a provider or customer of the Company, or supervised employees who had those contacts, or about whom the Optionee learned Confidential Information during employment related to the Company's provision of products or services to such prospective Company provider or customer;

- (ii) Raid, hire, employ, recruit or solicit any Company employee or consultant who possesses Confidential Information of the Company to leave the Company;
- (iii) Induce or influence any Company employee, consultant, or provider who possesses Confidential Information of the Company to terminate his, her or its employment or other relationship with the Company; or
- (iv) Assist anyone in any of the activities listed above.

(c) Non-Competition. During the Optionee's employment and for the greater of one year after the termination of the Optionee's employment for any reason whatsoever or the period of time for which the Option remains exercisable, the Optionee may not, without the Company's prior written consent, directly or indirectly, for the Optionee or for any other person or entity, as agent, employee, officer, director, consultant, owner, principal, partner or shareholder, or in any other individual or representative capacity:

- (i) Engage in or participate in any activity that competes, directly or indirectly, with any Company activity, product or service that Optionee engaged in, participated in, or had Confidential Information about during Optionee's last 36 months of employment with the Company; or
- (ii) Assist anyone in any of the activities listed above.

Notwithstanding the foregoing, this Section 4(c) will apply to the extent permissible under the ABA Model Rules of Professional Conduct's provisions regarding restrictions on the right to practice law or any applicable state counterpart.

(d) Because the Company's business competes on a nationwide basis, the Optionee's obligations under this "Restrictive Covenants" section shall apply on a nationwide basis anywhere in the United States.

(e) To the extent Optionee and the Company agree at any time to enter into separate agreements containing restrictive covenants with different or inconsistent terms than those contained herein, Optionee and the Company acknowledge and agree that such different or inconsistent terms shall not in any way affect or have relevance to the Restrictive Covenants contained herein.

By accepting this Option, the Optionee agrees that the provisions of this Restrictive Covenants section are reasonable and necessary to protect the legitimate interests of the Company.

5. Manner of Exercise. On the terms set forth herein, the Option may be exercised by the Optionee in whole or in part from time to time by delivering notice of exercise (in a form and manner acceptable to the Company) to the Company or the Committee's designated agent, accompanied by payment of the Exercise Price and any applicable withholding taxes (i) in cash, by wire transfer, certified check or bank cashier's check payable to the Company, (ii) by delivery of shares of Common Stock already owned by the Optionee, (iii) by withholding shares of Common Stock from the total number of shares of Common Stock acquired upon exercise under this Award having a fair market value, on the exercise date, equal to the aggregate Exercise Price and any applicable withholding taxes, or (iv) by delivery of a combination of cash, withholding of shares of Common Stock acquired upon exercise of this Award, and/or delivery of shares of Common Stock already owned by the Optionee; provided, that the Optionee shall not be entitled to tender shares of Common Stock pursuant to successive, substantially simultaneous exercises of options to purchase Common Stock. Any shares already owned by the Optionee referred to in the preceding sentence must have been owned by the Optionee for no less than six months prior to the date of exercise of the Option if such shares were acquired upon the exercise of another option or upon the vesting of restricted stock or restricted stock units. To the extent the vested and exercisable portion of the Option remains unexercised as of the close of business on the date the Option expires (the Expiration Date or such earlier date that is the last date on which the Option may be exercised pursuant to the terms of this Award), that portion of the Option will be exercised without any action by the Optionee in accordance with the terms of this Certificate if the Fair Market Value of a Share on that date is at least \$0.01 greater than the Exercise Price and the exercise will result in Optionee receiving at least one Share. Notwithstanding anything to the contrary in this Award, the Company shall not be required to issue or deliver any shares of Common Stock upon exercise of any Option until the requirements of any federal or state securities laws, rules or regulations or other laws or rules (including the rules of any securities exchange) as may be determined by the Company to be applicable have been and continue to be satisfied (including an effective registration of the shares under federal and state securities laws).

6. No Guarantee of Employment. This Award does not confer on the Optionee any right to continued employment or any other relationship with the Company or any Affiliate, nor will it interfere in any way with the right of the Company to terminate Optionee at any time. Optionee's employment with the Company is at will.

7. No Transfer. During the Optionee's lifetime, only the Optionee can exercise the Option. The Optionee may not transfer the Option except by will or the laws of descent and distribution, or pursuant to a domestic relations order as described in the Code or Title I of the Employee Retirement Income Security Act (or the rules promulgated thereunder), to the extent provided in Section 2 (b) entitled "Termination of Option." Any attempt to otherwise transfer the Option shall be void.

8. Special Restriction on Transfer for Certain Optionees. If the Optionee is an officer of the Company within the meaning of Section 16 of the Securities Exchange Act of 1934 and Rule 16a-1 issued thereunder, as such status is reasonably determined from time to time by the Board of Directors of the Company (a "Section 16 Officer"), at any time that the Option is exercised in whole or in part and the Company has theretofore communicated the Optionee's status as a Section 16 Officer to the Optionee, the following special transfer restrictions apply to any shares of Common Stock acquired upon the exercise of the Option. One-third (1/3) of the net number of any shares of Common Stock acquired upon the exercise of the Option at a time when the Optionee is a Section 16 Officer (including any shares of Common Stock or other securities subject to the Option following any adjustment made pursuant to this Option or Section 7 of the Plan) must be retained, and may not be sold or otherwise transferred, for a period of at least one year following the date the Option is exercised. For purposes of this Option, the "net number of any shares of Common Stock acquired" shall mean the number of shares of Common Stock received with respect to the particular exercise after reduction for any shares of Common Stock withheld by or tendered to the Company, or sold on the market, to cover the Exercise Price of the Option and/or to cover any federal, state, local or other payroll, withholding, income or other applicable tax withholding required in connection with the exercise of the Option. The restrictions of this Section 8 are in addition to, and not in lieu of, the restrictions imposed under other Company policies and applicable laws.

9. Adjustments to Option Shares. In the event that any dividend or other distribution (whether in the form of cash, shares of Common Stock, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Shares or other securities of the Company or other similar corporate transaction or event affecting the Shares would be reasonably likely to result in the diminution or enlargement of any of the benefits or potential benefits intended to be made available under the Option (including, without limitation, the benefits or potential benefits of provisions relating to the term, vesting or exercisability of the Option), the Committee shall, in such manner as it shall deem equitable or appropriate in order to prevent such diminution or enlargement of any such benefits or potential benefits, adjust any or all of (a) the number and type of shares (or other securities or other property) subject to the Option and (b) the exercise price with respect to the Option; provided, however, that the number of shares covered by the Option shall always be a whole number. Without limiting the foregoing, if any capital

reorganization or reclassification of the capital stock of the Company, or consolidation or merger of the Company with another entity, or the sale of all or substantially all of the Company's assets to another entity, shall be effected in such a way that holders of the Company's Common Stock shall be entitled to receive stock, securities, cash or other assets with respect to or in exchange for such shares, the Optionee shall have the right to purchase and receive upon the basis and upon the terms and conditions specified in this Award and in lieu of the shares of Common Stock of the Company immediately theretofore purchasable and receivable upon the exercise of the Option, with appropriate adjustments to prevent diminution or enlargement of benefits or potential benefits intended to be made available under the Option, such shares of stock, other securities, cash or other assets as would have been issued or delivered to the Optionee if the Optionee had exercised the Option and had received such shares of Common Stock prior to such reorganization, reclassification, consolidation, merger or sale. The Company shall not effect any such reorganization, consolidation, merger or sale unless prior to the consummation thereof the successor entity (if other than the Company) resulting from such reorganization, consolidation or merger or the entity purchasing such assets shall assume by written instrument the obligation to deliver to the Optionee such shares of stock, securities, cash or other assets as, in accordance with the foregoing provisions, the Optionee may be entitled to purchase or receive.

10. Certain Terminations on or After Change in Control. Notwithstanding the other vesting provisions set forth herein, but subject to the other terms and conditions set forth herein, the Option shall become fully vested and exercisable if, on or within two years after the effective date of a Change in Control, the Optionee ceases to be an employee of the Company or any Affiliate as a result of a termination of employment (i) by the Optionee for Good Reason, (ii) by the Company or any Affiliate without Cause, (iii) at a time when Optionee is eligible for Retirement, (iv) due to Optionee's Disability, or (v) in the circumstances described in Section 2(c). For purposes of this Award:

- (a) "Change in Control" shall mean the sale of all or substantially all of the Company's assets or any merger, reorganization, or exchange or tender offer which, in each case, will result in a change in the power to elect 50% or more of the members of the Board of Directors of the Company; provided, however, that such a sale, merger or other event must also constitute either (i) a "change in the ownership" of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(v), (ii) a "change in the effective control" of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(vi)(A)(1) (replacing "30 percent" with "50 percent" as used in such regulation), or (iii) a change "in the ownership of a substantial portion of the assets" of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(vii).
- (b) "Cause" shall mean Optionee's (a) material failure to follow the Company's reasonable direction or to perform any duties reasonably required on material matters, (b) material violation of, or failure to act upon or report known or suspected violations of, the Company's Code of Conduct, as may be amended from time to time, (c) conviction of any felony, (d) commission of any criminal, fraudulent, or dishonest act in connection with Optionee's

employment, or (e) material breach of any employment agreement between the Optionee and the Company or any Affiliate, if any. The Company will, within 90 days of discovery of the conduct, give Optionee written notice specifying the conduct constituting Cause in reasonable detail and Optionee will have 60 days to remedy such conduct, if such conduct is reasonably capable of being remedied. In any instance where the Company may have grounds for Cause, failure by the Company to provide written notice of the grounds for Cause within 90 days of discovery shall be a waiver of its right to assert the subject conduct as a basis for termination for Cause.

- (c) “Good Reason” shall mean the occurrence of any of the following without Optionee’s written consent, in each case, when compared to the arrangements in effect immediately prior to the Change in Control:
- (i) any reduction in Optionee’s base salary or a significant reduction in Optionee’s total compensation;
 - (ii) a reduction in Optionee’s annual or long-term incentive opportunities; or
 - (iii) a diminution in Optionee’s duties, responsibilities or authority.

Optionee will, within 90 days of discovery of such circumstances, give the Company written notice specifying the circumstances constituting Good Reason in reasonable detail; provided however that this notice period shall be shortened or waived to the extent necessary if compliance with the notice period would cause the termination for Good Reason to occur following the second anniversary of the effective date of the Change in Control. Except as contemplated by the preceding sentence, in any instance where Optionee may have grounds for Good Reason, failure by Optionee to provide written notice of the grounds for Good Reason within 90 days of discovery shall be a waiver of Optionee’s right to assert the subject circumstance as a basis for termination for Good Reason.

11. Narrowed Enforcement and Severability. If a court or arbitrator decides that any provision of this Award is invalid or overbroad, the Optionee agrees that the court or arbitrator should narrow such provision so that it is enforceable or, if narrowing is not possible or permissible, such provision should be considered severed and the other provisions of this Award should be unaffected.

12. Injunctive Relief. The Optionee agrees that (a) legal remedies (money damages) for any breach of the Restrictive Covenants in Section 4 of this Award will be inadequate, (b) the Company will suffer immediate and irreparable harm from any such breach, and (c) the Company will be entitled to injunctive relief from a court in addition to any legal remedies the Company may seek in arbitration.

13. Survival. The Restrictive Covenants and provisions regarding the forfeiture of Options and shares in this Award shall survive the termination of the Option.

14. Other. An original record of this Award and all the terms thereof is held on file by the Company. To the extent there is any conflict between the terms contained

in this Award and the terms contained in the original held by the Company, the terms of the original held by the Company shall control. Neither the Plan nor the Option shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Affiliate and Optionee or any other Person. To the extent that any Person acquires a right to receive payments from the Company or any Affiliate pursuant to an Option, such right shall be no greater than the right of any unsecured creditor of the Company or any Affiliate.

15. Governing Law. The validity, construction and effect of this Award and any rules and regulations relating to this Award shall be determined in accordance with the laws of the State of Delaware (without regard to its conflict of laws principles).

16. Code Section 409A. It is intended that this Award and any amounts payable under this Award shall either be exempt from or comply with Code Section 409A (including the Treasury regulations and other published guidance relating thereto) so as not to subject Optionee to payment of any additional tax, penalty or interest imposed under Code Section 409A. The provisions of this Award certificate shall be construed and interpreted to avoid the imputation of any such additional tax, penalty or interest under Code Section 409A yet preserve (to the nearest extent reasonably possible) the intended benefit payable to Optionee.

Acceptance Date: **03/01/2017**

Signed Electronically/Signed Manually: **Signed Electronically**

H8D9JOAB

03/01/2017 04:03 PM U.S. Eastern Standard Time

ACCEPTED

EXHIBIT 2

UNITEDHEALTH GROUP

RESTRICTED STOCK UNIT AWARD

Award Date 02/08/2017	Number of Units 156	Final Vesting Date February 8, 2021
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THIS CERTIFIES THAT UnitedHealth Group Incorporated (the “Company”) has on the award date specified above (the “Award Date”) granted to

DAVID W SMITH

(“Participant”) an award (the “Award”) to receive that number of restricted stock units (the “Restricted Stock Units”) indicated above in the box labeled “Number of Units,” each Restricted Stock Unit representing the right to receive one share of UnitedHealth Group Incorporated Common Stock, \$.01 par value per share (the “Common Stock”), subject to certain restrictions and on the terms and conditions contained in this Award and the UnitedHealth Group Incorporated 2011 Stock Incentive Plan (the “Plan”).

The Participant acknowledges and agrees that the Company may deliver, by electronic mail, the use of the Internet, including through the website of the agent appointed by the Committee to administer the Plan, the Company intranet web pages or otherwise, any information concerning the Company, this Award, the Plan, pursuant to which the Company granted this Award, and any information required by the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

A copy of the Plan is available upon request. In the event of any conflict between the terms of the Plan and this Award, the terms of the Plan shall govern. Any terms not defined herein shall have the meaning set forth in the Plan.

* * * * *

1. Rights of the Participant with Respect to the Restricted Stock Units.

(a) No Shareholder Rights. The Restricted Stock Units granted pursuant to this Award do not and shall not entitle Participant to any rights of a shareholder of Common Stock, except as provided below. The rights of Participant with respect to the Restricted Stock Units shall remain forfeitable at all times prior to the date on which such rights become vested, and the restrictions with respect to the Restricted Stock Units lapse, in accordance with Section 2, 3 or 4.

(b) Conversion of Restricted Stock Units; Issuance of Common Stock. No shares of Common Stock shall be issued to Participant prior to the date on which the Restricted Stock Units vest, and the restrictions with respect to the Restricted Stock Units lapse, in accordance with Section 2, 3 or 4. Neither this Section 1(b) nor any

action taken pursuant to or in accordance with this Section 1(b) shall be construed to create a trust of any kind. After any Restricted Stock Units vest pursuant to Section 2, 3 or 4, the Company shall promptly cause to be issued shares of Common Stock to Participant or in the name of Participant's legal representatives, beneficiaries or heirs, as the case may be, in payment of such vested whole Restricted Stock Units, at the times provided in Section 2, 3 or 4, as applicable, unless such payment is deferred in accordance with the terms and conditions of the Company's non-qualified compensation deferral plans.

(c) Dividends. If a cash dividend is declared and paid by the Company with respect to the Common Stock, Participant shall be credited as of the applicable dividend payment date with an additional number of whole and/or fractional Restricted Stock Units (the "Dividend Units") equal to (A) the total cash dividend Participant would have received had Participant's Restricted Stock Units (and any previously credited Dividend Units with respect thereto) been actual shares of Common Stock, divided by (B) the Fair Market Value of a share of Common Stock as of the applicable dividend payment date. As of each vesting date pursuant to Sections 2, 3 or 4, the number of Dividend Units paid on the Restricted Stock Units vesting on such vesting date shall become vested, earned and payable in the form of shares of Common Stock; provided, however, that any vested Dividend Units not converted into a whole share of Common Stock may be converted into a fractional Dividend Unit, cash or carried forward to a future vesting date in accordance with the rules and regulations of agent selected by the Committee to administer the Plan. To the extent Participant's rights to any unvested Restricted Stock Units are forfeited, the Dividend Units paid on such forfeited Restricted Stock Units shall also be forfeited. The terms of this Award certificate shall apply to all Dividend Units paid on the Restricted Stock Units.

2. Vesting. Subject to the terms and conditions of this Award, 25% of the Restricted Stock Units shall vest, and the restrictions with respect to the Restricted Stock Units shall lapse, on each of the first, second, third and fourth anniversaries of the grant date if Participant remains continuously employed by the Company or any Affiliate until the respective vesting dates. Any Restricted Stock Units that vest pursuant to this Section 2 shall be paid to Participant not later than seventy four (74) days after the applicable vesting date.

3. Early Vesting On Certain Terminations On or After Change in Control. Notwithstanding the other vesting provisions contained in Section 2 and Section 4, but subject to the other terms and conditions set forth herein, all of the Restricted Stock Units shall become immediately and unconditionally vested if, on or within two years after the effective date of a Change in Control, the Participant ceases to be an employee of the Company or any Affiliate as a result of a termination of employment (i) by the Participant for Good Reason, (ii) by the Company or any Affiliate without Cause, (iii) at a time when Participant is eligible for Retirement (as defined below), (iv) due to Participant's failure to return to work as the result of a long-term disability which renders Participant incapable of performing his or her duties as determined under the provisions of the Company's long-term disability insurance program applicable to Participant

(“Disability”), or (v) in the circumstances described in Section 4(c). Any Restricted Stock Units that vest pursuant to this Section 3 shall be paid to Participant in a lump sum within thirty (30) days after the date of Participant’s Separation from Service. For purposes of this Award:

(a) “Change in Control” shall mean the sale of all or substantially all of the Company’s assets or any merger, reorganization, or exchange or tender offer which, in each case, will result in a change in the power to elect 50% or more of the members of the Board of Directors of the Company; provided, however, that such a sale, merger or other event must also constitute either (i) a “change in the ownership” of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(v), (ii) a “change in the effective control” of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(vi)(A)(1) (replacing “30 percent” with “50 percent” as used in such regulation), or (iii) a change “in the ownership of a substantial portion of the assets” of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(vii).

(b) “Cause” shall mean Participant’s (a) material failure to follow the Company’s reasonable direction or to perform any duties reasonably required on material matters, (b) material violation of, or failure to act upon or report known or suspected violations of, the Company’s Code of Conduct, as may be amended from time to time, (c) conviction of any felony, (d) commission of any criminal, fraudulent, or dishonest act in connection with Participant’s employment, or (e) material breach of any employment agreement between Participant and the Company or any Affiliate, if any. The Company will, within 90 days of discovery of the conduct, give Participant written notice specifying the conduct constituting Cause in reasonable detail and Participant will have 60 days to remedy such conduct, if such conduct is reasonably capable of being remedied. In any instance where the Company may have grounds for Cause, failure by the Company to provide written notice of the grounds for Cause within 90 days of discovery shall be a waiver of its right to assert the subject conduct as a basis for termination for Cause.

(c) “Good Reason” shall mean the occurrence of any of the following without Participant’s written consent, in each case, when compared to the arrangements in effect immediately prior to the Change in Control:

- (i) any reduction in Participant’s base salary or a significant reduction in Participant’s total compensation;
- (ii) a reduction in Participant’s annual or long-term incentive opportunities;
or
- (iii) a diminution in Participant’s duties, responsibilities or authority.

Participant will, within 90 days of discovery of such circumstances, give the Company written notice specifying the circumstances constituting Good

Reason in reasonable detail; provided however that this notice period shall be shortened or waived to the extent necessary if compliance with the notice period would cause the termination for Good Reason to occur following the second anniversary of the effective date of the Change in Control. Except as contemplated by the preceding sentence, in any instance where Participant may have grounds for Good Reason, failure by Participant to provide written notice of the grounds for Good Reason within 90 days of discovery shall be a waiver of Participant's right to assert the subject circumstance as a basis for termination for Good Reason.

(d) "Separation from Service" shall mean when Participant dies, retires, or otherwise has a termination of employment with the Company that constitutes a "separation from service" within the meaning of Treasury Regulation Section 1.409A-1(h)(1), without regard to the optional alternative definitions available thereunder.

(e) Section 409A - Possible Acceleration of Payment. The Committee may provide for payment of the outstanding Restricted Stock Units in accordance with the requirements of Treasury Regulation 1.409A-3(j)(4)(ix)(A), (B) or (C) promulgated under Section 409A of the Code (or any similar successor provision), which regulation generally provides that a deferred compensation arrangement may be terminated in limited circumstances following a dissolution or change in control of the Company. If the outstanding Restricted Stock Units are to be so terminated, they shall be deemed fully vested upon such termination. Notwithstanding anything in the Plan or any other agreement to the contrary, there is no discretion to change the time of payment of the Restricted Stock Units (in connection with a Change in Control, similar event, or otherwise) except as expressly provided in this Section 3 or as otherwise permitted under, and would not result in any tax, penalty or interest under, Section 409A of the Code.

(f) Section 409A - Possible Six-Month Delay in Payment. Notwithstanding any provision of this Award certificate to the contrary, if payment of the Restricted Stock Units is triggered by Participant's Separation from Service as provided in this Section 3 and, as of the date of such Separation from Service, Participant is a "specified employee" (within the meaning of Section 409A of the Code and determined pursuant to procedures adopted by the Company), Participant shall not be entitled to such payment of the Restricted Stock Units until the earlier of (i) the date which is six (6) months after Participant's Separation from Service for any reason other than death, or (ii) the date of Participant's death. Any amounts otherwise payable to Participant upon or in the six (6) month period following Participant's Separation from Service that are not so paid by reason of this Section 3(f) shall be paid (without interest) as soon as practicable (and in all events within thirty (30) days) after the date that is six (6) months after Participant's Separation from Service (or, if earlier, as soon as practicable, and in all events within thirty (30) days, after the date of Participant's death). The provisions of this Section 3(f) shall only apply if, and to the extent, required to avoid the imputation of any tax, penalty or interest pursuant to Section 409A of the Code.

4. Termination of Employment.

(a) Termination of Employment Generally. Except as expressly provided in Section 3 or this Section 4, if, prior to vesting of the Restricted Stock Units pursuant to Section 2, Participant ceases to be an employee of the Company or any Affiliate for any reason (voluntary or involuntary), and does not continue after such cessation of service to be either an employee of the Company or any Affiliate, then Participant's rights to all of the unvested Restricted Stock Units shall be immediately and irrevocably forfeited on the date of termination.

(b) Death. If Participant dies while employed by the Company or any Affiliate, then all unvested Restricted Stock Units shall become immediately vested, and the restrictions with respect to all of the Restricted Stock Units shall lapse, as of the date of such death. Any Restricted Stock Units that vest pursuant to this Section 4(b) shall be paid to Participant's estate not later than 90 days after the date of such death.

(c) Severance. If Participant's employment with the Company or any Affiliate terminates at a time when Participant is not eligible for Retirement (and other than due to Participant's death or Disability) and, in the circumstances, Participant is entitled to severance or separation pay, the following provisions of this Section 4(c) will apply. If Participant is entitled to severance under the Company's severance pay plan as in effect on the date hereof, then the Restricted Stock Units shall continue to vest, and the restrictions with respect to the Restricted Stock Units shall continue to lapse, for the period of such severance that Participant is eligible to receive. If Participant is entitled to severance under an employment agreement entered into with the Company, then vesting of the Restricted Stock Units, and lapsing of their restrictions, shall continue for the period of such severance that Participant would be entitled to receive under that agreement as of the date hereof. If Participant is entitled to separation pay other than under the Company's severance pay plan or an employment agreement, then vesting of the Restricted Stock Units, and lapsing of their restrictions, shall continue for the lesser of the period (i) Participant would have received payments under the severance pay plan as in effect on the date hereof, had Participant been eligible for such payments or (ii) of separation pay. In any case, should Participant's severance or separation pay be paid in a lump sum versus bi-weekly payments, the Restricted Stock Units shall continue to vest for the period of time in which severance or separation pay would have been paid had it been paid bi-weekly. Any Restricted Stock Units that vest pursuant to this Section 4(c) shall be paid to Participant not later than seventy four (74) days after the applicable vesting date of the Restricted Stock Units under the original vesting schedule set forth in Section 2. For avoidance of doubt, any Restricted Stock Units that are unvested on the date of termination of Participant's employment and do not vest under the schedule set forth in Section 2 during the applicable severance or separation pay period identified above in this Section 4(c) shall be forfeited.

(d) Retirement or Long-Term Disability. If Participant ceases to be an employee of the Company or any Affiliate and either (i) Participant is eligible for Retirement at the time of such termination of employment or (ii) Participant's employment terminates due to Participant's Disability, then the vesting of the Restricted Stock Units shall continue as if such termination of employment had not occurred, subject to provisions set out in the section entitled "Forfeiture of Restricted Stock Units and Shares of Common Stock" below. Any Restricted Stock Units that vest pursuant to this Section 4(d) shall be paid to Participant not later than seventy four (74) days after the applicable vesting date of the Restricted Stock Units under the original vesting schedule set forth in Section 2.

(e) For purposes of this Award, "Retirement" means the termination of employment of a Participant who is age 55 or older with at least ten years of Recognized Employment with the Company or any Affiliate other than by reason of (i) death or Disability or (ii) Cause.

(f) For purposes of this Award, "Recognized Employment" shall include only employment since the Participant's most recent date of hire by the Company or any Affiliate, and shall not include employment with a company acquired by the Company or any Affiliate before the date of such acquisition.

5. Restriction on Transfer. Participant may not transfer the Restricted Stock Units except by will or by the laws of descent and distribution, or pursuant to a domestic relations order as described in the Code or Title I of the Employee Retirement Income Security Act (or the rules promulgated thereunder). Any attempt to otherwise transfer the Restricted Stock Units shall be void.

6. Special Restriction on Transfer for Certain Participants. If Participant is an officer of the Company within the meaning of Section 16 of the Securities Exchange Act of 1934 and Rule 16a-1 issued thereunder, as such status is reasonably determined from time to time by the Board of Directors of the Company (a "Section 16 Officer"), at any time that shares of Common Stock are issued upon the vesting of Restricted Stock Units and the Company has theretofore communicated Participant's status as a Section 16 Officer to Participant, the following special transfer restrictions apply to Participant's Award. One-third (1/3) of the net number of any shares of Common Stock acquired to Participant upon the vesting of Restricted Stock Units at a time when Participant is a Section 16 Officer (including any shares of Common Stock or other securities into which such shares may be converted or exchanged as a result of any adjustment made pursuant to this Award or Section 7 of the Plan) must be retained, and may not be sold or otherwise transferred, for a period of at least one year following the applicable vesting date. For purposes of this Award, the "net number of any shares of Common Stock acquired" shall mean the number of shares issued upon vesting of Restricted Stock Units after reduction for any shares of Common Stock withheld by or tendered to the Company, or sold on the market, to cover any federal, state, local or other payroll, withholding, income or other applicable tax withholding required in connection with the issuance of the shares. The restrictions of this Section 6 are in addition to, and not in lieu of, the restrictions imposed under other Company policies and applicable laws.

7. Forfeiture of Restricted Stock Units and Shares of Common Stock. This section sets forth circumstances under which Participant shall forfeit all or a portion of the Restricted Stock Units, or be required to repay the Company for the value realized in respect of all or a portion of the Restricted Stock Units.

(a) Violation of Restrictive Covenants. If Participant violates any provision of the Restrictive Covenants set forth in Section 8 below, then any unvested Restricted Stock Units shall be immediately and irrevocably forfeited without any payment therefor. In addition, for any Restricted Stock Units that vested within one year prior to Participant's termination of employment with the Company or any Affiliate or at any time after such termination of employment, the Participant shall be required, upon demand, to repay or otherwise reimburse the Company (including by forfeiting any deferred compensation credits in respect of such Restricted Stock Units under the Company's non-qualified compensation deferral plans) an amount having a value equal to the aggregate Fair Market Value of the shares of Common Stock underlying such Restricted Stock Units on the date the Restricted Stock Units became vested.

(b) In General. This section does not constitute the Company's exclusive remedy for Participant's violation of the Restrictive Covenants or commission of fraudulent conduct. As the forfeiture and repayment provisions are not adequate remedies at law, the Company may seek any additional legal or equitable remedy, including injunctive relief, for any such violations. The provisions in this section are essential economic conditions to the Company's grant of Restricted Stock Units to Participant. By receiving the grant of Restricted Stock Units hereunder, Participant agrees that the Company may deduct from any amounts it owes Participant from time to time (such as wages or other compensation, deferred compensation credits, vacation pay, any severance or other payments owed following a termination of employment, as well as any other amounts owed to the Participant by the Company) to the extent of any amounts Participant owes the Company under this section. The provisions of this section and any amounts repayable by Participant hereunder are intended to be in addition to any rights to repayment the Company may have under Section 304 of the Sarbanes-Oxley Act of 2002 and other applicable law.

8. Restrictive Covenants. In consideration of the terms of this Award and the Company's sharing of Confidential Information with the Participant, Participant agrees to the Restrictive Covenants set forth below. For purposes of the Restrictive Covenants, the "Company" means UnitedHealth Group and all of its subsidiaries and other affiliates.

(a) Confidential Information. Participant has or will be given access to and provided with sensitive, confidential, proprietary and/or trade secret information (collectively, "Confidential Information") in the course of Participant's employment. Examples of Confidential Information include inventions, new product or marketing plans, business strategies and plans, merger and acquisition targets, financial and pricing information, computer programs, source codes, models and data bases, analytical models, customer lists and information, and supplier and

vendor lists and other information which is not generally available to the public. Participant agrees not to disclose or use Confidential Information, either during or after Participant's employment with the Company, except as necessary to perform Participant's duties or as the Company may consent in writing.

(b) Non-Solicitation. During Participant's employment and for two years after the later of (i) the termination of Participant's employment for any reason whatsoever or (ii) the last scheduled vesting date under Section 4, Participant may not, without the Company's prior written consent, directly or indirectly, for Participant or for any other person or entity, as agent, employee, officer, director, consultant, owner, principal, partner or shareholder, or in any other individual or representative capacity:

- (i) Solicit or conduct business with any business competitive with the Company from any person or entity: (A) who was a Company provider or customer within the 12 months before Participant's employment termination and with whom Participant had contact regarding the Company's activity, products or services, or for whom Participant provided services or supervised employees who provided those services, or about whom Participant learned Confidential Information during employment related to the Company's provision of products and services to such person or entity, or (B) was a prospective provider or customer the Company solicited within the 12 months before Participant's employment termination and with whom Participant had contact for the purposes of soliciting the person or entity to become a provider or customer of the Company, or supervised employees who had those contacts, or about whom Participant learned Confidential Information during employment related to the Company's provision of products and services to such person or entity;
- (ii) Raid, hire, employ, recruit or solicit any Company employee or consultant who possesses Confidential Information of the Company to leave the Company;
- (iii) Induce or influence any Company employee, consultant, or provider who possesses Confidential Information of the Company to terminate his, her or its employment or other relationship with the Company; or
- (iv) Assist anyone in any of the activities listed above.

(c) Non-Competition. During Participant's employment and for one year after the later of (i) the termination of Participant's employment for any reason whatsoever or (ii) the last scheduled vesting date under Section 4, Participant may not, without the Company's prior written consent, directly or indirectly, for Participant or for any other person or entity, as agent, employee, officer, director,

consultant, owner, principal, partner or shareholder, or in any other individual or representative capacity:

- (i) Engage in or participate in any activity that competes, directly or indirectly, with any Company activity, product or service that Participant engaged in, participated in, or had Confidential Information about during Participant's last 36 months of employment with the Company; or
- (ii) Assist anyone in any of the activities listed above.

Notwithstanding the foregoing, this Section 8(c) will apply to the extent permissible under the ABA Model Rules of Professional Conduct's provisions regarding restrictions on the right to practice law or any applicable state counterpart.

(d) Because the Company's business competes on a nationwide basis, the Participant's obligations under this "Restrictive Covenants" section shall apply on a nationwide basis anywhere in the United States.

(e) To the extent Participant and the Company agree at any time to enter into separate agreements containing restrictive covenants with different or inconsistent terms than those contained herein, Participant and the Company acknowledge and agree that such different or inconsistent terms shall not in any way affect or have relevance to the Restrictive Covenants contained herein.

By accepting this Restricted Stock Unit Award, Participant agrees that the provisions of this Restrictive Covenants section are reasonable and necessary to protect the legitimate interests of the Company.

9. Adjustments to Restricted Stock Units. In the event that any dividend or other distribution (whether in the form of cash, shares of Common Stock, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Common Stock or other securities of the Company or other similar corporate transaction or event affecting the Common Stock would be reasonably likely to result in the diminution or enlargement of any of the benefits or potential benefits intended to be made available under the Award (including, without limitation, the benefits or potential benefits of provisions relating to the vesting of the Restricted Stock Units), the Committee shall, in such manner as it shall deem equitable or appropriate in order to prevent such diminution or enlargement of any such benefits or potential benefits, make adjustments to the Award, including adjustments in the number and type of shares of Common Stock Participant would have received upon vesting of the Restricted Stock Units.

10. Tax Matters.

(a) In order to comply with all applicable federal, state and local tax laws or regulations, the Company may take such action as it deems appropriate to ensure

that all applicable federal, state and local payroll, withholding, income or other taxes, which are the sole and absolute responsibility of Participant, are withheld or collected from Participant.

(b) On each applicable vesting date, Participant will be deemed to have elected to satisfy Participant's minimum required federal, state, and local payroll, withholding, income or other tax withholding obligations arising from the receipt of shares or the lapse of restrictions relating to the Restricted Stock Units, by having the Company withhold a portion of the shares of Common Stock otherwise to be delivered having a Fair Market Value equal to the amount of such taxes (but only to the extent of the minimum amount required to be withheld under applicable laws or regulations).

11. Miscellaneous.

(a) This Award does not confer on Participant any right to continued employment or any other relationship with the Company or any Affiliate, nor will it interfere in any way with the right of the Company to terminate Participant at any time. Participant's employment with the Company is at will.

(b) Neither the Plan nor this Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Affiliate and Participant or any other Person. To the extent that any Person acquires a right to receive payments from the Company or any Affiliate pursuant to an Award, such right shall be no greater than the right of any unsecured creditor of the Company or any Affiliate.

(c) The Company shall not be required to deliver any shares of Common Stock upon the vesting of any Restricted Stock Units until the requirements of any federal or state securities laws, rules or regulations or other laws or rules (including the rules of any securities exchange) as may be determined by the Company to be applicable have been and continue to be satisfied (including an effective registration of the shares under federal and state securities laws).

(d) An original record of this Award and all the terms hereof, executed by the Company, is held on file by the Company. To the extent there is any conflict between the terms contained in this Award and the terms contained in the original held by the Company, the terms of the original held by the Company shall control.

(e) If a court or arbitrator decides that any provision of this Award is invalid or overbroad, Participant agrees that the court or arbitrator should narrow such provision so that it is enforceable or, if narrowing is not possible or permissible, such provision should be considered severed and the other provisions of this Award should be unaffected.

(f) Participant agrees that (i) legal remedies (money damages) for any breach of the Restrictive Covenants in Section 8 will be inadequate, (ii) the Company will suffer immediate and irreparable harm from any such breach, and (iii) the Company will be entitled to injunctive relief from a court in addition to any legal remedies the Company may seek in arbitration.

(g) The Restrictive Covenants in this Award and the provisions regarding the forfeiture of Restricted Stock Units and shares of Common Stock shall survive termination of the Restricted Stock Units.

(h) The validity, construction and effect of this Award and any rules and regulations relating to this Award shall be determined in accordance with the laws of the State of Delaware (without regard to its conflict of law principles).

(i) It is intended that this Award and any amounts payable under this Award shall either be exempt from or comply with Section 409A of the Code (including the Treasury regulations and other published guidance relating thereto) so as not to subject Participant to payment of any additional tax, penalty or interest imposed under Section 409A of the Code. The provisions of this Award certificate shall be construed and interpreted to avoid the imputation of any such additional tax, penalty or interest under Section 409A of the Code yet preserve (to the nearest extent reasonably possible) the intended benefit payable to Participant.

Acceptance Date: **03/01/2017**

Signed Electronically/Signed Manually: **Signed Electronically**

H8D9JWZY

03/01/2017 04:05 PM U.S. Eastern Standard Time

ACCEPTED

EXHIBIT 3

UNITEDHEALTH GROUP

NONQUALIFIED STOCK OPTION AWARD

Award Date (mm/dd/yyyy) 02/13/2018	Option Shares 708	Exercise Price \$226.6400	Expiration Date (mm/dd/yyyy) 02/13/2028
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THIS CERTIFIES THAT UnitedHealth Group Incorporated (the “Company”) has on the award date specified above (the “Award Date”) granted to

DAVID W SMITH

(the “Optionee”) the option (the “Option”) to purchase that number of shares of UnitedHealth Group Incorporated Common Stock, \$.01 par value per share (the “Common Stock”), indicated above (the “Option Shares”). The Option that this Award represents will expire on the expiration date indicated above (the “Expiration Date”), unless it is terminated prior to that time in accordance with this Award.

The Option Shares represented by this Award shall become exercisable as follows: 25% on each of the first, second, third and fourth anniversaries, unless this Option shall have terminated or the vesting shall have accelerated as provided in this Award. Once this Option has become exercisable for all or a portion of the Option Shares, it will remain exercisable for all or such portion of the Option Shares, as the case may be, until the Option expires or is terminated as provided in this Award.

By accepting this Award, the Optionee acknowledges that the Optionee will not have any of the rights of a shareholder with respect to the Option Shares until the Option has been duly exercised and the exercise price indicated above (the “Exercise Price”) and applicable withholding taxes paid in accordance with this Award. The Optionee further acknowledges and agrees that the Company may deliver, by electronic mail, the use of the Internet, including through the website of the agent appointed by the Committee to administer the UnitedHealth Group Incorporated 2011 Stock Incentive Plan (the “Plan”), the Company intranet web pages or otherwise, any information concerning the Company, this Award, the Plan pursuant to which the Company granted this Award, and any information required by the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

This Option is subject to the further terms and conditions set forth below and to the terms of the Plan. A copy of the Plan is available upon request. In the event of any conflict between the terms of the Plan and this Award, the terms of the Plan shall govern. Any terms not defined herein shall have the meaning set forth in the Plan.

* * * * *

1. Nonqualified Option. The Company does not intend that the Option shall be an Incentive Stock Option governed by the provisions of Section 422 of the Internal Revenue Code of 1986, as amended.

2. Termination of Option. The Option shall terminate on the Expiration Date. The Option shall terminate prior to the Expiration Date if the Optionee ceases to be employed by the Company or any Affiliate, except that:

(a) *General.* Except as expressly provided in Section 10 or this Section 2, if prior to vesting of the Options as set forth herein, the Optionee ceases to be an employee of the Company or any Affiliate for any reason (voluntary or involuntary), then the Optionee may, at any time within the Exercise Period (as defined below), exercise the Option to the extent of the full number of Option Shares which were exercisable and which the Optionee was entitled to purchase under the Option on the date of the termination of his or her employment.

(b) *Death or Long-Term Disability.* If the Optionee dies while employed by the Company or any Affiliate, or if the Optionee's employment by the Company or any Affiliate is terminated due to the Optionee's failure to return to work as the result of a long-term disability which renders the Optionee incapable of performing his or her duties as determined under the provisions of the Company's long-term disability insurance program ("Disability"), then: (i) all unvested Option Shares hereunder shall immediately vest and be exercisable, and (ii) the Optionee (or the Optionee's personal representatives, administrators or guardians, as applicable, or any person or persons to whom the Option is transferred by will or the applicable laws of descent and distribution) may (subject to earlier expiration on the Expiration Date) at any time within a period of five years after the Optionee's death or Disability, or for such other longer period established at the discretion of the Committee, exercise the Option to the extent of the full number of Option Shares which are exercisable following such vesting.

(c) *Severance.* Subject to Section 10, if Optionee's employment with the Company or any Affiliate terminates at a time when Optionee is not eligible for Retirement (as defined below) and, in the circumstances, Optionee is entitled to severance or separation pay, the following provisions will apply. If the Optionee is entitled to severance under the Company's severance pay plan as in effect on the date hereof and the Optionee is not eligible for Retirement (as defined below) at the time of termination of employment, then the Option shall continue to vest and become exercisable for the period of such severance. If Optionee is entitled to severance under an employment agreement entered into with the Company, then the Option shall continue to vest and become exercisable for the period of such severance that Optionee is entitled to receive as of the date hereof. If the Optionee is entitled to separation pay other than under the Company's severance pay plan or an employment agreement, then vesting of the Option shall continue for the lesser of the period (i) the Optionee would have received payments under the severance pay plan as in effect on the date hereof, had the Optionee been eligible for such payments; or (ii) of separation pay. In either case, should the Optionee be paid in a lump sum versus bi-weekly payments, the Option shall continue to vest for the time in which severance or separation pay would have been paid had it been paid bi-weekly. Any portion of the Option that vests after the Optionee's termination of employment pursuant to this Section 2(c) may be exercised during the Exercise Period

(as defined below). For avoidance of doubt, any Options that are unvested on the date of termination of Optionee's employment and do not vest under the schedule set forth herein during the applicable severance or separation pay period identified above in this Section 2(c) shall be forfeited.

(d) *Retirement.* If the Optionee's employment by the Company or any Affiliate is terminated and at the time of termination the Optionee is eligible for Retirement, then (i) the Option shall continue to vest and become exercisable as if such termination of employment had not occurred and (ii) the Optionee may, at any time within the shorter of (1) the Expiration Date of the Option, or (2) a period of five years after such termination of employment or for such other longer period established at the discretion of the Committee, exercise the Option to the extent of the full number of Option Shares which are then exercisable.

(e) For the purposes of this Award, "Exercise Period" shall mean the greater of: (i) a period of three months after the date of termination of the Optionee's employment; (ii) a period of three months after vesting ceases as provided in Section 2(c) if Optionee receives severance or separation pay; or (iii) such other longer period established at the discretion of the Committee. This Option shall in no event be exercisable after the Expiration Date.

(f) For purposes of this Award, "Retirement" means the termination of employment of an Optionee who is age 55 or older with at least ten years of Recognized Employment with the Company or any Affiliate other than by reason of (i) death or Disability or (ii) Cause.

(g) For purposes of this Award, "Recognized Employment" shall include only employment since the Optionee's most recent date of hire by the Company or any Affiliate, and shall not include employment with a company acquired by UnitedHealth Group or any Affiliate before the date of such acquisition.

3. Forfeiture of Option and Shares. This section sets forth circumstances under which the Optionee shall forfeit all or a portion of the Options, or be required to repay the Company for the value realized in respect of all or a portion of the Options.

(a) *Violation of Restrictive Covenants.* If the Optionee violates any provision of the Restrictive Covenants in Section 4 of this Award, then any (i) unvested Options and (ii) Options that vested within one year prior to the Optionee's termination of employment with the Company or any Affiliate or at any time after such termination of employment and that have not been exercised shall be immediately cancelled and rendered null and void without any payment therefor (the "Forfeited Options"). If any such Forfeited Options have been exercised prior to the Optionee's violation of the Restrictive Covenants, the Optionee shall be required to repay or otherwise reimburse the Company, upon demand, an amount in cash or Common Stock having a value equal to the amount described in this Section 3(a) below.

To the extent that such Option Shares have been sold, the amount shall be the aggregate proceeds received from such sale of the net Option Shares acquired after

payment of the Exercise Price and any applicable taxes (“Net Option Shares”). To the extent that the Net Option Shares have not been sold at the time Company demand is made, the amount shall be the aggregate Fair Market Value of the Net Option Shares on the date the Forfeited Options were exercised.

(b) *In General.* This section does not constitute the Company’s exclusive remedy for the Optionee’s violation of the Restrictive Covenants or commission of fraudulent conduct. As the forfeiture and repayment provisions are not adequate remedies at law, the Company may seek any additional legal or equitable remedy, including injunctive relief, for any such violations. The provisions in this section are essential economic conditions to the Company’s grant of Options to the Optionee. By receiving the grant of Options hereunder, the Optionee agrees that the Company may deduct from any amounts it owes the Optionee from time to time (such as wages or other compensation, deferred compensation credits, vacation pay, any severance or other payments owed following a termination of employment, as well as any other amounts owed to the Optionee by the Company) to the extent of any amounts the Optionee owes the Company under this section. The provisions of this section and any amounts repayable by the Optionee hereunder are intended to be in addition to any rights to repayment the Company may have under Section 304 of the Sarbanes-Oxley Act of 2002 and other applicable law.

4. Restrictive Covenants. In consideration of the terms of this Award and the Company’s sharing of Confidential Information with the Optionee, the Optionee agrees to the Restrictive Covenants set forth below. For purposes of these Restrictive Covenants, the “Company” means UnitedHealth Group Incorporated and all of any Affiliate and other affiliates.

(a) Confidential Information. The Optionee will be given access to and provided with sensitive, confidential, proprietary and trade secret information (“Confidential Information”) in the course of the Optionee’s employment. Examples of Confidential Information include: inventions; new product or marketing plans; business strategies and plans; merger and acquisition targets; financial and pricing information; computer programs, source codes, models and databases; analytical models; customer lists and information; and supplier and vendor lists and other information which is not generally available to the public. The Optionee agrees not to disclose or use Confidential Information, either during or after the Optionee’s employment with the Company, except as necessary to perform the Optionee’s duties or as the Company may consent in writing.

(b) Non-Solicitation. During the Optionee’s employment and for the greater of two years after the termination of the Optionee’s employment for any reason whatsoever, or the period of time for which the Option remains exercisable, the Optionee may not, without the Company’s prior written consent, directly or indirectly, for the Optionee or for any other person or entity, as agent, employee, officer, director, consultant, owner, principal, partner or shareholder, or in any other individual or representative capacity:

- (i) Solicit or conduct business with any business competitive with the Company from any person or entity: (A) who was a Company provider or customer within the 12 months before Optionee’s

employment termination and with whom Optionee had contact regarding the Company's activity, products or services, or for whom Optionee provided services or supervised employees who provided those services, or about whom the Optionee learned Confidential Information during employment related to the Company's provision of products or services to such Company provider or customer, or (B) was a prospective provider or customer the Company solicited within the 12 months before Optionee's employment termination and with whom Optionee had contact for the purposes of soliciting the person or entity to become a provider or customer of the Company, or supervised employees who had those contacts, or about whom the Optionee learned Confidential Information during employment related to the Company's provision of products or services to such prospective Company provider or customer;

- (ii) Raid, hire, employ, recruit or solicit any Company employee or consultant who possesses Confidential Information of the Company to leave the Company;
- (iii) Induce or influence any Company employee, consultant, or provider who possesses Confidential Information of the Company to terminate his, her or its employment or other relationship with the Company; or
- (iv) Assist anyone in any of the activities listed above.

(c) Non-Competition. During the Optionee's employment and for the greater of one year after the termination of the Optionee's employment for any reason whatsoever or the period of time for which the Option remains exercisable, the Optionee may not, without the Company's prior written consent, directly or indirectly, for the Optionee or for any other person or entity, as agent, employee, officer, director, consultant, owner, principal, partner or shareholder, or in any other individual or representative capacity:

- (i) Engage in or participate in any activity that competes, directly or indirectly, with any Company activity, product or service that Optionee engaged in, participated in, or had Confidential Information about during Optionee's last 36 months of employment with the Company; or
- (ii) Assist anyone in any of the activities listed above.

Notwithstanding the foregoing, this Section 4(c) will apply to the extent permissible under the ABA Model Rules of Professional Conduct's provisions regarding restrictions on the right to practice law or any applicable state counterpart.

(d) Because the Company's business competes on a nationwide basis, the Optionee's obligations under this "Restrictive Covenants" section shall apply on a nationwide basis anywhere in the United States.

(e) To the extent Optionee and the Company agree at any time to enter into separate agreements containing restrictive covenants with different or inconsistent terms than those contained herein, Optionee and the Company acknowledge and agree that such different or inconsistent terms shall not in any way affect or have relevance to the Restrictive Covenants contained herein.

By accepting this Option, the Optionee agrees that the provisions of this Restrictive Covenants section are reasonable and necessary to protect the legitimate interests of the Company.

5. Manner of Exercise. On the terms set forth herein, the Option may be exercised by the Optionee in whole or in part from time to time by delivering notice of exercise (in a form and manner acceptable to the Company) to the Company or the Committee's designated agent, accompanied by payment of the Exercise Price and any applicable withholding taxes (i) in cash, by wire transfer, certified check or bank cashier's check payable to the Company, (ii) by delivery of shares of Common Stock already owned by the Optionee, (iii) by withholding shares of Common Stock from the total number of shares of Common Stock acquired upon exercise under this Award having a fair market value, on the exercise date, equal to the aggregate Exercise Price and any applicable withholding taxes, or (iv) by delivery of a combination of cash, withholding of shares of Common Stock acquired upon exercise of this Award, and/or delivery of shares of Common Stock already owned by the Optionee; provided, that the Optionee shall not be entitled to tender shares of Common Stock pursuant to successive, substantially simultaneous exercises of options to purchase Common Stock. Any shares already owned by the Optionee referred to in the preceding sentence must have been owned by the Optionee for no less than six months prior to the date of exercise of the Option if such shares were acquired upon the exercise of another option or upon the vesting of restricted stock or restricted stock units. To the extent the vested and exercisable portion of the Option remains unexercised as of the close of business on the date the Option expires (the Expiration Date or such earlier date that is the last date on which the Option may be exercised pursuant to the terms of this Award), that portion of the Option will be exercised without any action by the Optionee in accordance with the terms of this Certificate if the Fair Market Value of a Share on that date is at least \$0.01 greater than the Exercise Price and the exercise will result in Optionee receiving at least one Share. Notwithstanding anything to the contrary in this Award, the Company shall not be required to issue or deliver any shares of Common Stock upon exercise of any Option until the requirements of any federal or state securities laws, rules or regulations or other laws or rules (including the rules of any securities exchange) as may be determined by the Company to be applicable have been and continue to be satisfied (including an effective registration of the shares under federal and state securities laws).

6. No Guarantee of Employment. This Award does not confer on the Optionee any right to continued employment or any other relationship with the Company or any Affiliate, nor will it interfere in any way with the right of the Company to terminate Optionee at any time. Optionee's employment with the Company is at will.

7. No Transfer. During the Optionee's lifetime, only the Optionee can exercise the Option. The Optionee may not transfer the Option except by will or the laws of descent and distribution, or pursuant to a domestic relations order as described in the Code or Title I of the Employee Retirement Income Security Act (or the rules promulgated thereunder), to the extent provided in Section 2 (b) entitled "Termination of Option." Any attempt to otherwise transfer the Option shall be void.

8. Special Restriction on Transfer for Certain Optionees. If the Optionee is an officer of the Company within the meaning of Section 16 of the Securities Exchange Act of 1934 and Rule 16a-1 issued thereunder, as such status is reasonably determined from time to time by the Board of Directors of the Company (a "Section 16 Officer"), at any time that the Option is exercised in whole or in part and the Company has theretofore communicated the Optionee's status as a Section 16 Officer to the Optionee, the following special transfer restrictions apply to any shares of Common Stock acquired upon the exercise of the Option. One-third (1/3) of the net number of any shares of Common Stock acquired upon the exercise of the Option at a time when the Optionee is a Section 16 Officer (including any shares of Common Stock or other securities subject to the Option following any adjustment made pursuant to this Option or Section 7 of the Plan) must be retained, and may not be sold or otherwise transferred, for a period of at least one year following the date the Option is exercised. For purposes of this Option, the "net number of any shares of Common Stock acquired" shall mean the number of shares of Common Stock received with respect to the particular exercise after reduction for any shares of Common Stock withheld by or tendered to the Company, or sold on the market, to cover the Exercise Price of the Option and/or to cover any federal, state, local or other payroll, withholding, income or other applicable tax withholding required in connection with the exercise of the Option. The restrictions of this Section 8 are in addition to, and not in lieu of, the restrictions imposed under other Company policies and applicable laws.

9. Adjustments to Option Shares. In the event that any dividend or other distribution (whether in the form of cash, shares of Common Stock, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Shares or other securities of the Company or other similar corporate transaction or event affecting the Shares would be reasonably likely to result in the diminution or enlargement of any of the benefits or potential benefits intended to be made available under the Option (including, without limitation, the benefits or potential benefits of provisions relating to the term, vesting or exercisability of the Option), the Committee shall, in such manner as it shall deem equitable or appropriate in order to prevent such diminution or enlargement of any such benefits or potential benefits, adjust any or all of (a) the number and type of shares (or other securities or other property) subject to the Option and (b) the exercise price with respect to the Option; provided, however, that the number of shares covered by the Option shall always be a whole number. Without limiting the foregoing, if any capital

reorganization or reclassification of the capital stock of the Company, or consolidation or merger of the Company with another entity, or the sale of all or substantially all of the Company's assets to another entity, shall be effected in such a way that holders of the Company's Common Stock shall be entitled to receive stock, securities, cash or other assets with respect to or in exchange for such shares, the Optionee shall have the right to purchase and receive upon the basis and upon the terms and conditions specified in this Award and in lieu of the shares of Common Stock of the Company immediately theretofore purchasable and receivable upon the exercise of the Option, with appropriate adjustments to prevent diminution or enlargement of benefits or potential benefits intended to be made available under the Option, such shares of stock, other securities, cash or other assets as would have been issued or delivered to the Optionee if the Optionee had exercised the Option and had received such shares of Common Stock prior to such reorganization, reclassification, consolidation, merger or sale. The Company shall not effect any such reorganization, consolidation, merger or sale unless prior to the consummation thereof the successor entity (if other than the Company) resulting from such reorganization, consolidation or merger or the entity purchasing such assets shall assume by written instrument the obligation to deliver to the Optionee such shares of stock, securities, cash or other assets as, in accordance with the foregoing provisions, the Optionee may be entitled to purchase or receive.

10. Certain Terminations on or After Change in Control. Notwithstanding the other vesting provisions set forth herein, but subject to the other terms and conditions set forth herein, the Option shall become fully vested and exercisable if, on or within two years after the effective date of a Change in Control, the Optionee ceases to be an employee of the Company or any Affiliate as a result of a termination of employment (i) by the Optionee for Good Reason, (ii) by the Company or any Affiliate without Cause, (iii) at a time when Optionee is eligible for Retirement, (iv) due to Optionee's Disability, or (v) in the circumstances described in Section 2(c). For purposes of this Award:

- (a) "Change in Control" shall mean the sale of all or substantially all of the Company's assets or any merger, reorganization, or exchange or tender offer which, in each case, will result in a change in the power to elect 50% or more of the members of the Board of Directors of the Company; provided, however, that such a sale, merger or other event must also constitute either (i) a "change in the ownership" of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(v), (ii) a "change in the effective control" of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(vi)(A)(1) (replacing "30 percent" with "50 percent" as used in such regulation), or (iii) a change "in the ownership of a substantial portion of the assets" of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(vii).
- (b) "Cause" shall mean Optionee's (a) material failure to follow the Company's reasonable direction or to perform any duties reasonably required on material matters, (b) material violation of, or failure to act upon or report known or suspected violations of, the Company's Code of Conduct, as may be amended from time to time, (c) conviction of any felony, (d) commission of any criminal, fraudulent, or dishonest act in connection with Optionee's

employment, or (e) material breach of any employment agreement between the Optionee and the Company or any Affiliate, if any. The Company will, within 90 days of discovery of the conduct, give Optionee written notice specifying the conduct constituting Cause in reasonable detail and Optionee will have 60 days to remedy such conduct, if such conduct is reasonably capable of being remedied. In any instance where the Company may have grounds for Cause, failure by the Company to provide written notice of the grounds for Cause within 90 days of discovery shall be a waiver of its right to assert the subject conduct as a basis for termination for Cause.

- (c) “Good Reason” shall mean the occurrence of any of the following without Optionee’s written consent, in each case, when compared to the arrangements in effect immediately prior to the Change in Control:
- (i) any reduction in Optionee’s base salary or a significant reduction in Optionee’s total compensation;
 - (ii) a reduction in Optionee’s annual or long-term incentive opportunities; or
 - (iii) a diminution in Optionee’s duties, responsibilities or authority.

Optionee will, within 90 days of discovery of such circumstances, give the Company written notice specifying the circumstances constituting Good Reason in reasonable detail; provided however that this notice period shall be shortened or waived to the extent necessary if compliance with the notice period would cause the termination for Good Reason to occur following the second anniversary of the effective date of the Change in Control. Except as contemplated by the preceding sentence, in any instance where Optionee may have grounds for Good Reason, failure by Optionee to provide written notice of the grounds for Good Reason within 90 days of discovery shall be a waiver of Optionee’s right to assert the subject circumstance as a basis for termination for Good Reason.

11. Narrowed Enforcement and Severability. If a court or arbitrator decides that any provision of this Award is invalid or overbroad, the Optionee agrees that the court or arbitrator should narrow such provision so that it is enforceable or, if narrowing is not possible or permissible, such provision should be considered severed and the other provisions of this Award should be unaffected.

12. Injunctive Relief. The Optionee agrees that (a) legal remedies (money damages) for any breach of the Restrictive Covenants in Section 4 of this Award will be inadequate, (b) the Company will suffer immediate and irreparable harm from any such breach, and (c) the Company will be entitled to injunctive relief from a court in addition to any legal remedies the Company may seek in arbitration.

13. Survival. The Restrictive Covenants and provisions regarding the forfeiture of Options and shares in this Award shall survive the termination of the Option.

14. Other. An original record of this Award and all the terms thereof is held on file by the Company. To the extent there is any conflict between the terms contained

in this Award and the terms contained in the original held by the Company, the terms of the original held by the Company shall control. Neither the Plan nor the Option shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Affiliate and Optionee or any other Person. To the extent that any Person acquires a right to receive payments from the Company or any Affiliate pursuant to an Option, such right shall be no greater than the right of any unsecured creditor of the Company or any Affiliate.

15. Governing Law. The validity, construction and effect of this Award and any rules and regulations relating to this Award shall be determined in accordance with the laws of the State of Delaware (without regard to its conflict of laws principles).

16. Code Section 409A. It is intended that this Award and any amounts payable under this Award shall either be exempt from or comply with Code Section 409A (including the Treasury regulations and other published guidance relating thereto) so as not to subject Optionee to payment of any additional tax, penalty or interest imposed under Code Section 409A. The provisions of this Award certificate shall be construed and interpreted to avoid the imputation of any such additional tax, penalty or interest under Code Section 409A yet preserve (to the nearest extent reasonably possible) the intended benefit payable to Optionee.

Acceptance Date: **02/22/2018**

Signed Electronically/Signed Manually: **Signed Electronically**

I666PV6F

02/22/2018 11:28 AM U.S. Eastern Standard Time

ACCEPTED

EXHIBIT 4

UNITEDHEALTH GROUP

RESTRICTED STOCK UNIT AWARD

Award Date (mm/dd/yyyy) 02/13/2018	Number of Units 133	Final Vesting Date (mm/dd/yyyy) 2/13/2022
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THIS CERTIFIES THAT UnitedHealth Group Incorporated (the “Company”) has on the award date specified above (the “Award Date”) granted to

DAVID W SMITH

(“Participant”) an award (the “Award”) to receive that number of restricted stock units (the “Restricted Stock Units”) indicated above in the box labeled “Number of Units,” each Restricted Stock Unit representing the right to receive one share of UnitedHealth Group Incorporated Common Stock, \$.01 par value per share (the “Common Stock”), subject to certain restrictions and on the terms and conditions contained in this Award and the UnitedHealth Group Incorporated 2011 Stock Incentive Plan (the “Plan”).

The Participant acknowledges and agrees that the Company may deliver, by electronic mail, the use of the Internet, including through the website of the agent appointed by the Committee to administer the Plan, the Company intranet web pages or otherwise, any information concerning the Company, this Award, the Plan, pursuant to which the Company granted this Award, and any information required by the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

A copy of the Plan is available upon request. In the event of any conflict between the terms of the Plan and this Award, the terms of the Plan shall govern. Any terms not defined herein shall have the meaning set forth in the Plan.

* * * * *

1. Rights of the Participant with Respect to the Restricted Stock Units.

(a) No Shareholder Rights. The Restricted Stock Units granted pursuant to this Award do not and shall not entitle Participant to any rights of a shareholder of Common Stock, except as provided below. The rights of Participant with respect to the Restricted Stock Units shall remain forfeitable at all times prior to the date on which such rights become vested, and the restrictions with respect to the Restricted Stock Units lapse, in accordance with Section 2, 3 or 4.

(b) Conversion of Restricted Stock Units; Issuance of Common Stock. No shares of Common Stock shall be issued to Participant prior to the date on which the Restricted Stock Units vest, and the restrictions with respect to the Restricted Stock

Units lapse, in accordance with Section 2, 3 or 4. Neither this Section 1(b) nor any action taken pursuant to or in accordance with this Section 1(b) shall be construed to create a trust of any kind. After any Restricted Stock Units vest pursuant to Section 2, 3 or 4, the Company shall promptly cause to be issued shares of Common Stock to Participant or in the name of Participant's legal representatives, beneficiaries or heirs, as the case may be, in payment of such vested whole Restricted Stock Units, at the times provided in Section 2, 3 or 4, as applicable, unless such payment is deferred in accordance with the terms and conditions of the Company's non-qualified compensation deferral plans.

(c) Dividends. If a cash dividend is declared and paid by the Company with respect to the Common Stock, Participant shall be credited as of the applicable dividend payment date with an additional number of whole and/or fractional Restricted Stock Units (the "Dividend Units") equal to (A) the total cash dividend Participant would have received had Participant's Restricted Stock Units (and any previously credited Dividend Units with respect thereto) been actual shares of Common Stock, divided by (B) the Fair Market Value of a share of Common Stock as of the applicable dividend payment date. As of each vesting date pursuant to Sections 2, 3 or 4, the number of Dividend Units paid on the Restricted Stock Units vesting on such vesting date shall become vested, earned and payable in the form of shares of Common Stock; provided, however, that any vested Dividend Units not converted into a whole share of Common Stock may be converted into a fractional Dividend Unit, cash or carried forward to a future vesting date in accordance with the rules and regulations of agent selected by the Committee to administer the Plan. To the extent Participant's rights to any unvested Restricted Stock Units are forfeited, the Dividend Units paid on such forfeited Restricted Stock Units shall also be forfeited. The terms of this Award certificate shall apply to all Dividend Units paid on the Restricted Stock Units.

2. Vesting. Subject to the terms and conditions of this Award, 25% of the Restricted Stock Units shall vest, and the restrictions with respect to the Restricted Stock Units shall lapse, on each of the first, second, third and fourth anniversaries of the grant date if Participant remains continuously employed by the Company or any Affiliate until the respective vesting dates. Any Restricted Stock Units that vest pursuant to this Section 2 shall be paid to Participant not later than seventy four (74) days after the applicable vesting date.

3. Early Vesting On Certain Terminations On or After Change in Control. Notwithstanding the other vesting provisions contained in Section 2 and Section 4, but subject to the other terms and conditions set forth herein, all of the Restricted Stock Units shall become immediately and unconditionally vested if, on or within two years after the effective date of a Change in Control, the Participant ceases to be an employee of the Company or any Affiliate as a result of a termination of employment (i) by the Participant for Good Reason, (ii) by the Company or any Affiliate without Cause, (iii) at a time when Participant is eligible for Retirement (as defined below), (iv) due to Participant's failure to return to work as the result of a long-term disability which renders Participant incapable of performing his or her duties as determined under the provisions

of the Company's long-term disability insurance program applicable to Participant ("Disability"), or (v) in the circumstances described in Section 4(c). Any Restricted Stock Units that vest pursuant to this Section 3 shall be paid to Participant in a lump sum within thirty (30) days after the date of Participant's Separation from Service. For purposes of this Award:

(a) "Change in Control" shall mean the sale of all or substantially all of the Company's assets or any merger, reorganization, or exchange or tender offer which, in each case, will result in a change in the power to elect 50% or more of the members of the Board of Directors of the Company; provided, however, that such a sale, merger or other event must also constitute either (i) a "change in the ownership" of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(v), (ii) a "change in the effective control" of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(vi)(A)(1) (replacing "30 percent" with "50 percent" as used in such regulation), or (iii) a change "in the ownership of a substantial portion of the assets" of the Company within the meaning of Treasury Regulation 1.409A-3(i)(5)(vii).

(b) "Cause" shall mean Participant's (a) material failure to follow the Company's reasonable direction or to perform any duties reasonably required on material matters, (b) material violation of, or failure to act upon or report known or suspected violations of, the Company's Code of Conduct, as may be amended from time to time, (c) conviction of any felony, (d) commission of any criminal, fraudulent, or dishonest act in connection with Participant's employment, or (e) material breach of any employment agreement between Participant and the Company or any Affiliate, if any. The Company will, within 90 days of discovery of the conduct, give Participant written notice specifying the conduct constituting Cause in reasonable detail and Participant will have 60 days to remedy such conduct, if such conduct is reasonably capable of being remedied. In any instance where the Company may have grounds for Cause, failure by the Company to provide written notice of the grounds for Cause within 90 days of discovery shall be a waiver of its right to assert the subject conduct as a basis for termination for Cause.

(c) "Good Reason" shall mean the occurrence of any of the following without Participant's written consent, in each case, when compared to the arrangements in effect immediately prior to the Change in Control:

- (i) any reduction in Participant's base salary or a significant reduction in Participant's total compensation;
- (ii) a reduction in Participant's annual or long-term incentive opportunities;
or
- (iii) a diminution in Participant's duties, responsibilities or authority.

Participant will, within 90 days of discovery of such circumstances, give the Company written notice specifying the circumstances constituting Good Reason in reasonable detail; provided however that this notice period shall be shortened or waived to the extent necessary if compliance with the notice period would cause the termination for Good Reason to occur following the second anniversary of the effective date of the Change in Control. Except as contemplated by the preceding sentence, in any instance where Participant may have grounds for Good Reason, failure by Participant to provide written notice of the grounds for Good Reason within 90 days of discovery shall be a waiver of Participant's right to assert the subject circumstance as a basis for termination for Good Reason.

(d) "Separation from Service" shall mean when Participant dies, retires, or otherwise has a termination of employment with the Company that constitutes a "separation from service" within the meaning of Treasury Regulation Section 1.409A-1(h)(1), without regard to the optional alternative definitions available thereunder.

(e) Section 409A - Possible Acceleration of Payment. The Committee may provide for payment of the outstanding Restricted Stock Units in accordance with the requirements of Treasury Regulation 1.409A-3(j)(4)(ix)(A), (B) or (C) promulgated under Section 409A of the Code (or any similar successor provision), which regulation generally provides that a deferred compensation arrangement may be terminated in limited circumstances following a dissolution or change in control of the Company. If the outstanding Restricted Stock Units are to be so terminated, they shall be deemed fully vested upon such termination. Notwithstanding anything in the Plan or any other agreement to the contrary, there is no discretion to change the time of payment of the Restricted Stock Units (in connection with a Change in Control, similar event, or otherwise) except as expressly provided in this Section 3 or as otherwise permitted under, and would not result in any tax, penalty or interest under, Section 409A of the Code.

(f) Section 409A - Possible Six-Month Delay in Payment. Notwithstanding any provision of this Award certificate to the contrary, if payment of the Restricted Stock Units is triggered by Participant's Separation from Service as provided in this Section 3 and, as of the date of such Separation from Service, Participant is a "specified employee" (within the meaning of Section 409A of the Code and determined pursuant to procedures adopted by the Company), Participant shall not be entitled to such payment of the Restricted Stock Units until the earlier of (i) the date which is six (6) months after Participant's Separation from Service for any reason other than death, or (ii) the date of Participant's death. Any amounts otherwise payable to Participant upon or in the six (6) month period following Participant's Separation from Service that are not so paid by reason of this Section 3(f) shall be paid (without interest) as soon as practicable (and in all events within thirty (30) days) after the date that is six (6) months after Participant's Separation from Service (or, if earlier, as soon as practicable, and in all events within thirty (30) days, after the date of Participant's death). The provisions of this Section

3(f) shall only apply if, and to the extent, required to avoid the imputation of any tax, penalty or interest pursuant to Section 409A of the Code.

4. Termination of Employment.

(a) Termination of Employment Generally. Except as expressly provided in Section 3 or this Section 4, if, prior to vesting of the Restricted Stock Units pursuant to Section 2, Participant ceases to be an employee of the Company or any Affiliate for any reason (voluntary or involuntary), and does not continue after such cessation of service to be either an employee of the Company or any Affiliate, then Participant's rights to all of the unvested Restricted Stock Units shall be immediately and irrevocably forfeited on the date of termination.

(b) Death. If Participant dies while employed by the Company or any Affiliate, then all unvested Restricted Stock Units shall become immediately vested, and the restrictions with respect to all of the Restricted Stock Units shall lapse, as of the date of such death. Any Restricted Stock Units that vest pursuant to this Section 4(b) shall be paid to Participant's estate not later than 90 days after the date of such death.

(c) Severance. If Participant's employment with the Company or any Affiliate terminates at a time when Participant is not eligible for Retirement (and other than due to Participant's death or Disability) and, in the circumstances, Participant is entitled to severance or separation pay, the following provisions of this Section 4(c) will apply. If Participant is entitled to severance under the Company's severance pay plan as in effect on the date hereof, then the Restricted Stock Units shall continue to vest, and the restrictions with respect to the Restricted Stock Units shall continue to lapse, for the period of such severance that Participant is eligible to receive. If Participant is entitled to severance under an employment agreement entered into with the Company, then vesting of the Restricted Stock Units, and lapsing of their restrictions, shall continue for the period of such severance that Participant would be entitled to receive under that agreement as of the date hereof. If Participant is entitled to separation pay other than under the Company's severance pay plan or an employment agreement, then vesting of the Restricted Stock Units, and lapsing of their restrictions, shall continue for the lesser of the period (i) Participant would have received payments under the severance pay plan as in effect on the date hereof, had Participant been eligible for such payments or (ii) of separation pay. In any case, should Participant's severance or separation pay be paid in a lump sum versus bi-weekly payments, the Restricted Stock Units shall continue to vest for the period of time in which severance or separation pay would have been paid had it been paid bi-weekly. Any Restricted Stock Units that vest pursuant to this Section 4(c) shall be paid to Participant not later than seventy four (74) days after the applicable vesting date of the Restricted Stock Units under the original vesting schedule set forth in Section 2. For avoidance of doubt, any Restricted Stock Units that are unvested on the date of termination of Participant's employment and do not vest under the schedule set forth in Section 2 during the

applicable severance or separation pay period identified above in this Section 4(c) shall be forfeited.

(d) Retirement or Long-Term Disability. If Participant ceases to be an employee of the Company or any Affiliate and either (i) Participant is eligible for Retirement at the time of such termination of employment or (ii) Participant's employment terminates due to Participant's Disability, then the vesting of the Restricted Stock Units shall continue as if such termination of employment had not occurred, subject to provisions set out in the section entitled "Forfeiture of Restricted Stock Units and Shares of Common Stock" below. Any Restricted Stock Units that vest pursuant to this Section 4(d) shall be paid to Participant not later than seventy four (74) days after the applicable vesting date of the Restricted Stock Units under the original vesting schedule set forth in Section 2.

(e) For purposes of this Award, "Retirement" means the termination of employment of a Participant who is age 55 or older with at least ten years of Recognized Employment with the Company or any Affiliate other than by reason of (i) death or Disability or (ii) Cause.

(f) For purposes of this Award, "Recognized Employment" shall include only employment since the Participant's most recent date of hire by the Company or any Affiliate, and shall not include employment with a company acquired by the Company or any Affiliate before the date of such acquisition.

5. Restriction on Transfer. Participant may not transfer the Restricted Stock Units except by will or by the laws of descent and distribution, or pursuant to a domestic relations order as described in the Code or Title I of the Employee Retirement Income Security Act (or the rules promulgated thereunder). Any attempt to otherwise transfer the Restricted Stock Units shall be void.

6. Special Restriction on Transfer for Certain Participants. If Participant is an officer of the Company within the meaning of Section 16 of the Securities Exchange Act of 1934 and Rule 16a-1 issued thereunder, as such status is reasonably determined from time to time by the Board of Directors of the Company (a "Section 16 Officer"), at any time that shares of Common Stock are issued upon the vesting of Restricted Stock Units and the Company has theretofore communicated Participant's status as a Section 16 Officer to Participant, the following special transfer restrictions apply to Participant's Award. One-third (1/3) of the net number of any shares of Common Stock acquired to Participant upon the vesting of Restricted Stock Units at a time when Participant is a Section 16 Officer (including any shares of Common Stock or other securities into which such shares may be converted or exchanged as a result of any adjustment made pursuant to this Award or Section 7 of the Plan) must be retained, and may not be sold or otherwise transferred, for a period of at least one year following the applicable vesting date. For purposes of this Award, the "net number of any shares of Common Stock acquired" shall mean the number of shares issued upon vesting of Restricted Stock Units after reduction for any shares of Common Stock withheld by or tendered to the Company, or sold on the market, to cover any federal, state, local or other payroll, withholding, income or other

applicable tax withholding required in connection with the issuance of the shares. The restrictions of this Section 6 are in addition to, and not in lieu of, the restrictions imposed under other Company policies and applicable laws.

7. Forfeiture of Restricted Stock Units and Shares of Common Stock. This section sets forth circumstances under which Participant shall forfeit all or a portion of the Restricted Stock Units, or be required to repay the Company for the value realized in respect of all or a portion of the Restricted Stock Units.

(a) Violation of Restrictive Covenants. If Participant violates any provision of the Restrictive Covenants set forth in Section 8 below, then any unvested Restricted Stock Units shall be immediately and irrevocably forfeited without any payment therefor. In addition, for any Restricted Stock Units that vested within one year prior to Participant's termination of employment with the Company or any Affiliate or at any time after such termination of employment, the Participant shall be required, upon demand, to repay or otherwise reimburse the Company (including by forfeiting any deferred compensation credits in respect of such Restricted Stock Units under the Company's non-qualified compensation deferral plans) an amount having a value equal to the aggregate Fair Market Value of the shares of Common Stock underlying such Restricted Stock Units on the date the Restricted Stock Units became vested.

(b) In General. This section does not constitute the Company's exclusive remedy for Participant's violation of the Restrictive Covenants or commission of fraudulent conduct. As the forfeiture and repayment provisions are not adequate remedies at law, the Company may seek any additional legal or equitable remedy, including injunctive relief, for any such violations. The provisions in this section are essential economic conditions to the Company's grant of Restricted Stock Units to Participant. By receiving the grant of Restricted Stock Units hereunder, Participant agrees that the Company may deduct from any amounts it owes Participant from time to time (such as wages or other compensation, deferred compensation credits, vacation pay, any severance or other payments owed following a termination of employment, as well as any other amounts owed to the Participant by the Company) to the extent of any amounts Participant owes the Company under this section. The provisions of this section and any amounts repayable by Participant hereunder are intended to be in addition to any rights to repayment the Company may have under Section 304 of the Sarbanes-Oxley Act of 2002 and other applicable law.

8. Restrictive Covenants. In consideration of the terms of this Award and the Company's sharing of Confidential Information with the Participant, Participant agrees to the Restrictive Covenants set forth below. For purposes of the Restrictive Covenants, the "Company" means UnitedHealth Group and all of its subsidiaries and other affiliates.

(a) Confidential Information. Participant has or will be given access to and provided with sensitive, confidential, proprietary and/or trade secret information (collectively, "Confidential Information") in the course of Participant's

employment. Examples of Confidential Information include inventions, new product or marketing plans, business strategies and plans, merger and acquisition targets, financial and pricing information, computer programs, source codes, models and data bases, analytical models, customer lists and information, and supplier and vendor lists and other information which is not generally available to the public. Participant agrees not to disclose or use Confidential Information, either during or after Participant's employment with the Company, except as necessary to perform Participant's duties or as the Company may consent in writing.

(b) Non-Solicitation. During Participant's employment and for two years after the later of (i) the termination of Participant's employment for any reason whatsoever or (ii) the last scheduled vesting date under Section 4, Participant may not, without the Company's prior written consent, directly or indirectly, for Participant or for any other person or entity, as agent, employee, officer, director, consultant, owner, principal, partner or shareholder, or in any other individual or representative capacity:

- (i) Solicit or conduct business with any business competitive with the Company from any person or entity: (A) who was a Company provider or customer within the 12 months before Participant's employment termination and with whom Participant had contact regarding the Company's activity, products or services, or for whom Participant provided services or supervised employees who provided those services, or about whom Participant learned Confidential Information during employment related to the Company's provision of products and services to such person or entity, or (B) was a prospective provider or customer the Company solicited within the 12 months before Participant's employment termination and with whom Participant had contact for the purposes of soliciting the person or entity to become a provider or customer of the Company, or supervised employees who had those contacts, or about whom Participant learned Confidential Information during employment related to the Company's provision of products and services to such person or entity;
- (ii) Raid, hire, employ, recruit or solicit any Company employee or consultant who possesses Confidential Information of the Company to leave the Company;
- (iii) Induce or influence any Company employee, consultant, or provider who possesses Confidential Information of the Company to terminate his, her or its employment or other relationship with the Company; or
- (iv) Assist anyone in any of the activities listed above.

(c) Non-Competition. During Participant's employment and for one year after the later of (i) the termination of Participant's employment for any reason whatsoever or (ii) the last scheduled vesting date under Section 4, Participant may not, without the Company's prior written consent, directly or indirectly, for Participant or for any other person or entity, as agent, employee, officer, director, consultant, owner, principal, partner or shareholder, or in any other individual or representative capacity:

- (i) Engage in or participate in any activity that competes, directly or indirectly, with any Company activity, product or service that Participant engaged in, participated in, or had Confidential Information about during Participant's last 36 months of employment with the Company; or
- (ii) Assist anyone in any of the activities listed above.

Notwithstanding the foregoing, this Section 8(c) will apply to the extent permissible under the ABA Model Rules of Professional Conduct's provisions regarding restrictions on the right to practice law or any applicable state counterpart.

(d) Because the Company's business competes on a nationwide basis, the Participant's obligations under this "Restrictive Covenants" section shall apply on a nationwide basis anywhere in the United States.

(e) To the extent Participant and the Company agree at any time to enter into separate agreements containing restrictive covenants with different or inconsistent terms than those contained herein, Participant and the Company acknowledge and agree that such different or inconsistent terms shall not in any way affect or have relevance to the Restrictive Covenants contained herein.

By accepting this Restricted Stock Unit Award, Participant agrees that the provisions of this Restrictive Covenants section are reasonable and necessary to protect the legitimate interests of the Company.

9. Adjustments to Restricted Stock Units. In the event that any dividend or other distribution (whether in the form of cash, shares of Common Stock, other securities or other property), recapitalization, stock split, reverse stock split, reorganization, merger, consolidation, split-up, spin-off, combination, repurchase or exchange of Common Stock or other securities of the Company or other similar corporate transaction or event affecting the Common Stock would be reasonably likely to result in the diminution or enlargement of any of the benefits or potential benefits intended to be made available under the Award (including, without limitation, the benefits or potential benefits of provisions relating to the vesting of the Restricted Stock Units), the Committee shall, in such manner as it shall deem equitable or appropriate in order to prevent such diminution or enlargement of any such benefits or potential benefits, make adjustments to the Award,

including adjustments in the number and type of shares of Common Stock Participant would have received upon vesting of the Restricted Stock Units.

10. Tax Matters.

(a) In order to comply with all applicable federal, state and local tax laws or regulations, the Company may take such action as it deems appropriate to ensure that all applicable federal, state and local payroll, withholding, income or other taxes, which are the sole and absolute responsibility of Participant, are withheld or collected from Participant.

(b) On each applicable vesting date, Participant will be deemed to have elected to satisfy Participant's minimum required federal, state, and local payroll, withholding, income or other tax withholding obligations arising from the receipt of shares or the lapse of restrictions relating to the Restricted Stock Units, by having the Company withhold a portion of the shares of Common Stock otherwise to be delivered having a Fair Market Value equal to the amount of such taxes (but only to the extent of the minimum amount required to be withheld under applicable laws or regulations).

11. Miscellaneous.

(a) This Award does not confer on Participant any right to continued employment or any other relationship with the Company or any Affiliate, nor will it interfere in any way with the right of the Company to terminate Participant at any time. Participant's employment with the Company is at will.

(b) Neither the Plan nor this Award shall create or be construed to create a trust or separate fund of any kind or a fiduciary relationship between the Company or any Affiliate and Participant or any other Person. To the extent that any Person acquires a right to receive payments from the Company or any Affiliate pursuant to an Award, such right shall be no greater than the right of any unsecured creditor of the Company or any Affiliate.

(c) The Company shall not be required to deliver any shares of Common Stock upon the vesting of any Restricted Stock Units until the requirements of any federal or state securities laws, rules or regulations or other laws or rules (including the rules of any securities exchange) as may be determined by the Company to be applicable have been and continue to be satisfied (including an effective registration of the shares under federal and state securities laws).

(d) An original record of this Award and all the terms hereof, executed by the Company, is held on file by the Company. To the extent there is any conflict between the terms contained in this Award and the terms contained in the original held by the Company, the terms of the original held by the Company shall control.

(e) If a court or arbitrator decides that any provision of this Award is invalid or overbroad, Participant agrees that the court or arbitrator should narrow such provision so that it is enforceable or, if narrowing is not possible or permissible, such provision should be considered severed and the other provisions of this Award should be unaffected.

(f) Participant agrees that (i) legal remedies (money damages) for any breach of the Restrictive Covenants in Section 8 will be inadequate, (ii) the Company will suffer immediate and irreparable harm from any such breach, and (iii) the Company will be entitled to injunctive relief from a court in addition to any legal remedies the Company may seek in arbitration.

(g) The Restrictive Covenants in this Award and the provisions regarding the forfeiture of Restricted Stock Units and shares of Common Stock shall survive termination of the Restricted Stock Units.

(h) The validity, construction and effect of this Award and any rules and regulations relating to this Award shall be determined in accordance with the laws of the State of Delaware (without regard to its conflict of law principles).

(i) It is intended that this Award and any amounts payable under this Award shall either be exempt from or comply with Section 409A of the Code (including the Treasury regulations and other published guidance relating thereto) so as not to subject Participant to payment of any additional tax, penalty or interest imposed under Section 409A of the Code. The provisions of this Award certificate shall be construed and interpreted to avoid the imputation of any such additional tax, penalty or interest under Section 409A of the Code yet preserve (to the nearest extent reasonably possible) the intended benefit payable to Participant.

Acceptance Date: **02/22/2018**

Signed Electronically/Signed Manually: **Signed Electronically**

I666QHZR

02/22/2018 11:31 AM U.S. Eastern Standard Time

ACCEPTED

EXHIBIT 5

The Code of Conduct and Employee Handbook Acknowledgement Form

DAVID SMITH

The Code of Conduct and Employee Handbook Acknowledgement Form

UNITEDHEALTH GROUP CODE OF CONDUCT: OUR PRINCIPLES OF ETHICS & INTEGRITY

I understand that it is of the highest importance to UnitedHealth Group Incorporated and its affiliated companies and subsidiaries ('UnitedHealth Group' or 'Company') to conduct its business and operations in compliance with applicable law and sound business ethics. I understand that it is my obligation to comply with UnitedHealth Group's Code of Conduct ('Code'), including the obligation to report to the Company any violations of the law, the Company's contractual obligations, or any of the Company's policies, including the Code. I will carry out my responsibilities for UnitedHealth Group in accordance with the applicable law and the Company's contracts and policies.

I understand the most current version of the Code is available on the Compliance and Ethics Web site on Frontier, UnitedHealth Group's intranet and on UnitedHealth Group's Internet site (<http://www.unitedhealthgroup.com/~media/UHG/PDF/About/UNH-Code-of-Conduct.ashx>). I also understand that I am responsible for reviewing the Code promptly upon my employment with UnitedHealth Group, whenever I have questions about appropriate business conduct, and at least annually during my employment.

EMPLOYEE HANDBOOK

I also acknowledge that I am responsible for reading the UnitedHealth Group Employee Handbook ('Employee Handbook') promptly upon beginning employment with the Company. I understand this document contains important information regarding the general employment policies of the Company and my obligations as an employee. I will carry out my responsibilities for UnitedHealth Group in accordance with the applicable policies set forth in the Employee Handbook.

I understand that the most current version of the Employee Handbook is available on Frontier (from Frontier, select HRdirect, then Policies and Procedures) or on the Internet (go to (<https://hrdirect.unitedhealthgroup.com>), then select Policies and Procedures). I also understand that I am responsible for reviewing the Employee Handbook promptly upon my employment with UnitedHealth Group, whenever I have questions about employment related matters, and at least annually during my employment. If, for any reason, I do not have access to the online Employee Handbook, I will request that my manager provide me with this information.

AT-WILL EMPLOYMENT

I understand that the provisions in the Employee Handbook are guidelines, and, except for the provisions of the Employment Arbitration Policy, do not establish a contract or any particular terms or conditions of employment between UnitedHealth Group and myself. None of the policies constitute or are intended to constitute a promise of employment. I further understand that UnitedHealth Group may periodically, at its discretion, change, rescind, or add to any policy, benefit or practice with or without prior notice.

I understand that the employment relationship is 'at will' and is based upon the mutual consent of UnitedHealth Group and myself. Accordingly, I agree that UnitedHealth Group or I may terminate the employment relationship at any time and for any reason, with or without notice or prior discipline. I understand that only the Chief Executive Officer, the Executive Vice President of Human Capital, or the Senior Vice President of Employee Relations, in a written and signed document, has the authority to make a binding contract or promise relating to employment or to modify "at-will" employment for any employee under any circumstance.

SPECIAL ACKNOWLEDGEMENTS

I acknowledge that I will specifically review the policies referenced below promptly upon beginning employment with UnitedHealth Group and I agree to abide by these policies:

Sexual and Other Harassment

Harassment based on age, race, gender, color, religion, national origin, disabilities, genetic information, marital status, covered veteran status, sexual orientation, gender identity and/or expression, status with respect to public assistance, or any other characteristic protected under state, federal or local law is prohibited in any form at the workplace, at work related functions, anywhere UnitedHealth Group employees are performing their jobs, or anywhere outside of work if such conduct affects the workplace. Employees who believe they are being harassed must immediately report the incident to their manager, HRdirect, or the Compliance & Ethics HelpCenter. Retaliation against any employee who reports a suspected incident of harassment in good faith is strictly prohibited. I understand UnitedHealth Group's prohibition against harassment, the procedure for reporting incidents of harassment, and UnitedHealth Group's prohibition against retaliation, and I agree to abide by these policies.

Confidentiality and Data Security

I acknowledge that in carrying out my assigned responsibilities as an employee of UnitedHealth Group, I may be given access to sensitive, confidential, proprietary and/or trade secret information owned by UnitedHealth Group and others. Such information includes the following, by way of example: inventions, new product or marketing plans, business strategies and plans, detailed financial information and pricing information, computer programs, models and data bases (including, without limitation, source codes), designs, analytical models, customer lists and customer information, supplier and vendor lists, and supplier and vendor information.

I further acknowledge that I may be given access to physician, provider and member specific data or information that is considered sensitive and confidential by such persons and UnitedHealth Group.

I agree that I will not disclose or use this sensitive, confidential, proprietary or trade secret information at any time, either during or after my employment, except at the request of UnitedHealth Group. I also understand that this sensitive, confidential, proprietary and trade secret information includes not only that information which is contained in written or digitized Company documents but also includes all such information which I may commit to memory during the course of my job. Nothing in this policy prohibits me from making disclosures that are protected under law or reporting violations of state of state or federal law or regulation to governmental agencies or entities.

I understand that UnitedHealth Group may provide me with access to e-mail, telephone extensions and the Internet for the purpose of performing the duties and responsibilities of my position. I acknowledge that UnitedHealth Group may monitor both the volume and content of my e-mail, telephone and Internet transmissions in a manner consistent with federal and state laws.

OWNERSHIP OF INVENTIONS & WEB PROPERTIES

I agree to assign (both during and after my employment with UnitedHealth Group) and hereby assign to UnitedHealth Group all rights, titles and interests I may have in any invention, computer program, discovery, idea, writing, improvement, process, technique or other works (collectively called "Inventions") whether or not patentable or registrable under copyright or similar statutes, created or conceived by me, either alone or jointly with others, during my employment with UnitedHealth Group that:

- relates in any manner to the actual or anticipated business, research, or development of UnitedHealth Group;
- results from work assigned to or performed by me for UnitedHealth Group; and/or
- is conceived of or made with the use of UnitedHealth Group systems, equipment, supplies, materials, facilities, computer programs, confidential information and/or trade secret information.

I will, both during and after my employment, promptly disclose in writing to UnitedHealth Group (either to HRdirect or via email sent to iplegal@uhg.com any interest I may have in any Invention created or conceived by me, either alone or jointly with others, during my employment with UnitedHealth Group. I will also promptly disclose in writing to UnitedHealth Group any interest I may have in any Invention created or conceived by me, either alone or jointly with others, prior to employment with UnitedHealth Group that relates to the actual or anticipated business, research, or development of UnitedHealth Group.

Further, I agree to transfer and assign (both during and after my employment with UnitedHealth Group), and do hereby assign to UnitedHealth Group all rights, titles, and interests in and to any domain name or social media account (collectively called "Web Properties") registered or owned by me that:

- was registered with the intent to be used by UnitedHealth Group; and/or
- relates in any manner to, or is used to comment on, the actual or anticipated business of UnitedHealth Group; and/or
- contains a registered or common law trademark of UnitedHealth Group.

I will at all times, even after termination of my employment, do whatever UnitedHealth Group reasonably requests of me to assign any Inventions and/or Web Properties to UnitedHealth Group that were created, conceived, or registered by me, either alone or jointly with others, during my employment with UnitedHealth Group and to assist UnitedHealth Group in securing rights in the Inventions and/or Web Properties, including but not limited to filing patent applications.

This agreement does not apply to Inventions that meet all of the following criteria:

- No UnitedHealth Group equipment, supplies, facilities, proprietary or trade secret information was used in its creation;

It was developed entirely on my own time;

- At the time of conception or reduction to practice it does not relate directly to UnitedHealth Group's business;
- At the time of conception or reduction to practice, it does not relate to UnitedHealth Group's actual or demonstrably anticipated research or development; and
- It does not result from any work performed by me for UnitedHealth Group.

PROHIBITION AGAINST HIRING AND RECRUITING

During my employment with UnitedHealth Group and for the one-year period following termination of my employment, I agree that I will not, directly or indirectly, hire or employ any employee of UnitedHealth Group, or recruit, solicit or induce (or in any way assist another in recruiting, soliciting or inducing) any employee or consultant of UnitedHealth Group to terminate his or her employment or other relationship with UnitedHealth Group.

I also acknowledge that this covenant and the above restriction on using the Company's sensitive, confidential, proprietary and trade secret information are necessary to protect the legitimate business interests of the Company and to avoid disruption of the Company's business.

REVISIONS

No revisions to this Acknowledgement are effective unless agreed to in writing by an officer of the Company.


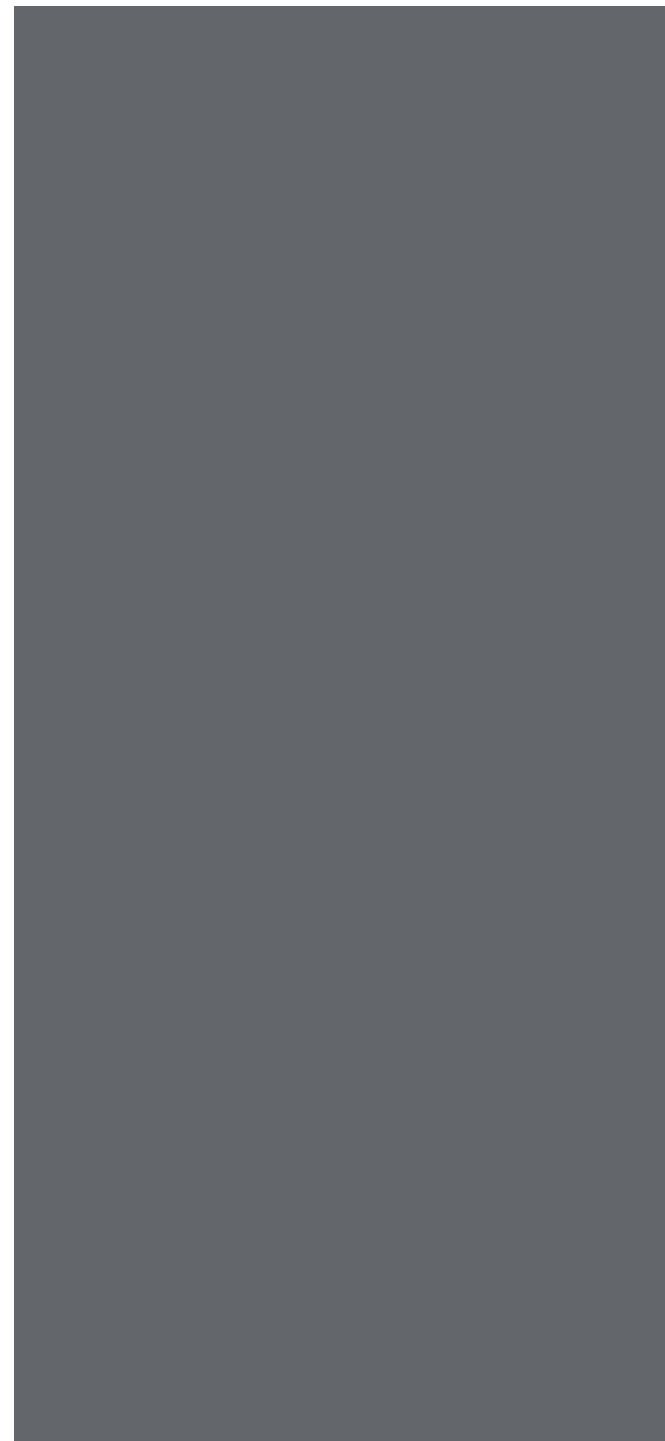
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	Date Received: 08/02/2016

EXHIBIT 6

Market Segment Trends Factbook

September 12, 2018

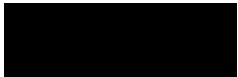


Contents

1. Consumer
2. Employer
3. Payer
4. Government
5. Provider
6. PBM and Life Sciences



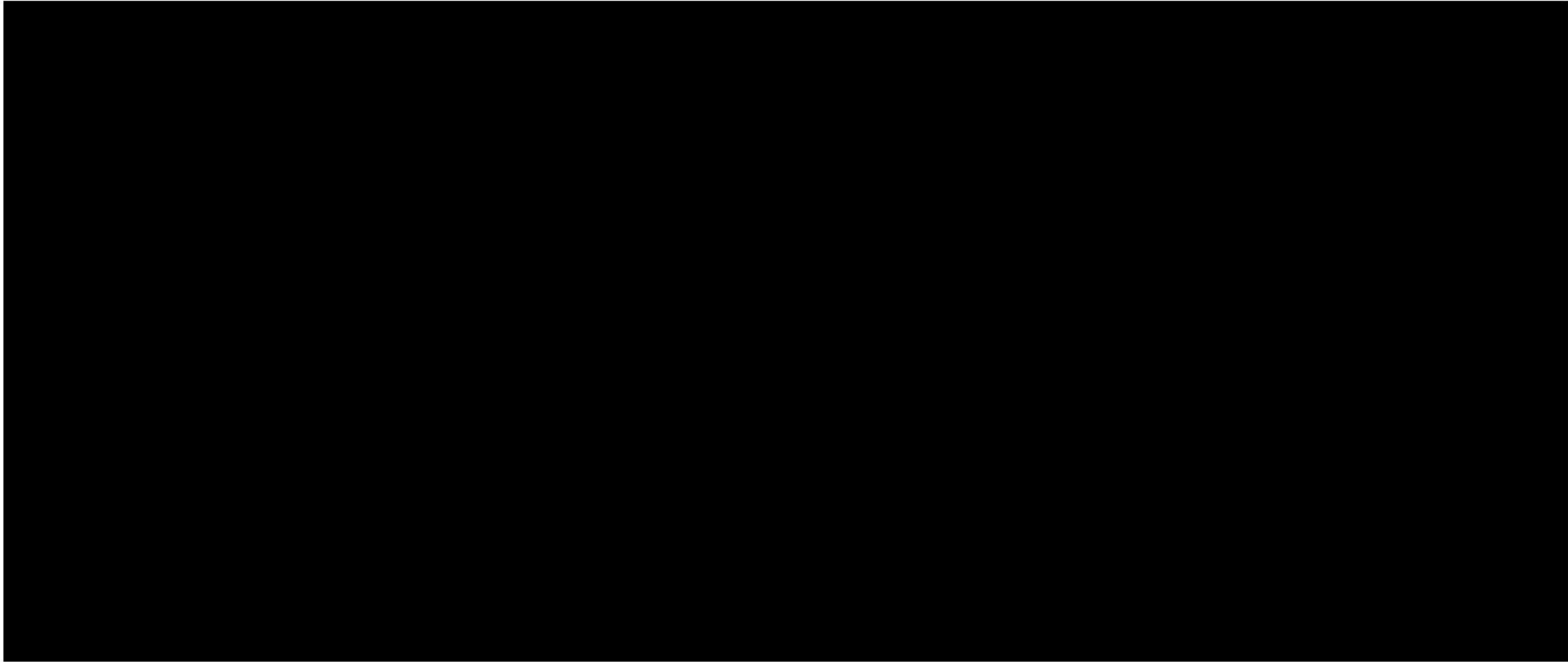
Consumer Trends



Summary Consumer Takeaways

Major Consumer Trends

Implications / Key Hypotheses



Employer Trends



Employer Trends and Implications

Major Employer Trends

Implications / Key Hypotheses



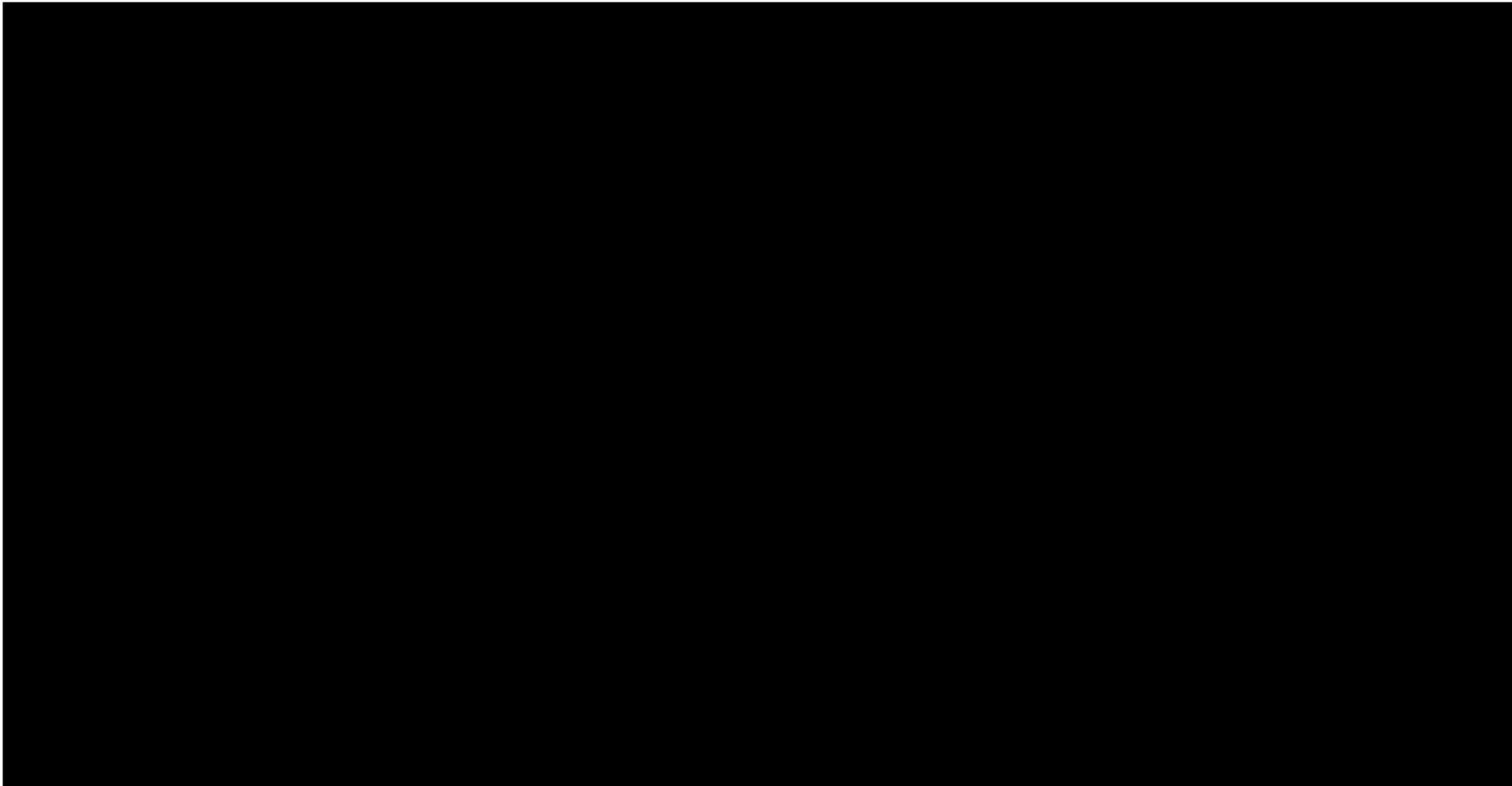
Payer Trends



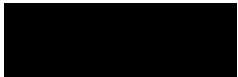
Payer Trends and Implications

Major Trends

Implications / Key Hypotheses



Government Trends



Consumer

Employer

Payer

Government

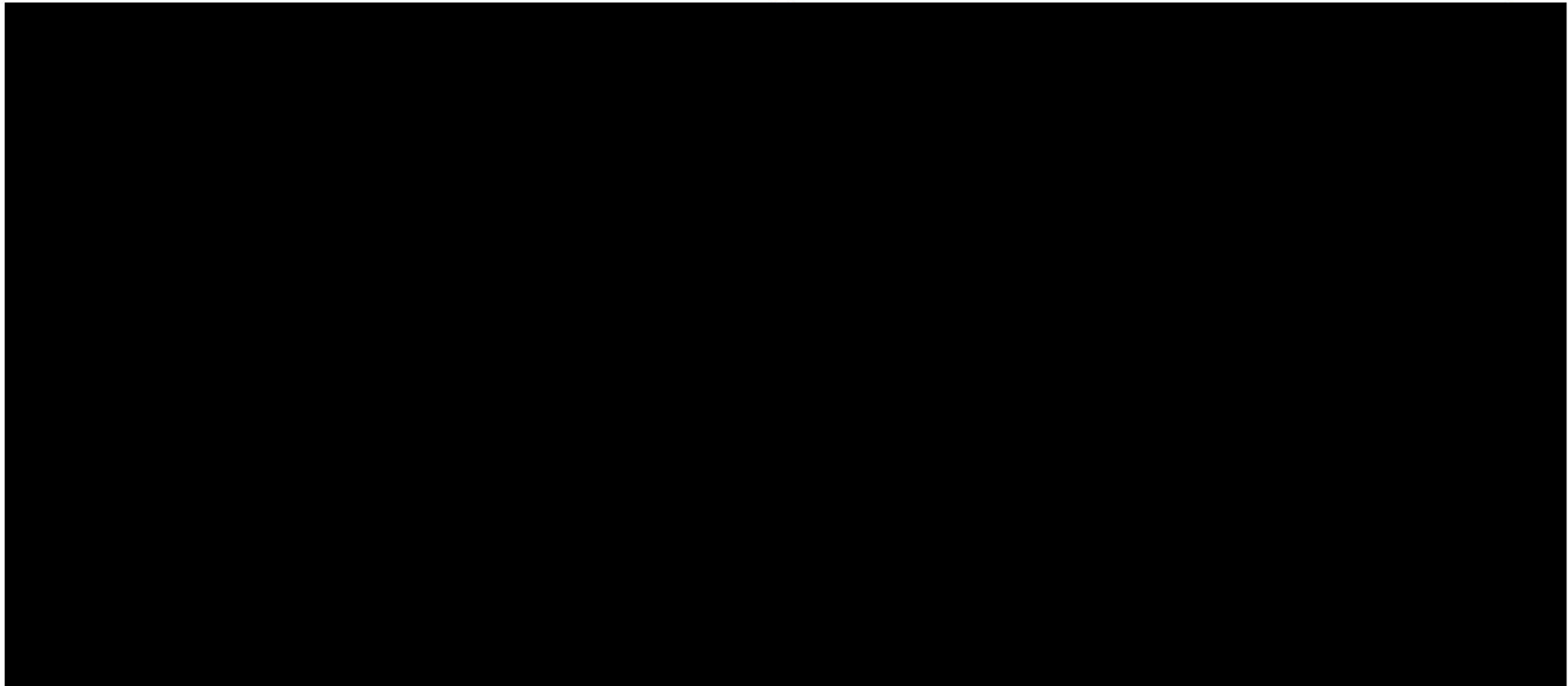
Provider

PBM/LS

Government Trends and Implications

Major Government Trends

Implications / Key Hypotheses



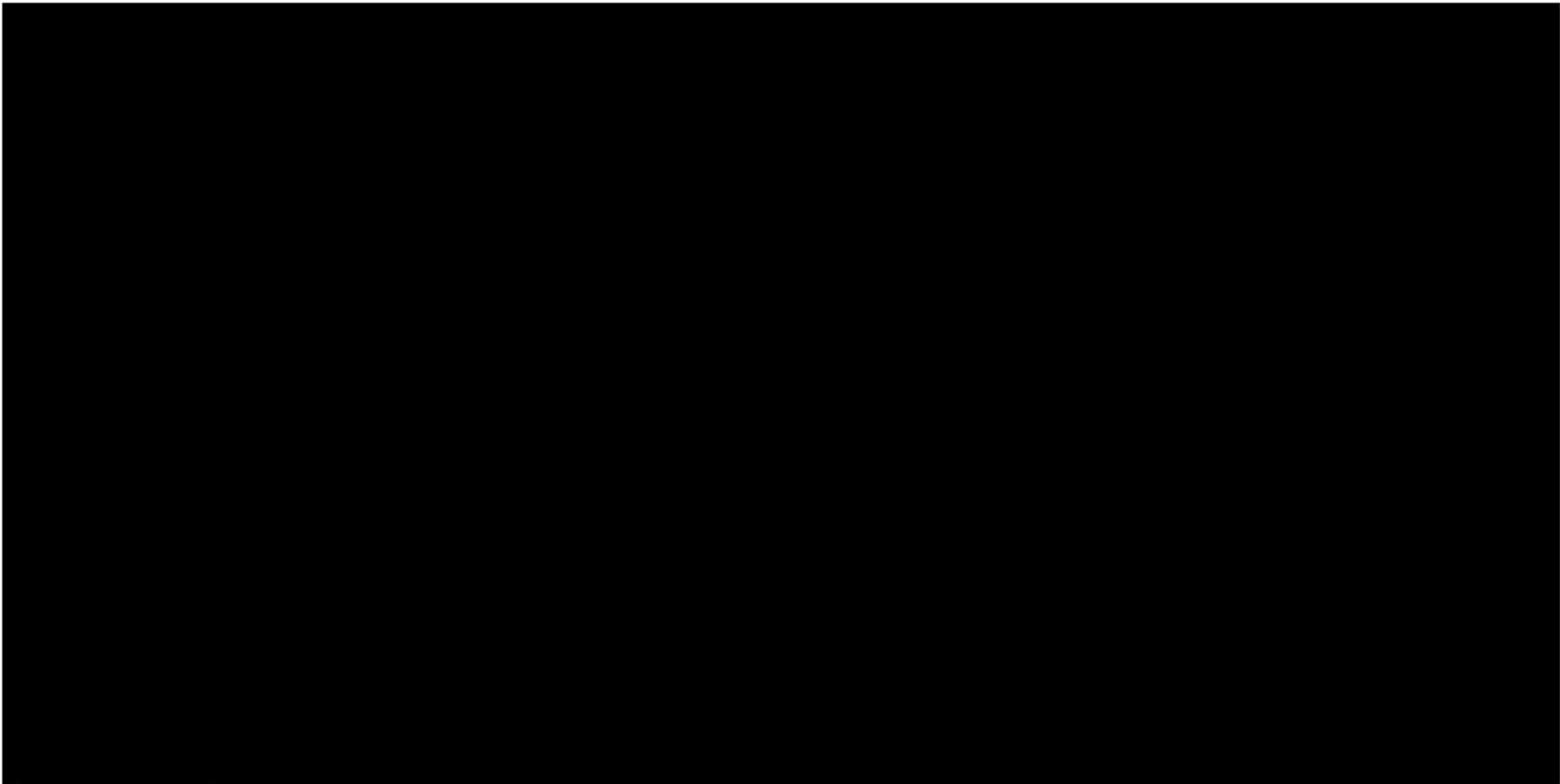
Provider Trends



Provider Trends and Implications

Major Provider Trends

Implications / Key Hypotheses



PBM and Life Sciences Trends



PBM and Life Sciences Trends and Implications

Major Trends

Implications / Key Hypotheses

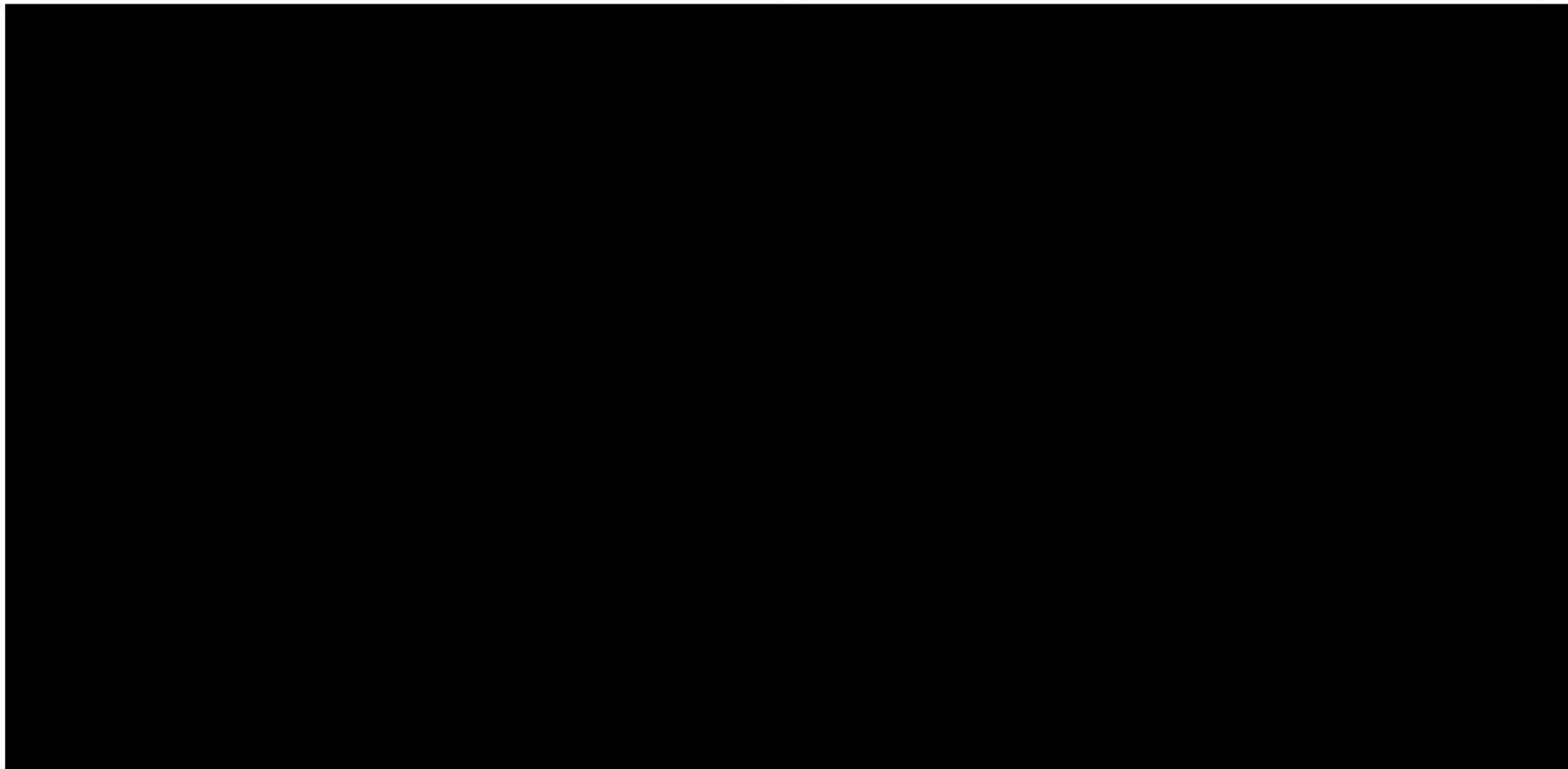


EXHIBIT 7

PRESENTATION VIEW

NB: View in Notes view to see
the script

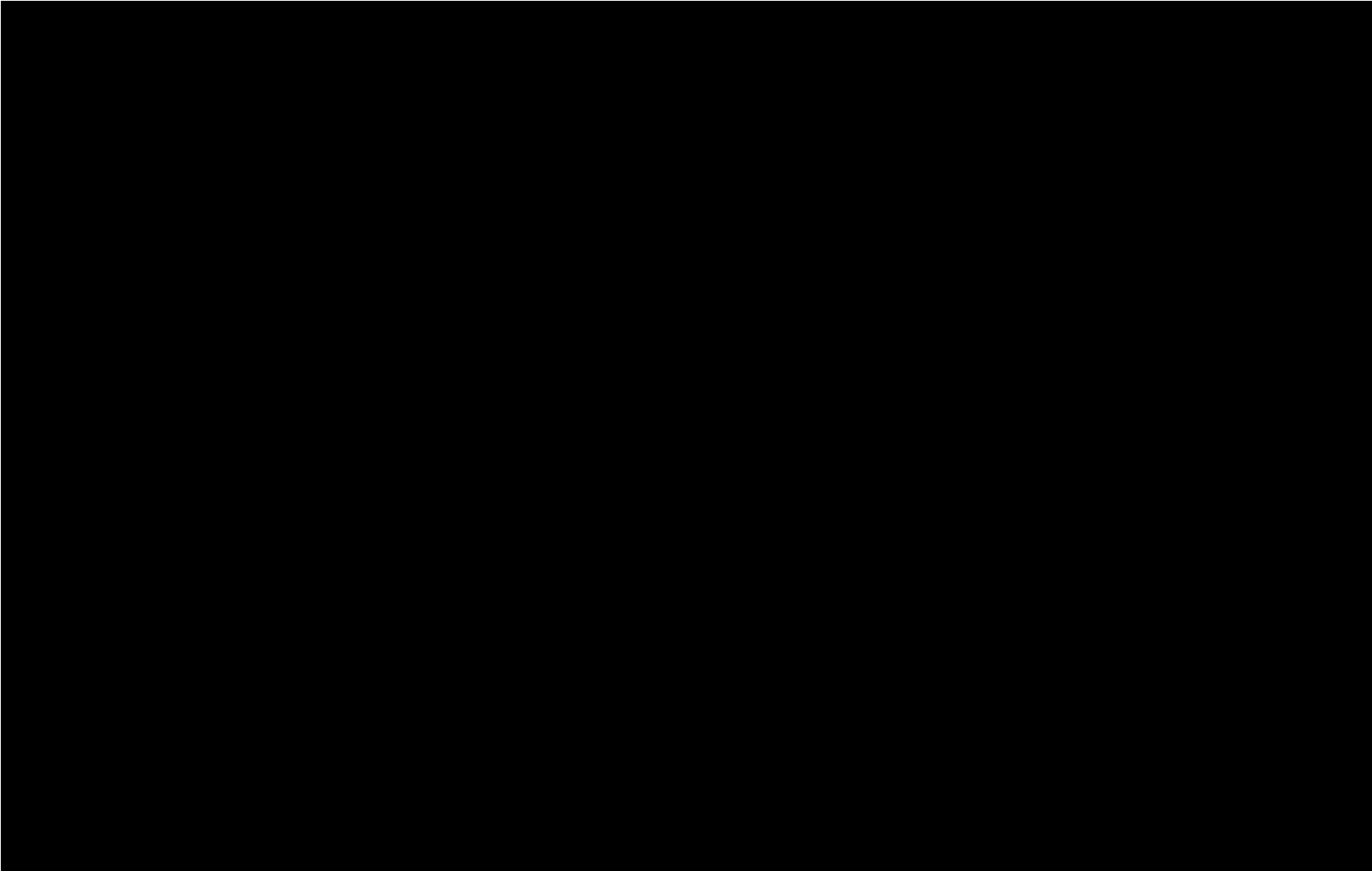
Optum Enterprise Strategy

Summary

Fall 2018



Optum Enterprise Strategy – Executive Summary

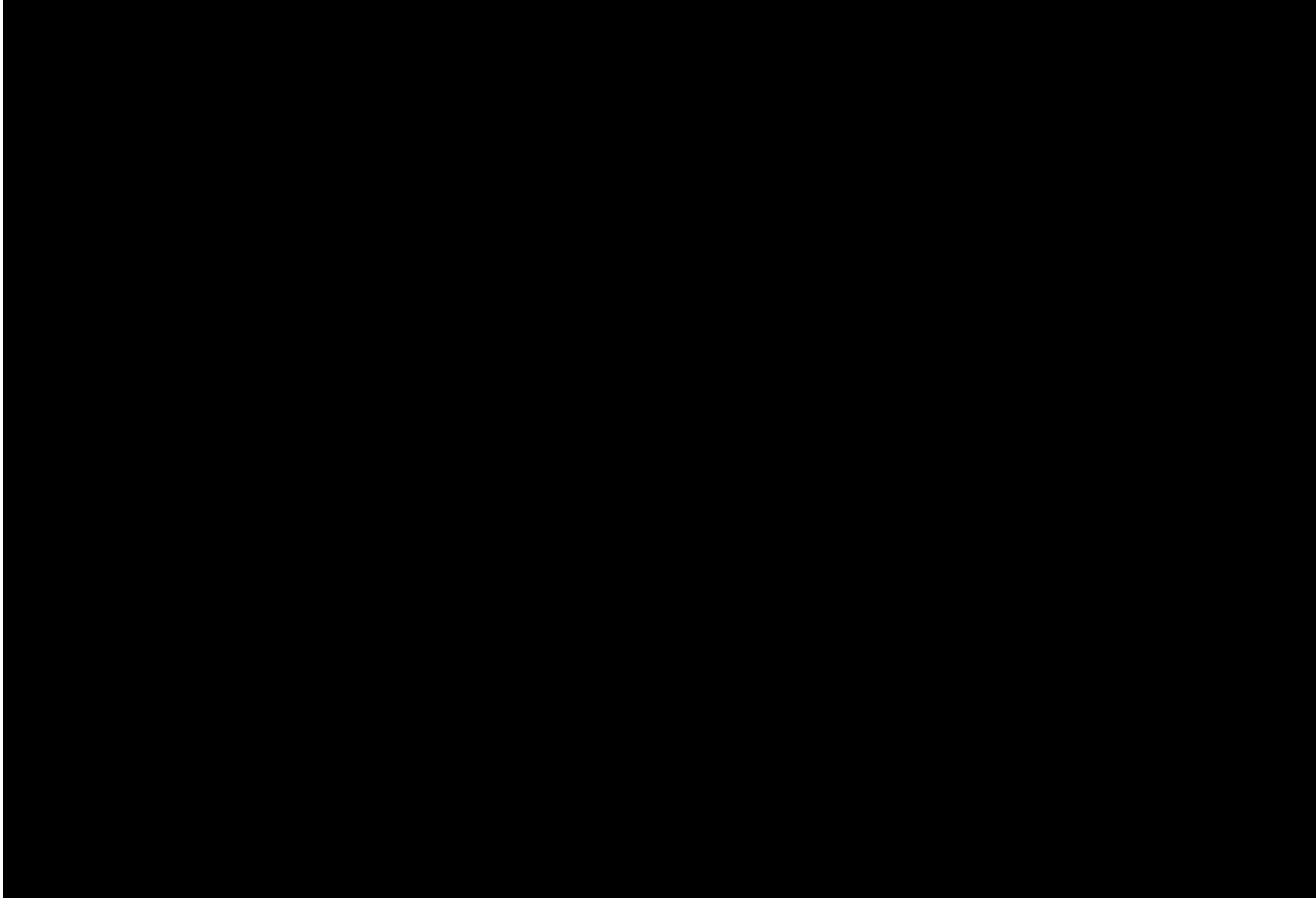


Optum Today

Optum has built a truly distinctive set of capabilities to help people live healthier lives and help make the health care system work better for everyone



Macro Healthcare Trends



Optum Mission and Aspiration

Optum is in a unique position to transform healthcare in the US

Optum's mission...

To help people live healthier lives and help make the health care system work better for everyone

...manifests itself in our aspiration

To improve the outcomes and experiences for everyone we serve while reducing the total cost of care

Note: Success will be measured on a per capita basis



Health 2.0 – Overview

In the future, managing health is simple, effective, and lower cost

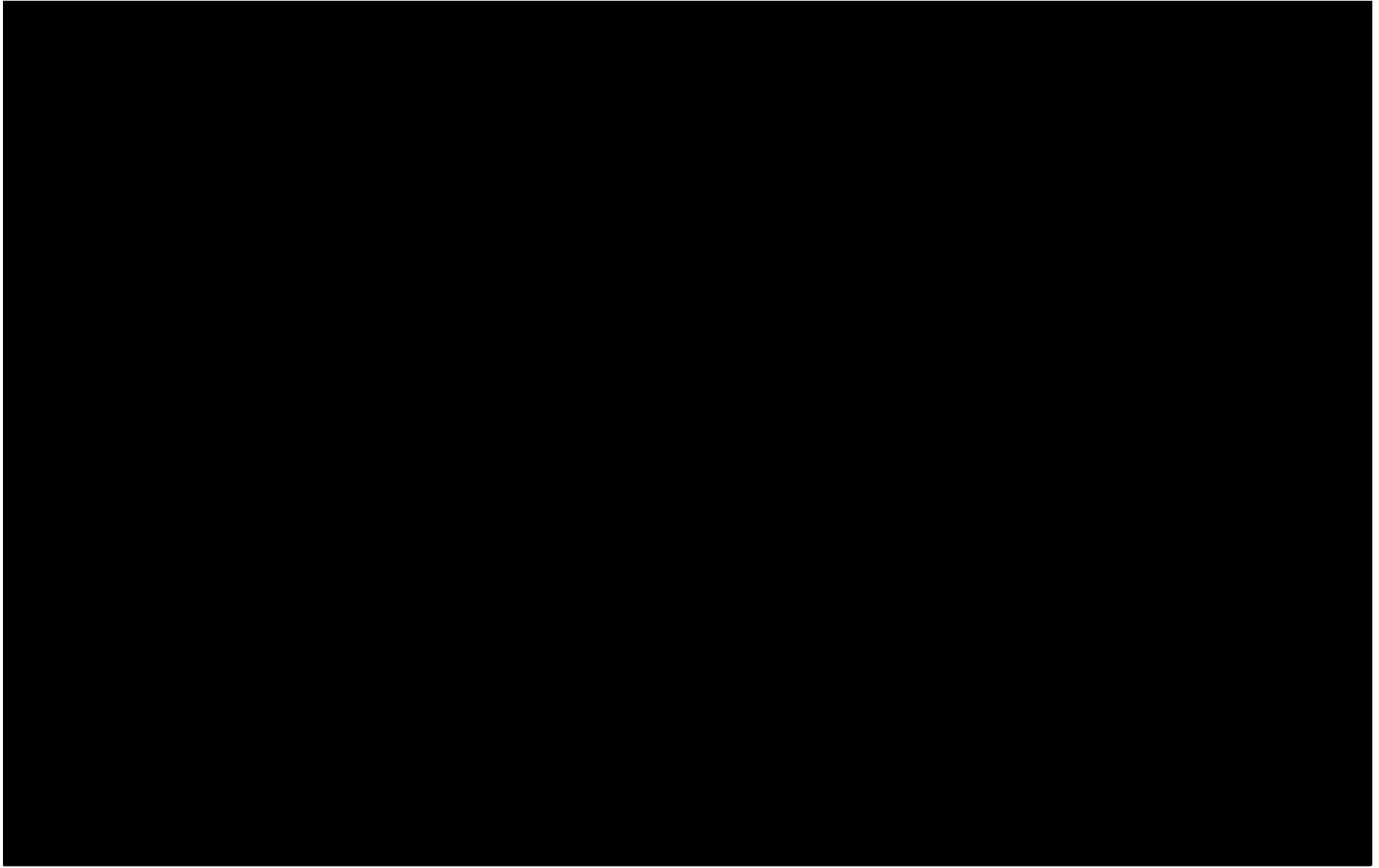
Simple

Effective

Lower Cost

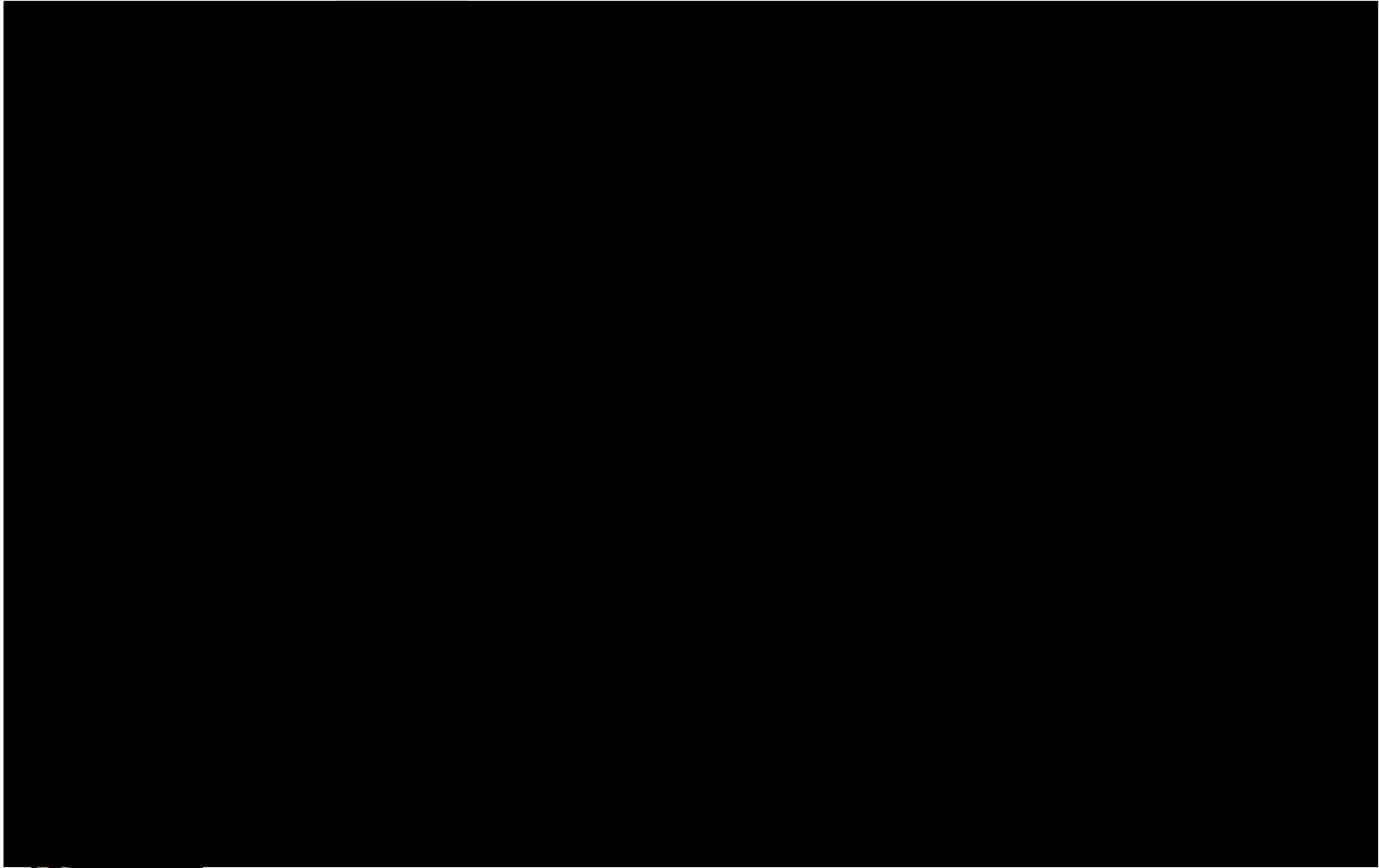


Optum Enterprise Strategic Approach



Description of Foundational Competencies & Delivery Models

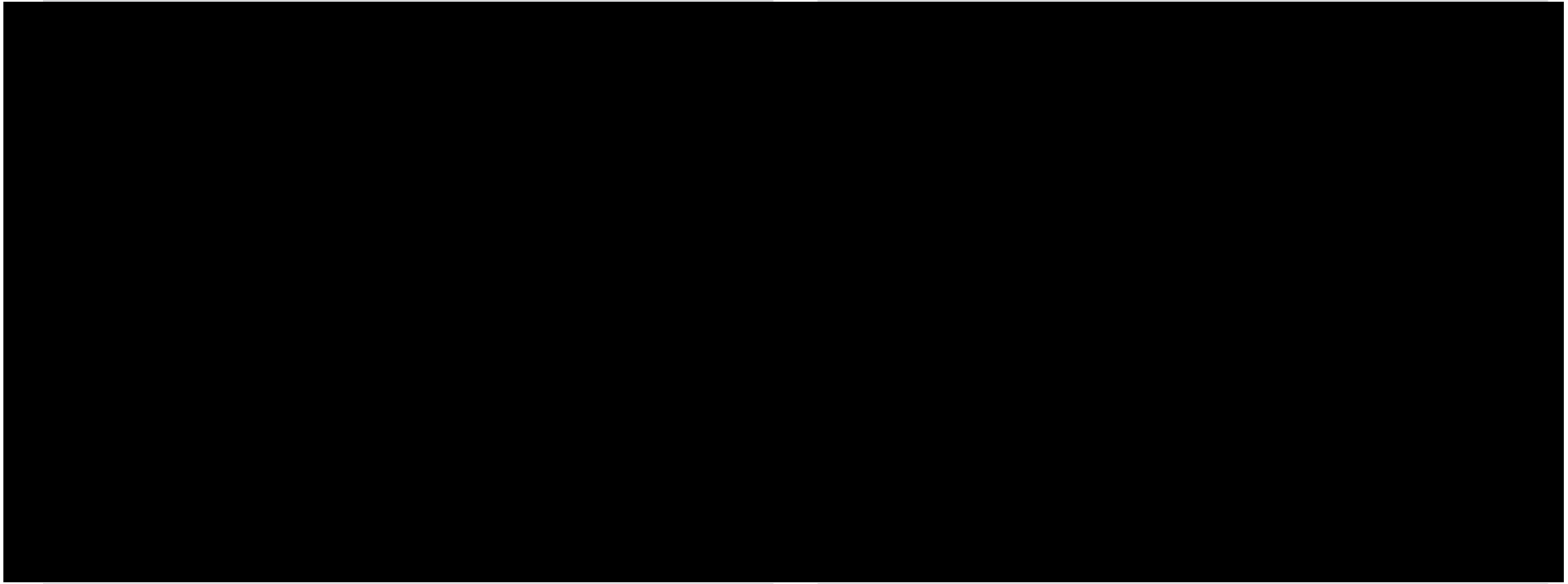
Description



Foundational Competency: Clinical Expertise

Problem Statement

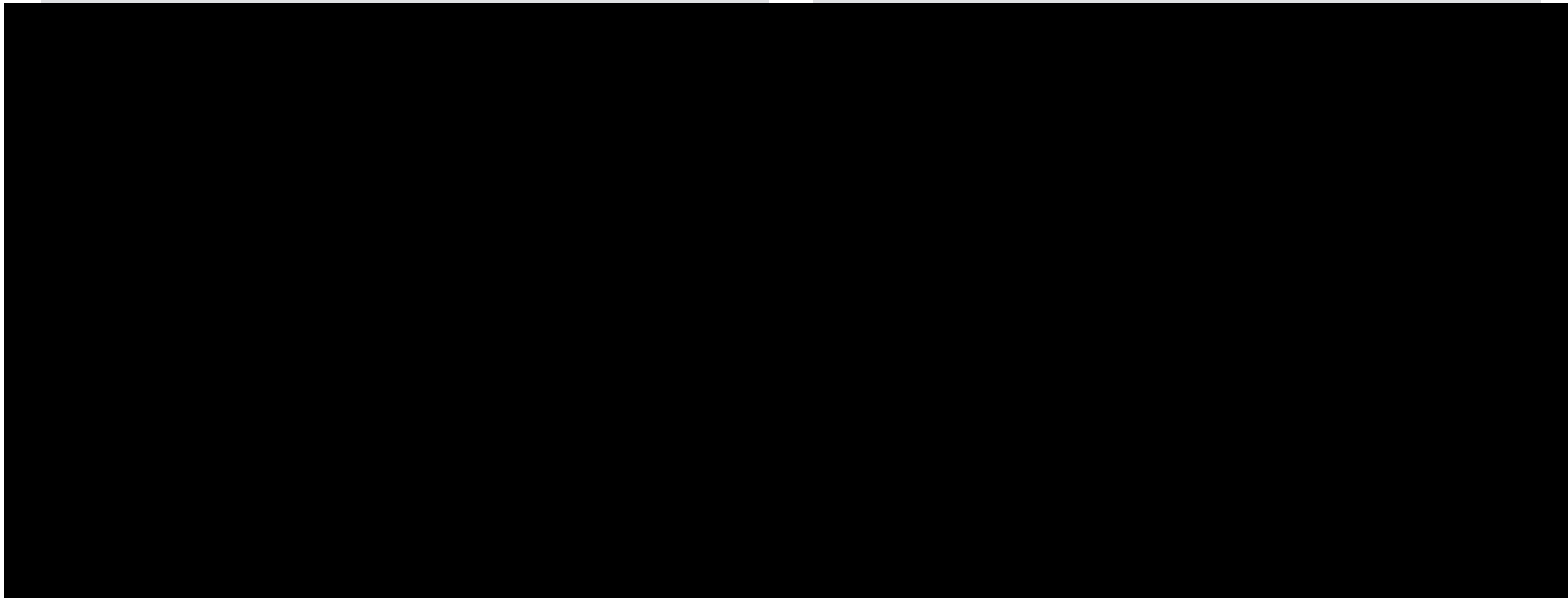
What Optum Will Do



Foundational Competency: Embedded Technology

Problem Statement

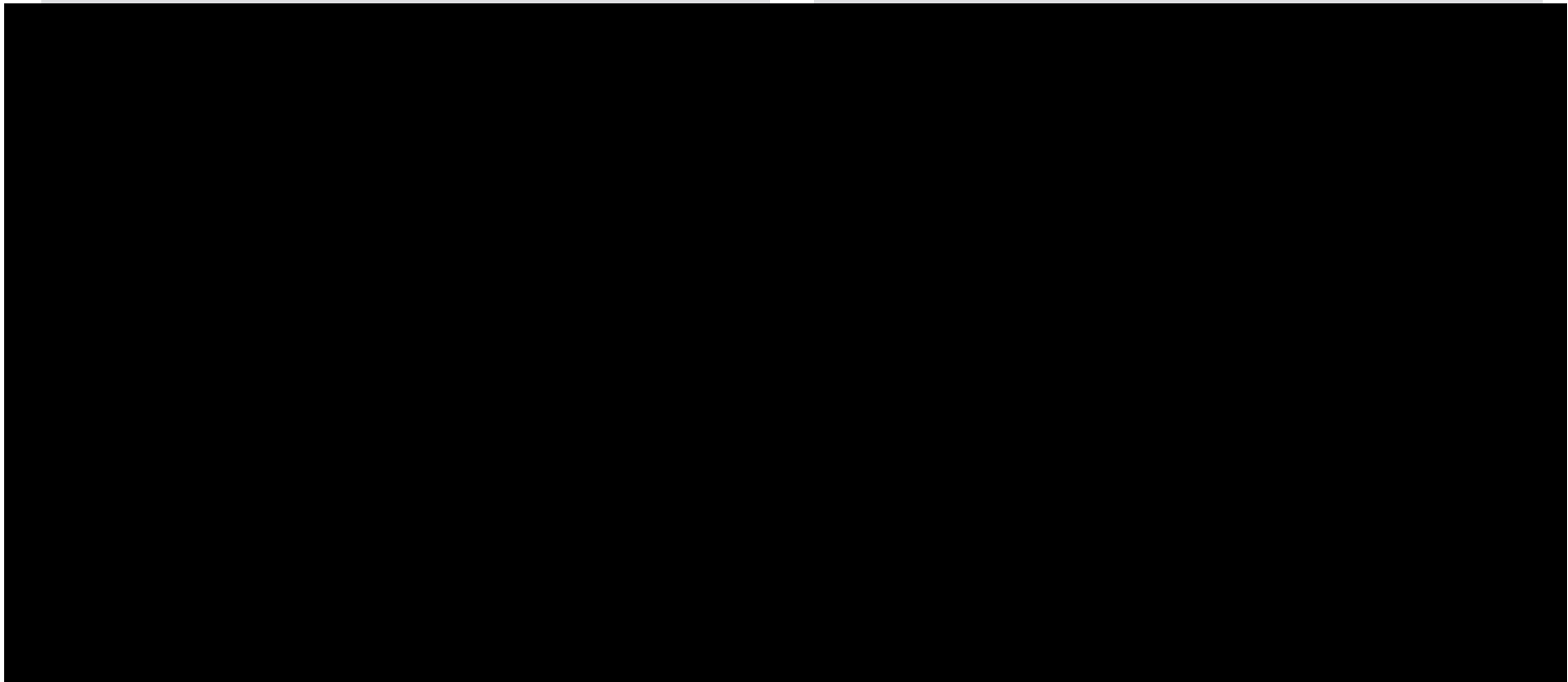
What Optum Will Do



Foundational Competency: Consumer Experience

Problem Statement

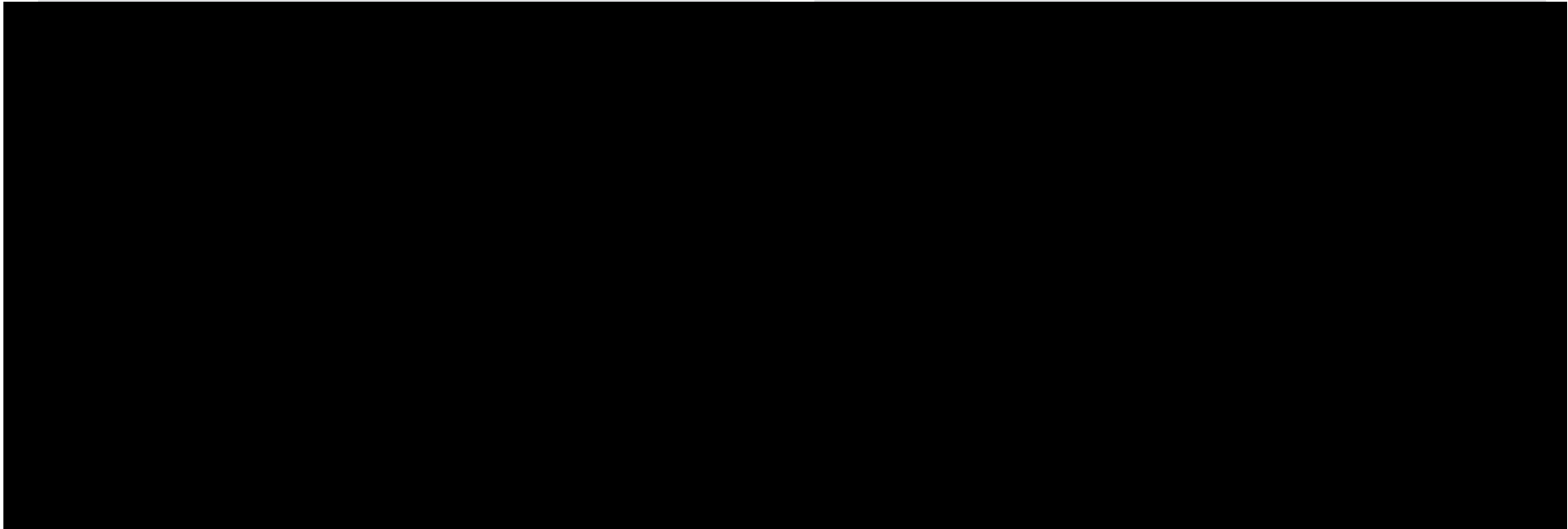
What Optum Will Do



Delivery Model: Condition Centric Management

Problem Statement

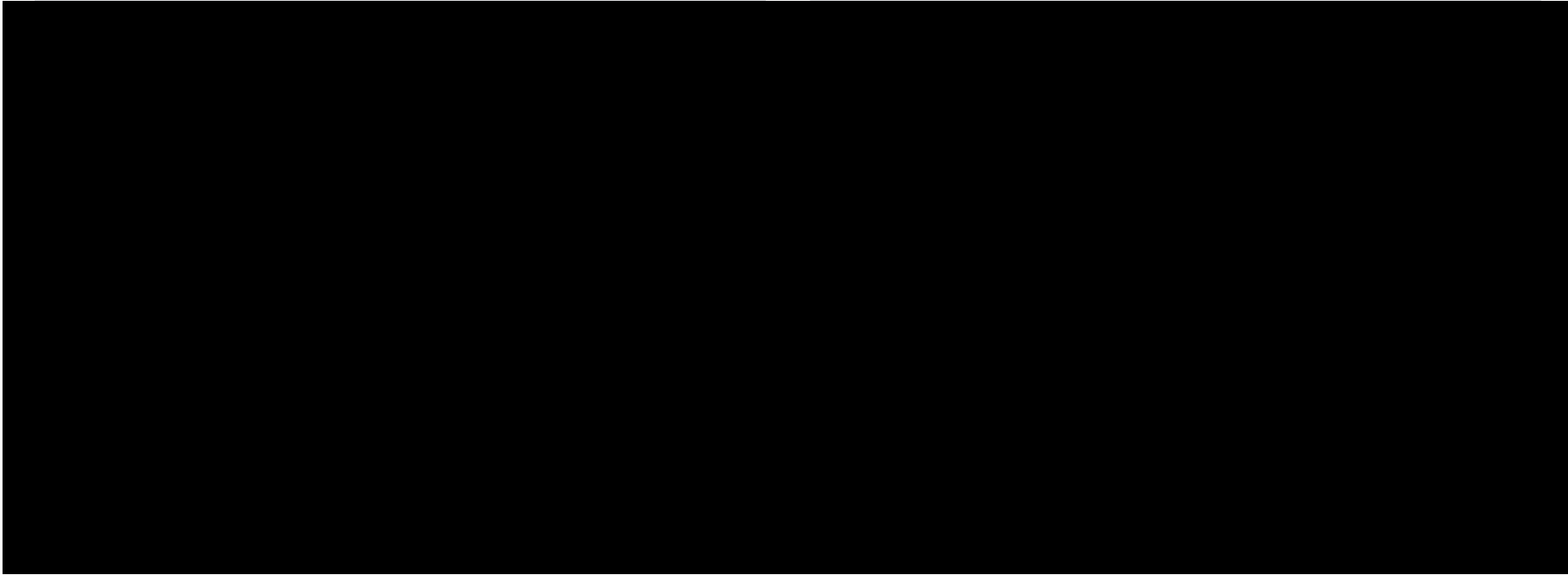
What Optum Will Do



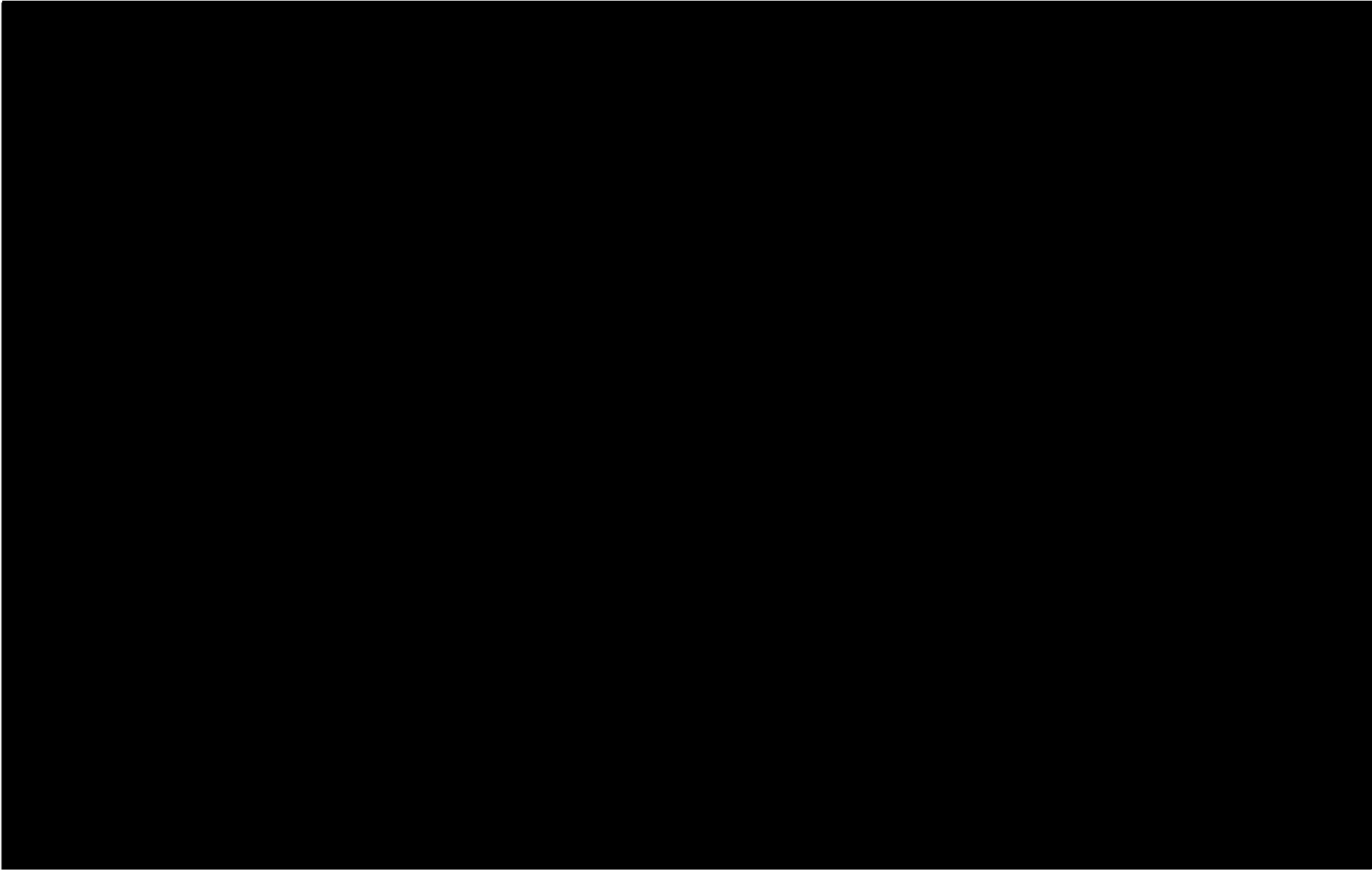
Delivery Model: Local Care Ecosystem

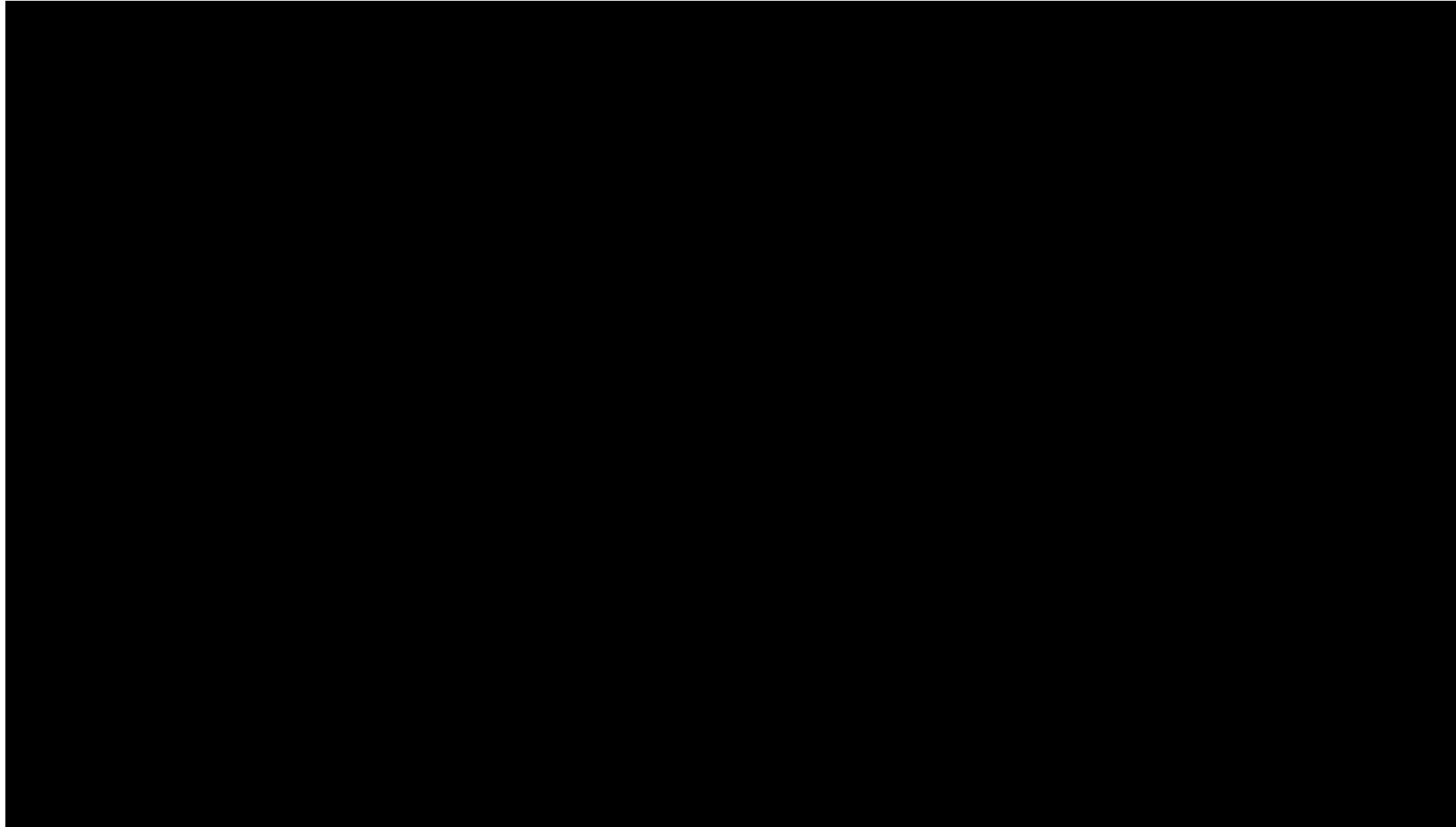
Problem Statement

What Optum Will Do



Organizational Emphasis on Total Cost of Care





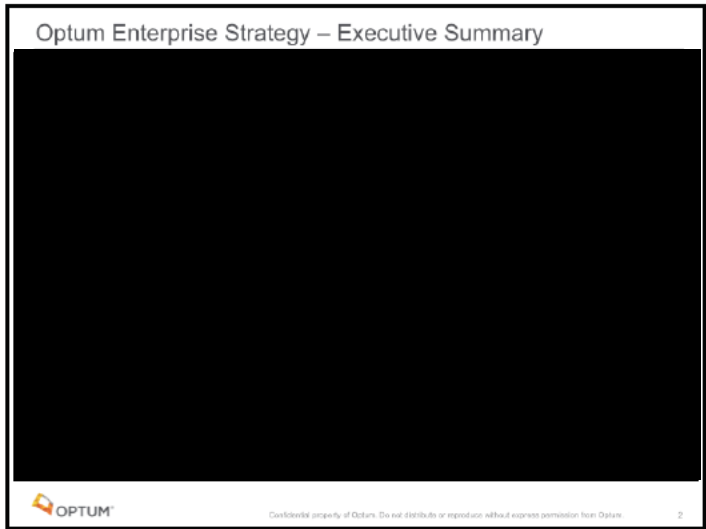
Appendix

A broader appendix with materials from our fact pack and other OET meetings is available on an as requested basis if there is a desire to supplement the main story pack.

To request these slides please contact Steve Wolin or Mimi Macauley on the Strategy Team

NOTES VIEW





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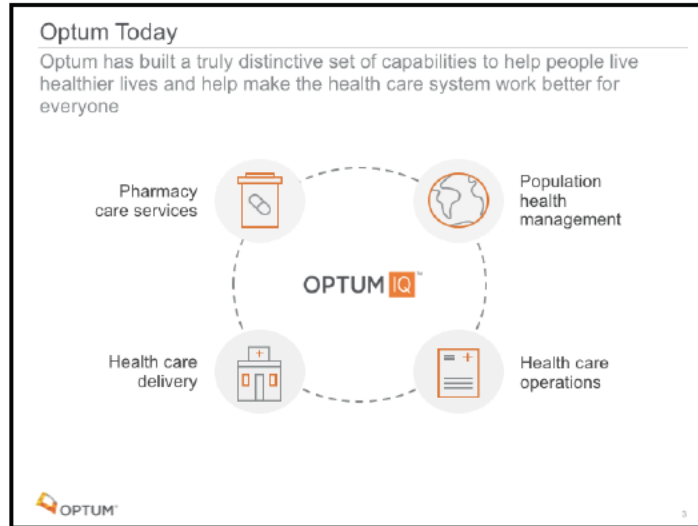
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Optum Mission and Aspiration
Optum is in a unique position to transform healthcare in the US

Optum's mission...
To help people live healthier lives and help make the health care system work better for everyone

...manifests itself in our aspiration
To improve the outcomes and experiences for everyone we serve while reducing the total cost of care

Note: Success will be measured on a per capita basis

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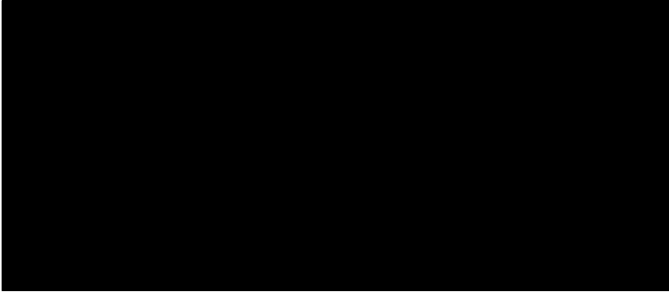
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Health 2.0 – Overview

In the future, managing health is simple, effective, and lower cost

Simple	Effective	Lower Cost
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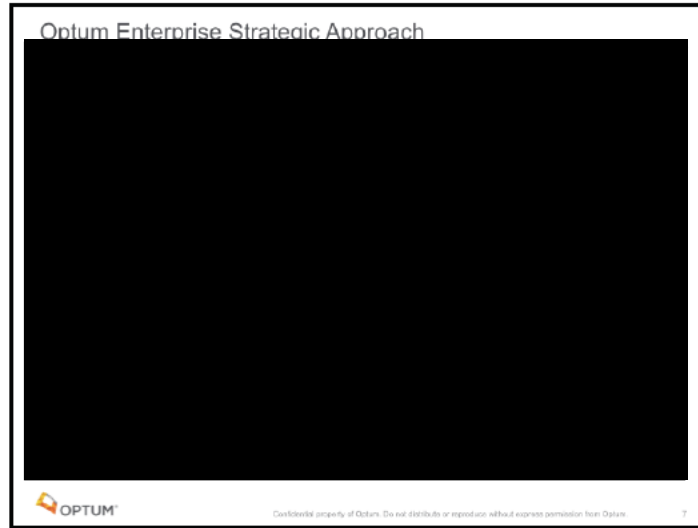
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Description of Foundational Competencies & Delivery Models

Description



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8



Foundational Competency: Clinical Expertise

Problem Statement

What Optum Will Do



 OPTUM

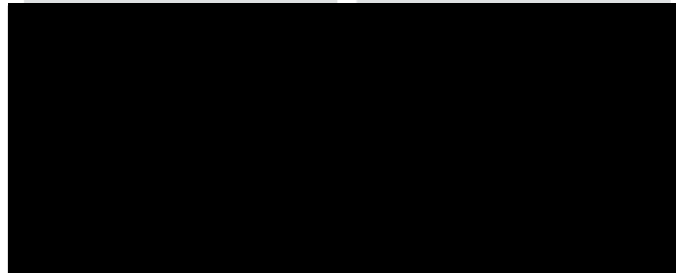
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9



Foundational Competency: Embedded Technology

Problem Statement What Optum Will Do



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Foundational Competency: Consumer Experience

Problem Statement What Optum Will Do



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Delivery Model: Condition Centric Management

Problem Statement	What Optum Will Do
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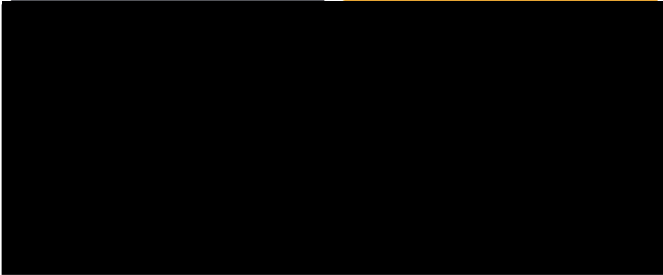
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Delivery Model: Local Care Ecosystem

Problem Statement What Optum Will Do



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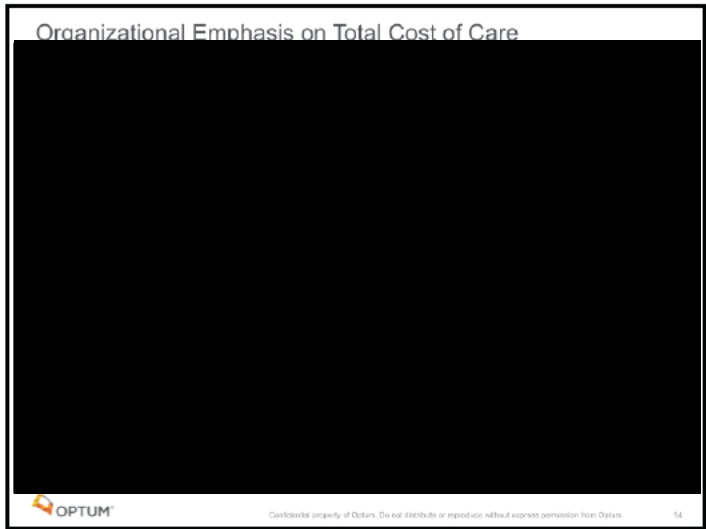
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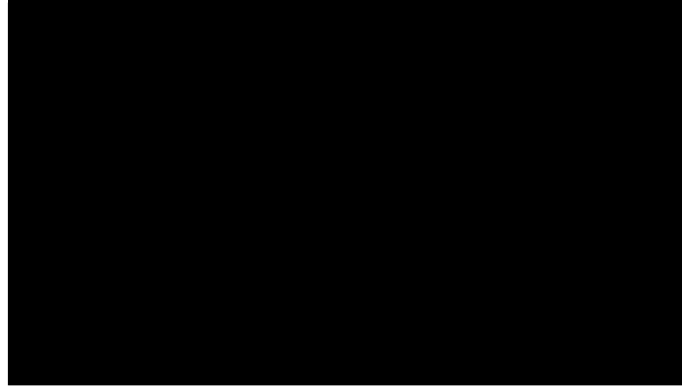
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Next Steps



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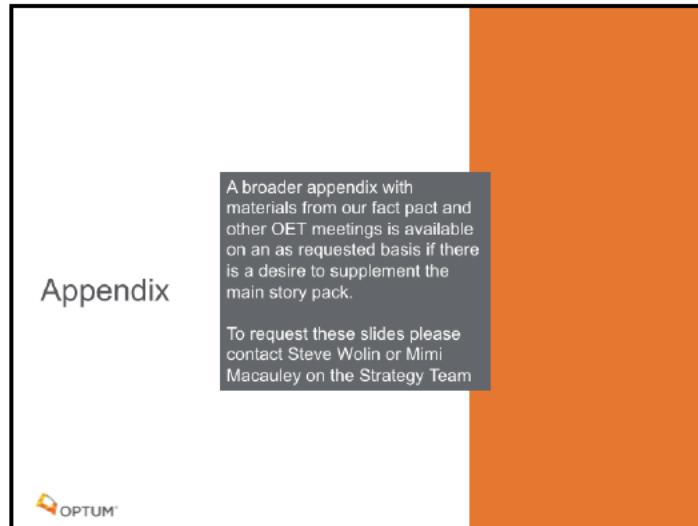
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Appendix

A broader appendix with materials from our fact pack and other OET meetings is available on an as requested basis if there is a desire to supplement the main story pack.

To request these slides please contact Steve Wolin or Mimi Macauley on the Strategy Team




EXHIBIT 8

UNITEDHEALTH GROUP®

Marianne D. Short
Executive Vice President and Chief Legal Officer
9900 Bren Road East, MN008-T070
Minnetonka, MN 55343

December 21, 2018

VIA UPS AND EMAIL: dave.smith49@gmail.com

David Smith
3 Rangeley Rd
Newton, MA 02465

Re: Your Post-Employment Obligations to UnitedHealth Group

Dear Mr. Smith:

I am Executive Vice President and Chief Legal Officer of UnitedHealth Group Incorporated (“UHG”) which, collectively with our subsidiary, Optum, Inc. (“Optum”) will hereafter be referred to as “UnitedHealth”). I write to express our grave concerns about your stated intention to join the Boston-based Amazon, Berkshire Hathaway, JPMorgan Chase health care venture (“ABC”) in an undefined role which, in your words, includes building and leading “a research team” for ABC. Due to the gravity of our concerns, we placed you on administrative leave upon learning of your plan.

As you know, you owe significant post-employment obligations to UnitedHealth. The enclosed 2017 and 2018 Restricted Stock Unit Awards (“RSU Awards”) and Nonqualified Stock Option Awards (“NQ Awards”) set forth your post-employment restrictions concerning non-competition, non-solicitation, and non-disclosure. Specifically, you agreed that for one year following the termination of your employment, you would not engage in, participate in, or assist anyone with, any activity that competes directly or indirectly with any UnitedHealth activity, product, or service that you engaged in, participated in, or had Confidential Information about during your last 36 months of employment. You further agreed to 24-month restrictions that prohibit you from soliciting UnitedHealth customers and employees. Finally, you agreed never to use or disclose UnitedHealth’s Confidential Information. These are vital, enforceable obligations which UnitedHealth treats very seriously.

Given your ongoing obligations to UnitedHealth, your proposed employment with ABC is alarming. As you know, ABC seeks to provide services and products directly competitive with UnitedHealth’s services and products. Publicly available media releases and reports suggest ABC intends to, among other things, manage prescription benefits, ship prescriptions to 49 states, open primary care clinics, and develop/sell software that mines data from digitized patient medical records. UnitedHealth offers all of these products and services, and thus ABC is and will continue to be a direct competitor of UnitedHealth. As such, your acceptance of a role with the ambiguous responsibility of “leading research” for ABC stands in stark contrast to your

December 21, 2018

David Smith

Page | 2

ongoing obligations to UnitedHealth. Moreover, because ABC has not fully revealed its go-to-market strategy or its suite of specific services and products, your employment with ABC, and involvement in the development of its strategies, services and products, would violate your ongoing obligations to UnitedHealth in myriad ways which are not yet apparent.

UnitedHealth's urgent concerns are exacerbated by your pre-resignation conduct. As an acute example, on December 6, 2018 – just one week before you notified UHG of your intention to accept a position with ABC – you attended an all-day, cross-team strategy session, the content of which you helped develop. Given that your resignation was imminent, you were either contemplating or had already accepted an offer from ABC. Nevertheless, you attended a meeting in which you participated in a highly confidential discussion leveraging some of Optum's most strategic trade secret information. Not only would this information provide a tremendous unfair competitive advantage to ABC, it is of a type and nature that you could not possibly perform your proposed duties for ABC without drawing upon it.

Moreover, UnitedHealth has uncovered forensic evidence that you recently misappropriated its confidential and trade secret information by emailing to your personal email account, and by printing, several highly confidential documents. We are aware that such misappropriation occurred on November 19, 2018, December 4, 2018, December 10, 2018, and as recently as one day prior to your resignation notice. We are also aware that you attempted through various UnitedHealth colleagues to obtain access to other confidential and trade secret information unrelated to any of your own job duties or areas of responsibility. Your efforts in this regard were so beyond the scope of what you had any business reason to know that your colleagues were uncomfortable and concerned. Your conduct demonstrates that you have not and do not intend to comply with your post-employment obligations to UnitedHealth.

Both your pre-resignation conduct and your apparent acceptance of a position with ABC, a direct competitor, are in violation of the aforementioned restrictive covenants. These violations entitle UnitedHealth to extraordinary relief, including an injunction against you to bar you from continuing to violate your restrictive covenants through employment with ABC, and to recover monetary damages from you to compensate UnitedHealth for the burden and expense of having to compel you to adhere to restrictions to which you clearly agreed. Also, violations of the restrictive covenants in your RSU Awards and NQ Awards respectively require that you (1) “repay or otherwise reimburse the Company . . . an amount having a value equal to the aggregate Fair Market Value of the shares of Common Stock underlying such Restricted Stock Unit Awards on the date the Restricted Stock Units became vested” and (2) “repay or otherwise reimburse the Company, upon demand, an amount in cash or Common Stock having a value equal to . . . the aggregate proceeds received from such sale of the net Option Shares acquired after payment of the Exercise Price and any applicable taxes.”

You should also be aware that your misappropriation of UnitedHealth's confidential and trade secret information violates the Massachusetts Uniform Trade Secrets Act (“MUTSA”) and Federal Defend Trade Secret Act (“DTSA”). Relief under either Act is severe. For example, under MUTSA, UnitedHealth may enjoin you from working for ABC, recoup damages caused by the misappropriation, receive punitive damages for willful and malicious appropriation, and

December 21, 2018

David Smith

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recover its attorneys' fees. Similarly, UnitedHealth has the right to assert common law claims related to your pre-resignation conduct, including claims for breach of duty of loyalty, breach of duty of confidentiality, and breach of fiduciary duties. These duties generally require that you (a) act in the best interest of your employer, (b) refrain from competing with your employer, and (c) do not take unfair competitive advantage of your access to confidential information. Your pre-resignation conduct strongly suggests that you have disregarded these duties.

Because of your pre-resignation conduct detailed above and because of your high-level role as Vice President of Product at Optum, UnitedHealth can envision no scenario in which you could fulfill your duties at ABC without violating your post-employment obligations. As such, UnitedHealth demands the following information and assurances from you, in writing, no later than December 28, 2018:

1. Your currently anticipated start date for ABC, and an affirmation that you will not begin employment with ABC until we are able to resolve, to UnitedHealth's satisfaction, the matters addressed in this letter;
2. The dates on which you interviewed for the position with ABC or otherwise communicated with ABC;
3. The name and title of the person(s), if any, with whom you first had contact regarding a position, posting, or job opportunity with ABC, or any associated entity, including identifying the date on which the initial contact was made;
4. Your proposed job title;
5. Your ABC offer letter;
6. Your ABC job description and/or a detailed explanation of your proposed job duties;
7. The name and title of your manager and the name(s) and title(s) of those who will report to you, if any;
8. An assurance that you will not, within the timeframe identified in the restrictive covenants in your RSU and NQ Awards, perform duties related to data, analytics, pharmacy, population health management, the delivery of care and financial services or any other matters related to your employment with Optum, either for ABC or any other entity;
9. An explanation of how you believe you can perform your proposed role with ABC without violating the restrictive covenants in your RSU and NQ Awards;
10. An explanation of protective measures you have taken or will take that you believe are adequate to ensure you do not violate the restrictive covenants in your RSU and NQ Awards;

December 21, 2018

David Smith

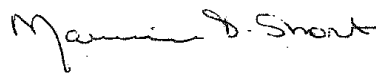
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11. Clear identification of any and all UnitedHealth documents that remain in your possession, whether electronic or hard copy, including documents emailed to your personal email address and documents you printed; and
12. An assurance that you have not and will not solicit Optum employees as proscribed in the restrictive covenants in your RSU and NQ Awards.

I hope the foregoing underscore for you how seriously UnitedHealth views this matter. If you do not furnish the requested information by December 28, 2018, UnitedHealth will take all appropriate action to protect its interests, up to and including legal action against you.

If you have any questions, please contact me.

Sincerely,



Marianne D. Short

cc: Erica Davila, Acting General Counsel, Amazon, Berkshire Hathaway, JPMorgan Chase Health Care Initiative
Dr. Atul Gawande, CEO, Amazon, Berkshire Hathaway, JPMorgan Chase Health Care Initiative

Enclosures: 2017 and 2018 RSU Awards; 2017 and 2018 NQ Awards

EXHIBIT 9

UNITEDHEALTH GROUP®

Marianne D. Short
Executive Vice President and Chief Legal Officer
9900 Bren Road East, MN008-T070
Minnetonka, MN 55343

December 21, 2018

VIA UPS

Erica Davila
Acting General Counsel
Amazon, Berkshire Hathaway, JPMorgan
Chase Health Care Initiative
4 New York Plz
New York, NY 10004-2413

Re: David Smith's Obligations to UnitedHealth Group

Dear Ms. Davila:

I am Executive Vice President and Chief Legal Officer of UnitedHealth Group Incorporated (“UHG”) which, collectively with our subsidiary, Optum, Inc. (“Optum”) will hereafter be referred to as “UnitedHealth”). UnitedHealth learned recently that David Smith, a current employee of UnitedHealth, intends to accept employment with the Amazon, Berkshire Hathaway, JPMorgan Chase health care joint venture (“ABC”), in direct violation of his post-employment obligations to UnitedHealth. As you can imagine, we have serious concerns regarding Mr. Smith's plans.

On December 13, 2018, Mr. Smith notified UnitedHealth of his intention to join ABC in a role which calls for him to build and lead a “research team” for ABC. As you are likely aware, Mr. Smith is employed as Optum's Vice President, Product Strategy. As a consequence of his employment and related compensation, Mr. Smith is subject to a variety of post-employment obligations to UnitedHealth which restrict his ability to carry out his announced plans.

Mr. Smith's 2017 and 2018 Restricted Stock Unit Awards (“RSU Awards”) and Nonqualified Stock Option Awards (“NQ Awards”) contain post-employment restrictions concerning non-competition, non-solicitation, and non-disclosure. Specifically, for one year following the termination of his employment, he may not engage in, participate in, or assist anyone with any activity that competes directly or indirectly with any UnitedHealth activity, product, or service that he engaged or participated in, or had Confidential Information about, during his last 36 months of employment. He further agreed to 24-month restrictions that prohibit him from soliciting UnitedHealth customers and employees. Finally, he agreed never to use or disclose UnitedHealth's Confidential Information. These are vital, enforceable obligations which UnitedHealth treats very seriously.

We understand that ABC either has or seeks to develop and provide services and products directly competitive with UnitedHealth's services and products. Publicly available media releases and reports suggest your organization intends to, among other things, manage

December 21, 2018

Erica Davila

Page | 2

prescription benefits, ship prescriptions to 49 states, open primary care clinics, and develop/sell software that mines data from digitized patient medical records. ABC is and will continue to be a direct competitor of UnitedHealth. Moreover, because ABC has not fully revealed its go-to-market strategy, products, or services, UnitedHealth has serious concerns that Mr. Smith's employment with ABC, with the ambiguous responsibility of "leading research," and his involvement in the development of ABC's strategies, products, or services, would violate his ongoing contractual obligations to UnitedHealth in numerous ways, many of which are not yet apparent.

UnitedHealth's urgent concerns with Mr. Smith's plans to join ABC are exacerbated by Mr. Smith's pre-resignation conduct. As an acute example, on December 6, 2018 – just one week before he notified UHG of his intention to accept a position with ABC – he attended an all-day, cross-team strategy session, the contents of which he helped develop. Given that his resignation was imminent, Mr. Smith was either contemplating or had already accepted an offer from ABC. Nevertheless, he attended a meeting in which he participated in a highly confidential discussion of UnitedHealth's strategic trade secret information. Not only would Mr. Smith's use and/or disclosure of this trade secret information provide a tremendous unfair competitive advantage to ABC, it is of a type and nature that he could not possibly perform his proposed duties for ABC without drawing upon it.

Mr. Smith's inappropriate conduct did not stop there. Indeed, Mr. Smith also emailed to his personal email account, and printed, a number of highly confidential UnitedHealth documents. We are aware that this occurred on November 19, 2018, December 4, 2018, December 10, 2018, and again as recently as one day prior to Mr. Smith giving his resignation notice. We are also aware that Mr. Smith attempted, during the period immediately preceding his resignation, to obtain through various UnitedHealth colleagues access to other confidential and trade secret information that was unrelated to any of his own job duties or areas of responsibility. His efforts in this regard were so beyond the scope of what he would have any legitimate reason to know that he made his colleagues uncomfortable and concerned. Mr. Smith's conduct demonstrates that he has not and does not intend to comply with his post-employment obligations to UnitedHealth.

Mr. Smith's pre-resignation conduct and acceptance of a position with ABC, a direct competitor, are in violation of his restrictive covenants, and his performance of any proposed research duties can only compound those violations. These violations entitle UnitedHealth to extraordinary relief, including an injunction against violation of its restrictive covenants through employment with ABC, as well as monetary damages. As you know, any interference by ABC with UnitedHealth's enjoyment of its contractual rights can subject ABC to liability as well.

As you are also likely aware, Mr. Smith's conduct gives UnitedHealth valid claims under the Massachusetts Uniform Trade Secrets Act ("MUTSA") and Federal Defend Trade Secret Act ("DTSA"). As you also know, relief under either Act is severe and would entitle UnitedHealth to enjoin Mr. Smith from working for ABC, recoup damages caused by the misappropriation, receive punitive damages for willful and malicious appropriation, and recover its attorneys' fees. Similarly, UnitedHealth has the right to assert common law claims related to Mr. Smith's pre-resignation conduct, including claims for breach of duty of loyalty, breach of duty of confidentiality, and breach of fiduciary duties.

December 21, 2018

Erica Davila

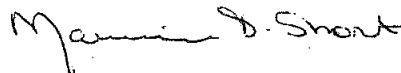
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UnitedHealth can envision no scenario in which Mr. Smith can fulfill his duties at ABC without violating his post-employment obligations. As such, UnitedHealth demands the following information and assurances from ABC, in writing, no later than December 28, 2018:

1. Mr. Smith's currently anticipated start date with ABC, and an affirmation that you will not allow him to begin employment until we are able to resolve, to UnitedHealth's satisfaction, the matters addressed in this letter;
2. The dates on which he interviewed for the position with ABC or otherwise communicated with ABC;
3. The name and title(s) of the person(s), if any, with whom he first had contact regarding a position, posting, or job opportunity with ABC, or any associated entity, including the date on which the initial contact was made;
4. Mr. Smith's proposed ABC job title;
5. A copy of his ABC offer letter;
6. Mr. Smith's ABC job description and/or a detailed explanation of his proposed job duties;
7. The name and title of Mr. Smith's direct superior and the name(s) and title(s) of those who will report to him, if any;
8. An explanation of how you believe that Mr. Smith can perform his proposed role without violating the restrictive covenants contained in his RSU and NQ Awards; and
9. An explanation of the protective measures ABC has taken or will take to prevent violation of the restrictive covenants in Mr. Smith's RSU and NQ Awards.

UnitedHealth takes these matters very seriously. If we do not receive the requested information by December 28, 2018, UnitedHealth will take all appropriate action to protect its interests, up to and including legal action against Mr. Smith and ABC. If you have any questions, please contact me immediately.

Sincerely,



Marianne D. Short

cc: Dr. Atul Gawande, CEO, Amazon, Berkshire Hathaway, JPMorgan Chase Health Care Initiative

Enclosures: 2017 and 2018 RSU Awards; 2017 and 2018 NQ Awards

EXHIBIT 10

December 28, 2018

Via email: marianne.short@uhg.com

Marianne D. Short
Executive Vice President and Chief Legal Officer
9900 Bren Road East, MN008-T070
Minnetonka, MN 55343

Re: David Smith

Dear Ms. Short:

Further to our conversation on December 26, 2018, this is to acknowledge your letter dated December 21, 2018 regarding David Smith's imminent employment with Tcorp62018 LLC, the Amazon, Berkshire Hathaway, JPMorgan Chase health care venture ("the Company"). We understand that Mr. Smith is bound by certain post-employment restrictions, including non-competition, non-solicitation, and non-disclosure restrictions with UnitedHealth Group Incorporated ("UHG") which, collectively with subsidiary, Optum, Inc. ("Optum") will hereafter be referred to as "UnitedHealth"). We take these obligations and your concerns about Mr. Smith's employment with the Company seriously and appreciate the opportunity to address your concerns.

The Company is an independent LLC that is separate from our three founding companies - Amazon, Berkshire Hathaway, JPMorgan Chase ("the Company Founders") – and the Company Founders dedicate resources the Company needs for the Company to be a success. The Company is focused on creating better health outcomes, increased patient satisfaction, and lower costs for Amazon, Berkshire Hathaway, and JPMorgan Chase employees and their dependents.

Your letter noted two areas of concern: (i) Mr. Smith's potential violation of an agreement not to compete post-employment, and (ii) an allegation that Mr. Smith misappropriated UnitedHealth information prior to, but in anticipation of, his resignation from UnitedHealth. I will address both below.

Non-Compete

As mentioned above, the Company's initial focus is on improving health outcomes, patient satisfaction and cost *for the employees of the Company Founders*. The initiatives mentioned in your letter, including, initiatives around prescription drug benefits, primary care clinics and patient data are references to Amazon initiatives that have been in media releases; these presently are not Company strategies or initiatives. As such, there is no product or service competition between UnitedHealth and the Company, nor does the Company anticipate that there will be any such initiatives or activities that would violate Mr. Smith's non-compete covenant.

Misappropriation

To be clear, the Company does not seek, does not want and will not permit any of its employees to retain, use or disclose prior employers' confidential, proprietary and trade secret information under any circumstance. We respect and share your concerns. We are not aware of any of the facts supporting the allegations that you have set forth but have delayed the start date of Mr. Smith's employment to permit the Company to look into those facts available to it. At this point, we do not have any facts before us that

Ms. Marianne Short
December 28, 2018
Page 2

suggest that Mr. Smith has taken any UnitedHealth data, but our investigation is not complete, and we also would like to see the facts that you have uncovered as well. Simply put, the Company will not permit Mr. Smith to commence employment until it is firmly satisfied that he does not possess any such information and fully appreciates that the Company will not permit him, at any time, to use or disclose UnitedHealth confidential, proprietary or trade secret information.

Your Request for Information

As we discussed during our phone call on December 26, 2018, the following are our preliminary responses to your requests. We reserve the right to supplement as we learn more:

1. We have agreed not to commence Mr. Smith's start date as anticipated on January to permit a conversation between you and me about your concerns set forth in your letter. In turn, you have agreed not to file or initiate any litigation on January 2 so that we may have that conversation and work toward addressing your concerns. As stated above, the Company will not permit Mr. Smith to commence active employment unless or until it is satisfied that he is in full compliance with his lawful obligations toward UnitedHealth and, specifically, does not possess nor will he use or disclose any UnitedHealth confidential, proprietary or trade secret information in his job with the Company. It is our desire to address and resolve your concerns.

2. To the best of my knowledge, the following are the dates in which representatives from the Company either interviewed or communicated with Mr. Smith:

October 18, 2018
October 19, 2018
October 22, 2018
October 23, 2018
October 29, 2018
November 2, 2018
December 6, 2018
December 7, 2018
December 11, 2018

During the period between his last interview with the Company on November 2, 2018 and the verbal offer made on December 6, 2018, there were a handful of phone calls between one of our recruiters and Mr. Smith letting him know that his potential employment with the Company was still under consideration. There may also have been additional short email or phone exchanges between our recruiter and Mr. Smith during the October to December timeframe.

3. Mr. Smith initially applied to the Company via the internet on September 28, 2018 and received an automated response. On October 18, 2018, one of the Company's recruiters, Paige Divoll, reached out to Mr. Smith via LinkedIn.

4. Mr. Smith's proposed job title is Director, Strategy and Research.

5-6. I will share this information with you during our January 2 phone conversation. Any exchange of documents should be made under a non-disclosure agreement.

7. Mr. Smith's manager has not yet been hired.

Ms. Marianne Short
December 28, 2018
Page 3

8. See the Misappropriation Section above.

9. The Company is willing to consider all measures that UnitedHealth believes are reasonable, appropriate and effective to protect its interests.

The Company's Request

To ensure that UnitedHealth's interests are protected but also that Mr. Smith may commence employment, I request that you provide me access to whatever you have discovered in your review of the facts and around Mr. Smith's departure, leading up to his departure and, particularly, that inform your suspicion that he may have retained UnitedHealth data. Of course, we will be willing to agree to an NDA and, where necessary, an attorney-eyes only limitation.

I look forward to our conversation on the January 2, 2019. Please let me know what times work for your schedule. I can best be reached on my cell at 973-477-2676.

Best regards,



Erica Davila

cc: Dr. Atul Gawande
Michael Sheehan, Esq.

EXHIBIT 11



125 Summer Street
Suite 1200
Boston, MA 02110

Main: 617.247.4100
Fax: 617.247.4125
bellowelsh.com

John F. Welsh, Esq.

Direct: 617.247.8476
jwelsh@bellowelsh.com

December 28, 2018

Marianne D. Short
Executive Vice President and
Chief Legal Officer
UnitedHealth Group
9900 Bren Road East
Minnetonka, MN 55343

Re: Mr. David Smith / Optum

Dear Ms. Short:

This firm represents Mr. David Smith concerning the matters referenced in your letter dated December 1, 2018. All further communications regarding Mr. Smith should be directed to me or my colleague Justin Engel.

Mr. Smith has fully complied with all lawful obligations owed to Optum. Below I will explain why I believe this to be the case, and then suggest potential resolution which I am hopeful should resolve the matter.

1. Optum and ABJ Are Not Competitors.

Optum basically consists of three businesses: pharmacy benefit management (Optum Rx), health care delivery and management, and data analytics (OptumInsight). Mr. Smith's new employer, TCorp62018 LLC ("ABJ"), is an independent organization that is focused on creating better health outcomes, increased patient satisfaction, and lower costs for Amazon, Berkshire Hathaway, and JPMorgan Chase employees and their dependents. The goal is to create better models of care that can be scaled widely and make getting the right care simpler. The Company is an independent LLC that is separate from its three founding companies - Amazon, Berkshire Hathaway, JPMorgan Chase ("the Company Founders") – and the Company Founders dedicate resources the Company needs for the Company to be a success. At this point, the Company is focused exclusively on Amazon, Berkshire Hathaway and JPMorgan Chase employees and their families.

ABJ has no products. ABJ does not compete for business with Optum and, to Mr. Smith's knowledge, has no plans to do so. Rather, ABJ will partner with companies like Optum to help Amazon, Berkshire Hathaway and JPMorgan Chase employees better connect with the medical services they need. Optum is well-aware of these facts. Optum's own Head of Strategy

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has openly stated that ABJ “is more likely a customer than a competitor.” This observation is accurate, and dispositive of Optum’s non-competition claim.

Your letter states that “publicly available media releases” indicate that ABJ intends to “manage prescription benefits, ship prescriptions, open primary care clinics and develop/sell software that mines data from digitized patient records.” Please double-check your sources: these media references are to Amazon, and are not references to ABJ. Again, these are separate entities and Mr. Smith will be employed by ABJ, not Amazon. Thus, your entire non-competition argument rests on a mistaken premise.

2. Mr. Smith Has Not Misappropriated Optum Confidential Information.

Your letter makes several allegations of misappropriation of confidential information against Mr. Smith. Again, you are mistaken and these claims are without merit.

a. Off-Site Meeting Attendance. Your letter posits that an “acute” example of Mr. Smith’s alleged improper conduct was his attendance at an all-day strategy session, when his resignation was “imminent”. Since Mr. Smith had not received his job offer from ABJ yet, the offer was not imminent at that time, but rather speculative. It was completely appropriate for Mr. Smith to continue working diligently for Optum until the offer was received and accepted, which is precisely what he did. This would include active participation in an off-site meeting which Mr. Smith helped prepare and present. Moreover, although your letter implies the offsite strategy session was a highly significant event, the plain fact is that similar strategy sessions occurred every three months or so, and Mr. Smith was already privy to much of what was discussed at the December 2018 off-site in the regular course of his duties.

b. Alleged Electronic Misappropriation. The allegation concerning alleged misappropriation of documents is similarly unfounded.

Your letter states that misappropriation occurred on three specific dates: November 19, December 4 and December 10, 2018. Mr. Smith possesses only one email sent from his Optum account to his personal Gmail account: it is dated November 19, 2018. It is an email chain with a slide deck attachment sent to Mr. Smith and other strategy team members. Mr. Smith forwarded it to his personal email account to save a copy of his photograph (his “headshot” portrait) that appeared on the back slide. If you reviewed the email that transmitted the slide deck to the strategy team, you will recall it made specific reference to the headshots as being the reason for the distribution. This email, which remains in Mr. Smith’s email account and has not been shared with any third party, will be deleted once Optum so instructs.

As to the two other dates referenced in your letter, Mr. Smith possesses no emails from Optum on those dates.

As you know, Mr. Smith left his Optum laptop with the Company when he was placed on administrative leave. As that laptop will show, from time to time he would forward emails from Optum to his personal account. Those emails which pertained to Optum business were

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read/worked on at home and then deleted. Often that occurred in the context of a vacation or when he would be away on a weekend. The others were personal emails unrelated to Optum (often transmittals of personal documents scanned at work).

b. Alleged Misappropriation of Paper Documents. Your letter suggests that your misappropriation allegation may rest on the fact that Mr. Smith printed out various documents which you speculate may have been removed from Optum and disclosed without authorization to third parties. Once again, what you surmise and allege is mistaken.

Mr. Smith routinely printed documents and worked using hard copy documents. This was the case up to the point he was placed on administrative leave. Any Optum documents printed out by Mr. Smith were part of his work for Optum and were left at Optum.

To be clear, Mr. Smith has no hard or electronic copies of any Optum confidential documents. He did not print-out and remove confidential Optum documents to his home. He has shared no Optum confidential documents with ABJ or any third party except as authorized by Optum during the course of his employment. He is willing to sign an affidavit attesting to these facts.

3. Talking with Other Employees.

Optum asserts that Mr. Smith talked with colleagues about matters outside his areas of responsibility, and that this connotes an intent not to comply with post-employment restrictive covenants. Your assertion reflects a lack of appreciation of what the Optum strategy team members routinely do in the course of their jobs as well, again, a misunderstanding that ABJ is a competitor of Optum. The strategy team continually talks among themselves and with other Optum colleagues about a wide range of business issues and concepts. They use each other as sounding boards, to get different perspectives on issues they are thinking through, and to collaborate. These discussions in no way demonstrate that Mr. Smith was or is planning to breach his non-compete obligations.

If you provide specific information concerning these alleged communications with Optum employees (names, date and topics discussed – the more specific, the better), Mr. Smith will endeavor to provide additional information concerning the communications. He can state now, categorially, that he did not engage in any such communication at Optum for any purpose other than advancing Optum's business interests.

4. Non-Solicitation. Mr. Smith will not solicit any Optum employees to leave Optum or to join ABJ for the restricted period.

5. Information Requested.

You have asked for various facts concerning Mr. Smith's hire by ABJ.

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Mr. Smith submitted an on-line application to ABJ on September 28, 2018 on his own initiative. He received an acknowledgement of receipt but no contemporaneous expression of interest. On October 18, 2018, an ABJ representative contacted Mr. Smith through LinkedIn. This reach-out by ABJ was unrelated to the electronic application submitted in September. Mr. Smith spoke with or interviewed with ABJ officials on October 22, 23, and 29 and on November 2, 2018.

On December 6, 2018, at about 3 or 4 p.m., Mr. Smith received a brief cell phone call advising him that he would be receiving an offer from ABJ. On December 7, 2018, Mr. Smith received an offer letter from ABJ. He signed and returned the ABJ offer letter on December 11, 2018.

Mr. Smith advised Nick Seddon that he had accepted the ABJ offer on December 11, 2018. Believing that this communication should be done in person, he advised Mike Weissel and Steve Wollen of his acceptance of ABJ's offer on December 13 when they returned to the office from an out of town engagement. The communications with these managers were cordial and professional. Regret was expressed that Mr. Smith was leaving, and the hope to collaborate in the future was briefly discussed. Mr. Smith focused on transitioning his duties the remainder of the day, until he was later advised at about 3:30 p.m. that he was being placed on administrative leave and told to leave the building.

Mr. Smith has not been given an ABJ job description. He expects that his initial tasks will be in-depth research focused on the delivery and costs of health care for the over one million individuals covered by the health plans of Amazon, Berkshire Hathaway and JPMorgan Chase. His start date was set for January 2, 2019 but has been postponed so that the corporate parties may speak directly on January 2 and address your concerns. He is uncertain, at this point, of his exact start date.

Your request for assurance in paragraph 8 of your letter is problematic due to the ambiguous use of the term "related." Interpreted broadly, your letter's description of proscribed activities encompasses the entirety of health care.

To be sure, Mr. Smith will not use or disclose Optum confidential information, proprietary information or trade secrets. He will exclude himself from any conversation, meeting, assignment or other circumstance that would involve the use or disclosure of such Optum information.

ABJ has also instructed Mr. Smith, and all of its employees, to safeguard and not use confidential information of former employers in the performance of their ABJ duties. ABJ has specifically instructed Mr. Smith to follow the guidelines set forth in the above paragraph.

You have asked for a clear identification of "United Health" documents in Mr. Smith's possession. He has the email chain containing his headshot portrait, he has a few of his own personnel documents, and some publicly filed United Health reports. He has no other Optum (or United Health) documents in his possession. He will execute an affidavit attesting to these facts.

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Lastly, as to solicitation of Optum employees, Mr. Smith has and will continue to abide by all his post-employment restrictive covenants, including his non-solicitation obligation pertaining to Optum employees. For the avoidance of ambiguity on this issue, Mr. Smith will not participate in any respect during the restricted period in any ABJ interview or hire of Optum employees.

6. Mr. Smith's Requests.

It is our hope that upon review of the above information, Optum will accept the explanations and representations made above and withdraw its protest of Mr. Smith's employment by ABJ on the terms outlined. However, given the ongoing possibility of litigation I am constrained to make two requests on Mr. Smith's behalf.

First, on behalf of Mr. Smith, I request a full and complete copy of his entire "personnel record" pursuant to Mass. Gen. Laws Chap. 149, Section 52C ("Section 52C"), the Massachusetts' personnel record statute. Section 52C requires that all requested documents be produced within five business days of your receipt of this request.

Section 52C specifies that a record kept by an employer that identifies an employee, to the extent that the record is used or has been used, or may affect or be used relative to that employee's qualifications for employment or disciplinary action. Thus, we specifically request all documents that were used and relied on in determining to place Mr. Smith on administrative leave and terminate him and all those documents related to the allegations of fiduciary breach referenced in your letter. I request that this production be supplemented if Optum discovers any other documents that they believe Mr. Smith has wrongfully taken.

Third, your letter raises the unfortunate possibility of litigation between the parties if Mr. Smith's status is not addressed and resolved expeditiously. In these circumstances, United Health/Optum is legally required to take immediate, affirmative steps to preserve and maintain all hard copy or electronic documents that may in any respect be relevant to Mr. Smith's employment, his placement on administrative leave and termination, and the allegations raised in your letter. Pursuant to this legal preservation of records requirement, Optum must save the forensic analysis upon which its misappropriation allegations are based as well as all relevant metadata. Optum must also preserve and maintain all internal documents pertaining to ABJ and its competitive posture vis-a-vis Optum. Lastly, Optum must preserve records showing the former employers of recently hired United Health and Optum employees over the past year, as well as the subsequent employers of departing Optum employees during that same period. Optum is required to suspend any routine document retention/destruction policies and place a "litigation hold" to ensure the preservation of all relevant documents, including electronically stored information that refers or relates to the above referenced subject.

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Please do not hesitate to contact me if you have any questions concerning the foregoing. It is my hope that we have provided the necessary information to allow an amicable resolution of Optum's concerns.

Very truly yours,



John F. Welsh

Enclosure

cc: Erica M. Davila, Esq.
Michael Sheehan., Esq.

December 7, 2018

Via email: dave.smith49@gmail.com

PERSONAL AND CONFIDENTIAL

Mr. David W. Smith
3 Rangeley Road
Newton, MA 02465

Dear Dave:

Tcorp62018 LLC ("the Company") is pleased to offer you the full-time position of Director, Product Strategy and Research, reporting to Jack Stoddard, Chief Operating Officer, with a proposed start date of January 2, 2019. This offer is conditioned on the successful completion of a background screen and references. We are excited about the prospect of you joining our team and look forward to the addition of your professionalism and experience to help the Company achieve its goals.

Your salary will be paid at an initial rate of \$12,500.00 semi-monthly (\$300,000.00 annualized). You will be paid in accordance with the Company's normal payroll practices as established or modified from time to time. Currently, salaries are paid on a semi-monthly basis. You will be eligible to participate in benefits programs to the same extent as, and subject to the same terms, conditions and limitations applicable to, other employees of the Company of similar rank and tenure. A Benefits Overview is attached.

The Company requires you to verify that the performance of your position at Tcorp62018 LLC does not and will not breach any agreement entered into by you prior to employment with the Company (i.e., you have not entered into any agreements with previous employers that are in conflict with your obligations to Tcorp62108 LLC). Please provide us with a copy of any such agreements. You will also be required to sign an Employee Confidentiality and Assignment Agreement as a condition of your employment with the Company. A copy of this agreement is attached.

Moreover, please provide us in electronic onboarding, for purposes of completing the I-9 form, sufficient documentation to demonstrate your eligibility to work in the United States.

The above terms are not contractual. They are a summary of our initial employment relationship and are subject to later modification by the Company. Your employment with Tcorp62018 LLC will be "at-will," meaning that either you or the Company may terminate your employment relationship at any time, for any reason, with or without prior notice. The Company has found that an "at-will" relationship is in the best interests of both the Company and its employees.

Mr. David W. Smith
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We are very interested in having you join the Company. We look forward to receiving a response from you within five days acknowledging that you have accepted this offer of employment.

Sincerely,

DocuSigned by:

1D6FDB0A53294CC
Atul A. Gawande
Chief Executive Officer

AAG/nbb
Enclosures

ACCEPTED:

DocuSigned by:

68D2D73F229B415...

Employee Signature

12/11/2018

Date

EXHIBIT 12

UNITEDHEALTH GROUP®

Marianne D. Short
Executive Vice President and Chief Legal Officer
9900 Bren Road East, MN008-T070
Minnetonka, MN 55343

January 3, 2019

VIA OVERNIGHT AND EMAIL

Erica Davila
Acting General Counsel
Amazon, Berkshire Hathaway, JPMorgan
Chase Health Care Initiative
4 New York Plz
New York, NY 10004-2413
edavila@healthproject.us

Re: David Smith's Obligations to UnitedHealth Group

Dear Ms. Davila:

I am writing to follow up on our numerous telephone conversations over the holidays. As I have expressed repeatedly, UnitedHealth Group Incorporated¹ remains extremely concerned about David Smith's anticipated role with the Amazon, Berkshire Hathaway, JPMorgan Chase health care joint venture ("ABJ") in light of his ongoing obligation to UnitedHealth. To date, ABJ has not provided information or assurances sufficient to alleviate our legitimate concerns.

As you know, Mr. Smith is leaving his position of Vice President, Product Strategy at Optum to become Director, Strategy and Research at ABJ. As the ABJ title itself states, Mr. Smith will be in a position in which he cannot help but use his knowledge of Optum's strategy and other trade secrets. Mr. Smith's proposed position with ABJ also is in direct conflict with the noncompete obligations to which he already has agreed.

UnitedHealth's concerns about Mr. Smith's work for ABJ are exacerbated by Mr. Smith's conduct leading up to his departure, which I described in detail in my December 21, 2018 letter to you. In light of Mr. Smith's conduct, and given the terms of his restrictive covenants, UnitedHealth is unwilling to countenance his employment with ABJ under these circumstances. Thus, I believe that there is no point to a standstill agreement absent a written commitment, addressed to me, that if we are unable to resolve this dispute, ABJ will sideline Mr. Smith for the full term of his noncompete agreement and, thereafter, honor fully his remaining nondisclosure and nonsolicitation obligations.

¹ UnitedHealth Group, collectively with its subsidiary, Optum, Inc. ("Optum"), will be referred to as "UnitedHealth."

In the absence of such a commitment by **9:00 AM EST Monday**, together with a written agreement to voluntarily provide fulsome documents, information, and testimony necessary for UnitedHealth to fully assess the risk posed to its trade secrets, UnitedHealth intends to proceed with the enforcement of its rights in the appropriate forum.

This letter is not a waiver of any rights that UnitedHealth may have against ABJ, Mr. Smith, or any other responsible parties, all of which are hereby expressly reserved.

Sincerely,

A handwritten signature in black ink that reads "Marianne D. Short". The signature is written in a cursive style with a large initial "M".

Marianne D. Short

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Optum, Inc., et al. v. David William Smith

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

- I. 160, 400, 410, 441, 535, 830*, 835*, 850, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.
II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820*, 840*, 895, 896, 899.
III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 485, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.

*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court? YES NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403) YES NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party? YES NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284? YES NO

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)). YES NO

A. If yes, in which division do all of the non-governmental parties reside? Eastern Division Central Division Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside? Eastern Division Central Division Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions) YES NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Russell Beck, Esq.; Stephen D. Riden, Esq.; Hannah T. Joseph, Esq.

ADDRESS Beck Reed Riden LLP, 155 Federal Street, Ste. 1302, Boston MA 02110

TELEPHONE NO. 617-500-8660

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

OPTUM, INC. and OPTUM SERVICES, INC.

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) RUSSELL BECK, ESQ.; STEPHEN D. RIDEN, ESQ.; HANNAH T. JOSEPH, ESQ.; BECK REED RIDEN LLP, 155 FEDERAL STREET, STE. 1302, BOSTON MA 02110, 617-500-8660

DEFENDANTS

DAVID WILLIAM SMITH

County of Residence of First Listed Defendant MIDDLESEX COUNTY (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) JOHN F. WELSH, ESQ.; JUSTIN ENGEL, ESQ.; BELLO WELSH LLP, 125 SUMMER STREET, STE 1200, BOSTON MA 02110, 617-247-4100

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 18 U.S.C. § 1836, et seq. Brief description of cause: Breach of employment contract (restrictive covenants) and misappropriation under state and federal law.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 75,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 01/16/2019 SIGNATURE OF ATTORNEY OF RECORD Russell Beck

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.