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HEALTH POLICY COMMISSION
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DAVID M. SELTZ
EXECUTIVE DIRECTOR

August 13, 2021

Attorney General Maura Healey
1 Ashburton Place
20th Floor
Boston, MA 02108

Re: *Collaborative Care Holdings/OptumCare Acquisition of the Non-Clinical Assets of Atrius Health*

Dear Attorney General Healey:

Consistent with our shared goals of restraining health care spending growth and ensuring access to high quality and affordable health care for all residents of the Commonwealth¹, the Health Policy Commission (HPC) is writing to share some important considerations for your office's review of the proposed acquisition of the non-clinical assets of Atrius Health (Atrius) by OptumCare, a subsidiary of Optum and UnitedHealth Group, as well as for our ongoing collaborative efforts to monitor the health care system.

The HPC recently completed its review of the proposed Atrius-Optum transaction. When the HPC conducts its initial review of a proposed material change, its statutory charge is to determine whether the transaction is likely to have a significant impact on the state's ability to meet the health care cost growth benchmark or on the competitive market such that more extensive investigation and public reporting is warranted, through a Cost and Market Impact Review, before the transaction may move forward². This initial review is based on available data and evidence, and must be concluded in accordance with statutory timelines.

While the proposed Atrius-Optum transaction represents a significant change to the Massachusetts health care market, involving a provider group that has historically been among the most efficient provider organizations in the Commonwealth, the HPC's initial review did not uncover evidence that the transaction is likely to significantly increase health care spending or negatively impact market functioning in Massachusetts. For example, the HPC found that the transaction would not result in substantial horizontal market consolidation, and the HPC noted the parties' commitment to continue contracting with a broad range of Massachusetts payers, including MassHealth and working with them to develop innovative, value-based products. The HPC also

¹ See, e.g., MGL ch. 6D sec. 8 describing the intersecting roles of the Health Policy Commission and the Attorney General's Office in conducting an annual hearing on health care cost growth.

² See MGL ch. 6D sec. 13.

noted the parties' commitment to continue collaborating with the Commonwealth to improve health, reduce health care costs, ensure transparency, and enhance quality and access to care in Massachusetts.

However, the HPC acknowledges that the potential impacts of Optum's future behavior in the Massachusetts market are difficult to project at this time and that there was limited evidence necessary to evaluate certain questions. Optum is relatively new and limited in the Massachusetts provider market, United Healthcare's presence in the payer market is also limited, data on performance in other states is limited, and some aspects of the parties' plans have yet to be finalized. In the HPC's public meeting on June 24, 2021, Commissioners also raised concerns regarding Optum's practices in other states and specifically highlighted concerns about risk score growth for Optum's patients in other states. While comprehensive data on Optum's behavior outside of Massachusetts is limited, the HPC believes these are areas that warrant continued review.

To that end, even though the HPC ultimately elected not to proceed to a Cost and Market Impact Review in this matter³, the HPC announced its expectation that it will monitor the parties' future performance if the transaction moves forward. For example, the HPC expects to monitor:

- Atrius's size and market share over time, including any new locations or services it develops and any changes to the patient populations it serves over time;
- Atrius's pricing over time;
- Health care spending for Atrius patients, including both unadjusted spending trends and health status adjusted spending trends;
- Changes to medical coding and risk score trends for Atrius patients;
- The quality of services provided by Atrius, including any concerns voiced by patients;
- Atrius's financial performance and the use of any capital investment by Optum;
- Atrius's commitments to care for at-risk, underserved, and government payer populations;
- Atrius's commitments to recruit and maintain a high quality health care workforce;
- Atrius's commitment to continuing to work with a range of payers in global budget and other performance-based contracting arrangements; and
- Atrius and Optum's continued cooperation with state and federal government, and compliance with all applicable rules and regulations.

The HPC welcomes your office's participation in any such ongoing monitoring efforts, including information available from other states. In addition, we would also welcome your office's partnership with the HPC in its efforts to address the documented rise in risk scores across many different provider and payer entities in Massachusetts, which we understand may reflect changes to coding practices more than changes in patient health status, and which impacts total health care spending, with direct financial impacts for employers and residents across Massachusetts.

³ HPC Commissioners discussed the transaction extensively at a June, 24 2021 public meeting. Commissioners shared varied perspectives and concerns regarding the transaction and the HPC's decision not to move forward with a Cost and Market Impact Review, with some Commissioners strongly urging a review

We look forward to providing any assistance you deem useful in assessing this proposed transaction under your relevant authorities, and we look forward to partnering with your office on these issues in furtherance of our shared goals create a more affordable, accessible and equitable high quality health care system in Massachusetts.

Sincerely,

A handwritten signature in black ink, appearing to read "Stuart Altman", with a long horizontal flourish extending to the right.

Stuart Altman, Chair

cc: Mary Beckman, Chief, Health Care and Fair Competition Bureau
Courtney Aladro, Chief, Non-Profit Organizations/Public Charities Division
Will Matlack, Chief, Antitrust Division
Eric Gold, Chief, Healthcare Division