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November 9, 2020

VIA HAND DELIVERY AND EMAIL (shareholderproposals@sec.gov)

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

Re: *AmerisourceBergen Corporation*
Stockholder Proposal of The Sisters of St. Francis of Philadelphia and Trinity
Health, as co-filers
Rule 14a-8 of the Securities Exchange Act of 1934

Ladies and Gentlemen:

This letter is to inform you that our client, AmerisourceBergen Corporation, a Delaware corporation (“AmerisourceBergen” or the “Company”), intends to exclude from its proxy statement and form of proxy for its 2021 Annual Meeting of Stockholders (collectively, the “2021 Proxy Materials”) the stockholder proposal (the “Proposal”) and the statement in support thereof (the “Supporting Statement”) received from The Sisters of St. Francis of Philadelphia and Trinity Health, as co-filers (the “Proponents”).

Pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), we have:

- transmitted this letter by email to the staff (the “Staff”) of the Division of Corporation Finance of the Securities and Exchange Commission (the “Commission”) at shareholderproposals@sec.gov no later than eighty (80) calendar days before the Company intends to file its definitive 2021 Proxy Materials with the Commission, which is currently anticipated to be on or about January 28, 2021; and

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- concurrently sent copies of this letter, together with its attachments, to the Proponents at the email addresses they have provided as notice of the Company's intent to exclude the Proposal and the Supporting Statement from the 2021 Proxy Materials.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("SLB 14D") provide that stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to inform the Proponents that if the Proponents elect to submit additional correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

THE PROPOSAL

The Proposal sets forth the following proposed resolution for the vote of the Company's stockholders at the 2021 Annual Meeting of Stockholders:

RESOLVED that shareholders of AmerisourceBergen Corporation ("ABC"), urge the Compensation Committee (the "Committee") of the board to take the steps necessary to provide that the Committee may decline to pay in full an award (a "Bonus") to a senior executive under any annual cash incentive program ("Bonus Program") that is based on one or more financial measurements (a "Financial Metric") whose performance measurement period ("PMP") is one year or shorter for a period (the "Deferral Period") following the award, including developing a methodology for determining the length of the Deferral Period and adjusting the unpaid portion of the Bonus over the Deferral Period.

The methodology referenced above should allow accurate assessment of risks taken during the PMP that could have affected performance on the Financial Metric(s) and facilitate ABC's recoupment of Bonus compensation pursuant to its recoupment policy.

The changes should be implemented in a way that does not violate any existing contractual obligation or the terms of any compensation or benefit plan currently in effect.

Copies of the Proposal, the Supporting Statement, and the related correspondence between the Company and the Proponents are attached to this letter as Exhibit A.

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BASES FOR EXCLUSION

The Company respectfully requests that the Staff concur in its view that the Proposal and the Supporting Statement may be excluded from the 2021 Proxy Materials pursuant to (i) Rule 14a-8(i)(7), because the Proposal involves matters that relate to the ordinary business operations of the Company; and (ii) Rule 14a-8(i)(10), because the Company has substantially implemented the Proposal.

ANALYSIS

I. The Company May Exclude the Proposal Pursuant to Rule 14a-8(i)(7) Because the Proposal Involves Matters that Relate to Ordinary Business Operations of the Company.

Rule 14a-8(i)(7) permits a company to exclude a stockholder proposal from its proxy materials “[i]f the proposal deals with a matter relating to the company’s ordinary business operations.” The Commission explained that the “general underlying policy” of the ordinary business exclusion is “to confine the resolution of ordinary business problems to management and the board of directors, since it is impracticable for shareholders to decide how to solve such problems at an annual shareholders meeting.” Exchange Act Release No. 34-40018 (May 21, 1998) (the “1998 Release”). The 1998 Release identified two central considerations that underlie this policy. The first consideration is that “[c]ertain tasks are so fundamental to management’s ability to run a company on a day-to-day basis that they could not, as a practical matter, be subject to direct shareholder oversight.” *Id.* The 1998 Release differentiates between proposals that are excludable because they pertain to the ordinary business of the Company and proposals that involve “significant social policy issues,” which are not excludable pursuant to Rule 14a-8(i)(7) because they “transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” *Id.* In assessing whether a proposal involves significant policy issues, the Staff considers the terms of the resolution and its supporting statement as a whole. See Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005) (“In determining whether the focus of these proposals is a significant social policy issue, we consider both the proposal and the supporting statement as a whole.”).

A. The Proposal’s Subject Matter Relates to the Company’s Ordinary Business Operations.

In SLB 14J, the Staff provided that “proposals that focus on significant aspects of senior executive and/or director compensation generally are not excludable under Rule 14a-8(i)(7).” The Staff, however, also recognized in SLB 14J that at issue in some senior executive and/or director compensation proposals is “whether the focus of a proposal is senior executive and/or director compensation, or whether its underlying concern relates primarily to ordinary business matters

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that are not sufficiently related to senior executive and/or director compensation.” Moreover, the Staff acknowledged that they “have concurred in the exclusion of proposals that, while styled as senior executive and/or director compensation proposals, have had as their underlying concern ordinary business matters.” SLB 14J.

The Proposal applies to any annual cash incentive awarded to a senior executive, which is based on one or more financial measures with a performance measurement period of one year or less following the award.¹ The Proposal further states that the Committee’s determination to decline to pay such an award should be based upon a methodology for determining the deferral period and for adjusting the unpaid portion of the award over the deferral period. The Supporting Statement, however, belies that the Proposal is truly focused on matters of senior executive compensation. Instead, the Supporting Statement demonstrates that the Proposal’s actual impetus is how the Company, which operates in a highly-regulated industry, implements and manages its legal compliance and litigation strategies, which the Staff has generally considered excludable under Rule 14-8(i)(7) as pertaining to ordinary business operations. See Navient Corp. (Mar. 26, 2015, recon. denied April 8, 2015) (“Proposals that concern a company’s legal compliance program are generally excludable under Rule 14a-8(i)(7).”); Chevron Corp. (Mar. 19, 2013) (excluding a proposal as relating to the company’s ordinary business operations (i.e., litigation strategy) where the proposal requested that the company review and provide a report regarding its “legal initiatives against investors”); Exxon Mobil Corp. (Mar. 21, 2000) (concurring with the exclusion of a proposal requesting payment of settlements associated with Exxon Valdez oil spill as relating to litigation strategy and related decisions); CMS Energy Corp. (Feb. 23, 2004) (excluding a proposal requiring the company to void any agreements with two former members of management and initiate action to recover all amounts paid to them, where the Staff noted that the proposal related to the “conduct of litigation”).

By its terms, in the context of the Company’s specific situation, the Proposal does not implicate significant executive compensation matters. The Proposal’s discretionary nature, which provides that the Committee may decline to pay an award in full, would not obligate the Committee to take any specific course of action that would have an effect on executive officer compensation. The Supporting Statement confirms that “[t]he Committee would have discretion to set the terms and

¹ Importantly, the Company issues payments pursuant to annual cash incentive awards within two and a half months after the end of its fiscal year. If the Company were to implement a longer deferral period prior to issuing payments so that the Company could take into account developments occurring after the end of the fiscal year, the annual cash incentive awards would no longer be based on a Performance Measurement Period of one year or less and would instead be considered a part of the long-term incentive program. Such a fundamental change to the Company’s executive compensation program would have significant tax and accounting implications. For example, Section 409A of the Internal Revenue Code requires that a company pay bonus awards within two and a half months of the end of a year in which an award is earned to be considered a permissible “short-term deferral,” otherwise, the employee will be subject to interest and penalties.

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mechanics of this process” but the Proposal does not require the Committee to put in place a payment deferral process.² The Proposal does, however, state that the methodology, which the Committee is not obligated to implement, “should allow accurate assessment of risks taken during the PMP that could have affected performance...” The risks to which the Proposal unquestionably refers are risks arising from the Company’s legal compliance and litigation strategy. Moreover, the Company’s Board of Directors has already taken the steps to grant the Committee the authority to administer the Company’s compensation arrangements and to allow for the methodology as requested by the Proposal. As evidenced by our discussion in Part II, not only has the Board of Directors established the framework requested by the Proposal, the Committee has actually implemented the Company’s annual cash incentive program in a manner that satisfies the criteria set forth in the Proposal, including the ability to clawback, recoup or forfeit annual cash incentive awards.

Indeed, the Supporting Statement implies that the Company engaged in “compliance shortcomings” that caused the Company to become “a defendant in the multidistrict opioid litigation, as well as in suits brought by numerous state attorneys general...” While the Supporting Statement does not prescribe a specific strategy or method of compliance, the Proposal’s underlying concern is to cause the Company to alter its legal compliance and litigation strategy, thereby avoiding becoming a defendant in multidistrict litigation and incurring litigation and settlement costs in the amounts alleged.

That the Proposal’s underlying concern is the Company’s legal compliance program and litigation strategy is made clear by the fact that the Company’s compensation arrangements already substantially implement the Proposal’s requests.³ Furthermore, the Company has in place a multitude of programs and committees that oversee legal and compliance risks and risk

² The Staff has concurred that similar proposals that required companies to implement a bonus deferral program based on one or more financial measurements with a performance measurement period may be excluded on the basis that they micromanaged complex compensation programs. See Walmart Inc. (Mar. 27, 2020); Johnson and Johnson (Hammerman Family Revocable Inter Vivos Trust) (Feb. 12, 2020). If the Proposal is read to mean that the Committee must implement the Proposal, the Proposal is excludable from the 2021 Proxy Statement on the basis of micromanagement. If the Proposal is not read to mean that the Company must implement the Proposal, the Company has substantially implemented the Proposal because the Committee is already authorized to implement the Proposal’s essential objectives, as discussed in Part II.

³ In particular, the Company’s Omnibus Incentive Plan and Annual Incentive Plan provide the Committee the authority to structure the Company’s annual cash incentive programs based on the performance measurement period and around the methodology requested by the Proposal. Refer to AmerisourceBergen Corporation Omnibus Incentive Plan (the “Omnibus Incentive Plan”), filed as Exhibit 10.1 to the Company’s Current Report on Form 8-K filed on March 10, 2014, located at https://www.sec.gov/Archives/edgar/data/1140859/000110465914018004/a14-7723_1ex10d1.htm. For a discussion of the Annual Incentive Plan, refer to note 7 herein.

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management at all levels of the Company,⁴ which address the legal compliance and associated risk management issues that are the true target of the Proposal. To this end, the Committee has the ability to reduce, amend, cancel and/or clawback any annual or short-term cash incentive award, including following the grant of any such award.⁵

Nevertheless, the Committee is scheduled to meet to carefully review and consider factors relating to the Proposal and the Company's compensation programs and policies as they are currently in effect. Additionally, the Committee will consider, consistent with the Staff's guidance in SLB 14J and SLB 14K, whether or not the Proposal implicates significant executive compensation matters, and, in turn, whether the Proposal is appropriate to submit to a shareholder vote.

The Company is submitting this no-action request at this time to comply with the timing requirements of Rule 14a-8(j). Following the Committee's meeting, we expect to promptly supplement this letter to inform the Staff of the Committee's determination, which supplement we expect to provide to the Staff on or around November 16th, 2020.

II. The Company May Exclude the Proposal Pursuant to Rule 14a-8(i)(10) Because the Company has Already Substantially Implemented the Proposal.

Rule 14a-8(i)(10) provides that a company may exclude a stockholder proposal from its proxy materials "[i]f the company has already substantially implemented the proposal." When first adopting this exclusion, the Commission explained that the Rule was "designed to avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by the management..." Exchange Act Release No. 12,598, 9 SEC Dock. 1030, 1035 (1976). In analyzing requests for exclusion under Rule 14a-8(i)(10), the Staff does not require full implementation of the proposal, but instead considers whether the Company's policies, practices and procedures "compare favorably" with the guidelines set forth in the proposal. *See, e.g., Exxon Mobil Corp.* (Mar. 17, 2011); *Texaco, Inc.* (Mar. 28, 1991).

Differences between a company's actions and a stockholder proposal are permitted so long as the company's actions sufficiently address the proposal's underlying concern and its essential

⁴ For instance, the Compliance and Risk Committee of the Board of Directors provides reports to the full Board of Directors throughout the year regarding compliance matters, and the Company's Compensation and Succession Planning Committee reviews the Company's internal risk assessments of employee compensation policies and practices, which includes "a review of all key incentive compensation plans to ensure that they are aligned with [the Company's] pay-for-performance philosophy and include performance metrics that support corporate goals." AmerisourceBergen Corporation, Proxy Statement on Schedule 14A for the 2020 Annual Meeting of Shareholders (the "2020 Proxy Statement"), filed on Jan. 24, 2020, page 20, located at <https://www.sec.gov/Archives/edgar/data/1140859/000104746920000460/a2240346zdef14a.htm>.

⁵ For further discussion, refer to Part II below.

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objective. Specifically regarding proposals addressing executive compensation matters, the Staff has routinely concurred that a company may exclude a proposal as substantially implemented where the company's manner of implementation may have differed from the manner in which the shareholder proponent would implement the proposal, but where the company had addressed the fundamental aspects of the proposal. For example, in Rite Aid Corp. (Apr. 14, 2020), the Staff concurred that the company had substantially implemented a shareholder proposal requesting amendments to the Company's clawback policy, even though the company had not addressed one aspect of the proposal (relating to the location and timing of public disclosure regarding application of the policy) in the manner specifically requested in the proposal. Additionally, in Visa Inc. (Oct. 11, 2019), the Staff concurred that the company had substantially implemented a proposal recommending that the compensation committee reform the company's executive compensation philosophy to include social factors to enhance the company's social responsibility, even though the factors considered by the company did not include those specifically recommended in the proposal. See also, Wal-Mart Stores, Inc. (Mar. 25, 2015) (concurring with the exclusion of a proposal that requested the Company to include at least one metric related to the Company's employee engagement as a metric in determining senior executives' incentive compensation, noting "that [the company's] policies, practices and procedures compare favorably with the guidelines of the proposal and that [the company] has, therefore, substantially implemented the proposal"). Accordingly, when a company has acceptably addressed a proposal's "essential objective," the proposal will be deemed "substantially implemented" and, therefore, may be excluded. See, e.g., Exelon Corp. (Feb. 26, 2010) (concurring with excluding a proposal requesting a semi-annual report regarding the company's political contributions because the company's existing guidelines and reports fulfilled the essential objective of the proposal of providing stockholders with up-to-date information on the company's political contributions); Anheuser-Busch Companies, Inc. (Jan. 17, 2007) (concurring with excluding a proposal seeking a declassified board when the company showed it had already declassified its board through an amendment to its certificate of incorporation which was approved by stockholders at the prior annual meeting); ConAgra Foods, Inc. (July 3, 2006) (concurring with excluding a proposal requesting a sustainability report because the company had already been providing information generally of the type to be included in the sustainability report); Johnson & Johnson (Feb. 17, 2006); Masco Corp. (Mar. 29, 1999) (concurring with excluding a proposal requesting the board of directors adopt specific qualifications for outside directors because the board had already scheduled a similar resolution for consideration at an upcoming board meeting). See also, The Talbots Inc. (Apr. 5, 2002); The Gap, Inc. (Mar. 8, 1996).

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A. The Company's Existing Compensation Arrangements Compare Favorably with the Guidelines of the Proposal and the Proposal May be Excluded as Substantially Implemented.

In the immediate instance, the Proposal urges the Company's Compensation and Succession Planning Committee (the "Committee") to "take the steps necessary to provide that the Committee may [emphasis added] decline to pay in full an award . . . to a senior executive under any annual cash incentive program . . . that is based on one or more financial measurements (a 'Financial Metric') whose performance measurement period ('PMP') is one year or shorter for a period (the 'Deferral Period')" and that the Committee "develop[] a methodology for determining the length of the Deferral Period and adjusting the unpaid portion of the Bonus over the Deferral Period." Additionally, the Proposal specifies that the methodology for determining the Deferral Period and adjusting the unpaid portion of the Bonus over the Deferral Period "should allow accurate assessment of risks taken during the PMP that could have affected performance on the Financial Metric(s) and facilitate ABC's recoupment of Bonus compensation pursuant to its recoupment policy." As demonstrated below, the Company and the Committee have already taken the steps necessary to put in place the Committee's discretion to decline to pay in full any annual cash incentive award, including one that is based on a performance period of one year or less, and that allows the Committee to adjust the unpaid portion of the award over the remainder of the performance period. Furthermore, the Committee has discretion to implement recoupment of any award that has already been paid. As such, the Committee's existing authorization with respect to awards of annual cash incentives to senior executives more than favorably compares with the Proposal and satisfies its underlying concern and essential objectives. Accordingly, the Company and the Committee have already substantially implemented the Proposal.⁶

The Company's annual cash bonus awards, or Short Term Incentives ("STIs"), operate pursuant to the Company's Omnibus Incentive Plan and the Annual Incentive Plan (together, the "Plans").⁷

⁶ Last year, the Company included in its 2020 Proxy Statement a substantially similar proposal, which the Company's stockholders opposed by 66% of the stockholders entitled to vote thereon.

⁷ In addition to the Omnibus Incentive Plan, the Company maintains a short form Annual Incentive Plan that broadly applies to all full- or part-time regular employees of the Company, which the Annual Incentive Plan refers to as "Associates", and that grants the Committee discretion to administer the plan in a manner similar to the Omnibus Incentive Plan. The Annual Incentive Plan permits the Committee and the Company's Executive Management Committee (comprised of the CEO and five other senior executives) to grant to Associates annual cash awards based on the achievement of pre-established performance goals. The plan provides that, "[T]he Committee shall have the full power to determine the size and types of Target Incentive Award opportunities. The Committee has the ultimate authority to construe and interpret the AIP and to establish or amend rules and regulations for the AIP administration." On amending, modifying or terminating awards, the plan provides that, "The Committee may, in its discretion, add, change or eliminate the eligibility or Target Incentive Award level of any role..." Additionally, "The Committee, without notice and at any time prior to end of the fiscal year, may modify or amend, in whole or in part, any or all of the provisions of the AIP, or suspend or terminate it entirely." Finally, regarding clawbacks and recoupment of awards

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Under the terms of the Plans, the Committee has complete discretion to establish the performance goals and incentive levels for STIs awarded to the Company's senior executives. The Plans grant the Committee the authority to establish the terms of such awards, the performance metrics against which the awards are measured (which, in the Committee's complete discretion, may and do include financial measurements), and the methodology for determining the length of the performance measurement or vesting period. Additionally, the Plans permit the Committee to assess risks taken during the performance measurement period and permit the Committee to recoup awards under the Company's existing recoupment policy. For instance, with respect to the Omnibus Incentive Plan:

- Section 3(a) grants the Committee the “sole and exclusive authority to administer the Plan with respect to (i) Eligible Individuals who are subject to the reporting rules under Section 16(a) of the Exchange Act...” and, at the Board's discretion, “[a]dministration of the Plan with respect to all other Eligible Individuals and other Awards.” In turn, Section 6 defines “Eligible Individuals” as “officers or other employees, non-employee directors, independent contractors or consultants of the Company (or a Parent or Subsidiary) with the potential to contribute to the future success of the Company or its Parents or Subsidiaries.” Section 2 includes within the definition of “Awards” the “Cash Incentive Awards or other awards determined by the Administrator.”
- Section 3(b) grants the Committee the authority to (i) select the individuals, including the senior executives, who will receive STIs, (ii) make awards to those individuals in accordance with the Omnibus Incentive Plan, (iii) determine the terms and conditions of each award, including, those related to timing, vesting, payment and exercisability, (iv) determine the terms for forfeiture of all or part of an award, as well as to determine whether or not an award has become exercisable or earned, (v) amend the terms and conditions of an award, including after the award has been granted, and (vi) to establish, amend and/or rescind all rules necessary for the administration of the Omnibus Incentive Plan. On a plain reading, the Committee has the authority to issues awards to senior executive officers, to determine the terms and conditions of awards, including the consideration, timing, vesting and performance metrics, and to provide for forfeiture of any award granted. Additionally, since the Committee has the unilateral

granted, the plan provides that, “Notwithstanding anything in the Plan to the contrary, all awards under the Plan ... shall be subject to... any applicable clawback, recoupment or other similar policy that the Board may adopt (each, a ‘Policy’), notwithstanding any provision of an employment agreement or other agreement to the contrary. All awards shall be subject to potential cancellation, recoupment, rescission, payback or other action in accordance with the terms of such Policy.”

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ability to amend the terms and conditions of an award, even after it has been granted, the Committee may decline to pay in full an award.

- Section 15, with respect to grants of STIs, provides that the Committee, as “Administrator”, has “the authority to grant Cash Incentive Awards which are to vest in one or more installments ... upon the attainment of specified performance goals,” which could include, for example, one or more financial measurements and include an assessment of risks at the Committee’s complete discretion. Section 15 further provides that, “The vesting schedule and other terms applicable to each Cash Incentive Award shall be determined by the Administrator and incorporated into the Award Agreement,” which open-ended discretion permits the Committee to establish a performance measurement period of one year or shorter and which, as noted above, the Committee may amend even after the Award has been granted.
- Section 3(b)(xii) confers upon the Committee the latitude “to make all other determinations and to formulate such procedures as may be necessary or advisable for the administration of the Plan,” which latitude encompasses virtually every aspect of the Proposal’s request.
- Section 16 provides the Committee “the authority to specify the terms and provisions of other forms of equity-based or equity-related Awards ... which the Administrator determines to be consistent with the purpose of the Plan and the interests of the Company, which Awards may provide for cash payments based in whole or in part on the value or future value of Common Stock...” And, that such awards “shall also include cash payments under the Plan which may be based on one or more criteria determined by the Administrator which are unrelated to the value of Common Stock and which may be granted in tandem with, or independent of, other Awards under the Plan.”
- Section 17(d) establishes that, “The Participant shall also be subject to any clawback, recoupment or other similar policy adopted by the Board as in effect from time to time and Awards and any cash, shares of Common Stock or other property or amounts due, paid or issued to a Participant shall be subject to cancellation, recoupment, rescission, payback or other action in accordance with the terms of such policy.” The Proposal does not request that the Committee establish specific terms for recoupment of annual cash awards. Rather, it requests that the Committee takes steps necessary to facilitate the recoupment of annual cash awards pursuant to the Company’s existing recoupment policy. Section 17(d), however, already establishes that the Board may adopt “any clawback, recoupment or other similar policy,” pursuant to which the Company already

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applies a robust forfeiture and clawback policy to STIs.⁸ Furthermore, Section 17(a)(v) requires that an award recipient “shall pay to the Company the amount paid to the Participant with respect to such Cash Incentive Award” upon instances of misconduct by the recipient.

The following chart demonstrates the components of the Proposal, along with some of the corresponding sections of the Omnibus Incentive Plan that establish the Committee’s authority to administer the STIs, such that each aspect of the Proposal is already substantially implemented.

<u>Proposal Requirement</u>	<u>Plan Section</u>
1. develop an “annual cash incentive program (‘Bonus Program’) that is based on one or more financial measurements (a ‘Financial Metric’) whose performance measurement period (‘PMP’) is one year or shorter”	Section 3(a), Section 3(b), Section 15, and Section 16
2. “decline to pay in full an award (a ‘Bonus’) to a senior executive . . . for a period (the ‘Deferral Period’) following the award, including developing a methodology for determining the length of the Deferral Period”	Section 3(a), Section 3(b)(iv), Section 3(b)(v), Section 3(b)(vi), Section 3(b)(vii), Section 3(b)(x), Section 3(b)(xii), Section 16, and Section 17
3. “adjust[] the unpaid portion of the Bonus over the Deferral Period”	Section 3(b)(v), Section 3(b)(vi), Section 3(b)(x), and Section 16

⁸ As part of the Committee’s evaluation of annual internal risk assessment of employee compensation policies, the Committee assesses whether the performance metrics for STIs create undue risks, including legal compliance and litigation risks, for the Company. As disclosed in the Company’s 2020 Proxy Statement, “Our Compensation Committee oversees whether our compensation policies could encourage employees, including executive officers, to take unnecessary risks that threaten the Company’s long-term value.... The risk assessment also reviewed the forfeiture and clawback provisions that are applicable to the Company’s annual cash awards. We concluded that the Company’s compensation policies and practices do not promote behaviors that could put the organization at legal, financial or reputational risk, and reviewed our risk analysis and conclusions with the Compensation Committee.” 2020 Proxy Statement, at 62.

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In addition, the Omnibus Incentive Plan's terms:

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| 4. "allow accurate assessment [by the Committee] of risks taken during the PMP that could have affected performance on the Financial Metric(s)"; and | Section 3(b)(iv),
Section 3(b)(v),
Section 3(b)(vi), and
Section 16 |
| 5. "facilitate ABC's recoupment of Bonus compensation pursuant to its recoupment policy." | Section 17(a)(i)(D),
Section 17(a)(v), and
Section 17(d) |

Moreover, as discussed further in Part I of this no-action request, the Committee is scheduled to meet to carefully review and analyze the Proposal's essential objectives and the Committee's existing authority to administer the STIs in a manner that substantially implements the Proposal. Following the Committee's meeting, we expect to promptly supplement this letter to inform the Staff of the Committee's determination, which supplement we expect to provide to the Staff on or around November 16th, 2020.

B. The Proposal has been Substantially Implemented and the Committee will Meet to Analyze the Extent of Such Substantial Implementation.

The Staff has previously concurred that a company substantially implemented a stockholder proposal seeking adoption by the board of a policy relating to senior executive compensation where the requested policy was evidenced through resolutions of a committee of the board or action amending a compensatory plan. For example, in Citigroup Inc. (Jan. 15, 2015), the proposal asked the board to adopt a policy that in the event of a change of control, there shall be no acceleration of vesting of any equity award granted to any senior executive (other than vesting on a partial, pro rata basis). Thus, the proposal contained two essential elements: (i) the adoption of a policy and (ii) that the policy shall provide for no acceleration of vesting of any equity award granted to any executive in the event of a change in control. In evidencing the company's substantial implementation of the proposal, the company provided the text of a resolution of the company's compensation committee affirming that it was the policy of the committee that no equity or other deferred incentive award held by any executive will vest as a result of a change in control of the company. The Staff concurred that the resolution adopted by the company's compensation committee documented its policy with respect to the subject of the proposal and therefore had substantially implemented the proposal, such that exclusion was warranted. See also, AT&T Inc. (Jan 22, 2014) (concurring with the exclusion of a stockholder proposal requesting the adoption of a policy limiting accelerated vesting of equity awards in connection with a change in control, where the company amended its equity incentive plan (rather than adopting a separate policy) to remove certain provisions relating to the accelerated vesting of equity awards in

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connection with a change in control).

Here, the Proposal requests that the Committee:

“take the steps necessary to provide that the Committee may decline to pay in full an award (a ‘Bonus’) to a senior executive under any annual cash incentive program (‘Bonus Program’) that is based on one or more financial measurements (a ‘Financial Metric’) whose performance measurement period (‘PMP’) is one year or shorter for a period (the ‘Deferral Period’) following the award, including developing a methodology for determining the length of the Deferral Period and adjusting the unpaid portion of the Bonus over the Deferral Period.”

The Proposal further states that:

“The methodology referenced above should allow accurate assessment of risks taken during the PMP that could have affected performance on the Financial Metric(s) and facilitate ABC’s recoupment of Bonus compensation pursuant to its recoupment policy.”

The structure of the Company’s existing annual incentive programs and the Committee’s existing authority under the STI programs to award to senior executive officers annual cash incentive bonuses with a performance measurement period of one year or less, to amend and adjust those awards (even after the award has been granted), and to effectuate a clawback, recoupment or forfeiture of awards, all as discussed above, substantially implement the Proposal because, collectively, they address the Proposal’s underlying concerns and essential objectives consistent with Rule 14a-8(i)(10).

In order to substantially implement the Proposal, the Committee is scheduled to review (the “Committee Review”) its policy with respect to administering the deferral of bonuses for senior executives that are based on one or more financial metrics whose performance measurement period is one year or shorter, including its methodology for determining the length of deferrals and adjusting any such bonuses. Accordingly, the Committee will review, in the context of the design and flexibility of the STI programs and the Committee’s existing authority to clawback, recoup and forfeit such awards pursuant to the Plans, the extent to which the Proposal has been substantially implemented under a delta analysis.

C. Supplemental Notification.

We submit this no-action request now to address the timing requirements of Rule 14a-8(j). Following the Committee Review, the Company expects to promptly supplement this letter to report on the Committee’s Review, which supplement we expect to provide to the Staff on or

Morgan Lewis

Office of Chief Counsel
Division of Corporation Finance
U.S. Securities and Exchange Commission
November 9, 2020
Page 14

around November 16th, 2020. The Staff consistently has granted no-action relief under Rule 14a-8(i)(10) where a company has notified the Staff of the actions expected to be taken that will substantially implement the proposal and then supplements its request for no-action relief by notifying the Staff after those actions have been taken. See, e.g., United Continental Holdings, Inc. (Apr. 13, 2018); United Technologies Corp. (Feb. 14, 2018); The Southern Co. (Feb. 24, 2017); Mattel, Inc. (Feb. 3, 2017); The Wendy's Co. (Mar. 2, 2016); The Southern Co. (Feb. 26, 2016); The Southern Co. (Mar. 6, 2015); Visa Inc. (Nov. 14, 2014); Hewlett-Packard Co. (Dec. 19, 2013); Starbucks Corp. (Nov. 27, 2012); DIRECTV (Feb. 22, 2011); NiSource Inc. (Mar. 10, 2008); and Johnson & Johnson (Feb. 19, 2008) (each granting no-action relief where the company notified the Staff of its intention to omit a stockholder proposal under Rule 14a-8(i)(10) because the board of directors was expected to take action that would substantially implement the proposal, and the company supplementally notified the Staff of the board action).

CONCLUSION

Based upon the foregoing analyses, the Company believes that the Proposal and the Supporting Statement may be excluded from the 2021 Proxy Materials under Rules 14a-8(i)(7) and 14a-8(i)(10). Accordingly, the Company respectfully requests the Staff's concurrence with the Company's view or, alternatively, that the Staff confirm that it will not recommend any enforcement action if the Company excludes the Proposal and the Supporting Statement from the 2021 Proxy Materials.

If we can be of any further assistance in this matter, please do not hesitate to call the undersigned at (202) 739-5658. If the Staff is unable to concur with the Company's conclusions without additional information or discussions, the Company respectfully requests the opportunity to confer with members of the Staff prior to the issuance of any written response to this letter. In accordance with Staff Legal Bulletin No. 14F, Part F (Oct. 18, 2011), please send your response to this letter by email to sean.donahue@morganlewis.com.

Very truly yours,



Sean M. Donahue

Enclosures

cc: Korey Pirouz, AmerisourceBergen Corporation
Tom McCaney, The Sisters of St. Francis of Philadelphia
Catherine Rowan, Trinity Health

Morgan Lewis

EXHIBIT A

**PROPOSAL AND
RELATED CORRESPONDENCE**



Catherine M. Rowan
Director, Socially Responsible Investments
766 Brady Avenue, Apt. 635
Bronx, NY 10462
Phone: (718) 822-0820
Fax: (718) 504-4787

E-Mail Address: rowan@bestweb.net

September 24, 2020

John G. Chou, EVP and Corporate Secretary
AmerisourceBergen Corporation
1300 Morris Drive
Chesterbrook, PA 19087

Dear Mr. Chou,

Trinity Health is the beneficial owner of over \$2,000 worth of AmerisourceBergen Corporation. Trinity Health has held these shares continuously for over twelve months and will continue to do so at least until after the next annual meeting of shareholders. A letter of verification of ownership is enclosed.

Trinity Health looks for social, environmental and governance accountability as well the financial performance of its investments. The opioid epidemic continues to be a devastating public health crisis, and we are looking for assurance that our company is managing opioid-related risks in a responsible manner and with accountability.

I am authorized to notify you of our intention to present the attached proposal for consideration and action by the stockholders at the next annual meeting. I submit this proposal for inclusion in the proxy statement, in accordance with Rule 14-a-8 of the General Rules and Regulations of the Securities and Exchange Act of 1934.

The enclosed proposal is the same one as being filed by the Sisters of St. Francis of Philadelphia, and the primary contact for the proposal is Mr. Tom McCaney tmccaney@osfphila.org. Trinity Health is co-filing with the Sisters of St. Francis of Philadelphia this same proposal. We designate Mr. McCaney as lead filer to act on our behalf for all purposes in connection with the proposal. We hope for a productive dialogue with the company.

Sincerely,

Catherine Rowan

enc

AmerisourceBergen – Bonus Deferral

RESOLVED that shareholders of AmerisourceBergen Corporation (“ABC”) urge the Compensation Committee (the “Committee”) of the board to take the steps necessary to provide that the Committee may decline to pay in full an award (a “Bonus”) to a senior executive under any annual cash incentive program (“Bonus Program”) that is based on one or more financial measurements (a “Financial Metric”) whose performance measurement period (“PMP”) is one year or shorter for a period (the “Deferral Period”) following the award, including developing a methodology for determining the length of the Deferral Period and adjusting the unpaid portion of the Bonus over the Deferral Period.

The methodology referenced above should allow accurate assessment of risks taken during the PMP that could have affected performance on the Financial Metric(s) and facilitate ABC’s recoupment of Bonus compensation pursuant to its recoupment policy.

The changes should be implemented in a way that does not violate any existing contractual obligation or the terms of any compensation or benefit plan currently in effect.

SUPPORTING STATEMENT

As long-term shareholders, we support compensation policies that align senior executives’ incentives with the company’s long-term success. We are concerned that short-term incentive plans can encourage senior executives to take on excessive risk.

In our view, compliance shortcomings can create significant risks for drug distribution firms. ABC is a defendant in the multi-district opioid litigation, as well as in suits brought by numerous state attorneys general alleging that ABC failed to report suspiciously high orders of opioid medications. The litigation had cost ABC \$1 billion as of January 2020.¹ ABC has also paid fines or settlements for violations of the Controlled Substances Act and the False Claims Act.²

To foster a longer term orientation, this proposal asks that the Committee be authorized to defer payment of some portion of senior executive Bonuses and, should it choose to defer, to develop a methodology to allow adjustment of the

¹ <https://legalnewsline.com/stories/523602931-delaware-judge-opens-new-door-in-opioid-litigation-for-securities-class-action-lawyers>

² See violationtracker.goodjobsfirst.org

unpaid portion during the Deferral Period. The Committee would have discretion to set the terms and mechanics of this process.

Bonus deferral is widely used in the banking industry, where overly risky behavior was widely viewed as contributing to the financial crisis. The Financial Stability Board's *Principles for Sound Compensation Practices* state that bonus deferral is "particularly important" because it allows "late-arriving information about risk-taking and outcomes" to alter payouts and reduces the need to claw back compensation already paid out, which may "fac[e] legal barriers," in the event of misconduct. Banking supervisors in 16 jurisdictions, including the US, have requirements or expectations regarding bonus deferral. (<https://www.fsb.org/wp-content/uploads/P170619-1.pdf>) Pharmaceutical manufacturers Indivior, GlaxoSmithKline and Novartis defer a portion of annual bonuses into equity that does not immediately vest.

We urge shareholders to vote FOR this proposal.



The Northern Trust Company
50 South LaSalle Street
Chicago, Illinois 60603

September 24, 2020

TO WHOM IT MAY CONCERN,

Please accept this letter as verification that as of September 24, 2020 Northern Trust as custodian held for the beneficial interest of Trinity Health 8,758 shares of AmerisourceBergen Corporation.

As of September 24, 2020 Trinity Health has held at least \$2,000 worth of AmerisourceBergen Corporation continuously for over one year. Trinity Health has informed us it intends to continue to hold these shares through the date of the company's next annual meeting.

This letter is to confirm that the aforementioned shares of stock are registered with Northern Trust, Participant Number 2669, at the Depository Trust Company.

Sincerely,

Ryan Stack
2nd Vice President
The Northern Trust Company
50 South La Salle Street
Chicago, Illinois 60603

From: Pirouz, Korey <KPirouz@amerisourcebergen.com>
Sent: Saturday, November 7, 2020 9:00 AM
To: Thomas McCaney
Subject: RE: FW: shareholder proposal with AmerisourceBergen

Great, thanks Tom.

Korey Pirouz
Vice President, Associate General Counsel & Secretary
AmerisourceBergen Corporation

227 Washington Street
Conshohocken, PA 19428

Work: 610.576.3832
Mobile: 215.622.8953
Email: kpirouz@amerisourcebergen.com

www.amerisourcebergen.com

From: Thomas McCaney <tmccaney@osfphila.org>
Sent: Friday, November 6, 2020 7:33 PM
To: Pirouz, Korey <KPirouz@amerisourcebergen.com>
Subject: RE: FW: shareholder proposal with AmerisourceBergen

CAUTION: This email originated from outside of the organization. DO NOT CLICK links or open attachments unless you recognize the sender and know the content is safe.

Hi Korey,

I'll coordinate with Cathy Rowan and let you know available times. Thanks for reaching out.

Tom
>>> "Pirouz, Korey" <KPirouz@amerisourcebergen.com> 11/6/2020 4:45 PM >>>

Mr. McCaney,

I hope you're doing well. I'm following up on the proposal that was submitted. Do you have anytime to talk on Monday?

**Best,
Korey**

Korey Pirouz
Vice President, Associate General Counsel & Secretary
AmerisourceBergen Corporation

227 Washington Street
Conshohocken, PA 19428

Work: 610.576.3832
Mobile: 215.622.8953
Email: kpirouz@amerisourcebergen.com

www.amerisourcebergen.com

From: Thomas McCaney <tmccaney@osfphila.org>
Sent: Sunday, September 27, 2020 9:21 AM
To: Pirouz, Korey <KPIrouz@amerisourcebergen.com>
Subject: Re: FW: shareholder proposal with AmerisourceBergen

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Thanks so much.

>>> "Pirouz, Korey" <KPIrouz@amerisourcebergen.com> 9/25/2020 9:52 AM >>>

Mr. McCaney,

I am writing to confirm receipt of the attached.

Regards,

Korey Pirouz

Vice President, Associate General Counsel & Secretary
AmerisourceBergen Corporation

227 Washington Street
Conshohocken, PA 19428

Work: 610.576.3832
Mobile: 215.622.8953
Email: kpirouz@amerisourcebergen.com

www.amerisourcebergen.com

From: Chou, John <JChou@amerisourcebergen.com>
Sent: Thursday, September 24, 2020 8:19 AM
To: Pirouz, Korey <KPIrouz@amerisourcebergen.com>; Greenbaum, Missy <MKrain@amerisourcebergen.com>
Subject: Fwd: shareholder proposal with AmerisourceBergen

Fyi

Get [Outlook for iOS](#)

From: Thomas McCaney <tmccaney@osfphila.org>
Sent: Thursday, September 24, 2020 7:27:40 AM
To: Chou, John <JChou@amerisourcebergen.com>
Subject: shareholder proposal with AmerisourceBergen

CAUTION: This email originated from outside of the organization. DO NOT CLICK links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Chou:

Please accept the attached documents from the Sisters of St. Francis of Philadelphia as our submission of a shareholder proposal on the issue of deferred incentives.

The original hard copy was sent via UPS overnight yesterday. If you have any questions, please don't hesitate to contact me by email or by phone at 610-716-2766.

Sincerely,

Tom McCaney
Associate Director, Corporate Social Responsibility
Sisters of St. Francis of Philadelphia
609 S. Convent Road
Aston, PA 19014

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From: Pirouz, Korey <KPirouz@amerisourcebergen.com>
Sent: Friday, November 6, 2020 4:46 PM
To: Cathy Rowan
Subject: RE: Co-filing of Shareholder Proposal (Trinity Health)

Ms. Rowan,

I hope you're doing well. I'm following up on the proposal that was submitted. Do you have any time to talk on Monday?

**Best,
Korey**

Korey Pirouz

Vice President, Associate General Counsel & Secretary
AmerisourceBergen Corporation

227 Washington Street
Conshohocken, PA 19428

Work: 610.576.3832
Mobile: 215.622.8953
Email: kpirouz@amerisourcebergen.com

www.amerisourcebergen.com

From: Cathy Rowan <rowan@bestweb.net>
Sent: Friday, September 25, 2020 10:35 AM
To: Pirouz, Korey <KPirouz@amerisourcebergen.com>
Cc: Chou, John <JChou@amerisourcebergen.com>
Subject: Re: Co-filing of Shareholder Proposal (Trinity Health)

CAUTION: This email originated from outside of the organization. DO NOT CLICK links or open attachments unless you recognize the sender and know the content is safe.

Thank you.

sincerely,

Cathy

Catherine Rowan
Director, Socially Responsible Investments
Trinity Health
766 Brady Ave. Apt. 635
Bronx, NY 10462
ph 718-822-0820
fax 718-504-4787
rowan@bestweb.net

On Sep 25, 2020, at 9:51 AM, Pirouz, Korey <KPirouz@amerisourcebergen.com> wrote:

Dear Ms. Rowan,

I am writing to confirm receipt of the attached.

Regards,

Korey Pirouz

Vice President, Associate General Counsel & Secretary
AmerisourceBergen Corporation

227 Washington Street
Conshohocken, PA 19428

Work: 610.576.3832
Mobile: 215.622.8953
Email: kpirouz@amerisourcebergen.com

www.amerisourcebergen.com

From: Chou, John <JChou@amerisourcebergen.com>
Sent: Thursday, September 24, 2020 2:15 PM
To: Pirouz, Korey <KPirouz@amerisourcebergen.com>; Greenbaum, Missy <MKrain@amerisourcebergen.com>
Subject: FW: Co-filing of Shareholder Proposal (Trinity Health)

fyi

From: Cathy Rowan <rowan@bestweb.net>
Sent: Thursday, September 24, 2020 12:56 PM
To: Chou, John <JChou@amerisourcebergen.com>
Subject: Co-filing of Shareholder Proposal (Trinity Health)

CAUTION: This email originated from outside of the organization. DO NOT CLICK links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Chou,

Attached please find the shareholder proposal and accompanying materials from Trinity Health, which is co-filing the proposal with Sisters of St. Francis of Philadelphia and the American Baptist Home Mission Society (our lead filers).

This packet was also expressed mailed this morning, and you should receive it tomorrow.

Sincerely,

Cathy Rowan

Catherine Rowan
Director, Socially Responsible Investments

Trinity Health
766 Brady Ave. Apt. 635
Bronx, NY 10462
ph 718-822-0820
fax 718-504-4787
rowan@bestweb.net

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<Trinity Health filing packet (AmerisourceBergen).pdf>