



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

February 21, 2024

John M. Franck II  
HCA Healthcare, Inc.

Re: HCA Healthcare, Inc. (the "Company")  
Incoming letter dated December 20, 2023

Dear John M. Franck II:

This letter is in response to your correspondence concerning the shareholder proposal (the "Proposal") submitted to the Company by the Physicians Committee for Responsible Medicine for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders.

The Proposal requests that the Company adopt the American Medical Association policy for healthful foods for healthcare facilities and implement the program for healthful hospital food developed by the NYC Health + Hospitals system.

There appears to be some basis for your view that the Company may exclude the Proposal under Rule 14a-8(i)(7). In our view, the Proposal relates to, and does not transcend, ordinary business matters. Accordingly, we will not recommend enforcement action to the Commission if the Company omits the Proposal from its proxy materials in reliance on Rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative basis for omission upon which the Company relies.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Rule 14a-8 Review Team

cc: Mark Kennedy  
Physicians Committee for Responsible Medicine



December 20, 2023

**VIA ONLINE SHAREHOLDER PROPOSAL PORTAL**

U.S. Securities and Exchange Commission  
Division of Corporation Finance  
Office of Chief Counsel  
100 F Street, NE Washington, DC 20549

**Re: HCA Healthcare, Inc. – Exclusion of Shareholder Proposal Submitted by the Physicians Committee for Responsible Medicine**

Dear Sir or Madam:

HCA Healthcare, Inc. (the “Company”), respectfully submits this letter pursuant to Rule 14a-8(j) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to notify the Securities and Exchange Commission (the “Commission”) of the Company’s intention to exclude from the Company’s proxy materials for its 2024 annual meeting of shareholders (the “2024 Proxy Materials”) a shareholder proposal and statements in support thereof submitted to the Company by the Physicians Committee for Responsible Medicine (the “Proponent”) in a letter dated November 6, 2023 and received by the Company on November 7, 2023 (the “Shareholder Proposal”). All references to “Company,” “HCA” and “HCA Healthcare” as used throughout this document refer to HCA Healthcare, Inc. and its affiliates. The Company’s 2024 annual meeting of shareholders will be held on or about April 25, 2024. In order to timely commence mailing, the Company intends to begin printing the 2024 Proxy Materials no later than March 11, 2024, and intends to file with the Commission the 2024 Proxy Materials on or about March 15, 2024.

The Company requests confirmation that the Commission’s staff (the “Staff”) will not recommend to the Commission that enforcement action be taken against the Company if the Company excludes the Shareholder Proposal from its 2024 Proxy Materials pursuant to Exchange Act:

- Rule 14a-8(i)(7), on the basis that the Shareholder Proposal relates to, and does not transcend, the Company’s ordinary business operations; and
- Rule 14a-8(i)(10), on the basis that the Company has already substantially implemented the Shareholder Proposal.

Pursuant to Exchange Act Rule 14a-8(j) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”), the Company is submitting electronically to the Commission this letter and the exhibits attached hereto, and is concurrently sending a copy of this correspondence to the Proponent, no later than eighty (80) calendar days before the Company intends to file its definitive 2024 Proxy Materials with the Commission.

Exchange Act Rule 14a-8(k) and SLB 14D provide that shareholder 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 Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to the Shareholder

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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 Shareholder Proposal**

On November 7, 2023, the Company received the Shareholder Proposal from the Proponent for inclusion in the 2024 Proxy Materials:

#### **Shareholder Resolution for Revenue Savings and Improved Health**

##### **RESOLVED:**

HCA Healthcare, Inc. shall achieve significant revenue savings, improve patient satisfaction, improve employee health, reduce absenteeism, and enhance its image as a healthcare leader by adopting the American Medical Association policy for healthful foods for healthcare facilities and implementing the innovative program for healthful hospital food developed by the NYC Health + Hospitals system.

##### **SUPPORTING STATEMENT:**

In 2017, the American Medical Association adopted a policy calling on U.S. hospitals to improve the health of patients, staff, and visitors by providing a variety of healthful food, including plant-based meals and meals that are low in fat, sodium, and added sugars; eliminating processed meats from menus; and providing and promoting healthful beverages. These healthful changes enjoy strong support from patients. Subsequently, the NYC Health + Hospitals system implemented a program following these guidelines and improving upon them in certain ways. Patient satisfaction has been greater than 90%, staff satisfaction has been similarly high, and costs have dropped by approximately 60 cents per food tray. Media coverage has been strongly favorable, greatly boosting the system's image.

Failure to adopt such a program would mean forfeiting millions of dollars in cost savings and the opportunity to improve patient health and our corporate image. By enhancing the health of patients and staff, this approach addresses the significant social issue of public health and transcends ordinary matters of business, while also reducing food costs and potentially reducing medical costs and absenteeism among employees.

Recent research shows that plant-based foods present, on average, a 16% revenue savings. When scaled to an institution level, these savings increase exponentially. Employee health improves and absenteeism decreases when the food environment is improved. A multicenter study for GEICO employees found that providing plant-based food offerings and simple educational messages improved employee health and reduced health-related productivity impairments by 40- 46%. With improved employee health, HCA may lower healthcare costs, increase productivity, and significantly increase revenue.

Given HCA's mission of giving people a healthier tomorrow, adopting healthier, climate-friendly, socially responsible, cost-saving, and forward-thinking meals is an excellent step toward meeting this goal. When we achieve revenue savings, improve patient satisfaction, and boost employee health and morale with inexpensive healthful foods, everyone wins, most of all the shareholders who have invested in the company's future.

In light of the marked financial benefits, the potential improvements in employee health, and the enhanced prestige that will result from these initiatives, we respectfully ask shareholders to support this resolution.

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A copy of the Shareholder Proposal is attached hereto as Exhibit A.

### **Basis for Exclusion**

We respectfully request that the Staff concur in our view that the Shareholder Proposal may be excluded from the 2024 Proxy Materials pursuant to Exchange Act (i) Rule 14a-8(i)(7), on the basis that the Shareholder Proposal relates to, and does not transcend, the Company's ordinary business operations, and (ii) Rule 14a-8(i)(10), on the basis that the Company has substantially implemented the Shareholder Proposal.

### **Analysis**

#### **I. The Shareholder Proposal May Be Excluded Pursuant to Rule 14a-8(i)(7) Because The Shareholder Proposal Relates To, And Does Not Transcend, The Company's Ordinary Business Operations.**

##### *A. Background of the Ordinary Business Exclusion.*

Rule 14a-8(i)(7) permits a company to exclude a shareholder proposal from the company's proxy materials if the proposal "deals with a matter relating to the company's ordinary business operations." According to the Commission's release accompanying the 1998 amendments to Rule 14a-8, the term "ordinary business" refers to matters that are not necessarily "ordinary" in the common meaning of the word, but instead the term "is rooted in the corporate law concept [of] providing management with flexibility in directing certain core matters involving the company's business and operations." Exchange Act Release No. 34-40018 (May 21, 1998) (the "1998 Release"). The Staff stated in the 1998 Release that the 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," and that this underlying policy rests on two central considerations that form the basis of the Commission's application of the ordinary business exclusion.

The first consideration relates to the subject matter of the proposal. The 1998 Release recognizes 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." Examples of such tasks cited by the Staff in the 1998 Release include "management of the workforce, such as the hiring, promotion, and termination of employees, decisions on production quality and quantity, and the retention of suppliers."

The second consideration relates to the degree to which the proposal seeks to "micro-manage" the company by "probing too deeply into matters of a complex nature upon which shareholders, as a group, would not be in a position to make an informed judgment." The Staff recently explained in Staff Legal Bulletin No. 14L (Nov. 3, 2021) ("SLB 14L") that it "focuses on the level of granularity sought in the proposal and whether and to what extent it inappropriately limits discretion of the board or management." The Staff continued that this approach is "consistent with the Commission's views on the ordinary business exclusion, which is designed to preserve management's discretion on ordinary business matters but not prevent shareholders from providing high-level direction on large strategic corporate matters."

Notwithstanding these considerations, the Staff explained in the 1998 Release that a proposal relating to a company's ordinary business operations is nonetheless generally not excludable if the proposal focuses on "sufficiently significant social policy issues (e.g., significant discrimination matters)" that "transcend the

day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” In determining whether a proposal presents a policy issue that transcends the ordinary business of the company, the Staff noted in SLB 14L that it will focus on “whether the proposal raises issues with a broad societal impact” and on the related “social policy significance,” regardless of whether a nexus exists between the policy issue and the company.

As discussed below, the Shareholder Proposal implicates each of the central considerations underlying the ordinary business exclusion: the subject matter of the Shareholder Proposal deals with issues that are “fundamental to management’s ability to run the company on a day-to-day basis” and seeks to micromanage the Company by limiting its discretion with respect to complex, day-to-day operations. Furthermore, the Shareholder Proposal does not focus on sufficiently significant social policy issues that transcend day-to-day business matters. Accordingly, the Shareholder Proposal relates to, and does not transcend, the Company’s ordinary business operations and therefore may be excluded from the 2024 Proxy Materials pursuant to Rule 14a-8(i)(7).

*B. The Subject Matter of the Shareholder Proposal Relates to the Company’s Ordinary Business Operations.*

The Shareholder Proposal requests that the Company adopt “the American Medical Association policy for healthful foods for healthcare facilities” (the “AMA Policy”) and implement “the innovative program for healthful hospital food developed by the NYC Health + Hospitals system” (the “NYC Program”), which together would require the Company to provide plant-based meals as the primary menu option at its hospitals and to otherwise serve “plant-based meals and meals that are low in fat, sodium, and added sugars,” eliminate “processed meats from menus,” and provide and promote “healthful beverages.” At its core, the Shareholder Proposal attempts to direct the Company to regularly provide, or not provide, particular products and therefore involves the Company’s “ordinary business.”

The Staff has long allowed companies to exclude, as relating to ordinary business operations, proposals seeking to influence management’s decisions with respect to menu items and food options, because such decisions are squarely within the management function of a company and require complex analyses beyond the ability of shareholders as a group. The Staff re-confirmed this long-held view in *HCA Healthcare, Inc.* (Mar. 6, 2023), where it allowed exclusion under Rule 14a-8(i)(7) of a proposal that requested the Company’s board of directors to require the Company’s hospitals to provide plant-based food options to patients at every meal, within vending machines and in the cafeteria used by outpatients, staff and visitors, determining that such proposal “relates to, and does not transcend, ordinary business matters.” See also *Elevance Health, Inc.* (Mar. 6, 2023); *UnitedHealth Group Inc.* (Mar. 16, 2023). Similarly, in *Papa John’s International, Inc.* (Feb. 13, 2015), the Staff allowed exclusion under Rule 14a-8(i)(7) of a proposal encouraging the board of directors to expand menu offerings to include vegan cheeses and vegan meats to “advance animal welfare, reduce its ecological footprint, expand its healthier options, and meet a growing demand for plant-based foods.” In *McDonald’s Corp.* (Mar. 24, 1992), the Staff permitted exclusion under Rule 14a-8(i)(7) of a proposal requiring the company to offer a “[low-fat] burger, switch to an all-vegetable cooking oil and offer salads . . . in keeping with enlightened medical research findings and nutritional practice both in the U.S. and abroad,” and in *McDonald’s Corp.* (Mar. 9, 1990), the Staff allowed exclusion under Rule 14a-8(i)(7) of a proposal recommending that the board of directors introduce “a vegetarian entree whose means of production neither degrades the environment nor exploits other species.” In each case, the applicable company emphasized the complex decision-making process involved in selecting menu items and food options.

The Staff has also consistently allowed retailers, for example, to exclude, as relating to ordinary business operations, proposals seeking to influence management’s decisions whether to sell particular products.



*See, e.g., The TJX Companies* (Apr. 16, 2018) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board develop an animal welfare policy applying to all of the Company's stores, merchandise and suppliers because it concerned the company's products and services for sale); *The Home Depot, Inc.* (Mar. 21, 2018) (permitting exclusion under Rule 14a-8(i)(7) of proposal encouraging the company to end sales of glue traps because it related to the products and services offered for sale by the company); *Wal-Mart Stores, Inc.* (Mar. 24, 2008) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the board issue a report on the viability of Wal-Mart's U.K. cage-free egg policy); *PetSmart, Inc.* (Apr. 14, 2006) (permitting exclusion of a proposal requesting that the company's board issue a report based on the company's findings in an investigation into whether to end bird sales); *Marriott International, Inc.* (Feb. 13, 2004) (permitting exclusion under Rule 14a-8(i)(7) of a proposal prohibiting the sale of sexually explicit material at Marriott-owned and managed properties); *Albertson's, Inc.* (Mar. 18, 1999) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that the company's board take steps necessary to assure that the company no longer sells, advertises, or promotes tobacco products).

Allowing shareholders to dictate which products the Company makes available and serves to its patients, staff and visitors would inappropriately delegate management functions to shareholders. We own and operate 183 hospitals and approximately 2,300 ambulatory sites of care in 20 states and England, and purchasing decisions, which are made by our individual hospital facilities, inherently involve complex operational, business and quality of care issues requiring knowledge of ordinary business and operational matters such as the individual dietary needs and preferences of their respective hospital populations and the varying and transient needs and demands of their respective patients, staff and visitors. In many cases, these hospital-level decisions may be affected by a hospital's respective integrated delivery network. Also, with respect to patients, we generally must adhere to the Academy of Nutrition and Dietetics Nutrition Care Manual, which each of our hospitals consults to define patient menus and other offerings appropriate for patients. Assessing these and the many other factors that influence purchasing decisions at the Company's hospitals requires the real-time judgment of the management and employees at each respective Company hospital and facility, which, unlike the Company's shareholders, are well-positioned, and have the necessary knowledge, information and resources, to make informed decisions on such business and operational matters.

*C. The Shareholder Proposal Would Permit Shareholders to Micromanage the Company's Ordinary Business Operations.*

The Shareholder Proposal, like those addressed in the letters cited above, seeks to probe too deeply into matters of a complex nature which are not appropriate for shareholder determination. Many complex factors, many of which require analysis of constantly changing information to which the Company's shareholders do not have access, are considered by the Company's hospitals in connection with their respective purchasing decisions. These factors include, in addition to those noted in the discussion above, cost, demand, other dietary restrictions and preferences, health conditions and needs of each patient. Additionally, instead of "providing high-level direction on large strategic corporate matters," the Shareholder Proposal would "inappropriately limit discretion of the board or management" by usurping the day-to-day decision-making process involved with purchasing decisions at the Company's hospitals. The ability of the Company's hospitals to address constantly changing information, to which the Company's shareholders do not have access, related to individual dietary needs and preferences of their respective hospital populations and the varying and transient needs and demands of their respective patients, staff and visitors is fundamental to the Company's business operations, and cannot properly be submitted to shareholders to micromanage.



*D. The Shareholder Proposal Does Not Focus on a Sufficiently Significant Social Policy Issue That Transcends the Company's Ordinary Business Operations.*

The Commission noted in the 1998 Release that shareholder proposals relating to ordinary business operations but “focusing on sufficiently significant social policy issues . . . generally would not be considered to be excludable, because the proposals would transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.”

The Shareholder Proposal, however, fails to focus on a sufficiently significant social policy issue that transcends the ordinary business of the Company. *See, e.g., HCA Healthcare, Inc.* (Mar. 6, 2023) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the Company’s board of directors require the Company’s hospitals to provide plant-based food options to patients, staff and visitors, “[g]iven the impact of nutrition on a patient’s recovery process and overall health”); *Elevance Health, Inc.* (Mar. 6, 2023); *UnitedHealth Group Inc.* (Mar. 16, 2023); *McDonald’s Corp.* (Mar. 24, 1992) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company “offer [a low-fat] burger, switch to an all-vegetable cooking oil and offer salads . . . in keeping with enlightened medical research findings and nutritional practice”); *Papa John’s International, Inc.* (Feb. 13, 2015) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company offer vegan meats and cheeses to expand the company’s healthier options).

Moreover, despite references to certain health-related impacts, the Shareholder Proposal is fundamentally concerned with economic considerations related to the Company’s ordinary business operations. The Shareholder Proposal reads, “HCA Healthcare, Inc. shall *achieve significant revenue savings, improve patient satisfaction, improve employee health, reduce absenteeism, and enhance its image as a healthcare leader . . .*” (emphasis added), and claims that: “[f]ailure to adopt such a program would mean *forfeiting millions of dollars in costs savings* and the opportunity to improve patient health *and our corporate image*” (emphasis added), “costs have dropped by approximately 60 cents per food tray,” “[r]ecent research shows that plant-based foods present, on average, a 16% revenue savings,” “when scaled to an institution level, these savings increase exponentially,” “[m]edia coverage has been strongly favorable, greatly boosting the system’s image,” “[w]hen we *achieve revenue savings, improve patient satisfaction, and boost employee health and morale with inexpensive healthful foods, everyone wins, most of all the shareholders who have invested in the company’s future*” (emphasis added). The Staff has long distinguished between proposals that focus on a significant social policy issue and those that contain references to a significant social policy issue but are actually directed at a company’s ordinary business matters. Proposals with passing references touching upon topics that might raise significant social policy issues—but which do not focus on or have only tangential implications for such issues—are not transformed from an otherwise ordinary business proposal into one that transcends ordinary business, and as such, remain excludable under Rule 14a-8(i)(7). *See, e.g., Amazon, Inc.* (Apr. 7, 2022) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting a report on risks to the company related to staffing of its business and operations, despite the proponent’s assertion that the proposal focused on human capital management); *Amazon.com, Inc.* (Apr. 8, 2022) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting reports concerning the distribution of stock-based incentives to employees and related EEO-1 employee classification data, despite the proponent’s assertion that the proposal focused on wealth inequality and other equity issues).

The Staff has broadly concurred with the exclusion of shareholder proposals pursuant to Rule 14a-8(i)(7) as matters that deal with the company’s ordinary business when proposals relating to particular products, services or practices raised public health considerations related to the company but nevertheless did not transcend day-to-day business matters. For example, in *HCA Healthcare, Inc.* (Mar. 6, 2023), the proposal requested that the Company’s board of directors require the Company’s hospitals to provide



plant-based food options to patients at every meal, within vending machines and in the cafeteria used by outpatients, staff and visitors, “[g]iven the impact of nutrition on a patient’s recovery process and overall health.” Despite references in the proposal to public health considerations, the Staff permitted exclusion under Rule 14a-8(i)(7) because “the Proposal relates to, and does not transcend, ordinary business matters.” See also *Elevance Health, Inc.* (Mar. 6, 2023); *UnitedHealth Group Inc.* (Mar. 16, 2023); *McDonald’s Corp.* (Mar. 24, 1992) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company “offer [a low-fat] burger, switch to an all-vegetable cooking oil and offer salads . . . in keeping with enlightened medical research findings and nutritional practice”); *Papa John’s International, Inc.* (Feb. 13, 2015) (permitting exclusion under Rule 14a-8(i)(7) of a proposal requesting that the company offer vegan meats and cheeses to expand the company’s healthier options). In *Viacom Inc.* (Dec. 18, 2015), the proposal requested that the company’s board of directors issue a report assessing the company’s policy responses to public concerns regarding linkages of food and beverage advertising to childhood obesity, diet-related diseases and other impacts on children’s health. The Staff concurred that the proposal could be excluded under Rule 14a-8(i)(7) because the proposal related to, and did not transcend, the company’s “nature, presentation and content of advertising,” which was part of its ordinary business operations. See also *McDonald’s Corp.* (Mar. 12, 2019) (permitting exclusion under Rule 14a-8(i)(7) of a proposal that sought to create a special board committee on food integrity because it related to the company’s ordinary business operations). To the extent that the Staff has denied exclusion of health-related proposals on the ground that they raise a significant policy issue, the proposals have focused on inherent and significant hazards to human health or the prioritization of financial returns over healthcare purpose. See, e.g., *CVS Health Corp.* (Mar. 15, 2022); *Columbia/HCA Healthcare Corp.* (Mar. 30, 1999); *Baxter International Inc.* (Mar. 1, 1999); *Universal Health Services Inc.* (Mar. 30, 1999).

The Shareholder Proposal merely attempts to link potential health-related advantages of plant-based meals and similar healthful food and beverage options to the broader issue of public health while attempting to direct the Company to regularly provide, or not provide, particular products, without regard to the specific dietary needs, restrictions and preferences of the diverse and transient populations of each of the Company’s hospitals and other sites of care. The Shareholder Proposal attempts to address one type of dietary option without taking into consideration the Company’s existing practices and the nuanced and diverse populations that the Company employs and serves.

For the above reasons, the Shareholder Proposal relates to, and does not transcend, the Company’s ordinary business operations and may be excluded from the 2024 Proxy Materials in reliance on Rule 14a-8(i)(7).

## **II. The Shareholder Proposal May Be Excluded Pursuant to Rule 14a-8(i)(10) Because The Company Has Substantially Implemented The Shareholder Proposal.**

### *A. Background of the Substantially Implemented Exclusion.*

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if “the company has already substantially implemented the proposal.” Under the “substantially implemented” standard, a company may exclude a shareholder proposal when the company’s actions address the shareholder proposal’s underlying concerns, even if the company does not implement every aspect of the shareholder proposal. *Masco Corporation* (Mar. 29, 1999) (permitting exclusion under Rule 14a-8(i)(10) where the company adopted a version of the proposal with slight modification and clarification as to one of its terms). See also *Starbucks Corp.* (Jan. 19, 2022) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting public disclosure of the company’s non-discrimination and civil rights reports and training manuals where the company had already made some reports public and publicly disclosed certain information regarding employee training efforts); *AutoZone, Inc.* (Oct. 9, 2019) (permitting exclusion



under Rule 14a-8(i)(10) of a proposal requesting that the Board issue a report on sustainability to shareholders taking into consideration certain SASB standards where existing public disclosures align with the guidelines of the proposal); *MGM Resorts International* (Feb. 28, 2012) (permitting exclusion under Rule 14a-8(i)(10) of a proposal requesting a report on the company's sustainability policies and performance, including multiple objective statistical indicators, where the company published an annual sustainability report); *Exxon Mobil Corp. (Rossi)* (Mar. 19, 2010) (permitting exclusion under Rule 14a-8(i)(10) despite differences between a company's actions and a shareholder proposal so long as the company's actions satisfactorily address the proposal's essential objectives); *Texaco, Inc.* (Mar. 28, 1991) ("a determination that the company has substantially implemented the proposal depends upon whether [the company's] particular policies, practices and procedures compare favorably with the guidelines of the proposal"). Ultimately, the actions taken by the company must have addressed the proposal's "essential objective." See, e.g., *Freeport-McMoRan Copper & Gold, Inc.* (Mar. 5, 2003) (permitting exclusion under Rule 14a-8(i)(10) where the company had already implemented a human rights policy, even though the specific elements of the policy did not meet the shareholder proponent's objectives). The purpose of Rule 14a-8(i)(10) is to "avoid the possibility of shareholders having to consider matters which have already been favorably acted upon by management." See Exchange Release No. 34-20091 (August 16, 1983); Exchange Act Release No. 34-12598 (July 7, 1976) (discussing Rule 14a-8(c)(10), the predecessor to Rule 14a-8(i)(10)).

*B. The Company Has Substantially Implemented the Shareholder Proposal by Regularly Providing a Variety of Plant-Based Meals and Similar Healthful Food and Beverage Options to Patients, Staff and Visitors.*

The Shareholder Proposal requests that the Company adopt the AMA Policy and implement the NYC Program, which together would require the Company to provide plant-based meals as the primary menu option at its hospitals and to otherwise serve "plant-based meals and meals that are low in fat, sodium, and added sugars," eliminate "processed meats from menus," and provide and promote "healthful beverages." As described above, the Staff has interpreted substantial implementation under Rule 14a-8(i)(10) to require a company to have satisfactorily addressed both the proposal's underlying concern and its essential objective, not implement every aspect of the shareholder proposal. Here, the Shareholder Proposal's underlying concern is the availability and accessibility (or presumed lack thereof) at the Company's hospitals of plant-based meals and similar healthful food and beverage options as contemplated by the AMA Policy and the NYC Program, and its essential objective is for the Company to regularly offer to patients, staff, and visitors plant-based meals and similar healthful food and beverage options as contemplated by the AMA Policy and the NYC Program.

The AMA Policy generally contemplates (i) that reasonably priced healthful food options be available and accessible on health care facility premises, (ii) that health care facilities provide a variety of healthy food, including plant-based meals and meals that are low in saturated fat, trans fat, sodium, and added sugars, (iii) that health care facilities eliminate processed meats from menus, (iv) that health care facilities provide and promote healthy beverages, and (v) that health care facility cafeterias and inpatient meal menus publish nutrition information. Under the NYC Program, plant-based meals are the primary menu option.

The Company has satisfactorily addressed both the Shareholder Proposal's underlying concern and essential objective because, as of the date hereof, approximately 94% of our facilities offer a variety of plant-based meals and similar healthful food and beverage options in our retail operations, and approximately 79% of our facilities offer plant-based meals in our patient operations, substantially as contemplated by the AMA Policy and the NYC Program. The Company also currently offers its patients meals that are low in saturated fat, trans fat, sodium and added sugars. Patient meals are within a

recommended range of the Dietary Reference Intakes for these nutrients, and we cater to specific diets that intrinsically are low in these nutrients for patient populations, including, for example, heart healthy, consistent carb, renal, low sodium, and pediatric diets. Moreover, the Company currently offers an array of plant-based protein options to all of its hospitals, and the managed order guides available to all of its hospitals currently offer more than 70 unique plant-based and meatless protein options, such as vegetarian burger patties, chicken style chunks and strips, fishless fillets, vegan cheese, meatless meatballs and a variety of vegan pizza toppings, from leading plant-based brands such as Beyond Meat, Impossible, Morningstar Farms | Incogmeato, dr. Praegers, Happy Little Plants and Gardein. The Company is also working to relaunch its program for vending and micromarkets and anticipates providing guidelines for retail and physician food options and plant-based and related designations for packaged vending items. The Company believes it currently provides all food and beverage options at reasonable prices, and it offers various discounts and incentives for employees for nutritional purchases.

In addition, certain of the Company's hospitals are already required to provide plant-based options to patients pursuant to certain state-level initiatives. For example, in 2018, California passed SB1138, which requires hospitals and certain other licensed healthcare facilities to make available plant-based meals to patients.<sup>1</sup>

In summary, by making an array of plant-based meals and similar healthful food and beverage options widely available and accessible at its hospitals substantially as contemplated by the AMA Policy and the NYC Program, the Company has satisfactorily addressed the Shareholder Proposal's underlying concern, and by regularly serving plant-based meals and similar healthful food and beverage options substantially as contemplated by the AMA Policy and the NYC Program, the Company has satisfactorily achieved the Shareholder Proposal's essential objective.

For the above reasons, the Company has substantially implemented the Shareholder Proposal, and it may be excluded from the 2024 Proxy Materials in reliance on Rule 14a-8(i)(10).

### Conclusion

For the foregoing reasons, we respectfully request that the Staff not recommend any enforcement action from the Commission if the Company excludes the Shareholder Proposal from its 2024 Proxy Materials. Should you have any questions, or if the Staff is unable to concur in our view without additional information or discussions, we respectfully request the opportunity to confer with members of the Staff prior to the issuance of any written response to this letter. If the Staff has any questions regarding this request or requires additional information, please contact the undersigned by phone at (615) 344-5881 or by email at [John.Franck@HCAHealthcare.com](mailto:John.Franck@HCAHealthcare.com).

Sincerely,



John M. Franck II  
Vice President — Legal and Corporate Secretary  
HCA Healthcare, Inc.

cc: The Physicians Committee for Responsible Medicine

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<sup>1</sup> See CA Health & Safety Code § 1265.10.



**Exhibit A**

Shareholder Proposal

# PhysiciansCommittee

for Responsible Medicine

PCRM.ORG

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November 6, 2023

Via FedEx

John M. Franck II  
Vice President — Legal and Corporate Secretary  
HCA Healthcare, Inc.  
One Park Plaza  
Nashville, TN 37203

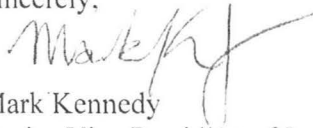
Re: Shareholder Proposal for Inclusion in the 2024 Proxy Statement

Dear Mr. Franck:

Enclosed with this letter is a shareholder proposal submitted by the Physicians Committee for Responsible Medicine (PCRM) for inclusion in the proxy statement for the 2024 annual meeting. Also enclosed is a letter from RBC Wealth Management, PCRM's brokerage firm, confirming PCRM's ownership of 182 common stock shares, acquired at least one year ago. PCRM has held at least \$25,000 worth of such shares continuously since acquisition and intends to hold at least this amount through and including the date of the 2024 shareholders meeting.

If there are any issues with this proposal being included in the proxy statement, or if you need any further information, please contact PCRM's designated representative, Anna Herby, RD, at 5100 Wisconsin Ave., NW, Suite 400, Washington, DC 20016, 202-527-7349, or [aherby@pcrm.org](mailto:aherby@pcrm.org). Ms. Herby is available to meet via teleconference Mondays, Wednesdays, Thursdays, and Fridays—including during the regulatory period of "no less than 10 calendar days, nor more than 30 calendar days, after submission of the shareholder proposal"—during the hours of 11 a.m. through 2:00 p.m. CT.

Sincerely,



Mark Kennedy  
Senior Vice President of Legal Affairs

Enclosures: Shareholder Resolution  
RBC Wealth Management letter



## **Shareholder Resolution for Revenue Savings and Improved Health**

### **RESOLVED:**

HCA Healthcare, Inc. shall achieve significant revenue savings, improve patient satisfaction, improve employee health, reduce absenteeism, and enhance its image as a healthcare leader by adopting the American Medical Association policy for healthful foods for healthcare facilities and implementing the innovative program for healthful hospital food developed by the NYC Health + Hospitals system.

### **SUPPORTING STATEMENT:**

In 2017, the American Medical Association adopted a policy calling on U.S. hospitals to improve the health of patients, staff, and visitors by providing a variety of healthful food, including plant-based meals and meals that are low in fat, sodium, and added sugars; eliminating processed meats from menus; and providing and promoting healthful beverages. These healthful changes enjoy strong support from patients. Subsequently, the NYC Health + Hospitals system implemented a program following these guidelines and improving upon them in certain ways. Patient satisfaction has been greater than 90%, staff satisfaction has been similarly high, and costs have dropped by approximately 60 cents per food tray. Media coverage has been strongly favorable, greatly boosting the system's image.

Failure to adopt such a program would mean forfeiting millions of dollars in cost savings and the opportunity to improve patient health and our corporate image. By enhancing the health of patients and staff, this approach addresses the significant social issue of public health and transcends ordinary matters of business, while also reducing food costs and potentially reducing medical costs and absenteeism among employees.

Recent research shows that plant-based foods present, on average, a 16% revenue savings. When scaled to an institution level, these savings increase exponentially. Employee health improves and absenteeism decreases when the food environment is improved. A multicenter study for GEICO employees found that providing plant-based food offerings and simple educational messages improved employee health and reduced health-related productivity impairments by 40-46%. With improved employee health, HCA may lower healthcare costs, increase productivity, and significantly increase revenue.

Given HCA's mission of giving people a healthier tomorrow, adopting healthier, climate-friendly, socially responsible, cost-saving, and forward-thinking meals is an excellent step toward meeting this goal. When we achieve revenue savings, improve patient satisfaction, and boost employee health and morale with inexpensive healthful foods, everyone wins, most of all the shareholders who have invested in the company's future.

In light of the marked financial benefits, the potential improvements in employee health, and the enhanced prestige that will result from these initiatives, we respectfully ask shareholders to support this resolution.



**Wealth  
Management**

200 Park Avenue, 2nd Floor  
FLORHAM PARK, NJ 07932

November 3, 2023

Physicians Committee for Responsible Medicine  
Attn: Betsy Wason, Senior Vice President of Development  
5100 Wisconsin Ave NW 400  
Washington, DC 20016-4131

Re: Certification of Shareholder Ownership in HCA Healthcare Inc

Dear Mrs. Wason:

This letter certifies that the Physicians Committee for Responsible Medicine holds 182 shares of HCA Healthcare Inc common stock and has continuously held at least \$25,000 in market value of such shares for at least one year prior to and including the date of this letter.

Should you have any questions or require additional information please contact me at (973) 410-3375.

Sincerely,

Jenilee Hill, APP  
Senior Registered Client Associate  
RBC Wealth Management

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Investment and insurance products: • Not insured by the FDIC or any other federal government agency  
• Not a deposit of, or guaranteed by, the bank or an affiliate of the bank • May lose value

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*Handwritten initials and date:*  
11/3/23



# PhysiciansCommittee

for Responsible Medicine

PCRM.ORG

5100 Wisconsin Ave. NW, Suite 400 • Washington, DC 20016 • Tel: 202-686-2210 • Fax: 202-686-2216 • pcrm@pcrm.org

January 15, 2024

## **VIA ONLINE SHAREHOLDER PROPOSAL FORM**

Office of Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549

**Re: Response to “HCA Healthcare, Inc. – Exclusion of Shareholder Proposal Submitted by the Physicians Committee for Responsible Medicine”**

Dear Staff:

I write on behalf of the Physicians Committee for Responsible Medicine (“Physicians Committee”) pursuant to Rule 14a-8(k) in response to a request by HCA Healthcare, Inc. (“Company”) that the Staff of the Division of Corporation Finance (“Division”) concur with its view that it may exclude the Physicians Committee’s shareholder resolution and supporting statement (“Proposal”) from the proxy materials to be distributed in connection with the Company’s 2024 annual meeting of shareholders (“No-Action Request”). The Company seeks to exclude the Proposal pursuant to Rule 14a-8(i)(7) and Rule 14a-8(i)(10). For the reasons set forth below, the Physicians Committee urges the Staff to deny the Company’s No-Action Request.

Pursuant to Rule 14a-8(k) and *Announcement: New Intake System for Rule 14a-8 Submissions and Related Correspondence* (Nov. 7, 2023), the Physicians Committee submits this letter electronically and is concurrently submitting a copy to the Company.

### **I. The Proposal**

The Proposal’s proposed resolution states,

#### **RESOLVED:**

HCA Healthcare, Inc. shall achieve significant revenue savings, improve patient satisfaction, improve employee health, reduce absenteeism, and enhance its image as a healthcare leader by adopting the American Medical Association policy for healthful foods for healthcare facilities and implementing the innovative program for healthful hospital food developed by the NYC Health + Hospitals system.

The Proposal’s supporting statement describes the public health and environmental benefits that such a resolution would effectuate, among them “enhancing the health of patients” via “healthful, climate-friendly, socially responsibly” meals.

## II. Because the Proposal Focuses on a Significant Social Policy Issue, the Company May Not Exclude the Proposal Pursuant to Rule 14a-8(i)(7)

Rule 14a-8(i)(7) provides that a company may exclude a proposal “[i]f the proposal deals with a matter relating to the company’s ordinary business operations.” Only “business matters that are mundane in nature and do not involve any substantial policy or other considerations” may be omitted under this provision. 41 Fed. Reg. 52,994, 52,998 (Dec. 3, 1976).

A proposal relating to a company’s ordinary business operations is not excludable if the proposal focuses on “sufficiently significant social policy issues” that “transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.” Amendments to Rules on Shareholder Proposals, Exchange Act Release No. 40018 (May 21, 1998). “In determining whether the focus of these proposals is a significant social policy issue, [Staff] consider both the proposal and the supporting statement as a whole.” Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005). “In making this determination, the staff will consider whether the proposal raises issues with a broad societal impact, such that they transcend the ordinary business of the company.” Staff Legal Bulletin No. 14L, part B.2 (Nov. 3, 2021).

To the extent that the Proposal touches on the Company’s ordinary business operations, the Proposal may not be excluded because it focuses on “sufficiently significant social policy issues” that “transcend the day-to-day business matters and raise policy issues so significant that it would be appropriate for a shareholder vote.”

The American Medical Association (“AMA”) is the nation’s largest professional association of physicians. Founded in 1847, its mission is “to promote the art and science of medicine and the betterment of public health.” AMA, *About*, <https://www.ama-assn.org/about> (last accessed Jan. 15, 2024). To achieve this mission, the AMA’s House of Delegates periodically issues policy statements to serve as guidance for physicians on healthcare issues. These “policies are based on professional principles, scientific standards and the experience of practicing physicians.” AMA, *Developing AMA Policies*, <https://www.ama-assn.org/house-delegates/ama-policies/developing-ama-policies> (last accessed Jan. 15, 2024).

As summarized in the Proposal, in 2017, the AMA updated policy *H-150.949: Healthful Food Options in Health Care Facilities* by inserting additional text that “calls on all health care facilities to improve the health of patients, staff, and visitors by: (a) providing a variety of healthy food, including plant-based meals, and meals that are low in saturated and trans fat, sodium, and added sugars; (b) eliminating processed meats from menus; and (c) providing and promoting healthy beverages.” AMA, *Healthful Food Options in Health Care Facilities H-150.949*, <https://policysearch.ama-assn.org/policyfinder/detail/H-150.949?uri=%2FAMADoc%2FHOD.xml-0-627.xml> (last accessed Jan. 15, 2024).

As stated in the Proposal, NYC Health + Hospitals (“NYCHH”) thereafter “implemented a program following these [AMA] guidelines and improving upon them in certain ways.” NYCHH is the nation’s largest municipal healthcare system, treating more than one million patients per year. NYCHH, *NYC Health + Hospitals Now Serving Culturally-Diverse Plant-Based Meals As Primary Dinner Option for Inpatients at All of Its 11 Public Hospitals* (Jan. 9,



2023), <https://www.nychealthandhospitals.org/pressrelease/nyc-health-hospitals-now-serving-plant-based-meals-as-primary-dinner-option-for-inpatients-at-all-of-its-11-public-hospitals/>. Of particular significance, NYCHH began serving plant-based meals as the default lunch and dinner option for inpatients at all of its 11 public hospitals. *Id.*

It is well-established that plant-based dietary patterns are particularly effective in the prevention<sup>1,2,3</sup> and treatment of overweight and obesity,<sup>4,5</sup> as well as body weight maintenance,<sup>6</sup> and reduce the risk of cardiovascular disease<sup>7,8,9</sup> and type 2 diabetes<sup>10,11</sup> at the same time. These benefits have been repeatedly demonstrated in large prospective cohort studies, such as the EPIC study (European Prospective Investigation into Cancer and Nutrition),<sup>12,13</sup> the Adventist-Health Study,<sup>9,10</sup> the Nurses' Health Study,<sup>14,15</sup> and the Health Professionals Follow-Up Study.<sup>16,17</sup>

For type 2 diabetes in particular, the 2020 American Association of Clinical Endocrinologists and American College of Endocrinology's consensus statement on type 2 diabetes management recommends a plant-based diet.<sup>18</sup> A study published in the *International Journal of Cancer* found that vegetarians have reduced breast cancer risk, compared to meat-eaters, most likely due to the abundance of healthful foods and avoidance of meat throughout their lives.<sup>19</sup>

Evidence suggests that the amount of animal-derived foods consumed is an independent risk factor for being overweight, and limiting their consumption is an effective strategy for weight loss and a healthy body composition, as well as for body weight maintenance. Vegetarians typically have lower body mass index values, compared with nonvegetarians.<sup>1</sup> Body mass index values tend to increase with increasing frequency of animal product consumption. In the Adventist Health Study-2, body mass index values were lowest among vegans (23.6 kg.m<sup>-2</sup>), higher in lacto-ovo-vegetarians (25.7 kg.m<sup>-2</sup>), and highest in nonvegetarians (28.8 kg.m<sup>-2</sup>).<sup>2,3,10</sup> The average individual yearly weight gain is reduced when people limit consumption of animal foods.<sup>20</sup>

In 2015, the World Health Organization's International Agency for Research on Cancer ("IARC") classified processed meat—which includes bacon, deli slices, sausage, hot dogs, and other meat products preserved with additives or otherwise manipulated to alter color, taste, and durability—as carcinogenic to humans.<sup>21</sup> IARC made this determination after assessing more than 800 epidemiological studies investigating the association of cancer with consumption of red meat or processed meat in many countries, from several continents, with diverse ethnicities and diets. Group 1 is the agency's highest evidentiary classification; other Group 1 carcinogens include tobacco smoking, secondhand tobacco smoke, and asbestos.<sup>22</sup>

Investigators in the EPIC study, which followed 448,568 men and women, discovered an 11 percent increased risk of dying from cancer with the consumption of 50 grams of processed meat per day.<sup>12</sup> In contrast, substitution studies have found that replacing one serving of processed meat per day with nuts decreased risk for disease by 19 percent and replacement with legumes decreased risk by 10 percent.<sup>23</sup>

This overwhelming body of scientific consensus underlies the Proposal's stated aims to "improve patient health," of "enhancing the health of patients," and to "bring about "improved employee health." Indeed, in announcing NYCHH's program, president and CEO, Mitchell Katz, MD,

stressed “the importance of a healthy diet and how it can help fend off or treat chronic conditions like type 2 diabetes, high blood pressure, and heart disease. . . . Our new meal program is rooted in evidence for health benefits and environmental sustainability[.]” Fiona Holland, *Plant-based Food to Become the Default Meals in New York City’s Public Hospitals*, Food Matters Live, Dec. 10, 2022, <https://foodmatterslive.com/article/plant-based-meals-default-at-new-york-city-public-hospital>.

Regarding the latter issue, environmental sustainability, the Proposal focuses on the “climate-friendly” and “socially responsible” benefits the Proposal would bring about. For example, researchers in a report published in *The Lancet* concluded after reviewing the effects of food production that a dietary shift toward plant foods and away from animal products is vital for promoting human health and the health of the planet.<sup>24</sup> The researchers found that food production is responsible for up to 30% of total greenhouse gas emissions, with animal products accounting for the vast majority—about three-quarters—of these effects. The report stated that projections for the future show that “vegan and vegetarian diets were associated with the greatest reductions in greenhouse-gas emissions.”

Research published in the *Proceedings of the National Academy of Sciences of the United States of America* found that an immediate shift to a plant-based diet could, by 2050, reduce greenhouse gases caused by food production by 70%.<sup>25</sup> A study in the *American Journal of Clinical Nutrition* found that even modest reductions of animal product consumption could potentially provide significant environmental benefits: a vegetarian diet reduced emissions by 29%, while a semi-vegetarian diet reduced emissions by 22%, compared with nonvegetarian diets.<sup>26</sup>

A report from the United Nations Environment Programme says that “animal products, both meat and dairy, in general require more resources and cause higher emissions than plant-based alternatives.”<sup>27</sup> The World Health Organization says, “Studies show that cutting back on red meat production reduces the nitrous oxide released into the atmosphere by fertilizers and animal manure. Nitrous oxide is the third most important man-made greenhouse gas and the most important anthropogenic contributor to stratospheric ozone destruction. Reducing livestock herds would also reduce emissions of methane, which is the second largest contributor to global warming after carbon dioxide.”<sup>28</sup>

In Staff Legal Bulletin No. 14C, the Division considered proposals related to the environment and public health, which it had previously found to be significant policy considerations, and advised that “[t]o the extent that a proposal and supporting statement focus on the company minimizing or eliminating operations that may adversely affect the environment or the public’s health, we do not concur with the company’s view that there is a basis for it to exclude the proposal under rule 14a-8(i)(7).” Staff Legal Bulletin No. 14C, part D.2 (June 28, 2005). Thus, there is no question that these issues involve a “broad societal impact.” See Staff Legal Bulletin No. 14L, part B.2 (Nov. 3, 2021).

The Company mistakenly characterizes the Proposal as making only “passing references touching upon topics that might raise significant social policy.” It goes without saying that it is not possible in a proposal’s limited confines, see Rule 14a-8(d), to provide detailed scientific references for every statement in a proposal. Nor should it be necessary to do so when, as here,

the Company's business is public health. The Company's stated mission is the following: "Above all else, we are committed to the care and improvement of human life." HCA Healthcare, Inc., *Our Mission and Values*, <https://hcahealthcare.com/about/our-mission-and-values.dot> (last accessed Jan. 15, 2024). The scientific consensus underlying the Proposal should be as well-understood by, and is as readily available to, the healthcare professionals in the Company's 183 hospitals as it is for the healthcare professionals of the American Medical Association and NYCHH.

The No-Action Request repeatedly cites three instances in which the Staff allowed exclusion under Rule 14a-8(i)(7) of a proposal to require company "hospitals to provide plant-based food options to patients at every meal, within vending machines and in the cafeteria used by outpatients, staff and visitors, determining that such proposal 'relates to, and does not transcend, ordinary business matters.'" See *UnitedHealth Group Incorporated* (Mar. 16, 2023); *Elevance Health, Inc.* (Mar. 6, 2023); *HCA Healthcare, Inc.* (Mar. 6, 2023). However, in all three instances, the proponent, Beyond Investing LLC, opted not to respond to the companies' no-action requests, depriving the Staff of the opportunity to consider whether significant social policy issues were involved.

The No-Action Request cites inapplicable cases in which the Staff allowed exclusion under Rule 14a-8(i)(7) of social policy proposals submitted to food establishments, see *McDonald's Corp.* (Mar. 12, 2019); *Papa John's International, Inc.* (Feb. 13, 2015), *McDonald's Corp.* (Mar. 24, 1992); *McDonald's Corp.* (Mar. 9, 1990), and retailers, see *The TJX Companies* (Apr. 16, 2018); *The Home Depot, Inc.* (Mar. 21, 2018); *Wal-Mart Stores, Inc.* (Mar. 24, 2008); *PetSmart, Inc.* (Apr. 14, 2006); *Albertson's, Inc.* (Mar. 18, 1999). The Company is neither a fast food restaurant chain nor a superstore. Its product is healthcare, not the sale and marketing of retail products.

### **III. Because the Company has not Substantially Implemented the Proposal, the Company May Not Exclude the Proposal Pursuant to Rule 14a-8(i)(10)**

Rule 14a-8(i)(10) permits a company to exclude a shareholder proposal if "the company has already substantially implemented the proposal." "This provision is designed to avoid the possibility of shareholders having to consider matters which already have been favorably acted upon by the management and would be applicable, for instances, whenever the management agrees prior to a meeting of security holders to implement a proponent's proposal in its entirety." 41 Fed. Reg. 29,982, 29,985 (July 20, 1976) (discussing the "Moot Proposals" predecessor to the current "substantially implemented" provision).

The determination whether a proposal that is not "fully effected" has been "substantially implemented" necessarily involves "subjectivity." See 48 Fed. Reg. 38,218, 38,221 (Aug. 23, 1983). "In the staff's view, a determination that the Company has substantially implemented the proposal depends upon whether its particular policies, practices and procedures compare favorably with the guidelines of the proposal." *Texaco, Inc.* (Mar. 28, 1991). "In other words, substantial implementation under Rule 14a-8(i)(10) requires a company's actions to have addressed the proposal's essential objective satisfactorily." *Intel Corporation* (Mar. 11, 2010).



The Company has not addressed the Proposal's essential objective satisfactorily. The No-Action Request states that "approximately 79% of our facilities offer plant-based meals in our patient operations." In other words, 21% of the Company's facilities do not offer plant-based meals to patients at all. In contrast, as noted above, the NYCHH system serves plant-based meals at all of its hospitals. Additionally, as conceded in the No-Action Request, Company hospitals may, but are not directed or expected to, purchase "more than 70 unique plant-based and meatless protein options" for their food service operations. Although the Company "anticipates providing guidelines for retail and physician food options and plant-based and related designations for packaged vending items," the No-Action Request provides no timeline for doing so.

Of particular note, the No-Action Request makes no effort to explain why the Company continues to permit the sale and consumption of a known carcinogen in its hospitals. As noted above, the World Health Organization has, since 2015, classified processed meat as a Group 1 carcinogen. This is the organization's highest evidentiary classification, reserved for similarly carcinogenic substances such as tobacco smoking, secondhand tobacco smoke, and asbestos.

#### **IV. Conclusion**

The Physicians Committee respectfully requests that the Staff decline to issue a no-action response and inform the Company that it may not exclude the Proposal in reliance on Rule 14a-8(i)(7) or Rule 14a-8(i)(10). Should the Staff need any additional information in reaching a decision, please contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Kennedy". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mark Kennedy  
Senior Vice President of Legal Affairs  
(202) 527-7315  
mkennedy@pcrm.org

## **SCIENTIFIC REFERENCES**

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