Undertakings Provided as Part of PacifiCare Dental Notice of Material Modification Regarding Proposed Change in Control of Ultimate Parent Company

PacifiCare Dental (PCD) filed with the Department of Managed Health Care (Department) a Notice of Material Modification No. 20055120 (Material Modification) regarding the proposed acquisition of PacifiCare Health Systems, Inc. (PHS) and its affiliates (Merger) by UnitedHealth Group Incorporated (UnitedHealth).

PCD is a wholly owned subsidiary of PacifiCare Health Plan Administrators, Inc. (PHPA), which in turn is a wholly owned subsidiary of PHS. By filing this Material Modification, PCD seeks the approval of the Department for the merger of PHS with and into Point Acquisition, LLC (Acquisition LLC), a newly formed Delaware limited liability company, which is wholly owned by UnitedHealth.

Upon the closing of the Merger, PHS will be merged with and into Acquisition LLC, with Acquisition LLC as the surviving entity, and the separate corporate existence of PHS will cease, effective as of the closing of the Merger. Acquisition LLC, which will succeed to the rights and obligations of PHS, will own all of the outstanding voting securities of PHPA, which owns all of the outstanding voting securities of PCD, which will become an indirect, wholly owned subsidiary of UnitedHealth. Alternatively, under certain circumstances set forth in the Agreement and Plan of Merger, dated July 6, 2005 (Merger Agreement), at UnitedHealth's option, the transactions contemplated by the Merger Agreement shall be effected by merging a direct wholly owned corporate subsidiary of UnitedHealth with and into PHS, with PHS being the surviving entity. This transaction will result in a change in control of PCD, which will become an indirect subsidiary of UnitedHealth. The transaction will not result in any other material changes to PCD, or have a material effect on PCD's operations.

To demonstrate continued compliance with the Knox-Keene Health Care Service Plan Act of 1975, California Health and Safety Code section 1340 *et seq.* (Act) and the Act's corresponding regulations, at title 28, California Code of Regulations (Rules) following the close of the Merger, PCD executes and files these undertakings as a part of its Material Modification. PHS, UnitedHealth, and Acquisition LLC each also has executed these undertakings. By so doing, PHS, UnitedHealth, and Acquisition LLC (or its successor) each agrees to not require, cause, or permit PCD to violate any of these undertakings.

PCD, PHS, UnitedHealth, and Acquisition LLC agree to the following undertakings and acknowledge that any Order issued by the Director of the Department of Managed Health Care (Director) approving the Material Modification is conditioned upon the undertakings set forth below.

Undertaking 1. PCD and UnitedHealth represent and promise the following:

(a) All of the executive compensation by reason of the Merger, including change in control payments, acceleration of outstanding equity incentives, UnitedHealth equity incentive grants, and UnitedHealth signing/retention bonuses (together, CIC Benefit) will be the sole responsibility of UnitedHealth;

(b) UnitedHealth will have on hand cash and committed borrowing facilities at the time of the closing of the Merger, that are adequate to timely discharge all obligations relating to the CIC Benefit;

(c) UnitedHealth will have on hand cash and committed borrowing facilities at the time of the closing of the Merger that are adequate to timely discharge the long-term indebtedness for borrowed money of PCD's parent companies. Such long-term indebtedness for PHS was $1,053,560,000 as of September 30, 2005;

(d) No amounts relating, directly or indirectly, to the CIC Benefit will be the obligation of PCD;

(e) No amounts relating, directly or indirectly, to the CIC Benefit will be charged to or made the responsibility of PCD, directly or indirectly, under any reimbursement or cost allocation arrangement;

(f) UnitedHealth further represents and warrants that there are no CIC Benefit payments owed by UnitedHealth by reason of the Merger to any of UnitedHealth's officers, directors, or key management.

Undertaking 2. PCD will not declare or pay dividends, make other distributions of cash or property, or in any other way upstream any funds or property to UnitedHealth or any of its affiliates (Affiliate Company Distributions), if such actions would do any one of the following:

(a) Cause PCD to fail to maintain at all times the greater of the following:

(1) 150% of the minimum tangible net equity (which annualized amount shall be calculated by multiplying the applicable current quarter revenues and expenditures by four) currently required by Rule 1300.76 (as of September 30, 2005, 150% of PCD's minimum tangible net equity under Rule 1300.76 was $1.24 million); or

(2) 100% of minimum tangible net equity, as may be required following any future amendment to Rule 1300.76, or any successor statute or regulation; or

(b) Result in insufficient working capital or insufficient cash flow necessary to provide for the retirement of existing or proposed indebtedness of PCD, as required by Rule 1300.75.1(a); or

(c) Adversely affect the ability of PCD to provide or arrange health care services in accordance with the requirements of the Act or Rules;

Additionally, with respect to Affiliate Company Distributions made in calendar years 2005, 2006, 2007, and 2008, PCD will not make any Affiliate Company Distributions in any such calendar year if the distributions in that calendar year exceed 79% of PCD's net income for the year prior to the calendar year of the Affiliate Company Distribution.

For purposes of Undertakings 2 and 3, "Affiliate Company Distributions" shall not be deemed to refer to payments made under the terms of any administrative services agreement, or tax sharing agreement, which has been filed with and approved by the Department.

PCD shall provide written notice to the Department five (5) business days prior to making any Affiliate Company Distributions.

Undertaking 3. PCD will not make any Affiliate Company Distributions if such actions would result in PCD failing to maintain Liquid Assets (as defined below) in an amount that equals or exceeds 150% of PCD's average monthly Total Expenses (as defined below) for the last two consecutive quarters for which financial statements have been filed with the Department immediately prior to the date on which PCD makes the Affiliate Company Distribution.

For purposes of this Undertaking 3, the following definitions apply:

(a) "Liquid Assets" shall equal the total of cash and cash equivalents (as reported on line 1 of Report #1 – Part A: Assets, as set forth in the Quarterly Financial Report filed with the Department by PCD), short-term investments (as reported on line 2 of Report # 1), restricted assets (as reported on line 12 of Report # 1), and long-term investments (as reported on line 13 of Report # 1), to the extent that such long-term investments are classified as "available for sale" and convertible to cash within five days under Generally Accepted Accounting Principles (as distinguished in a footnote explanation from long-term investments not "available for sale" and excluding any long-term investments in UnitedHealth subsidiaries); and

(b) "Total Expenses" shall be equal to the amounts reported on line 33 of Report # 2: Revenue, Expenses, and Net Worth, as set forth in the Quarterly Financial Report filed with the Department by PCD. (For example, 150% of PCD's average monthly Total Expenses [as defined],

based on the two most recent Quarterly Financial Reports filed by PCD with the Department [for the quarter ended June 30, 2005, and for the quarter ended September 30, 2005] was $4.73 million).

In each Quarterly Financial Report filed with the Department, PCD shall include a calculation showing the total Liquid Assets on hand at the end of the calendar quarter covered by such Quarterly Financial Report, and 150% of the average monthly Total Expenses incurred during the calendar quarter covered by such Quarterly Financial Report and the immediately preceding calendar quarter.

Undertaking 4. PCD will not take any of the following actions without the Department's prior written approval:

(a) Co-sign or guarantee any portion of any current or future loans and/or credit facilities entered into by UnitedHealth or any of UnitedHealth's affiliates;

(b) Permit any portion of loans obtained by UnitedHealth or any of its affiliates to be assumed by PCD; or,

(c) Allow a pledge or hypothecation of PCD's assets or capital stock in any way connected with any current or future loans of UnitedHealth or any of its affiliates.

(d) Borrow any funds or otherwise incur any indebtedness for the purpose of making any Affiliate Company Distribution, except (1) any Affiliate Company Distribution that is made in compliance with Undertaking 2 above, or (2) a payment made pursuant to any written administrative services agreement or tax sharing agreement between or among PCD or its affiliates.

Undertaking 5. PCD and UnitedHealth represent and warrant that premiums payable by PCD enrollees (including copayments and deductibles) will not increase as a result of the costs incurred in financing, analyzing and/or consummating the Merger (Merger Costs); such costs include but are not limited to, attorneys' and investment bankers' fees, travel expenses, the CIC Benefit, due diligence expenses, and expenses related to concurrent or future mergers or acquisitions by UnitedHealth affiliates, other than PCD. PCD, PHS, UnitedHealth, and Acquisition LLC further represent and warrant, subject to changes approved by the Department pursuant to the requirements of the Act and the Rules, that:

(a) PCD's practices and methodologies for determining premium rates in the California dental plan market after the Merger will not vary from PCD's pre-Merger practices and methodologies;

(b) PCD's practices and methodologies for determining products and benefit designs in the California dental health plan market after the Merger will not vary from PCD's pre-Merger practices and methodologies;

(c) No debt rating factor relating to the indebtedness that UnitedHealth has incurred to finance the Merger will be included in PCD's premium practices and methodologies post-Merger;

(d) PCD's administrative expense ratio shall not exceed pre-Merger levels without reporting to the Department as provided in Undertaking 10 below;

(e) In the event that there are reductions in the level of reimbursement of PCD's dental care providers, as defined in Health and Safety Code section 1345(i), such reductions shall not be attributable to the Merger Costs; and

(f) In the event that there are reductions in the benefits in PCD's products sold in California markets, the reductions shall be documented to accurately reflect the value of those benefit reductions.

In addition, PCD will file with the Department each year, within 60 days following the end of the year, an actuarial memorandum, signed by PCD's or UnitedHealth's chief actuary, CFO, or similar officer that certifies that no portion of the cost components of any premium rate charged for any individual or small group product offered in California by PCD includes a charge related to the Merger Costs. PCD shall also certify annually to the Department, within 60 days following the end of the year, that no portion of the cost components of any rate or fee charged for any large group product offered in California by PCD includes a charge related to the Merger Costs. In addition, PCD shall provide the Department with at least thirty (30) days' prior written notice of any premium adjustments for its individual and small group products.

The Department may, in addition to the activities described in Undertaking 12 below, audit or examine PCD and its books and records with respect to the foregoing certifications, to the extent deemed necessary or desirable at the discretion of the Director of the Department. In the event that the Department uses a third party auditor(s), the Department's auditor(s) will agree to sign confidentiality agreements, in order to ensure the confidential treatment of confidential and proprietary information reviewed as part of any audit, consistent with the confidentiality protections provided for in these undertakings and in Rule 1007.

Undertaking 6. After the Merger, PCD will maintain its organizational and administrative capacity, and unless the Department otherwise grants prior approval in writing, PCD will maintain the following functions in California, including, but not limited to:

(a) Clinical decision-making and California medical policy development, including a Medical Director and other persons responsible for, and

having discretion with respect to, specialty health plan medical matters under the Act; and the clinical personnel responsible for California dental decision-making and California dental policy;

(b) PCD's prior authorization and referral system;

(c) PCD's enrollee grievance system (including any appeal system);

(d) PCD's Independent Medical Review process (including the review process for experimental treatment);

(e) PCD's underwriting functions;

(f) PCD's Provider Dispute Resolution Mechanism process; and,

(g) PCD's accounting and finance personnel, and activities performed by such personnel.

These aforementioned functions shall be conducted in conformity with California standards, including timeframes, as required by the Act. PCD confirms to the Department that it intends to maintain its offices in California, which will continue to serve as PCD's headquarters for PCD health plan operations.

Undertaking 7. PCD agrees that it shall not remove or require, permit, or cause the removal of PCD's books and records, as defined in the Act, from California before filing a Notice of Material Modification, and receiving the written approval from the Department in accordance with the Act. Further, notwithstanding any failure or omission on PCD's part, or that of an affiliate, to maintain PCD's records in California, PCD agrees that it shall return to California, as may be required by the Department, within the timeframe specified by the Department, any such PCD books and records that have been removed from California without the Department's express, written permission. This Undertaking 7 shall not restrict PCD from maintaining books and records in an electronic format, as long as electronic books and records are contemporaneously available in California.

Undertaking 8. In the event of any Change(s), as defined below, to an administrative services agreement to which PCD is a party with any PCD affiliate, or through which PCD receives any of the services substantively related to the functions specifically listed in Undertaking 6 (ASA), PCD will file notice of the Change(s) with the Department in a Notice of Material Modification in accordance with the requirements of the Act, and not implement such Change(s) until the Department has issued an Order of Approval for such Change(s).

"Change" is defined for purposes of this Undertaking 8 to be an amendment, modification, termination, or replacement of an ASA that involves any of the following:

(a) The addition of new services or a change in the scope of services;

(b) Change to reimbursement terms or method for reimbursement for services performed on behalf of PCD;

(c) Change to the location of books and records documenting performance of the services performed on behalf of PCD pursuant to an ASA, resulting in removal of the ASA provider's books and records outside of California;

(d) Change to the location of performance of any of the functions specifically listed in Undertaking 6 from California to another state or country, or from a state other than California to another state or country; or

(e) Change to the legal identity of the entity performing PCD functions on behalf of PCD pursuant to an ASA, unless the entity is a PCD affiliate. If the legal identity change is of a PCD affiliate, and also involves any change described in items (a) through (d) above, PCD is required to file a Notice of Material Modification and await issuance of an Order of Approval prior to implementing such changes on behalf of PCD.

Notwithstanding the above, this Undertaking 8 does not supersede PCD's requirement to file a Notice of Material Modification when required by section 1352(b), Rule 1300.52.4(d), or as otherwise required by the Act.

Undertaking 9. After the effective date of the close of the Merger, and provided that the Merger is consummated, if PCD desires to amend, change, terminate, or replace its tax sharing agreements, as previously filed with, and approved by, the Department, PCD will file any changes to those tax sharing agreements with the Department in a Notice of Material Modification in accordance with the requirements of the Act, and will not implement such changes until the Department has issued an Order of Approval for such changes.

Undertaking 10. PCD represents that it anticipates that, for the duration of these undertakings, as defined in Undertaking 19(d), its ratio of administrative costs to premium revenues, as reported in Report #2, lines 1, 2, 3, 4, 5, 6, and 32, respectively, of the Quarterly Financial Report filed with the Department by PCD, (Administrative Cost Ratio) will not exceed 34% (the Historic Ratio), measured on an annual basis, which reflects the average of the annual percentage that PCD's administrative costs bear to its premium revenues reported for the years 2002-2004.

In the event that PCD's Administrative Cost Ratio exceeds 110% of the Historic Ratio in any quarter, then PCD shall, within 45 days of the end of the applicable calendar quarter, report in writing to the Department the following:

(a) The amount of the excess;

(b) The reasons for the increase in the Administrative Cost Ratio (for example, changes in law, taxes, commission structure, or the overall mix of PCD's business);

(c) Whether the increase is in any way, directly or indirectly, related to the implementation of the Merger;

(d) Demonstrate to the Department's reasonable satisfaction that PCD's administrative costs are not excessive within the meaning of section 1378 of the Act and Rule 1300.78; and

(e) Whether the increase was caused by a one-time event, and whether PCD's annual Administrative Cost Ratio is expected to remain at or below the Historic Ratio despite this event, or whether the increase is expected to impact future quarters, such that the annual Administrative Cost Ratio calculation is expected to exceed the Historic Ratio, in which case PCD shall provide notice of the expected impact on the annual calculation.

Undertaking 11. For the four (4) year duration of these undertakings, PCD shall file a report annually with the Department, within 60 calendar days following the end of the 2006, 2007, 2008, and 2009 calendar years, demonstrating compliance with each of the undertakings set forth herein, and describing what it believes to be the benefits to Californians that have ensued from the Merger. Such reports are in addition to, and do not supersede, any other reports the Director may require pursuant to the Act, including reports related to a financial examination or a medical survey conducted pursuant to sections 1382 and 1384 of the Act. The termination of these undertakings pursuant to 19(d) does not eliminate PCD's obligation to file a compliance report within 60 days of the end of 2009.

Undertaking 12. PCD shall promptly pay for the costs arising from activities of the Department, including any necessary out-of-state travel, incurred in the course of verifying and auditing compliance by PCD with each of the undertakings set forth herein. Such activity will be conducted, at the Department's discretion, in addition to any of the surveys, audits, examinations, or inquiries required or permissible under the Act.

Undertaking 13. PHS, Acquisition LLC, and UnitedHealth shall not use any form of push-down accounting methods that result in the transfer or allocation of any PHS's, UnitedHealth's or Acquisition LLC's goodwill, including goodwill related to this Merger, to PCD.

Undertaking 14. PCD will renew and not terminate any group or individual commercial dental health care service plan contract (Commercial Dental Benefit Plan) prior to expiration of its term, except as otherwise permitted under the Act or Rules.

(a) If PCD withdraws a Commercial Dental Benefit Plan from the market, and an enrollee then enrolled in an affected plan has a pre-existing condition,

and still has remaining time requirements for satisfying the pre-existing condition, PCD will waive the remaining time requirements for the pre-existing condition exclusion if the enrollee enrolls in another PCD Commercial Dental Benefit Plan, or a Commercial Dental Benefit Plan of a PCD affiliate regulated by the California Department of Insurance (CDI), within the time requirements for eligibility for the replacement Commercial Dental Benefit Plan.

(b) If PCD ceases to provide or arrange for the provision of dental services for individual, small group or large group Commercial Dental Benefit Plans in California, any Commercial Dental Benefit Plan affected will remain in effect until the first renewal date that occurs on or after the expiration of the longer of (1) the 180 days notice requirement under the Act, or (2) notice requirements of the applicable subscriber agreements.

(c) If PCD ceases to write, issue, or administer new group or individual Commercial Dental Benefit Plans in California, affected subscribers/enrollees of PCD will be provided the opportunity to elect continued coverage under the most comparable Commercial Dental Benefit Plan from PCD's or UnitedHealth's affiliated entities regulated by the CDI.

Undertaking 15. An important premise of the approval of the Material Modification is that after the effective date of the Order of Approval, PCD will continue its historic role in serving the California marketplace, and will continue its same marketplace approach, subject to changes filed with and approved by the Department pursuant to the requirements of the Act and Rules.

Accordingly, after the effective date of the Order of Approval, and provided that the Merger is consummated, PCD will maintain its efforts in offering and renewing dental plan products on the same basis as prior to the effective date of the Order of Approval, assuming the same market, economic, and other conditions that currently exist.

PCD advises the Department that the conditions it considers relevant under this Undertaking 15 include, but are not limited to the reimbursement and compensation PCD receives; the scope and nature of services it must provide; the nature and adequacy of its provider network in any relevant service area; the structure, composition, and reimbursement payable to the health care providers supporting PCD's provision of products; and the substantive impact to the competitive environment resulting from changes to the legislative and regulatory framework applicable to its operations, or to individual or small group products.

Undertaking 16. PCD will develop corrective action plans for all survey deficiencies defined in the following surveys: Dental Survey, conducted June 14, 2005, through June 17, 2005. No corrective action plan shall be required for any such

deficiency that the Department has deemed to be corrected as of the closing date of the Merger.

Undertaking 17. PCD, PHS, UnitedHealth, and Acquisition LLC recognize concerns expressed by members of the public in the course of the Department's consideration of the Material Modification and acknowledge that the grounds for disciplinary action by the Director set forth in section 1386 of the Act, specifically sections 1386(b)(7) and (9), shall apply if PCD engages in inappropriate actions or conduct following approval of this Material Modification.

Undertaking 18. The undertakings set forth herein shall be enforceable to the fullest extent of the authority and power of the Director of the Department under the provisions of the Act. PCD, PHS, UnitedHealth, and Acquisition LLC acknowledge that the Act's enforcement remedies are not exclusive, and may be sought and employed in any combination deemed advisable by the Director to enforce these undertakings.

Undertaking 19. The undertakings set forth herein shall be subject to the following terms and conditions:

(a) **Binding Effect.** The undertakings set forth herein shall be binding on PCD, PHS, UnitedHealth, Acquisition LLC, and their respective successors and permitted assigns. If, at the closing date of the Merger, the legal identity of either PHS or Acquisition LLC dissolves and leaves no successors or assigns, the obligation of the dissolved entity to comply with these undertakings will be extinguished at the date of the entity's dissolution. If PCD, PHS, UnitedHealth, and Acquisition LLC fail to fulfill their obligations to the Department as provided under the undertakings set forth herein, PCD, PHS, UnitedHealth, and Acquisition LLC stipulate and agree that the Department shall have the authority to enforce the provisions of these undertakings in a California court of competent jurisdiction.

(b) **Governing Law.** The undertakings set forth herein and their validity, enforcement, and interpretation, shall for all purposes be governed by and construed in accordance with the laws of the State of California.

(c) **Invalidity.** In the event that any undertakings or any portion of any undertaking set forth herein shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction, such undertaking or any portion of any undertaking, to the extent declared invalid or unenforceable, shall not affect the validity or enforceability of any other undertakings, and such other undertakings shall remain in full force and effect, and shall be enforceable to the maximum extent permitted by applicable law.

(d) **Duration.** The undertakings set forth herein shall become effective upon the closing date of the Merger, and except those provisions of the undertakings that contain separate termination provisions, shall remain in full force and effect for four (4) years, ending on the fourth anniversary of the closing date of the Merger, unless terminated sooner by PCD, PHS, UnitedHealth, and Acquisition LLC, with the written consent of the Department. PCD will promptly notify the Department of the closing date of the Merger. In the event that the Merger is not consummated for any reason, these undertakings shall have no force or effect.

(e) **Third Party Rights.** Nothing in the undertakings set forth herein is intended to provide any person other than PCD, PHS, UnitedHealth, Acquisition LLC, the Department, and their respective successors and permitted assigns, with any legal or equitable right or remedy with respect to any provision of any undertaking set forth herein.

(f) **Amendment.** The undertakings set forth herein may be amended only by written agreement signed by PCD, PHS, UnitedHealth, and Acquisition LLC, and approved or consented to in writing by the Department.

(g) **Assignment.** No undertaking set forth herein may be assigned by PCD, PHS, UnitedHealth, or Acquisition LLC, in whole or in part, without the prior written consent of the Department.

(h) **Specific Performance.** In the event of any breach of these undertakings, PCD, PHS, UnitedHealth, and Acquisition LLC acknowledge that the State of California would be irreparably harmed and could not be made whole by monetary damages. It is accordingly agreed that PCD, PHS, UnitedHealth, and Acquisition LLC shall waive the defense that a remedy at law would be adequate in any action for specific performance, and the Department should be entitled to seek an injunction or injunctions to prevent breaches of the provisions of these undertakings, and to seek to specifically enforce the terms and provisions stated herein. The Department's right to seek an injunction does not supersede the remedies available to the Director described in Undertaking 18.

Undertaking 20. In addition to the undertakings executed above, PCD reasserts and reaffirms each and every undertaking in existence prior to the execution of this document, and agrees to abide by and conform to each and every prohibition and condition, unless specifically terminated or superseded by these undertakings. The following undertakings are hereby deemed terminated:

(a) Undertakings executed by PacifiCare Dental and Vision on January 25, 2000, in conjunction with its Notice of Material Modification #C7 9364 filed with the Department of Corporations on December 30, 1999, related

to the cessation of sale of the prepaid vision product and plan name change.

(b) Undertakings executed by California Dental Health Plan on February 13, 1997, in conjunction with its Notice of Material Modification filed with the Department of Corporations on September 25, 1996, related to the acquisition of FHP International Corporation by PacifiCare Health Systems, Inc.

Undertaking 21. PCD undertakes to support the obligations as set forth in Undertaking 20 in the PacifiCare of California undertakings, executed concurrently herewith.

Date: December 19, 2005

Print Name: Jacqueline B Kosecoff
Print Title: CHAIR, BOARD OF DIRECTORS
PacifiCare Behavioral Health of California, Inc.

Date: December 19, 2005

Print Name: MICHAEL E JANSEN
Print Title: DEPUTY GENERAL COUNSEL
PacifiCare Health Systems, Inc.

Date: December 19, 2005

Print Name:
Print Title:
UnitedHealth Group Incorporated

Date: December 19, 2005

Print Name:
Print Title:
Point Acquisition LLC

Date: December 19, 2005

Print Name: _____
Print Title: _____
PacifiCare Behavioral Health of California, Inc.

Date: December 19, 2005

Print Name: _____
Print Title: _____
PacifiCare Health Systems, Inc.

Date: December 19, 2005

Print Name: DAVID J. LUBBEN
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UnitedHealth Group Incorporated

Date: December 19, 2005

Print Name: DAVID J. LUBBEN
Print Title: ASSISTANT SECRETARY
Point Acquisition LLC