STATE OF NEW YORK : DEPARTMENT OF HEALTH

IN THE MATTER

OF

JAMES V. MCDONALD, M.D., M.P.H., as Commissioner of Health of the State of New York, to determine the action to be taken with respect to:

STIPULATION

AND

ORDER

Affinity Legacy, Inc., F/K/A Affinity Health Plan, Inc.
2885 Dill Place
Bronx, NY 10465

Respondent,

arising out of alleged violations of Article 44 of the Public Health Law of the State of New York and Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York

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WHEREAS, the New York State Department of Health (the "Department") conducted focused Mental Health Parity and Addiction Equity Act (MHPAEA; 29 U.S.C. §1185(a) testing surveys of Affinity Health Plan, Inc., now known as Affinity Legacy, Inc., (the "Respondent") on August 22, 2018 through September 8, 2020, and on March 11, 2020 through November 30, 2020; and

WHEREAS, the Department's surveys resulted in findings of alleged violations of Article 44 of the Public Health Law ("PHL") and Part 98 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York (10 NYCRR), identified in Statements of Deficiencies that are attached hereto as Attachments A and B; and

WHEREAS, effective November 1, 2021, Molina Healthcare of New York, Inc.

("Molina") acquired certain assets and assumed certain liabilities of Respondent, pursuant to a transaction approved by the Department, and Molina became responsible for providing coverage, including but not limited to, mental health and substance use disorder benefits, to all Respondent enrollees who elected to transition to Molina; and

WHEREAS, Respondent no longer operates a managed care organization certified under Article 44 of the Public Health Law; and

WHEREAS, prior to commencement of administrative enforcement action based upon the alleged violations by service of a Notice of Hearing and Statement of Charges, the Department and Molina, on the Respondent's behalf, engaged in settlement discussions; and

WHEREAS, the parties wish to resolve this matter by means of a settlement instead of an adversarial administrative hearing.

NOW, THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. The violations of Article 44 of the Public Health Law and 10 NYCRR Part 98-1.16 alleged in the aforementioned Statement of Deficiencies (Attachments A and B), are settled and discontinued with prejudice upon the terms and conditions set forth in this Stipulation and Order.

2. The Respondent, for the purpose of resolving this administrative matter only, admits to: (1) having failed to provide sufficient information and comparative analyses to demonstrate its compliance with MHPAEA; 29 U.S.C. § 1185a, as alleged in Attachment A and B, in violation of 10 NYCRR § 98-1.16 and Public Health Law Article 44 ("reporting violations"); and (2) having failed to demonstrate that certain Non-Quantitative Treatment Limitations ("NQTL") to assess mental health and substance use disorder (MH/SUD) treatment benefits are comparable to and are applied no more stringently than they are to

Medical/Surgical ("M/S) treatment benefits in accordance with MHPAEA; 29 U.S.C. § 1185a ("MHPAEA violations"), as alleged in Attachments A and B, in violation of PHL § 4406(1). The Respondent submitted the Plan of Correction in Attachment A and B. The Department's surveys did not find that there were any inappropriate benefit denials resulting from the aforesaid violations.

3. Pursuant to Public Health Law §§ 12(1)(a) and 206, the Respondent is assessed a civil penalty of One Hundred Ninety-Eight Thousand Dollars ($198,000), as follows:

(1) The Respondent is assessed a civil penalty of Sixty-Six Thousand Dollars ($66,000.00) for 66 violations of 10 NYCRR § 98-1.16 ("reporting violations"); and

(2) The Respondent is assessed a civil penalty of One Hundred and Thirty-Two Thousand Dollars ($132,000.00) for its violations of PHL § 4406(1) ("MHPAEA violations") throughout the 264-day survey period. Respondent shall pay this penalty within thirty days of the effective date of this Stipulation and Order.

4. Payments due under this Stipulation and Order shall be made by check, payable to the New York State Department of Health, and sent to the New York State Department of Health, Bureau of Accounts Management, Corning Tower Building, Room 2748, Empire State Plaza, Albany, New York 12237-0016.

5. Any civil penalty not paid in accordance with this Stipulation and Order shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees; referral to the New York State Department of Taxation and Finance for collection and non-renewal of permits or licenses [Tax Law § 171(27); State Finance Law § 18; CPLR § 5001; Executive Law § 32].

6. It is further stipulated and agreed by the Respondent and the Department that there exist valid and sufficient grounds as a matter of fact and law for the issuance of this Stipulation and Order under the Public Health Law and the Respondent consents to its issuance, accepts its terms and conditions and waives any right to challenge or review this Stipulation and Order through administrative or judicial proceedings, including a proceeding pursuant to Article 78 of the Civil Practice Law and Rules.

7. The foregoing admissions made by the Respondent in this Stipulation and Order are solely for the purpose of resolving the instant administrative matter and are not intended for use in any other forum, tribunal or court outside the Department, including any civil or criminal proceedings in which the issues or the burden of proof may differ. In addition, any such admissions are without prejudice to the Respondent's rights, defenses and claims in any other matter, proceeding, action, hearing or litigation not involving the Department.

8. This Stipulation and Order shall be effective upon service on Respondent or Respondent's attorney or representative of a copy by personal service or by certified or registered mail.

SIGNATURE PAGE TO FOLLOW

DATED: 10/27, New York
, 2025

AFFINITY LEGACY, INC., F/K/A AFFINITY HEALTH PLAN, INC.

BY: CM Hansen

Print Name: Clara M. Hansen

AGREED AND SO ORDERED:

DATED: Albany, New York
12/5 , 2025

New York State Department of Health

BY: JAMES V. MCDONALD, M.D., M.P.H.
Commissioner of Health

Mail Stipulation and Order To:

Jeong Oh, Associate Attorney
Bureau of Administrative Hearings
Corning Tower, Room 2412
Empire State Plaza
Albany, New York, 12237-0016

Mail Payment To:

New York State Department of Health
Bureau of Accounts Management
Corning Tower, Room 2784
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