Whereas, the American Medical Association has long warned the nation about the problems that can be associated with a consolidated health care market and has opposed insurance company mergers; and

Whereas, Optum acquired Change Health over the objections of the Federal Trade Commission; and

Whereas, on February 21, 2024, Optum and Change Health suffered a ransomware attack and shut down all operations, including the electronic claims submission, electronic remittance, prior authorization and documentation of patient eligibility; and

Whereas, across the country, medical practices, hospitals, pharmacies and many other health care businesses had their revenue cycle disrupted, and cash flow interrupted, putting their economic viability at risk; and

Whereas, Optum and its parent company United Health Group continued to collect premiums and had the opportunity to retain significant amounts of money as no claims were being paid, and therefore had the opportunity to collect interest and investment gains on money that should have been paid to practices and other entities, raising the question of unjust enrichment; and

Whereas, Optum is the largest employer of physicians and has acquired practices when the ransomware disruption made those practices unable to survive without acquisition; and

Whereas, even the practices that survive will have ongoing damages including but not limited to denials related to giving therapy when it was impossible to obtain prior authorization, from using lines of credit and having to pay interest, from having billing departments and others work overtime to submit claims, to losing key employees from inability to make payroll; and

Whereas, oncology practices were particularly hard hit because of the need to purchase chemotherapy without being able to be paid for the chemotherapy and are being charged late payments for those purchases; and

Whereas, the AMA has a long history of defending practices against unfair business practices by insurance companies and their subsidiaries; therefore be it

RESOLVED, that our American Medical Association investigate the possibility of filing a class action lawsuit against Optum, United Health Group and Change Health to recoup the damages from the disruption caused by the breach, and to distribute the unfair enrichment profits made by Optum et al to the practices whose retained payments allowed them to generate interest and investment profits (Directive to Take Action); and be it further
RESOLVED, that our AMA investigate the acquisition of practices by Optum in the aftermath of the breach and determine if the independence of those practices can be resurrected, and if not, if damages are due to the physician owners of the acquired practices. (Directive to Take Action)

Fiscal Note: Modest - between $1,000 - $5,000

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