



BE IT RESOLVED: Shareholders of CVS Health Corp. (“CVS”) ask that the Board of Directors prepare a public report assessing the potential risks to the Company associated with its use of concealment clauses in the context of harassment, discrimination, and other unlawful acts. The report should be prepared at reasonable cost and omit proprietary and personal information.

SUPPORTING STATEMENT: Concealment clauses are defined as any employment or post-employment agreement that CVS asks employees or contractors to sign to limit their ability to discuss unlawful acts in the workplace, including harassment and discrimination. These can include mandatory arbitration agreements (including those with short opt-out periods early in employment), settlement agreements, and non-disclosure or non-disparagement agreements.

WHEREAS: CVS appropriately uses concealment clauses in employment agreements to protect confidential corporate information. However, CVS' employment-related agreements may prohibit workers from speaking publicly about harassment, discrimination, or other unlawful acts. Harassment and discrimination claims should not be kept confidential. If they are, investors cannot be confident in their knowledge of CVS' workplace culture.

A healthy workplace culture is linked to strong returns. McKinsey found that companies in the top quartile for workplace culture post a return to shareholders that is 60 percent higher than median companies and 200 percent higher than organizations rated in the bottom quartile for healthy workplace culture.¹ A study by the *Wall Street Journal* found that over a five-year period, the 20 most diverse companies in the S&P 500 had an average annual stock return almost six percentage points higher than the 20 least diverse companies.²

In contrast, a workplace that tolerates harassment invites legal, brand, financial, and human capital risk. Companies may experience reduced morale, lost productivity, absenteeism, and challenges in attracting and retaining talent.³

CVS operates under a quickly changing patchwork of state and federal laws related to the use of concealment clauses and may benefit from a consistent practice of limiting

¹ <https://www.mckinsey.com/capabilities/people-and-organizational-performance/our-insights/the-organization-blog/culture-4-keys%20to-why-it-matters>

² <https://www.wsj.com/articles/the-business-case-for-more-diversity-11572091200>

³ https://conference.iza.org/conference_files/LaborMarkets_2021/sockin_j28322.pdf



the use of concealment clauses in the context of harassment, discrimination, and other unlawful acts across all employees and contractors, no matter the law of a particular jurisdiction. As of November 21, 2022, “The Speak Out Act,” which limits non-disclosure agreements when sexual harassment is claimed, is expected to soon be signed into federal law by the President.⁴ It joins existing federal legislation which ended the use of forced arbitration in workplace sexual assault and harassment cases.⁵ Additionally, a number of states, including California, Maine, New York, and Washington, have reduced employers’ abilities to use of concealment clauses.

Investors seek assurance that missteps are not occurring at CVS, hidden from view because of concealment clauses. Companies such as Alphabet,⁶ Apple,⁷ Microsoft,⁸ and Salesforce,⁹ among others, have ended their use of these clauses. Investors have reason to be concerned. In 2022, a handful of CVS employees, including executives, were terminated for mishandling sexual harassment claims.¹⁰

⁴ <https://www.forbes.com/sites/kimelsesser/2022/11/16/congress-passes-law-restoring-victims-voices-banning-ndas-in-sexual-harassment-cases/>

⁵ <https://www.washingtonpost.com/politics/2022/03/03/biden-signs-new-law-ending-forced-arbitration-sex-assault-harassment/>

⁶ https://www.sec.gov/Archives/edgar/data/1652044/000130817922000262/lgoog2022_def14a.htm

⁷ <https://www.sec.gov/Archives/edgar/data/320193/000119312522003583/d222670ddef14a.htm>

⁸ <https://www.reuters.com/legal/litigation/microsoft-says-it-will-not-enforce-non-compete-clauses-us-employee-agreements-2022-06-08/>

⁹ <https://finance.yahoo.com/news/salesforce-let-workers-break-ndas-164604675.html>

¹⁰ <https://www.cnbc.com/2022/03/11/cvs-ceo-karen-lynch-fires-executives-after-internal-sexual-harassment-probe.html>