

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

SCHEDULE TO

(Rule 13e-4)

**Tender Offer Statement Under Section 14(d)(1) or 13(e)(1)
of the Securities Exchange Act of 1934**

THERAPEUTICSMD, INC.

(Name of Subject Company (Issuer) and Filing Person (Offeror))

Options to Purchase Common Stock, Par Value \$0.001 Per Share
(Title of Class of Securities)

88338N107

(CUSIP Number of Class of Securities)

**Robert G. Finizio
Chief Executive Officer
TherapeuticsMD, Inc.
951 Yamato Road, Suite 220
Boca Raton, Florida 33431
(561) 961-1900**

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of Filing Person)

Copies to:

**James C. D'Arecca
Chief Financial Officer
TherapeuticsMD, Inc.
951 Yamato Road, Suite 220
Boca Raton, Florida 33431
(561) 961-1900**

**Joshua M. Samek, Esq.
DLA Piper LLP (US)
200 South Biscayne Boulevard, Suite 2500
Miami, Florida
(305) 423-8500**

CALCULATION OF FILING FEE

Transaction Valuation ¹	Amount of Filing Fee ²
\$635,957	\$69.38

- 1 Estimated solely for purposes of calculating the amount of the filing fee. The calculation of the Transaction Valuation assumes that all stock options to purchase shares of the issuer's common stock that may be eligible for exchange in the offer will be tendered pursuant to this offer. This calculation assumes stock options to purchase an aggregate of 4,910,000 shares of the issuer's common stock, having an aggregate value of \$635,957 as of August 20, 2021, calculated based on a Black-Scholes option pricing model, will be exchanged or cancelled pursuant to this offer.
- 2 The amount of the filing fee, calculated in accordance with Rule 0-11(b) of the Securities Exchange Act of 1934, as amended, equals \$109.10 per \$1,000,000 of the aggregate amount of the Transaction Valuation (or 0.01091% of the aggregate Transaction Valuation). The Transaction Valuation set forth above was calculated for the sole purpose of determining the filing fee and should not be used for any other purpose.

- Check the box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

Amount Previously Paid: Not applicable
Form or Registration No.: Not applicable

Filing Party: Not applicable
Date Filed: Not applicable

- Check the box if the filing relates solely to preliminary communications made before the commencement of a tender offer.

Check the appropriate boxes below to designate any transactions to which the statement relates:

- third party tender offer subject to Rule 14d-1.
 issuer tender offer subject to Rule 13e-4.
 going-private transaction subject to Rule 13e-3.
 amendment to Schedule 13D under Rule 13d-2.

Check the following box if the filing is a final amendment reporting the results of the tender offer:

If applicable, check the appropriate box(es) below to designate the appropriate rule provision(s) relied upon:

- Rule 13e-4(i) (Cross-Border Issuer Tender Offer)
 - Rule 14d-1(d) (Cross-Border Third-Party Tender Offer)
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Item 1. Summary Term Sheet.

The information set forth under “*Summary Term Sheet—Overview*” and “*Summary Term Sheet—Questions and Answers*” in the Offer to Exchange Eligible Options for New Restricted Stock Units dated August 26, 2021 (the “**Exchange Offer**”), attached hereto as Exhibit (a)(1)(A), is incorporated herein by reference.

Item 2. Subject Company Information.

(a) Name and Address.

TherapeuticsMD, Inc., a Nevada corporation (the “**Company**”), is the issuer of the securities subject to the Exchange Offer. The Company’s principal executive offices are located at 951 Yamato Road, Suite 220, Boca Raton, Florida 33431, and the telephone number of its principal executive offices is (561) 961-1900.

(b) Securities.

This Tender Offer Statement on Schedule TO relates to an offer by the Company to certain employee optionholders, subject to specified conditions, to exchange some or all of their outstanding options to purchase shares of the Company’s common stock, par value \$0.001 per share (the “**Common Stock**”), for an award of restricted stock units of the Company. The Company’s named executive officers, as disclosed in the Company’s Definitive Proxy Statement filed with the Securities and Exchange Commission on April 14, 2021, advisers, consultants, contractors, or present or past non-employee directors, will not be eligible to participate in this offer.

An option will be eligible for exchange (an “**Eligible Option**”) if it was granted under the Company’s 2009 Long Term Incentive Compensation Plan, as amended (the “**2009 Plan**”), its Amended and Restated 2012 Stock Incentive Plan (the “**2012 Plan**”) and its 2019 Stock Incentive Plan, as amended (the “**2019 Plan**”) and together with the 2009 Plan and the 2012 Plan, the “**Plans**”), before August 26, 2019, 24 months before the commencement date of the Exchange Offer, and has a per share exercise price equal to or greater than \$5.01. As of August 20, 2021, Eligible Options to purchase 4,910,000 shares of Common Stock were outstanding.

Pursuant to the Exchange Offer, in exchange for the tender and cancellation of Eligible Options, the Company will grant an award of restricted stock units (each, a “**New RSU**”) following the Expiration Time (as defined in the Exchange Offer) subject to the terms and conditions described in the Exchange Offer and in the related accompanying Election Form, the form of which is attached hereto as Exhibit (a)(1)(C).

The information set forth in the Exchange Offer under “*Summary Term Sheet—Overview*,” “*Summary Term Sheet—Questions and Answers*” and the information set forth under Section 1 (“*Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer*”), Section 5 (“*Acceptance of Eligible Options for Exchange; Grant of New RSUs*”) and Section 7 (“*Price Range of Our Common Stock*”) of the Offering Memorandum for the Exchange Offer contained in the Exchange Offer (the “**Offering Memorandum**”) are incorporated herein by reference.

(c) Trading Market and Price.

The information set forth under Section 7 (“*Price Range of Our Common Stock*”) of the Offering Memorandum is incorporated herein by reference.

Item 3. Identity and Background of Filing Person.

(a) Name and Address.

The Company is both the filing person and the subject company. The information set forth under Item 2(a) above and under Section 9 (“*Interests of Directors and Executive Officers; Transactions and Arrangements Concerning Our Securities*”) of the Offering Memorandum is incorporated herein by reference.

The address of each executive officer and director of the Company is:

TherapeuticsMD, Inc.
951 Yamato Road, Suite 220
Boca Raton, Florida 33431

The directors and executive officers of the Company are set forth below:

Executive Officers	Title
Robert G. Finizio	Chief Executive Officer & Director
Hugh O'Dowd	President
James C. D'Arecca	Chief Financial Officer
Marlan Walker	General Counsel
Ed Borkowski	Executive Vice President
Michael Donegan	Vice President Finance and Chief Accounting Officer

Directors	Title
Tommy G. Thompson	Chairman of the Board of Directors
Paul M. Bisaro	Director
J. Martin Carroll	Director
Cooper C. Collins	Director
Karen L. Ling	Director
Jules A. Musing	Director
Gail K. Naughton, Ph.D.	Director
Angus C. Russell	Director

Item 4. Terms of the Transaction.

(a) *Material Terms.*

The information set forth in the Exchange Offer under “*Summary Term Sheet—Overview*” and “*Summary Term Sheet—Questions and Answers*” and the information set forth in the Offering Memorandum under Section 1 (“*Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer*”), Section 3 (“*Procedures for Tendering Eligible Options*”), Section 4 (“*Withdrawal Rights*”), Section 5 (“*Acceptance of Eligible Options for Exchange; Grant of New RSUs*”), Section 6 (“*Conditions of the Exchange Offer*”), Section 8 (“*Information Concerning TherapeuticsMD; Financial Information*”), Section 10 (“*Accounting Consequences of the Exchange Offer*”), Section 11 (“*Legal Matters; Regulatory Approvals*”), Section 12 (“*Material United States Tax Consequences*”) and Section 13 (“*Extension of the Exchange Offer; Termination; Amendment*”) are incorporated herein by reference.

(b) *Purchases.*

The information set forth under Section 9 (“*Interests of Directors and Executive Officers; Transactions and Arrangements Concerning Our Securities*”) of the Offering Memorandum is incorporated herein by reference.

Item 5. Past Contacts, Transactions, Negotiations and Agreements.

(e) *Agreements Involving the Subject Company's Securities.*

The information set forth under Section 9 (“*Interests of Directors and Executive Officers; Transactions and Arrangements Concerning Our Securities*”) of the Offering Memorandum is incorporated herein by reference. The documents incorporated herein by reference as Exhibit (d)(1) through Exhibit (d)(9) also contain information regarding agreements relating to securities of the Company.

Item 6. Purposes of the Transaction and Plans or Proposals.

(a) *Purposes.*

The information set forth under Section 2 (“*Purpose of the Exchange Offer; Additional Considerations*”) of the Offering Memorandum is incorporated herein by reference.

(b) *Use of Securities Acquired.*

The information set forth under Section 5 (“*Acceptance of Eligible Options for Exchange; Grant of New RSUs*”) of the Offering Memorandum is incorporated herein by reference.

(c) *Plans.*

The information set forth under Section 2 (“*Purpose of the Exchange Offer; Additional Considerations*”) of the Offering Memorandum is incorporated herein by reference.

Item 7. Source and Amount of Funds or Other Consideration.

(a) *Source of Funds.*

The consideration used in the Exchange Offer will be New RSUs. The information set forth in Item 4(a) above, and the information set forth under Section 14 (“*Consideration; Fees and Expenses*”) of the Offering Memorandum, are incorporated herein by reference.

(b) *Conditions.*

The information set forth under Section 6 (“*Conditions of the Exchange Offer*”) of the Offering Memorandum is incorporated herein by reference.

(d) *Borrowed Funds.*

Not applicable.

Item 8. Interest in Securities of the Subject Company.

(a) *Securities Ownership.*

The information set forth under Section 9 (“*Interests of Directors and Executive Officers; Transactions and Arrangements Concerning Our Securities*”) of the Offering Memorandum is incorporated herein by reference.

(b) *Securities Transactions.*

The information set forth under Section 9 (“*Interests of Directors and Executive Officers; Transactions and Arrangements Concerning Our Securities*”) of the Offering Memorandum is incorporated herein by reference.

Item 9. Persons/Assets, Retained, Employed, Compensated or Used.

(a) *Solicitations or recommendations.*

Not applicable.

Item 10. Financial Statements.

(a) *Financial Information.*

The information set forth under Section 8 (“*Information Concerning TherapeuticsMD; Financial Information*”), including Section 15 (“*Additional Information*”) of the Offering Memorandum is incorporated herein by reference.

(b) *Pro Forma Information.*

Not applicable.

Item 11. Additional Information.

(a) *Agreements, Regulatory Requirements and Legal Proceedings.*

- (1) The information set forth under Section 9 (“*Interests of Directors and Executive Officers; Transactions and Arrangements Concerning Our Securities*”) of the Offering Memorandum is incorporated herein by reference.
- (2) The information set forth under Section 11 (“*Legal Matters; Regulatory Approvals*”) of the Offering Memorandum is incorporated herein by reference.
- (3) Not applicable.
- (4) Not applicable.
- (5) Not applicable.

(c) *Other Material Information.*

Not applicable.

Item 12. Exhibits.

Exhibit Number	Description
(a)(1)(A)	<u>Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021</u>
(a)(1)(B)	<u>Form of Announcement to Eligible Employees</u>
(a)(1)(C)	<u>Election Form</u>
(a)(1)(D)	<u>Notice of Withdrawal of Election Form</u>
(a)(1)(E)	<u>Form of Email Confirming Receipt of Election Form</u>
(a)(1)(F)	<u>Form of Email Confirming Receipt of Notice of Withdrawal of Election Form</u>
(a)(1)(G)	<u>Form of Reminder Email to Eligible Employees Regarding the Expiration of the Exchange Offer</u>
(a)(1)(H)	<u>Form of Email to Eligible Employees Confirming Acceptance of Eligible Options</u>
(a)(1)(I)	<u>Form of Email Notice Regarding Rejection of Options for Exchange</u>
(a)(1)(J)	<u>Form of Expiration Notice Email</u>
(a)(1)(K)	<u>Form of Welcome Email</u>
(a)(1)(L)	<u>Form of Email Notice Regarding Invalid Election Form</u>

- (a)(1)(M) [Form of New RSU Grant Notice and Agreement for New RSUs Granted under Offer to Exchange Program \(incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 filed with the Commission on June 21, 2019 \(SEC File No. 333-232268\)\).](#)
- (d)(1) [TherapeuticsMD, Inc. 2019 Stock Incentive Plan \(incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 filed with the Commission on June 21, 2019 \(SEC File No. 333-232268\)\).](#)
- (d)(2) [First Amendment to the TherapeuticsMD, Inc. 2019 Stock Incentive Plan, \(incorporated by reference to Appendix A to the Registrant's Definitive Proxy Statement on Schedule 14A filed with the Commission on April 14, 2021 \(SEC File No. 001-00100\)\).](#)
- (d)(3) [Form of Option Grant Agreement under the 2019 Stock Incentive Plan \(incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 filed with the Commission on June 21, 2019 \(SEC File No. 333-232268\)\).](#)
- (d)(4) [TherapeuticsMD, Inc. Amended and Restated 2012 Stock Incentive Plan \(incorporated by reference to Exhibit 99.2 to the Registrant's Registration Statement on Form S-8 filed with the Commission on October 15, 2013 \(SEC File No. 333-191730\)\).](#)
- (d)(5) [Form of Option Grant Agreement under the TherapeuticsMD, Inc. Amended and Restated 2012 Stock Incentive Plan \(incorporated by reference to Exhibit 99.2 to the Registrant's Registration Statement on Form S-8 filed with the Commission on October 15, 2013 \(SEC File No. 333-191730\)\).](#)
- (d)(6) [Form of Restricted Stock Unit Agreement under the TherapeuticsMD, Inc. Amended and Restated 2012 Stock Incentive Plan \(incorporated by reference to Exhibit 99.2 to the Registrant's Registration Statement on Form S-8 filed with the Commission on October 15, 2013 \(SEC File No. 333-191730\)\).](#)
- (d)(7) [AMHN, Inc. 2009 Long Term Incentive Compensation Plan, as amended \(incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 filed with the Commission on October 15, 2013 \(SEC File No. 333-191730\)\).](#)
- (d)(8) [Form of Option Grant Agreement under the AMHN, Inc. 2009 Long Term Incentive Compensation Plan, as amended \(incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 filed with the Commission on October 15, 2013 \(SEC File No. 333-191730\)\).](#)
- (d)(9) [Form of Restricted Stock Unit Agreement under the AMHN, Inc. 2009 Long Term Incentive Compensation Plan, as amended \(incorporated by reference to Exhibit 99.1 to the Registrant's Registration Statement on Form S-8 filed with the Commission on October 15, 2013 \(SEC File No. 333-191730\)\).](#)

Item 13. Information Required by Schedule 13E-3.

Not applicable.

SIGNATURES

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

THERAPEUTICSMD, INC.

By: /s/ James C. D'Arecca
James C. D'Arecca
Chief Financial Officer

Dated: August 26, 2021

**THERAPEUTICSMD, INC.
951 YAMATO ROAD, SUITE 220
BOCA RATON, FLORIDA 33431**

OFFER TO EXCHANGE ELIGIBLE OPTIONS FOR NEW RESTRICTED STOCK UNITS

AUGUST 26, 2021

SUMMARY TERM SHEET — OVERVIEW

OFFER TO EXCHANGE ELIGIBLE OPTIONS FOR NEW RESTRICTED STOCK UNITS

This offer and withdrawal rights will expire at 5:00 p.m., Eastern Time, on Friday, September 24, 2021, unless extended

By this Offer to Exchange Eligible Options for restricted stock units (as the context requires, this document and the actions taken hereby, the “**Exchange Offer**”), TherapeuticsMD, Inc., which we refer to in this document as “**we**,” “**us**,” “**our**” or “**TherapeuticsMD**,” is giving each Eligible Employee (as defined below) the opportunity to exchange one or more Eligible Options (as defined below) for New RSUs (as defined below), as discussed below and in the attached disclosure document for the Exchange Offer beginning on page 15 (the “**Offering Memorandum**”).

The “**Expiration Time**” of the Exchange Offer is 5:00 p.m., Eastern Time, on Friday, September 24, 2021. If we extend the period of time during which this Exchange Offer remains open, the term “**Expiration Time**” will refer to the last time and date on which this Exchange Offer expires.

You are an “**Eligible Employee**” if:

- on the date the Exchange Offer commences, you are employed by TherapeuticsMD or one of our subsidiaries and have not submitted a notice of resignation or been notified by TherapeuticsMD or our subsidiary that your employment is being terminated;
- on the date on which the surrendered Eligible Options are canceled and the New RSUs (as defined below) are granted to replace them, you continue to be employed by TherapeuticsMD or one of our subsidiaries and have not submitted a notice of resignation or been notified by TherapeuticsMD or our subsidiary that your employment is being terminated; and
- you are not a (i) named executive officer, (ii) adviser, (iii) consultant, (iv) contractor, or (v) present or past non-employee member of the board of directors of TherapeuticsMD (the “**Board**”).

An “**Eligible Option**” is an outstanding option that:

- is held by an Eligible Employee;
- is outstanding as of the closing of the Exchange Offer;
- has an exercise price equal to or greater than \$5.01 per share; and
- was granted on or before August 26, 2019 under our 2009 Long Term Incentive Compensation Plan, as amended (the “**2009 Plan**”), our Amended and Restated 2012 Stock Incentive Plan (the “**2012 Plan**”) or our 2019 Stock Incentive Plan, as amended (the “**2019 Plan**”) and together with the 2009 Plan and the 2012 Plan, the “**Plans**”).

See the Offering Memorandum below for additional information regarding the terms of the Offering, including without limitation the information in Section 1 (“**Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer**”) and Section 2 (“**Purpose of The Exchange Offer; Additional Considerations**”).

Terms of New RSUs. If you choose to participate in the Exchange Offer and tender Eligible Options for exchange, and if we accept your tendered Eligible Options, then we will grant you an award of restricted stock units (each, a “**New RSU**”) with the following terms (collectively, the “**New RSU Terms**”):

- Each New RSU will not have an exercise or purchase price. Each New RSU will represent your right to receive one share of our common stock for each New RSU that vests in the future.
- The number of your New RSUs will be determined using an exchange ratio that takes into account the fair value of your tendered Eligible Option. The chart below sets forth the applicable exchange ratios, which are further discussed below.

Eligible Option Exercise Price Range	Exchange Ratio (Surrendered Eligible Options: New RSUs)
\$5.01 to \$5.50	5.45 to 1
\$5.51 to \$6.00	4.05 to 1
\$6.01 to \$6.50	6.10 to 1
\$6.51 to \$7.00	6.65 to 1
\$7.01 to \$8.00	13.95 to 1
\$8.01 to \$9.00	17.65 to 1

- Your New RSUs will be granted under the 2019 Plan.
- Your New RSUs will not be vested on the date they are granted, even if the corresponding exchanged Eligible Options had previously become exercisable. Your New RSUs will vest in three equal annual installments following the New RSU Grant Date (as defined below), subject to your continuous service with TherapeuticsMD and other relevant terms and conditions of the 2019 Plan.

Exchange Ratio. The number of shares subject to Eligible Options that an Eligible Employee must surrender in order to receive a New RSU to be issued one share is referred to as an “exchange ratio”.

The exchange ratios were calculated, for accounting purposes, to approximate 95% of the fair value of the Eligible Options, meaning that they were determined in a manner intended to result in the grant of a New RSU, for accounting purposes, with an aggregate fair value that is approximately the same as 95% of the aggregate fair value of the Eligible Options the New RSU replaces, calculated based on the closing price of our common stock on The Nasdaq Global Select Market (“*Nasdaq*”) as of August 20, 2021. Such a fair value exchange is intended to balance the compensatory goals of the Exchange Offer and the interests of our stockholders, including reducing our total number of outstanding options, avoiding further dilution to our stockholders and minimizing the accounting expense of the grants of New RSUs.

The exchange ratios were determined with reference to the fair value of the eligible vested and unvested stock options (calculated using the Black-Scholes option valuation model in compliance with ASC Topic 718) within the relevant grouping. In determining fair value, the Black-Scholes model takes into account many variables and estimates, such as our current stock price, the volatility of the price of our common stock, and the remaining term of an eligible stock option. We do not expect the incremental compensation expense, if any, to be material. We will recognize any such incremental compensation expense ratably over the vesting period of the New RSUs.

See Section 1 (“*Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer*”), Section 7 (“*Price Range of Our Common Stock*”) and Section 8 (“*Information Concerning Us; Financial Information*”) of the Offering Memorandum for additional information.

Process to Participate. The commencement date of the Exchange Offer is Thursday, August 26, 2021. We are making the Exchange Offer upon the terms and subject to the conditions described in the Offering Memorandum and in the related Election Form distributed with the Offering Memorandum. The Exchange Offer is voluntary with respect to each Eligible Option you hold. You are not required to participate in the Exchange Offer. If you hold more than one option grant that qualifies as an Eligible Option and elect to participate in the Exchange Offer, you will be allowed to tender for exchange as few or as many of your Eligible Option grants as you wish; however, you must tender all of the shares underlying any selected Eligible Option grant. Eligible Options properly tendered in this Exchange Offer and accepted by us for exchange will be cancelled, and your New RSUs will be granted with the New RSU Terms effective promptly following the Expiration Time (such date, the “*New RSU Grant Date*”).

See the “*Risk Factors*” section of this Exchange Offer beginning on page 13 for a discussion of risks and uncertainties that you should consider before agreeing to exchange your Eligible Options for New RSUs. You should consider, among other things, these risks and uncertainties before deciding whether to participate in the Exchange Offer.

Shares of our common stock are quoted on Nasdaq under the symbol “TXMD.” On August 20, 2021, the closing price of our common stock as reported on Nasdaq was \$0.76 per share. We recommend that you obtain current market quotations for our common stock before deciding whether to elect to participate in the Exchange Offer.

You should direct any questions about the Exchange Offer or requests for assistance (including requests for additional or paper copies of the Offering Memorandum, the Election Form, the Notice of Withdrawal or any other documents relating to the Exchange Offer) by email to Tony Wong, Director, Accounting & SEC Reporting at equityawards@therapeuticsmd.com.

IMPORTANT INFORMATION

The statements in this document concerning the Eligible Options, the 2019 Plan and the New RSUs are summaries of the material terms but are not complete descriptions thereof. The full text of these documents has been filed with the U.S. Securities and Exchange Commission (the “SEC”) and we strongly encourage you to review such documents. See Section 15 of the Offering Memorandum, entitled “**Additional Information**” for more information regarding the Schedule TO.

If you choose to participate in the Exchange Offer, you must properly complete and sign the accompanying Election Form and deliver the properly completed and signed Election Form to us so that we receive it before 5:00 p.m. Eastern Time, on Friday, September 24, 2021 (or such later date as may apply if the Exchange Offer is extended), by email (by PDF or similar imaged document file) delivered to: TherapeuticsMD@insightsoftware.com.

You are responsible for making sure that the Election Form is delivered as indicated above. You must allow for sufficient time to complete, sign and deliver your Election Form to ensure that we receive your Election Form before the Expiration Time.

You do not need to return your stock option agreements for your Eligible Options to be cancelled and exchanged in the Exchange Offer. We will provide you with a written confirmation of the cancellation of any such options along with a restricted stock unit agreement for your New RSUs shortly following the grant of your New RSUs.

Although the Board has approved the Exchange Offer, consummation of the Exchange Offer is subject to the satisfaction or waiver of the conditions described in Section 6 of the Offering Memorandum (“**Conditions of the Exchange Offer**”). Neither we nor the Board (or the compensation committee thereof) makes any recommendation as to whether you should participate, or refrain from participating, in the Exchange Offer. You must make your own decision whether to participate. You should consult your personal financial and tax advisors if you have questions about your financial or tax situation as it relates to the Exchange Offer.

Neither the SEC nor any state securities commission has approved or disapproved of this transaction or passed upon the fairness or merits of this transaction or the accuracy or adequacy of the information contained in the Exchange Offer. Any representation to the contrary is a criminal offense.

WE HAVE NOT AUTHORIZED ANY PERSON TO MAKE ANY RECOMMENDATION ON OUR BEHALF AS TO WHETHER OR NOT YOU SHOULD PARTICIPATE IN THE EXCHANGE OFFER. YOU SHOULD RELY ONLY ON THE INFORMATION CONTAINED IN THIS DOCUMENT OR IN DOCUMENTS TO WHICH WE HAVE REFERRED YOU.

WE HAVE NOT AUTHORIZED ANYONE TO GIVE YOU ANY INFORMATION OR TO MAKE ANY REPRESENTATION IN CONNECTION WITH THE EXCHANGE OFFER OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DOCUMENT OR IN THE RELATED ELECTION FORMS. IF ANYONE MAKES ANY RECOMMENDATION OR REPRESENTATION TO YOU OR GIVES YOU ANY INFORMATION, YOU SHOULD NOT RELY UPON THAT RECOMMENDATION, REPRESENTATION OR INFORMATION AS HAVING BEEN AUTHORIZED BY THERAPEUTICSMMD.

OFFER TO EXCHANGE ELIGIBLE OPTIONS FOR NEW RESTRICTED STOCK UNITS

Set forth below are answers to some of the questions that you may have about the Exchange Offer. We encourage you to carefully read the remainder of this Offer to Exchange Eligible Options for New RSUs and the accompanying Election Form. Where appropriate, we have included references to the relevant sections of the Offering Memorandum where you can find a more complete description of the topics in this summary.

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Q1. Why is TherapeuticsMD making the Exchange Offer?

We believe that an effective and competitive employee incentive program is imperative for the future growth and success of our company. We rely on our employees to implement our strategic initiatives, expand and develop our business, and satisfy customer needs. Competition for many of these employees, particularly in the pharmaceutical industry, is intense and many companies use stock options as a means of attracting, motivating, and retaining their best employees. Stock options historically constituted a key part of our hiring, incentive, and retention programs because our Board believes that equity compensation encourages employees to act like owners of the business, motivating them to work toward our success and rewarding their contributions by allowing them to benefit from increases in the value of our common stock.

When the Compensation Committee approves the grant of a stock option, it establishes the exercise price that the employee must pay to purchase shares of our common stock when the option is exercised. The per share exercise price is set at the closing price of a share of our common stock as reported by Nasdaq on the date the option is granted. Thus, an employee receives value only if the employee exercises an option and sells the purchased shares at a price that exceeds the stock option's exercise price.

In recent years, the market price of our common stock has been subject to significant fluctuations, many of which were outside the control of our company and our employees. For example, our common stock has been subject to large short sale positions, as well as to U.S. Food and Drug Administration (“*FDA*”) regulatory hurdles that were eventually overcome. As a result, as of August 20, 2021, 133 Eligible Employees held options to purchase 4,910,000 shares of our common stock with exercise prices ranging from \$5.01 per share to \$8.92 per share, which is above our common stock's August 20, 2021 closing price of \$0.76. The “out-of-the-money” options are no longer effective as performance and retention incentives. We believe that to enhance long-term stockholder value we need to maintain competitive employee incentive and retention programs. An equity stake in the success of our company is a critical component of these programs. Although we continue to believe that stock options are an important component of our employees' total compensation, many of our employees view their existing stock options as having little or no value due to the difference between the exercise prices and the current market price of our common stock. As a result, for many employees, these options are ineffective at providing the incentives and retention value that our Board believes is necessary to motivate our employees to increase long-term stockholder value. We believe that it is essential to continue to retain and motivate our best employees, and that the inherent value of the new RSUs and extended vesting periods of the RSUs may be more effective in retaining and incentivizing employees than the existing underwater options. We believe the Exchange Offer will provide us with an opportunity to restore for Eligible Employees an incentive to remain with us and contribute to the future growth and success of our company.

See Section 2 of the Offering Memorandum (“*Purpose of The Exchange Offer; Additional Considerations*”) for more information.

Q2. Who is eligible to participate in the Exchange Offer?

Only Eligible Employees are eligible to participate in the Exchange Offer. You are an “*Eligible Employee*” if:

- on the date the Exchange Offer commences, you are employed by TherapeuticsMD or one of our subsidiaries and have not submitted a notice of resignation or been notified by TherapeuticsMD or one of our subsidiaries that your employment is being terminated;
- on the date on which the surrendered Eligible Options are canceled and the New RSUs (as defined below) are granted to replace them, you continue to be employed by TherapeuticsMD or one of our subsidiaries and have not submitted a notice of resignation or been notified by TherapeuticsMD or one of our subsidiaries that your employment is being terminated; and
- you are not a (i) named executive officer, (ii) adviser, (iii) consultant, (iv) contractor, or (v) present or past non-employee member of the Board of TherapeuticsMD.

See Section 1 of the Offering Memorandum (“*Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer*”) for more information.

Q3. Which options are subject to the Exchange Offer?

Under the Exchange Offer, Eligible Employees will be able to elect to tender outstanding Eligible Options for exchange.

An “*Eligible Option*” is an outstanding option that:

- is held by an Eligible Employee;

- is outstanding as of the closing of the Exchange Offer;
- has an exercise price equal to or greater than \$5.01 per share; and
- was granted on or before August 26, 2019 under the Plans.

See Section 1 of the Offering Memorandum (“**Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer**”) for more information.

Q4. How do RSUs differ from stock options?

The table below outlines some key differences between stock options and RSUs:

	<u>Stock Options</u>	<u>RSUs</u>
What they are	The right to purchase a fixed number of shares of TherapeuticsMD common stock at a fixed exercise price for a fixed period of time.	The right to receive a fixed number of shares of TherapeuticsMD common stock in the future at no exercise or purchase price.
How they work	<p>Once a stock option grant vests, you can exercise the vested portion at any time until the expiration date of that option. Exercising means you buy the stock at the exercise price set on the date of grant.</p> <p>If the price of our common stock is greater than the exercise price when you exercise and sell the shares, you receive the gain (after payment of applicable taxes).</p> <p>However, when our stock price is <i>less</i> than the exercise price, the stock option has no intrinsic value and is considered to be underwater.</p>	<p>Once an RSU vests, a share of TherapeuticsMD common stock is issued to you and at no cost to you, other than withholding taxes associated with the RSU. The value you receive for an RSU upon issuance of the common stock will be based on the then-current TherapeuticsMD stock price. Once our stock is issued to you following the vesting of the RSU, you can either keep it as an investment or sell it.</p>

Q5. Will the terms and conditions of my New RSUs be the same as my exchanged options?

No. The terms and conditions of your New RSUs, including the vesting schedule of your New RSUs, will be different from the exchanged options. The tax treatment of the New RSUs will differ significantly from the tax treatment of your exchanged options. See Section 12 of the Offering Memorandum (“**Material United States Tax Consequences**”) for more information. New RSUs will be granted under the 2019 Plan and will be subject to a restricted stock unit grant notice and agreement provided to you, a form of which is filed with the SEC as an exhibit to the Schedule TO.

Q6. How many New RSUs will I receive for the Eligible Options I exchange?

The number of New RSUs to be granted to you will be determined using an exchange ratio that takes into account the exercise price of your tendered Eligible Option. The chart below sets forth the applicable exchange ratios, which are further discussed below.

Eligible Option Exercise Price Range	Exchange Ratio (Surrendered Eligible Options: New RSUs)
\$5.01 to \$5.50	5.45 to 1
\$5.51 to \$6.00	4.05 to 1
\$6.01 to \$6.50	6.10 to 1
\$6.51 to \$7.00	6.65 to 1
\$7.01 to \$8.00	13.95 to 1
\$8.01 to \$9.00	17.65 to 1

The exchange ratios were calculated, for accounting purposes, to approximate a “value-for-value” exchange, meaning that they were determined in a manner intended to result in the grant of a New RSU, for accounting purposes, with an aggregate fair value that is approximately the same as the aggregate fair value of the Eligible Options the New RSU replaces, calculated based on the closing price of our common stock on Nasdaq as of August 20, 2021.

The exchange ratios were determined with reference to the fair value of the eligible vested and unvested stock options (calculated using the Black-Scholes option valuation model) within the relevant grouping. In determining fair value, the Black-Scholes model takes into account many variables and estimates, such as our current stock price, the volatility of the price of our common stock, and the remaining term of an eligible stock option. Setting the exchange ratios in this manner was intended to result in the issuance of replacement New RSUs that have an aggregate fair value approximately equal to the aggregate fair value of the surrendered options they replace. This will minimize any additional compensation cost that we must recognize on the New RSUs, other than compensation expense that might result from fluctuations in our stock price after the exchange ratios have been set but before the exchange actually occurs.

Q7. Will my New RSUs have an exercise or purchase price?

Your New RSUs will not have an exercise or purchase price. Each New RSU will represent your right to receive a number of shares of our common stock upon vesting based on an exchange ratio.

See Section 1 of the Offering Memorandum (“*Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer*”) for more information and Section 7 of the Offering Memorandum (“*Price Range of Our Common Stock*”) for information concerning the historical prices of our common stock.

Q8. When will my New RSUs vest?

Your New RSUs will not be vested on the date they are granted, even if the corresponding exchanged Eligible Options had previously become vested and exercisable. Your New RSUs will vest in three equal annual installments following the New RSU Grant Date, subject to your continuous service with TherapeuticsMD and other relevant terms and conditions of the 2019 Plan.

Q9. Do I need to exercise my New RSU in order to receive shares?

No. Unlike stock options, which you must exercise in order to receive the vested shares subject to the option, you do not need to exercise RSUs in order to receive shares. If your New RSUs vest in accordance with the vesting schedule described above and set forth in the applicable RSU agreement, you will automatically receive the shares subject to the New RSUs. Generally, shares subject to New RSUs that do not vest will be forfeited to TherapeuticsMD, as determined in accordance with the 2019 Plan.

Q10. If I participate in the Exchange Offer, when will my New RSUs be granted?

Unless we amend or terminate the Exchange Offer in accordance with its terms, we will grant you New RSUs in exchange for Eligible Options with respect to which you properly made a valid election (and did not validly revoke that election), effective as of the New RSU Grant Date, which is currently expected to be Wednesday, September 29, 2021. The New RSUs will reflect the New RSU Terms.

See Section 1 of the Offering Memorandum (“*Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer*”) for more information.

Q11. What happens to my New RSUs if I terminate my employment with TherapeuticsMD?

Vesting of your New RSUs will cease upon termination of your service with TherapeuticsMD. Your unvested New RSUs will be forfeited.

Nothing in the Exchange Offer should be construed to confer upon you the right to remain employed by TherapeuticsMD. The terms of your employment with TherapeuticsMD remain unchanged. We cannot guarantee or provide you with any assurance that you will not be subject to involuntary termination or that you will otherwise remain employed by TherapeuticsMD until the expiration of the Exchange Offer, the grant date for the New RSUs or thereafter during the vesting period of the New RSUs. In addition, we cannot provide any assurance that your employment with TherapeuticsMD will continue past the vesting date of any New RSU issued in exchange for an Eligible Option that would have been vested and exercisable as of your termination date had the Eligible Option not been exchanged for a New RSU.

See Section 1 of the Offering Memorandum (“*Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer*”) and Section 5 of the Offering Memorandum (“*Acceptance of Eligible Options for Exchange; Grant of New RSUs*”) for more information.

Q12. Must I participate in the Exchange Offer?

No. Participation in the Exchange Offer is completely voluntary. If you hold more than one option grant under the Plans that qualifies as an Eligible Option and would like to participate in the Exchange Offer, you will be allowed to elect to tender for exchange as few or as many of your Eligible Option grants as you wish; however, you must tender all of the shares underlying any selected Eligible Option grant. If you choose not to participate in the Exchange Offer, then your Eligible Options will remain outstanding and subject to their current terms.

Q13. How should I decide whether or not to participate in the Exchange Offer?

We are providing substantial information to assist you in making your own informed decision. Please read all the information contained in the various sections of the Offering Memorandum below, including the information in Section 2 (“*Purpose of The Exchange Offer; Additional Considerations*”), Section 7 (“*Price Range of Our Common Stock*”), Section 8 (“*Information Concerning TherapeuticsMD; Financial Information*”), Section 9 (“*Interests of Directors and Executive Officers; Transactions and Arrangements Concerning Our Securities*”), Section 12 (“*Material United States Tax Consequences*”) and Section 15 (“*Additional Information*”) of the Offering Memorandum. You should seek further advice from your legal counsel, accountant and financial advisor. Participation in the Exchange Offer is entirely your decision and should be made based on your personal circumstances. No one from TherapeuticsMD is, or will be, authorized to provide you with legal, tax, financial or other advice or recommendations regarding whether you should participate in the Exchange Offer.

In addition to reviewing the materials provided, please note the following:

- The Exchange Offer is not a one-for-one exchange. You will likely receive fewer shares subject to your New RSUs than your Eligible Options.
- Options provide value upon exercise only if our common stock price increases after its grant date. RSUs provide value upon vesting even if our common stock price does not increase after its grant date. However, because the exchange ratios for the Exchange Offer are value-based, and will be less than or equal one-for-one, it is possible that, at some point in the future, Eligible Options you choose to exchange could be economically more valuable than the New RSUs received by you pursuant to the Exchange Offer.
- You should carefully consider the tax consequences of the New RSUs. In general, the New RSUs will be taxed when they vest and shares are issued to you. You are strongly encouraged to consult with your personal legal counsel, accountant, financial and/or tax advisor(s) for advice on these matters.

Please also review the “*Risk Factors*” that appear on page 13.

Q14. How do I find out how many Eligible Options I have and what their exercise prices are?

The Election Form distributed along with the Exchange Offer includes a list of your Eligible Options as of August 26, 2021. At any time during the Exchange Offer, you may contact us via email at equityawards@therapeuticsmd.com to confirm the number of option grants that you have and the grant dates, remaining term, exercise prices, vesting schedule and other information regarding such option grants.

Q15. Can I tender for exchange stock options that I have already fully exercised?

No. The Exchange Offer applies only to outstanding Eligible Options. An option that has been fully exercised is no longer outstanding and is therefore not an Eligible Option.

Q16. Can I tender for exchange the remaining unexercised portion of an Eligible Option that I have already partially exercised?

Yes. If you exercised an Eligible Option in part before August 26, 2021, the remaining unexercised portion of the Eligible Option can be tendered for exchange in the Exchange Offer.

See Section 3 of the Offering Memorandum (“*Procedures for Tendering Eligible Options*”) for more information.

Q17. Can I tender for exchange a portion of an Eligible Option?

No partial exchange of an Eligible Option grant will be permitted. If you elect to tender an Eligible Option for exchange, you must tender all shares of the outstanding (i.e., unexercised) portion of that Eligible Option. You may elect to tender as few or as many of your Eligible Option grants as you wish. If you attempt to tender a portion but not all of an outstanding Eligible Option grant, we will reject your tender of that particular grant. Such rejection will not affect any other Eligible Option grants that you have properly tendered for exchange.

See Section 3 of the Offering Memorandum (“*Procedures for Tendering Eligible Options*”) for more information.

Q18. What if I am on an authorized leave of absence during the Exchange Offer?

Any Eligible Employee who is on an authorized leave of absence will be eligible to participate in the Exchange Offer.

See Section 1 of the Offering Memorandum (“*Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer*”) for more information.

Q19. What happens if my employment with TherapeuticsMD terminates before the Expiration Time?

If you have tendered Eligible Options under the Exchange Offer and your employment with TherapeuticsMD terminates for any reason on or prior to the date on which the surrendered Eligible Options are canceled and the New RSUs are granted to replace them, you will no longer be eligible to participate in the Exchange Offer. Accordingly, we will not accept your Eligible Options for exchange, and you will not be eligible to receive New RSUs. In such a case, you may be able to exercise the vested portion of your existing Eligible Options for a limited time after your termination date, subject to and in accordance with their original terms.

Nothing in the Exchange Offer should be construed to confer upon you the right to remain an employee of TherapeuticsMD. The terms of your employment with TherapeuticsMD remain unchanged. We cannot guarantee or provide you with any assurance that you will not be subject to involuntary termination or that you will otherwise remain in our service until the date on which the surrendered Eligible Options are canceled and the New RSUs are granted to replace them, or the New RSU Grant Date or thereafter. In addition, we cannot provide any assurance that your employment with TherapeuticsMD will continue past the vesting date of any New RSU granted in exchange for an Eligible Option that would have been vested and exercisable as of your termination date had the Eligible Option not been exchanged for a New RSU.

See Section 1 (“*Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer*”) and Section 5 (“*Acceptance of Eligible Options for Exchange; Grant of New RSUs*”) of the Offering Memorandum for more information.

Q20. Will I owe taxes if I participate in the Exchange Offer?

Neither the acceptance of your Eligible Options for exchange nor the grant of any New RSUs will be a taxable event for U.S. federal income tax purposes.

You should consult with your tax advisor to determine the personal tax consequences of participating in the Exchange Offer. If you are an Eligible Employee who is subject to the tax laws of a country other than the United States or of more than one country, you should be aware that there may be additional or different tax consequences that may apply to you. We advise all Eligible Employees who may consider tendering their Eligible Options for exchange to consult with their own tax advisors with respect to the federal, state, local and foreign tax consequences of participating in the Exchange Offer.

See Section 12 of the Offering Memorandum (“*Material United States Tax Consequences*”) for more information regarding the tax aspects of the Exchange Offer.

Q21. Will I owe taxes if I do not participate in the Exchange Offer?

In general, your rejection of the Exchange Offer will not be a taxable event for U.S. federal income tax purposes.

See Section 12 of the Offering Memorandum (“*Material United States Tax Consequences*”) for more information.

Q22. What will happen to my Eligible Options if I participate in the Exchange Offer?

We will cancel all Eligible Options tendered by you and accepted by TherapeuticsMD for exchange in the Exchange Offer.

Q23. Is it possible for my New RSUs to be or become underwater?

No. Since New RSUs do not have an exercise or purchase price, New RSUs will never become underwater, but the value of the New RSUs may change with fluctuations in our stock price.

Q24. What happens to Eligible Options that I choose not to tender or that are not accepted for exchange in the Exchange Offer?

Generally, there will be no impact to Eligible Options that you choose not to tender for exchange prior to the original Expiration Time. However, if (1) any of your Eligible Options are currently treated as an Incentive Stock Option (“*ISO*”), (2) we extend the Exchange Offer beyond the original Expiration Time of Friday, September 24, 2021, or the Exchange Offer otherwise remains outstanding for more than 29 calendar days, and (3) you do not reject this Exchange Offer within the first 29 calendar days in which it is outstanding (that is, by Friday, September 24, 2021), then your Eligible Options may cease to be treated as ISOs as of the original Expiration Time on Friday, September 24, 2021. If the fair market value of our common stock as of the Expiration Time is less than the exercise price currently in effect for your Eligible Options, the Board can take action to “retest” your Eligible Options to determine if they can again be treated as ISOs. However, even if they can again be treated as ISOs, your holding period under your Eligible Options (as further described below in the section called “*Taxation of Incentive Stock Options*”) will start over on the Expiration Time. Therefore, if we extend the Exchange Offer beyond the original Expiration Time on Friday, September 24, 2021 or the Exchange Offer otherwise remains outstanding for more than 29 calendar days, and you wish to avoid the possible impact on your ISO status, **you must reject this Exchange Offer by completing and submitting the Election Form on or prior to 11:59 p.m. Eastern Time on Friday, September 24, 2021.**

We will not accept for exchange any options that are tendered that do not qualify as Eligible Options. If you tender an option that is not accepted for exchange, we will send you a separate email following the Expiration Time notifying you that your tendered option was not accepted for exchange.

Q25. How long do I have to decide whether to participate in the Exchange Offer?

The Exchange Offer expires at 5:00 p.m., Eastern Time, on Friday, September 24, 2021 (or such later date as may apply if the Exchange Offer is extended). We will not make any exceptions to this deadline. However, although we do not currently intend to do so, we may, in our sole discretion, extend the expiration date of the Exchange Offer at any time. If we extend the Exchange Offer, we will publicly announce the extension and the new expiration date no later than 9:00 a.m., Eastern Time, on the next business day after the last previously scheduled or announced expiration date.

See Section 13 of the Offering Memorandum (“**Extension of Exchange Offer; Termination; Amendment**”) for more information.

Q26. How do I tender my Eligible Options for exchange?

If you are an Eligible Employee, you may tender your Eligible Options for exchange at any time before the Exchange Offer expires at 5:00 p.m., Eastern Time, on Friday, September 24, 2021 (or such later date as may apply if the Exchange Offer is extended).

To validly tender your Eligible Options, you must deliver a properly completed and signed Election Form, and any other documents required by the Election Form, by email (by PDF or similar imaged document file) to CI-TherapeuticsMD@insightsoftware.com.

You do not need to return your stock option agreements relating to any tendered Eligible Options as they will be automatically cancelled effective as of the New RSU Grant Date if we accept your Eligible Options for exchange. We will separately provide to you the grant documents relating to your New RSUs for your acceptance through our online equity administration portal following the New RSU Grant Date.

Your Eligible Options will not be considered tendered until we receive your properly completed and signed Election Form. We must receive your properly completed and signed Election Form before 5:00 p.m., Eastern Time, on Friday, September 24, 2021 (or such later date as may apply if the Exchange Offer is extended). If you miss this deadline, you will not be permitted to participate in the Exchange Offer.

We will accept delivery of the signed Election Form only by email (by PDF or similar imaged document file). You are responsible for making sure that the Election Form is delivered to the email address indicated above. You must allow for sufficient time to complete and deliver your Election Form to ensure that we receive your Election Form before the Expiration Time.

We reserve the right to reject any or all tenders of Eligible Options that we determine are not in appropriate form or that we determine would be unlawful to accept. Subject to our rights to extend, terminate and amend the Exchange Offer, we expect to accept all properly tendered Eligible Options following the Expiration Time.

See Section 3 of the Offering Memorandum (“**Procedures for Tendering Eligible Options**”) for more information.

Q27. Can I withdraw previously tendered Eligible Options?

Yes. You may withdraw your tendered Eligible Options at any time before the Exchange Offer expires at 5:00 p.m., Eastern Time, on Friday, September 24, 2021 (or such later date as may apply if the Exchange Offer is extended). Unless we have accepted the Eligible Options pursuant to the Exchange Offer, you may also withdraw any tendered Eligible Options at any time after 11:59 p.m., Eastern Time, on Monday, October 25, 2021.

To withdraw tendered Eligible Options, you must deliver to us a properly completed and signed Notice of Withdrawal of Election Form (a “**Notice of Withdrawal**”) with the required information prior to the Expiration Time. The Notice of Withdrawal must be delivered by email (by PDF or similar imaged document file) to CI-TherapeuticsMD@insightsoftware.com.

If you miss the deadline to withdraw but remain an Eligible Employee, any previously tendered Eligible Options will be exchanged pursuant to the Exchange Offer. You may change your mind as many times as you wish, but you will be bound by the last properly submitted Election Form or Notice of Withdrawal that we receive before the Expiration Time.

You are responsible for making sure that you properly submit a Notice of Withdrawal for any tendered Eligible Option that you wish to subsequently withdraw. You must allow sufficient time to complete, sign and deliver your Notice of Withdrawal to ensure that we receive it before the Expiration Time.

Once you have withdrawn Eligible Options, you may re-tender such Eligible Options by submitting a new Election Form and following the procedures for validly tendering Eligible Options in the Exchange Offer described in Question 26 above.

See Section 4 of the Offering Memorandum (“**Withdrawal Rights**”) for more information.

Q28. How will I know whether you have received my Election Form or my Notice of Withdrawal?

We will send you an email or other form of communication, as appropriate, to confirm receipt of your Election Form or Notice of Withdrawal, as applicable, shortly after we receive it. However, it is your responsibility to ensure that we receive your Election Form or Notice of Withdrawal, as applicable, prior to the Expiration Time.

See Section 3 of the Offering Memorandum (“*Procedures for Tendering Eligible Options*”) for more information.

Q29. What will happen if I do not return my Election Form by the deadline?

If we do not receive an Election Form from you by the Expiration Time, then all of your Eligible Options will remain outstanding at their original exercise price and subject to their original terms. If you prefer not to tender any of your Eligible Options for exchange in the Exchange Offer, you do not need to do anything. **However, if we extend the Exchange Offer beyond the original Expiration Time on Friday, September 24, 2021 or it otherwise remains open for more than 29 calendar days, and you wish to avoid the possible impact on the ISO status of any of your Eligible Options, you must reject this Exchange Offer by completing and submitting the Election Form on or prior to 11:59 p.m. Eastern Time on Friday, September 24, 2021.**

See Section 3 of the Offering Memorandum (“*Procedures for Tendering Eligible Options*”) for more information.

Q30. What if I have any questions regarding the Exchange Offer?

You should direct questions about the Exchange Offer (including requests for additional or paper copies of the Exchange Offer and other Exchange Offer documents which we will promptly furnish to you at our expense) by email to equityawards@therapeuticsmd.com.

RISK FACTORS

Participation in the Exchange Offer involves a number of potential risks and uncertainties, including those described below. You should consider, among other things, these risks and uncertainties before deciding whether or not to request that we exchange your Eligible Options in the manner described in the Exchange Offer. You should carefully review the risk factors set forth below and those contained in our Annual Report on Form 10-K for the year ended December 31, 2020, filed with the Securities and Exchange Commission (the “SEC”) on March 4, 2021 and our Quarterly Reports on Form 10-Q for the quarter ended March 31, 2021 and June 30, 2021, filed with the SEC on May 6, 2021 and August 4, 2021, respectively, as well as the other information provided in the Exchange Offer and the other materials that we have filed with the SEC, before making a decision as to whether or not to tender your Eligible Options. See Section 15 of the Offering Memorandum (“**Additional Information**”) for more information regarding reports we file with the SEC and how to obtain copies of or otherwise review these reports.

Risks Related to the Exchange Offer

The exchange ratio used in the Exchange Offer may not accurately reflect the value of your Eligible Options at the time of their exchange.

The calculation of the exchange ratio for the Eligible Options in the Exchange Offer is based on the Black-Scholes option pricing model and relies on numerous assumptions. If a different method or different assumptions are used, or if the exchange ratio is calculated as of a different date, the exchange ratio may vary from the exchange ratio in this Exchange Offer. The valuation method that we use for establishing the exchange ratio is designed to estimate a fair value of options as of the date the exchange ratio is calculated and is not a prediction of the future value that might be realized through Eligible Options or New RSUs. In addition, the exchange ratio is “capped” at one RSU for one share subject to the Eligible Options to which the New RSU replaces, if the fair value of the New RSUs that would be approximately equivalent to the fair value of the Eligible Options exchanged would result in you receiving more New RSUs than the number of shares underlying your Eligible Options exchanged.

You should be aware that option valuation is inherently difficult to estimate and imprecise. Although the Black-Scholes model is a standard and accepted model for determining the value of options, the utilization of different assumptions in the Black-Scholes option pricing model can produce significantly different results for the ultimate value of an option.

Moreover, even experts can disagree on the correct assumptions to use for any particular option valuation exercise. The assumptions we use for purposes of this Exchange Offer may not be the same as those used by others and, therefore, our valuation of the Eligible Options, the New RSUs and/or the exchange ratio may not be consistent with those obtained using other valuation techniques or input assumptions and may not reflect the actual value of these options.

Your cancelled Eligible Options may be worth more than the New RSUs that you receive in exchange.

Because the New RSUs you receive will likely cover fewer shares than the number of shares outstanding under your Eligible Options, it is possible that, at some point in the future, due to increases in our stock price, those Eligible Options would have been more economically valuable than the New RSUs granted pursuant to the Exchange Offer.

Whether you will be in a better position if you surrender your Eligible Options for New RSUs instead of retaining your Eligible Options depends on many factors, including the number of Eligible Options you hold, the number of New RSUs that you would receive in exchange for your Eligible Options, the exercise price of your Eligible Options, the value of our common stock in the future, how long you remain employed by TherapeuticsMD or one of our subsidiaries and the expiration date of your Eligible Options. We encourage you to consult with your financial, tax, legal and other advisors when determining whether to participate in the Exchange Offer.

If your service with TherapeuticsMD terminates before your New RSUs vest, you will not be able to receive value for your unvested New RSUs, but you may have been able to receive value for the Eligible Options you exchanged for the New RSUs.

The New RSUs will be subject to a new vesting schedule that differs from the vesting schedules of the Eligible Options that you exchange. The New RSUs will vest in three equal annual installments following the New RSU Grant Date, subject to your continuous service with TherapeuticsMD and other relevant terms and conditions of the 2019 Plan and therefore, none of the

New RSUs will be vested on the New RSU Grant Date even if your Eligible Options are fully or partially vested. Accordingly, if your service with TherapeuticsMD terminates after you exchange your Eligible Options for New RSUs, you may not be able to realize as much value from your New RSUs as you could have realized from the Eligible Options you exchanged. For example, if you do not exchange your vested Eligible Options for New RSUs, and your service with TherapeuticsMD terminates, if our stock price increases above the exercise price per share of your vested Eligible Options, you would still be able to exercise and sell the underlying shares of common stock for these vested Eligible Options at a gain. However, if you exchange your vested Eligible Options for New RSUs, and your service with TherapeuticsMD terminates after you receive New RSUs but before such New RSUs have vested, you will receive no value from being granted the New RSUs.

You may incur additional taxes in connection with the New RSUs for U.S. tax purposes.

For more detailed information regarding the tax treatment of stock options, including ISOs and NSOs, see Section 12 of the Offering Memorandum (“***Material United States Tax Consequences***”).

OFFERING MEMORANDUM

OFFER TO EXCHANGE ELIGIBLE OPTIONS FOR NEW RSUS

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OFFERING MEMORANDUM

OFFER TO EXCHANGE ELIGIBLE OPTIONS FOR NEW RSUS

Section 1. Eligible Employees; Eligible Options; the Proposed Exchange; Expiration and Extension of the Exchange Offer.

TherapeuticsMD, Inc. (“*TherapeuticsMD*,” “*we*,” “*us*” or “*our*”) is offering eligible employees the opportunity to exchange certain outstanding stock options for new restricted stock units. As described in this Section 1 of this Offering Memorandum—Offer to Exchange Eligible Options for New RSUs (this “*Offering Memorandum*”), Eligible Options that are validly tendered prior to the Expiration Time will be exchanged for New RSUs in exchange for an Eligible Employee’s agreement to accept the terms of the New RSUs. Each capitalized term that is used in this paragraph without being defined has the meaning set forth below.

We are making the offer on the terms and subject to the conditions described in this Offering Memorandum, as they may be amended from time to time, and these terms and conditions constitute the “*Exchange Offer*.” The Exchange Offer is not conditioned on the acceptance of the Exchange Offer by a minimum number of optionholders or the tender of elections to exchange options covering a minimum number of shares.

Eligible Employees

All individuals who hold Eligible Options (as defined below) and who, as of the date the Exchange Offer commences and as of the date on which the surrendered Eligible Options are canceled and the New RSUs are granted to replace them, are current employees of TherapeuticsMD, may participate in the Exchange Offer (the “*Eligible Employees*”) (see below for excluded option holders). To be an Eligible Employee, you must continue to be employed by TherapeuticsMD, and not have submitted a notice of resignation or received a notice of termination, between the date the Exchange Offer commences and the date on which the surrendered Eligible Options are canceled and the New RSUs are granted to replace them.

You will not be eligible to tender Eligible Options for exchange in the Exchange Offer if you cease to be an Eligible Employee for any reason prior to the date on which the surrendered Eligible Options are canceled and the New RSUs are granted to replace them, including due to your voluntary resignation, retirement, involuntary termination, layoff, death or disability. An individual who is on an authorized leave of absence and is otherwise an Eligible Employee on the Expiration Date will be eligible to tender Eligible Options in the Exchange Offer. A leave of absence is considered “authorized” if it was approved in accordance with TherapeuticsMD’s policies.

Your employment with TherapeuticsMD will remain at will, regardless of your participation in the Exchange Offer, and can be terminated by you or TherapeuticsMD at any time. Nothing in the Exchange Offer should be construed to confer upon you the right to remain employed by TherapeuticsMD. The terms of your employment with TherapeuticsMD remain unchanged. We cannot guarantee or provide you with any assurance that you will not be subject to involuntary termination or that you will otherwise remain employed by TherapeuticsMD until the grant date for the New RSUs or any vesting date of your New RSUs in the future.

Our named executive officers, advisers, consultants, contractors, former employees, or present or past non-employee members of our board of directors (the “*Board*”) are not eligible to participate in the Exchange Offer.

Eligible Options

An “*Eligible Option*” is an outstanding option that:

- is held by an Eligible Employee;
- is outstanding as of the closing of the Exchange Offer;
- has an exercise price equal to or greater than \$5.01 per share; and
- was granted on or before August 26, 2019 under our 2009 Long Term Incentive Compensation Plan, as amended (the “*2009 Plan*”), our Amended and Restated 2012 Stock Incentive Plan (the “*2012 Plan*”) or our 2019 Stock Incentive Plan, as amended (the “*2019 Plan*” and together with the 2009 Plan and the 2012 Plan, the “*Plans*”).

The Proposed Exchange

If you choose to participate in the Exchange Offer and tender Eligible Options for exchange, and if we accept your tendered Eligible Options, then we will grant you an award of restricted stock units (each, a “**New RSU**”) with the following terms (collectively, the “**New RSU Terms**”):

- Each New RSU will not have an exercise or purchase price. Each New RSU will represent your right to receive one share of our common stock for each New RSU that vests in the future.
- The number of your New RSUs will be determined using an exchange ratio based on the exercise price of your tendered Eligible Option. The chart below sets forth the applicable exchange ratios, which are further discussed below.

Eligible Option Exercise Price Range	Exchange Ratio (Surrendered Eligible Options: New RSUs)
\$5.01 to \$5.50	5.45 to 1
\$5.51 to \$6.00	4.05 to 1
\$6.01 to \$6.50	6.10 to 1
\$6.51 to \$7.00	6.65 to 1
\$7.01 to \$8.00	13.95 to 1
\$8.01 to \$9.00	17.65 to 1

- Your New RSUs will be granted under the 2019 Plan.
- Your New RSUs will not be exercisable on the date they are granted, even if the corresponding exchanged Eligible Options had previously become exercisable. Your New RSUs will vest and become exercisable in three equal annual installments following the New RSU Grant Date (as defined below), subject to your continuous service with TherapeuticsMD and other relevant terms and conditions of the 2019 Plan.

You are not required to participate in the Exchange Offer. If you hold more than one option grant that qualifies as an Eligible Option and elect to participate in the Exchange Offer, you will be allowed to tender for exchange as few or as many of your Eligible Option grants as you wish; however, you must tender all of the shares underlying any selected Eligible Option grant. Eligible Options properly tendered in this Exchange Offer and accepted by TherapeuticsMD for exchange will be cancelled and your New RSUs will be granted with the New RSU Terms effective promptly following the Expiration Time (such date, the “**New RSU Grant Date**”).

Exchange Ratios applicable to all New RSUs

The exchange ratios were calculated, for accounting purposes, to approximate a 95% of the fair value of the Eligible Options, meaning that they were determined in a manner intended to result in the grant of a New RSU, for accounting purposes, with an aggregate fair value that is approximately 95% of the aggregate fair value of the Eligible Options the New RSU replaces, calculated based on the closing price of our common stock on Nasdaq as of August 20, 2021. Such a fair value exchange is intended to balance the compensatory goals of the Exchange Offer and the interests of our stockholders, including reducing our total number of outstanding options, avoiding further dilution to our stockholders and minimizing the accounting expense of the grants of New RSUs. Fractions of New RSUs will not be granted and cash will not be paid for any fractional shares. New RSUs calculated according to the exchange ratios that result in fractional shares will be rounded to the nearest whole share of our common stock.

Expiration and Extension of the Exchange Offer

The Exchange Offer is scheduled to expire at 5:00 p.m., Eastern Time, on Friday, September 24, 2021, unless we, in our sole discretion, extend the expiration date of the Exchange Offer (such time and date referred to herein as the “**Expiration Time**”). See Section 13 (“**Extension of Exchange Offer; Termination; Amendment**”) for a description of our rights to extend, terminate and amend the Exchange Offer.

If you do not elect to tender your Eligible Options before the Expiration Time, such Eligible Options will remain subject to their current terms, including the current exercise prices and vesting schedules.

Section 2. Purpose of the Exchange Offer; Additional Considerations.

We believe that an effective and competitive employee incentive program is imperative for the future growth and success of our company. We rely on our employees to implement our strategic initiatives, expand and develop our business, and satisfy customer needs. Competition for many of these employees, particularly in the pharmaceutical industry, is intense and many companies use stock options as a means of attracting, motivating, and retaining their best employees. Stock options historically constituted a key part of our hiring, incentive, and retention programs because our Board believes that equity compensation encourages employees to act like owners of the business, motivating them to work toward our success and rewarding their contributions by allowing them to benefit from increases in the value of our common stock.

When the Compensation Committee approves the grant of a stock option, it establishes the exercise price that the employee must pay to purchase shares of our common stock when the option is exercised. The per share exercise price is set at the closing price of a share of our common stock as reported by Nasdaq on the date the option is granted. Thus, an employee receives value only if the employee exercises an option and sells the purchased shares at a price that exceeds the stock option's exercise price.

In recent years, the market price of our common stock has been subject to significant fluctuations, many of which were outside the control of our company and our employees. For example, our common stock has been subject to large short sale positions, as well as to U.S. Food and Drug Administration ("*FDA*") regulatory hurdles that were eventually overcome. As a result, as of August 20, 2021, 133 Eligible Employees held options to purchase 4,910,000 shares of our common stock with exercise prices ranging from \$5.01 per share to \$8.92 per share, which is above our common stock's August 20, 2021 closing price of \$0.76. The "out-of-the-money" options are no longer effective as performance and retention incentives. We believe that to enhance long-term stockholder value we need to maintain competitive employee incentive and retention programs. An equity stake in the success of our company is a critical component of these programs. Although we continue to believe that stock options are an important component of our employees' total compensation, many of our employees view their existing stock options as having little or no value due to the difference between the exercise prices and the current market price of our common stock. As a result, for many employees, these options are ineffective at providing the incentives and retention value that our Board believes is necessary to motivate our employees to increase long-term stockholder value. We believe that it is essential to continue to retain and motivate our best employees, and that the inherent value of the new RSUs and extended vesting periods of the RSUs may be more effective in retaining and incentivizing employees than the existing underwater options. We believe the Exchange Offer will provide us with an opportunity to restore for Eligible Employees an incentive to remain with us and contribute to the future growth and success of our company.

In deciding whether to tender one or more Eligible Options pursuant to the Exchange Offer, you should know that we continually evaluate and explore strategic opportunities as they arise. At any given time, we may be engaged in discussions or negotiations with respect to one or more corporate transactions of the type described below. We also grant equity awards in the ordinary course of business to our current and new employees, including our executive officers. Our directors and employees, including our executive officers, from time to time may acquire or dispose of our securities. We may from time to time repurchase our own outstanding securities after we have announced any decision by the Board to authorize us to do so, in accordance with applicable securities laws. In addition, we may pursue opportunities to raise additional capital through the issuance of equity or convertible debt securities. If this occurs, the percentage ownership of our stockholders could be significantly diluted, and these newly-issued securities may have rights, preferences or privileges senior to those of existing stockholders. We cannot assure you that additional financing will be available on terms favorable to TherapeuticsMD, or at all.

Subject to the foregoing and except as otherwise disclosed in the Exchange Offer or in our filings with the Securities and Exchange Commission (the "*SEC*"), we currently have no plans, proposals or negotiations that relate to or would result in:

- any extraordinary corporate transaction, such as a material merger, reorganization or liquidation, involving TherapeuticsMD;
- any purchase, sale or transfer of a material amount of our assets;
- any material change in our present dividend policy or our indebtedness or capitalization;
- any material change in our Board or executive management team, including any plans to change the number or term of our directors or to fill any existing vacancies on the Board or to change the material terms of any executive officer's employment;

- any other material change in our corporate structure or business;
- our common stock not being traded on a national securities exchange;
- our common stock becoming eligible for termination of registration pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934, as amended (the “**Exchange Act**”);
- the suspension of our obligation to file reports pursuant to Section 15(d) of the Exchange Act;
- the acquisition by any person of any of our securities or the disposition of any of our securities, other than in the ordinary course of business or pursuant to existing options or other rights; or
- any change in our articles of incorporation or bylaws, or any actions that may impede the acquisition of control of us by any person.

WE DO NOT MAKE ANY RECOMMENDATION AS TO WHETHER YOU SHOULD TENDER YOUR ELIGIBLE OPTIONS, NOR HAVE WE AUTHORIZED ANY PERSON TO MAKE ANY SUCH RECOMMENDATION. YOU SHOULD EVALUATE CAREFULLY ALL OF THE INFORMATION IN THE EXCHANGE OFFER AND CONSULT YOUR OWN FINANCIAL AND TAX ADVISORS. YOU MUST MAKE YOUR OWN DECISION WHETHER TO TENDER YOUR ELIGIBLE OPTIONS FOR EXCHANGE.

Section 3. Procedures for Tendering Eligible Options.

If you wish to tender your Eligible Options for exchange, you must properly complete and sign the accompanying Election Form and deliver the properly completed and signed document to us so that we receive it before the Expiration Time **by email (by PDF or similar imaged document file) delivered to: CI-TherapeuticsMD@insightsoftware.com.**

Except as described in the following sentence, the Election Form must be signed by the Eligible Employee who holds the Eligible Options to be tendered using the same name for such Eligible Employee as appears on the applicable stock option agreement. If the signature is by an attorney-in-fact or another person acting in a fiduciary or representative capacity, the signer’s full title and proper evidence of the authority of such person to act in such capacity must be identified on the Election Form.

Your Eligible Options will not be considered tendered until we receive the properly completed and signed Election Form. We must receive your properly completed and signed Election Form before the Expiration Time. If you miss this deadline or submit an Election Form that is not properly completed as of the deadline, you will not be permitted to participate in the Exchange Offer.

We will accept delivery of the signed Election Form only by email (by PDF or similar imaged document file). You are responsible for making sure that the Election Form is delivered to CI-TherapeuticsMD@insightsoftware.com. You must allow for sufficient time to complete and deliver your Election Form to ensure that we receive your Election Form before the Expiration Time.

You do not need to return your stock option agreements relating to any tendered Eligible Options, as they will be automatically cancelled in exchange for New RSUs if we accept your Eligible Options for exchange.

Determination of Validity; Rejection of Eligible Options; Waiver of Defects; No Obligation to Give Notice of Defects.

To validly tender your Eligible Options pursuant to the Exchange Offer, you must remain an Eligible Employee and your employment with us must not have terminated for any other reason, including due to your voluntary resignation, retirement, involuntary termination, layoff, death or disability, prior to the date on which the surrendered Eligible Options are canceled and the New RSUs are granted to replace them.

If you hold multiple option grants that each qualify as an Eligible Option and elect to participate in the Exchange Offer, you will be able to elect to tender as few or as many of your Eligible Option grants as you wish. However, if you elect to tender an Eligible Option for exchange, you must tender the entire outstanding (i.e., unexercised) portion of that Eligible Option. If you attempt to tender a portion but not all of an outstanding Eligible Option grant, we will reject your tender of that particular grant. Such rejection will not affect any other Eligible Options that you have properly tendered for exchange.

We will determine all questions as to form of documents and the validity, eligibility, time of receipt and acceptance of any tender of Eligible Options. Neither TherapeuticsMD nor any other person is obligated to give notice of any defects or irregularities in tenders. No tender of Eligible Options will be deemed to have been properly made until all defects or irregularities have been cured by the tendering Eligible Employee or waived by TherapeuticsMD. Subject to any order or decision by a court or arbitrator of competent jurisdiction, our determination of these matters will be final and binding on all parties.

The Exchange Offer is a one-time offer, and we will strictly enforce the offer period, subject only to any extension of the Expiration Time that we may grant in our sole discretion. Subject to Rule 13e-4 under the Exchange Act, we also reserve the right to waive any of the conditions of the Exchange Offer or any defect or irregularity in any tender with respect to any particular Eligible Option or any particular Eligible Employee.

Our Acceptance Constitutes an Agreement.

Your tender of Eligible Options pursuant to the procedures described above constitutes your acceptance of the terms and conditions of the Exchange Offer and will be controlling, absolute and final, subject to your withdrawal rights under Section 4 (“**Withdrawal Rights**”) and our acceptance of your tendered Eligible Options in accordance with Section 5 (“**Acceptance of Eligible Options for Exchange; Grant of New RSUs**”). Our acceptance for exchange of Eligible Options that you tender pursuant to the Exchange Offer will constitute a binding agreement between TherapeuticsMD and you upon the terms and subject to the conditions of the Exchange Offer.

Subject to our rights to terminate and amend the Exchange Offer in accordance with Section 6 (“**Conditions of the Exchange Offer**”), and as described in Section 1 of this Offering Memorandum, on the New RSU Grant Date, we expect to accept for exchange all properly tendered Eligible Options that have not been validly withdrawn by the Expiration Time, and we expect to cancel the Eligible Options that we accept in exchange for the grant of New RSUs with the New RSU Terms. We expect the New RSU Grant Date to occur on September 29, 2021. If the Expiration Time is extended, then the New RSU Grant Date will be similarly extended.

Section 4. Withdrawal Rights.

If you elect to accept the Exchange Offer with respect to some or all of your Eligible Options and later change your mind, you may withdraw any tendered Eligible Options by following the procedure described in this Section 4. Just as you may not tender only part of an Eligible Option grant, you also may not withdraw your election with respect to only a portion of an Eligible Option grant. If you elect to withdraw a previously tendered Eligible Option grant, you must withdraw the entire Eligible Option, but you are not required to withdraw any other tendered Eligible Options.

We will permit any Eligible Options tendered in the Exchange Offer to be withdrawn at any time during the period the Exchange Offer remains open, and unless we have accepted the Eligible Options pursuant to the Exchange Offer, you may also withdraw any tendered Eligible Options that have not been accepted at any time after 11:59 p.m. U.S. Eastern Time on Friday, October 25, 2021. Please note that, upon the terms and subject to the conditions of the Exchange Offer, we expect to accept for exchange all Eligible Options properly tendered and not validly withdrawn by the Expiration Time.

To validly withdraw tendered Eligible Options, you must deliver to us (using the same delivery method described in Section 3) a properly completed and signed Notice of Withdrawal of Election Form (“**Notice of Withdrawal**”) during a period in which you have the right to withdraw the tendered Eligible Options. Your tendered Eligible Options will not be considered withdrawn until we receive your properly completed and signed Notice of Withdrawal. If you miss the deadline for withdrawal but remain an Eligible Employee, we will exchange any previously tendered Eligible Options pursuant to the Exchange Offer and your previously submitted Election Form. However, if you have tendered an Eligible Option intended to qualify as an incentive stock option under Section 422 of the Code (“**Incentive Stock Option**”), a valid withdrawal on or after the date that is 29 calendar days after Thursday, August 26, 2021 may result in such Eligible Option losing such Incentive Stock Option status.

You are responsible for making sure that, if you wish to withdraw tendered Eligible Options, the Notice of Withdrawal is delivered as indicated in Section 3 above. The Notice of Withdrawal must specify the Eligible Options to be withdrawn. Except as described in the following sentence, the Notice of Withdrawal must be signed by the Eligible Employee who holds the Eligible Options to be tendered using the same name for such Eligible Employee as appears on the applicable stock option agreement and the previously submitted Election Form. If the signature is by an attorney-in-fact or another person acting in a fiduciary or representative capacity, the signer’s full title and proper evidence of the authority of such person to act in such capacity must be identified on the Notice of Withdrawal. We have filed a form of the Notice of Withdrawal as an exhibit to the Tender Offer Statement on Schedule TO filed by TherapeuticsMD with the SEC on August 26, 2021 (the “**Schedule TO**”). We will deliver a copy of the Notice of Withdrawal form to all Eligible Employees.

You may not rescind any withdrawal, and any Eligible Options you withdraw will thereafter be deemed not properly tendered for purposes of the Exchange Offer unless you properly re-tender those Eligible Options before the Expiration Time by following the procedures described in Section 3 of this Offering Memorandum.

Neither we nor any other person is obligated to give notice of any defects or irregularities in any Notice of Withdrawal, nor will anyone incur any liability for failing to give notice of any defects or irregularities. We will determine all questions as to the form and validity, including time of receipt, of Notices of Withdrawal. Subject to any order or decision by a court or arbitrator of competent jurisdiction, our determinations of these matters will be final and binding.

Section 5. Acceptance of Eligible Options for Exchange; Grant of New RSUs.

Upon the terms and subject to the conditions of the Exchange Offer, we expect to accept for exchange all Eligible Options properly tendered and not validly withdrawn by the Expiration Time, unless extended (or if we have not accepted the Eligible Option, you may also withdraw any such tendered securities at any time after 11:59 p.m. Eastern Time on Friday, October 25, 2021). On the New RSU Grant Date, we expect to cancel the Eligible Options we have accepted in exchange for the grant of the New RSUs with the New RSU Terms. If the Expiration Time is extended, then the New RSU Grant Date will be similarly extended.

Promptly after we grant the New RSUs, we will send each tendering Eligible Employee a confirmation email with respect to the Eligible Options that we have accepted for exchange. In addition, we will separately provide to each tendering Eligible Employee for acceptance via our online equity administration portal the documentation relating to the Eligible Employee's New RSUs. We have filed a form of such confirmation email as an exhibit to the Schedule TO.

If you have tendered Eligible Options under the Exchange Offer and your employment terminates for any reason, or if you submit a notice of resignation or receive a notice of termination, before the date on which the surrendered Eligible Options are canceled and the New RSUs are granted to replace them, you will no longer be eligible to participate in the Exchange Offer, and we will not accept your Eligible Options for exchange. In that case, you may be able to exercise your existing vested Eligible Options for a limited time after your termination date in accordance with and subject to their terms.

Section 6. Conditions of the Exchange Offer.

Notwithstanding any other provision of the Exchange Offer, we will not be required to accept any Eligible Options tendered for exchange, and we may terminate or amend the Exchange Offer, in each case subject to Rule 13e-4(f)(5) under the Exchange Act, if at any time on or after the date hereof and prior to the Expiration Time, any of the following events has occurred, or if we have determined, in our reasonable judgment, that any of the following events has occurred:

- there shall have been threatened or instituted any action or proceeding by any government or governmental, regulatory or administrative agency, authority or tribunal or other person, domestic or foreign, before any court, authority, agency or tribunal that (i) directly or indirectly challenges the making of the Exchange Offer or the exchange of some or all of the Eligible Options tendered for exchange, (ii) otherwise relates in any manner to the Exchange Offer, or (iii) in our reasonable judgment, could materially affect our business, condition (financial or other), assets, income, operations, prospects or stock ownership;
- there shall have been threatened, instituted or taken, any action, or any approval, exemption or consent shall have been withheld, or any statute, rule, regulation, judgment, order or injunction shall have been proposed, sought, promulgated, enacted, entered, amended, interpreted, enforced or deemed to be applicable to the Exchange Offer or TherapeuticsMD, by or from any court or any regulatory or administrative authority, agency or tribunal that, in our reasonable judgment, would directly or indirectly:
 - make it illegal for us to accept some or all of the tendered Eligible Options for exchange, otherwise restrict or prohibit consummation of the Exchange Offer or otherwise relate in any manner to the Exchange Offer;
 - delay or restrict our ability, or render us unable, to accept the tendered Eligible Options for exchange; or
 - impair the contemplated benefits of the Exchange Offer to TherapeuticsMD;

- there will have occurred:
 - any general suspension of trading in, or limitation on prices for, securities on any national securities exchange or automated quotation system or in the over-the-counter market;
 - the declaration of a banking moratorium or any suspension of payments with respect to banks in the United States;
 - any limitation, whether or not mandatory, by any governmental, regulatory or administrative agency or authority on, or any event that, in our reasonable judgment, might affect the extension of credit to us by banks or other lending institutions in the United States;
 - in our reasonable judgment, any extraordinary or material adverse change in United States financial markets generally, including a decline of at least 10% in either the Dow Jones Industrial Average or the Standard & Poor's 500 Index from the date of commencement of the Exchange Offer;
 - the commencement or escalation of a war or other national or international calamity directly or indirectly involving the United States, which could reasonably be expected to affect materially or adversely, or to delay materially, the completion of the Exchange Offer; or
 - any of the situations described above which existed at the time of commencement of the Exchange Offer, where such situation, in our reasonable judgment, deteriorates materially after commencement of the Exchange Offer.
- a tender or exchange offer (other than the Exchange Offer) with respect to some or all of our capital stock, or a merger or acquisition proposal for TherapeuticsMD, shall have been proposed, announced or publicly disclosed or we shall have learned that:
 - any person, entity or group (where “**group**” has the meaning given within Section 13(d)(3) of the Exchange Act) has acquired more than 5% of our outstanding common stock, other than a person, entity or group that had publicly disclosed such ownership with the SEC prior to the date of commencement of the Exchange Offer;
 - any such person, entity or group that had publicly disclosed such ownership prior to such date has acquired additional common stock constituting more than 1% of our outstanding shares; or
 - any new group has been formed that beneficially owns more than 5% of our outstanding common stock that, in our judgment in any such case, and regardless of the circumstances, makes it inadvisable to proceed with the Exchange Offer or with such acceptance of Eligible Options for exchange;
- any change, development, clarification or position taken in generally accepted accounting principles that could or would require us to record for financial reporting purposes compensation expense against our earnings in connection with the Exchange Offer, other than as contemplated as of the commencement date of this Exchange Offer (as described in Section 10 of this Offering Memorandum, “**Accounting Consequences of this Exchange Offer**”);
- any changes occur in our business, financial condition, assets, income, operations, prospects or stock ownership that, in our reasonable judgment, is or may be material to TherapeuticsMD;
- Any event or events occur that have resulted or may result, in our reasonable judgment, in a material impairment of the contemplated benefits of the Exchange Offer to TherapeuticsMD (see Section 2 of this Offering Memorandum, “**Purpose of the Exchange Offer; Additional Consideration**,” for a description of the contemplated benefits of the Exchange Offer to TherapeuticsMD); and
- Any rules or regulations by any governmental authority, The Nasdaq Global Select Market (“**Nasdaq**”), or other regulatory or administrative authority or any national securities exchange have been enacted, enforced, or deemed applicable to us that have resulted or may result, in our reasonable judgment, in a material impairment of the contemplated benefits of the Exchange Offer to TherapeuticsMD (see Section 2 of this Offering Memorandum, “**Purpose of the Exchange Offer; Additional Consideration**,” for a description of the contemplated benefits of the Exchange Offer to TherapeuticsMD).

The conditions to the Exchange Offer are for TherapeuticsMD's benefit. We may assert them prior to the Expiration Time regardless of the circumstances giving rise to them (other than circumstances caused by our action or inaction). We may waive the conditions, in whole or in part, at any time and from time to time prior to our acceptance of your tendered Eligible Options for exchange, whether or not we waive any other condition to the Exchange Offer. Subject to any order or decision by a court or arbitrator of competent jurisdiction, any determination we make concerning the events described in this Section 6 will be final and binding upon all persons.

Section 7. Price Range of Our Common Stock.

The Eligible Options give Eligible Employees the right to acquire shares of our common stock. None of the Eligible Options are traded on any trading market. Our common stock trades on Nasdaq under the symbol “TXMD.”

The following table sets forth the high and low per share sales prices of our common stock on Nasdaq during the periods indicated.

<u>Year Ending December 31, 2021</u>	<u>High</u>	<u>Low</u>
First Quarter	\$2.75	\$1.18
Second quarter	\$1.47	\$1.00
<u>Year Ended December 31, 2020</u>	<u>High</u>	<u>Low</u>
First quarter	\$2.93	\$0.90
Second quarter	\$2.24	\$0.85
Third quarter	\$2.43	\$1.21
Fourth quarter	\$1.85	\$1.15
<u>Year Ended December 31, 2019</u>	<u>High</u>	<u>Low</u>
First quarter	\$6.09	\$3.70
Second quarter	\$5.04	\$2.21
Third quarter	\$4.32	\$1.82
Fourth quarter	\$4.00	\$2.19

As of August 20, 2021, we had 169 stockholders of record, and 422,053,091 shares of our common stock were issued and outstanding. Because brokers and other institutions hold many of our shares on behalf of stockholders, we are unable to estimate the total number of beneficial stockholders represented by these record holders. On August 20, 2021, the closing price for our common stock as reported on Nasdaq was \$0.76 per share. We recommend that you obtain current market quotations for our common stock before deciding whether or not to tender your Eligible Options for exchange. The price of our common stock has been, and in the future may be, volatile and could decline. The trading price of our common stock has fluctuated in the past and is expected to continue to do so in the future as a result of a number of factors, many of which are outside our control. In addition, the stock market has experienced extreme price and volume fluctuations that have affected the market prices of many companies and that have often been unrelated or disproportionate to the operating performance of those companies.

Section 8. Information Concerning TherapeuticsMD; Financial Information.

Information Concerning TherapeuticsMD.

We are a women’s healthcare company with a mission of creating and commercializing innovative products to support the lifespan of women from pregnancy prevention through menopause. At TherapeuticsMD, we combine entrepreneurial spirit, clinical expertise, and business leadership to develop and commercialize health solutions that enable new standards of care for women. Our solutions range from a novel patient-controlled, procedure free, long-lasting contraceptive to advanced FDA approved bio-identical hormone therapy pharmaceutical products for the treatment of vasomotor symptoms and dyspareunia. We also have a portfolio of branded and generic prescription prenatal vitamins under the vitaMedMD and BocaGreenMD brands that furthers our women’s healthcare focus.

We are a Nevada corporation. We maintain our principal executive offices at 951 Yamato Road, Suite 220, Boca Raton, Florida 33431. Our telephone number is (561) 961-1900. We maintain a corporate website at www.therapeuticsmd.com as well as various product websites. Information found on, or accessible through, our website is not a part of, and is not incorporated into, this Exchange Offer.

Financial Information.

This Offering Memorandum should be read in conjunction with the “**Management’s Discussion and Analysis of Financial Condition and Results of Operations**” and the consolidated financial statements and the notes thereto included in our Annual Report on Form 10-K (File No. 001-00100) for the year ended December 31, 2020, filed with the SEC on March 4, 2021 (our “**Annual Report**”), and in our Quarterly Reports on Form 10-Q (File No. 001-00100) for the quarters ended March 31, 2021 and June 30, 2021, filed with the SEC on May 6, 2021 and August 4, 2021, respectively (our “**Quarterly Reports**”), which are incorporated herein by reference.

Additional Information.

For more information about TherapeuticsMD, please refer to our Annual Report, our Quarterly Reports and our other filings made with the SEC. We recommend that you review the materials that we have filed with the SEC before making a decision on whether or not to tender your Eligible Options. We will also provide without charge to you, upon your written or oral request, a copy of any or all of the documents to which we have referred you. See Section 15 (“**Additional Information**”) for more information regarding reports we file with the SEC and how to obtain copies of or otherwise review such reports.

Section 9. Interests of Directors and Executive Officers; Transactions and Arrangements Concerning Our Securities.

Our named executive officers and members of our Board are not eligible to participate in the Exchange Offer. Accordingly, none of these individuals are Eligible Employees, and they do not hold any Eligible Options.

Other than outstanding stock option and other equity awards granted to our directors, executive officers and other employees pursuant to our various equity incentive plans, which are described in the notes to our financial statements as set forth in our Annual Report and Quarterly Reports, neither TherapeuticsMD nor, to our knowledge, any of our executive officers or directors, any person controlling TherapeuticsMD or any executive officer or director of such control person is a party to any agreement, arrangement or understanding with respect to any of our securities, including any agreement, arrangement or understanding concerning the transfer or the voting of any of our securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or the giving or withholding of proxies, consents or authorizations.

During the 60-day period prior to the date of this Offering Memorandum, we have not granted any options that are Eligible Options, and no Eligible Options have been exercised. During such 60-day period, neither we, nor, to the best of our knowledge, any member of our Board or any of our executive officers, nor any of our affiliates, has engaged in any transaction involving the Eligible Options.

Section 10. Accounting Consequences of the Exchange Offer.

We have adopted the provisions of the Financial Accounting Standard Board’s *Accounting Standards Update 2014-12, Compensation—Stock Compensation (Topic 718)* (“**ASC Topic 718**”) regarding accounting for share-based payments. Under ASC Topic 718, we will recognize the grant date fair value of the tendered Eligible Options plus the incremental compensation cost of the New RSUs. The incremental compensation cost will be measured as the excess, if any, of the fair value of the New RSUs over the fair value of the original Eligible Options prior to exchange. The fair value of New RSUs will be measured as of the New RSU Grant Date and the fair value of the Eligible Options surrendered will be measured as of the Expiration Time. This incremental compensation cost will be recognized in compensation expense ratably over the vesting period of the New RSUs.

The amount of compensation cost will depend on a number of factors, including the level of participation in the Exchange Offer and the exercise price per share of Eligible Options, as applicable, exchanged in the Exchange Offer. Since these factors cannot be predicted with any certainty as of the date of this Offering Memorandum and will not be known until the Expiration Time, we cannot predict the exact amount of the charge (if any) that will result from the Exchange Offer.

Section 11. Legal Matters; Regulatory Approvals.

The Exchange Offer is required to comply with the SEC’s rules and regulations, including the requirements of Schedule TO. We are not aware of any material pending or threatened legal actions or proceedings relating to the Exchange Offer. We are not aware of any margin requirements or anti-trust laws applicable to the Exchange Offer. We are not aware of any license or regulatory permit that appears to be material to our business that might be adversely affected by our acceptance of Eligible Options for exchange and grant of New RSUs as contemplated by the Exchange Offer, or of any regulatory requirements that we must comply with or approval or other action by any government or governmental, administrative or regulatory authority or agency, domestic or foreign, that would be required for the completion of the Exchange Offer as contemplated herein. Should

any such compliance or approval or other action be required, we currently contemplate that we will use commercially reasonable efforts to comply with such requirements or seek such approval or take such other action. We cannot assure you that any such compliance or approval or other action, if needed, would be achieved or obtained or would be achieved or obtained without substantial conditions or that the failure to achieve such compliance or obtain any such approval or other action would not adversely affect our business. Our obligation under the Exchange Offer to accept tendered Eligible Options for exchange and to grant New RSUs with the New RSU Terms would be subject to achieving such compliance or obtaining any such governmental approval or other action.

Section 12. Material United States Tax Consequences.

The following is a summary of the anticipated material United States federal income tax consequences of the Exchange Offer. This tax summary does not discuss all of the tax consequences that may be relevant to you in light of your particular circumstances, nor is it intended to apply in all respects to all categories of Eligible Employees. The tax consequences for individuals who are subject to the tax laws of a country other than the United States or of more than one country may differ from the United States federal income tax consequences summarized herein. The rules governing the tax treatment of stock options are complex. ***You should consult with your tax advisor to determine the personal tax consequences to you of rejecting or participating in the Exchange Offer.***

Based on U.S. federal income tax laws in effect on the date of this Offer Memorandum, the Exchange Offer is expected to be treated as a non-taxable exchange for U.S. federal income tax purposes, and we and Eligible Employees should recognize no income for U.S. federal income tax purposes upon the surrender of Eligible Options and grant of New RSUs.

Tax Effects of Rejecting the Offer

In general, your rejection of the Exchange Offer will not be a taxable event for United States federal income tax purposes. However, if (1) any of your Eligible Options are currently treated as ISOs, (2) the Exchange Offer remains outstanding for more than 29 calendar days (that is, if we extend the Exchange Offer beyond the original Expiration Time on Friday, September 24, 2021), and (3) you do not reject this Exchange Offer within the first 29 calendar days in which it is outstanding (that is, by Friday, September 24, 2021), your Eligible Options may cease to be treated as ISOs as of the Expiration Time on Friday, September 24, 2021. If the fair market value of our common stock as of the Expiration Time is less than the exercise price currently in effect for your Eligible Options, the Board can take action to “retest” your Eligible Options to determine if they can again be treated as ISOs. However, even if they can again be treated as ISOs, your 2-Year Holding Period (as defined below) under your Eligible Options (as further described below in the section called “***Taxation of Incentive Stock Options***”) will start over on the original Expiration Time. Therefore, if we extend the Exchange Offer beyond the original Expiration Time on Friday, September 24, 2021 or it otherwise remains outstanding for more than 29 calendar days, and you wish to avoid the possible impact on ISO status, you must reject this Exchange Offer by completing and submitting the Election Form on or prior to 11:59 p.m. Eastern Time on Friday, September 24, 2021.

Tax Effects of Accepting the Offer

Neither your acceptance of the Exchange Offer nor the exchange of your Eligible Options should be a taxable event for United States federal income tax purposes. You should not recognize any income, gain or loss as a result of the exchange and cancellation of your Eligible Options for New RSUs for United States federal income tax purposes.

Taxation of Incentive Stock Options (“ISO”)

Generally, an optionholder will not recognize any income, gain or loss on the granting of an ISO. Upon the exercise of an ISO, an optionholder is typically not subject to United States federal income tax except for the possible imposition of alternative minimum tax. Rather, the optionholder is taxed for United States federal income tax purposes at the time he or she disposes of the stock subject to the option.

If the date upon which the optionholder disposes of the stock subject to an ISO is more than two years from the date on which the ISO was granted (the “***2-Year Holding Period***”) and more than one year from the date on which the optionholder exercised the option (the “***1-Year Holding Period***”), then the optionholder’s entire gain or loss is characterized as long-term capital gain or loss, rather than as ordinary income. However, if the optionholder fails to satisfy either the 2-Year Holding Period or the 1-Year Holding Period, then a portion of the optionholder’s gain from the sale of the stock subject to the ISO will be characterized as ordinary income and a portion may be short-term capital gain if the 1-Year Holding Period has not been satisfied. The portion that is characterized as ordinary income will be equal to the lesser of (a) the excess of the fair market value of the stock on the

date of exercise over the exercise price of the option and (b) the excess of the sale price over the exercise price of the option. This deferral of the recognition of tax until the time of sale of the stock, as well as the possible treatment of the “spread” as long-term capital gain, are the principal advantages of your options being treated as ISOs.

If you tender your Eligible Options for exchange in the Exchange Offer, you will lose the benefits of ISOs. Your New RSUs will be subject to different tax treatment, as described below.

Taxation of Nonstatutory Stock Options (“NSOs”)

Generally, an optionholder will not recognize any income, gain or loss on the granting of an NSO. Upon the exercise of an NSO, an optionholder will recognize ordinary income on each purchased share equal to the difference between the fair market value of the stock on the date of exercise and the exercise price of the NSO. Such gain will be subject to withholding for income, employment and payroll taxes, and such withholding must be satisfied as a condition to such exercise.

If and when an optionholder sells the stock purchased upon the exercise of an NSO, any additional increase or decrease in the fair market value on the date of sale, as compared to the fair market value on the date of exercise, will be treated as a capital gain or loss. If the optionholder has held those shares for more than one year from the date of exercise, such gain or loss will be a long-term capital gain or loss. If the optionholder has held those shares for not more than one year from the date of exercise, such gain or loss will be a short-term capital gain or loss.

Taxation of Restricted Stock Units

Generally, an individual will not recognize any income, gain or loss on the granting of an RSU. Upon the vesting of an RSU and the issuance of the vested RSU shares, an individual will recognize ordinary income on each issued share equal to the fair market value of the shares on the date of issuance.

If and when an individual sells the stock issued upon the vesting of an RSU, any additional increase or decrease in the fair market value on the date of sale, as compared to the fair market value on the date of issuance, will be treated as a capital gain or loss. If the individual has held those shares for more than one year from the date of issuance, such gain or loss will be a long-term capital gain or loss. If the individual has held those shares for not more than one year from the date of issuance, such gain or loss will be a short-term capital gain or loss.

Withholding

We will withhold all required local, state, federal, foreign and other taxes and any other amount required to be withheld by any governmental authority or law with respect to ordinary compensation income recognized with respect to the exercise of a stock option by an award holder who has been employed by us and with respect to the issuance of vested RSU shares to an award holder who has been employed by us. We will require any such Eligible Employee to make arrangements to satisfy this withholding obligation prior to the delivery or transfer of any shares of our common stock.

Section 13. Extension of the Exchange Offer; Termination; Amendment.

We may, from time to time, extend the period of time during which the Exchange Offer is open and delay accepting any Eligible Options tendered to us by disseminating notice of the extension to Eligible Employees by public announcement, written notice, including electronically posted or delivered notices, or otherwise as permitted by Rule 13e-4(e)(3) under the Exchange Act. If the Exchange Offer is extended, we will provide appropriate notice of the extension and the new Expiration Time no later than 9:00 a.m. Eastern Time on the next business day following the previously scheduled Expiration Time. For purposes of the Exchange Offer, a “business day” means any day other than a Saturday, Sunday or United States federal holiday and consists of the time period from 12:00 a.m. through 11:59 p.m., Eastern Time.

We also expressly reserve the right, in our reasonable judgment, prior to the Expiration Time, to terminate or amend the Exchange Offer upon the occurrence of any of the conditions specified in Section 6 (“**Conditions of the Exchange Offer**”), by disseminating notice of such termination or amendment to Eligible Employees by public announcement, written notice, including electronically posted or delivered notices, or otherwise as permitted by applicable law.

Subject to compliance with applicable law, we further reserve the right, in our discretion, and regardless of whether any event set forth in Section 6 (“**Conditions of the Exchange Offer**”) has occurred or we deem any such event to have occurred, to amend the Exchange Offer in any respect prior to the Expiration Time. We will promptly disseminate any notice of such amendment required pursuant to the Exchange Offer or applicable law to Eligible Employees in a manner reasonably designed to inform Eligible Employees of such change and will file such notice with the SEC as an amendment to the Schedule TO.

If we materially change the terms of the Exchange Offer or the information concerning the Exchange Offer, or if we waive a material condition of the Exchange Offer, we will extend the Exchange Offer to the extent required by Rules 13e-4(d)(2) and 13e-4(e)(3) under the Exchange Act. Under these rules, the minimum period during which a tender or Exchange Offer must remain open following material changes in the terms of or information concerning a tender or Exchange Offer, other than a change in price or a change in percentage of securities sought, will depend on the facts and circumstances, including the relative materiality of such terms or information.

In addition, we will publicly notify or otherwise inform Eligible Employees in writing if we decide to take any of the following actions and will keep the Exchange Offer open for at least 10 business days after the date of such notification:

- we increase or decrease the amount of consideration offered for the Eligible Options; or
- we increase or decrease the number of Eligible Options that may be tendered in the Exchange Offer.

Section 14. Considerations; Fees and Expenses.

Subject to the terms and conditions of this Exchange Offer, upon our acceptance of your properly tendered Eligible Options, you will be entitled to receive New RSUs calculated using an exchange ratio based on the exercise price of your tendered Eligible Options, as described in Section 1 of this Offering Memorandum. New RSUs will be unvested as of the New RSU Grant Date, as described in Section 1 of this Offering Memorandum.

If we receive and accept tenders from Eligible Employees of all Eligible Options (comprising a total of options to purchase 4,910,000 shares outstanding as of August 20, 2021) subject to the terms and conditions of this Exchange Offer, we will grant New RSUs covering a total of approximately 792,019 shares of common stock.

We will not pay any fees or commissions to any broker, dealer or other person for soliciting tenders of Eligible Options pursuant to the Exchange Offer. You will be responsible for any expenses that you incur in connection with your election to participate in the Exchange Offer, including mailing, internet, faxing and telephone expenses, as well as any expenses associated with any tax, legal or other advisor that you consult or retain in connection with the Exchange Offer.

Section 15. Additional Information.

With respect to the Exchange Offer, we have filed the Schedule TO, as may be amended, of which the Exchange Offer is a part. The Exchange Offer document does not contain all of the information contained in the Schedule TO and the exhibits to the Schedule TO. Before making a decision on whether or not to tender your Eligible Options, we highly recommend that you review the Schedule TO, as may be amended, including its exhibits, and the following materials that we have filed with the SEC:

- our Annual Report on Form 10-K for the year ended December 31, 2020, filed with the SEC on March 4, 2021;
- our Quarterly Reports on Form 10-Q for the quarters ended March 31, 2021 and June 30, 2021, filed with the SEC on May 6, 2021 and August 4, 2021, respectively;
- our Definitive Proxy Statement on Schedule 14A for our 2021 Annual Meeting of Stockholders, filed with the SEC on April 14, 2021;
- our Current Reports on Form 8-K filed with the SEC on January 13, 2021, February 16, 2021, April 12, 2021, May 28, 2021 and August 9, 2021; and
- the description of our common stock contained in our Form 8-A filed with the SEC on October 6, 2017, as updated by the description of our common stock contained in Exhibit 4.2 to our Annual Report on Form 10-K for the year ended December 31, 2020 and including any amendments or reports filed for the purpose of updating such description.

Our SEC filings are available to the public on the SEC's website at <http://www.sec.gov>. We also make available on or through our corporate website, free of charge, copies of these reports as soon as reasonably practicable after we electronically file or furnish them to the SEC.

We will also promptly provide without charge to each Eligible Employee to whom we deliver a copy of the Exchange Offer, upon written or oral request, a copy of any or all of the documents to which we have referred you, other than exhibits to such documents (unless specifically incorporated by reference into such documents). Written requests should be directed to equityawards@therapeuticsmd.com.

The information about us contained in the Exchange Offer should be read together with the information contained in the documents to which we have referred you.

Section 16. Miscellaneous.

The Exchange Offer and our SEC reports referred to above include forward-looking statements. Words such as “believes,” “will,” “should,” “could,” “expects,” “anticipates,” “estimates,” “plans,” “objectives,” and other similar statements of expectation identify forward-looking statements. These forward-looking statements involve risks and uncertainties, including those described in this Offering Memorandum, our Annual Report and our Quarterly Reports, that could cause actual results to differ materially from those expressed in the forward-looking statements. Given these risks and uncertainties, you should not place undue reliance on these forward-looking statements. While we believe our plans, intentions and expectations reflected in these forward-looking statements are reasonable, these plans, intentions or expectations may not be achieved.

WE ENCOURAGE YOU TO REVIEW THE RISK FACTORS CONTAINED IN OUR ANNUAL REPORT AND QUARTERLY REPORTS BEFORE YOU DECIDE WHETHER TO PARTICIPATE IN THE EXCHANGE OFFER.

WE HAVE NOT AUTHORIZED ANY PERSON TO MAKE ANY RECOMMENDATION ON OUR BEHALF AS TO WHETHER OR NOT YOU SHOULD TENDER YOUR ELIGIBLE OPTIONS PURSUANT TO THE EXCHANGE OFFER. YOU SHOULD RELY ONLY ON THE INFORMATION CONTAINED IN THIS DOCUMENT OR IN DOCUMENTS TO WHICH WE HAVE REFERRED YOU. WE HAVE NOT AUTHORIZED ANYONE TO GIVE YOU ANY INFORMATION OR TO MAKE ANY REPRESENTATION IN CONNECTION WITH THE EXCHANGE OFFER OTHER THAN THE INFORMATION AND REPRESENTATIONS CONTAINED IN THIS DOCUMENT OR IN THE RELATED DOCUMENTS. IF ANYONE MAKES ANY RECOMMENDATION OR REPRESENTATION TO YOU OR GIVES YOU ANY INFORMATION, YOU SHOULD NOT RELY UPON THAT RECOMMENDATION, REPRESENTATION OR INFORMATION AS HAVING BEEN AUTHORIZED BY US.

FORM OF ANNOUNCEMENT TO ELIGIBLE EMPLOYEES

Subject: TherapeuticsMD, Inc. Offer to Exchange Eligible Options for New Restricted Stock Units
To: All Eligible Employees
Date: August 26, 2021

We are pleased to announce that TherapeuticsMD, Inc. (“*TherapeuticsMD*,” “*we*,” “*us*” or “*our*”) is *commencing an Offer to Exchange Eligible Options for New Restricted Stock Units (the “Exchange Offer”) today, Thursday, August 26, 2021. You are receiving this email because you are eligible to participate and exchange certain outstanding stock options for restricted stock unit awards. The terms of the Exchange Offer are described in detail in the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021 (the “Offer Documents”), that has been filed with the U.S. Securities and Exchange Commission and can be accessed at <https://ir.therapeuticsmd.com/financial-information/sec-filings> or through the SEC website at www.sec.gov.*

In addition to this announcement, within the documents section of the TD Ameritrade Equity 360 portal, there is an Election Form listing your “**Eligible Options**,” which includes all outstanding stock options granted to you under our 2009 Long Term Incentive Compensation Plan, as amended, our Amended and Restated 2012 Stock Incentive Plan and our 2019 Stock Incentive Plan, as amended, with an exercise price equal to or greater than \$5.01 per share. Please notify us immediately if you find any discrepancy or have any questions regarding the Eligible Options listed in your Election Form.

If you participate in the Exchange Offer, we will cancel your tendered Eligible Options and grant you one or more “**New RSUs**” with modified terms, as described in the Offer Documents. The terms of your New RSUs, including the vesting schedule, will be different than your Eligible Options, and in exchange for your receipt of such New RSUs, all corresponding Eligible Options will be irrevocably cancelled.

All documents regarding the Exchange Offer should be available to you in the documents section of the TD Ameritrade Equity 360 portal after you successfully log in to your TD Ameritrade account.

All documents, communications and questions regarding the Exchange Offer should be delivered to and received from our designated email account **CI-TherapeuticsMD@insightsoftware.com**.

All questions regarding the Exchange Offer should be delivered to **EquityAwards@therapeuticsMd.com**. Please carefully read *all* of the Offer Documents before making any decisions regarding this Exchange Offer. To participate in the Exchange Offer, please deliver your completed and signed Election Form to **CI-TherapeuticsMD@insightsoftware.com**. If you later decide to withdraw your election, please deliver your completed and signed Notice of Withdrawal, can be found in the documents section of the TD Ameritrade Equity 360 portal, to **CI-TherapeuticsMD@insightsoftware.com**.

The Exchange Offer will expire at **5:00 p.m., Eastern Time, on Friday, September 24, 2021** (the “**Expiration Time**”). We may extend this expiration date and time in our discretion, in which case references to the “Expiration Time” shall refer to any such extended date and time. If you would like to tender Eligible Options under the Exchange Offer, TherapeuticsMD must **receive** your properly completed and signed Election Form by the Expiration Time. Similarly, if you would like to withdraw a prior election, TherapeuticsMD must **receive** your Notice of Withdrawal by the Expiration Time. If you hold options intended to qualify as Incentive Stock Options and do not wish to participate in the Exchange Offer, you **must** affirmatively reject the Exchange Offer on or prior to September 24, 2021. Otherwise, your Incentive Stock Options may be disqualified and thereafter treated as nonstatutory stock options, even if you do not participate in the Exchange Offer.

Participation in the Exchange Offer is entirely your decision and at your discretion, and you should make the decision about whether to participate based on your personal circumstances. TherapeuticsMD recommends that you consult your tax and financial advisors to address questions regarding your decision.

This notice does not constitute an offer. The full terms of the Exchange Offer are described in the Schedule TO-I and accompanying documents, which you may access on our website at <https://ir.therapeuticsmd.com/financial-information/sec-filings> or through the SEC website at www.sec.gov. Capitalized terms used but not otherwise defined in this email shall have the meanings set forth in the Offer Documents.

TherapeuticsMD, Inc.
951 Yamato Road, Suite 220
Boca Raton, Florida 33431

OPTION EXCHANGE – ELECTION FORM

THIS OFFER AND YOUR WITHDRAWAL RIGHTS WILL EXPIRE AT 5:00 P.M., EASTERN TIME,
ON FRIDAY, SEPTEMBER 24, 2021, UNLESS EXTENDED

Before completing and signing this Election Form, we encourage you to read the documents that make up this tender offer, including (1) the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021, filed with the U.S. Securities and Exchange Commission and separately delivered to you by email from TherapeuticsMD, Inc. (“*TherapeuticsMD*”), describing the terms of the Exchange Offer (the “*Offer Documents*”); (2) the email from TherapeuticsMD on August 26, 2021 announcing the commencement of the Exchange Offer; and (3) this Election Form, including the Agreement to the Terms of Election and Instructions to Election Form attached below. The Exchange Offer is subject to the terms set forth in the Offer Documents, as they may be amended. The Exchange Offer expires at 5:00 p.m., Eastern Time, on Friday, September 24, 2021, unless extended. All capitalized terms used in this Election Form but not defined herein shall have the meanings given in the Offer Documents.

PLEASE CAREFULLY REVIEW AND FOLLOW THE INSTRUCTIONS BELOW AND ATTACHED TO THIS FORM.

If you wish to participate in the Exchange Offer with respect an Eligible Option, please check the box next to “Yes, exchange Eligible Option for New Restricted Stock Unit(s)” in order to tender such Eligible Option in exchange for the grant of New RSU(s) under the terms of the Exchange Offer. Each Eligible Option you elect to tender for exchange must be tendered in whole. If you check the box next to “No, retain Eligible Option” with respect to an Eligible Option, such Eligible Option will remain outstanding subject to its original terms, and no New RSUs will be granted to you in exchange for such Eligible Option.

If you make no election, or do not return this Election Form before the Expiration Time, you will retain your Eligible Options subject to their original terms, and no New RSUs will be granted to you; ***provided, however, that if you do not reject the Exchange Offer on or prior to September 24, 2021, any of your Eligible Options that currently qualify as Incentive Stock Options may cease to so qualify, even if you do not participate in the Exchange Offer.***

If you wish to reject the Exchange Offer and retain all of your Eligible Options, you may check the box next to “No, reject the Exchange Offer and retain all Eligible Options” above the table set forth below.

Please return this Election Form to TherapeuticsMD via email (by PDF or similar imaged document file) to:
CI-TherapeuticsMD@insightsoftware.com.

See the Instructions to Election Form attached to this Election Form for additional information.

Employee Name:

No, reject the Exchange Offer and retain all Eligible Options. If you check this box, you do not need to make any elections in the table below.

Eligible Options					New RSUs		Election to tender Eligible Option in exchange for New RSU(s)
Grant Number	Grant Date	Grant Type	Exercise Price	Eligible Shares	Ratio	RSUs	
		<input type="checkbox"/> ISO		[] vested shares		[] restricted stock units*	<input type="checkbox"/> <u>Yes</u> , exchange Eligible Option for New RSU(s)
		<input type="checkbox"/> NSO		[] unvested shares			<input type="checkbox"/> <u>No</u> , retain Eligible Option
		<input type="checkbox"/> ISO		[] vested shares		[] restricted stock units*	<input type="checkbox"/> <u>Yes</u> , exchange Eligible Option for New RSU(s)
		<input type="checkbox"/> NSO		[] unvested shares			<input type="checkbox"/> <u>No</u> , retain Eligible Option
		<input type="checkbox"/> ISO		[] vested shares		[] restricted stock units*	<input type="checkbox"/> <u>Yes</u> , exchange Eligible Option for New RSU(s)
		<input type="checkbox"/> NSO		[] unvested shares			<input type="checkbox"/> <u>No</u> , retain Eligible Option

* RSUs will vest and become exercisable in three equal annual installments following the New RSU Grant Date, subject to the Eligible Employee's continuous service with TherapeuticsMD and other relevant terms and conditions of the 2019 Plan.

YOUR SIGNATURE AND SUBMISSION OF THIS ELECTION FORM INDICATES THAT YOU AGREE TO ALL TERMS OF THE EXCHANGE OFFER AS SET FORTH IN THE OFFER DOCUMENTS, AS WELL AS THE AGREEMENT TO THE TERMS OF THE ELECTION ATTACHED HERETO.

Please note that you may change your election by submitting a new properly completed and signed Election Form prior to the expiration time, which is 5:00 p.m., Eastern Time, on Friday, September 24, 2021, unless extended. The last valid election submitted to TherapeuticsMD prior to the expiration of the Exchange Offer shall be effective and supersede any prior Election Forms you submit.

Employee Name: [Name]

(Signature)

(Print Name)

(Date)

AGREEMENT TO THE TERMS OF ELECTION

To: TherapeuticsMD, Inc. ("**TherapeuticsMD**")
951 Yamato Road, Suite 220
Boca Raton, Florida 33431

Email:

By signing and submitting this Election Form, I acknowledge and agree that:

1. I have received from TherapeuticsMD the Offer to Exchange Eligible Options for New Restricted Stock Units, including the Summary Term Sheet – Questions and Answers, dated August 26, 2021 (collectively, the "**Offer Documents**"), and upon making an election herein, I agree to all of the terms and conditions of the Offer Documents.
2. I tender to TherapeuticsMD for exchange the Eligible Options specified on this Election Form and understand that, upon acceptance by TherapeuticsMD, this Election Form will constitute a binding agreement between TherapeuticsMD and me. I have checked the box(es) corresponding to the Eligible Options that I elect to tender for exchange. I understand that any election that I make to tender an option for exchange that does not qualify as an Eligible Option will not be accepted, and such options will remain outstanding subject to their original terms following the expiration of the Exchange Offer.
3. If I validly tender an Eligible Option for exchange and such Eligible Option is accepted by TherapeuticsMD, such Eligible Option will automatically be cancelled by TherapeuticsMD in exchange for the grant of one or more New RSUs with the applicable New RSU terms described in the Offer Documents, including, without limitation:
 - Each New RSU will not have an exercise or purchase price.
 - Each New RSU will represent the right to receive one share of TherapeuticsMD common stock for each New RSU that vests in the future.
 - The number of New RSUs will be determined using an exchange ratio that takes into account the fair value of my tendered Eligible Option.

Each New RSU will be granted under the 2019 Plan.

- Each New RSU will vest and become exercisable in three equal annual installments following the New RSU Grant Date, subject to the Eligible Employee's continuous service with TherapeuticsMD and other relevant terms and conditions of the 2019 Plan.
4. To remain eligible to tender Eligible Options for exchange pursuant to the Exchange Offer, I must remain an Eligible Employee on and prior to the date on which the surrendered Eligible Options are canceled and the New RSUs are granted to replace them. I understand that if my employment with TherapeuticsMD ceases on or prior to the date on which the surrendered Eligible Options are canceled and the New RSUs are granted to replace them, TherapeuticsMD will not accept my Eligible Options for exchange and I or my estate or beneficiaries, as the case may be, will retain my Eligible Options subject to their original terms and conditions. If I cease providing services to TherapeuticsMD for any reason before the shares underlying my New RSUs vest, I will forfeit any unvested portion of my New RSUs, subject to the terms of TherapeuticsMD's 2019 Stock Incentive Plan.
 5. Neither the ability to participate in the Exchange Offer nor actual participation in the Exchange Offer will be construed as a right to continued employment or service with TherapeuticsMD.
 6. This election is entirely voluntary, and I am aware that I may change or withdraw my decision to tender my Eligible Options at any time until the Expiration Time, as described in the Instructions to Election Form. **I understand that this decision to tender my Eligible Options will be irrevocable as of 5:00 p.m., Eastern Time, on Friday, September 24, 2021 unless the Exchange Offer is extended.** Participation in the Exchange Offer is entirely my decision and should be made based on my personal circumstances. TherapeuticsMD has not authorized any person to make any recommendation on its behalf as to whether or not I should participate in the Exchange Offer.
 7. I may receive certain future confirmation letters or other communications from TherapeuticsMD in connection with the Exchange Offer, including a communication confirming that TherapeuticsMD has received this Election Form and whether TherapeuticsMD ultimately accepts or rejects this Election Form.

INSTRUCTIONS TO ELECTION FORM

- 1. DEFINED TERMS.** All capitalized terms used in this Election Form but not defined herein have the meanings given in the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021, filed with the U.S. Securities and Exchange Commission and separately delivered to you by email from TherapeuticsMD. The use of “*TherapeuticsMD*,” “*we*,” “*us*” and “*our*” in this Election Form refers to TherapeuticsMD, Inc.
- 2. EXPIRATION TIME.** The Exchange Offer and any rights to tender or to withdraw a tender of Eligible Options expire at **5:00 p.m., Eastern Time, on Friday, September 24, 2021**, unless the Exchange Offer is extended (and unless we have accepted the Eligible Options, you may also withdraw any such tendered securities at any time after 11:59 p.m. Eastern Time on Monday, October 25, 2021).
- 3. DELIVERY OF ELECTION FORM.** If you intend to tender Eligible Options under the Exchange Offer, a signed copy of this Election Form must be **received** by TherapeuticsMD before **5:00 p.m., Eastern Time, on Friday, September 24, 2021** (or such later date as may apply if the Exchange Offer is extended) by the following means:
 - ***Via email (by PDF or similar imaged document file) to:***
CI-TherapeuticsMD@insightsoftware.com

Your Election Form will be effective only **upon receipt** by us. **You are responsible for making sure that the Election Form is delivered to the electronic mail address indicated above. You must allow for sufficient time to complete and deliver this Election Form to ensure that we receive your Election Form on time.**

You are not required to tender any of your Eligible Options for exchange. If you choose to tender one or more of your Eligible Options for exchange, please check the box on your Election Form corresponding to each Eligible Option that you wish to tender for exchange. You do not need to return your stock option agreements relating to any tendered Eligible Options, as they will be automatically cancelled if we accept your Eligible Options for exchange and grant you New RSUs.

- 4. WITHDRAWAL OF ELECTION.** Tenders of Eligible Options made under the Exchange Offer may be withdrawn at any time before **5:00 p.m., Eastern Time, on Friday, September 24, 2021**, unless we extend the expiration date, in which case withdrawals must be received before such later expiration date and time (and unless we have accepted the Eligible Options, you may also withdraw any such tendered options after 11:59 p.m. Eastern Time on Monday, October 25, 2021).

To withdraw tendered Eligible Options, you must deliver a properly completed and signed Notice of Withdrawal via email (by PDF or similar imaged document file) to: **CI-TherapeuticsMD@insightsoftware.com**

Withdrawals may not be rescinded unless the withdrawn Eligible Options are properly re-tendered before the Expiration Time by following the procedures described in Instruction 3 above.

- 5. SIGNATURES.** Please sign and date this Election Form. Except as described in the following sentence, this Election Form must be signed by the Eligible Employee who holds the Eligible Options to be tendered using the same name for such Eligible Employee as appears on the applicable stock option agreement. If the signature is by an attorney-in-fact or another person acting in a fiduciary or representative capacity, the signer’s full title and proper evidence of the authority of such person to act in such capacity must be identified on this Election Form.
- 6. REQUESTS FOR ASSISTANCE OR ADDITIONAL COPIES.** Any questions or requests for assistance regarding the Exchange Offer (including requests for additional or hard copies of the Offer Documents or this Election Form) should be directed via email to Tony Wong, Director, Accounting & SEC Reporting at equityawards@therapeuticsmd.com.

7. **IRREGULARITIES.** We will determine all questions as to the number of shares subject to Eligible Options tendered and the validity, form, eligibility (including time of receipt) and acceptance of any tender of Eligible Options for exchange. Subject to any order or decision by a court or arbitrator of competent jurisdiction, our determination of these matters will be final and binding on all parties. We may reject any or all tenders of Eligible Options for exchange that we determine are not in appropriate form or that we determine are unlawful to accept. We may waive any defect or irregularity in any tender with respect to any particular Eligible Options or any particular Eligible Employee before the Expiration Time. No Eligible Options will be accepted for exchange until the Eligible Employee exchanging the Eligible Options has cured all defects or irregularities to our satisfaction, or they have been waived by us, prior to the Expiration Time. Neither we nor any other person is obligated to give notice of any defects or irregularities involved in the exchange of any Eligible Options.
8. **ALTERNATIVE, CONDITIONAL OR CONTINGENT OFFERS.** We will not accept any alternative, conditional or contingent tenders.
9. **IMPORTANT U.S. TAX INFORMATION.** You should refer to Section 12 of the Offering Memorandum included in the Offer Documents, which contains important U.S. tax information. We encourage you to consult with your own financial and tax advisors if you have questions about your financial or tax situation.

INSTRUCTIONS TO NOTICE OF WITHDRAWAL OF ELECTION FORM

If you previously elected to accept the offer by TherapeuticsMD, Inc. ("***TherapeuticsMD***") to exchange some or all of your outstanding Eligible Options for New Restricted Stock Units, subject to the terms and conditions of the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021 (the "***Exchange Offer***"), and you would like to change your election and withdraw the tender of any of your Eligible Options for exchange, **you must complete and sign this Notice of Withdrawal of Election Form (this "*Notice of Withdrawal*") and return it to TherapeuticsMD before 5:00 p.m., Eastern Time, on Friday September 24, 2021.** Once you have completed and signed this Notice of Withdrawal, please return it to TherapeuticsMD by the following means:

Return via email (by PDF or similar imaged document file) to: CI-TherapeuticsMD@insightsoftware.com

Your tendered Eligible Options will not be considered withdrawn from the Exchange Offer until we receive your properly completed and signed Notice of Withdrawal. If you miss the deadline to submit the Notice of Withdrawal but remain an Eligible Employee, any previously tendered Eligible Options will be cancelled pursuant to the Exchange Offer in exchange for the grant of New RSUs. You must sign the Notice of Withdrawal using the same name that appears on the Election Form you previously submitted. If your signature is by an attorney-in-fact or another person acting in a fiduciary or representative capacity for you, the signer's full title and proper evidence of the authority of that person to act in that capacity must be identified on this Notice of Withdrawal.

You should receive a confirmation of receipt within three (3) business days after submitting your Notice of Withdrawal. If you have not received a confirmation of receipt before less than three (3) business days before Friday, September 24, 2021, please contact us promptly via email at **CI-TherapeuticsMD@insightsoftware.com** to confirm that we received your Notice of Withdrawal.

DO NOT COMPLETE AND RETURN THIS NOTICE OF WITHDRAWAL UNLESS YOU WISH TO WITHDRAW A PREVIOUS TENDER OF ELIGIBLE OPTIONS FOR EXCHANGE PURSUANT TO THE EXCHANGE OFFER.

THERAPEUTICSMMD, INC.
951 YAMATO ROAD, SUITE 220
BOCA RATON, FLORIDA 33431

NOTICE OF WITHDRAWAL OF ELECTION FORM

Return via email (by PDF or similar imaged document file) to: CI-TherapeuticsMD@insightsoftware.com

I previously received from TherapeuticsMD the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021, and the Election Form. I signed and returned the Election Form, in which I elected to tender some or all of my Eligible Options in exchange for New RSUs. By submitting this Notice of Withdrawal of Election Form (this "**Notice of Withdrawal**"), I am revoking that election and hereby withdraw from the Exchange Offer with respect to the Eligible Options listed below:

Eligible Options					Withdrawal of election to tender Eligible Option for New RSU(s)
Grant Number	Grant Date	Grant Type	Exercise Price	Eligible Shares	
		<input type="checkbox"/> ISO		XXXXX	<input type="checkbox"/> Revoke election
		<input type="checkbox"/> NSO		(vested, unvested)	
		<input type="checkbox"/> ISO		XXXXX	<input type="checkbox"/> Revoke election
		<input type="checkbox"/> NSO		(vested, unvested)	
		<input type="checkbox"/> ISO		XXXXX	<input type="checkbox"/> Revoke election
		<input type="checkbox"/> NSO		(vested, unvested)	

I understand that, by signing this Notice of Withdrawal and delivering it to TherapeuticsMD, I withdraw my acceptance of the Exchange Offer with respect to the Eligible Options listed above. By rejecting the Exchange Offer with respect to the Eligible Options listed above, I understand that such Eligible Options will not be cancelled in exchange for the grant of New RSUs, and I will retain these Eligible Options subject to their existing exercise price, term, vesting schedule and other terms and conditions. I agree that TherapeuticsMD has made no representations or warranties to me regarding my rejection of the Exchange Offer. The withdrawal of the Eligible Options listed above is at my sole and exclusive discretion. I agree that TherapeuticsMD will not be liable for any costs, taxes, losses or damages I may incur as a result of my decision to withdraw the Eligible Options listed above.

By signing below, I hereby revoke my prior election to tender the Eligible Options listed above.

(Signature)
(Print Name)
(Date)

**FORM OF EMAIL
CONFIRMING RECEIPT OF ELECTION FORM**

From: TherapeuticsMD, Inc.
Re: Confirmation of Receipt of Election Form

This message confirms that TherapeuticsMD, Inc. ("*TherapeuticsMD*") has received your Election Form. This confirmation should not, however, be construed to imply that the Election Form you submitted has been properly completed or signed or that we have accepted any of your Eligible Options for exchange.

If your Election Form has been properly completed and signed, and all eligibility requirements are met, we expect to accept the Eligible Options you have elected to exchange and to grant you New RSUs promptly following the Expiration Time, subject to the terms and conditions of the Exchange Offer. If you have included in your Election Form an election to tender options for exchange that do not qualify as Eligible Options, such options will not be accepted by TherapeuticsMD and will remain outstanding subject to their original terms following the expiration of the Exchange Offer. If you do not deliver a signed Notice of Withdrawal before the Expiration Time, and we accept your tendered Eligible Options for exchange, we will provide you with a confirmation letter promptly following the Expiration Time confirming that your Eligible Options have been accepted for exchange. In addition, we will separately provide you with a notice of grant of restricted stock unit award and a restricted stock unit award agreement for your New RSUs for acceptance via the Company's online equity plan portal.

Your Election Form may be changed or withdrawn by subsequently delivering a new, properly completed and signed Election Form or Notice of Withdrawal at any time before **5:00 p.m., Eastern Time, on Friday, September 24, 2021**, unless the Exchange Offer is extended.

You should direct questions about the Exchange Offer or requests for assistance (including requests for additional or paper copies of the Exchange Offer, Election Form, Notice of Withdrawal or any other documents relating to the Exchange Offer) by email to Tony Wong, Director, Accounting & SEC Reporting at equityawards@therapeuticsmd.com.

Capitalized terms used but not otherwise defined in this email shall have the meanings set forth in the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021.

**FORM OF EMAIL
CONFIRMING RECEIPT OF NOTICE OF WITHDRAWAL OF ELECTION FORM**

From: TherapeuticsMD, Inc.

Re: Confirmation of Receipt of Notice of Withdrawal of Election Form

This message confirms that TherapeuticsMD, Inc. ("***TherapeuticsMD***") has received your Notice of Withdrawal of Election Form ("***Notice of Withdrawal***"). This confirmation should not, however, be construed to imply that the Notice of Withdrawal or any other documents that you have submitted have been properly completed.

If your Notice of Withdrawal is properly completed and signed and timely received by us, you will have revoked your prior election to exchange your Eligible Options as set forth in your previously submitted Election Form. With respect to the Eligible Options listed on your Notice of Withdrawal, we will neither cancel nor exchange such awards for New RSUs, and you will retain your Eligible Options subject to their original terms, exercise price and vesting schedule. Unless you deliver a new, properly completed and signed Election Form before **5:00 p.m., Eastern Time, on Friday, September 24, 2021**, or a later date if extended, the Eligible Options listed on your Notice of Withdrawal will remain outstanding following the expiration of the Exchange Offer.

You should direct questions about the Exchange Offer or requests for assistance (including requests for additional or paper copies of the Exchange Offer, Election Form or any other documents relating to the Exchange Offer) by email to Tony Wong, Director, Accounting & SEC Reporting at equityawards@therapeuticsmd.com.

Capitalized terms used but not otherwise defined in this email shall have the meaning set forth in the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021.

**FORM OF REMINDER EMAIL TO ELIGIBLE EMPLOYEES
REGARDING THE EXPIRATION OF THE EXCHANGE OFFER**

From: TherapeuticsMD, Inc.

Re: REMINDER – Offer to Exchange Eligible Options for New Restricted Stock Units

This email serves as a reminder that we are nearing the expiration of the Exchange Offer described in the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021 (the “*Offer Documents*”). The Exchange Offer and your withdrawal rights will expire at **5:00 p.m., Eastern Time, on Friday, September 24, 2021**, unless extended. You must submit your Election Forms and/or Notices of Withdrawal by the Expiration Time. We cannot accept late submissions.

You should direct questions about the Exchange Offer or requests for assistance (including requests for additional or paper copies of the Offer Documents, Election Form, Notice of Withdrawal or any other documents relating to the Exchange Offer) by email to Tony Wong, Director, Accounting & SEC Reporting at equityawards@therapeuticsmd.com.

This notice does not constitute an offer. The full terms of the Exchange Offer are described in the Schedule TO-I and accompanying documents, which you may access on our website at <https://ir.therapeuticsmd.com/financial-information/sec-filings> or through the SEC website at www.sec.gov. Capitalized terms used but not otherwise defined in this email shall have the meanings set forth in the Offer Documents.

**FORM OF EMAIL TO ELIGIBLE EMPLOYEES
CONFIRMING ACCEPTANCE OF ELIGIBLE OPTIONS**

From: TherapeuticsMD, Inc.

Re: Confirmation of Acceptance of Eligible Options

Thank you for your submission of the Election Form pursuant to the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021 (the "**Offer Documents**"). With this letter, we confirm that TherapeuticsMD, Inc. ("**TherapeuticsMD**") has accepted the Eligible Options listed on your Election Form for exchange in the Exchange Offer. Subject to the terms and conditions of the Exchange Offer, as described in the Offer Documents, your Eligible Options will be cancelled and New RSUs will be granted to you. Your New RSUs will appear shortly in TherapeuticsMD's online equity administration portal, and your restricted stock unit agreement(s) will be available for electronic acceptance. If you have included in your Election Form an election to tender any options for exchange that do not qualify as Eligible Options, such options will not be accepted by TherapeuticsMD and will remain outstanding subject to their original terms following the expiration of the Exchange Offer. If you have any questions please contact Tony Wong, Director, Accounting & SEC Reporting at equityawards@therapeuticsmd.com. Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Offer Documents.

**FORM OF EMAIL NOTICE
REGARDING REJECTION OF OPTIONS FOR EXCHANGE**

From: TherapeuticsMD, Inc.

Re: Notice of Rejection of Options for Exchange

Thank you for your submission of the Election Form pursuant to the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021 (the "*Exchange Offer*"). With this letter, we are notifying you that TherapeuticsMD, Inc. ("*TherapeuticsMD*") has rejected for exchange the options listed on your Election Form. Accordingly, your options will remain outstanding and subject to their original terms. For additional information regarding the rejection of your options for exchange, please contact Tony Wong, Director, Accounting & SEC Reporting at equityawards@therapeuticsmd.com.

Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Exchange Offer.

FORM OF EXPIRATION NOTICE EMAIL

From: TherapeuticsMD, Inc.

Re: Expiration of the Exchange Offer

The Exchange Offer described in the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021 (the “*Offer Documents*”), has expired, and no additional Election Forms or Notices of Withdrawal may be submitted. If you are an Eligible Employee and have delivered a properly completed and signed Election Form to tender your Eligible Options before the Expiration Time, and did not subsequently deliver a Notice of Withdrawal, you will receive a separate email confirming our acceptance of your tendered Eligible Options. Any Eligible Options you did not tender for exchange will remain outstanding and subject to their original terms. If you have any questions regarding the stock options you hold, please contact Tony Wong, Director, Accounting & SEC Reporting at equityawards@therapeuticsmd.com.

Capitalized terms used but not otherwise defined in this email shall have the meanings set forth in the Offer Documents.

From Address: CI-TherapeuticsMD@insightsoftware.com

Subject: Welcome Email

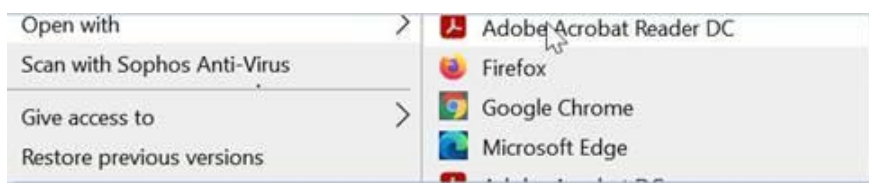
Dear [[firstname]],

TherapeuticsMD, Inc.'s Offer to Exchange Eligible Options for New Restricted Stock Units (the "Exchange Offer") has begun. You can access information about the Exchange Offer using the TD Ameritrade Equity 360 portal by logging into your TD Ameritrade account with the following link <https://www.tdameritrade.com>. If you forgot your user ID and/or password, please click "Need Login Help?".

All of the documents related to the Offer to Exchange can be found in the TD Ameritrade Equity 360 portal. Once you have successfully logged on to the portal, all of the relevant information about the exchange and making an election can be found in the Documents section of the TD Ameritrade Equity 360 portal.

Please follow the steps provided below to complete and digitally sign the fillable PDFs:

1. Please make sure you have adobe reader installed. If you do not have Adobe reader here is a link to download Adobe reader: [Adobe—Install Adobe Acrobat Reader DC](#)
2. Click and download the document(s) on your pc.
3. Right click on the downloaded file and choose open with Adobe Reader DC.



4. Fill-in your election for each option award, Sign, Fill-in your name and Date and Click the "Submit Form" button when done. It will create an email using your selected email application to **CI-TherapeuticsMD@insightsoftware.com**. Please note that this process must be done electronically. In other words, you will not be able to print the forms, manually complete and sign them.

Please contact equityawards@therapeuticsmd.com with questions.

**FORM OF EMAIL NOTICE
REGARDING INVALID SUBMISSION OF ELECTION FORM**

From: TherapeuticsMD, Inc.

Re: Notice of Invalid Submission of Election Form

Thank you for your submission of the Election Form pursuant to the Offer to Exchange Eligible Options for New Restricted Stock Units, dated August 26, 2021 (the "*Exchange Offer*"). With this letter, we are notifying you that TherapeuticsMD, Inc. ("*TherapeuticsMD*") has rejected your Election Form due to an invalid submission of the Election Form. Please resubmit the Election Form as soon as possible and in any case prior to 5:00 p.m., Eastern Time, on Friday, September 24, 2021 (the "*Expiration Time*"). Otherwise, your options will remain outstanding and subject to their original terms. For additional information regarding the rejection of your options for exchange, please contact Tony Wong, Director, Accounting & SEC Reporting at equityawards@therapeuticsmd.com.

Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Exchange Offer.