

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE MEDTRONIC, INC.
IMPLANTABLE DEFIBRILLATORS
PRODUCTS LIABILITY LITIGATION

MDL NO. 05-1726 (JMR/AJB)

This documents relates to:
All Cases

QUALIFIED PROTECTIVE ORDER

Co-Lead Counsel and the Plaintiff Steering Committee (collectively the “PSC”) in the above-captioned MDL litigation (the “MDL”) retained The Garretson Law Firm (“TGLF”) to provide the Centers for Medicare and Medicaid Services (“CMS”), The Medicare Secondary Payer Department and the Medicaid programs of each state, territory and the District of Columbia (“the Single State Agencies”) with a list (“the List”) of plaintiffs to determine which plaintiffs are beneficiaries in the Medicare (Part A and Part B) and/or Medicaid health care plans. The Single State Agencies and CMS may have statutory liens, interests or reimbursement claims against the MDL settlement proceeds for claimants who are also Medicaid and/or Medicare (Part A and Part B) eligible.

The entry of a HIPAA-compliant qualified protective order is necessary in this action in order to permit the Single State Agencies and CMS (hereinafter collectively referred to as “the Agencies or Agency”) to transmit protected health information directly to TGLF to assist in the resolution of the agency’s interest.

The Court being sufficiently advised, IT IS HEREBY ORDERED as follows:

1. The Garretson Law Firm (“TGLF”) is appointed to fulfill the functions of the “Medicare / Medicaid Lien Administrator” (“MLA”) for the Medtronic Settlement.
2. The MLA is authorized to facilitate a “global” resolution to federal Medicare’s (Parts A and B) interest in the recoveries of Medicare-entitled Participating Claimants, subject to approval by the PSC.
3. For those Participating Claimants verified as entitled to Medicaid, the MLA may seek global satisfaction of the Medicaid agencies’ interest as described above and/or secure individual claims histories from the appropriate agency/agencies and audit each claims history and ensure uniformity (within each state and/or territory program) in the resolution of such claims for Participating Claimants nationwide.
4. The participating claimants, and not the MLA, shall be responsible for identifying and resolving all other reimbursement claims liens or interests besides those asserted by Medicare (Parts A and B) and/or Medicaid described above.
5. This Qualified Protective Order shall apply to all “protected health information” and “individually identifiable health information”, as defined by 45 CFR § 160.103, or information that is otherwise protected from disclosure by the Privacy Act, 5 U.S.C. § 551a, the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 42 CFR Section 431 Subpart F, titled “Safeguarding Information on Applicants and Recipients” and other applicable state law, created, received or collected from the Agencies including, but not limited to: (1) names and addresses, dates of birth, social security numbers, Medicaid or Medicare identification numbers and other demographic information that identifies, or could be used to identify Medicaid and/or Medicare-

eligible Plaintiffs; (b) eligibility and entitlement information of Medicaid and/or Medicare-eligible Plaintiffs; (c) claims information relating to the past, present, or future health care of Medicaid and/or Medicare-eligible Plaintiffs; (d) claims information relating to the provision of healthcare to Medicaid and/or Medicare-eligible Plaintiffs; and, (e) claims information relating to the past, present, or future payment for the provision of healthcare to Medicaid and/or Medicare-eligible Plaintiffs.

6. In order to assist in the resolution of Medicaid and Medicare's interest, each individual Agency is hereby authorized and directed to transmit to the MLA any information, including Medicaid and Medicare claims information and other protected health information, for those Medicaid and/or Medicare-eligible Plaintiffs in the above-caption matter against whom they have asserted liens or reimbursement claims.

7. The MLA shall not use or disclose any protected health information or individually identifiable health information subject to this Qualified Protective Order for any purpose other than this litigation.

8. The MLA shall maintain any protected health information or individually identifiable health information subject to this Qualified Protective Order in a secure and safe area and shall exercise the same standard of due and proper care with respect to the storage, custody, use and/or dissemination of such protected health information as is exercised by the MLA with respect to its own confidential proprietary information.

9. At the conclusion of this litigation, the MLA shall certify to the Agencies that the protected health information or individually identifiable health information, including all copies made, has been destroyed.

10. Each Agency shall only use the List for the specific purposes delineated above. That is, transmitting to the MLA any information, including Medicaid and/or Medicare claims information and other protected health information, for those Medicaid and/or Medicare-eligible Claimants in the above-captioned matter against whom the respective Agency has asserted liens or reimbursement claims, or in whose potential settlements Agency may have an interest. Agency shall only make the List available to those within their respective Agency who need access to the List for the specific purpose stated in this paragraph.

11. Each Agency is hereby ordered to keep all information contained within the List, and any work produced related to it, strictly confidential, and the Agency shall not under any circumstances allow unauthorized personnel or entities to view, use, or in any way access the List or related work product. Each Agency is prohibited from transferring, sharing, and exchanging, in any manner whatsoever, the List to any other entity, agency or third party.

12. If any Agency utilizes outside vendors or companies to perform part or all of their tort recovery practices, the outside vendors or companies shall be expressly bound by all terms and conditions of this Order. In this regard, the Agency shall require said outside vendors or companies to provide a letter to the Agency with copy to MLA with the outside vendor or company express agreement to all terms of the Order, prior to the Agency sending the outside vendor or company a copy of the List.

13. The applicable time period covered by this Qualified Protective Order begins with the date of implant of the Medtronic cardiac medical devices by each

Medicaid and/or Medicare-eligible Plaintiff in the above-captioned matter or the date upon which the MLA provides any Agency with a copy of the List and shall last indefinitely.

SO ORDERED.

Dated: February 27, 2008

BY THE COURT:

____s/ Arthur J. Boylan_____
Arthur J. Bolyan
Magistrate Judge of United States District Court
District of Minnesota