

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: STRYKER REJUVENATE AND
ABG II HIP IMPLANT PRODUCTS
LIABILITY LITIGATION

MDL No. 13-2441 (DWF/FLN)

PRETRIAL ORDER NO. 38

This Document Relates to All Actions

QUALIFIED PROTECTIVE ORDER

Counsel represents certain plaintiffs in the above-captioned matter and has solely retained Providio Lien Counsel (“PLC”), a division of Providio MediSolutions, to identify and/or resolve any liens or claims asserted by the Medicaid programs of each state and territory and of the District of Columbia (the “Single State Agencies”) and, where appropriate, any Other Governmental Healthcare Programs, including but not limited to: TRICARE, VA Healthcare, and Indian Health Services (the “Other Governmental Programs”), and Private Health Insurance plans (“Private Health Plans”) under Medicare Part C (also known as Medicare Advantage) policies.

Counsel for certain plaintiffs have also retained PLC to identify and/or resolve any liens or claims that may be held by Private Health Plans under non-Medicare Part C policies, but some counsel for certain plaintiffs may choose to retain another lien resolution agent (“LRA”) or to negotiate liens or claims with Private Health Plans’ counsel directly.

Subject to the restrictions below, this Order grants PLC the authority to provide the Single State Agencies, Other Governmental Programs, or Private Health Plans with a list of Stryker litigation Claimants who are Enrolled Claimants as defined in the Master Settlement Agreement dated December 19, 2016 (“MSA”) (referred to herein as either “Claimants” or “Enrolled Claimants”), and their “Protected Information” as referenced herein, in order to determine which of the Claimants are beneficiaries of Medicaid, Other Governmental Programs, or enrolled with a Private Health Plan. The entry of an Order compliant with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), Pub. L. 104-191, 42 CFR Section 431 Subpart F, titled “Safeguarding Information on Applicants and Recipients,” and other applicable privacy laws is also necessary to permit the Single State Agencies, Private Health Plans, or the Other Governmental Programs, to transmit certain protected health information of the Claimants directly to PLC, another LRA or Claimant’s counsel, if applicable, to assist in the resolution of the respective agency’s or entity’s interests. Accordingly, the Court being sufficiently advised, **IT IS HEREBY ORDERED** that:

1. This Order shall apply to all “protected health information” and “individually identifiable health information,” as defined by 45 C.F.R. § 160.103, or information that is otherwise protected from disclosure by the Privacy Act, 5 U.S.C. § 551a, HIPAA, Pub. L. 104191, 42 C.F.R. § 431, Subpart F, titled “Safeguarding Information on Applicants and Recipients,” and other applicable state law (“Protected Information”), created, received or collected from Medicaid, Other Governmental

Programs, or Private Health Plans including, but not limited to:

- (a) names and addresses, dates of birth, social security numbers and any other demographic information that could be used to identify Claimants;
- (b) eligibility, enrollment and entitlement information;
- (c) health claim(s) information, including any payments made on behalf of a Claimant or for his/her benefit; and
- (d) information relating to the provision of healthcare claim coverage.

2. The Single State Agencies, Other Governmental Programs and Private Health Plans may disclose to PLC and PLC is duly authorized to receive Protected Information for those Medicaid, Other Governmental Program, and Private Health Plan Medicare Part C Claimants in accordance with 45 C.F.R. § 164.506(c)(4)(ii) “Uses and disclosures to carry out treatment, payment or healthcare operations” and any other applicable state law. For non-Medicare Part C Claimants, Private Health Plans are authorized to disclose to PLC, or another LRA or Claimant’s counsel, if applicable, Protected Information regarding a Claimant upon receiving from PLC, or another LRA or Claimant’s counsel, if applicable, notification in writing that he/she/it has been retained by a Claimant to provide lien resolution services in this matter. Nothing herein shall act to negate the validity of an otherwise valid HIPAA authorization provided to Private Health Plans or their counsel by a Claimant, his/her counsel, or an otherwise validly designated lien resolution agent.

3. PLC is authorized to provide a list of Claimants and Protected Information (“Claimant List”) to the Single State Agencies, Other Governmental Programs, and

Private Health Plans in furtherance of its duties to identify and/or resolve certain liens or claims they may have with respect to Claimants. Private Health Plans are authorized to provide PLC with a list of persons that have been identified as persons for which Private Health Plans may have advanced health or medical benefits to or on behalf of a Claimant, and may have a lien and/or claim (“Plan-Identified Member List”).

4. PLC, other LRA, and Claimant’s counsel shall not use or disclose any Protected Information subject to this Order for any purpose other than this litigation and the performance of his/her/its duties therein. Similarly, each Single State Agency, Other Government Program, and Private Health Plan shall only use the Claimant List for the purpose of identifying liens or claims it may have in this litigation. Each Single State Agency, Other Government Program, and Private Health Plan shall make the Claimant List available to only those within its agency or organization who need access to the Claimant List for the specific purpose stated in this Order. If a Single State Agency, Other Government Program, or Private Health Plan identified in this Order utilizes outside vendors or companies to perform part or all of its tort recovery practices, those outside vendors or companies shall be expressly bound by all terms and conditions of this Order.

5. PLC, any other LRA, and Claimant’s counsel shall maintain any Protected Information subject to this Order in a secure and safe area and shall exercise the standard of due and proper care with respect to the storage, custody, use, and/or dissemination of such protected health information required by HIPAA and other applicable privacy laws.

Within 45 days after the conclusion of the litigation including appeals, the parties, their attorneys, and any person or entity in possession of Protected Information received pursuant to this Order, shall return Plaintiff's Protected Information to the person or entity who produced it, or destroy any and all copies of such Protected Information, with the exception of Protected Information submitted to the Court.

Dated: May 25, 2017

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge