

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

ESTUARY TRANSIT DISTRICT AND
TEAMSTERS 671 HEALTH SERVICE &
INSURANCE PLAN, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

HARTFORD HEALTHCARE CORPORATION,
HARTFORD HOSPITAL, HARTFORD
HEALTHCARE MEDICAL GROUP, INC.,
INTEGRATED CARE PARTNERS, LLC,

Defendants.

Case No.: 3:24-cv-01051 (MPS)

STIPULATION AND PROTECTIVE ORDER

I. PURPOSES AND LIMITATIONS

Disclosure and discovery activity in this action are likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting or defending this action may be warranted. Accordingly, the Parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The Parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The Parties further acknowledge, as set forth in Paragraph 14 below, that this Stipulated Protective Order does not entitle them to file Material designated as Confidential Information or Highly Confidential Information under seal;

rather, Civil Local Rule 5(e) sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the Court to file material under seal.

II. DEFINITIONS

For the purposes of this Order, the following definitions apply:

(a) “Confidential Information” information means information, documents, or things that have not been made public by the disclosing party and that the disclosing party reasonably and in good faith believes contains or comprises (a) trade secrets, (b) proprietary business information, or (c) information implicating an individual’s legitimate expectation of privacy.

(b) “Designated Material” means any Materials that have been provided by any Producing Person that contain Confidential Information or Highly Confidential Information.

(c) “Highly Confidential Information” means any Confidential Information that if disclosed, other than in accordance with this Order, poses a substantial risk of causing significant competitive injury to the current or future commercial or financial interest of the Producing Person, including, but not limited to: (i) specific cost, rates, reimbursements, pricing, sales, revenue, reimbursement plans, or margin information relating to the Producing Person or a customer of the Producing Person; (ii) specific plans for capacity expansion or reduction; (iii) specific payor contracts and related commercially sensitive negotiations; (iv) specific payor claims data; (v) specific marketing and advertising data or plans that identify specific competitors or customers; or (vi) proprietary strategies or policies related to competition.

(d) “Indirect Purchaser Action” means *John Brown v. Hartford HealthCare Corp.*, No. X03-HHD-CV22-6152239-S (Conn. Sup. Ct. filed Feb. 15, 2022).

(e) “Material” or “Materials” means any data, document, information, testimony, or transcript of testimony that is provided to any Party in connection with the litigation of this action or any copies, excerpts, summaries, or compilations thereof.

(f) “Party” or “Parties” means a named party to this civil action except that under no circumstances shall the terms “Party” or “Parties” be interpreted to mean that any members of a putative class, other than the named representatives as denominated by the Court, may obtain access to any Confidential Information beyond the rights of access that an ordinary third-party would have.

(g) “Producing Person” or “Producing Persons” means any person or entity that provides or has provided Materials (including a Party or a non-Party to this action).

(h) “Receiving Person” means any person or entity (including a Party or a non-Party to this action) that receives Material from a Producing Person.

III. DESIGNATION OF MATERIAL

A. Designation of Confidential or Highly Confidential Information

1. Any Producing Person (including through counsel) may designate all or any part of any Materials as Confidential Information or Highly Confidential Information, to the extent the Producing Person determines, in good faith, (a) that the Materials include Confidential Information or Highly Confidential Information, (b) that such designation is necessary to protect the interests of the Producing Person, including any obligations of the Producing Person to comply with any confidentiality and/or non-disclosure obligations to other Parties and/or non-Parties, and (c) that the Material to be designated has been kept confidential by the Producing Person. For designations of Confidential Information or Highly Confidential Information that occur after entry of this Order, the designations shall be made by using the following labels as appropriate: “CONFIDENTIAL”

(for Confidential Information) or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” (for Highly Confidential Information).

2. Deposition transcripts or portions thereof may be designated by a Producing Person either (a) when the testimony is recorded, or (b) by written notice to all counsel of record, given within thirty days after a Producing Person’s receipt of the transcript in which case all counsel receiving such notice shall be responsible for marking the copies of the designated transcript or portion thereof in their possession or control as directed by the Producing Person. Pending expiration of the thirty days, the deposition transcript shall be treated as designated as Highly Confidential Information. When testimony is designated at a deposition, the Producing Person may exclude from the deposition all persons other than those to whom the Designated Material may be disclosed under paragraphs 10 and 11 of this Order. Any Party may mark Designated Material as a deposition exhibit, provided the deposition witness is one to whom the exhibit may be disclosed under paragraphs 10 and 11 of this Order and the exhibit and related transcript pages receive the same confidentiality designation as the original Designated Material.

B. Inadvertent Failures to Designate

3. The inadvertent production of Materials not designated as Confidential Information or Highly Confidential Information will not be deemed a waiver of any future claim of confidentiality concerning such Materials. If at any time prior to the trial of this action, a Producing Person discovers or determines that Materials should have been designated as Confidential Information or Highly Confidential Information, it may so designate such Materials by notifying the Parties in writing. The Parties shall thereafter treat the Materials pursuant to the Producing Person’s new designation under the terms of this Order. The disclosure of any information for which disclosure was proper when made will not be deemed improper regardless of any such subsequent confidentiality designation.

C. Clawback and Return of Inadvertently Produced Materials

4. Inadvertent production of any Materials provided by any Producing Person that the Producing Person later determines in good faith should have been withheld from production on grounds of a privilege, including the work product doctrine (collectively referred to hereinafter as an “Inadvertently Produced Privileged Material”), will not be deemed to waive any privilege or work product protection.

5. Inadvertent productions of any Materials will be subject to the Clawback Mechanism set forth in the Stipulation Regarding Electronically Stored Information Protocol (“ESI Protocol”)¹ and the following provisions:

(a) The Producing Person may request the return of any Inadvertently Produced Privileged Material via the Clawback Mechanism set forth in the ESI Protocol. In the event a Party or Parties challenge the assertion of privilege by a Producing Person of any Material designated as privileged, including any Inadvertently Produced Privileged Material, such motions shall be filed under seal and comply with Civil Local Rule 7(a). All such motions must comply with the procedures set forth in Paragraph VI.14 of this Protective Order. The moving Party shall meet and confer with the Producing Person before filing any such motion.

(b) No Party may assert as a ground for challenging privilege the mere fact of the inadvertent production. Nothing in this Order shall preclude a Party from arguing based on the underlying facts and circumstances that the production of the allegedly Inadvertently Produced Material was not inadvertent or that conduct since production of the allegedly Inadvertently Produced Material constitutes waiver.

¹ The ESI Protocol has been attached hereto as Exhibit B.

(c) If the request for return of an Inadvertently Produced Privileged Material involves redaction of the Material, the redacted version of the Material must be provided within ten (10) business days of the request.

(d) If the request for return of an Inadvertently Produced Privileged Material occurs during the taking of a deposition or shortly before the occurrence of a deposition, the Producing Person's counsel and counsel for the Party or Parties shall meet and confer in good faith at the earliest possible opportunity to determine appropriate steps under the circumstances, consistent with this Order. In the event the claim of privilege is withdrawn or the Court determines the Material not to be subject to a valid claim of privilege, if counsel for the Parties and the Producing Person do not agree otherwise, the Court shall determine any appropriate remedy, including whether and to what extent a reopening of the deposition may be necessary including a reopening that would have the effect of extending the time limit for a duration of a deposition. Nothing in this Paragraph prohibits counsel from conducting *voir dire* of a deponent about non-privileged matters concerning the Material.

(e) If an expert report or expert's testimony uses Material that a Producing Person identifies as Inadvertently Produced Privileged Material after service of the expert's report or rendition of the expert's testimony, then the Party sponsoring the expert report or expert testimony will, subject to the procedures in this Order, and if necessary, remove any reference to the Inadvertently Produced Privileged Material from the expert's report or expert's testimony and be allowed to substitute other documents or information for the Inadvertently Produced Privileged Material. Neither the expert's report nor the expert's testimony can be stricken in part or in whole on the ground that the expert's report or expert's testimony had previously relied on Inadvertently Produced Privileged Material. In the event that an expert's report or expert's testimony has relied on

Inadvertently Produced Privileged Material, the Parties agree to meet and confer on a schedule to allow the Party propounding an implicated expert report to modify or supplement such expert report within a reasonable period of time.

IV. CHALLENGES TO DESIGNATION OF CONFIDENTIAL INFORMATION OR HIGHLY CONFIDENTIAL INFORMATION

6. Any Party may challenge any designation by a Producing Person of any Materials as Confidential Information or Highly Confidential Information. In the event of such a challenge, counsel shall first make a good faith effort to resolve the dispute. The challenging Party shall initiate the dispute resolution process by providing written notice to the Producing Person of each designation it is challenging and describing the basis for each challenge. The challenging Party and the Producing Person shall attempt to resolve each challenge in good faith and must begin the process by conferring directly within 10 days of the date of service of notice. In conferring, the challenging Party must explain the basis for its belief that the confidentiality designation was not proper and must give the Producing Person an opportunity to review the Designated Material, to reconsider the circumstances, and, if no change in designation is offered, to explain the basis for the chosen designation. In the absence of a resolution through this meet-and-confer process, only then may the Party challenging the designation thereafter follow the procedures set forth in the Court's Instructions for Discovery Disputes. Any dispute under those procedures shall specifically identify, and be limited to challenging, those Materials whose confidentiality designations are in dispute. The designated information shall be treated in accordance with its confidentiality designation under this Order until the discovery dispute is resolved or the Court rules on a discovery motion.

7. Nothing in this Order constitutes an admission by any Party that any specific Material is Confidential Information or Highly Confidential Information.

8. Nothing in this Order constitutes an admission by any Party that Confidential Information or Highly Confidential Information disclosed in this action is relevant or admissible. Each Party specifically reserves the right to object to the use or admissibility of any Materials designated as Confidential Information or Highly Confidential Information, in accordance with applicable law.

V. DISCLOSURE OF CONFIDENTIAL OR HIGHLY CONFIDENTIAL INFORMATION

9. Unless otherwise ordered by this Court, Confidential Information or Highly Confidential Information shall not be used or disclosed by any Receiving Party for any purpose whatsoever other than in this litigation, including any appeals thereof.

A. Disclosure of Confidential Information

10. The Parties and counsel for the Parties shall not disclose or permit the disclosure of any Confidential Information to any third person or entity except as set forth in subparagraphs (a)-(h) of this paragraph. Subject to these requirements, the following categories of persons may be allowed to review Material that contains Confidential Information:

- a. Parties: Individual Parties and employees of a Party, but only to the extent counsel determines in good faith that the employee's assistance is reasonably necessary to the conduct of the litigation in which the Confidential Information is disclosed, and only after the execution of the acknowledgement contained in Exhibit A including consent to submit to the personal jurisdiction of the Court for purposes of enforcement of this Protective Order including, but not limited to, the full contempt powers of the Court.
- b. The Court: The Court and all persons assisting the Court in this action, including court reporters and members of the Clerk's Office.
- c. Plaintiffs' Outside Counsel: Outside counsel acting for Plaintiffs in this action and associated employees and agents of outside counsel.
- d. Defendants' Counsel: Inside and outside counsel acting for Defendants in this action and associated employees and agents of outside counsel.

- e. Consultants and Experts: Consultants, investigators, or experts (whether consulting or testifying experts), including their support staff, engaged by a Party or their outside counsel to assist in the preparation and trial of this action. However, prior to their receipt of Confidential Information, such consultants and experts must execute the acknowledgement contained in Exhibit A.
- f. Contractors and Vendors: Outside contractors, professional vendors or service providers (such as copy-service providers, court reporters, and document-management and discovery consultants) retained by any Party to assist in the prosecution or defense of this action or otherwise assist in their retained work. However, prior to their receipt of Confidential Information, such outside vendors or service providers must execute the acknowledgement contained in Exhibit A.
- g. Authors, Recipients, and Senders: Authors, recipients, and senders of any particular Materials designated as Confidential Information, solely to the extent that they have previously had lawful access to the particular Materials disclosed or to be disclosed. There must be a good faith basis to believe that the person (or corporation, in the case of a 30(b)(6) deposition) authored, received, sent, or otherwise reviewed the Confidential Information in the ordinary course of business.
- h. Counsel in the Indirect Purchaser Action: Only if the Parties reach agreement regarding the coordination of discovery between this civil action and the Indirect Purchaser Action, or the Court orders such coordination, inside and outside counsel acting for any party in the Indirect Purchaser Action and associated employees and agents of outside counsel.

B. Disclosure of Highly Confidential Information.

11. The Parties and counsel for the Parties shall not disclose or permit the disclosure of any Highly Confidential Information to any third person or entity except as set forth in subparagraphs (a)-(h) of this paragraph. Subject to these requirements, the following categories of persons may be allowed to review Material that contains Highly Confidential Information:

- a. The Court: The Court and all persons assisting the Court in this action, including court reporters and members of the Clerk's Office.
- b. Plaintiffs' Outside Counsel: Outside counsel acting for Plaintiffs in this action and associated employees and agents of outside counsel.
- c. Defendant's Counsel: Outside counsel acting for Defendants in this action and associated employees and agents of outside counsel, as well as John

D'Ambrosio, designated in-house counsel for Defendants, subject to Mr. D'Ambrosio's having completed the certification contained in Exhibit A, accompanied by a sworn declaration detailing his responsibilities at Defendants' companies, confirming that he is not involved in competitive decision-making, and confirming that he will not share Highly Confidential Information or relate the substance therein to anyone not approved by the Court.

- d. Defendants' Designees: Defendants may designate, subject to such persons having completed the certification contained in Exhibit A, and subject to the approval of the Court, up to three (3) representatives who can have access to Highly Confidential Information. The proposal to designate a designee must be accompanied by a declaration from each proposed designee detailing their responsibilities at Defendants' companies, confirming that they are not involved in competitive decision-making, and confirming that they will not share Highly Confidential Information or relate the substance therein to anyone not approved by the Court.
- e. Consultants and Experts: Consultants, investigators, or experts (whether consulting or testifying experts), including their support staff, engaged by a Party or their outside counsel to assist in the preparation and trial of this action. However, prior to their receipt of Highly Confidential Information, such consultants and experts must execute the acknowledgement contained in Exhibit A.
- f. Contractors and Vendors: Outside contractors, professional vendors, or service providers (such as copy-service providers, court reporters, and document-management and discovery consultants) retained by any Party to assist in the prosecution or defense of this action or otherwise assist in their retained work. However, prior to their receipt of Highly Confidential Information, such outside vendors or service providers must execute the acknowledgement contained in Exhibit A.
- g. Authors, Recipients and Senders: Authors, recipients, and senders of any particular Materials designated as Highly Confidential Information, solely to the extent that they have previously had lawful access to the particular Materials disclosed or to be disclosed. There must be a good faith basis to believe that the person (or corporation, in the case of a 30(b)(6) deposition) authored, received, sent, or otherwise reviewed the Highly Confidential Information in the ordinary course of business.
- h. Counsel in the Indirect Purchaser Action: Only if the Parties reach agreement regarding the coordination of discovery between this civil action and the Indirect Purchaser Action, or the Court orders such coordination, inside and outside counsel acting for any party in the Indirect Purchaser Action and associated employees and agents of outside counsel.

C. Protected Health Information and Personal Information.

12. Designated Material expressly includes Protected Health Information (“PHI”), as that term is defined by the Health Insurance Portability and Accountability Act (“HIPAA”), 45 C.F.R. Parts 160 and 164, or Personal Information (“PI”), as defined in Conn. Gen. Stat § 36a-701b(a)(2), whether or not such PHI or PI is specially designated as Confidential Information or Highly Confidential Information. The procedures for the protection of Designated Material as set forth herein provide sufficient protection such that this Order meets the requirements for a “qualified protective order” under HIPAA, 45 C.F.R. § 164.512(e)(1)(v). For the avoidance of doubt, the Parties shall be prohibited from using or disclosing any PHI or PI produced in this litigation for any purpose other than the litigation, and each Party shall be required to return or destroy all PHI or PI (including copies thereof) at the end of the litigation as per Paragraph 16. Notwithstanding any other provisions of this Protective Order, the parties shall ensure that their use or disclosure of PHI produced by any other party in this litigation shall be in compliance with the “minimum necessary” requirements of HIPAA, *i.e.*, the disclosure of such PHI shall be limited by 45 C.F.R. § 164.502(b) and 45 CFR § 164.514(d). This includes, but is not limited to the parties, their attorneys of record and their agents.

D. Disclosure To a Receiving Person Not Authorized to Receive Such Disclosure.

13. In the event of a disclosure of any Confidential Information or Highly Confidential Information to a Receiving Person not authorized to receive such disclosure under this Protective Order, the Party responsible for having made such disclosure shall promptly notify the Producing Person whose Material has been disclosed and provide to such Producing Person all known relevant information concerning the nature and circumstances of the disclosure. The disclosing Party shall also promptly take all reasonable measures to retrieve the improperly disclosed Material and to ensure that no further or greater unauthorized disclosure and/or use thereof is made.

Unauthorized or inadvertent disclosure shall not change the confidential status of any disclosed Material or waive the right to maintain the disclosed Material as containing Confidential Information or Highly Confidential Information.

VI. USE OF INFORMATION DESIGNATED AS CONFIDENTIAL OR HIGHLY CONFIDENTIAL IN THIS ACTION

14. Filing Designated Material: Without written permission from the Producing Person or a Court order secured after appropriate notice to all interested persons, a Party may not file in the public record in this action any Designated Material. A Party that seeks to file under seal any Designated Material must comply with Civil Local Rule 5(e). Designated Material may be filed under seal only pursuant to a Court order authorizing the sealing of the specific Designated Material at issue. If a Party's request to file Designated Material under seal pursuant to Civil Local Rule 5(e) is denied by the Court, then that Party may file the Designated Material in the public record unless otherwise instructed by the Court.

15. Disclosure at Trial: Disclosure at trial of any Materials designated as Confidential Information or Highly Confidential Information will be governed pursuant to Court order. The Parties shall meet and confer and submit a recommended order no later than sixty (60) days before trial, outlining those procedures. The Parties shall provide a copy of the recommended order to all Producing Persons who have produced Confidential Information or Highly Confidential Information that the parties reasonably anticipate will be utilized at trial. A Producing Person who receives such notice shall be permitted to file any counter-recommendations or objections no later than thirty (30) days before trial and request a hearing. Absent a ruling from the Court to the contrary, any Material designated as Confidential Information or Highly Confidential Information that appears on an exhibit list or in deposition designations, and that is admitted into evidence at trial, will be disclosed on the public record, and any examination relating to such Material will

likewise be disclosed on the public record, after compliance with processes established by the Court.

VII. PROCEDURES UPON TERMINATION OF THIS LITIGATION

16. The obligations imposed by this Protective Order survive the termination of this action unless the Court, which shall retain jurisdiction to resolve any disputes arising out of this Protective Order, orders otherwise. At the conclusion of this litigation—including the Indirect Purchaser Action, but only if the Parties reach agreement regarding the coordination of discovery between this civil action and the Indirect Purchaser Action or the Court orders such coordination—all Confidential Information and Highly Confidential Information and any copies thereof shall be promptly (and in no event later than thirty (30) days after entry of a final judgment no longer subject to appeal) returned to the Producing Person or certified as destroyed. The foregoing provision shall not apply if the document has been, without restriction as to disclosure, admitted into evidence at any trial or hearing in this proceeding or otherwise filed with the Court. Notwithstanding the foregoing, counsel are entitled to retain one archival copy of all documents filed with the Court, including those filed under seal, as well as trial, deposition, and hearing transcripts, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Designated Material.

VIII. APPLICATION TO NON-PARTIES.

17. The terms and conditions of this Protective Order shall apply to all non-Parties (including, but not limited to, natural persons, corporations, partnerships, firms, government agencies, departments or bodies, boards or associations) who receive lawful discovery requests and/or subpoenas in connection with this action.

18. Any Party who serves such a request and/or subpoena on a non-Party shall include a copy of this Protective Order and shall advise the receiving non-Party that a Protective Order has

been entered and that Material produced in response to lawful discovery requests will be subject to disclosure under the terms and conditions of the Protective Order. The signing and service of the acknowledgement set forth in Exhibit A by a non-Party shall entitle the Material produced by the Non-Party that is designated as Confidential Information or Highly Confidential Information to the confidential treatment and protection provided for in this Protective Order.

19. Absent a court order to the contrary, the non-Party shall bear the burden and expense of seeking protection in this Court of its Designated Material.

IX. MISCELLANEOUS PROVISIONS.

20. Notices: All notices required or permitted to be provided by this Protective Order shall be made by e-mail. In the event that notification by e-mail is impractical, a notice shall be made by either: (i) personal hand-delivery of the notice to counsel of record or an unrepresented affected person or (ii) sending the notice by a courier for overnight delivery to counsel of record or an unrepresented affected person.

21. The foregoing is entirely without prejudice to the right of any Party or non-Party to apply to the Court for any further relief relating to Confidential Information or Highly Confidential Information; to object to the production of documents or information; to apply to the Court for an order compelling production of documents or information in compliance with Federal Rule of Civil Procedure 37(a); or for modification of this Protective Order.

22. Nothing in this Protective Order shall bar or otherwise restrict counsel from rendering advice to his or her client with respect to this litigation. In rendering advice or otherwise communicating with his or her client, counsel shall not disclose the content of any Confidential Information or Highly Confidential Information where such disclosure would not otherwise be permitted under the terms of this Protective Order. If any Party or person bound by the terms and conditions of this Protective Order receives a subpoena or other process from any person

(including, but not limited to, natural persons, corporations, partnerships, firms, governmental agencies, departments or bodies, boards or associations) who is not a subject to the terms and conditions of this Protective Order, and if the subpoena or other process seeks the production or other disclosure of another party's Confidential Information or Highly Confidential Information, the Party or person receiving the subpoena shall notify the Producing Person of the Confidential Information or Highly Confidential Information and of the existence of the subpoena or other process. In addition, the Party or person receiving the subpoena or other process shall inform the person or party issuing the subpoena that the materials sought are subject to the terms and conditions of this Protective Order and may not be disclosed absent (i) the consent of the source of the Confidential Information or Highly Confidential Information or (ii) a court order issued by a court of competent jurisdiction. The Party or person subject to the subpoena or other process shall not produce or disclose the requested information until the occurrence of one of these two conditions.

23. The parties have further agreed, and this Court finds, that the production by the parties of documents, electronically stored information, emails, or other materials in this matter shall meet the specifications outlined in the agreed upon ESI Protocol, attached hereto as Exhibit B.

24. The terms of this Protective Order shall be binding upon all current and future Parties to this action and their counsel.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: October 8, 2024

/s/ Michael P. Shea

Honorable Michael P. Shea
Chief United States District Judge