

CAUSE NO. D-1-GV-13-000384

THE STATE OF TEXAS,

Plaintiff,

v.

UNIVERSAL HMO OF TEXAS,  
INC.,

Universal.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

345<sup>th</sup> JUDICIAL DISTRICT

**MEDCO HEALTH SOLUTIONS, INC.'S MOTION FOR PERMANENT  
SEALING ORDER AND MOTION TO SEAL RECORDS**

Pursuant to Rule 76a of the Texas Rules of Civil Procedure, this motion is filed by Medco Health Solutions, Inc. ("Medco"). Medco is requesting by this motion that the Court seal certain records, permanently, after expiration of the required notice period and shows the Court as follows:

1. Currently, there is no protective order in place in this matter. To protect Medco's confidential and proprietary information, Medco requests that the Court seal the proceedings and transcript of the hearing on its *Motion to Lift Stay and Injunction* ("Motion") and any evidence and exhibits introduced therein, including, but not limited to, the Master Agreement entered into between, among others, Medco and Universal HMO of Texas, Inc. ("Universal"). The term "Confidential Information," as used herein, is information which has not been made public and which the producing party believes in good faith to warrant protection from public disclosure, including, but not limited to, drug pricing and other terms of the Master Agreement, HIPPA-protected information, a party and/or non-party's financial books and records, tax returns, statements, billing information, bank account information, W-2s, 1099s, and any other sensitive financial and/or proprietary information that a party and/or non-party deems confidential.

Confidential Information also includes any and all summaries, copies, abstracts, compilations or other documents derived in whole or in part from the Confidential Information.

2. Medco's Motion seeks relief from the stay and injunction to litigate its claims against Universal and three of Universal's affiliates—which affiliates are also liquidating in state court receiverships in Florida and Nevada—in one convenient forum, the United States District Court for the Middle District of Florida. Medco intends to provide evidence with respect to its Motion that Universal and Universal's affiliates were party to a Master Agreement, as amended, and the contents of the Master Agreement and its amendments contain trade secrets, proprietary information, and Confidential Information. The Master Agreement itself, in Article 10, states that the contents of the Master Agreement are confidential. Since Medco believes that it must rely on the Master Agreement and its amendments in connection with the Motion, Medco respectfully requests a court order sealing the hearing, transcript, and exhibits.

3. The evidence that will be presented at the hearing does not concern matters that have a probable adverse effect upon the general public health or safety, or the administration of public office, or the operation of government. Further, there is a specific, serious, and substantial interest that clearly outweighs the presumption of openness established by Rule 76a of the Texas Rules of Civil Procedure and that clearly outweighs any probable adverse effect that sealing of the records will have upon the general public health or safety. Further, there is no less restrictive means than sealing records that will adequately and effectively protect the specific interest asserted. In Article 10, the Master Agreement specifically and explicitly provides that the contents of the agreement are to be kept confidential. If the requested records are not sealed, and thereby the trade secrets, proprietary information, and Confidential Information are disseminated via the court records, irreparable injury may be caused to Medco's customers, employees, and

business interests. Specifically, the highly confidential information is reasonably likely to provide a receiving party with a competitive advantage, or otherwise would be harmful to the legitimate business interests of Medco or its clients or customers, if such information were disclosed to the public and officers, directors, employers, employees or non-litigation consultants of potential competitors.

4. The specific, serious, and substantial interest to be protected by this motion is the protection of Medco's trade secrets, proprietary information, and Confidential Information. The protection of trade secrets has been recognized as a "specific, serious and substantial interest which would justify restricting access" to court records. *Upjohn Co. v. Freeman*, 906 S.W.2d 92, 96 (Tex. App. 1995); *see Eli Lilly & Co. v. Marshall*, 829 S.W.2d 157, 158 (Tex. 1992). Medco's ownership of the trade secrets, proprietary information, and Confidential Information and the necessity of protection will be topics of the hearing on the Motion and will be proven therein. Disclosure of Medco's trade secrets, proprietary information and Confidential Information would cause great competitive harm to Medco.

Therefore, Medco requests a permanent order sealing the proceedings and transcript of the hearing on Medco's Motion and any evidence and exhibits introduced therein, including, but not limited to, the Master Agreement entered into between, among others, Medco and Universal HMO of Texas, Inc., after the notice period has passed and a public hearing is held. Medco prays for all other just relief to which it may be entitled.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 31, 2015, a true and correct copy of the foregoing document was served via the Court's CM/ECF notification system and/or first class mail and/or electronic mail on the parties set forth on the attached Service List:

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