

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

MALLINCKRODT PLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 20-12522 (JTD)

Jointly Administered

RE: Docket No. 7608

**HIPAA QUALIFIED PROTECTIVE ORDER IN
CONNECTION WITH IMPLEMENTATION OF THE PLAN**

Upon the *Motion of the FCR and Proposed Initial PI Trustee for a HIPAA Qualified Protective Order in Connection with Implementation of the Plan*, dated June 7, 2022 (the “Motion”);² and this Court having jurisdiction to consider and decide the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated as of February 29, 2012; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having authority to enter a final order consistent with Article III of the United States Constitution; and venue of this proceeding and the Motion being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been given under the circumstances and no other or further notice of the Motion being required; and after due deliberation and good and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is **GRANTED** as set forth herein.

¹ A complete list of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors’ claims and noticing agent at <http://cases.primeclerk.com/mallinckrodt>. The Debtors’ mailing address is 675 McDonnell Blvd., Hazelwood, Missouri 63042.

² Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Motion.

2. In furtherance of resolving claims and liens in accordance with the PI Trust Documents, (i) the PI Trustee, Edgar C. Gentle, III (or his successor), and the LRP Administrator, MASSIVE: Medical and Subrogation Specialists (or its successor), and the partners, associates, employees, counsel, and agents of each of the foregoing (all of the foregoing collectively, the “PI Trust Parties”) and (ii) third-party payors participating in the LRP (the “Participating TPPs”) and their employees, counsel, and agents, in each case solely to the extent required to assist in lien resolution under and pursuant to the terms of the LRP or to otherwise assist in resolving claims pursuant to the PI Trust Documents (all parties in (i)-(ii) collectively, the “Receiving Parties”) are hereby authorized, subject to the Order and to the additional limitations and safeguards set forth herein, to receive and transmit (including electronically) information that is or may be protected under HIPAA and its amendments, or other applicable federal or state law, including all “protected health information” (“PHI”) and “individually identifiable health information,” each as defined in 45 C.F.R. §160.103. Such information includes but is not limited to information regarding a PI Claimant’s (a) full name; (b) residential address; (c) full social security number; (d) date of birth; (e) date of first qualifying opioid ingestion; and (f) injuries and payment information relating to the PI Claimant’s PI/NAS Opioid Claim.

3. All “covered entities,” as defined in 45 C.F.R. § 160.103,³ are authorized to disclose PHI, individually identifiable health information, and related healthcare information pertaining to the PI Claimants to the PI Trust Parties.

³ 45 C.F.R. § 160.103 defines “covered entity” as: “(1) A health plan. (2) A health care clearinghouse. (3) A health care provider who transmits any health information in electronic form in connection with a transaction covered by [such] subchapter.”

4. The PI Trust Parties are authorized to provide to and receive from any Governmental Payors,⁴ Medicare Part C or Part D Program sponsors, and any other payors and providers, including all private health plans whether insured or self-funded (collectively, the “Payors”), lists of PI Claimants or related information to identify any lien, claim, or right of subrogation, indemnity, reimbursement, conditional or other payments, or interest of any kind for injury-related medical items, services, or prescription drugs paid on such PI Claimants’ behalf. The PI Trust Parties are further authorized, subject to the existing Protective Order, to use lists of PI Claimants or related information in lieu of individual HIPAA authorizations and information on a claimant-by-claimant basis. The PI Trust Parties may take other actions to identify and resolve potential healthcare-related claims against PI Claimants, including *en masse* data submissions with Payors designed to identify healthcare coverage and related claims itemizations for PI Claimants, information requests from other relevant parties, and downloads from internet-based healthcare coverage information sources, including, but not limited to, www.cob.cms.hhs.gov/MSPRP/.

5. The PI Trust Parties are further authorized to receive from Kroll Restructuring Administration any confidential information contained in any Proofs of Claim filed by the PI Claimants (the “PI Data”), and to transmit such PI Data to Participating TPPs. Participating TPPs that receive PI Data are authorized to use such PI Data only for lien resolution under and pursuant to the terms of the LRP or to otherwise assist in resolving claims pursuant to the PI Trust Documents, and may not use such PI Data for any other purpose, including to pursue recovery directly from any PI Claimant.

⁴ “Governmental Payors” mean any federal, state, or other governmental body, agency, department, plan, program, or entity that administers, funds, pays, contracts for, or provides medical items, services, or prescription drugs. These include, but are not limited to, the Centers for Medicare and Medicaid Services, the Medicare Secondary Payer Department, the Medicaid programs of each state and territory and of the District of Columbia, Veteran’s Administration, TRICARE, and Indian Health Services.

6. The Receiving Parties in possession of PHI, individually identifiable health information, or PI Data subject to this Qualified Protective Order shall implement the following procedures to safeguard the confidentiality of such information:

a) Use and Disclosure. Use of any information obtained subject to this Qualified Protective Order shall comply with the terms of the existing Protective Order. The Receiving Parties shall not use or disclose PHI, individually identifiable health information, or PI Data for any purpose other than for the administration of the PI Trust, including the LRP, and performance of their duties and functions under the PI Trust Documents or LRP, as applicable. The Receiving Parties shall use only the minimum necessary information for the administration of the PI Trust and the LRP.

b) Appropriate Safeguards. The Receiving Parties shall maintain any information subject to this Qualified Protective Order in a secure and safe area and shall exercise the standard of due and proper care with respect to the storage, custody, use, or dissemination of such protected health information required by HIPAA and other applicable privacy laws.

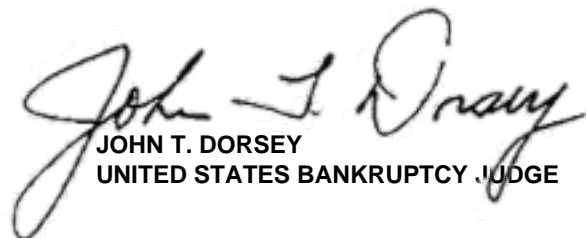
c) Conclusion of Duties. The Receiving Parties and any other persons or entities that come into possession of information subject to this Qualified Protective Order shall destroy and certify the destruction of such information, including all copies made, at the conclusion of their duties under the PI Trust Documents or LRP, as applicable.

7. This Qualified Protective Order shall survive and remain in effect after the closing of the Chapter 11 Cases, and shall continue in force until dissolution of the PI Trust, unless amended or superseded by express order of this Court.

8. The terms and conditions of this Qualified Protective Order shall be immediately effective and enforceable upon its entry.

9. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation or interpretation of this Qualified Protective Order.

Dated: June 29th, 2022
Wilmington, Delaware



JOHN T. DORSEY
UNITED STATES BANKRUPTCY JUDGE