IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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VISTA HEALTHPLAN, INC., et al.,

CEPHALON, INC., et al.,

v.

Case No. No. 2:06-cv-1833 (MSG)

Defendants.

Plaintiffs,

HIPAA QUALIFIED PROTECTIVE ORDER

THE COURT enters this protective order in accordance with requirements of the regulations promulgated under the Heath Insurance Portability and Accountability Act of 1996 ("HIPAA"), specifically 45 C.F.R. §§ 164.512(e)(1)(ii)(B), 164.512(e)(1)(v), to enable the production and limit the use or disclosure of "protected health information" (as defined below) in this Action for notice and claims administration.

1. Class Counsel intends to subpoena certain pharmacies and pharmacy benefit managers for the names and addresses of persons who purchased Provigil or modafinil for the purposes of sending out Notice in this Action. In addition, Class Counsel intends to request Third-Party Payor Class Members provide information in a claim form regarding their reimbursements for purchases of Provigil or modafinil by their insureds. Thus, the Court finds there is a sufficient need for a protective order to ensure the confidentiality of protected health information.

2. This HIPAA Qualified Protective Order, as that term is defined in 45 C.F.R. § 164.512(e), orders that, for all protected health information obtained from a HIPAA "covered entity" or "business associate" of such a covered entity (as those terms are defined in 45 C.F.R. §

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160.103), Class Counsel, the Claims Administrator (A.B. Data) and anyone else disseminating notice or administrating claims in this Action, is hereby:

- (a) Prohibited from using or disclosing the protected health information for any purpose other than notice and claims administration in this Action; and
- (b) Required to destroy the protected health information (including all copies made) at the conclusion of the litigation of this lawsuit and all appellate proceedings at any level (or as otherwise ordered by the Court).

3. For the purposes of this HIPAA Qualified Protected Order, "protected health information" shall have the same scope and definition as set forth in 45 C.F.R. § 160.103; *i.e.*, "protected health information" is information that (a) has been created or received by a HIPAA covered entity or an employer; (b) relates to (i) the past, present or future physical or mental condition of an individual, (ii) the provision of health care to an individual or (iii) the past, present or future payment for the provision of health care to an individual, and (c) identifies the individual or reasonably could be expected to be used to identify the individual.

Dated: August 8, 2019

SO ORDERED

THE HONORABLE

MITCHELL S. GOLDBERG