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

UNITED STATES OF AMERICA, et al,	:	
	:	
Plaintiffs,	:	
	:	Civil Action No.
-vs-	:	00-737
	:	
	:	
MERCK-MEDCO MANAGED CARE, L.L.C., et al.,	:	
	:	
Defendants.	:	
	:	

CONSENT ORDER OF COURT FOR PERMANENT INJUNCTION

Plaintiff, United States of America, acting through the United States Department of Justice and the United States Attorney's Office for the Eastern District of Pennsylvania, and on behalf of itself, and its officers, agents, agencies, and departments, having instituted a civil action for injunctive relief under the Fraud Injunction Statute, 18 U.S.C. § 1345 (Count VI of the Amended Complaint) against the Defendants, Medco Health Solutions, Inc., Merck-Medco Managed Care, L.L.C., Medco Health Rx Services of Florida, L.C., Merck-Medco Rx Services of Florida, No. 2, L.C., Merck-Medco Rx Services of Nevada, Inc., Merck-Medco Rx Services of Texas, L.L.C., Robert Blyskal, and Diane Collins, and having consented to the entry of the instant Consent Order ("Consent Order" or "Order") for the purposes of settlement of Count VI only, without this Order constituting evidence against or any admission by any party, and without trial

of any issue of law or fact, with respect to covered conduct as identified herein, NOW THEREFORE, upon the consent of the parties hereto, IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

I. PARTIES TO CONSENT ORDER OF COURT FOR PERMANENT INJUNCTION

A. The United States of America is the plaintiff in this case.

B. Defendants are Medco Health Solutions, Inc., Merck-Medco Managed Care, L.L.C., Medco Health Rx Services of Florida, L.C., Merck-Medco Rx Services of Florida, No.2, L.C., Merck-Medco Rx Services of Nevada, Inc., Merck-Medco Rx Services of Texas, L.L.C., (*hereafter collectively referred to as* "Medco"). Medco Health Solutions, Inc. is a Delaware Limited Liability Corporation with business facilities in twelve states, including Pennsylvania. Medco has its principal place of business at 100 Parsons Drive, Franklin Lakes, NJ 07417. Medco is a pharmacy benefits manager, which administers pharmacy benefits for health plans and employers, including federal health plans. Medco also provides mail order prescription drug benefits to federal health programs for employees, retirees, and their dependents.

II. PREAMBLE

A. WHEREAS, the instant Consent Order addresses only the United States' civil claims brought pursuant to 18 U.S.C. § 1345 in Count VI of the Amended Complaint filed against Medco for the conduct described in United States et al. v. Merck-Medco Managed Care, L.L.C., et al., Civil Action No. 00-737 (Eastern District

of Pennsylvania).

B. WHEREAS, certain individuals (the "Relators") filed Civil Actions in the United States District Court for the Eastern District of Pennsylvania on behalf of the United States and several states, which were assigned civil action numbers 99-2332 and 00-737. The United States intervened in the civil actions filed by the Relators against Medco, and filed a Complaint-in-Intervention on September 29, 2003. The civil actions were consolidated under civil action number 00-737. The United States filed an Amended Complaint on December 15, 2003.

C. WHEREAS, it is alleged that programs managed by Medco provide prescription drug services to persons within this district and elsewhere, including Medicare beneficiaries receiving medical benefits through the Medicare + choice program, and employees of private employers and state and local governments whose benefits are paid in whole or in part by the United States. Medco also provides mail order prescription drug benefits to federal health programs for federal employees, dependents, and retirees. Medco operates prescription drug mail order pharmacies under the names of wholly owned subsidiaries. Each of Medco's prescription drug mail order pharmacies is licensed as a pharmacy under the applicable state laws in which it is located. Medco's mail order pharmacy is also licensed in each state to which it ships mail order prescriptions.

D. WHEREAS, it is alleged that at all relevant times, Medco's mail order pharmacy clients included federal employee and retiree group plans that provided pharmacy benefit coverage to eligible participants, the costs for which were paid in whole or in part by the United States. Such mail order pharmacy benefits were provided through contracts between Medco and the United States, or through subcontracts entered into by entities on behalf of the federal government.

E. WHEREAS, it is alleged that certain contracts governing Medco's provision of mail order services, the costs for which were paid in whole or in part by the United States, require Medco to adhere to specific quality assurance standards and require Medco to perform professional pharmacy services in accordance with state pharmacy laws and regulations and applicable codes of ethics.

F. WHEREAS, it is alleged that such contracts for mail order services also contain performance guarantees concerning the mail order pharmacy services Medco renders to federal clients. Such performance guarantees require Medco to pay monetary penalties if it fails to meet certain performance measures outlined in the contract.

G. WHEREAS, it is alleged that Medco implemented a drug program in which it targeted certain patients receiving a prescribed therapy to be switched to an alternate drug therapy through contact with the prescriber of the therapy. In

contacting the prescriber to solicit authorization to enroll a patient in a specific drug interchange program, Medco did not disclose the financial incentives and other economic benefits it and drug manufacturers received to the appropriate prescriber or to the patients targeted for the drug interchange.

H. WHEREAS, the United States contends in Count VI of the Amended Complaint, that it has certain civil claims against Medco under the Fraud Injunction Statute, 18 U.S.C. § 1345, specified in Section VII. B. below for canceling and destroying prescriptions, failing to perform professional pharmacists' services needed by patients and required by law, employing a drug interchange program without disclosing financial incentives underlying such a program to patients and prescribers, and creating false records of contact with prescribers.

I. WHEREAS, to avoid the delay, expense, inconvenience, and uncertainty of protracted litigation of the United States' claim for injunctive relief, set forth in Count VI, only, of the Amended Complaint filed in Civil Action Number 00-737, the United States and Medco have consented to the entry of the instant Consent Order of Court for Permanent Injunction and Settlement ("Order") for the purposes of this settlement only, without this Order constituting evidence against or any admission by any party as to other allegations of the Amended Complaint, and without trial of any issue of fact or law on the issues specifically addressed and released herein.

III. FINDINGS

A. This Court has jurisdiction over the subject matter of this case and of the parties consenting hereto for the purposes of entering into and enforcing this Order pursuant to 18 U.S.C. § 1345. The Court may grant declaratory and other relief necessary to enforce this Order pursuant to 18 U.S.C. § 1345.

B. Venue is proper as to all parties in the United States District Court for the Eastern District of Pennsylvania.

C. Medco has conducted business in the Eastern District of Pennsylvania by providing pharmacy benefit management services to clients within the district.

D. Medco has, by signature of its counsel hereto, waived any right to appeal, petition for certiorari, or move to reargue or rehear this judgment and order. Entry of this Order is in the public interest.

E. Entry of this Order does not constitute a finding of liability against Medco and Medco denies any and all allegations.

IV. DEFINITIONS

Defined Terms include:

"Actual Cost Savings" shall mean, with respect to a proposed Drug Interchange, the actual amount in dollars a Client Plan and Patient, respectively, will save in Net Drug Costs annually if a Drug Interchange occurs at the expected dosage, assuming the Patient will use the drug for twelve months.

"Bundled Drug" shall mean a drug for which a rebate is given only on the condition that other drugs from the same manufacturer are included on a formulary.

"Clear & Conspicuous" shall mean a disclosure in such size, color, contrast and location, that it is readily noticeable, readable and understandable; is presented in proximity to all information necessary to prevent it from being misleading or deceptive, in a manner that such information is readily noticeable, readable and understandable and not obscured in any manner; and if a print disclosure, it appears in a type size, contrast and location sufficient for a Patient consumer or Prescriber to read and comprehend it. A statement may not contradict or be inconsistent with any other information with which it is presented. If a statement modifies or is necessary to prevent other information from being misleading or deceptive, then the statement must be presented in proximity to that information, in a manner that is readily noticeable, readable, and understandable, and is not obscured in any manner. A print disclosure must appear in a type size, contrast and location sufficient for a Patient or Prescriber to read and comprehend it. For purposes of this Consent Judgment, nothing in this definition shall prevent Medco from disclosing prescription, health and safety information first.

"Client Plan" shall mean any governmental entity, employer, insurer, union or other entity that contracts directly with Medco

to provide or administer a pharmacy benefit for such plan and its Beneficiaries.

"Currently Prescribed Drug" shall mean a drug prescribed for a Patient that is the subject of a Medco Drug Interchange Solicitation.

"Drug" shall mean any substance or compound defined by a specific National Drug Code ("NDC").

"Drug Interchange" shall mean any change from one prescription drug to another, requested by Medco. "Drug Interchange," however, shall not include those Drug Interchanges:

a) initiated pursuant to a Drug Utilization Review;

b) initiated for Patient safety reasons;

c) required due to market unavailability of the Currently Prescribed Drug;

d) from a brand drug to its generic or chemical equivalent, as defined by the FDA;

e) required for coverage reasons, that is, where the Currently Prescribed Drug is not covered by the formulary or plan applicable to the Patient.

"Drug Interchange-Related Health Care Costs" shall mean a Patient's co-pay for tests, doctor visits, and other health care services that are incurred in accordance with a treating physician's instructions, and either a) are incurred as a result of a Drug Interchange, for the purpose of assessing the continuum

of the previous therapy, for up to six months following a Drug Interchange; or b) are incurred as a result of a Drug Interchange Solicitation, for the purpose of assessing whether to undertake a proposed Drug Interchange. With respect to co-pays that may be incurred for purposes of assessing whether to undertake a proposed Drug Interchange (within clause (b) above), if, following a Drug Interchange Solicitation, a Prescriber or Patient indicates that a proposed Drug Interchange will result in such costs being incurred, Medco in its discretion may cease to seek the proposed Drug Interchange. If a Patient, because of a deductible or cap requirement, pays actual costs of tests or doctor visits instead of co-pays, then that Patient's Drug Interchange-Related Health Care Costs shall be based on the co-pay (if any) that would apply upon satisfaction of the deductible or the co-pay applicable prior to the cap being met.

"Drug Interchange Solicitation" shall mean any communication by Medco for the purpose of requesting a Drug Interchange.

"Generic equivalent" shall mean a medication deemed chemically equivalent to a branded drug, signified by an AB rating by the Food and Drug Administration, approval for substitution on an applicable formulary, or approval for substitution by the Medco P&T Committee.

"Manufacturer Payments" shall mean any or all compensation or remuneration Medco receives from a pharmaceutical

manufacturer, including but not limited to, rebates, regardless of how categorized, market share incentives, commissions, mail service purchase discounts, and administrative or management fees. It also includes any fees received for sales of utilization data to a pharmaceutical manufacturer. It does not include purchase discounts based upon invoiced purchase terms. For purposes of Medco's "Manufacturer Payment Reports" provided to Client Plans hereunder, all "Manufacturer Payments" received by Medco fit into one of two categories defined herein, namely, "Manufacturer Formulary Payments" or "Manufacturer Additional Payments."

"Manufacturer Formulary Payments" shall mean Payments that Medco receives from a manufacturer in return for formulary placement and/or access, or payments that are characterized as "formulary" or "base" rebates or payments pursuant to Medco's agreements with pharmaceutical manufacturers.

"Manufacturer Additional Payments" shall mean all Manufacturer Payments other than Manufacturer Formulary Payments These payments are not provided by Medco to those Client Plans that have contracted to receive a certain share of "formulary" rebates or payments, although certain Client Plans may contract to receive a certain share of all Manufacturer Payments, including both "Formulary" and "Additional" Payments.

"Medco" shall mean Medco Health Solutions, its subsidiaries

including all state licensed pharmacy subsidiaries and affiliated companies, its corporate predecessors and successors, and their agents and employees, including pharmacists directly employed by Medco.

"Medco Total Product Revenue" shall mean Medco's net revenue which consists principally of sales of prescription drugs to clients, either through Medco's network of contractually affiliated retail pharmacies or through Medco's mail order pharmacies. Where Medco acts as a principal in accordance with generally accepted accounting principles, which is the case in the majority of Medco's client contracts, revenues are recognized at the prescription price negotiated with clients, as well as the associated administrative fees.

"Minimum Cost Savings" shall mean the minimum amount in dollars a Client Plan and Patient, respectively, will save in their costs annually if a Drug Interchange occurred at the expected dosage.

"Net Drug Cost" shall mean the price Medco charges a Client Plan and/or Patient for a prescription drug whether that drug is delivered through a retail pharmacy or mail order. The Net Drug Cost may take into account all discounts, rebates, credits or other payments that lower the cost of the drug, to the extent such payments are provided to the Client Plan. Net Drug Cost may be reduced by Manufacturer Payments to the extent those payments

are provided to the Client Plan, but shall not be reduced by Manufacturer Payments that are paid to and retained by Medco.

"Patient" shall mean a person whose prescription drug benefit is administered by Medco.

"P&T Committee" shall mean the Pharmacy & Therapeutics Committee ("P&T Committee") which is maintained by Medco and governed by Medco's P&T Committee Charter. The P&T Committee is comprised of at least seven members, all of whom shall be physicians, pharmacists, or other health care professionals, and a majority of whom are actively practicing and who are not employed by Medco, responsible for determining Medco's standard formularies, the clinical appropriateness for Medco concerning Medco's Drug Interchange programs, developing and maintaining clinical criteria used as a basis for Medco's standard coverage management program, and other responsibilities pertaining to the clinical components of programs and services designed to effect drug utilization.

"Prescriber" means a physician, dentist, physician's assistant, optometrist or other health care professional authorized by law to write prescriptions for prescription drugs.

"Proposed Drug" shall mean the drug or drugs that Medco, in its Drug Interchange Solicitation, proposes to substitute for a Currently Prescribed Drug.

"Rebate" shall mean any remuneration other than that

required to be paid to any Medicaid rebate program, pursuant to 42 U.S.C.1396b.

V. INJUNCTION

A. Restrictions on Drug Interchanges and Required Disclosure of Pricing Information

Unless otherwise specifically directed by a Client Plan with respect to a proposed Drug Interchange, Medco shall not do any of the following:

1. Make any Drug Interchange Solicitation where the Net Drug Cost of the Proposed Drug exceeds that of the Currently Prescribed Drug. Medco shall allocate Bundled Drug rebates and discounts to the Net Drug Cost of each drug in the manner agreed to between Medco and the Client Plan.

2. Make any Drug Interchange Solicitation where the Currently Prescribed Drug has generic equivalents and the Proposed Drug has no generic equivalents, unless the Proposed Drug has a lower Net Drug Cost than all generic equivalents of the Currently Prescribed Drug.

3. Make any Drug Interchange Solicitation where the patent protection for the Currently Prescribed Drug is scheduled to expire within six months of the Drug Interchange Solicitation, or where the effect of the proposed Drug Interchange reasonably is to avoid substitution for, or generic competition against, the Currently Prescribed Drug (excepting Drug Interchanges with the effect of decreasing Net Drug Costs).

4. Make any Drug Interchange that fails to disclose to Prescribers and Patients, Clearly and Conspicuously, Minimum Cost Savings, or Actual Cost Savings, as well as the difference, if any, in co-payments to be made by the Patient (or absence of effect on co-payments, if such is the case). When making these disclosures, Medco may reasonably rely on information provided by the Client Plan with respect to eligibility and co-payments, irrespective of deductibles and caps.

5. Make any Drug Interchange Solicitation to a Patient who, within two years preceding the solicitation, and with respect to the same therapeutic class involved in the proposed Drug Interchange, has either a) interchanged his or her drug following a Drug Interchange Solicitation from Medco or b) interchanged his or her drug following a Medco Drug Interchange Solicitation but had the Interchange reversed, unless all of the Proposed Drugs in the current Drug Interchange Solicitation were not among the Proposed Drugs in the prior Drug Interchange Solicitation.

B. Medco's Payment of Drug Interchange-Related Health Care Costs

1. Medco shall pay all out-of-pocket costs for Drug Interchange-Related Health Care Costs incurred by a Patient by reimbursing the Patient for such costs, within thirty days of receipt of a claims form for such costs.

2. Medco shall enact and follow a procedure for

reimbursing Patients such out-of-pocket costs, by which Medco shall, without limitation, (a) permit Patients, Prescribers or Treating Physicians to request such reimbursement, by phone or in writing, and (b) upon such request, provide a single-page claim form (with instructions) to request reimbursement. For reimbursement requests initiated by Patients (not Prescribers or Treating Physicians), Medco may (but need not) require that the Patient's reimbursement claim provide information showing that Interchange-Related Health Care Costs were incurred, which requirement may be satisfied by a Physician or Prescriber's notation at a designated place on the claim form, or by providing a Physician's written order, or other evidence showing payment of costs (e.g., co-pays for tests or doctor visits) incurred as a result of a Drug Interchange. Medco shall not directly or indirectly prevent or discourage Patients or Doctors from requesting or receiving reimbursement for Drug Interchange-Related Health Care Costs.

3. Medco's written communications to both Prescribers and Patients concerning Drug Interchanges, as set forth below, shall Clearly and Conspicuously disclose Medco's policy, consistent with this Section V, with respect to Drug Interchange-Related Health Care Costs. Medco's telephone communications with Prescribers and Patients concerning Drug Interchanges, as set forth below, shall communicate the existence of Medco's policies

with respect to Drug Interchange-Related Health Care Costs. In its communications with Prescribers, Patients and Client Plans, Medco shall not misrepresent, directly or indirectly, its policy with respect to Drug Interchange-Related Health Care Costs.

4. Should Drug Interchange-Related Health Care Costs paid to a Patient with respect to any particular Interchange exceed $500.00, Medco, while complying with the timely reimbursement requirement set forth in B.1., above, may, in its sole discretion, choose to have a third party chosen by Medco to review the costs paid. If a determination is made that the costs were not related to an Interchange, nothing herein shall prevent Medco from pursuing any legal remedies Medco may have against the Patient and any other party involved.

C. Medco's Drug Interchange Solicitation Process and Disclosure of Pricing Information

1. Drug Interchange Solicitation to Prescribers.

Medco shall not interchange (or obtain an interchange promise for) the prescription drug of any Patient without first obtaining express verifiable authorization from the Prescriber of the Currently Prescribed Drug. All Medco Drug Interchange Solicitations to a Prescriber shall:

a) identify the name and title of the person making the Drug Interchange Solicitation;

b) state that Medco is soliciting a Drug Interchange;

c) identify the Minimum Cost Savings or Actual Cost

Savings to be achieved by interchanging to the Proposed Drug from the Currently Prescribed Drug

d) describe under what circumstances the Currently Prescribed Drug will continue to be covered by the Client Plan, if such is the case;

e) describe the difference in co-pay, if any, or the absence of effect on co-pay, if such is the case;

f) if Medco receives Manufacturer Payments from a drug manufacturer as a result of the Proposed Drug Interchange or the Interchange Solicitation that is not reflected in Net Drug Cost because it is compensation that does not inure to Medco's Client Plan, Medco shall disclose that it receives such compensation or potential compensation;

g) Disclose the existence of Medco's policy with respect to Drug Interchange-Related Health Care Costs outlined in Section V.B. If the Drug Interchange Solicitation is written, this disclosure shall be clear and conspicuous and direct the Prescriber to the written communication (Confirmation to Prescribers, provided below) for details. If the Drug Interchange Solicitation is by telephone, Medco may disclose its policy by directing the Prescriber to the written communication for details.

h) Disclose any material differences, as determined by the Medco P&T Committee, between the Currently Prescribed Drug and the Proposed Drug with respect to side effects or potential effects on patient health and safety.

2. Authorization and Written Confirmation to Prescribers for Drug Interchanges for home delivery or promises for Drug Interchanges obtained at retail.

(a) Medco shall not Interchange a Patient's drug absent express verifiable authorization from the Prescriber, as communicated (i) directly by the Prescriber (in writing or verbally) or (ii) by a person who affirms (in writing or verbally) that the Interchange has been authorized by the Prescriber. If such authorization is by a person other than the Prescriber and verbal, Medco shall request that person's first and last name and title or position.

(b) Medco shall maintain records memorializing, with respect to each Drug Interchange, how express verifiable authorization was obtained, including the name of the person providing express verifiable authorization of the Drug Interchange (to the extent that the last name is provided, it

will be included); whether the authorization was written or verbal; and, if verbal and by a person other than the Prescriber, that person's title or position, if provided.

(c) Upon such express verifiable authorization of a Drug Interchange, Medco shall send a written communication to the Prescriber confirming the Interchange. If the Solicitation (containing the requirements above) was not in writing, then the written confirmation shall include the information required in Section V.C.1. above. Regardless whether the Interchange Solicitation was in writing, the written confirmation shall:

i) identify the Minimum Cost Savings or Actual Cost Savings resulting from the interchange;

ii) Clearly and Conspicuously disclose Medco's policy with respect to Drug Interchange-Related Health Care Costs, in accordance with Section V. B. above; and

iii) provide a toll free telephone number for the Prescriber.

3. Interchange Confirmation to Patient.

With respect to Medco home delivery prescriptions, within 24 hours of express verifiable authorization of a Drug Interchange by the Prescriber or dispensing the Proposed Drug, whichever is

earlier, Medco shall send to the Patient a written communication ("Written Patient Drug Interchange Notice,") and make a telephonic communication ("Telephonic Patient Drug Interchange Notice") advising the Patient of the Prescriber's approval of the Drug Interchange. Following express verifiable authorization of a Prescriber's approval of a Drug Interchange for a non-home delivery prescription, Medco shall send the Patient a Written Patient Drug Interchange Notice. The Written Patient Drug Interchange Notice shall Clearly and Conspicuously:

a) state that Medco requested a Drug Interchange by contacting the Patient's Prescriber;

b) state that, following Medco's Interchange Solicitation, the Prescriber approved the Drug Interchange;

c) not represent that the Prescriber initiated the Interchange;

d) identify the Proposed Drug and the Currently Prescribed Drug;

e) identify the Minimum Cost Savings or Actual Cost Savings;

f) describe under what circumstances the Currently Prescribed Drug will continue to be covered by the Client Plan, if such is the case;

g) describe the difference in co-pay, if any, or the

absence of effect on co-pay, if such is the case;

h) if Medco receives compensation from a drug manufacturer as a result of the Proposed Drug Interchange or the Drug Interchange Solicitation that is not reflected in the Net Drug Cost because it is compensation that does not inure to Medco's Client Plan, Medco shall disclose the fact of such compensation or potential compensation;

i) disclose Medco's policy with respect to Drug Interchange-Related Health Care Costs, in accordance with Section V. B. above; and

j) advise the Patient that he or she may decline the Drug Interchange in which case the Patient will receive the Currently Prescribed Drug, if the currently Prescribed Drug remains on the Client Plan's formulary and the Patient is willing to pay any difference in Co-Pay.

The Telephonic Patient Interchange Notice made for Medco home delivery Drug Interchanges shall:

a) state that Medco requested a Drug Interchange by contacting the Patient's Prescriber;

b) state that, following Medco's Interchange Solicitation, the Prescriber approved the Drug Interchange;

c) not represent that the Prescriber initiated the interchange;

d) advise the Patient that further written information about the Drug Interchange will arrive in the mail and give a toll-free telephone number so that the Patient may speak to a customer service representative about the Interchange.

4. Rejected Interchanges.

Unless a Currently Prescribed Drug is no longer on the Client Plan's formulary or the Patient is unwilling to pay any higher applicable Co-Pay or other costs, Medco shall cancel and reverse the Drug Interchange upon written or verbal instructions from a Prescriber or Patient. Medco shall maintain a toll free telephone number(s) during business hours (currently 8:00 a.m. to 8:00 p.m. Eastern, but in any event at least eight hours a day, Monday through Friday) to field telephone calls from Patients and Prescribers in response to Medco's interchange confirmations, and the customer service standards (e.g., waiting time) for those telephone numbers shall be equivalent to Medco's other customer service standards. Upon cancellation, if Medco has not yet dispensed the Proposed Drug, Medco, upon approval of the Prescriber, shall dispense the Currently Prescribed Drug. If Medco has already dispensed the Proposed Drug, Medco shall obtain a prescription for, and dispense the Currently Prescribed Drug, and Medco shall charge the Patient only one co-pay and shipping

and handling fees (so that a proposed but reversed Interchange will not increase Patient costs beyond the costs had Medco dispensed the Currently Prescribed Drug). Unless otherwise provided by contract with a Client Plan, Medco shall also bear the expense of shipping the Proposed Drug back to Medco (either by offset or by reversing and crediting the initial co-pay). Medco will provide notice to Client Plan that Client Plans may request information regarding the costs to it resulting from a Patient's rejection of a Proposed Drug Interchange. In the event a Patient will exhaust his or her supply of the Currently Prescribed Drug before a replacement shipment will arrive to the Patient, Medco shall arrange for dispensing of an appropriate quantity of replacement medications at a participating Medco network pharmacy at no additional cost to the Patient. Further, in the event that a Patient reverses an Interchange and Medco is unable to obtain approval from the Prescriber (or a physician covering for Prescriber) for the Currently Prescribed Drug, Medco shall take reasonable steps to provide either the Currently Prescribed Drug or the Proposed Drug before the Patient exhausts his or her existing supply.

5. P & T Committee representations in all Interchange Communications.

All drug interchanges must be approved by the Medco P&T Committee before implementation. With respect to all Drug Interchange Solicitations and communications related to Drug

Interchanges, Medco shall not misrepresent the role of Medco's P&T Committee in initiating, reviewing, approving or endorsing a Proposed Drug Interchange or Interchange Solicitation. If Medco mentions the P&T Committee in any Interchange Solicitation or communication related to Drug Interchanges, Medco shall clearly and conspicuously:

a) disclose the role of Medco's P&T Committee in Medco's Interchange proposal;

b) disclose that the Interchange being proposed by Medco was not initiated by the P&T Committee and not initiated due to medical care considerations;

c) disclose that the P&T Committee did not consider cost issues, if such is the case.

6. With respect to the operation of the P&T Committee, Medco shall provide to each plan (at the Plan's expense, unless the Client Plan contract otherwise provides), upon request:

a) copies of all information provided to the P&T Committee;

b) copies of all meeting minutes of the P&T Committee;

i) Minutes shall include the list of attendees at the meeting, the record of all votes to approve or disapprove a drug for the formulary, or drug interchange or other

action undertaken by the committee, a summary of any discussion of material differences between a Currently Prescribed Drug and a Proposed Drug with respect to side effects or potential effects on patient health and safety, and a summary of all discussions on each agenda point.

In addition, regardless whether provided by contract, Medco shall advise each plan that it may send a representative, at the plan's expense, to attend any P&T Committee meeting, subject to reasonable space limitations, which may restrict the number of such observers at each meeting to five plans.

7. In the event Medco's P&T Committee approves a Drug Interchange with conditions, Medco shall provide a complete description of such conditions to the Prescriber at the time of the Interchange Solicitation.

D. Medco Monitoring of Interchange Health Effects

1. Medco shall monitor the effects of Drug Interchanges requested by Medco upon the health of Patients, and shall report to Medco's P&T Committee, not less than quarterly, the results of such monitoring. Such monitoring shall include, without limitation, a system designed to a) identify Patient and Prescriber communications with Medco that concern the efficacy or health effects of a Drug Interchange, and b) capture information

from such communications in a manner that Medco can collect, and generate reports on, Patient and Prescriber communications concerning Drug Interchanges. Medco shall report the results of such monitoring to Medco's P&T Committee, not less than quarterly, and the P&T Committee shall reasonably consider the results of Medco's monitoring.

E. Medco's Disclosure to Client Plans of Compensation From Drug Manufacturers

1. Quarterly and Annual Disclosures. With respect to each Client Plan that has contracted to receive (directly or by credit) any Manufacturer Payments from Medco, for each Medco Fiscal Year during which the Client Plan receives any such Manufacturer Payments, Medco shall provide those Client Plans, for each Medco fiscal quarter and year, a Manufacturer Payments Report. Medco's Manufacturer Payment Reports shall identify, for the reported fiscal quarter or year (the "reporting period"), the information set forth below at (a) through (e). If the precise reported figure is not known by Medco at the time of its report, Medco shall provide its current best estimate of the reported information, provided that, with respect to each report, should the reported information subsequently need revision in accordance with generally accepted accounting principles, Medco will provide an update to the reported information to reflect that revision.

a) the dollar amount of Medco Total Product Revenue (as defined) for the reporting period, with

respect to Medco's entire client base, together with:

b) the dollar amount of total drug expenditures for each Client Plan;

c) the dollar amount of all Manufacturer Payments earned by Medco for the reporting period;

d) the percentage of all Manufacturer Payments earned by Medco for the reporting period that were Manufacturer Formulary Payments; and

e) the percentage of all Manufacturer Payments received by Medco during the reporting period that were Manufacturer Additional Payments.

Medco's Manufacturer Payment Reports shall present the above information in a clear and conspicuous manner that serves to inform Client Plans of all Manufacturer Payments earned by Medco, including, for instance, those Client Plans that share only in Manufacturer Formulary Payments but not Manufacturer Additional Payments.

2. Disclosure at Contracting Stage. Medco shall disclose to each Client Plan or prospective Client Plan, in advance of executing an agreement (whether an initial or renewal contract) with such Client Plan:

a) that Medco will solicit and receive Manufacturer Payments and that Medco may pass through those

payments to Client Plans or may retain those payments for itself, depending on contract terms.

b) the information set forth in Medco's Manufacturer Payment Report pursuant to Section E.1 (a), (c), (d) and (e) above, concerning the most recent Medco fiscal year for which such information is publicly available, at the time of the communication under this section.

c) that Medco will report, quarterly and annually, on Manufacturer Payments, consistent with Section E.1. above.

F. Pharmacy and Operational Practices and Procedures at Medco Mail Order and Call Center Pharmacies

1. Medco shall adopt the Code of Ethics of the American Pharmacists Association ("APhA") that is in effect on the date of this Consent Order for its employed pharmacists. Medco accepts the APhA Principles of Practice for Pharmaceutical Care ("APhA Principles") as a framework for the ongoing evolution of its pharmacy practice. Nothing in Medco's Standard Operating Procedures, personnel practices, and incentive programs at its mail order and call center pharmacies shall be inconsistent with state pharmacy law and regulations. No Medco supervisor or manager shall instruct any employee to engage in conduct which is inconsistent with the APhA Code of Ethics or state pharmacy law and regulations. Upon the Effective Date of this Consent Order,

Medco will give the APhA Code of Ethics and the APhA Principles to all mail order and call center staff with any necessary explanations to make clear to staff that Medco requires adherence to, or accepts as a framework for its pharmacy practices, these objectives established by the profession. During the pendency of this Consent Order, Medco will provide the APhA Code of Ethics and the APhA Principles to persons who join the mail order and call center staff as either a level 3 or level 4 employee, pharmacist, pharmacy manager, or technician. Medco will post the APhA Code of Ethics and APhA Principles electronically and conspicuously in each of its mail order and call center work sites with the foregoing explanations.

2. Medco shall make available to its mail order and call center employees, Client Plans, and Patients copies (which may be in electronic form or available on a web site) of the AphA Code of Ethics and APhA Principles.

3. Medco shall require its pharmacies, pharmacists, pharmacy technicians, and other employees to comply with all state law requirements governing their professional practice.

4. Medco shall permit its pharmacists to give good faith, professional opinions.

5. Medco shall require that its pharmacists form an independent professional judgment that a Drug Interchange would be in a Patient's best pharmacological interest before soliciting a Drug Interchange.

G. Additional Price Transparency Remedies

1. Medco shall not refuse to respond to a Request for Proposal or Request for Bid from a plan on the grounds that the proposal does not use AWP or prohibits the use of AWP in pricing terms and Medco, if so asked, shall communicate to each plan that pricing methods other than use of AWP are available.

2. Medco shall not describe relative prices of drugs by use of symbols or other indirect means without disclosing a price range those symbols represent.

VI. POSSIBLE PAYMENT OF COSTS AND FEES TO THE UNITED STATES

The instant Consent Order and Permanent Injunction constitute the resolution and settlement of Count VI of the Amended Complaint filed in United States, et al. v. Merck-Medco Managed Care, L.L.C., et al., Civil Action No. 00-737 (Eastern District of Pennsylvania), relating to claims brought against Medco by the United States pursuant to 18 U.S.C. § 1345. Attorney's fees, investigative costs, restitution, penalties, and the costs of litigation related to the Section 1345 claims, if any, are inextricably linked with the remaining claims set forth in the civil action. Therefore, the United States and Medco agree to forego an agreement on payment of monies to the United States related to said costs and fees until such time as the remaining portions of Civil Action No. 00-737 have been resolved by agreement or other means.

VII. GENERAL PROVISIONS

A. Scope of Consent Order. This Consent Order is entered into pursuant to 18 U.S.C. § 1345 and is applicable to Medco Health Solutions, Inc., its officers, agents, employees, and attorneys, and all those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, or other device.

B. Release of Claims.

1. By its execution of the Consent to Entry of Order attached hereto, and in consideration of and in accordance with Medco's agreement to be legally bound by the injunctive provisions contained in the instant Consent Order, the United States, on behalf of itself, and its officers, agents, agencies, and departments (collectively, "Releasors"), upon the Effective Date (as defined in Section VII.I. below), releases and forever discharges Medco, its past and present subsidiaries, affiliates, predecessors and successors and each of the past and present officers, directors, attorneys, insurers, and assigns of any of the foregoing (collectively, the "Released Parties") from all manner of claims for injunctive relief under 18 U.S.C. § 1345, or any other potential theory for injunctive relief, related to the conduct set forth in Section VII.C. below (the "Covered

Conduct"), in law or equity, that any Releasor ever had, now has or hereafter can, shall or may have, whether known or unknown, suspected or unsuspected, and/or contingent or non-contingent, against any Released Party (the "Released Claims").

2. This Consent Order may be pleaded as a full and complete defense to any claim released hereunder that may be instituted, prosecuted, or attempted with respect to any of the Released Claims.

C. Covered Conduct.

The specific conduct covered by this Consent Order is for the period through the effective date of this Consent Order and is: all pharmacy and operational practices and procedures at Medco's mail order and call center pharmacies, including but not limited to, drug ("therapeutic") interchanges, the type and amount of contact between Medco mail order and call center pharmacies, on the one hand, and physicians, patients, and participants on the other, and personnel practices and activities related to productivity requirements and quotas; rebates and other payments made to Medco by pharmaceutical companies; performance and operation of the Medco Pharmacy and Therapeutics Committee; contractual and performance guarantees, incentives and penalties; and all matters pled by the Amended Complaint except as specifically preserved below.

D. Specifically excluded conduct.

Medco specifically acknowledges that this settlement and Consent Order does not encompass a settlement or release of any claim, right, or cause of action for monetary damages, restitution, or penalties sought in Count I, (False Claims Act, 31 U.S.C. § 3729 et seq.), Count II, (the Anti-Kickback Act, 41 U.S.C. § 51, et seq.), and Counts III, IV, and V, (principles of common law and equity), of the Amended Complaint filed in Civil Action Number 00-737. Furthermore, nothing in this Consent Order precludes a Party from presenting evidence support or defense of its litigation position with respect to Counts I, II, III, IV, and V of the Amended Complaint filed in Civil Action Number 00-737.

Notwithstanding any term of the instant Consent Order, the United States specifically does not release Medco and all of its subsidiaries, affiliates, assigns, corporate predecessors, and successors from any and all of the following:

1. any claims for damages, restitution, and penalties under the False Claims Act, 31 U.S.C. § 3729 et seq., the Anti-Kickback Act, 41 U.S.C. § 55(a)(1)(B), and common law;
2. any criminal, civil, or administrative claims arising under Title 26, U.S. Code (Internal Revenue code);

3. any liability to the United States (or agencies thereof) for any conduct other than the Covered Conduct;

4. any claims based upon obligations created by this Consent Order;

5. any administrative liability, including exclusion from federal health care programs;

6. any express or implied warranty claims or other claims for defective or deficient products and services provided by Medco;

7. any claims for personal injury or property damage or for other consequential damages arising from the Covered Conduct;

8. any claims based on a failure to deliver items or services due on a timely basis;

9. any civil or administrative claims against individuals, including current and former directors, officers, and employees of Medco, its subsidiaries, affiliates, assigns, corporate predecessors and successors;

10. any criminal claims against Medco, its subsidiaries, affiliates, assigns, corporate predecessors and successors, individuals, including current and former directors, officers, and employees of Medco, its subsidiaries,

affiliates, assigns, corporate predecessors and successors;

11. any claims relating to Best Price, Average Wholesale Price, Wholesale Acquisition Cost reporting practices, Medicaid fraud or abuse.

E. Resolution of Injunctive Claims. The United States agrees that it shall not proceed with or institute any civil action or proceeding based upon 18 U.S.C. § 1345 or any other theory of injunctive relief, against Medco, or seek injunctive relief for any conduct undertaken or omissions prior to the Effective Date which relates to the Covered Conduct. Medco may plead this Order as a full and complete defense to any claim, whether class, individual, or otherwise in nature, released hereunder that may be instituted, prosecuted, or attempted by the United States with respect to the Covered Conduct.

Moreover, the United States does not release any claim arising under statutes, laws, or regulations other than those identified in Section VII.C. herein, and arising out of the Covered Conduct which is the subject matter of this Consent Order. In addition, the United States does not release any claim, right or cause of action that could be brought by any person or entity other than the United States. The United States may institute an action or proceeding to enforce the terms and provisions of this Consent Order or take action based on future

conduct by Medco and its subsidiaries, affiliates, assigns, corporate predecessors and successors.

F. Preservation of Law Enforcement Action. Nothing herein precludes the United States from enforcing the provisions of this Consent Order, or from pursuing its claims in the Amended Complaint or any law enforcement action with respect to the acts or practices of Medco not covered by this Consent Order or any acts or practices of Medco conducted after the Effective Date of this Consent Order.

G. Compliance with and Application of Federal Law. Nothing herein relieves Medco of its duty to comply with applicable laws of the United States nor constitutes authorization by the United States for Medco to engage in acts and practices prohibited by such laws.

H. Non-Approval of Conduct. Nothing herein constitutes approval by the United States of Medco's therapeutic interchange program or other business practices. Medco shall not make any representation contrary to Section VIII. H. of this Consent Order.

I. Effective Date. The "Effective Date" shall be the date that Medco executes the attached Consent form.

J. Effective Date of Section V. Notwithstanding that Medco shall endeavor to comply with all injunctive terms in Section V as promptly as practicable, Sections A.4, A.5, B, C, D,

E, and F.1, all in Section V above, shall be effective 120 days after the Effective Date.

IX. COMPLIANCE PROVISIONS

A. Within 30 days after the Effective Date of this Order, Medco must provide a copy of this Order and obtain a signed and dated acknowledgment of receipt from:

1. each officer and director;
2. Medco senior management, namely, the top 200 leadership positions at Medco, which shall include the Chief Executive Officer, each position that reports to the CEO (excluding Administrative Assistants), each position that reports to a position that reports to the CEO (excluding Administrative Assistants), and all other "grade 3" employee positions under Medco's current grading system;
3. all managers within each of Medco's mail order and call center pharmacies, and pharmacists involved in drug interchange communications with patients or prescribers; and
4. each customer service representative to whom a telephone call concerning Drug Interchanges may be directed in the routine routing of calls.

B. For five years from the Effective Date, Medco shall provide a copy of this Order and obtain a signed and dated acknowledgment of receipt from future personnel described in A.1

through A.4 of this Section IX within 30 days after the person assumes such position or responsibilities.

C. Medco shall make this Order accessible to Client Plans and Patients through its website.

D. Medco shall maintain an executive review panel to assess, on a quarterly basis, Medco's compliance with this Order. The executive review panel shall develop, maintain, and distribute methods and procedures ("M&Ps") establishing a code of conduct consistent with the APhA Code of Ethics and state pharmacy law and regulations for all Medco employees engaged in drug interchange programs. The M&Ps must be designed to establish quality standards for the manner in which information is disseminated to Prescribers and Patients by Medco employees regarding drug interchanges.

E. Medco will review the M&Ps annually with their pharmacists and all other personnel involved with the drug interchange program. As warranted, the panel will review and/or recommend initiatives to ensure that Medco's drug interchange practices and disclosures to Prescribers, Patients and Client Plans comply with this Order.

F. Medco shall create and retain, for a period of five (5) years following the date of creation, books and records that in reasonable detail accurately reflect Medco's compliance with this

Order. These records must include, but are not limited to, the following:

1. documents reflecting the current addresses, telephone numbers, fax numbers and email addresses for Medco and its subsidiaries, including all Medco mail order and call center pharmacies;
2. the original signed and dated acknowledgments of the receipt of the Order described in subsection (1) of Section IX. F;
3. documents provided to or received from Client Plans concerning all Client Plans' instructions, if any, concerning opting out of any provisions of this Order;
4. an exemplar of each written notice sent to Prescribers regarding Drug Interchanges;
5. an exemplar of each written notice sent to Patients regarding Drug Interchanges;
6. a copy of each script used in telephonic communications with Prescribers and Patients relating to Drug Interchanges;
7. a copy of all training materials used to inform employees of the requirements of this Order;
8. a copy of all M&Ps developed by the executive review panel;
9. the P&T Committee information described in Section V.C. 6.;

10. documents concerning the drug pairs subject to Drug Interchanges;

11. documents reflecting Patient rejections of Drug Interchanges; and

12. Exemplars of Medco's quarterly and annual disclosures to client plans required by Section V. E. of this Order.

G. One year after the Effective Date, and then annually for five years from the Effective Date, Medco shall provide to the United States Attorneys Office for the Eastern District of Pennsylvania a certification, signed by a Medco senior officer, certifying Medco's compliance with this Consent Order. Medco's annual certification may be accompanied by a report showing the manner in which Medco has complied with the Consent Order.

H. For a period of five years beginning on the Effective Date of this order, and within thirty (30) days of a written request by the United States, Medco shall provide to the United States:

1. Copies of the documents described in the preceding paragraph; and

2. such other records and documents as the United States determines reasonably bear on compliance with this Order.

I. Nothing in this Order limits the United States' lawful use of compulsory process to investigate whether Medco has violated any provision of law enforced by the United States.

X. ADMINISTRATIVE PROVISIONS

A. Jurisdiction is retained of this matter for all purposes, including but not limited to, the purpose of enabling any of the parties to this Order to apply to the Court at any time for such further orders or directives as may be necessary or appropriate for the interpretation or modification of this Order, for the enforcement of compliance therewith or for the punishment of violations thereof.

B. The United States shall give Medco 30 days' notice before filing a motion or other pleading seeking contempt of court or other sanctions for violation of this Consent Order. The giving of such notice shall not prevent the United States from beginning such proceeding following the expiration of the 30 day period.

C. Any party to this Consent Order may petition the Court for modification on thirty (30) days' notice to all other parties to this Consent Order. Medco may petition for modification if it believes that the facts and circumstances that led to the United States' action against Medco have changed in any material respect. The parties by stipulation may agree to a modification of this Consent Order, which agreement shall be presented to this

Court for consideration; provided that the parties may jointly agree to a modification only by a written instrument signed by or on behalf of both Medco and the United States. If Medco wishes to seek a stipulation for a modification from the United States, it shall send a written request for agreement to such modification to the United States at least 30 days prior to filing a motion with the Court for such modification. Within 30 days of receipt from Medco of a written request for agreement to modify, the United States shall notify Medco in writing if the United States agrees to the requested modification.

D. Upon execution of the attached Consent to Entry of Order by the parties and approval of the Order by the Court, the parties shall jointly notify the Court that the United States' claims set forth and covered by Count VI of the Amended Complaint filed in Civil Action Number 00-737, shall be dismissed with prejudice pursuant to and consistent with the terms and conditions of this Consent Order, with the exception of claims reserved and relating to attorneys' fees, costs of investigation and litigation, damages, and restitution.

E. Medco, on behalf of its subsidiaries, affiliates, assigns, corporate predecessors and successors fully and finally releases, waives, and discharges the United States, its agencies, employees, servants, and agents from any claims (including attorneys' fees, costs, and expenses of every kind and however denominate) which Medco has asserted, could have asserted, or may

assert in the future against the United States, its agencies, employees, servants, and agents, related to or arising from the United States' investigation and prosecution of Count VI of the Amended Complaint.

F. By entering this Consent Order, Medco does not admit the allegations made in the above-captioned action and does not admit fault or liability for claims asserted in this action or for any other claims.

G. Medco agrees to the following:

1. Unallowable Costs Defined: that all costs (as defined in the federal Acquisition Regulations ("FAR") 48 C.F.R. § 31.205-47 and in Titles XHIII and XIX of the Social Security Act, 42 U.S.C. § § 1395-1395ggg and 1396-1396v, and the regulations and official program directives promulgated thereunder) incurred by or behalf of Medco, its predecessor, parent, divisions, subsidiaries, or affiliates, and its present or former officers, directors, employees, and agents in connection with the following shall be "Unallowable Costs" on contracts with the United States and under the Medicare Program, Medicaid Program, TRICARE, and FEHBP: (a) the matters covered in this Consent Order; (b) the United States' civil investigation and Amended Complaint relating to matters covered by this Consent Order; (c) Medco's investigation, defense, and any corrective actions undertaken in response to the United States' civil

investigation and Amended Complaint in connection with the matters covered by this Consent Order; (d) the negotiation and performance of this Consent Order; (e) any future payment that Medco may make for costs and attorneys fees the negotiation of and obligations undertaken pursuant to this Consent Order.

2. Future Treatment of Unallowable Costs: If applicable, these Unallowable Costs shall be separately estimated and accounted for by Medco and Medco shall not charge such Unallowable Costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such Unallowable Costs through any cost report, cost statement, information statement, or payment request submitted by Medco, its subsidiaries, affiliates, assigns, corporate predecessors and successors.

3. Treatment of Unallowable Costs Previously Submitted for Payment: If applicable, Medco further agrees that within 60 days of the Effective Date of this Consent Order, it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and Federal Employee Health Benefit Plan fiscal agents, any federal employee health benefit program, any Unallowable Costs (as defined in this Section X) included in payments previously sought from the United States, or any State Medicaid Program, including but not limited to, payments made in any costs reports, cost statements, information reports, or payment requests already submitted by Medco,

subsidiaries, affiliates, assigns, corporate predecessors and successors, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the Unallowable Costs. Medco agrees that the United States shall be entitled to recoup from Medco any overpayment, plus applicable interest, as a result of the inclusion of such Unallowable Costs on previously-submitted cost reports, information reports, cost statements, or requests for payment. Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice, and/or affected agencies. The United States reserves its rights to disagree with any calculations submitted by Medco or its parent, divisions, subsidiaries or affiliates on the effect of inclusion of Unallowable Costs (as defined in this Section) on Medco, subsidiaries, affiliates, assigns, corporate predecessors and successors' cost reports, cost statements, or information reports. Nothing in this Consent Order shall constitute a waiver of the rights of the United States to examine or reexamine the Unallowable Costs described in this Section X.

4. Except as provided in Section VI, each party to this Consent Order shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance pursuant to the terms of this Order.

5. Each of the United States and Medco represent that it has given its consent to this Order freely and voluntarily without any degree of duress of compulsion whatsoever.

6. This Consent Order is governed by the laws of the United States, including without limitation any statutes of limitation. Medco and the United States agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Consent Order shall be the United States District Court for the Eastern District of Pennsylvania.

7. The Effective Date of this Consent Order shall be on the date of signature of the last signatory to the Consent to Entry of Order. Facsimiles of signatures shall constitute acceptable binding signatures for purposes of this Consent Order.

8. This Consent Order shall be binding on all successors, transferees, heirs, and assigns of the United States and Medco.

9. This Consent Order, together with all attachments, if any, constitutes the complete agreement between the United States and Medco with regard to the Covered Conduct. This Consent Order shall not be amended except by written consent of the United States and Medco in a manner consistent with the terms of Section X. C. above.

BY:

Elizabeth S. Ferguson, Esquire
Medco Health Solutions, Inc.
100 Parsons Pond Drive
Mail Stop F3-17
Franklin Lakes, NJ 07417

BY:

PATRICK L. MEEHAN
United States Attorney

JAMES G. SHEEHAN
Associate United States Attorney

MARY CATHERINE FRYE
SONYA FAIR LAWRENCE
Assistant United States Attorneys

David T. Shapiro. Esquire
U.S. Department of Justice

Approved and so ordered.

Dated:_____

BY THE COURT:

CLARENCE C. NEWCOMER
Senior Judge, United States District Court

CONSENT TO ENTRY OF ORDER

Medco Health Solutions, Inc., Merck-Medco Managed Care, L.L.C., Medco Health Rx Services of Florida, L.C., Merck-Medco Rx Services of Florida, No.2, L.C., Merck-Medco Rx Services of Nevada, Inc., Merck-Medco Rx Services of Texas, L.L.C., (*hereafter collectively referred to as* "Medco"), through the undersigned officer duly authorized by Medco, and the United States of America (the "United States")), through the undersigned individual duly authorized by the United States, hereby:

1) admit to the jurisdiction of the Court over the persons and subject matter of this action,

2) consent to the entry of an Order for Permanent Injunction, including the release contained therein, regarding the claims at issue between the United States and Medco, in the form attached hereto,

3) certify, respectively, that its duly authorized representative has personally read and understands the Consent Order of Court for Permanent Injunction (the "Consent Order") to which this Consent of Entry of Order is attached and has consulted with counsel, and knowingly and voluntarily enters into this consent judgment,

4) states that no promise of any kind or nature whatsoever (other than the written terms of the Consent Order) was made to it to induce it to enter into this Consent to Entry

of Order, that it has entered into this Consent to Entry of Order voluntarily, and that this Consent to Entry of Order, together with the Consent Order, constitutes the entire agreement between Medco and the United States, and

5) agree that this Consent to Entry of Order may be executed in any number of counterparts, including by facsimile, and by the different parties hereto on the same or separate counterparts, each of which shall be deemed to be an original, but all of which counterparts shall together constitute but one and the same instrument.

BY: _____
DAVID SNOW
Chief Executive Director
Medco Health Solutions, Inc.
100 Parsons Pond Drive
Franklin Lakes, NJ 07417

BY: _____
PATRICK L. MEEHAN
United States Attorney

_____
JAMES G. SHEEHAN
Associate United States Attorney