

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 13-cv-03422

ARAPAHOE SURGERY CENTER, LLC,
CHERRY CREEK SURGERY CENTER, LLC,
HAMPDEN SURGERY CENTER, LLC,
KISSING CAMELS SURGERY CENTER, LLC,
SURGCENTER OF BEL AIR, LLC, and
WESTMINSTER SURGERY CENTER, LLC,

Plaintiffs,

v.

CIGNA HEALTHCARE, INC.,
CONNECTICUT GENERAL LIFE INSURANCE COMPANY,
CIGNA HEALTHCARE - MID-ATLANTIC, INC., and
CIGNA HEALTHCARE OF COLORADO, INC.,

Defendants.

**AGREEMENT REGARDING THE PRODUCTION OF MATERIALS FROM RELATED
ACTION**

Plaintiffs and Counterclaim Defendants Arapahoe Surgery Center, LLC ("Arapahoe"), Cherry Creek Surgery Center, LLC ("Cherry Creek"), Hampden Surgery Center, LLC ("Hampden"), Kissing Camels Surgery Center, LLC ("Kissing Camels"), SurgCenter of Bel Air, LLC ("Bel Air"), Westminster Surgery Center LLC ("Westminster"), and Surgical Center Development, Inc. d/b/a SurgCenter Development ("SurgCenter") (collectively, "Plaintiffs and Counterclaim Defendants"), Defendants and Counterclaim Plaintiffs Cigna Healthcare, Inc., Connecticut General Life Insurance

Company, Cigna Health and Life Insurance Company, Cigna Healthcare - Mid-Atlantic, Inc., and Cigna Healthcare of Colorado, Inc. (collectively, "Cigna" or "Defendants and Counterclaim Plaintiffs") (individually, a "Party" and collectively, the "Parties"), and those entities that are or have been parties or participated in discovery in *Kissing Camels Surgery Center, LLC et al v. HCA, Inc., et al.*, 12-cv-3012 (D. Colo.) ("The *HCA* Action") HCA Inc., HCA-HealthONE LLC, Rocky Mountain Hospital and Medical Service, Inc. d/b/a Anthem Blue Cross and Blue Shield of Colorado, Colorado Ambulatory Surgery Center Association, Audubon Ambulatory Surgical Center, LLC, Aetna, Inc., Centura Health Corporation, United Healthcare of Colorado, Inc., the Kaiser Foundation Health Plan of Colorado, Humana Health Plan, Inc., and Pinnacle III (together with Arapahoe, Cherry Creek, Hampden, and Kissing Camels, the "*HCA* Parties") agree as follows regarding the production of materials in the *HCA* Action to the Parties in the above-captioned Action:

1. The *HCA* Parties agree that each Party to the above-captioned Action shall have the right to use all materials produced in and associated with the *HCA* Action, including documents and data produced by any party or non-party, answers to interrogatories, responses to requests for production, responses to requests for admission, responses to non-party subpoenas, expert disclosures, and deposition testimony ("*HCA* Action Materials") for any purpose in connection with the above-captioned Action, so long as such use does not violate the terms of *the HCA Protective Orders* (defined in Section 2 of this Agreement) or any protective order entered in the above-captioned Action. For the avoidance of doubt, the *HCA* Action Materials shall be

used by the Parties to the above-captioned Action or the *HCA* Action solely in connection with the above-captioned Action or the *HCA* Action and for no other purpose, and agree that any breach of this commitment will cause damage and harm to the offended *HCA* Party(ies).

2. The Parties to the above-captioned Action agree to be bound by and comply with the terms of the protective orders in the *HCA* Action dated April 8, 2013 (D.E. 79) and October 10, 2013 (D.E. 141) (the “*HCA* Protective Orders”) with respect to *HCA* Action Materials, and agree that the *HCA* Action Materials shall be afforded any additional protections contained in any protective order entered into in the above-captioned Action. The Parties to the above-captioned Action also agree to provide to the remaining non-dismissed Defendants in the *HCA* Action any documents produced by Cigna and/or the Colorado-based entities in the above-captioned Action within the scope of any of the discovery requests served by any of the parties in the *HCA* Action, at the time such documents are produced, and pursuant to and subject to the compliance of the party receiving such production with the *HCA* Protective Orders, unless and until the Parties to the *HCA* Action notify the Parties to the above-captioned Action that such production is no longer necessary. Any disputes regarding compliance with the *HCA* Protective Orders shall be raised with the Court overseeing the *HCA* Action.

3. To the extent a party notices a deposition in the *HCA* Action, counsel for such party agrees to provide Cigna with sufficient advance notice of all depositions scheduled to take place in the *HCA* Action and to coordinate with Cigna regarding the

scheduling of depositions in the *HCA* Action, so that Cigna may participate in such depositions. Counsel for the Parties to the above-captioned Action agree to provide the non-dismissed *HCA* Parties with advance notice of all depositions scheduled to take place in the above-captioned Action and to coordinate with the *HCA* Parties regarding the scheduling of depositions in the above-captioned Action, so that the *HCA* Parties may participate in such depositions, unless and until the Parties to the *HCA* Action notify the Parties to the above-captioned Action that such notice and coordination is no longer necessary.

4. Plaintiffs and Counterclaim Defendants agree to produce to Cigna all *HCA* Action materials in its possession as of the date of this Agreement within two weeks of the execution of this agreement by counsel for the Parties and counsel for the *HCA* Parties, and further to agree to produce to Cigna any additional *HCA* Action Materials produced thereafter at the time such materials are produced.

APPROVED AS TO FORM AND CONTENT

Dated: June 16, 2014

Respectfully submitted,

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