

(requesting documents regarding the rates paid by Humana to physician providers) and 7 (requesting documents comparing the cost of physician services, hospital care, pharmacy costs or cost of health insurance in the State of Texas).

4. “Disclosure of documents prepared by Humana which contain or evidence comparisons regarding the cost or quality of medical services provided by physicians (request No. 5) and comparisons of the cost of physician services, hospital care, pharmacy costs, or cost of health insurance in the State of Texas (request No. 7) would reveal how Humana analyzes and organizes potential provider groups, how it analyzes, evaluates and synthesizes information regarding costs in a particular market (*i.e.*, the State of Texas) and how it prices and negotiates its contracts with healthcare providers, processes developed by Humana through years of trial and error. Humana’s processes and analyses are commercially sensitive business information and provide Humana with a competitive advantage in the marketplace. These documents contain Humana’s confidential, commercially sensitive business information, which has been developed at great expense to Humana, over many years, and which would be quite valuable if disclosed to Humana’s competitors or the marketplace generally.

5. “Documents regarding the rates paid by Humana to provider physicians (request No. 6) and/or Humana’s pricing information is likewise highly confidential and commercially sensitive business information. Indeed, disclosure of such documents would reveal how Humana develops the rates it pays for physician services, a process that Humana has expended thousands of hours and many years to develop. This effort has likewise allowed Humana to gain a competitive advantage in the marketplace and better service its insureds. If such documents were disclosed, Humana could potentially lose its competitive advantage in the marketplace.

6. “Further, and aside from the real and significant concerns regarding the potential loss of Humana’s competitive advantage in the marketplace were it required to produce documents regarding its rates, Humana is nevertheless precluded from producing a substantial number of potentially responsive documents to request No. 6 because of confidentiality provisions contained in its agreements with various physician provider groups. Typically, these physician provider group agreements contain mutual confidentiality provisions, precluding either Humana or the physician provider groups from disclosing the terms of the agreement (including rates paid by Humana to the physician provider groups). Accordingly, Humana would be in breach of its agreements with these various physician provider groups if it were to produce the agreements without first contacting each of these various physician provider groups and obtaining a release from each of these various physician provider groups to produce these agreements.”

FURTHER AFFIANT SAYETH NOT.

William O. Barnes

William Barnes

SUBSCRIBED AND SWORN TO before me by the said *William O. Barnes* on the

9th day of January, 2004.

Angelita R. Condean

Notary Public in and for the State of
Kentucky

Angelita R. Condean

Printed Name

My Commission Expires:

Aug. 5, 2004