

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Junk Fax Prevention Act of 2005)	CG Docket No. 05-338
)	
Rules and Regulations Implementing the)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991)	

**Exhibits to Physicians Healthsource, Inc.’s Comments on Allscripts Petition
seeking “Retroactive Waiver” of the Commission’s Rule Requiring
Opt-Out Notices on Fax Advertisements Sent With Permission**

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November 18, 2014

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PHYSICIANS HEALTHSOURCE, INC.,)	
an Ohio corporation, individually and as)	
the representative of a class of similarly-)	
situated persons,)	
)	
Plaintiff,)	
)	
v.)	No.
)	
ALLSCRIPTS-MISY’S HEALTHCARE)	
SOLUTIONS, INC., ALLSCRIPTS, LLC)	
and ALLSCRIPTS HEALTHCARE)	
SOLUTIONS, INC.)	
)	
Defendants.)	

CLASS ACTION COMPLAINT

Plaintiff, PHYSICIANS HEALTHSOURCE, INC., an Ohio corporation (“Plaintiff”), brings this action on behalf of itself and all other persons similarly situated, through its attorneys, and except as to those allegations pertaining to Plaintiff or its attorneys, which allegations are based upon personal knowledge, alleges the following upon information and belief against Defendants, ALLSCRIPTS-MISY’S HEALTHCARE SOLUTIONS, INC., ALLSCRIPTS, LLC and ALLSCRIPTS HEALTHCARE SOLUTIONS, INC. (collectively “Defendants”):

PRELIMINARY STATEMENT

1. This is the second case that challenges Defendants’ practice of faxing unsolicited advertisements. An earlier case was filed in this district and was entitled *Radha Geismann, M.D., P.C. v. Allscripts-Misy’s Healthcare Solutions, Inc., Allscripts, LLC and Allscripts Healthcare Solutions, Inc.*, 09 CV 5114 in which a class was certified for faxes sent between February 11, 2008 and April 26, 2008. A true and correct copy of the Final Approval Order is

attached hereto as Exhibit A. These Defendants also sent 36 advertisements between July, 2008 and December 5, 2011 which were not disclosed in the Geismann case, not provided to Geismann in written or oral discovery and not part of the earlier settlement. Because of the fraud perpetrated upon the Geismann class and Judge Young B. Kim who presided over the Geismann case by these Defendants, Plaintiff brings this case in this district and has retained Class Counsel who represented the Geismann class.

2. The Federal Telephone Consumer Protection Act, 47 U.S.C. § 227, prohibits a person or entity from faxing or having an agent fax advertisements without the recipient's prior express invitation or permission ("junk faxes" or "unsolicited faxes"). The TCPA provides a private right of action and provides statutory damages of \$500 per violation, which may be trebled if the court finds that Defendants' actions were willful, knowing or intentional.

3. Unsolicited faxes damage their recipients. A junk fax recipient loses the use of his fax machine, paper, and ink toner. An unsolicited fax wastes the recipient's valuable time that would have been spent on something else. A junk fax interrupts the recipient's privacy. Unsolicited faxes prevent fax machines from receiving authorized faxes, prevent their use for authorized outgoing faxes, cause undue wear and tear on the recipients' fax machines, and require additional labor to attempt to discern the source and purpose of the unsolicited message. A junk fax consumes a portion of the limited capacity of the telecommunications infrastructure serving the victims of junk faxing.

4. On behalf of itself and all others similarly situated, Plaintiff brings this case as a class action asserting claims against Defendants under the TCPA.

5. Plaintiff seeks an award of statutory damages for each violation of the TCPA. Because Defendants sent many of the fax advertisements after the Geismann suit was filed on

July 17, 2009, Plaintiff seeks an award of \$1,500.00 per fax for each of the faxes sent to Plaintiff and the other members of this class.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 47 U.S.C. § 227.

7. Venue in this district is proper because Defendants do business here and a significant portion of the events took place here.

PARTIES

8. Plaintiff is an Ohio corporation.

9. On information and belief, Defendants ALLSCRIPTS HEALTHCARE SOLUTIONS, INC. and ALLSCRIPTS MISY'S HEALTHCARE SOLUTIONS, INC. are Illinois corporations with their principal place of business in Chicago, Illinois.

10. On information and belief, Defendant, ALLSCRIPTS, LLC is an Illinois limited liability company.

FACTS

11. On or about July 9, 2008, July 11, 2008, July 21, 2008, October 29, 2008, April 28, 2009, April 30, 2009, May 7, 2009, May 19, 2009, June 30, 2009, September 29, 2009, October 6, 2009, December 1, 2009, January 22, 2010, February 1, 2010, March 4, 2010, April 2, 2010, June 2, 2010, June 22, 2010, June 23, 2010, July 16, 2010, August 12, 2010, August 18, 2010, September 21, 2010, September 30, 2010, October 14, 2010, October 26, 2010, October 28, 2010, November 30, 2010, December 2, 2010, December 29, 2010, February 4, 2011, March 23, 2011, June 3, 2011, November 1, 2011, December 1, 2011 and December 5, 2011, Defendants faxed a total of 36 advertisements to Plaintiff. Copies of the facsimiles are attached

hereto as Group Exhibit B. Twenty-seven (27) of these fax advertisements were sent by Defendants after the Geismann case was filed and remained pending.

12. Plaintiff had not invited or given permission to Defendants to send the faxes.

13. On information and belief, Defendants faxed the same and similar unsolicited facsimiles to Plaintiff and more than 39 other recipients without first receiving the recipients' express permission or invitation.

14. There is no reasonable means for Plaintiff (or any other class member) to avoid receiving unauthorized faxes. Fax machines are left on and ready to receive the urgent communications their owners desire to receive.

15. Defendants' facsimiles did not display a proper opt-out notice as required by 64 C.F.R. 1200.

TELEPHONE CONSUMER PROTECTION ACT, 47 U.S.C. § 227

16. In accordance with Fed. R. Civ. P. 23(a) and (b)(3), Plaintiff brings this action pursuant to the Telephone Consumer Protection Act, 47 U.S.C. § 227, on behalf of the following class of persons:

All persons who (1) on or after April 27, 2008, (2) were sent one or more telephone facsimile messages of material advertising the commercial availability of any property, goods, or services by or on behalf of Defendants, (3) from whom Defendants did not obtain prior express permission or invitation to send those faxes, (4) with whom Defendants did not have an established business relationship, or (5) which advertisement did not display a proper opt-out notice.

Excluded from the Class are the Defendants, their employees, agents and members of the Judiciary.

17. Commonality [Fed. R. Civ. P. 23 (A) (2)]: Common questions of law and fact apply to the claims of all class members. Common material questions of fact and law include, but are not limited to, the following:

- a) Whether the Defendants sent unsolicited fax advertisements;
- b) Whether the Defendants' faxes advertised the commercial availability of property, goods, or services;
- c) The manner and method the Defendants used to compile or obtain the list of fax numbers to which it sent Group Exhibit "B" and other unsolicited faxed advertisements;
- d) Whether the Defendants faxed advertisements without first obtaining the recipient's prior permission or invitation;
- e) Whether the Defendants sent the faxed advertisements knowingly;
- f) Whether the Defendants violated the provisions of 47 U.S.C. § 227;
- g) Whether the Defendants should be enjoined from faxing advertisements in the future;
- h) Whether the Plaintiff and the other members of the class are entitled to statutory damages;
- i.) Whether Group Exhibit B and Defendants' other advertisements display a proper opt-out notice as required by 64 C.F.R. 1200; and
- j) Whether the Court should award treble damages.

18. Typicality [Fed R. Civ. P. 23 (A) (3)]: The Plaintiff's claims are typical of the claims of all class members. The Plaintiff received faxes sent by or on behalf of the Defendants advertising goods and services of the Defendants during the Class Period. The Plaintiff is making the same claims and seeking the same relief for itself and all class members based upon the

federal statute. The Defendants have acted the same or in a similar manner with respect to the Plaintiff and all the class members.

19. Fair and Adequate Representation [Fed. R. Civ. P. 23 (A) (4): The Plaintiff will fairly and adequately represent and protect the interests of the class. It is interested in this matter, has no conflicts and has retained experienced class counsel to represent the class.

20. Need for Consistent Standards and Practical Effect of Adjudication [Fed R. Civ. P. 23 (B) (1): Class certification is appropriate because the prosecution of individual actions by class members would: a) create the risk of inconsistent adjudications that could establish incompatible standards of conduct for the Defendants, and/or b) as a practical matter, adjudication of the Plaintiff's claims will be dispositive of the interests of class members who are not parties.

21. Common Conduct [Fed. R. Civ. P. 23 (B) (2): Class certification is also appropriate because the Defendants have acted and refused to act in the same or similar manner with respect to all class members thereby making injunctive and declaratory relief appropriate. The Plaintiff demands such relief as authorized by 47 U.S.C. §227.

22. Predominance and Superiority [Fed. R. Civ. P. 23 (B) (3): Common questions of law and fact predominate and a class action is superior to other methods of adjudication:

- a) Proof of the claims of the Plaintiff will also prove the claims of the class without the need for separate or individualized proceedings;
- b) Evidence regarding defenses or any exceptions to liability that the Defendants may assert and prove will come from the Defendants' records and will not require individualized or separate inquiries or proceedings;

c) The Defendants have acted and are continuing to act pursuant to common policies or practices in the same or similar manner with respect to all class members;

d) The amount likely to be recovered by individual class members does not support protested individual litigation. A class action will permit a large number of relatively small claims involving virtually identical facts and legal issues to be resolved efficiently in one (1) proceeding based upon common proofs;

e) This case is inherently managed as a class action in that:

(i) The Defendants identified persons or entities to receive the fax transmissions and it is believed that the Defendants' computer and business records will enable the Plaintiff to readily identify class members and establish liability and damages;

(ii) Liability and damages can be established for the Plaintiff and the class with the same common proofs;

(iii) Statutory damages are provided for in the statute and are the same for all class members and can be calculated in the same or a similar manner;

(iv) A class action will result in an orderly and expeditious administration of claims and it will foster economics of time, effort and expense:

(v) A class action will contribute to uniformity of decisions concerning the Defendants' practices; and

(vi) As a practical matter, the claims of the class are likely to go unaddressed absent class certification.

23. The TCPA makes unlawful the "use of any telephone facsimile machine, computer or other device to send an unsolicited advertisement to a telephone facsimile machine..." 47 U.S.C. § 227.

24. The TCPA defines "unsolicited advertisement" as "any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's express invitation or permission." 47 U.S.C. § 227 (a) (4).

25. The TCPA provides:

"3. Private right of action. A person may, if otherwise permitted by the laws or rules of court of a state, bring in an appropriate court of that state:

(A) An action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation;

(B) An action to recover actual monetary loss from such a violation, or to receive \$500 in damages for each such violation, whichever is greater, or

(C) Both such actions."

26. The TCPA is a strict liability statute, so the Defendants are liable to the Plaintiff and the other class members even if its actions were only negligent.

27. The Defendants knew or should have known that a) the Plaintiff and the other class members had not given express invitation or permission for the Defendants or anybody else to fax advertisements about the Defendants' goods or services; b) the Plaintiff and the other class members did not have an established business relationship; c) Defendants transmitted an advertisement; and d) the advertisements Defendants sent did not display the proper opt-out notice as required by 64 C.F.R. 1200.

28. The Defendants' actions caused damages to the Plaintiff and the other class members. Receiving the Defendants' junk faxes caused the recipients to lose paper and toner consumed in the printing of the Defendants' faxes. Moreover, the Defendants' faxes used the Plaintiff's fax machine. The Defendants' faxes cost the Plaintiff time, as the Plaintiff and its employees wasted their time receiving, reviewing and routing the Defendants' illegal faxes. That time otherwise would have been spent on the Plaintiff's business activities. The Defendants' faxes unlawfully interrupted the Plaintiff's and other class members' privacy interests in being left alone. Finally, the injury and property damage sustained by Plaintiff and the other class members from the sending of Defendants' facsimiles occurred outside of Defendants' premises.

29. The Defendants violated 47 U.S.C. § 227, et seq., by transmitting advertisements to the Plaintiff and the other members of the class without obtaining their prior express permission or invitation.

WHEREFORE, Plaintiff, PHYSICIANS HEALTHSOURCE, INC., individually and on behalf of all others similarly situated, demands judgment in its favor and against Defendants, ALLSCRIPTS-MISY'S HEALTHCARE SOLUTIONS, INC., ALLSCRIPTS, LLC and ALLSCRIPTS HEALTHCARE SOLUTIONS, INC., jointly and severally, as follows:

A. That the Court adjudge and decree that the present case may be properly maintained as a class action, appoint Plaintiff as the representative of the class, and appoint Plaintiff's counsel as counsel for the class;

B. That the Court award \$500 in damages for each violation of the TCPA, and treble that amount if the court finds the actions of Defendants to be willful, knowing or intentional;

C. That the Court enter an injunction prohibiting Defendants from engaging in the statutory violations at issue in this action; and

D. That the Court award costs and such further relief as the Court may deem just and proper.

Respectfully submitted,

PHYSICIANS HEALTHSOURCE, INC., an Ohio corporation, individually and as the representative of a class of similarly-situated persons

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EXHIBIT A

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RADHA GEISMANN, M.D., P.C.,)
a Missouri professional corporation,) **Case No. 09 CV 5114**
individually and as the representative of)
a class of similarly situated persons,)
)
Plaintiff,)
v.) **Magistrate Judge Young B. Kim**
)
ALLSCRIPTS-MISYS HEALTHCARE)
SOLUTIONS, INC., ALLSCRIPTS, LLC)
and ALLSCRIPTS HEALTHCARE)
SOLUTIONS, INC.,)
) **February 16, 2012**
Defendant.)

FINAL APPROVAL ORDER

The matter coming before the court on the request for final approval of the class action settlement by plaintiff, Radha Geismann, M.D., P.C. ("Plaintiff") and defendant Allscripts Healthcare Solutions, Inc. ("Allscripts"), due notice given, the parties appearing through counsel, and the court fully advised in the premises, IT IS HEREBY ORDERED THAT:

1. This court has jurisdiction over the parties, the members of the Settlement Class, and the claims asserted in this lawsuit.
2. Pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the settlement of this action, as embodied in the terms of the Settlement Agreement, is hereby finally approved as a fair, reasonable and adequate settlement of this case in the best interests of the

Settlement Class in light of the factual, legal, practical and procedural considerations raised by this case.

3. The Settlement Class is defined as: "All persons who, between February 11, 2008, and April 26, 2008, were successfully sent telephone facsimile messages of material advertising the commercial availability of any property, goods or services by or on behalf of Allscripts." Excluded from the Settlement Class is Allscripts, including any and all of its parents, subsidiaries, affiliates or controlled persons, and their officers, directors, agents, servants, and employees, and the members of their immediate families and the judges and staff of the United States District Court of the Northern District of Illinois, Eastern Division.

4. The court finds that the Settlement Agreement has been entered into in good faith following arm's-length negotiations.

5. Upon the Declarations of Andrew Barnett and Samantha Hall, the court finds that notice was provided to the Settlement Class Members, that it was the best notice practicable under the circumstances, and that it satisfied the requirements of due process and Federal Rule 23(e)(1).

6. Upon the Declaration of Diana L. Geseking, the court finds that notice has been given to the appropriate State and Federal officials in accordance with the Class Action Fairness Act, 28 U.S.C. § 1715.

7. No objections were received and no parties appeared in court at the fairness hearing to object to the settlement.

8. The following persons validly requested exclusion from the Settlement Class and the settlement: (1) Hand Surgery Associates, P.C. from St. Louis, MO; (2) Rick Scacewater, M.D. from Joplin, MO; (3) El Dorado Clinic, PA from Eldorado, KS; and (4) Mercy Family Medicine Neosho from Neosho, MO.

9. After due consideration of, among other things, the uncertainty about the likelihood of the Class's ultimate success on the merits, the range of the Class's possible recovery, the complexity, expense and duration of the litigation, the substance and amount of opposition to the settlement, the state of proceedings at which the settlement was achieved, all written submissions, declarations and arguments of counsel, and after notice and hearing, this court finds that the settlement is fair, adequate and reasonable. This court also finds that the financial settlement terms fall within the range of settlement terms that would be considered fair, adequate and reasonable. Accordingly, this Settlement Agreement should be and is APPROVED and shall govern all issues regarding the settlement and all rights of the Parties, including the Class Members. Each Class Member (except those persons identified above who excluded themselves from the Settlement Class) shall be bound by the Settlement Agreement, including being subject to the Releases set forth in the Settlement Agreement.

10. Allscripts has created a settlement fund (the "Settlement Fund") to pay all claims by Settlement Class members, to pay Class Counsel's fees and out-of-pocket expenses, and to pay the Class Representative's incentive award as determined and awarded by this court. Unclaimed monies in the Settlement Fund shall revert to Allscripts.

11. As agreed in and subject to the Settlement Agreement, each member of the Settlement Class who submits a timely and valid Claim Form will be mailed a pro rata check not to exceed \$500 from the Settlement Fund for each successful fax transmission identified in the Allscripts database and corresponding to the claimant. Checks issued to the claiming Settlement Class members will be void 60 days after issuance and any amount from voided checks shall be refunded to Allscripts.

12. The court approves Class Counsel's attorneys' fees in the total amount of \$566,700 and out-of-pocket expenses of \$21,148.56. Those amounts shall be paid from the Settlement Fund when the Order becomes final as those terms are defined in the Settlement Agreement.

13. The court approves a \$6,500 incentive award to Radha Geismann, M.D., P.C. for serving as the Class Representative. That amount shall be paid from the Settlement Fund when the Order becomes final as those terms are defined in the Settlement Agreement. Pursuant to the Settlement Agreement, Allscripts did not take any position on these requests.

14. The court expressly adopts and incorporates herein all of the terms of the Settlement Agreement. The Parties to the Settlement Agreement shall carry out their respective obligations under that Agreement.

15. This action, including all claims against Allscripts, Allscripts-Misys Healthcare Solutions Inc. and Allscripts, LLC, is hereby dismissed with prejudice and without taxable costs to any Party.

16. All claims or causes of action of any kind by any Settlement Class member brought in this court or any other forum (other than those by persons who have opted out of this action) are barred pursuant to the Releases set forth in the Settlement Agreement.

17. Allscripts is enjoined from future violations of the TCPA.

18. If the Settlement Agreement is terminated pursuant to its terms, or the Settlement Agreement or Final Approval Order do not for any reason become effective, or the Settlement Agreement or Final Approval Order are reversed, vacated or modified in any material or substantive respect, then any and all orders entered pursuant to the Settlement Agreement shall be deemed vacated. If the settlement does not become final in accordance with the terms of the Settlement Agreement, this Final Approval Order shall be void and be deemed vacated.

19. The court finds that there is no just reason to delay the enforcement of this Final Approval Order.

ENTER:



Young B. Kim
United States Magistrate Judge

**GROUP
EXHIBIT B**

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Available Nov-2008 (Item # 586309)</p> <p><input type="checkbox"/> ICD-9-CM Professional for Physicians - 2009
Volumes 1 & 2 (softbound)
Available Sep-2008 (Item # 586809)</p> <p><input type="checkbox"/> HCPCS Level II Professional - 2009 (softbound)
Available Dec-2008 (Item # 5873109)</p> |
|---|---|---|

	Regular	Sale		Regular	Sale
<input type="checkbox"/> 586109 Professional Edition Spiral	\$102.95	\$92.65	<input type="checkbox"/> CPT Quick Coder or ICD-9 Fast Finders		
<input type="checkbox"/> 586309 Softbound	\$74.95	\$67.45	<input type="checkbox"/> Available for most specialties (each)	\$24.95	\$22.4
<input type="checkbox"/> 5860309 Expert, Compact	\$89.95	\$80.95	Physician Compliance		
<input type="checkbox"/> 588909 Expert, Spiral	\$99.95	\$89.95	<input type="checkbox"/> 58886 Medicare Correct Coding Guide	\$239.95	\$215.9
ICD-9-CM-Volumes 1 & 2			<input type="checkbox"/> 58802 HIPPA Tod Kit	\$259.95	\$233.9
<input type="checkbox"/> 586409 Expert for Physicians, Spiral	\$95.95	\$86.35	Coding Guides/Reference Guides		
<input type="checkbox"/> 58651 Updateable ICD-9CM Expert	\$169.95	\$152.95	<input type="checkbox"/> 5877 Coding & Reimburse. Understanding Mode	\$89.95	\$80.9
<input type="checkbox"/> 586509 Professional for Phys, Compact	\$74.95	\$67.45	<input type="checkbox"/> 5885 National Fee Analyzer	\$159.95	\$143.9
<input type="checkbox"/> 586809 Professional for Phys, Softbound	\$86.95	\$78.25	<input type="checkbox"/> 5891 The Essential RBRVS	\$199.95	\$179.9
ICD-9-CM-Volumes 1, 2 & 3			<input type="checkbox"/> 5888 Coders' Desk Ref. Procedures	\$134.95	\$121.4
<input type="checkbox"/> 58698 Expert for Hospitals, Spiral	\$99.95	\$89.95	<input type="checkbox"/> 58404 Coders' Desk Ref. Diagnoses	\$134.95	\$121.4
<input type="checkbox"/> 58691 Expert for Hospitals-Updateable	\$174.95	\$167.45	<input type="checkbox"/> 58885 ICD-9-CM Code It Fast Software	\$49.95	\$44.9
<input type="checkbox"/> 58701 Professional for Hospitals, Compact	\$84.95	\$76.45	<input type="checkbox"/> 58888 Drug Codes (J Codes)	\$27.95	\$25.1
<input type="checkbox"/> 5871 Professional for Hospitals, Softbound	\$94.95	\$85.45	<input type="checkbox"/> 5895 Custom Fee Analyzer 1 Specialty	\$299.95	\$269.9
ICD-10 Products			<input type="checkbox"/> 58890 Medicare Desk Reference for Phys	\$269.95	\$242.9
<input type="checkbox"/> 5876 ICD-10-CM	\$89.95	\$80.95	<input type="checkbox"/> 58983 Encoder Pro (Single User)	\$289.95	\$260.9
HCPCS			<input type="checkbox"/> 58986 Relative Values for Physicians	\$329.95	\$296.9
<input type="checkbox"/> 587309 Level II Expert, Spiral	\$89.95	\$89.95	DRG		
<input type="checkbox"/> 587209 Level II Expert, Compact	\$86.95	\$78.25	<input type="checkbox"/> 58989 DRG Desk Reference	\$199.95	\$179.9
<input type="checkbox"/> 58720 Updateable HCPCS Level II Expert	\$149.95	\$134.95	<input type="checkbox"/> 58988 DRG Expert, Spiral	\$119.95	\$107.9
<input type="checkbox"/> 5873109 Level II Professional, Softbound	\$72.95	\$65.65	<i>Other books and software are available.</i>		

Send me information on Physician Fee / Custom Fee Analyzer Reports

Your Name _____ Account # _____

Practice Name _____ Email _____

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FAX ORDER FORM TO 866-844-3554 or Call 888-633-3676, Ext. 3
 If you don't see your book, please call your Forms Representative for a complete list.

OCT 30 2008



The Ten Second Stimulus Survey

And a Chance to Win an iTouch I

APR 28 2009

Are you ready.....to begin receiving your Stimulus Plan federal incentives for using a certified Electronic Health Record?

Check one

Yes. I have a certified Electronic Health Record in place, and I have been using it in a way that qualifies me for the "meaningful use" provision.

No. I am not ready, and understand that I may miss up to \$64,000 per physician in federal incentives.

I am not sure. However, I would like to understand how I can receive the federal incentives in the Stimulus Plan. Please have someone contact me:

Name: _____

Practice Name: _____

Phone Number: _____

Address: _____

City, State, Zip: _____

Email address: _____

Good time to reach me: _____

**Complete this form and fax it to 1-919-457-4744
(or send us an email at ehrnw@allscripts.com)**

To be eligible for the iPod® Touch drawing, please enter the information above. Thanks.





The Ten Second Stimulus Survey

And a Chance to Win an iTouch I

Are you ready.....to begin receiving your Stimulus Plan federal incentives for using a certified Electronic Health Record?

Check one

Yes. I have a certified Electronic Health Record in place, and I have been using it in a way that qualifies me for the "meaningful use" provision.

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I am not sure. However, I would like to understand how I can receive the federal incentives in the Stimulus Plan. Please have someone contact me:

Name: _____

Practice Name: _____

Phone Number: _____

Address: _____

City, State, Zip: _____

Email address: _____

Good time to reach me: _____

APR 30 2012

**Complete this form and fax it to 1-919-457-4744
(or send us an email at ehrnw@allscripts.com)**

To be eligible for the iPod® Touch drawing, please enter the information above. Thanks.





The Ten Second Stimulus Survey

MAY 07 2009

And a Chance to Win an iTouch !

Are you readyto begin receiving your Stimulus Plan federal Incentives for using a certified Electronic Health Record? Since you are a valued client, we want to make sure!

Please check one and send this back to us

Yes. I have a certified Electronic Health Record in place, and I have been using it in a way that qualifies me for the "meaningful use" provision.

No. I am not ready, and understand that I may miss up to \$64,000 per physician in federal Incentives.

I am not sure. However, I would like to understand how I can receive the federal incentives in the Stimulus Plan. Please have someone contact me:

Name: _____

Practice Name: _____

Phone Number: _____

Address: _____

City, State, Zip: _____

Email address: _____

Good time to reach me: _____

**Complete this form and fax it to 1-919-457-4744
(or send us an email at ehrnw@allscripts.com)**

To be eligible for the iPod® Touch drawing, please enter the information above. Thanks.





MAY 20 2009

ALLSCRIPTS FORMED BY THE MERGER OF MISTS AND ALLSCRIPTS
BACKUP TAPE SALE!

Purchase 5 backup tapes before May 29, 2009 you will receive the 6th tape or 1 cleaning tape absolutely **FREE!**

*Excludes orders placed through forms/supplies website www.allscriptsforms.com

Backup Tapes				Cleaning Tapes				
Item #	Description	Qty	Item #	Description	Qty	Item #	Description	Qty
3900A	DLT 20/40, 35/70, 40/80gb 1/2" Tape		39001A	Ultrium LTO 100/200gb Tape		3900C	4MM Cleaning Tape	
5962	DDS1 90M, 2.0gb Tape		3911A	VXA 80/160gb, 160/320gb Tape		59653	DLT Cleaning Tape	
5965	DDS2 120M, 4gb Tape		59658	VXA 40/80, 86/172gb Tape		3900K1	LTO-2 Cleaning Tape	
59652	DDS3 125M, 12/24gb Tape		5955	8MM 5/10gb 1.12M Tape		3900N	Sony 4MM DDS-DAT Cleaning Tape	
3900B	DDS4 150M, 20/40gb Tape		5952	DC6150 150mb Tape		3900P	Sony DLT VS160 Cleaning Tape	
3900J	SDLT 80gb Tape		5949	DC6250 250mb Tape		59506	SDLT Cleaning Tape	
3900K	LTO-2 200/400gb Tape		5957	DC6525 525mb Tape		3900K1	Ultrium Cleaning Tape	
3900L	SDLT 160/320gb Tape		5959	DC9120 1.2gb Tape		3911B	VXA Cleaning Tape	
3900M	DAT 72 36/72gb 170M Tape		59504	DC9200 2.0gb tape		5956	8MM Cleaning Tape	
3900R	Blackwatch SDLT 160/320gb Tape		59250A	DC9250 2.5/5.0gb Tape		5958	1/4" QICII Cleaning Tape	
3900T	SLR7 20/40gm Tape		59512	Travan TR4 4/8gb Tape		59513C	TR4/TR5 Cleaning Tape	
3900V1	Ultrium LTO3 400/800gb Tape		59513	Travan TR5 10/20gb Tape		59511	8mm AME Cleaning Tape	
3900W	Ultrium 2 200/400gb Tape		59510	AME 8mm 20/40gb, 170M Tape		59517	Imation SLR Cleaning Tape	
59508	Magstar 3570 Linear "B" Tape		59516	Imation SLR40 20/40gb 5.25 Tape		59509	Magstar 3570 Cleaning Tape	

To order, simply call the Allscripts Forms Department at (888) 633-3676, ext. 2 or fax this completed form toll-free to (866) 844-3554.

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 Upon receipt of your fax, an Allscripts Forms Representative will contact you to confirm your order, pricing and shipping information.



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JUL 01 2009

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EHR STIMULUS TOUR 2009

EDUCATING THE NATION

Coming to Lexington, KY!

Find out about **federal stimulus incentives** available for healthcare providers!

Tuesday, October 13th

Seminar on \$44K+ incentives for providers

> 8am breakfast, 8:30am – 11:30am

Or

> 4:00 appetizers, 4:30pm – 7:00pm

> Hyatt Regency Lexington

> Entry is FREE, but seats are limited!

Register

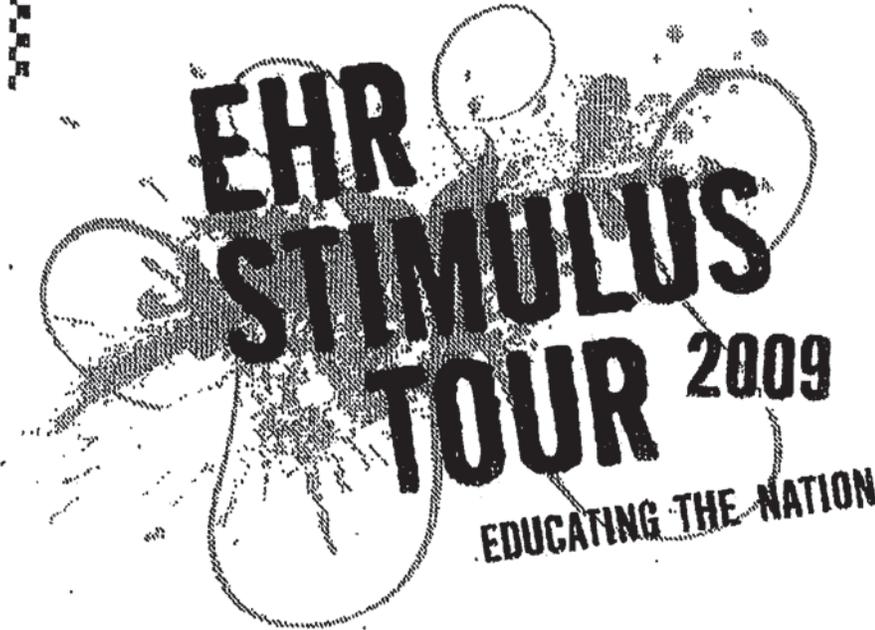
Visit www.EHRStimulusTour.com, click 'Tour Dates'

Email EHRNOW@Allscripts.com

Questions? 1-877-EHRNOW1

SEP 29 2009





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Register

Visit www.EHRStimulusTour.com, click 'Tour Dates'

Email EHRNOW@Allscripts.com

Questions? 1-877-EHRNOW1

Oct 13 2009



Over 150 healthcare leaders are gathering to watch the unveiling of two new innovations from Allscripts -- and you're invited to join them.



Exclusive Invitation

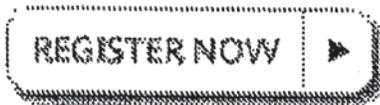


Join us for our **Allscripts Innovations Launch** where you'll...

- Hear Allscripts CEO Glen Tullman speak about healthcare's future and Allscripts' vision
- Watch as we launch two new Innovations that put healthcare back into providers' hands

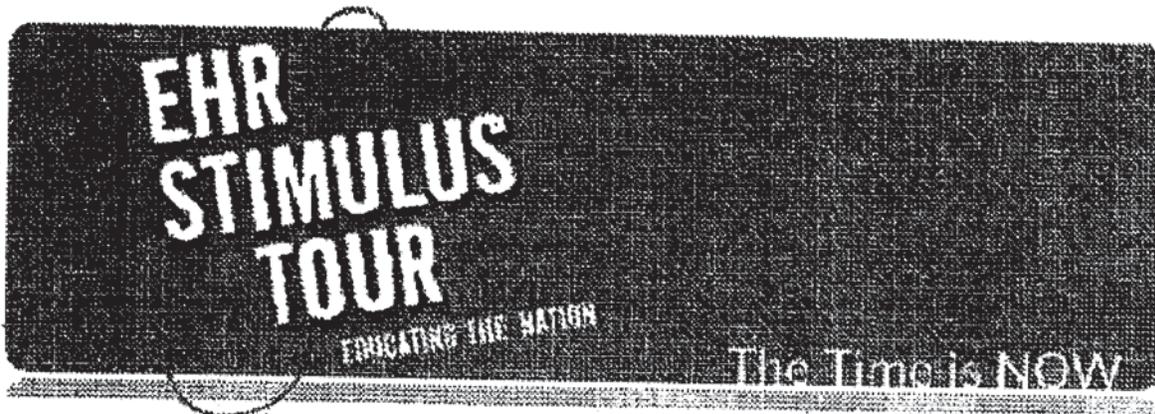
Tuesday, December 8th

> LIVE Video Webcast and product unveilings @ 3:45pm EST



Visit www.regonline.com/allscripts_innovations_launch
or email Nate @ nate.moster@allscripts.com today!

DEC 01 2009



Coming to Indianapolis, IN!

Find out about **federal stimulus incentives** available for healthcare providers!

Thursday, February 11, 2010

Seminar on \$44K+ incentives for providers

> 8am breakfast, 8:30am – 11:30am

Or

> 4:00 appetizers, 4:00pm – 7:30pm

> Hilton Indianapolis

> Entry is FREE, but seats are limited!

Register

JAN 22 2010

Visit

www.regonline.com/stimulustourindianapolis2010

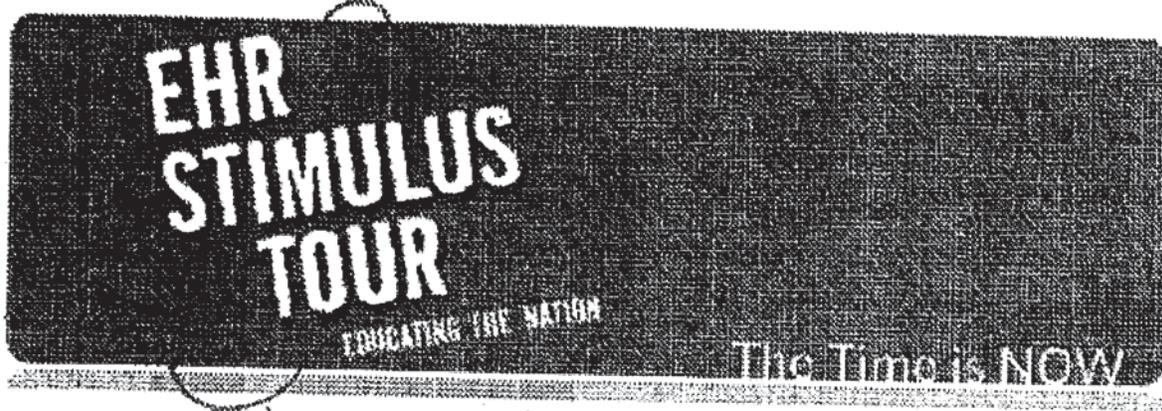
www.regonline.com/stimulustourindianapolisevening2010

Email

EHRNOW@Allscripts.com

Questions?

1-877-EHRNOW1



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Or

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> Entry is FREE, but seats are limited!

FEB 02 2010

Register

Visit

www.regonline.com/stimulustourindianapolis2010
www.regonline.com/stimulustourindianapolisevening2010

Email

EHRNOW@Allscripts.com

Questions?

1-877-EHRNOW1



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For every \$50 you buy online you will receive a raffle ticket via email containing your information and a LUCKY number.

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The winner will receive \$105.00 worth of free copy paper!

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Put your first and last name along with your email address you would like your raffle ticket sent to in the comments or message box when checking out.

All orders greater than \$75 receive free shipping!

Offer Valid 3/01/10 thru 3/31/10.
Not valid with any other offer.



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APR 02 2010

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For assistance or password help, please call 888-633-3676, ext. 2



- > *When placing order, type **"SPRING PROMO"** in the comments or message box when checking out.
- > ***10% Discount and No Freight** will be applied to the invoice.
- > *Custom orders excluded.
- > *Orders must be placed online to receive discount.

No credit card is needed. Allscripts will bill your account!

Offer valid 4/3/10 through 4/30/10.

*Not valid with any other offer. **Stock up today!!**



JUN 02 2010

You're Invited – Exclusive EHR Summit at ACE 2010

If You Have Not Yet Selected an EHR/EMR, The Time is Now!

Learn How to Get Up to \$64,000 Per Physician!

The EHR Summit is a unique, full day event for Allscripts-Misys clients who have **NOT SELECTED an EHR solution**. The Stimulus Incentives are now in place, our solutions are guaranteed to be certified, and a clear path has been set by thousands of physicians. There is no reason to wait any longer. It's time to 'Go'. Held the day before the ACE (Allscripts Client Experience) conference, your top clinical software decision makers can add this event to their existing ACE schedule or take advantage of just the EHR summit.

Reserve your seat today for this exclusive event > www.allscripts.com/ace2010

At the ACE 2010 EHR Summit you will:

- > Plan your path to selecting and implementing an EHR
- > Understand HITECH and "Meaningful Use" criteria from our experts
- > Learn how to qualify for healthcare IT Stimulus incentives
- > Leverage your existing solutions and prepare for a successful implementation
- > See a demonstration of our innovative, award-winning EHR
- > Network with Select Business Partners and Learn about Best of Breed Solutions

ACE 2010 EHR Summit Details

- When:** August 4, 2010
8:00 a.m. – 6:30 p.m.
- Where:** Mandalay Bay Casino & Resort
Las Vegas, NV
- What:** Join us to learn more about your path to an Allscripts EHR & available stimulus incentives
- Fee:** **FREE:** Breakfast, Lunch, and Cocktails provided.
**Lodging and transportation are not included. Hotel rooms and travel are the responsibility of the attendee, and special discounts can be found on the "TRAVEL" tab of the registration site.

Space Limited, Register Today! www.allscripts.com/ace2010
Questions? Jennifer.Lewis@allscripts.com





JUN 22 2010

Have you ordered your 2011 CODEBOOKS?

Order Now and Save 10%* to 15%**

*10% savings on all Code Books, excluding Bookstore Products and Coding Essential Combo Packs ordered by August 31, 2010.

**15% savings on Coding Essential Combo Pack orders placed by August 31, 2010. Coding Essential Combo Packs cannot be combined with any other offer.

Coding Essential Combo Packs

We've bundled CPT/CURRENT PROCEDURAL CODING, ICD-9-CM and HCPCS books to save you money! Save 15% off of the list price when you buy these books in combo packs! You may choose Option I, II, III or pick one from each type of book (CPT/Current Procedural Coding, ICD-9-CM, HCPCS) to create your own combo pack and still save 15%.

- | | | |
|--|--|---|
| <p><input type="checkbox"/> OPTION I (Spiral)
\$254.87 (You Save \$44.98)</p> <p><input type="checkbox"/> Current Procedural Coding Expert-2011 (formerly known as CPT Expert) (spiral)
Available Dec-2010 (Item # 588911)</p> <p><input type="checkbox"/> ICD-9-CM Expert for Physicians-2011 Volumes 1 & 2 (spiral)
Available Sep-2010 (Item # 586411)</p> <p><input type="checkbox"/> HCPCS Level II Expert-2011 (spiral)
Available Dec-2010 (Item # 587311)</p> | <p><input type="checkbox"/> OPTION II (Compact)
\$214.07 (You Save \$37.78)</p> <p><input type="checkbox"/> Current Procedural Coding Expert - 2011 (compact) (formerly known as CPT Expert)
Available Dec-2010 (Item # 5860311)</p> <p><input type="checkbox"/> ICD-9-CM Professional for Physicians - 2011 (compact) Volumes 1 & 2
Available Sep-2010 (Item # 586511)</p> <p><input type="checkbox"/> HCPCS Level II Expert - 2011 (compact)
Available Dec-2010 (Item # 587211)</p> | <p><input type="checkbox"/> OPTION III (Softbound)
\$208.12 (You Save \$38.73)</p> <p><input type="checkbox"/> CPT Standard - 2011 (softbound)
Available Nov-2010 (Item # 586311)</p> <p><input type="checkbox"/> ICD-9-CM Professional for Physicians - 2011 Volumes 1 & 2 (softbound)
Available Sep-2010 (Item # 586811)</p> <p><input type="checkbox"/> HCPCS Level II Professional - 2011 (softbound)
Available Dec-2010 (Item # 587311)</p> |
|--|--|---|

CPT		Regular	Sale
<input type="checkbox"/> 588111	Professional Edition Spiral	\$107.95	\$97.15
<input type="checkbox"/> 588311	Standard, Softbound	\$84.95	\$78.45
<input type="checkbox"/> 5860311	Expert, Compact	\$89.95	\$80.95
<input type="checkbox"/> 588911	Expert, Spiral	\$99.95	\$89.95
ICD-9-CM-Volumes 1 & 2			
<input type="checkbox"/> 586411	Expert for Physicians, Spiral	\$99.95	\$89.95
<input type="checkbox"/> 58851	Updateable ICD-9CM Expert	\$179.95	\$161.95
<input type="checkbox"/> 588511	Standard for Phys, Compact	\$74.95	\$67.45
<input type="checkbox"/> 586811	Professional for Phys, Softbound	\$86.95	\$78.25
ICD-9-CM-Volumes 1, 2 & 3			
<input type="checkbox"/> 58898	Expert for Hospitals, Spiral	\$103.95	\$93.55
<input type="checkbox"/> 58691	Expert for Hospitals-Updateable	\$179.95	\$161.95
<input type="checkbox"/> 58701	Standard for Hospitals, Compact	\$84.95	\$76.45
<input type="checkbox"/> 5871	Professional for Hospitals, Softbound	\$94.95	\$85.45
ICD-10 Products			
<input type="checkbox"/> 5878	ICD-10-CM The complete Official Draft Code Set (2010 Draft)	\$99.95	\$89.95
HCPCS			
<input type="checkbox"/> 587311	Level II Expert, Spiral	\$99.95	\$89.95
<input type="checkbox"/> 587211	Level II Expert, Compact	\$88.95	\$78.25
<input type="checkbox"/> 58720	Updateable HCPCS Level II Expert	\$149.95	\$134.95
<input type="checkbox"/> 5873111	Level II Professional, Softbound	\$72.95	\$65.65

CPT Quick Coder or ICD-9 Quick Coder		Regular	Sale
<input type="checkbox"/>	Available for most specialties (each)	\$19.95	\$17.95
Physician Compliance			
<input type="checkbox"/> 58888	Medicare Correct Coding Guide	\$269.95	\$233.95
<input type="checkbox"/> 58802	HIPPA Tool Kit	\$269.95	\$233.95
Coding Guides/Reference Guides			
<input type="checkbox"/> 5877	Ingenix Learning Understanding Mods	\$94.95	\$85.45
<input type="checkbox"/> 5885	National Fee Analyzer	\$159.95	\$143.95
<input type="checkbox"/> 5891	The Essential RBRVS	\$199.95	\$179.95
<input type="checkbox"/> 5888	Coders' Desk Ref. Procedures	\$139.95	\$126.95
<input type="checkbox"/> 58404	Coders' Desk Ref. Diagnoses	\$139.95	\$126.95
<input type="checkbox"/> 58885	ICD-9-CM Code It Fast Software	\$49.95	\$44.95
<input type="checkbox"/> 58888	Drug Codes (J Codes)	\$24.95	\$22.45
<input type="checkbox"/> 5895	Custom Fee Analyzer 1 Specialty	\$299.95	\$289.95
<input type="checkbox"/> 58890	Medicare Desk Reference for Phys	\$279.95	\$251.95
<input type="checkbox"/> 58888	Encoder Pro.com	\$299.95	\$289.95
<input type="checkbox"/> 58988	Relative Values for Physicians	\$329.95	\$296.95
DRG			
<input type="checkbox"/> 58989	DRG Desk Reference	\$209.95	\$188.95
<input type="checkbox"/> 58988	DRG Expert, Spiral, Compact	\$119.95	\$107.95

Other books and software are available.

Send me information on Physician Fee / Custom Fee Analyzer Reports

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FAX ORDER FORM TO 866-844-3554 or Call 888-633-3676, Ext. 2

If you don't see your book, please call your Forms Representative for a complete list.



Take Me Out to the Ballgame

And teach me about Allscripts EHR

JUN 23 2010

The time is now to learn more about the Electronic Solutions available for healthcare providers. Join us for an evening of baseball, food and drinks while we show you our Allscripts EHR solutions. Strike up a conversation with current physicians and practice administrators who are utilizing our solution today, and also learn how our solutions deliver positive ROI and better patient care across your entire network.

Only 20 Tickets Available for each game – RSVP Today!

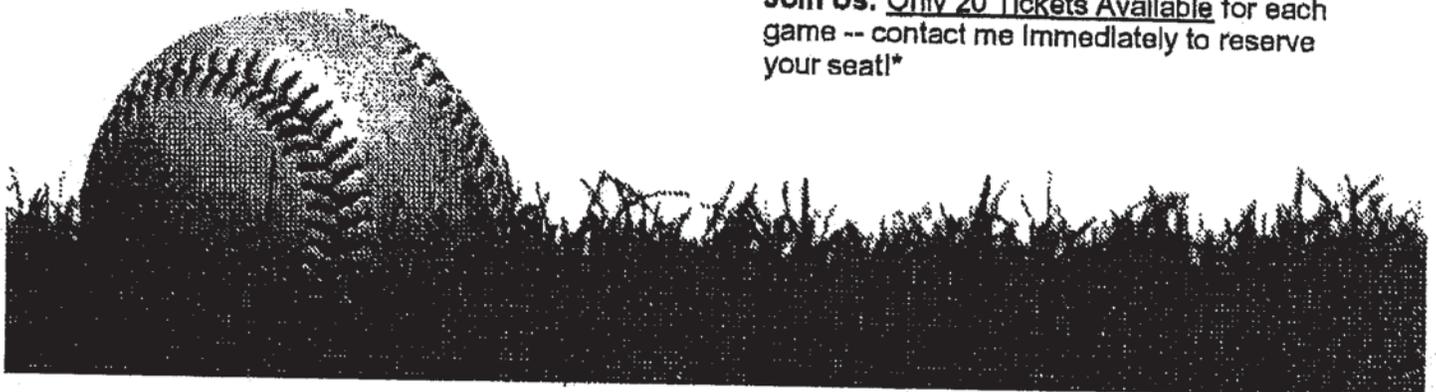
The time is now to learn more about the Electronic Solutions available for healthcare providers.

RSVP to Lisa Osborne
614.53.786
lisa.osborne@allscripts.com

When: Sunday, August 15th or
Sunday, August 22nd or
Sunday, August 29th
All games start at 5:05pm EST

Where: Huntington Ball Park - Suite #4
Food and Beverages provided by Allscripts

Join Us: Only 20 Tickets Available for each game -- contact me immediately to reserve your seat!*





JUL 16 2010

Free Webinar – Allscripts Payerpath Denial Management

According to recent studies, many practices average over 10% in denials for adjudicated claims, drastically decreasing their cash flow and adding unwanted work.

Allscripts Payerpath Denial Management helps medical practices recover more of their money faster, enhance staff productivity, and benchmark their billing performance against peers. Instant access to real-time reimbursement, productivity, and trending reports gives your staff the power to stay ahead of issues before they become major cash drains on your practice.

Payerpath Denial Management works with Allscripts Payerpath Claims Management to identify critical reimbursement patterns by parsing electronic remittances sent from the payers and providing market leading data analysis to recognize problems and trends.

Fewer denials – Quicker recovery of your money and enhanced staff productivity

Why Use Payerpath Denial Management?

- **Proactive.** Identify and eliminate problematic payer trends before they become cash drains.
- **Bottom line.** Increase cash flow and improve financial success.
- **Real-time.** On demand access to EOB's for secondary filing.
- **Benchmark.** Compare your denial rates by payer by procedure against your peers.
- **Rapid ROI.** Reducing just 1 denial per provider per month more than pays for this service!

Register today!

Wednesday, July 21, 2010
1:00 – 2:00 pm ET

To register, visit <https://mlsys-us.webex.com/mlsys-us/onstage/g.php?t=a&d=700774916>

"In just 30 days, we were able to significantly reduce our denial rate and doubled our staff's productivity! This is an efficient and simple-to-use tool that helps providers maximize their revenue."
Gary Thome, CFO
North Ohio Heart Center

Visit www.allscripts.com to learn more.

Register today for the FREE webinar

For more information, contact us at 1 877 415 3729 or email payerpathinfo@allscripts.com

Attention: Space Still Open For Free Training Today & EHR Dinner Tonight!



You're Invited

Tiger/PM User Group Meeting and Opening the Door to the Digital Office

Thursday, August 12, 2010
Kingsgate Marriott Conference Center
151 Goodman Dr.
Cincinnati, OH 45219

Attendance is FREE!
FREE food and drinks!
Seating is limited. Register at the door!

Join Us For Both Sessions! Invite your physicians to Session Two!

Session One

- > 1:00pm – 1:30pm Registration
- > 1:30pm – 5:30pm **Tiger/PM and Allscripts EDI New Patient Payment Assurance**

Chuck Womble presents Billing & Collections under the microscope - let's talk parameters, master files and reports that make for great billing and collections. Learn more about Open Item Aging and Billing, different ways to change what prints on your patient bills, reducing the number of pages you print, and simple ways to do collections without using the Collection Module. Plus, learn how to strengthen your revenue cycle management with our Patient Payment Assurance. ***This session is very valuable for billing staff and managers.***

Session Two

- > 5:30pm – 6:00pm Registration
- > 6:00pm – 8:00pm **ARRA Stimulus Update, EHR Implementation, Product Demonstration**

AUG 12 2010

The passing of the EHR Stimulus Program means now is the time to implement, fully adopt and connect with an EHR. Allscripts stimulus experts will discuss how to achieve "Meaningful Use" and capture stimulus incentives. Also, **hear our EHR clients**, providers just like you, speak on **EHR-implementation best practices**. The session includes a demonstration of Allscripts EHR. ***This session is recommended for providers, healthcare administrators and office staff.***

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Questions: Janet.Bailey@Allscripts.com



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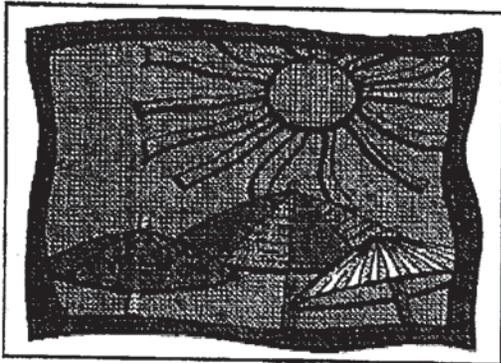
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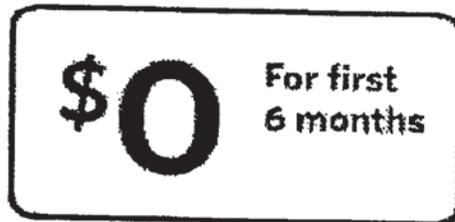
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- The Incentives first become available in 2011, and that's only months away.
- Your physicians can receive up to \$64,000 in federal Stimulus Incentives that decrease over time if you wait.
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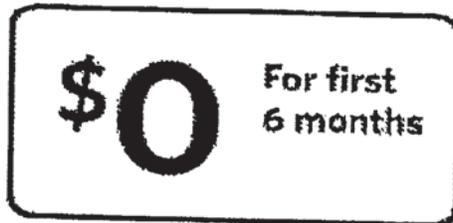
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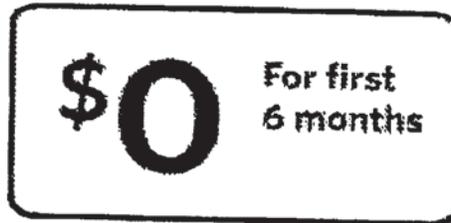
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Tiger EHR Enablement Program

Exclusive Program for Tiger Clients!

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- ✓ \$500 Maintenance Credit for Tiger PM
- ✓ FREE Interface to Allscripts EHR
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- ✓ FREE Apple iPad®



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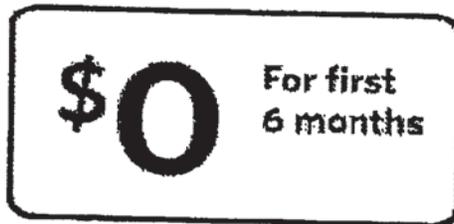
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5965	DDS2 120M, 4gb Tape		55858	VXA 40/80, 86/172gb Tape		3900K1	LTO-2 Cleaning Tape	
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3900J	SDLT 80gb Tape		5949	DC6250 250mb Tape		59506	SDLT Cleaning Tape	
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3900L	SDLT 160/320gb Tape		5959	DC9120 1.2gb Tape	
3900M	DAT 72 36/72gb 170M Tape		59504	DC9200 2.0gb Tape	
3900R	Blackwatch SDLT 160/320gb Tape		59250A	DC9250 2.5/5.0gb Tape	
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5965	DDS2 120M, 4gb Tape		5888	VXA 40/80, 86/172gb Tape	
59652	DDS3 125M, 12/24gb Tape		5955	8MM 5/10gb 112M Tape	
3900B	DDS4 150M, 20/40gb Tape		5952	DC6150 150mb Tape	
3900J	SDLT 80gb Tape		5949	DC6250 250mb Tape	
3900K	LTO-2 200/400gb Tape		5957	DC6525 525mb Tape	
3900L	SDLT 160/320gb Tape		5959	DC9120 1.2gb Tape	
3900M	DAT 72 36/72gb 170M Tape		59504	DC9200 2.0gb tape	
3900R	Blackwatch SDLT 160/320gb Tape		59250A	DC9250 2.5/5.0gb Tape	
3900T	SLR7 20/40gm Tape		59512	Travan TR4 4/8gb Tape	
3900V1	Ultrium LTO3 400/800gb Tape		59513	Travan TR5 10/20gb Tape	
3900W	Ultrium 2 200/400gb Tape		59510	AME 8mm 20/40gb, 170M Tape	
59508	Magstar 3570 Linear "B" Tape		59516	Imation SLR40 20/40gb 5.25 Tape	

Cleaning Tapes

Item #	Description	Qty
3900C1	4MM Cleaning Tape	
3900N	Sony 4MM DDS-DAT Cleaning Tape	
3900K1	LTO-2 Cleaning Tape	
3900P1	DLT Cleaning Tape	
3900PA	Sony DLT VS1 Cleaning Tape	
59506	SDLT Cleaning Tape	
3900K1	Ultrium Cleaning Tape	
3911B	VXA Cleaning Tape	
5856	8MM Cleaning Tape	
5958	1/2" QICII Cleaning Tape	
59513C	TR4/TR5 Cleaning Tape	
59511	8mm AME Cleaning Tape	
59517	Imation SLR Cleaning Tape	
59509	Magstar 3570 Cleaning Tape	

To order, simply call Susan or Laura @ 1-800-771-5747, ext. 2 or fax this completed form to 919-457-5128.

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 Contact Name _____ Email Address _____

Shipping Address _____ City, State & Zip _____
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 To unsubscribe from faxes, please call (888) 633-9676, ext. 2.



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CIVIL COVER SHEET

Case 1:12-cv-00283 Document 3 Filed 05/01/12 Page 1 of 1 PageID #: 54

The JS 44 civil cover sheet and instructions are intended to be used only for the purpose of initiating a civil action in the United States District Court for the District of Columbia. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet.

I. (a) PLAINTIFFS

Physicians Healthsource, Inc.

(b) County of Residence of First Listed Plaintiff Hamilton County, OH

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Brian J. Wanca of ANDERSON + WANCA
3701 Algonquin Road, Suite 760 Rolling Meadows, IL 60008
847-368-1500

DEFENDANTS

Allscripts-Misy's Healthcare Solutions, Inc., Allscripts, LLC and Allscripts Healthcare Solutions, Inc.

County of Residence of First Listed Defendant Cook

NOTE: In land condemnation cases, use the location of the tract of land involved.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State PTF 1 DEF 1
Citizen of Another State PTF 2 DEF 2
Citizen or Subject of a Foreign Country PTF 3 DEF 3
Incorporated or Principal Place of Business In This State PTF 4 DEF 4
Incorporated and Principal Place of Business In Another State PTF 5 DEF 5
Foreign Nation PTF 6 DEF 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each column contains a list of legal categories with checkboxes.

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

Violation of the Telephone Consumer Protection Act, 47 U.S.C. Sec. 227

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

IX. This case (check one box)

is not a refiling of a previously dismissed action

is a refiling of case number previously dismissed by Judge

Date
May 1, 2012

Signature of Attorney of Record
/s/ Brian J. Wanca

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PHYSICIANS HEALTHSOURCE, INC.,)
an Ohio corporation, individually and as)
the representative of a class of similarly-)
situated persons,)

Plaintiff,)

v.)

ALLSCRIPTS-MISY'S HEALTHCARE)
SOLUTIONS, INC., ALLSCRIPTS, LLC)
and ALLSCRIPTS HEALTHCARE)
SOLUTIONS, INC.)

Defendants.)

No. 12-cv-03233

Magistrate Judge Hon. Jeffrey Cole

**OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST SET
OF INTERROGATORIES DIRECTED TO EACH DEFENDANT**

NOW COME Defendants Allscripts-Misy's Healthcare Solutions, Inc., Allscripts, LLC and Allscripts Healthcare Solutions, Inc. (collectively, "Allscripts") in accordance with Rule 33 of the Federal Rules of Civil Procedure hereby respond to Physician Healthsource, Inc.'s ("PHI" or "Plaintiff") first set of interrogatories, as follows:

GENERAL OBJECTIONS AND RESPONSES

1. Allscripts' General Objections and Responses apply to each of Plaintiff's Interrogatories as set forth below.

2. Allscripts' General Objections and Responses are made without in any way waiving or intending to waive, but on the contrary, preserving and intending to preserve:

(A) all questions as to competency, relevancy, materiality, privilege and admissibility as evidence for any purpose, these responses, or the subject matter thereof, in this proceeding or any subsequent proceeding or any other action;

(B) the right of Allscripts to object on any ground to the use of said responses, or the subject matter thereof, in this proceeding or any subsequent proceedings;

(C) the right of Allscripts to object on any ground at any time to other discovery involving or relating to the subject of these requests.

3. Allscripts objects to each Interrogatory on the basis that not all the faxes sent on Allscripts' behalf during the Relevant Time Period (i) were used for any advertising or promotional purpose, or (ii) advertised any property, goods, or services. Allscripts, by answering any particular Interrogatory, does not waive the right to assert that any facsimile transmission during the Relevant Time Period was informational in nature.

4. Allscripts' investigation of this matter is continuing. These responses are based on and, therefore, necessarily limited by, the records and information still in existence, presently discovered during the course of preparing these responses. Consequently, Allscripts reserves the right to supplement and/or to revise these Responses if it appears at any time that an omission or error has been made or that more accurate or complete information is available.

5. Allscripts objects to each Interrogatory to the extent it purports to impose any requirement or obligation upon Allscripts other than those required by the Federal Rules of Civil Procedure and/or the Local Rules of this Court.

6. Allscripts objects to each Interrogatory to the extent that it is vague, overly broad, unduly burdensome, harassing and/or is not relevant or likely lead to the discovery of relevant information.

7. Allscripts objects to each Interrogatory to the extent it seeks information protected by the attorney-client privilege, the attorney work-product doctrine or any other applicable restriction upon discovery.

8. Allscripts objects to each Interrogatory to the extent it seeks information outside their possession, custody and control.

SPECIFIC OBJECTIONS AND RESPONSES

1. Fully identify each person involved in answering these Interrogatories, including persons who you consulted or who provided information relied on by you in answering any Interrogatory, and state the information supplied by each such person.

RESPONSE: Allscripts states that these Responses were prepared in consultation with undersigned counsel and all such communications and information exchanged with counsel are subject to the attorney-client privilege and/or work-product doctrine. Subject to, as limited by and without waiving the foregoing General Objections, Allscripts further states that the following persons below provided certain information as indicated below:

- **Nate Moster** (Director of Brand & Marketing Communications for Allscripts): Provided information regarding Allscripts' relationship with third-party fax broadcaster, Westfax, Inc. ("Westfax"), and Allscripts' faxing practices during the Relevant Time Period.
- **Michele Westmoreland** (formerly Associate Client Sales Executive for Allscripts): Provided information regarding Allscripts' relationship with third-party fax broadcaster, Westfax, and Allscripts' faxing practices during the Relevant Time Period.
- **Chad Kerner** (Director of Finance Disbursements for Allscripts): Provided information about invoices Allscripts received from Westfax between 2008 and 2011.
- **Greg Shorten** (Senior V.P. of Client Sales for Allscripts): Provided information about Allscripts' faxing practices during the Relevant Time Period.
- **Laura Bolger** (Sales Representative for Allscripts, Cincinnati, Ohio): Provided information about the marketing department's involvement in sending faxing during the Relevant Time Period.

The foregoing individuals may only be contacted through undersigned counsel.

2. State whether Defendant, or any other entity acting on Defendant's behalf, has utilized facsimile transmissions delivered by telephone during the Relevant Time Period which either (1) were used for any advertising or promotional purpose, or (2) which advertised any property, goods, or services, and describe in detail the content of each different document sent by such transmissions and the time period each different document was sent.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory to the extent it asks for a legal conclusion regarding whether any facsimile transmissions constituted "advertising" as that term is defined and understood under the TCPA. Additionally, Allscripts specifically objects to this Interrogatory as overbroad on the grounds that it asks for information about *all* facsimiles sent during the Relevant Time Period, not just the facsimiles attached as Group Exhibit B to PHI's Complaint. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts states that it contracted with a third-party broadcaster, Westfax, to send certain facsimile transmissions on its behalf during the Relevant Time Period. Answering further, Allscripts will provide copies of all "commercial" facsimile transmissions as part of its responses to PHI's First Set of Requests for Production. Investigation continues.

3. State whether any facsimile transmission identified in Interrogatory 2 were sent to the telephone number 513-922-2009 during the Relevant Time Period and state the dates such transmissions were sent.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory on the grounds that facial review of each facsimile attached as Group Exhibit B to the Complaint reveals that time and date each facsimile was sent to the telephone number 513-922-2009. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts states that, based on its investigation to date, it appears that the facsimile transmissions identified in Interrogatory No. 2 were sent to the telephone number 513-922-2009 on or about the following dates: July 9, 2008, July 11, 2008,

July 21, 2008, October 29, 2008, April 28, 2009, April 30, 2009, May 7, 2009, May 19, 2009, June 30, 2009, September 29, 2009, October 6, 2009, December 1, 2009, January 22, 2010, February 1, 2010, March 4, 2010, April 2, 2010, June 2, 2010, June 22, 2010, June 23, 2010, July 16, 2010, August 12, 2010, August 18, 2010, September 21, 2010, September 30, 2010, October 14, 2010, October 26, 2010, October 28, 2010, November 30, 2010, December 2, 2010, December 29, 2010, February 4, 2011, March 23, 2011, June 3, 2011, November 1, 2011, December 1, 2011 and December 5, 2011.

4. Fully identify all persons with knowledge of the facsimile transmissions identified in Interrogatory 2 or the documents sent by such transmission.

RESPONSE: Subject to, as limited by and without waiving the foregoing General Objections, Allscripts states that the persons identified in response to Interrogatory No. 1 possess knowledge regarding the facsimile transmissions identified in Interrogatory 2. Investigation continues.

5. Fully identify each person who was in any way involved in the facsimile transmission(s) identified in Interrogatory 3, and identify the telephone number of the telephone line used by the sending device, the address where the sending device was located at the time each call was made, the make, model, manufacturer, and serial number of the sending device, the owner of the sending device, and the owner's telephone number.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory on the grounds that Allscripts contracted with a third-party broadcaster, Westfax, to execute the actual sending of facsimile transmissions on Allscripts' behalf during the Relevant Time Period; hence, Allscripts does not have knowledge as to the address where the sending device was located at the time each was made, the make, model manufacturer and serial number of the sending device or the owner's telephone number. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts

incorporates its responses to Interrogatory No. 4 as if fully set forth herein in response to Interrogatory No. 5. Answering further, Allscripts states that each of the facsimile transmissions sent to 513-922-2009 during the Relevant Time Period was sent using one of the following five telephone numbers: (i) 919-457-5149; (ii) 866-258-3119; (iii) 919-457-4089; (iv) 919-547-5150; (v) 919-573-4474.

6. If Defendant contends an “Established Business Relationship” (“EBR”) existed between Defendant and Plaintiff (or any other person Defendant believes was associated with telephone number 513-922-2009) at the time of any facsimile transmissions sent to telephone number 513-922-2009, the fully identify each person involved in the creation of that EBR, all facts supporting the existence of such an EBR, the date(s) on which such EBR was formed, and each person involved in maintaining a log or other record of such EBR.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory on the grounds that it asks for a legal conclusions as to whether an “Established Business Relationship” existed, as that term is defined and understood under the TCPA and its implementing regulations. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts’ internal investigation has shown that PHI did transact business with Allscripts during the Relevant Time Period. Answering further, Allscripts has not seen any evidence demonstrating that PHI asked to stop receiving facsimile transmissions during the Relevant Time Period. Pursuant to Fed.R.Civ.P. 33(d)(1), Allscripts directs Plaintiff’s attention to the relevant portions of Allscripts’ production: ALLSCRIPTS 00018–00035.

7. Other than any facsimile transmissions to phone number 513-922-2009, identify the telephone numbers to which any facsimile transmissions identified in Interrogatory 2 were sent during the Relevant Time Period and the date on which each such transmission was made.

RESPONSE: In addition to the foregoing General Objections, Allscripts states that it will provide Plaintiff with any information its investigation reveals regarding the telephone

numbers to which any facsimile transmissions identified in Interrogatory No. 2 were sent during the Relevant Time Period and the date on which each such transmission was made. Answering further, Allscripts has copied the hard drives and Microsoft Outlook accounts of all custodians who may have been involved in the process of marketing and/or sending facsimile transmissions during the Relevant Time Period. Answering further, Allscripts reserves its right to amend its Response to this Interrogatory based upon additional information that may come to light as a result of any collection and/or review of documents that list any phone numbers to which facsimile transmissions were sent during the Relevant Time Period.

8. Other than any facsimile transmissions to phone number 513-922-2009, for each call made by or on behalf of Defendant which used facsimile transmissions identified in Interrogatory 2, identify the telephone number of the telephone line used by the sending device, the address where the sending device was located at the time each call was made, the make, model, and serial number of the sending device, the owner of the sending device, and the owner's telephone number.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory on the grounds that Allscripts contracted with a third-party broadcaster, Westfax, to execute the actual sending of facsimile transmissions on Allscripts' behalf during the Relevant Time Period; hence, Allscripts does not have knowledge as to the telephone number(s) of any telephone lines used by the sending device, the address where the sending device was located at the time each was made, the make, model manufacturer and serial number of the sending device or the owner's telephone number.

9. Fully identify each and every person who participated in Defendant's decision to send facsimile transmissions identified in Interrogatory 2, and state the extent and substance of each such person's participation therein.

RESPONSE: Subject to, as limited by and without waiving the foregoing General Objections, Allscripts incorporates its responses to Interrogatory No. 4 as if fully set forth herein in response to Interrogatory No. 9.

10. Fully identify the telephone service provider(s) that provided telephone service for the device(s) used to transmit facsimile transmissions identified in Interrogatory 2, stating the name, address, and account number of Defendant with that provider, and state the time period relevant to each such telephone service provider.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory on the grounds that Allscripts contracted with a third-party broadcaster, Westfax, to transmit facsimile transmissions on Allscripts' behalf during the Relevant Time Period; hence, Allscripts does not have knowledge regarding the telephone service providers that provided telephone service for the device(s) used to transmit facsimile transmissions sent during the Relevant Time Period.

11. Fully identify the telephone service provider that provided telephone service for the machine used to transmit the facsimile transmission(s) identified in Interrogatory 3.

RESPONSE: Subject to, as limited by and without waiving the foregoing General Objections, Allscripts incorporates its response to Interrogatory No. 10 as if fully set forth herein in response to Interrogatory No. 11.

12. If Defendant operated any device used to send any facsimile transmissions identified in Interrogatory No. 2 during the Relevant Time Period, state 1) the number of occasions Defendant engaged in such transmissions, and 2) for each such occasion, state the number of individual facsimile transmissions sent. If Defendant does not know the actual number of individual transmissions sent for any occasion, state the number of transmissions requested and/or expected to be sent on that occasion and the source of such information.

RESPONSE: Subject to, as limited by and without waiving the foregoing General Objections, Allscripts incorporates its response to Interrogatory No. 2 as if fully set forth herein in response to Interrogatory No. 12.

13. If Defendant operated any device used to send any facsimile transmissions identified in Interrogatory No. 2 during the Relevant Time Period, fully describe the equipment and/or software used, including 1) the name and version of the software used on the device, 2) location of the device when used to send such transmissions, 3) the current location of the device, 4) the identity of all users of the device, 5) and the telephone numbers of each telephone line connected to the device when used to send such transmissions.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory on the grounds that Allscripts contracted with a third-party broadcaster, Westfax, to transmit facsimile transmissions on Allscripts' behalf during the Relevant Time Period. Answering further, Allscripts incorporates its response to Interrogatory No. 2 as if fully set forth herein in response to Interrogatory No. 13.

14. If any person other than Defendant operated any device used to send any facsimile transmissions identified in Interrogatory No. 2 during the Relevant Time Period, for each such person state 1) the number of occasions each person engaged in such transmissions, and 2) for each such occasion, state the number of individual facsimile transmissions sent by that person. If Defendant does not know the actual number of individual transmissions sent for any occasion, state the number of transmissions requested and/or expected to be sent on that occasion and the source of such information.

RESPONSE: Subject to, as limited by and without waiving the foregoing General Objections, Allscripts states that, based upon its review of select Westfax invoices from the period between 2008 and 2011, it has identified that the following 19 faxes (attached as portions of Group Exhibit B to the Complaint) identified in the table below were sent the designated number of times during the Relevant Time Period. Answering further, Allscripts states that this information is based upon invoices *only*—not any transmission data—and therefore, Allscripts does not make any representation that every facsimile transmissions sent on its behalf was *successfully* sent and actually received by another party.

EXHIBIT PAGE	NUMBER OF TRANSMISSIONS SENT
Ex. B, p. 13	5,203
Ex. B, p. 14	318
Ex. B, p. 15	318
Ex. B, p. 16	1,104
Ex. B, p. 17	7,375
Ex. B, p. 18	4,154
Ex. B, p. 19	7,319
Ex. B, p. 20	177
Ex. B, p. 21	1,589
Ex. B, p. 22	164
Ex. B, p. 23	7,260
Ex. B, p. 24	3,004
Ex. B, p. 26	2,982
Ex. B, p. 27	975
Ex. B, p. 28	3,001

Ex. B, p. 29	877
Ex. B, p. 30	495
Ex. B, p. 31	702
Ex. B, p. 32	6,877
TOTAL	53,894 Transmissions

With respect to the remaining 17 facsimiles not listed in this table, investigation continues regarding the number of transmissions for each fax.

15. Identify the name, address, and telephone number of each person, other than Plaintiff, with whom Defendant contends an EBR existed between Defendant and such person at the time of any facsimile transmissions sent to that person, and fully identify each person involved in the creation of that EBR, all facts supporting the existence of such an EBR, the date(s) on which such EBR was formed, and each person involved in maintaining a log or other record of such EBR.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory on the grounds that it will be unduly burdensome to list the name, address, and telephone number of the thousands of persons with whom Allscripts maintained an EBR during the Relevant Time Period. Additionally, Allscripts specifically objects to this Interrogatory to the extent it calls for a legal conclusion as to whether an EBR existed with each facsimile recipient during the Relevant Time Period. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts states that it culled the list of persons and entities who received facsimile transmissions during the Relevant Time Period from Allscripts' "Sales Force" database, which compiles information about all customers with whom

Allscripts has an EBR. Answering further, Allscripts states that it will produce documents responsive to this Interrogatory in the course of responding to Plaintiff's First Set of Requests for Production. Investigation continues.

16. Fully identify every person, other than Plaintiff, who has contacted Defendant to communicate a desire not to receive facsimile transmissions.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory to the extent that it seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Subject to, as limited by and without waiving the foregoing General and Specific Objections, during the Relevant Time Period Allscripts had procedures in place to determine which persons had expressed a desire not to receive facsimile transmissions. Investigation continues as to the identities of those persons.

17. Describe in detail how Defendant obtained or developed a list of persons and/or telephone numbers to which telephone calls have been initiated by or on behalf of Defendant that utilized a facsimile transmission identified in Interrogatory 2. Include in your response (1) whether Defendant came into possession of such list in any form, (2) if so, what happened to said list, (3) whether any portion of said list was obtained from a third party, and if so, from whom and what consideration was exchanged in order to obtain any portion of said list, and (4) whether any portion of any such list was generated by a computer using random or sequential numbers.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory to the extent it seeks information regarding what consideration was exchanged in order to obtain a list, because such information is not reasonably calculated to lead to the discovery of admissible evidence. Furthermore, Allscripts specifically objects to this Interrogatory as vague and incomprehensible in its current form. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts incorporates its response to Interrogatory No. 15 as if fully set forth herein in response to Interrogatory No. 17. Investigation continues.

18. If Defendant instructed any person to construct, develop, purchase, or otherwise use a list of persons and/or telephone numbers to send any facsimile transmission identified in Interrogatory 2, describe in detail all directions and/or instructions given to such third party for determining the contents of such a list, including but not limited to 1) the area codes or states to be selected, 2) the SIC codes to be selected, and 3) any other selection or filtering criteria.

RESPONSE: Subject to, as limited by and without waiving the foregoing General Objections, Allscripts incorporates its response to Interrogatory No. 15 as if fully set forth herein in response to Interrogatory No. 18. Investigation continues.

19. If any entity other than Defendant operated the equipment used to send any facsimile transmissions identified in Interrogatory No. 2, state the name, address, and telephone number of each such entity, identify how Defendant became aware of each such entity, and describe in detail the contents of all communications between Defendant and each such entity.

RESPONSE: In addition to the foregoing General Objections, Allscripts objects to this Interrogatory as overbroad to the extent it asks for all communications, without limitation, between Allscripts and any third-party entity used to send facsimile transmissions during the Relevant Time Period. Subject to, as limited by and without waiving the foregoing General Objections, Allscripts states that it contracted with Westfax to send facsimile transmissions on Allscripts' behalf during the Relevant Time Period. Upon information and belief, Westfax's address is 10465 Park Meadows Center Drive, Lone Tree, Colorado 80124. Westfax's toll-free phone number is 800-473-6208. Answering further, Allscripts states that it will produce documents regarding the business relationship between Allscripts and Westfax in response to Plaintiff's First Set of Requests for Production.

20. Identify each TCPA lawsuit filed against you and state dated filed, county and state where suit was filed and case number.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Interrogatory on the grounds that it is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. Subject to, as limited by and without waiving the

foregoing General and Specific Objections, Allscripts states that it was a Defendant in a federal TCPA action captioned as *Radha Geismann v. Allscripts Healthcare Solutions, Inc., et al.*, No. 1:09-cv-05114 (N.D. Ill. filed Aug. 20, 2009).

21. Identify each fact witness whom you may call as a witness and state in detail the subject matter of each witness' testimony.

RESPONSE: Subject to, as limited by and without waiving the foregoing General Objections, Allscripts states that at this time they have not yet identified which fact witnesses they plan to call at trial. Discovery in this matter does not close until March 28, 2014, and Allscripts reserves the right to identify the fact witnesses they plan to call at trial in accordance with the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Northern District of Illinois, and/or any applicable rules or orders of this Court.

22. Identify each opinion witness whom you may call as a witness and state in detail the opinion each witness will provide at trial.

RESPONSE: Subject to, as limited by and without waiving the foregoing General Objections, Allscripts states that at this time they have not yet identified which opinion witnesses they plan to call at trial. Discovery in this matter does not close until March 28, 2014, and Allscripts reserves the right to identify the opinion witnesses they plan to call at trial in accordance with the Federal Rules of Civil Procedure, the Local Rules of the United States District Court for the Northern District of Illinois, and/or any applicable rules or orders of this Court.

DATED: August 30, 2013

Respectfully submitted,

**SHEPPARD MULLIN
RICHTER & HAMPTON LLP**

By: /s David M. Poell
One of Its Attorneys

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Telephone: (312) 499-6300
Facsimile: (312) 499-6301

*Counsel for Allscripts Healthcare Solutions, Inc.,
Allscripts-Misy's Healthcare Solutions, Inc., and Allscripts, LLC*

VERIFICATION

I, the undersigned, verify that the information provided in Allscripts' Answers to Plaintiff's Interrogatories are true and accurate.



Tejal Vakharia
Senior V.P. & Chief Compliance Counsel
Allscripts Healthcare Solutions, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PHYSICIANS HEALTHSOURCE, INC.,)
an Ohio corporation, individually and as)
the representative of a class of similarly-)
situated persons,)

Plaintiff,)

v.)

ALLSCRIPTS-MISY'S HEALTHCARE)
SOLUTIONS, INC., ALLSCRIPTS, LLC)
and ALLSCRIPTS HEALTHCARE)
SOLUTIONS, INC.)

Defendants.)

No. 12-cv-03233

Magistrate Judge Hon. Jeffrey Cole

**OBJECTIONS AND RESPONSES TO PLAINTIFF'S FIRST REQUEST
FOR EACH DEFENDANT'S ADMISSIONS**

NOW COME Defendants Allscripts-Misy's Healthcare Solutions, Inc., Allscripts, LLC and Allscripts Healthcare Solutions, Inc. (collectively, "Allscripts") in accordance with Rule 36 of the Federal Rules of Civil Procedure hereby respond to the Plaintiff's first set of requests for admission, as follows:

GENERAL OBJECTIONS TO ALL REQUESTS

1. Each of Allscripts' General Objections is incorporated in each individual answer set forth below as if fully set forth therein. Each answer is made subject to each of these General Objections.
2. Plaintiff's Requests are compound and fail to define certain words used in the Requests.
3. Allscripts objects to the extent that any Request seeks information that is subject to the attorney-client privilege, work-product protection and/or any other applicable privilege.

Allscripts reserves the right to assert these privileges on all information and also reserve the right to supplement their responses accordingly.

4. Allscripts' General Objections and Responses are made without in any way waiving or intending to waive, but on the contrary, preserving and intending to persevere:

(A) All questions as to competency, relevancy, materiality, privilege and admissibility as evidence for any purpose, these responses, or the subject matter thereof, in this proceeding or any subsequent proceeding or any other action;

(B) The right of Allscripts to object on any ground to the use of said responses, or the subject matter thereof, in this proceeding or any subsequent proceeding; and

(C) The right of Allscripts to object on any ground at any time to other discovery involving or relating to the subject of these requests.

5. Allscripts objects to Plaintiff's Requests, individually and generally, on the grounds that they contain words and phrases that are vague, ambiguous, confusing and/or excessively broad and inclusive, and therefore are difficult or impossible to understand. Allscripts also objects that the requests seek legal conclusions and matters that are not reasonably calculated to lead to the discovery of admissible evidence. The requests thus exceed the permissible bounds of discovery and the Federal Rules of Civil Procedure.

6. The information contained in these Responses to Plaintiff's First Request for Admission (the "Responses") is based upon the facts and information currently known by Allscripts as a result of considerable investigation to date. Allscripts reserves the right to supplement and to amend these Responses should additional facts and information be discovered. Allscripts further reserves the right to rely upon and to present as evidence at trial

such additional information as may be discovered and/or developed during the course of this litigation.

7. Allscripts, by answering any particular Request, does not waive the right to assert that any facsimile transmission during the Relevant Time Period was informational in nature. Allscripts expressly reserves the right to object to Plaintiff's claims that all the faxes attached to Exhibit B of the Complaint are "commercial," as that term is defined under the Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227 *et seq.* (West 2013).

8. In responding to these Requests, Allscripts has made a thorough inquiry of those persons that may possess information potentially responsive thereto and have conducted a thorough search of those records in their possession, custody or control where the requested information would likely be maintained in the ordinary course of business. To the extent the Requests require Allscripts to go to greater lengths, Allscripts objects to the Requests as overly broad, unduly burdensome and otherwise unreasonable.

9. Allscripts objects to each Request to the extent it purports to impose any requirement or obligation upon Allscripts other than those required by the Federal Rules of Civil Procedure and/or the Local Rules of this Court.

10. Allscripts objects to each Request to the extent it seeks information that is not relevant to the claim or defense of any party at issue in this litigation and that is not reasonably calculated to lead to the discovery of admissible evidence.

11. Allscripts objects to each Request to the extent it seeks information outside its possession, custody or control.

OBJECTIONS AND RESPONSES TO EACH REQUEST FOR ADMISSION

1. One or more of the faxes contained within Exhibit B describes the commercial availability of property, goods, or services offered by you.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the words “describes” and “commercial availability,” it is compound and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts admits that at least one of the faxes contained within Exhibit B describes the availability of goods or services offered by Allscripts.

2. You or someone on your behalf sent one or more of the faxes contained within Exhibit B to a telephone facsimile machine at the telephone number (513) 922-2009.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the phrase “on your behalf” and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts admits that at least one (or more) of the faxes contained within Exhibit B were sent to a telephone facsimile machine at the telephone number (513) 922-2009.

3. You or someone on your behalf has sent one or more of the faxes contained within Exhibit B to more than 40 persons in Ohio.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the phrase “on your behalf” and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts denies and further states that its investigation continues into whether one or more of the faxes contained within Exhibit B were sent to more than 40 persons in Ohio.

4. You or someone on your behalf has sent one or more of the faxes contained within Exhibit B to more than 1,000 persons.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the phrase “on your behalf” and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts admits that a third-party broadcaster, Westfax, Inc., has sent, on Allscripts’ behalf, one or more of the faxes contained within Exhibit B to more than 1,000 persons.

5. You or someone on your behalf has sent one or more of the faxes contained within Exhibit B to more than 5,000 persons.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the phrase “on your behalf” and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts admits that a third-party broadcaster, Westfax, Inc., has sent, on Allscripts’ behalf, one or more of the faxes contained within Exhibit B to more than 5,000 persons.

6. You or someone on your behalf has sent one or more of the faxes contained within Exhibit B to more than 10,000 persons.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the phrase “on your behalf” and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, the information presently known is insufficient to enable Allscripts to admit or to deny this request. Investigation continues.

7. You or someone on your behalf has sent one or more of the faxes contained within Exhibit B to more than 40 telephone numbers.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the phrase “on your behalf” and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts admits that a third-party broadcaster, Westfax, Inc., has sent, on Allscripts’ behalf, one or more of the faxes contained within Exhibit B to more than 40 telephone numbers.

8. You or someone on your behalf has sent one or more of the faxes contained within Exhibit B to more than 1,000 telephone numbers.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the phrase “on your behalf” and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts admits that a third-party broadcaster, Westfax, Inc., has sent, on Allscripts’ behalf, one or more of the faxes contained within Exhibit B to more than 1,000 telephone numbers.

9. You or someone on your behalf has sent one or more of the faxes contained within Exhibit B to more than 5,000 telephone numbers.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the phrase “on your behalf” and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, Allscripts admits that a third-party broadcaster, Westfax, Inc., has sent, on Allscripts’ behalf, one or more of the faxes contained within Exhibit B to more than 5,000 telephone numbers.

10. You or someone on your behalf has sent one or more of the faxes contained within Exhibit B to more than 10,000 telephone numbers.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague in its use of the phrase “on your behalf” and it calls for a legal conclusion. Subject to, as limited by and without waiving the foregoing General and Specific Objections, the information presently known is insufficient to enable Allscripts to admit or to deny this request. Investigation continues.

11. You or someone on your behalf did not contact Plaintiff and receive Plaintiff’s express consent before sending one or more of the faxes contained within Exhibit B to (513) 922-2009.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is compound and seeks information in possession of Plaintiff. Subject to, as limited by and without waiving the foregoing General and Specific Objections, the information presently known is insufficient to enable Allscripts to admit or to deny this request. Investigation continues.

12. You or someone on your behalf maintains a record of persons who provided express consent to receive advertisements by facsimile machine and the dates of their consent.

RESPONSE: In addition to the foregoing General Objections, Allscripts specifically objects to this Request because it is vague, compound and cannot be responded to without explanation. Allscripts maintains records of “persons” (as defined in Plaintiff’s First Request for Defendant’s Admissions) with whom Allscripts has a business relationship. Allscripts denies that it maintains a record of persons who provided express consent to receive advertisements by facsimile transmission.

13. Within a four-year period from the date of the original Complaint, you or someone on your behalf has sent more than 40 advertisements to telephone numbers.

RESPONSE: In addition to the foregoing General Objections, Allscripts objects to this Request because its use of “40 advertisements” without clarifying whether the Request intends to address forty (40) *separate and different* advertisements, or forty (40) transmissions of the *same* facsimile, is vague. The information presently known is insufficient to enable Allscripts to admit or to deny this request. Investigation continues.

14. Within a four-year period from the date of the original Complaint, you or someone on your behalf has sent more than 1,000 advertisements to telephone numbers.

RESPONSE: In addition to the foregoing General Objections, Allscripts objects to this Request because its use of “1,000 advertisements” without clarifying whether the Request intends to address one-thousand (1,000) *separate and different* advertisements, or one-thousand (1,000) transmissions of the *same* facsimile, is vague. The information presently known is insufficient to enable Allscripts to admit or to deny this request. Investigation continues.

15. Within a four-year period from the date of the original Complaint, you or someone on your behalf has sent more than 5,000 advertisements to telephone numbers.

RESPONSE: In addition to the foregoing General Objections, Allscripts objects to this Request because its use of “5,000 advertisements” without clarifying whether the Request intends to address five-thousand (5,000) *separate and different* advertisements, or five-thousand (5,000) transmissions of the *same* facsimile, is vague. The information presently known is insufficient to enable Allscripts to admit or to deny this request. Investigation continues.

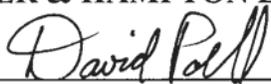
16. Within a four-year period from the date of the original Complaint, you or someone on your behalf has sent more than 10,000 advertisements to telephone numbers.

RESPONSE: In addition to the foregoing General Objections, Allscripts objects to this Request because its use of “10,000 advertisements” without clarifying whether the Request intends to address ten-thousand (10,000) *separate and different* advertisements, or ten-thousand (10,000) transmissions of the *same* facsimile, is vague. The information presently known is insufficient to enable Allscripts to admit or to deny this request. Investigation continues.

DATED: August 15, 2013

Respectfully submitted,

**SHEPPARD MULLIN
RICHTER & HAMPTON LLP**

By:  _____
One of Its Attorneys

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*Counsel for Allscripts-Misy's Healthcare Solutions, Inc., Allscripts, LLC
and Allscripts Healthcare Solutions, Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing ALLSCRIPTS-MISY'S HEALTHCARE SOLUTIONS, INC., ALLSCRIPTS, LLC AND ALLSCRIPTS HEALTHCARE SOLUTIONS, INC.'S Responses to Plaintiff's First Set of Requests for Admission was served upon the following by email and by mailing via United States First Class Mail, properly addressed and postage prepaid, upon:

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this 15th day of August, 2013.



David M. Poell

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August 15, 2013

VIA U.S. MAIL AND E-MAIL

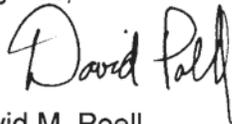
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Re: Physicians Healthsource, Inc. v. Allscripts Healthcare Solutions, Inc., et al. (N.D. Ill.)

Dear Brian:

Enclosed are Allscripts' Written Discovery Responses to Plaintiff's (i) First Set of Requests for Admission; (ii) First Set of Requests for Production; and (iii) Second Set of Requests for Production, along with Allscripts' production of documents Bates-stamped ALLSCRIPTS 00001-00035.

Regards,



David M. Poell
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Enclosures

cc: David Almeida (dalmeida@sheppardmullin.com)
Ryan Kelly (rkelly@andersonwanca.com)