

LONG-TERM CARE GROUP

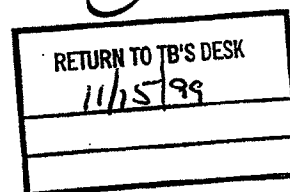
JANSSEN  PHARMACEUTICA  
RESEARCH FOUNDATION

ORTHOBIOTECH

ORTHOMcNEIL

October 25, 1999

Tim Bien, R.Ph. FASCP  
Senior Vice President -  
Professional Services & Purchasing  
Omnicare, Inc.  
100 East RiverCenter Blvd.  
Suite 1500  
Covington, Ky. 41011



Dear Tim,

Enclosed is the Initiative Partnership Agreement between Omnicare and Johnson & Johnson Health Care Systems Inc. This agreement calls for educational assistance in overcoming objections and obstacles pertaining to the Risperdal Initiative. A funding check of \$300,000 will be forthcoming.

We are also very close in completing the analysis on Omnicare purchases made outside of the Johnson & Johnson Health Care Systems contract. I feel strongly that this issue will be completed by the end of October so that all of my attention can be placed on concluding the issues surrounding the 1% overlay during 1998-1999.

The Procrit Meeting at Ortho-Biotech was extremely successful. I am in the process of coordinating the following follow-up steps:

- Coordination of clinical information (studies, etc.) as well as reimbursement protocols for each state to be sent to Nora Flint.
- Meeting with Gary Erwin and Nora Flint, as well as OBI clinical department - Mitch Slavin and Loretta Itri focusing on a similar presentation that you gave on October 7<sup>th</sup> to insure "buy-in" from OBI clinical department. (The original date of October 25<sup>th</sup> has had to be revised, possibly to November 5<sup>th</sup> because of scheduling conflicts).
- Coordination of funding the "Pilot Program" of \$200,000 through Lorraine Sulick-Morecraft at OBI to W. Gary Erwin at Omnicare.
- Introduction of either Tom Hiriack or Craig Phillips at OBI (bringing them up to date) to facilitate issues from an OBI perspective.

I also talked with Dan Maloney and Mark Lehman pertaining to both Levaquin and Risperdal market shares throughout the third quarter. I would like to stress the importance of sharing this regional site information with our Long Term Care group. By doing this we can emulate those manager's resources that are being placed in high share areas as well as looking to provide additional resources for those areas that are not meeting share goals. Mark wanted to talk with you about this issue before sending me any information. I believe our relationship has gone toward a "mutually beneficial" arrangement and I guarantee that any information we would receive in this area would be held in highest confidence.

Regards,

*Bruce Cummins*

Bruce Cummins

cc: D. Butler  
T. Lerman  
C. Jones

OMNI-MA 033998

**INITIATIVE PARTNERSHIP**

**Agreement Between**  
**Omnicare, Inc.**  
**100 East River Center Blvd.,**  
**Covington, KY 41011**  
**Attn: Mark Lehman**  
**Director of Clinical Services**

**REDACTED**

**Referred to as: "Omnicare"**

**AND**

**Johnson & Johnson Health Care Systems Inc.**  
**425 Hoes Lane**  
**P.O. Box 6800**  
**Piscataway, New Jersey 08855-6800**  
**Attn: Contract Administration**

**REDACTED**

**Referred to as "J&JHCS"**

**Agreement period 10/1/99 - 9/31/00**

**JOHNSON & JOHNSON HEALTHCARE SYSTEMS INC.**

**OMNICARE, INC.**

*Bruce Cummins*

Name: Bruce Cummins

Title: LTC Account Director

Date: 10/13/99

*Martine T. Grant*

Name: Martine T. Grant

Title: Manager, Business Analysis

Date: 10-15-99

*Mark Lehman*

Name: Mark Lehman

Title: Director, Clinical Services

Date: October 13, 1999

**OMNI-MA 033999**

## **INTRODUCTION**

**Agreement.** Under this Agreement, J&JHCS will provide financial assistance to partially defray the cost to Omnicare in developing and marketing mutually acceptable broad-based formulary intervention initiatives, and to assist Omnicare consultant pharmacists overcome obstacles and objections they encounter in implementing intervention programs.

**Parties.**

**J&JHCS.** is a New Jersey corporation and a wholly owned subsidiary of Johnson & Johnson, a New Jersey corporation. It is Supplier's mission to provide Manager with one interface to high quality Johnson & Johnson products and health management programs as well as other products and programs from selected partners. Supplier coordinates the consumer, diagnostic, medical & surgical, and pharmaceutical expertise of Johnson & Johnson's affiliates to emphasize wellness, provide early diagnosis, deliver cost-effective treatment and encourage health maintenance. Supplier is responsible to Manager for compliance with all the provisions of this Agreement and will cause its affiliates to cooperate with Manager in that endeavor.

**Omnicare.** is a Delaware corporation and an independent provider of professional pharmacy and related services for long term care institutions such as nursing homes, retirement centers, home healthcare and other institutional healthcare facilities.

**OMNI-MA 034000**

## AGREEMENT PROVISIONS

J&JHCS shall pay Omnicare a "Program Fee" to partially defray the cost of developing, implementing and operating "Initiatives" as described herein.

### 1. Payment Terms:

- a) J&JHCS shall pay the Program Fee of \$300,000 on October 1, 1999 by check or electronic wire transfer.
- b) If this Agreement is terminated or expires prior to completion of the Initiatives, Omnicare shall refund the full amount to J&JHCS minus the fair market value for Initiatives actually completed by Omnicare as documented pursuant to Section 3.
- c) Omnicare acknowledges that the Program Fee is not be tied to or conditioned on favorable formulary positioning or purchasing commitments is not tied to volume or value of utilization of J&JHCS' products or services.

2. Initiatives: The Program Fee may be used to fund or partially fund any or all of the mutually acceptable initiatives below. The amount of the Program Fee apportioned to any Initiative may not exceed the fair market value of the service provided to J&JHCS for that Initiative.

- a) **Training Services** –Providing training to health care professionals concerning the appropriate, FDA-approved use of J&JHCS' products.
  - Training sessions may be held at J&JHCS' facilities or independent teaching centers.
- b) **Development of educational materials or disease management programs** – Developing educational materials of disease management programs for J&JHCS' in clinical areas of interest to J&JHCS.
  - J&JHCS will obtain licenses or other rights to use materials or programs developed.
- c) **Product Intervention and Communication Programs** - Omnicare will provide information about J&JHCS' product to physicians or to patients having certain conditions . Such arrangements must meet the following conditions:
  - J&JHCS may not obtain confidential patient-identifiable medication information from Omnicare
  - Information may only be provided with respect to J&JHCS' products that are clinically appropriate competing products or alternative therapies.
  - Payment for communications by Omnicare must be made on an aggregate flat fee or "per letter basis" that is consistent with fair market value
  - The specific content of communications must be reviewed and approved by J&JHCS to ensure compliance with FDA advertising standards.
  - No payment may be made for services that a pharmacist or other health care professional is already required to provide to patients as part of professional dispensing practices.

- Communications to patients must disclose J&JHCS' sponsorship of the program but J&JHCS will not receive any confidential patient information
  - Communications must offer the patient the alternative not to receive similar communications in the future and how to do so.
- d) **Development and Dissemination of Patient / Provider Educational Materials** – Omnicare will develop or disseminate educational materials to physicians or patients (e.g., information on disease states or clinical treatment protocols) upon approval of such programs by J&JHCS.
- J&JHCS may not provide grants where Omnicare is already required to, or ordinarily undertakes to, provide such educational materials as part of its business
  - J&JHCS may not provide funding for activities that are more in the nature of advertising
- 3. Progress Review:** Omnicare shall prepare and submit a report to J&JHCS outlining Omnicare's activities pursuant to this Agreement after six months and again at the expiration of this Agreement. The parties shall meet to review Omnicare's report including activities performed to determine progress made towards attaining the Initiatives. At the six month review, either party may suggest modifications to this Agreement.

OMNI-MA 034002

## GENERAL TERMS AND CONDITIONS

1. **Subordination.** In case of an inconsistency between any provision of these General Terms and Conditions and any other provision of this Agreement, such other provision shall govern.
2. **Notices.** Any notice given in connection with this Agreement shall be sufficient if in writing and delivered by messenger or sent by postage prepaid mail or by facsimile to the address of the recipient as set forth on the cover page to this Agreement or as changed by the recipient by notice given hereunder. Notices or communications shall be effective when received by or otherwise known to the recipient or its legal representative. This provision is not intended to be exclusive, and any notice actually received shall be sufficient.
3. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the Products and subject matter hereof and supersedes all prior negotiations, agreements and understandings between the parties, whether oral or in writing, concerning the Products and subject matter hereof. This Agreement may be modified only in writing signed by the party against whom such modification is asserted provided that the terms of any purchase order, invoice or similar document used to implement this Agreement shall not modify and shall be subject to this Agreement.
4. **Assignment.** Neither party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party. For purposes of this paragraph assignment shall include any assignment by operation of law and any change in control of a party.
5. **Independent Contractors.** The parties hereto are independent contractors engaged in the operation of their own respective businesses. Nothing herein shall be deemed or construed to create any other relationship between the parties.
6. **Publicity.** Neither party shall permit or generate any publicity, advertising or promotion concerning this Agreement without the prior written consent of the other party.
7. **Confidentiality.** Neither party shall use information contained in this Agreement for any purpose not contemplated by this Agreement, and each party shall restrict access to this Agreement to personnel within its organization who need such access in order to perform duties related to the implementation of this Agreement or as required by law.
8. **Term.** The term of this Agreement is set forth on the cover page hereof. Either party may terminate this Agreement earlier by giving 30 days' notice to the other party pursuant to the provisions of Paragraph 1.b. of the Agreement Terms. The provisions of these General Terms and Conditions shall survive termination of this Agreement.
9. **Audit.** J&JHCS shall have the right to audit all records of Omnicare relating to Omnicare's performance of services pursuant to this Agreement.
10. **Legal Changes.** If any governmental entity shall enact or amend a law or adopt or amend a regulation, or if any governmental entity or court of competent jurisdiction shall adopt or amend an interpretation of a law or regulation, or if a judgment/award is rendered in litigation/arbitration, that has the effect of (a)

prohibiting any right or obligation of a party under this Agreement, (b) making any such right materially less valuable or any such obligation materially more burdensome to a party, or (c) changing materially the economic conditions underlying any portion of this agreement, then such party may upon notice to the other party terminate immediately such right or obligation or portion of the agreement insofar as such law, regulation or interpretation judgment or award applies.

11. **Force Majeure.** Noncompliance with any obligation under this Agreement for reasons of force majeure (such as: acts, regulations or laws of any government; war or civil commotion; destruction of production facilities or materials; fire, earthquake or storm; labor disturbances; failure of public utilities or common carriers; and any other causes beyond the reasonable control of the party affected) shall not constitute a breach of this Agreement.
12. **Dispute Resolution.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitration shall be held in New Jersey and the arbitrator shall apply the substantive law of New Jersey, except that the interpretation and enforcement of this arbitration provision shall be governed by the Federal Arbitration Act. The arbitrator shall not award any party punitive or consequential damages, and each party hereby irrevocably waives any right to seek such damages in arbitration or in judicial proceedings.
13. **Execution.** This Agreement will not be considered valid until all required signatures as indicated on the Cover Page have been affixed.

OMNI-MA 034004