

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS**

\_\_\_\_\_) )  
Plaintiff(s) )  
vs. )  
\_\_\_\_\_) )  
Defendant(s) )

Case No. \_\_\_\_\_

**HIPAA QUALIFIED PROTECTIVE ORDER**

This court explicitly finds that this court order is necessary to:

1. Protect a party's right to privacy as guaranteed by article I, section 6 of the Illinois Constitution for each party in this lawsuit;
2. Protect a party's rights to remedy as guaranteed by article I, section 12 of the Illinois Constitution for each party in this lawsuit;
3. Ensure the parties' compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying rules and regulations governing the disclosure, maintenance, use, and disposal of protected health information (PHI), *see generally*, 45 C.F.R. §§160.103 & 164.501;
4. Define "protected health information" (PHI) for the purposes of this qualified protective order, as having the same scope and definition as set forth in 45 C.F.R. §§ 160.103 & 164.501. Protected health information includes, but is not limited to, health information, including demographic information relating to either: (a) the past, present, or future physical or mental condition of an individual; (b) the provision of care to an individual; or (c) the payment for care provided to an individual, which identifies the individual or which reasonably could be expected to identify the individual.
5. Require covered entities, as defined in 45 C.F.R. §160.103, to disclose a party's PHI expressly provided in this Order as required pursuant to 45 C.F.R §164.512(e) for use in this litigation without a separate disclosure authorization; however, nothing in this order relieves any covered entity, party, their attorneys, their attorneys' agents or representatives, consultants, other witnesses, and other personnel who request, receive, and/or review documents containing PHI, from complying with the additional requirements of:
  - a. The Illinois Mental Health & Developmental Disabilities Confidentiality Act (740 ILCS 110/1 *et seq.*);
  - b. Alcoholism & Other Drug Abuse & Dependency Act (20 ILCS 301/30-5 *et seq.*);
  - c. The Aids Confidentiality Act (410 ILCS 305/1 *et seq.*);

- d. Federal law which protects certain drug and alcohol records (42 U.S.C. §290dd-3, 290ee-3; 42 C.F.R. Part 2);
  - e. The Genetic Information Privacy Act (410 ILCSA 513/15);
  - f. Physician and Patient, 735 ILCS 5/8-802(4);
  - g. Medical Patients' Rights Act (410 ILCS 50/1 *et seq.*); and
  - h. Any and all other applicable federal and state laws and regulations regulating or governing the request, review, or disclosure of PHI to the extent such laws and regulations are not pre-empted by HIPAA.
6. Permit the parties and their attorneys to use or disclose PHI of Plaintiff for purposes of prosecuting or defending this action, including any appeals of this case, including, but not necessarily limited to, disclosure to their attorneys, experts, consultants, court personnel, court reporters, copy services, trial consultants, and other entities or persons involved in the litigation process.
  7. Authorize the parties and their attorneys to receive, subpoena, and transmit PHI pertaining to Plaintiff, to the extent and subject to the conditions outlined herein.
  8. Require counsel to inform each person involved in the litigation, prior to disclosing Plaintiff's protected health information to said persons, that Plaintiff's protected health information may not be used or disclosed for any purpose other than this litigation.
  9. Permit the parties and their attorneys to receive PHI from covered entities, business associates, and parties in litigation, provided that the covered entity, business associates, and parties in litigation disclose only the PHI expressly authorized in this Order.
  10. Prohibit the parties and any other persons or entities from using or disclosing the PHI for any purpose other than the litigation or proceeding for which it was requested as required by 45 C.F.R. 164.512(e)(1)(v)(A).
  11. Require the return of the PHI to the covered entity or the destruction of the information at the end of the litigation or proceeding as required by 45 C.F.R. 164.512(e)(1)(v)(B).

**THIS COURT ORDERS THE FOLLOWING:**

1. The PHI of any party in this lawsuit may not be disclosed for any reason without that party's prior written consent or an order of this court.
2. A party who has disclosed PHI and agreed to the entry of this court order explicitly waives the right to privacy over the disclosed materials, but only to the extent provided in this court order. The only disclosures explicitly waived and expressly permitted by this order are those:

- a. As ordered by this or another court or arbitral body or by subpoena with reasonable notice to the parties and their attorneys for purposes of subrogation, reimbursement, or payment of liens arising out of or related to this lawsuit;
  - b. To the parties to this lawsuit and their agents.
3. Any covered entity over which this court has jurisdiction that fails or refuses to disclose PHI in accordance with this court order may be subject to all sanctions authorized by the Code of Civil Procedure and the Illinois Supreme Court.
4. A party to this lawsuit may provide PHI to an undisclosed consulting expert or controlled expert witness as defined in Illinois Supreme Court Rule 213(f)(3), but only after receiving written acknowledgement that each such expert or witness agrees to be bound by the terms of this Order.
5. Within 60 days after the conclusion of this lawsuit, as indicated by a court entered order of dismissal, all parties and other persons or entities subject to this court order possessing PHI shall, by agreement, either return it to the party or non-party whom it concerns, or their attorney of record in this lawsuit, or destroy it in compliance with 45 C.F.R. §164.512(e), such as by shredding, pulverizing, melting, incinerating, or degaussing. "Conclusion of the Litigation" shall be defined as the point at which final orders disposing of the entire case as to any Defendant have been entered, or the time at which all trial and appellate proceedings have been exhausted as to any Defendant. Proof of destruction/deletion of all protected health information and copies thereof which have not been filed with the Court may be made by affidavit of counsel of record, filed with the Court and opposing counsel.
6. Other than the party who disclosed PHI or that party's attorneys, no other parties or their agents are permitted to request, obtain, or disclose PHI or any other type of medical bills, records, or related information other than through the formal discovery procedures authorized by the Code of Civil Procedure, Illinois Supreme Court Rules, and orders of this court.
7. All requests by or on behalf of any Defendant for protected health information, including, but not limited to, subpoenas, shall be accompanied by a complete copy of this Order. The parties including their insurers and counsel are prohibited from using or disclosing protected health information for any purpose other than this litigation. "Disclosure" shall have the same scope and definition as set forth in 45 C.F.R. §160.103: "the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information."
8. If any party utilizes the services of a third-party to issue any subpoena for protected health information of Plaintiff, it shall be the requesting party's obligation to ensure that this order is complied with by the third party; including that the issuing subpoena and any accompanying correspondence comply with this Order.

9. The parties are prohibited from including or attaching PHI to any document filed with the Clerk of the Circuit Court. PHI necessary for a court's consideration of any matter must be provided separately.

10. This court retains jurisdiction to enforce the terms of this order after the conclusion of this litigation.

Dated: \_\_\_\_\_  
\_\_\_\_\_ Plaintiff's Attorney

Dated: \_\_\_\_\_  
\_\_\_\_\_ Defendant's Attorney

**ENTERED:**

\_\_\_\_\_  
**JUDGE**

Prepared by:  
Name: \_\_\_\_\_ SRL   
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Phone: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
ARDC #: \_\_\_\_\_  
E-mail address: \_\_\_\_\_