

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

LORI TAVARES,

Plaintiff,

v.

LAWRENCE & MEMORIAL HOSPITAL,

Defendant.

3: 11 - CV - 770 (CSH)

**HIPAA QUALIFIED PROTECTIVE ORDER
WITH RESPECT TO MEDICAL RECORDS TO BE PRODUCED
BY ALAN WAITZE, M.D.**

HAIGHT, Senior District Judge:

WHEREAS the defendant Lawrence & Memorial Hospital (“defendant” or “L&M”) seeks access to any and all records, notes and other documents, including any documents maintained or created electronically, relating to the medical treatment of Joseph Tavares from May 2004 to April 2010, held by neurosurgeon Alan Waitze, M.D. (“Dr. Waitze”);

WHEREAS Joseph Tavares is plaintiff’s husband and a non-party to this action;

WHEREAS L&M has sought, pursuant to Federal Rule of Civil Procedure 26(c), a qualified protective order to govern “the use, disclosure and disposition of” the medical records of Joseph Tavares, “which are private and confidential pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA),” (Doc. #36-1);

WHEREAS pursuant to Rule 26(c), “the court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense” by, *inter alia*, “specifying terms” for the disclosure or discovery;

WHEREAS the Court finds that good cause exists for issuance of an order permitting the limited disclosure of the medical records of Joseph Tavares, as described in paragraph one of this Order and pursuant to Rule 26(c);

THEREFORE, IT IS HEREBY ORDERED:

1. This Order applies to the medical records of Joseph Tavares which defendant requests from Dr. Waitze, a health care provider who is a “covered entity” as defined by 45 C.F.R. §160.103 and who has received and/or will receive a request or subpoena for protected health information.

2. Pursuant to 45 C.F.R. §164.512(e) of the Privacy Regulations issued pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), this Order authorizes Dr. Waitze, when provided with a subpoena requesting the production of documents or commanding attendance at deposition or trial to disclose protected health information in response to such request or subpoena, subject to any objection pursuant to the Federal Rules of Civil Procedure, or claim of confidentiality or privilege that any party or non-party with standing may have, and pursuant to the following conditions:

- (a) All protected health information disclosed by Dr. Waitze shall be used for the sole purpose of preparing or conducting this litigation, including, but not limited to investigation, consultation, discovery, depositions, trial preparation, trial, appeal, resolution, mediation, or uses incidental to the proceedings in the case and shall not be disclosed or revealed to anyone not authorized by this Protective Order.
- (b) Protected health information pursuant to this HIPAA Qualified Order may include information related to sexually transmitted disease, genetic testing, HIV, behavioral or mental health services, and treatment for alcohol and drug abuse.
- (c) Protected health information may be disclosed without further notice by Dr. Waitze or any party or party’s attorney, to:

- (1) The parties themselves, parties' attorneys, experts, consultants, any witness or other person retained or called by the parties, treating physicians, other health care providers, insurance carriers, or other entities from whom damages, compensation, or indemnity is sought and any entity performing monitoring or adjustment activities on behalf of such insurance carrier or other entity and/or their employees, agents, or third-party administrators for any of the parties involved in the litigation, court reporters, copy services, other similar vendors to the parties and their attorneys, as well as the professional and support staff of all of the above.
- (2) The parties and each entity governed by this Order shall either (a) destroy or (b) return to Dr. Waitze all protected health information and/or records, including all copies made; provided however that said protected information may be retained in the files of the entities listed in paragraph (1) above, and may be destroyed pursuant to their regular file retention policies so long as the protected health information and/or records are maintained in a secure environment to prevent unauthorized access or disclosure.

It is SO ORDERED.

Dated: New Haven, Connecticut
October 10, 2012

/s/Charles S. Haight, Jr.
Charles S. Haight, Jr.
Senior United States District Judge