IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

GENERAL ADMINISTRATIVE ORDER 17-3
STANDARD HIPAA QUALIFIED PROTECTIVE ORDER

Pursuant to the order entered this date in the case of <u>Marc Shull v. Eric Ellis</u>, 15-L-9759 (and all consolidated cases), all Qualified Protective Orders, entered pursuant to the provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), shall conform to the attached standard approved format, proposed in the above-captioned order.

All motions and orders for HIPAA Qualified Protective Orders shall be presented on all motion and individual calendars as "Routine Motions," with proper notice, and must be specifically labeled and contain a <u>specific</u> reference to the HIPAA statute.

Any objections to the entry of HIPAA Qualified Protective Orders shall be submitted in accordance with the routine motion rules and/or standing orders of motion judges and individual calendar judges.

The provisions of this General Administrative Order shall be stayed until further order of court, pending the exhaustion of all appellate remedies, including claims of unconstitutionality raised by the parties as they relate to the HIPAA Order issued in the case of <u>Marc Shull v. Eric Ellis</u>, 15-L-9759. Therefore, the use of the <u>current</u> standard HIPAA order, approved under General Administrative Order 12-1, shall continue until further order of court.

IT IS HEREBY ORDERED that this Order is entered July 25, 2017, and will be spread upon the records of the court.

Dated at Chicago, Illinois this 25th day of July, 2017.

ENTER:＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿＿
HON. JAMES P. FLANNERY, JR.
Presiding Judge
Law Division

/505

JUDGE JAMES P. FLANNERY

JUL 25 2017

Circuit Court-1505

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

CAPTION

<u>HIPAA QUALIFIED PROTECTIVE ORDER</u>

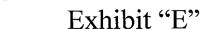This court explicitly finds that this court order is necessary to:

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.   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 & 160.501,

3.   require covered entities, *see* 45 C.F.R. 160.103, to disclose a party's PHI for use in this litigation without a separate disclosure authorization;

4.   permit insurance companies to receive PHI or what would otherwise be considered PHI from covered entities, business associates, and parties in litigation and to use, maintain, and dispose of PHI or what would otherwise be considered PHI in conformity with the Illinois Insurance Code and its accompanying rules and regulations; and

5.   further the interest of the State of Illinois in regulating the business of insurance.

A party disclosing PHI explicitly stipulates that she or he:

1.   read this court order before signing their name to be bound by it;

2.   discussed the contents of this court order with their attorney of record in this litigation and had the opportunity to ask questions;

3.   were informed of and fully understand the consequences of the entry of this court order; and

4.   freely and without reservation stipulate to the entire contents of this court order.

Based on these findings and stipulations, 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 and an order of this court.

2.   A party that has disclosed PHI and agreed (as indicated by signature) 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 are those:

   A. to insurance companies to comply with current and future applicable federal and state statutes, rules, and regulations for purposes including:

     1. reporting; investigating; evaluating, adjusting, negotiating, arbitrating, litigating, or settling claims;

     2. compliance reporting or filing;

     3. reporting criminal or unlawful conduct;

     4. required inspections and audits;

     5. legally required reporting to private, federal, or state governmental health or medical insurance organizations, including, but not limited, to the Centers for Medicare and Medicaid Services (CMS);

     6. rate setting and regulation;

     7. reserve and actuarial determination;

     8. calculating loss;

     9. workers' compensation; and

     10. determining the need for and procuring excess or umbrella coverage or reinsurance;

   B. ordered by this or another court or arbitral body or by subpoena for purposes of subrogation, reimbursement, or payment of liens arising out of or related to this lawsuit;

   C. necessary to comply with any other federal or state laws, rules, or regulations, but only with the party's express consent and entry of an appropriate court order.

   3. Any covered entity over which this court has jurisdiction that fails or refuses to disclose PHI in accordance with this court order is subject to all sanctions authorized by the Code of Civil Procedure and the Illinois Supreme Court rules.

   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 acknowledgement that each such expert or witness agrees to be bound by the terms of this order.

   5. No PHI or what would otherwise be considered PHI disclosed during the course of this lawsuit and received by an insurer may be re-disclosed to any business associate, *see* 45 C.F.R. § 160.103, including Verisk Analytics, Inc. or any of its parent, subsidiary, related companies, or successors, including the Insurance Services Office, Inc., unless the records re-disclosed have been de-identified pursuant to federal regulations. *See* 45 C.F.R. §§ 164.502(d)(1)-(2) & 164.514(a)-(b).

   6. Immediately 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 about whom it concerns or their attorney of record in this lawsuit or destroy it by shredding, pulverizing, melting, incinerating, or degaussing. This provision does not apply to insurers who possess what would otherwise be considered PHI under HIPAA but only to the extent as limited in paragraph 2.

7.   No parties or their attorneys, agents, or representatives 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.

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

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

_____

Printed Name

Dated: _____

_____

Signed by Plaintiff / Defendant / Legally Designated Representative / Other (circle one)

Dated: _____

_____

Counsel for Plaintiff / Defendant / Legally Designated Representative / Other (circle one)

_____

Circuit Court Judge

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