

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

XIANGYUAN ZHU,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 04-2539-KHV
	)	
FEDERAL HOUSING FINANCE BOARD,	)	
et al.,	)	
	)	
Defendants.	)	

**ORDER**

This matter comes before the court on the motion of the plaintiff, Xiangyuan Zhu, for a protective order (**doc. 299**). Plaintiff has filed a memorandum in support (doc. 300), defendant Federal Home Loan Bank of Topeka has responded (doc. 312), and plaintiff has replied (docs. 331 & 332).

Evidently, defendant obtained certain medical records pertaining to plaintiff or her daughter from counsel opposing plaintiff in another case in which she is a party. Defendant included these medical records in its Rule 26(a)(1) disclosures. Plaintiff claims that she did not authorize access to these records. By way of the instant motion, plaintiff seeks a protective order 1) prohibiting the dissemination of the records or information contained in them, 2) prohibiting counsel in plaintiff's other lawsuit from using or disclosing the records outside of that litigation, and 3) placing the medical records under seal. Defendant argues that the medical records were lawfully obtained pursuant to valid, signed releases from plaintiff, that the Health Insurance Portability and Accountability Act (42 U.S.C. §§ 1320d,

*et seq.*) (“HIPAA”) does not govern the use or dissemination of medical records by attorneys, and that plaintiff waived any evidentiary privilege related to the records.

At the outset, the court notes that it does not have jurisdiction to prohibit opposing counsel in another lawsuit from using or disclosing records from that case. Thus, plaintiff’s request in this respect is denied.

Further, plaintiff has not shown that defendant in this case has unlawfully obtained the medical records. Nonetheless, to the extent that they may contain information plaintiff wishes to remain confidential, the court will grant plaintiff’s request to prohibit dissemination of the records by defense counsel in this case outside the context of the instant suit. Accordingly, the parties shall confer and defense counsel shall submit to the court via email a proposed protective order regarding the use of the medical records in this case no later than **November 17, 2006**.

IT IS SO ORDERED.

Dated this 3rd day of November, 2006, at Kansas City, Kansas.

s/ James P. O’Hara  
James P. O’Hara  
U.S. Magistrate Judge