IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JEREMY BUSTAMANTE,   )
)
                    Plaintiff,   )
vs.   )
)   Case No. 06 -1336 -WEB
CENTRAL KANSAS MEDICAL CENTER.,   )
a Kansas Corporation,   )
)
                    Defendant.   )
_____)

ORDER AUTHORIZATION THE INSPECTION AND
REPRODUCTION OF HEALTH INFORMATION AND EX PARTE INTERVIEWS

TO: ALL HEALTH CARE PROVIDERS; HOSPITALS; CLINICS, PHARMACIES,
        PHYSICIANS; SOCIAL WORKERS, PSYCHOLOGISTS; PSYCHIATRISTS;
        GOVERNMENTAL AGENCIES; MEDICAL INSTITUTIONS; AND
        PRACTITIONERS OF THE HEALING ARTS

NOW on this 1st day of May, 2007, this matter comes on before the Court on the

application of the defendant for an order directing all heath care providers who have provided

care and/or treatment to Jeremy Bustamante, to produce any and all health care information

within their custody and/or control pertaining to said person and for an order allowing defendant

to conduct ex parte interviews with plaintiff's treating physicians. Plaintiff appears by and

through, James R. Howell of Prochaska, Craig, Giroux & Howell and defendant appears by and

through Chris S. Cole and Steven C. Day of Woodard, Hernandez, Roth & Day L.L.C.

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WHEREUPON, the Court, after reviewing the files and records, hearing statements of counsel and being fully and duly advised in the premises finds:

a. Jeremy Bustamante has filed an action wherein a claim for personal injury damages is being asserted and has therefore waived his privilege with respect to any confidential communications between he and his health care providers, provided, however, that his health care providers may not be compelled to discuss the confidential communications with anyone outside his presence or his legal counsel's presence unless the health care provider consents.

b. Jeremy Bustamante has been given appropriate notice and an opportunity to secure a protective order and has agreed to permit counsel for the above-named parties to inspect and/or copy any and all of his health care information in the custody and/or control of any health care provider, provided the records are not disclosed for any purpose other than use in the present action;

c. Jeremy Bustamante objects to the issuance of an order granting defendant or its any of its representatives or agents permission to conduct ex parte interviews with any of his treating physicians outside his presence or the presence of his counsel.

IT IS THEREFORE BY THE COURT CONSIDERED, ORDERED, ADJUDGED AND DECREED:

1. The findings of the Court shall be made a part of the order of the Court;

2. Plaintiff's objections are noted, but overruled. *See* McCloud v. Geary Community Hospital, Case No. 06-1002, Memorandum and Order of Aug. 16, 2006 (Doc. 41) at pp. 3-5;

3. All health care providers are authorized to produce for inspection and/or copying to defendant or its counsel all health care information concerning any care and/or treatment provided to Jeremy Bustamante in their custody or control, including, but not limited to: insurance and identification information; patient questionnaires; phone message slips; office narratives; progress notes; prescription orders; lab results; nurse and physician assistant notes; consultation reports; order sheets; correspondence with patient; handwritten notes; radiological and laboratory reports; documents contained in the patient's office chart received from other health care providers, insurance representatives, attorneys or governmental agencies; correspondence and hospitalization records; patient

intake and registration forms; physician orders; progress notes; operative reports; nursing assessments; admission reports; discharge reports; nursing notations; physical and occupational therapy notes; social service notes; medication administration orders; input/output records; delivery records; transfer records; consent forms; EKGs, fetal monitor strips, ECGs, SSEPs and other monitor tracings; photographs, videos, diagnostic films, tissue samples, autopsy reports, releases, authorizations; and, records from other health care facilities which were brought by the patient or ambulatory service provider; Provided however, that this Order does <u>not</u> provide for the production of any medical records maintained in connection with any program relating to substance abuse education, prevention, training, treatment, rehabilitation or research, <u>which are conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, and which are covered by the provisions of 42 U.S.C. § 290dd-2 and 42 C.F.R., Part 2.</u>

4.   All health care providers are authorized to talk with defendant or its counsel outside of the presence of Jeremy Bustamante or his counsel, <u>provided the health care provider consents to the interview;</u>

5.   Any health care provider producing health information for inspection or copying is entitled to compensation for the reasonable expenses and costs incurred in processing any request made pursuant this order as provided by law.

6.   Requests made for production, inspection and/or copying of health information or interview with any health care provider may be made by any attorney of record as set forth below and it shall be the responsibility of the requesting party to ensure that the reasonable expenses and costs associated with the same are paid.

7.   Any health information produced for copying shall be for purposes of the pending action only and shall not be re-disclosed to any third party for any other purpose.

8.   This order complies with all federal and state laws governing the production of protected health information.

9.   This order shall remain effective during the pendency of this action only.

       <u>s/ DONALD W. BOSTWICK</u>
       U.S. Magistrate Judge

APPROVALS:

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