

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

LASONYA VAUGHN,
Plaintiff,

vs.

GRANT NEWCOMB,
Defendant.

Case No. 08-1056-MLB-DWB

**AGREED ORDER FOR INSPECTION AND REPRODUCTION OF
MEDICAL RECORDS AND PROTECTED HEALTH INFORMATION PURSUANT TO
STATE AND FEDERAL LAW (HIPAA) AND NOTIFICATION OF WAIVER OF
PHYSICIAN-PATIENT PRIVILEGE**

TO: All Hospitals; Clinics; Pharmacies; Physicians; Social Workers; Psychiatrists; Psychologists; Therapists; Governmental Agencies (State and Federal); All Other Medical Institutions; Health Care Providers and/or Practitioners, Past and Present

COMES NOW before the Court the application of the parties for an order directing all health care providers who have provided care, treatment and/or services to plaintiff, **LaSonya Vaughn**, to produce any and all information within their care, custody and/or control pertaining to said person. Plaintiff, LaSonya Vaughn, appears by and through his attorney Norman E. Douglas of Accident Recovery Team. Defendant, Gary Newcomb, appears by and through his attorney, Patrick J. Murphy of Wallace, Saunders, Austin, Brown & Enochs, Chartered.

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

You are hereby authorized, directed, and ordered pursuant to applicable federal law, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA), and the laws of Kansas, to make available for examination and reproduction by the parties and counsel denominated in this lawsuit any and all medical records of any type or nature whatsoever and/or any

protected health information within your care, custody, or control concerning plaintiff, **LaSonya Vaughn**, whose identifying information will be provided in the cover letter which accompanies this order.

Medical documents and protected health information subject to this order include but are not limited to:

- **Every page of the entire medical chart cover to cover** (including but not limited to all records pertaining to the examination, diagnosis, care and treatment of the patient, patient intake and registration forms; patient insurance and identification information; office narratives; progress notes; prescription orders; lab results; nurse and physician assistant notes; consultation reports; order sheets; handwritten notes; and, radiological and laboratory reports, itemized billing statements listing all charges, diagnostic films, photographs and videotapes.
- This order also includes all “**Secondary Records**” regardless of whether generated by you. Secondary Records include patient questionnaires; phone message slips; correspondence with patient and other physicians; and all documents contained in the patient’s office chart from other health care providers, insurance representatives, attorneys or governmental agencies, including but not limited to: medical records as defined above and all correspondence and hospitalization records.
- Any and all records related to the diagnosis and treatment of mental illness, emotional condition, chemical dependency or substance abuse, including any psychotherapy notes that are part of the medical record; **The Plaintiff/patient has made a full and knowing waiver of the statutory privilege provided these records under K.S.A. 65-5602.**
- This order further allows the disclosure of all information regarding diagnosis and treatment of mental and emotional condition pursuant to Kansas Statutes 65-5601 to 65-5603 (*treatment facility privilege*) and 74-5323 and 75-5372 (*psychologist-patient privilege*).

This Court specifically finds the above requested information necessary to this proceeding because the plaintiff relies on the information of his condition as an element of a claim or defense. Unless specifically excluded by this Order, **ALL** records and protected health information in your possession regarding the person noted above shall be produced or made available for inspection; Provided however, that this Order does not 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, 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. Said inspection and reproduction may be requested by any attorney of record herein as set forth below, and reasonable clerical fees and expenses shall be paid by the attorney requesting such examination, reproduction or interview.

You are further notified that, pursuant to rules of the U.S. District Court, counsel for the parties are hereby authorized to talk with plaintiff's treating physicians or other health care providers outside the presence of plaintiff and/or his counsel, provided the health care provider consents to the interview. This is not required and health care providers are under no obligation to consent to such interviews. This ruling is based on the Court's finding that the plaintiff has made a claim for personal injuries by filing this lawsuit and has therefore waived any privilege existing between the patient and health care providers. By virtue of filing this suit, the plaintiff is aware that this privilege has been waived and has been given the opportunity to object to this order.

This Order complies with HIPAA federal standards for privacy of individually identifiable health information, 45 C.F.R. Parts 160 and 164 and Kansas Statute, K.S.A. 60-427, Physician-Patient Privilege.

This Order shall be effective throughout the pendency of this action.

Dated this 13th day of May, 2008.

S/ DONALD W. BOSTWICK
Donald W. Bostwick
United States Magistrate Judge

APPROVED:

/s/ Sean C. Brennan

Norman E. Douglas, #23177

Sean C. Brennan, #19915

Accident Recovery Team

221 S. Topeka

Wichita, KS 67202

Phone: (316) 263-0505

Fax: (316) 263-2128

E-mail: normandouglas@accidentrecoveryteam.net

E-mail: art133c@yahoo.com

Attorneys for Plaintiff

/s/ Patrick J. Murphy

Patrick J. Murphy, #16034

Wallace, Saunders, Austin,

Brown & Enochs, Chartered

400 O.W. Garvey Center, 200 W. Douglas

Wichita, KS 67202

Phone: (316) 269-2100

Fax: (316) 269-2479

E-mail: pmurphy@wsabe.com

Attorney for Defendant