

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Barbara Peterson,

Civil No. 12-327 (JNE/FLN)

Plaintiff,

v.

**ORDER**

HealthEast Woodwinds Hospital,

Defendant.

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Richard A. Williams, Jr. and Megan A. Spriggs for Plaintiff.  
Sara Gullickson McGrane and Jessica M. Marsh for Defendant.

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**THIS MATTER** came before the undersigned United States Magistrate Judge on November 19, 2012 on Defendant's motion to amend the scheduling order and pleadings (ECF No. 13) and Plaintiff's motion for a protective order (ECF No. 18).

Plaintiff has in her possession several original patient-advocate files she removed from Defendant's facility upon her termination. Plaintiff alleges she was instructed to destroy the documents in order to protect HealthEast from potential lawsuits. Plaintiff claims she removed the documents in order to preserve them, fearing HealthEast would destroy them otherwise. Defendant learned of the documents during discovery and now demands they be returned to HealthEast immediately, citing disclosure concerns related to patient privacy under the Health Insurance Portability and Accountability Act (HIPAA). As reflected by their competing motions, the parties are unable to reach an agreement about how best to deal with the documents in Plaintiff's possession.

Based upon all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff's motion for a protective order (ECF No. 18) is **GRANTED** in part and

**DENIED** in part. The Court finds that privacy concerns related to the documents in Plaintiff's possession are governed by the HIPAA Whistleblower exception. *See* 45 C.F.R. §164.502(j)(i). As such, Plaintiff's motion for a protective order is **GRANTED** as follows:

- A. Plaintiff shall immediately (by close of business, November 20, 2012) provide Defendant with a copy of all patient grievance files currently in her possession.
  - B. Absent agreement of the parties or further order of the Court, the patient grievance files are for attorney's eyes only.
  - C. At the conclusion of this litigation, including any appeals, the patient grievance files shall be returned to Defendant.
2. In all other respects, the Plaintiff's motion for a protective order is **DENIED**.
  3. Defendant's motion to amend the scheduling order and pleadings (ECF No. 13) is **DENIED**.

DATED: November 21, 2012

s/ Franklin L. Noel  
FRANKLIN L. NOEL  
United States Magistrate Judge