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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

*IN RE USC STUDENT HEALTH
CENTER LITIGATION*

No. 2:18-cv-04258-SVW-GJS

[consolidated with 2:18-cv-04940-SVW-GJS, 2:18-cv-05010-SVW-GJS, 2:18-cv-05125-SVW-GJS, and 2:18-cv-06115-SVW-GJS]

CLASS ACTION

**[PROPOSED] ORDER ON
JOINT STIPULATION AND
[PROPOSED] QUALIFIED
HIPAA PROTECTIVE ORDER**

IT IS HEREBY ORDERED, good cause appearing, that the terms of the Joint Stipulation and [~~Proposed~~] Qualified HIPAA Protective Order, attached hereto as *Exhibit A*, submitted by the parties meets with the approval of the Court. The Joint Stipulation and [~~Proposed~~] Qualified HIPAA Protective Order is hereby adopted as the Order of this Court.

DATED: April 3, 2019



GAIL J. STANDISH
UNITED STATES MAGISTRATE JUDGE

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EXHIBIT A

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4 Seattle, WA 98101
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19 *Interim Class Counsel and Plaintiffs' Executive Committee*

20 *[Additional Counsel Listed on Signature Page]*

21 UNITED STATES DISTRICT COURT
22 CENTRAL DISTRICT OF CALIFORNIA
23 EASTERN DIVISION

24 **IN RE USC STUDENT HEALTH
25 CENTER LITIGATION**

26 No. 2:18-cv-04258-SVW

27 [consolidated with No. 2:18-cv-04940-
28 SVW-GJS, No. 2:18-cv-05010-SVW-
GJS, No. 2:18-cv-05125-SVW-GJS,
and No. 2:18-cv-06115-SVW-GJS]

**JOINT STIPULATION AND
[PROPOSED] QUALIFIED HIPPA
PROTECTIVE ORDER**

DISCOVERY MATTER

1 **JOINT STIPULATION AND**

2 **[PROPOSED] QUALIFIED HIPAA PROTECTIVE ORDER**

3 Pursuant to the Settlement Agreement¹, the Parties have stipulated and agreed,
4 through their respective counsel, to the entry of an Order pursuant to Federal Rule of
5 Civil Procedure 26(c) for the protection of protected health information that may be
6 produced or otherwise disclosed during the course of the Settlement.
7

8 Accordingly, pursuant to Rule 26(c) of the Federal Rules of Civil Procedure and
9 45 C.F.R. § 164.512(e)(1), the Court finds good cause for the issuance of a qualified
10 protective order and ORDERS as follows:

11 1. “CMIA” is defined herein as the Confidentiality of Medical Information
12 Act, Cal. Civ. Code §§ 56-56.37.
13

14 2. CMIA’s primary purpose is to protect an individual’s Medical
15 Information, in electronic or paper format, from unauthorized disclosure.

16 3. As used in this Order, “Authorization” has the meaning set forth in Cal.
17 Civ. Code § 56.05(a).

18 4. As used in this Order, “Medical Information” has the meaning set forth in
19 Cal. Civ. Code § 56.05(j).
20

21 5. “FERPA” is defined herein as The Family Educational Rights and
22 Privacy Act of 1974, as amended, Pub. L. 93–380, 88 Stat. 1974, 20 U.S.C. § 1232g,
23 and the implementing regulations thereunder, 34 C.F.R. Part 99.

24 6. FERPA’s purpose is to set out requirements for the protection of privacy
25 of students and prohibit the unauthorized disclosure of personal identifiable
26

27 ¹ All capitalized terms herein shall have the same meanings as set forth in the
28 Settlement Agreement.

1 information contained in Education Records without the prior written consent of an
2 Eligible Student.

3 7. As used in this Order, “Education Records” has the meaning set forth in
4 34 C.F.R. § 99.3.
5

6 8. As used in this Order, “Eligible Student” has the meaning set forth in 34
7 C.F.R. § 99.3.

8 9. “HIPAA” is defined herein as the administrative simplification provisions
9 of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-
10 191, 110 Stat. 1936 (1996) and shall incorporate by reference the provisions of the
11 Health Information Technology for Economic and Clinical Health Act (Title XIII of
12 Division A and Title IV of Division B of the American Recovery and Reinvestment
13 Act of 2009, Pub. L. No. 111-5, 123 Stat. 226 (2009)) and the implementing
14 regulations issued thereunder, 45 C.F.R. Parts 160, 162, and 164.
15

16 10. Confidentiality is required by HIPAA for all medical and mental health
17 records and is necessary to protect private medical information of the Settlement Class
18 Members.
19

20 11. As used in this Order, “Protected Health Information” has the meaning
21 set forth in 45 C.F.R. § 160.103.

22 12. JND Class Action, Mass Tort & Lien Resolution (“JND”) is serving as
23 the Settlement Administrator under the Settlement Agreement to resolve Settlement
24 Class Members’ health insurance reimbursement claims and/or liens. JND shall
25 implement and administer the Settlement Agreement regarding claim and/or lien
26 identification and resolution for all Settlement Class Members. JND’s duties and
27 functions include (1) the authority to act as agent for Counsel for the benefit of all
28

1 Settlement Class Members for purposes of claim and/or lien identification and
2 resolution, (2) the authority to receive and release identifiable health information, and
3 (3) the authority to resolve any and all potential recovery claims, either globally or
4 otherwise, for medical items, services, and/or prescription drugs (“medical treatment”)
5 with, but not limited to, Governmental Payors and Medicare Part C and/or Part D
6 Program sponsors, and other healthcare insurance payors (collectively, “Payors”).

8 13. JND shall serve on behalf of Counsel and Settlement Class Members for
9 purposes of claim and/or lien identification and resolution associated with the
10 Settlement. JND shall have the exclusive authority to administer a process with the
11 Centers for Medicare and Medicaid Services (“CMS”) for identification and resolution
12 of Medicare Part A and/or Part B recovery claims on behalf of all Settlement Class
13 Members, either globally or otherwise, who are or were Medicare entitled. JND shall
14 resolve any potential Medicare Part A and/or Part B claim(s) related to the Settlement
15 for those Settlement Class Members who are or were Medicare beneficiaries.
16 Settlement Class Members have been informed that as the agent of their Counsel, JND
17 has the authority to act in such capacity for the benefit of all Settlement Class
18 Members to resolve any and all Medicare reimbursement obligations, consistent with
19 federal law. JND shall provide CMS with a final and verified list of qualified
20 Medicare enrolled beneficiaries.
21
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23 14. This Order shall apply to the use of all information related to Settlement
24 Class Members that JND creates, provides to, or receives from Payors that is or may
25 be protected under CMIA, FERPA, or HIPAA and its amendments, or other applicable
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1 federal or state law, including all Protected Health Information,² as defined in 45
2 C.F.R. §160.103. JND is specifically authorized to provide to and receive from CMS,
3 individual Medicaid Agencies, and all other Payors, as well as the Defendants'
4 insurers, lists of Settlement Class Members and related information, which identifies
5 those Payors that have or may have asserted against such Settlement Class Members a
6 lien, claim, or right of subrogation for injury-related medical treatment, in lieu of (i)
7 obtaining Authorization from any individual under CMIA; (ii) obtaining the signed,
8 written consent of any Eligible Student under FERPA, if applicable; or (iii) providing
9 copies of individual HIPAA authorizations and information on a case-by-case Member
10 basis. Consistent with 45 C.F.R. 164.512(e)(1)(i), individual HIPAA authorizations
11 are not required for any disclosure requested or made pursuant to this Order. Any
12 Payor who receives a request from JND, in performance of its functions herein, for a
13 Settlement Class Member's Protected Health Information is authorized and required to
14 disclose that information to JND, whether in a list or other form.

15
16
17 15. JND is also authorized to disclose Settlement Class Members' Medical
18 Information, Education Records, and/or Protected Health Information to Class
19 Counsel, Defendant's insurers, and the Special Master and her team in the
20 performance of its functions and duties herein.

21
22 16. Persons Bound: This Order shall take effect when entered and shall be
23 binding upon all counsel of record and their law firms, the Parties, and persons and
24

25
26 ² This includes, but is not limited to, demographic information that could be used
27 to identify Medicare-eligible and/or Medicaid-enrolled Settlement Class Members,
28 information related to Settlement Class Members' eligibility for and entitlement to
benefits under the Medicare program and Medicaid program and information related
to health care services rendered, including the payment of such services.

1 entities made subject to this Order by its terms.

2

3 APPROVED AND AGREED TO BY PLAINTIFFS'
4 CO-LEAD CLASS COUNSEL AS AUTHORIZED
5 BY CLASS REPRESENTATIVES:

6

6 BY /s/ Steve W. Berman DATE: 3/25/19
7 STEVE W. BERMAN
8 HAGENS BERMAN SOBOL SHAPIRO LLP

9

9 BY /s/ Daniel C. Girard DATE: 3/25/19
10 DANIEL C. GIRARD
11 GIRARD SHARP LLP

10

11

12

12 BY /s/ Annika K. Martin DATE: 3/26/19
13 ANNIKA K. MARTIN
14 LIEFF CABRASER HEIMANN & BERNSTEIN LLP

13

14

15

16

17 APPROVED AND AGREED TO BY COUNSEL AS AUTHORIZED BY USC:

18

18 BY /s/ Shon Morgan DATE: 3/25/19
19 SHON MORGAN
20 QUINN EMANUEL URQUHART & SULLIVAN LLP

19

20

21

22 APPROVED AND AGREED TO BY COUNSEL AS AUTHORIZED BY GEORGE
23 TYNDALL:

22

23

24

24 BY /s/ N. Denise Taylor DATE: 3/25/19
25 N. DENISE TAYLOR
26 TAYLOR DEMARCO LLP

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26

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