

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MARK RATLEY,

Plaintiff,

vs.

Case No. 17-4024-DDC

UNITED STATES OF AMERICA,

Defendant.

AGREED ORDER FOR DISCLOSURE, INSPECTION AND REPRODUCTION
OF MEDICAL RECORDS AND PROTECTED HEALTH INFORMATION
PURSUANT TO STATE AND FEDERAL LAW AND
NOTIFICATION OF WAIVER OF PHYSICIAN-PATIENT PRIVILEGE

TO: All health care providers including, but not limited to, hospitals, clinics, doctor's offices, or any like facility offering medical care, pharmacies, physicians, physicians assistants, nurses, social workers, psychiatrists, psychologists, therapists, governmental agencies (State and Federal) and any other medical institutions, facilities, or practitioners past and present.

This matter is before the Court on the parties' request for an order authorizing all health care providers who have provided care and or treatment of any kind to Mark Ratley to disclose and produce for inspection or reproduction by either party to this action, any and all health care information within their custody and or control pertaining to Mark Ratley.

WHEREUPON, the Court, after being fully advised in the premises, finds and orders as follows:

1. All health care providers who have provided care and or treatment of any kind to Mark Ratley are hereby authorized (but not required), pursuant to the laws of the State of Kansas and applicable federal law, including but not limited to the Health Insurance Portability and Accountability Act (HIPAA), to disclose and make available for examination and reproduction

by the parties to this action, or their attorneys, any and all medical records of any type or nature whatsoever and or any protected health information within the health care providers custody and or control concerning Mark Ratley.

2. Medical documents and protected health information subject to this Order include but are not limited to:

Every page, front and back, of the entire medical chart, cover to cover, including, but not limited to: all records pertaining to the examination, diagnosis, care and/or 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; radiological and laboratory reports; itemized billing statements listing all charges, radiographic films, photographs and videotapes; patient questionnaires; payment receipts, documents, and correspondence; phone message slips; correspondence with patient and other health care providers; and all other documents contained in the medical chart from other health care providers, insurance representatives, attorneys or governmental agencies.

3. The Court specifically finds disclosure of the above-requested information permissible because of the claims and defenses involved in this civil litigation. Unless specifically excluded by this Order, all medical records and protected health information pertaining in any way to Plaintiff Mark Ratley, in the possession or control of any and all health care providers may be disclosed, produced or made available to the parties or the parties' attorneys for inspection and or reproduction. Any fees and expenses associated with the production of health care records and other information pursuant to this Order and permitted under K.S.A. § 65-4971 shall be paid by the party requesting the records and or information.

4. Pursuant to Kansas state law and the rules of the Kansas district court, the parties' attorneys are hereby authorized to talk with Mark Ratley's treating physicians or other health care providers, without Plaintiff or Plaintiff's counsel being present during the conversation, provided the health care provider consents to the interview and both parties' counsel are given

notice that any such conversation occurred within five (5) business days of the conversation. This is based on the Court's finding that Plaintiff has made a claim for personal injuries and, in filing this lawsuit, has pursuant to Kansas law waived any privilege existing between the patient and health care provider as defined in K.S.A. § 60-427.

5. 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.

6. This Order encompasses the disclosure of all information regarding: diagnosis and treatment of mental, alcoholic, drug dependency; emotional condition; and HIV, AIDS or other infectious diseases pursuant to 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2 (substance abuse privilege); K.S.A. §§ 65-5601 to 65-5603 (treatment facility privilege); K.S.A. § 74-5323 & K.S.A. § 74-5372 (psychologist-patient privilege); and K.S.A. §§ 65-6001 to 6010 (infectious disease privilege). Disclosure of all records pursuant to these sections is necessary for purposes of the litigation and essential to the claims and defenses of the parties.

7. Mark Ratley has conferred with his attorney and is aware that this Order for the production of protected health information has been entered.

8. The parties are prohibited from using or disclosing the protected health information disclosed or reproduced pursuant to this Order for any purpose other than the litigation of this case.

9. After the case has been fully litigated, decided and closed, the protected health information disclosed or reproduced pursuant to this Order shall be destroyed by the party in possession of the information.

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

IT IS SO ORDERED, this 20th day of July, 2017, in Kansas City, Kansas.

s/ James P. O'Hara
JAMES P. O'HARA
U.S. Magistrate Judge

Submitted by:

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s/ Michelle A. Jacobs

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