

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

EDWARD R. GARZA, JR.	:	CIVIL ACTION
	:	
v.	:	
	:	
JAMES H. CARSON, <i>et al.</i>	:	NO. 14-4811

**MEMORANDUM**

CAROL SANDRA MOORE WELLS  
United States Magistrate Judge

July 24, 2017

Presently before the undersigned is Plaintiff's Motion to Compel Defendant James H. Carson, M.D. to produce his Personnel File as well as documents concerning his treatment of inmate and non-inmate patients over a number of years. Dr. Carson, in response, has agreed to produce his Personnel File, subject to redaction of all personal-identifying and compensation-related information. Dr. Carson refuses, however, to produce other requested documents, arguing that Plaintiff's request is overly-burdensome for his medical practice to produce and asserting that Plaintiff should first be required to establish that Dr. Carson provided him with inadequate medical care before receiving the documents, which relate to Dr. Carson's state of mind when acting. The undersigned accepts Dr. Carson's response concerning his Personnel File, but rejects his rationale for not producing the other documents Plaintiff seeks. To make the discovery proportional to the needs of this case, the undersigned will limit the years for which Dr. Carson must produce records.

In this case, Plaintiff alleges that Dr. Carson, and other Defendants, demonstrated deliberate indifference to his serious medical needs while he was an inmate at the Lancaster County Prison ("LCP"). In particular, he alleges that they provided inadequate medical care for the broken ankle he had sustained prior to entering LCP. In order to prove that Dr. Carson was deliberately indifferent to his serious medical need, Plaintiff must establish by objective evidence

that the care Dr. Carson provided to him was inadequate and by subjective evidence that Dr. Carson possessed the state of mind required for Eighth Amendment liability. *Pearson v. Prison Health Services*, 850 F.3d 526, 536 (3d Cir. 2017). The requisite state of mind, called “deliberate indifference,” is often proven by circumstantial evidence. *Id.* at 535. Plaintiff could opt to show that the treatment Dr. Carson has routinely provided to non-inmate patients with broken ankles differs in quality from the treatment he provides to inmate patients with similar injuries. In order to contrast treatment, Plaintiff requires a sampling of Dr. Carson’s non-inmate and inmate patients with broken ankles. Hence, the evidence Plaintiff seeks to obtain from Dr. Carson is plainly relevant to an element of his cause of action and is appropriate for discovery. *See* Fed. R. Civ. P. 26(b)(1).

Dr. Carson, in part *via* the affidavit of H. William Weik, Jr., the Chief Executive Officer of his medical practice,<sup>1</sup> seeks to avoid providing any of these relevant documents to Plaintiff, alleging that it would be too onerous for his medical practice to produce them. This argument fails; Mr. Weik has not explained why it would take two staff members 300 hours to locate the records sought. Mr. Weik has not asserted that the records are not, as would be typical, in a searchable database. Hence, this court is not convinced that the requested records cannot be obtained more promptly and easily than Mr. Weik asserts. Nevertheless, this court will lessen the burden on Dr. Carson’s practice in two ways. First, Dr. Carson shall produce records for only 20 patients of each type (inmate and non-inmate), not the 50 Plaintiff seeks. Second, if it would be easier for Dr. Carson’s practice to search for and produce the necessary records by using ICD (International Statistical Classification of Diseases and Health Related Problems) or

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<sup>1</sup> Plaintiff directed his discovery requests and motion to Dr. Carson. However, Dr. Carson has not provided any factual explanation for why he cannot produce the records. Instead, Mr. Weik has submitted an affidavit wherein he avers that complying with Plaintiff’s document request would consume 300 hours of time from two staff members at the medical practice.

CPT (Current Procedural Terminology) descriptors, *see* Defendant Carson's Memorandum of Law at 5 n.4, they may do so to identify the relevant records.<sup>2</sup>

Additionally, Dr. Carson objects on the ground that Plaintiff should first be required to establish that Dr. Carson provided him with inadequate medical care before receiving the documents, which relate to Dr. Carson's state of mind when acting; this objection also fails. No legal justification exists for delaying discovery on the state of mind part of Plaintiff's Eighth Amendment claim until he demonstrates the inadequate care component of his claim, since Judge Rufe has not ordered bifurcated discovery in this case. Plaintiff, therefore, may pursue discovery on all aspects of his claims. If, once discovery is complete, Plaintiff cannot prove an essential element of his Eighth Amendment cause of action against Dr. Carson, that unsubstantiated claim can be challenged *via* dispositive motion practice.

An implementing Order follows.

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<sup>2</sup> Dr. Carson represents that his practice uses ICD and CPT descriptors for billing purposes. Defendant Carson's Memorandum of Law at 5 n.4.