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The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

EAGLE HEALTHCARE, INC., et al.,

Plaintiffs,

v.

SUSAN N. DREYFUS, in her official capacity  
as Secretary of the Washington State Department  
of Social and Health Services, et al.,

Defendants.

NO. C10-05470-RBL

**STIPULATED  
PROTECTIVE ORDER**

**I. STIPULATION**

The parties in this litigation have produced and intend to produce medical records, public assistance records, records containing proprietary information, and other information that is necessary for use in this lawsuit but is private and confidential. Plaintiffs and Defendants request protection against improper disclosure of their confidential records and against improper disclosure of confidential information. Recognizing that these records and other confidential information in this case may be subject to protection under Local Rule 5(g) and Civil Rule 26(c) of the Federal Rules of Civil Procedure, the parties stipulate to the following protective order.

1                   **IT IS SO STIPULATED.**

2                   DATED this 6th day of October, 2010.

3                   INSLEE, BEST, DOEZIE & RYDER

OFFICE OF THE ATTORNEY GENERAL

4  
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23   **II.     PROTECTIVE ORDER**

24                   1.       Any party to this action may, on and after the date this Order is signed by the  
25                   Court, designate as confidential any document thereafter sought to be discovered by any  
26                   other party that is "confidential material" as defined by this Order. The terms of this Order  
                 shall govern as to all aspects of the procedures to be followed in making or challenging such  
                 designations, and the terms, conditions, and restrictions on the use of confidential materials.  
                 By designating a document, thing, material, testimony, or other information derived  
                 therefrom as "confidential" under the terms of this Order, the party making the designation is

1 certifying to the Court that there is a good faith basis both in law and in fact for the  
2 designation within the meaning of LR 5(g)(4), Western District of Washington.

3 2. The parties agree that this Order shall apply whether the materials or  
4 documents have been filed with the Court together with pleadings or motions, or produced by  
5 a party pursuant to formal discovery, by subpoena or by agreement.

6 3. The term "Confidential Materials" as used in this Order includes, but is not  
7 limited to: Any written, photographic or electronic media, summaries thereof and  
8 attachments thereto, answers to interrogatories, requests for admissions and answers thereto,  
9 answers to requests for production, deposition transcripts and exhibits, which include  
10 material pertaining to plaintiffs' health care information as that term is defined in state law or  
11 material that is proprietary to plaintiffs or can be considered "trade secrets" under applicable  
12 law.

13 4. The term "Counsel" means a law firm representing a party in this action and  
14 its attorneys, employees, including without limitation legal associates, paralegals, and clerical  
15 or other support or office staff.

16 5. The parties shall designate "Confidential Materials" as follows: designation  
17 shall be made by placing the following legend on every page of any such Document, or the  
18 cover page of a group of Documents, prior to production, "Confidential Material." In the  
19 event that a document was produced prior to designating it as "Confidential Material" or if a  
20 party inadvertently fails to stamp or otherwise designate a Document or other material  
21 containing confidential information as "Confidential Material" at the time of its production,  
22 that party may at any time thereafter stamp or otherwise designate the Document or other  
23 information as "Confidential Material." Such Document or other information shall be treated  
24 as "Confidential Material" as of the time of the designation.

25 6. Except as expressly provided for in this Protective Order, the parties agree  
26 that they will not communicate or disclose in any manner either directly or indirectly to any

1 person or entity any Confidential Materials and any information contained therein. The  
2 parties agree that they will only use Confidential Materials and any information contained  
3 therein for their prosecution or defense of this litigation and for no other purpose.

4 7. Confidential Materials produced during this litigation, and information  
5 contained in Confidential Materials, shall not be disclosed to any other person except to the  
6 following individuals:

7 a. Counsel for any party in this action, including their associates,  
8 paralegals, legal assistants, clerical, and other support staff or services, as well  
9 as stenographic reporters engaged in proceedings incident to preparation for  
10 trial or the trial of this matter;

11 b. Each of the named parties in this action, their agents, determined in  
12 good faith to have a need to know and regarding which they have been given  
13 proper authorization in writing to have such access; and

14 c. Any person who has been called to testify, in deposition or at trial,  
15 except that such person may only be shown copies of "Confidential Material"  
16 in preparation for and during his/her testimony to the extent determined in  
17 good faith to have a need to know to verify or challenge information, and  
18 regarding which they have been given proper authorization in writing to have  
19 access to such information; and that such person may not retain any such  
20 "Confidential Material;"

21 d. Experts and/or other professionals retained by any party for trial  
22 preparation purposes and to prosecute or defend this litigation;

23 e. The person who prepared or directly participated in the preparation of  
24 any particular document;

25 f. The person to whom a particular document or copies thereof were  
26 addressed or delivered;

1 g. Any third-party witness in preparation for, or during, their deposition  
2 or testimony at trial or a hearing in this litigation, and regarding which they  
3 have been given proper authorization in writing to have access to such  
4 information; or

5 h. Mediators or similar outside parties and their staffs enlisted by all  
6 Parties to assist in the resolution of this matter.

7 8. The parties agree that either party may use "Confidential Materials" in open  
8 court at hearings in or during the trial of this action. The parties agree that either party may  
9 also use "Confidential Materials" in any motion, memoranda, brief or other document filed  
10 with the Court in this action, or as an exhibit or exhibits in support of any motion,  
11 memoranda, or brief filed with the court in this action.

12 9. Any portion of any motion, memoranda, brief, or document, or exhibit  
13 containing "Confidential Materials," must be filed with the court under seal so that the party  
14 seeking to maintain the documents' confidentiality may submit a motion to seal pursuant to  
15 LR 5(g). Only if the references to "Confidential Materials" in any motion, memoranda, or  
16 brief are sufficiently extensive or numerous that it would not be practicable to only file  
17 portions of the relevant document under seal, will the entire motion, memoranda, or brief be  
18 filed under seal.

19 10. This Order is without prejudice to the right of any party to seek relief from the  
20 Court, upon good cause shown, from any of the provisions contained in this Order. This  
21 Order shall not be construed as waiving any right to assert a claim of privilege, relevance,  
22 overbreadth, burdensomeness, or other grounds for not producing material called for, and  
23 access to such material shall be only as otherwise provided by the discovery rules and other  
24 applicable law.

25 Nothing in this Order shall be construed to be an admission against a party or  
26 constitute evidence of any fact or issue in this case.

1 **IT IS SO ORDERED.**

2 DATED this 8<sup>th</sup> day of October, 2010.

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5 RONALD B. LEIGHTON  
6 UNITED STATES DISTRICT JUDGE

7 Presented by:

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9 Attorney General

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