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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

RODGER R. ANSTETT; STANLEY W.  
BILINSKI; MICHAEL J. CATES;  
KYLE A. GRAY; WALLACE H.  
GUIDO; WILLIAM M. KENNEDY; STEVE M.  
SACRE; TERRY J. STALEY; SCOTT L.  
TEAGUE; LONNIE R. WOOLHISER; and  
JERRY J. WRENN, all present or former  
inmates of Oregon correctional institutions,

Plaintiffs

vs.

STATE OF OREGON by and through the  
OREGON DEPARTMENT OF CORRECTIONS,  
(ODOC); et seq.

Defendants.

Civil No. CV01-1619BR

STIPULATED MOTION FOR ~~AND~~  
PROTECTIVE ORDER

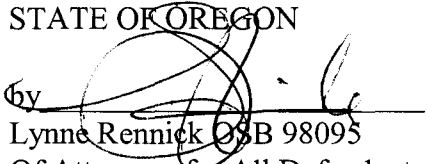
### STIPULATION

Because this case concerns confidential “individually identifiable health information” of

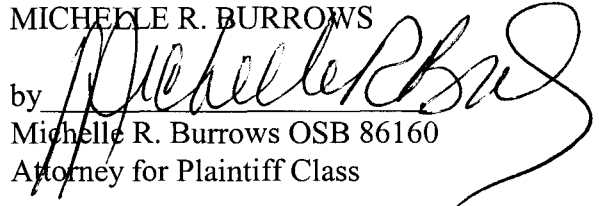
patients within the custody and control of the Oregon Department of Corrections, and because the settlement agreement reached by the parties will involve the on-going review and disclosure of health information to non-parties and non-treating physicians as required by the settlement terms; the parties and the court-appointed Medical Review Panel hereby stipulate to the entry of the subjoined Protective Order pursuant to Civil Rule 26(c). This stipulation is designed to facilitate expeditious production of confidential health information during the pendency of this case.

Dated this 6<sup>th</sup> day of April 2004.

STATE OF OREGON

by   
Lynne Rennick OSB 98095  
Of Attorneys for All Defendants

MICHELLE R. BURROWS

by   
Michelle R. Burrows OSB 86160  
Attorney for Plaintiff Class

### PROTECTIVE ORDER

The Court, finding that the agreement of the parties is proper and desirable in the circumstances of this case, pursuant to Civil Rule 26(c), and according to the Stipulation of the parties, it is hereby Ordered, Adjudged and Decreed as follows:

1. Any documents produced by a party in this action which are determined by the producing party to contain confidential or proprietary information, including individually identifiable health information, financial information, operating policies, procedures, guidelines, trade secrets, medical information, non-public criminal history information or other sensitive information of a non-public nature may be designated as confidential, and so marked, by

stamping each page of the document “Confidential”. A party or non-party may designate information disclosed during a deposition or in response to written discovery or as produced to the Medical Review Panel as “Confidential” by so indicating in the responses, on the record itself or on the record at the deposition and requesting the preparation of a separate transcript of such material. As specified in paragraph 9, any party or non-party may challenge the “Confidential” designation of any document. In the event of a challenge to the “Confidential” designation of a particular document, the designating party shall apply to the Court for continuing “Confidential” protection of the document as provided in Paragraph 9 and the Court will make a determination of whether the requesting party has made an actual showing that the documents is entitled to continuing protection under Fed. R. Civ. P. 26 and controlling federal law.

2. When used in this Order, the word “documents” includes, but is not limited to, responses to requests for admission; answers to interrogatories; documents or materials produced by any party or non-party in this action whether pursuant to Federal Rule of Civil Procedure 34, subpoena, or by agreement; affidavits deposition transcripts and exhibits, and any portions of any court papers which quote from or summarize any of the foregoing.

3. All “Confidential” documents and all information contained therein, shall be used by the party to whom the documents are disclosed solely for the prosecution and/or defense of this action and/or to facilitate review of the Guidelines and their implementation as detailed in the Settlement Agreement, and shall not be further disseminated, except as specifically agreed upon in writing, by counsel for the parties.

4. Except with prior written consent of the party asserting “Confidential” treatment of the

document(s), “Confidential” documents and the information contained therein may be disclosed only to parties to this action and to counsel appearing for the party to whom the “Confidential” disclosure has or is to be made, as well as secretaries, paralegal assistants, and other employees of such counsel who are assisting counsel in the prosecution and/or defense of this action, and the members of the Medical Review Panel or the Special Master. The parties’ counsel shall be responsible for ensuring that his or her partners, associates and employees who are involved in this case, and/or who have access to discovery in this case, are informed of the terms of this Order and agree to abide by said terms.

5. Counsel to whom “Confidential” documents and information have been disclosed may disclose the information to outside consultants and experts retained for the purpose of assisting in the prosecution and/or defense of this action, but only after the consultant or expert has read this Order and agrees in writing to be bound by its terms, as set forth in Exhibit A. Upon order of this court, for good cause shown, these Agreements shall be available for inspection by counsel for the party producing the “Confidential” documents.

6. If a party wishes to file motions, briefs, memoranda, exhibits or other documents or things containing “Confidential” information derived therefrom, that party shall comply with the following procedures;

(a) the documents or other materials must first be submitted for in camera inspection pursuant to LR 3.10 for the Court’s determination pursuant to LR 3.10(c). If the material is submitted by the party that designated the material “Confidential” the party must submit the material with a motion or stipulation requesting that the material be reviewed in

camera and must make the showing required pursuant to Fed. R. Civ. P. 26 and controlling federal law for the sealing a filed document. If a party wishes to file documents or material designated “Confidential” by another party, the submitting party must submit the material with a transmittal letter to the assigned Judge with a request that indicates the party designating the material for in camera review and indicating that the party that designated the material “Confidential.” The submitting party will file a motion within five days that makes the showing required by Fed. R. Civ. P. 26 and controlling federal law. The party seeking to preserve the secrecy of the material must then file a response within the following five days.

(b) Before seeking to maintain protection of documents filed with the Court, a party must assess whether redaction is a viable alternative to complete nondisclosure.

7. All documents produced by parties or non-parties, including but not limited to information and materials which are designated “Confidential.”, and all copies of them (other than deposition transcripts, court papers and exhibits of record) shall be destroyed or returned to the party producing such documents within 30 days of the final adjudication of the action, including but not limited to, the final adjudication of any appeal, except that each party may maintain a single file copy of said documents, which shall remain subject to all the terms and conditions of this Stipulation and Protective Order.

8. Nothing in this Order shall prevent any party to this action, or nonparty, from moving the court to remove the “Confidential.” designation from a particular document, from seeking modification of this Order, from designating already-produced documents as “Confidential.”, or from objecting to discovery which a party believes to be otherwise improper.

9. If a party or nonparty contends that any material is not entitled to “Confidential.” treatment, such party or nonparty may at any time give written notice to the party who designated the material as “Confidential.”. The party who designated the material shall have fifteen (15) days from the receipt of such written notice to apply to the Court for an order designating the material as “Confidential.”, during which time the material shall be treated as “Confidential.”. The party seeking the order has the burden of establishing that the document is entitled to protection under Fed. R. Civ. P. 26 and controlling federal law.

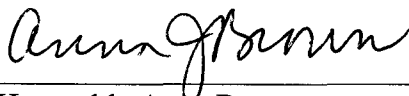
10. Notwithstanding any challenge to the designation of material as “Confidential.”, all documents shall be treated as such and shall be subject to the provisions hereof unless and until one of the following occurs: (a) the party who claims that the material is “Confidential.” withdraws such designation in writing; or (b) the party who claims that the material is “Confidential.” fails to apply to the Court for an order designating the material “Confidential.” within the time period specified in paragraph 9 after receipt of a written challenge to such designation; or (c) the Court rules the material is not “Confidential.”.

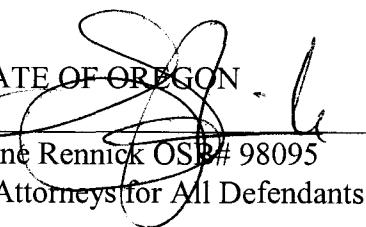
11. This Order is entered solely for the purpose of facilitating the exchange of documents and information between the parties and the Medical Review Panel to this action without involving the Court unnecessarily in the process. Nothing in this Order or the production of any information or document under the terms of this Order or any proceeding pursuant to this Order shall be deemed to have the effect of an admission or waiver by either party or of altering the confidentiality or non-confidentiality of any such document or information or altering any existing obligation of any party or the absence thereof.

12. This Order shall be without prejudice to the right of any party to oppose production of any information or to object to its admissibility into evidence by reason of lack of timeliness or relevance, assertion of a privilege, undue burden, or any other lawful ground.

13. Nothing in this Order shall prevent or otherwise restrict counsel from rendering advice to his/her client and, in the course thereof, relying generally on his/her examination of items designated as "Confidential."

Dated this 6<sup>th</sup> day of April 2004.

  
The Honorable Anna Brown

STATE OF OREGON  
by   
Lynne Rennick OSB# 98095  
Of Attorneys for All Defendants

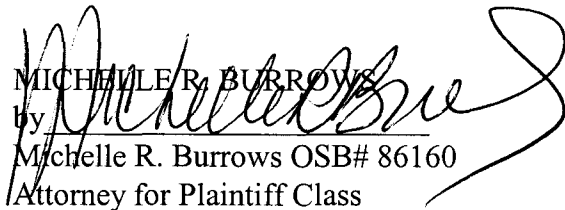
MICHELLE R. BURROWS  
by   
Michelle R. Burrows OSB# 86160  
Attorney for Plaintiff Class

EXHIBIT A

AGREEMENT OF EXPERT, CONSULTANT OR DESIGNATED  
REPRESENTATIVE TO BE BOUND BY PROTECTIVE ORDER

The undersigned, \_\_\_\_\_ (print or type name), an expert retained to serve on the Medical Review Panel, in connection with *Anstett et al v. State of Oregon et al*, USDC Case No. 01-1619BR, acknowledges that he or she has received a copy of the Protective Order entered in this action, which is attached hereto as Exhibit 1, and has read and agreed to be bound by all of the provisions thereof.

Dated 6<sup>th</sup> day of April 2004.

Kent G. Bennett M.D.  
Signature  
Kent G. Bennett M.D.  
Printed Name

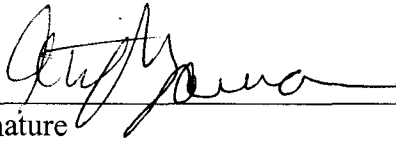


EXHIBIT A

AGREEMENT OF EXPERT, CONSULTANT OR DESIGNATED  
REPRESENTATIVE TO BE BOUND BY PROTECTIVE ORDER

The undersigned, Atif Zaman (print or type name), an  
expert retained to serve on the Medical Review Panel, in connection with *Anstett et al v. State of  
Oregon et al*, USDC Case No. 01-1619BR, acknowledges that he or she has received a copy of  
the Protective Order entered in this action, which is attached hereto as Exhibit 1, and has read  
and agreed to be bound by all of the provisions thereof.

Dated 6<sup>th</sup> day of April 2004.

  
Signature

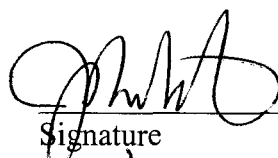
Atif Zaman  
Printed Name

EXHIBIT A

AGREEMENT OF EXPERT, CONSULTANT OR DESIGNATED  
REPRESENTATIVE TO BE BOUND BY PROTECTIVE ORDER

The undersigned, John Santa (print or type name), an  
expert retained to serve on the Medical Review Panel, in connection with *Anstett et al v. State of  
Oregon et al*, USDC Case No. 01-1619BR, acknowledges that he or she has received a copy of  
the Protective Order entered in this action, which is attached hereto as Exhibit 1, and has read  
and agreed to be bound by all of the provisions thereof.

Dated 6th day of April 2004.

  
\_\_\_\_\_  
Signature  
John Santa  
\_\_\_\_\_  
Printed Name