

**Subject:** RE: Qualified Protective Order  
**From:** "Bakalar, Elizabeth M (LAW)" <libby.bakalar@alaska.gov>  
**Date:** Tue, 20 Jan 2009 16:58:14 -0900  
**To:** Jim Gottstein <jim.gottstein@psychrights.org>  
**CC:** "Kraly, Stacie L (LAW)" <stacie.kraly@alaska.gov>

Hi Jim,

With all due respect and fully appreciating the need for expedience, we can't really respond to any of the below absent actual and specific discovery requests propounded to us per the Civil Rules. Once we receive those we'll be happy to assist you in meeting their demands to the best of our ability. You are correct that Dave Campana is the state pharmacist. Likewise we'll deal with any deposition noticed to him and/or others in due course.

Libby

Libby Bakalar  
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**From:** Jim Gottstein [mailto:jim.gottstein@psychrights.org]  
**Sent:** Tuesday, January 20, 2009 4:01 PM  
**To:** Bakalar, Elizabeth M (LAW)  
**Cc:** Kraly, Stacie L (LAW); Amanda Metivier; Jim Gottstein  
**Subject:** Re: Qualified Protective Order

Hi Libby,

If you have specific state confidentiality law you believe applies that can be included let me know.

I disagree it is premature to enter such an order. Discovery will also be obtained from non-parties and I need to at least have sought to obtain a Qualified Protective Order before conducting such discovery.

I have (hopefully) attached a draft of a Rule 30(b)(6) deposition notice. There may be some changes to it before I issue the subpoena, but it seems like we can talk about sequence and timing. The first thing I will need are the electronic files pertaining children and youth being administered psychiatric drugs, so I would like first depose the people who know about them. I understand David Campana is probably the person to depose about the Medicaid database, but I also need to get the relevant computer records from OCS, DBH, DJJ, and API. I am happy to work with the AGO informally to the extent we can. Thus, for example, I have (hopefully) attached a list of what I believe are the Medicaid Fields. I'd be happy to get together with Mr. Campana and my computer guy to understand the database and get the records we want. I would want to do the same thing with the other agencies' databases.

Of course, my great preference is to reach some kind of settlement, but in the absence of any movement on that front, I need to pursue discovery with some dispatch.

Bakalar, Elizabeth M (LAW) wrote:  
Jim,

We're not averse to the concept of a protective order and we're not trying to be difficult, but until specific discovery

requests are propounded, we think this is a little general/premature. Once we get down to the nitty gritty of discovery, we're going to be dealing with state confidentiality law—not just HIPAA—and any protective order issued should be tailored to the specific request. Obviously if we're talking about raw data, a protective order is probably not needed. So in short we'd prefer to wait until specific discovery requests come in before we jump the gun on this one.

Libby

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**From:** Jim Gottstein [<mailto:jim.gottstein@psychrights.org>]  
**Sent:** Tuesday, January 20, 2009 2:43 PM  
**To:** Bakalar, Elizabeth M (LAW); Kraly, Stacie L (LAW)  
**Cc:** Amanda Metivier; Jim Gottstein  
**Subject:** Qualified Protective Order

Hi Libby and Stacie,

We need to get a "Qualified Protective Order" in place under HIPAA for the conduct of discovery and I have taken the initiative to draft the (hopefully) attached one. My preference is to jointly present one, but if we can't agree on its terms, I will go ahead and move for it.

My anticipated schedule got blown up by the [Bill Bigley case](#), essentially losing three months, so I am feeling pressed to move this case along.

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The Law Project for Psychiatric Rights is a public interest law firm devoted to the defense of people facing the horrors of forced psychiatric drugging. We are further dedicated to exposing the truth about these drugs

and the courts being misled into ordering people to be drugged and subjected to other brain and body damaging interventions against their will. Extensive information about this is available on our web site, <http://psychrights.org/>. Please donate generously. Our work is fueled with your IRS 501(c) tax deductible donations. Thank you for your ongoing help and support.

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