

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

DAVID LOUIS BEARMAN,

Petitioner,

v.

SUPERIOR COURT OF THE STATE
OF CALIFORNIA FOR THE COUNTY
OF LOS ANGELES,

Respondent;

RON JOSEPH, as Executive Director,
etc.,

Real Party in Interest.

B169276

(Los Angeles County
Super. Ct. No. BS077355)

**MODIFICATION OF OPINION
AND ORDER DENYING
PETITION FOR REHEARING**

[NO CHANGE IN JUDGMENT]

THE COURT*:

The opinion in the above matter filed on March 30, 2004, is modified to reflect the following change. On page 9, after the first full paragraph ending with “the Medical Board failed to narrowly tailor its subpoena,” add the following paragraph:

Finally, the Medical Board argues the trial court based its good cause determination, at least in part, on Business and Professions Code section 2225, subdivision (a), which supports the trial court’s ruling because it lessens the seriousness of any privacy invasion by requiring Medical Board officials and

investigators to keep patient records confidential during the course of an investigation. Subdivision (a) of that section does indeed provide that Medical Board officials and investigators “shall keep in confidence during the course of investigations, the names of any patients whose records are reviewed and may not disclose or reveal those names, except as is necessary during the course of an investigation, unless and until proceeding are instituted. . . .” Despite the fact this statute requires the Medical Board to keep patient names confidential, it does not give it license to invade a patient’s constitutional right of privacy where there has been no factual justification enabling an independent assessment of good cause for disclosure. (See *Wood, supra*, 166 Cal.App.3d at pp. 1143-1149.) As we have discussed, the Medical Board failed to demonstrate such good cause in this case.

[end of modification; no change in judgment]

Real party in interest’s petition for rehearing is denied.

*COOPER, P.J.

RUBIN, J.

BOLAND, J.