

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

JOHN MAXWELL MONTIN,

Plaintiff,

v.

Y. SCOTT MOORE, et al.,

Defendants.

Case No. 4:14-cv-3142

STIPULATED PROTECTIVE ORDER  
NUNC PRO TUNC

This matter comes before the Court upon the joint motion and stipulation of the parties and the Nebraska Department of Health and Human Services ("NDHHS") (appearing specially through the Nebraska Attorney General) for entry of a Protective Order to preserve the confidentiality of certain documents and records created and retained by NDHHS or its personnel regarding former Lincoln Regional Center patient JOHN MAXWELL MONTIN (hereinafter collectively the "Records"), which Records are or may be subject to disclosure in this litigation. The confidentiality of the Records is protected under provisions of federal and Nebraska law, including, but not limited to, Neb. Rev. Stat. § 83-109 (Reissue 2014) and the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (including all rules and regulations promulgated pursuant thereto). Accordingly,

IT IS ORDERED:

1. The Records, including any copies thereof, shall be utilized by the defendants solely in connection with discovery, pretrial proceedings, preparation for trial, trial, appeal and/or settlement, and for no other purpose, and shall not be disseminated, published, shown or otherwise disclosed to any person or entity except as provided herein.
2. That any reports of an investigation made by the Nebraska Department of Health and Human Services shall not include the name, address, or other identifying information of any person making a report pursuant to the Nebraska mandatory reporting laws.
3. Before defense counsel discloses the Records to any designated expert or consultant, such expert or consultant must first execute the following agreement:

*AGREEMENT OF CONFIDENTIALITY*

*I hereby certify that I have read the Protective Order entered on September 28, 2015, (the "Order") in the action now pending in the United States District Court for the District of Nebraska (Case No. 4:14-cv-3142) (the "Action"), and am fully familiar with its terms. I understand that in the course of my activities in connection with the Action I may have occasion to*

*examine, inspect, or be exposed to the records of the Nebraska Department of Health and Human Services, and that the confidentiality of said records is protected by various provisions of United States and Nebraska law. I therefore agree to be bound by and comply with all of the terms and prohibitions of the Order.*

4. All defendants to whom the Records are disclosed pursuant to this Order shall:
  - a. Be responsible for keeping such custody or control over the Records so as to assure that the Records are not lost, misplaced, or inadvertently disclosed in violation of the provisions of this Order;
  - b. Not reveal the contents of the Records to any person not already subject to the terms of this Order;
  - c. Not reveal or use the contents of the Records except for the purposes set forth in Paragraph 1 above; and,
  - d. Return promptly to counsel for the disclosing party any portion of the Records (including originals and copies) entrusted to him or her when no longer required by him or her for the purposes set forth in Paragraph 1 above.
5. The Records or any information contained therein shall be treated as confidential pursuant to the terms of this Protective Order.

6. After this action is terminated by the entry of a final order not subject to appeal, the Records and the information contained therein shall not thereafter be disclosed to any third party and shall be returned to the Office of the Nebraska Attorney General or destroyed.
7. This order is to remain in force until modified by the Court for good cause shown.

DATED this 28th day of September, 2015.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court