

ORIGINAL

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FILED
JUN 20 2018
Rhodes

IN THE FAMILY DIVISION
SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

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IN THE MATTER OF ACCESS
TO CLINICAL RECORDS FOR
INVOLUNTARY HOSPITALIZATION
PROCEEDINGS BROUGHT
PURSUANT TO NRS CHAPTER 433A.

ADMINISTRATIVE QUALIFIED PROTECTIVE ORDER FOR RELEASE OF
CLINICAL RECORDS

The Family Division of the 2nd Judicial District Court hereby makes the following findings of fact and orders with respect to all petitions filed pursuant to NRS 433A.200 for involuntary court-ordered hospitalization of a mentally ill person.

WHEREAS hearing on the petition for involuntary commitment must be held within 5 judicial days after the date on which the petition is filed (NRS 433A. 240); and

WHEREAS the court is mandated to appoint two or more physicians or licensed psychologists to examine and evaluate the person alleged to be mentally ill and written findings and evaluation must be submitted no later than twenty four (24) hours prior to the hearing on the petition (NRS 433A.240); and

WHEREAS the allegedly mentally ill person is entitled to be represented by retained or appointed counsel in any proceeding before the district court relating to involuntary court-ordered admission (NRS 433A.270); and

1 WHEREAS the district attorney or his deputy shall appear and represent the state in all
2 involuntary court-ordered admissions and present the evidence, if any, in support of the involuntary
3 court-ordered admission (NRS 433A.280); and

4 WHEREAS NRS 433A.360 defines "clinical records" as records including "information
5 pertaining to the client's admission, legal status, treatment and individualized plan for habilitation" and
6 authorizes the release of clinical record upon order of a court of competent jurisdiction; and

7 WHEREAS the review of the clinical records and treatment history of the allegedly mentally ill
8 person is necessary for the court appointed physicians to complete their evaluation; is necessary for
9 retained or appointed counsel of the allegedly mentally ill person to properly prepare his/her case; and
10 may be necessary for the district attorney to properly prepare the presentation of evidence; and

11 WHEREAS the clinical records and treatment history of the allegedly mentally ill person contain
12 protected health information (PHI) including psychotherapy notes protected by 45 CFR 164, et seq; and

13 WHEREAS 45 CFR 164.512 authorizes disclosure of PHI for judicial and administrative
14 proceedings in response to the order of a court or in response to other lawful process where the parties
15 seeking the PHI secure a qualified protective order;

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17 Good cause therefore appearing, the court hereby orders as follows:

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19 1. The custodian of records of any treatment facility providing services to an allegedly mentally
20 ill person shall make available the original or a true, accurate, and complete copy of the clinical records
21 and treatment history of the allegedly mentally ill person to the court appointed physicians/psychologist;
22 the deputy district attorney; and counsel for the allegedly mentally ill person at the evaluation and at all
23 proceedings relating to involuntary court-ordered admission. Said clinical records and treatment history
24 shall include the present admission and any admissions within the preceding twelve months.

25 2. The court appointed physicians/psychologist, deputy district attorney, and counsel for the
26 allegedly mentally ill person are prohibited from photocopying any portion of the clinical records without
27 explicit court authorization and from using or disclosing any PHI for any purpose other than proceedings

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1 related to the involuntary court-ordered admission.

2 3. That any copies of the PHI information disclosed pursuant to this order shall be returned to
3 the proffering entity or shall be destroyed at the end of the court ordered involuntary admissions hearing.

4 4. This order to remain in effect until superceded by further order of this court.

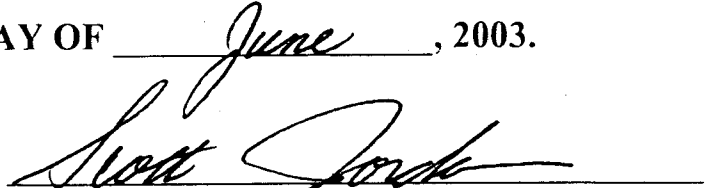
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6 **IT IS SO ORDERED.**

7 **DATED THIS** 11 **DAY OF** June, 2003.

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PRESIDING JUDGE, FAMILY DIVISION

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