

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILL M., et al,)	Case No. 4:03CV3189
)	
Plaintiffs,)	
)	
v.)	
)	MOTION AND ORDER FOR
NEBRASKA DEPARTMENT OF)	PROTECTIVE ORDER
HEALTH AND HUMAN SERVICES)	
FINANCE AND SUPPORT, STEPHEN)	
B. CURTISS, et al,)	
)	
Defendants.)	

THIS MATTER came on for consideration pursuant to the agreement of all of the parties herein, as evidenced by the signatures of their respective counsel below, for entry of a Protective Order to preserve the confidentiality of certain documents and records of the Nebraska Department of Health and Human Services, requested jointly by the Plaintiffs and Defendants with regard to the allegations contained within Plaintiffs' Complaint. These documents and records include all those created and retained by the Nebraska Department of Health and Human Services' personnel and by consultants contracted with the Nebraska Department of Health and Human Services which contain personal, confidential information of individuals seeking or receiving services funded by the Nebraska Department of Health and Human Services, including but not limited to any personal information regarding the Plaintiffs and class members, the confidentiality of which is protected by

state law. *See* Neb.Rev.Stat. § 83-1068. The parties' agreement for entry of a protection order does not include any records which do not contain confidential, individual-specific personal information or which do not otherwise contain information capable of identifying a given individual.

IT IS HEREBY ORDERED:

1. The records of the Nebraska Department of Health and Human Services which set forth confidential information specific to the treatment or services provided or denied to any specific, identifiable individual and any copies thereof shall be utilized by Plaintiffs and 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. To the extent such records do not identify individuals or are not capable of identifying individuals, such records are excluded from this protection order. In addition, this protection order shall not cover any generalized data summarizing information obtained from individual records, so long as such summary does not identify individuals or does not make it possible to identify specific individuals.

2. Access to the records of the state covered by this order shall be limited to attorneys of record and their staff, the parties to this case, the Court, the Court staff, court reporters in connection with this action, and independent experts or consultants employed to assist any attorneys of record in the course of trial or pretrial preparation.

3. Before counsel discloses covered records to any designated expert or consultant or to the individual Plaintiffs and class members, such expert or consultant or individual Plaintiff or class member must first execute the following agreement:

AGREEMENT OF CONFIDENTIALITY

I hereby certify that I have read the Protective Order entered on _____, 2003, in the action now pending in the United States District Court for the District of Nebraska entitled *Bill M., et al. v. Nebraska Department of Health and Human Services Finance and Support, Stephen B. Curtiss, et al.*, No. 4:03CV3189 (“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, or the records of other governmental agencies. I therefore agree to be bound by and comply with all of the terms and prohibitions of the Order and not to do any act in violation of the Order. However, to the extent I am an individual Plaintiff or class member in this action, I reserve the right to release the information specifically related to me and no one else and I reserve the right to consent to such release of such information related to me and no one else to others.

4. All persons to whom the covered records are disclosed pursuant to this Order shall:

a. Be responsible for keeping such custody or control over said covered records so as to assure that said covered records are not lost, misplaced, or inadvertently disclosed in violation of the provision of this Order;

b. Not reveal the contents of the covered records to any person not already subject to the terms of this Order;

c. Not reveal or use the contents of the covered records except for the purposes set forth in Paragraph 1 above; and

d. Return promptly to counsel for the disclosing party any copy of any such covered records entrusted to him or her when no longer required by him or her for the purposes set forth in Paragraph 1 above.

5. The execution and entry of the Protective Order shall in no way affect or impair the right of Plaintiffs or Defendants to raise or assert any objection or defense to the discoverability of

the records or to the use, relevance, or admissibility at trial of the records or any information contained therein. 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 and not-further-appealable order, the covered records and the information contained therein shall not thereafter be disclosed to any third party and shall be returned to the agency which provided said records.

DATED this 8th day of September, 2003.

BY THE COURT:

s/ David L. Piester
United States Magistrate Judge

AGREED TO:

BILL M., et al., Plaintiffs,

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