

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

Docket No. 217-2012-CV-00617

EXETER HOSPITAL, INC.

v.

DR. SHARON ALROY-PREIS, ET AL.

OBJECTION TO MOTION FOR PROTECTIVE ORDER

Defendants, Dr. Sharon Alroy-Preis, Dr. Jose Montero and New Hampshire Department of Health and Human Services (collectively hereafter “Public Health” or the “Department”), by and through their counsel, the Office of the Attorney General, hereby objects to the Petitioner’s Motion for Protective Order because there is no legal basis for issuing such an order. Rather than limiting access, state and federal laws expressly provide Public Health access to patient records: (1) State law expressly requires healthcare providers to report and provide information to Public Health pursuant to a communicable disease investigation, RSA 141-C:9, I, and abrogates the physician-patient privilege to provide for disclosure of protected health information to Public Health, RSA 141-C:10, III; and (2) HIPAA allows for providing such information as Congress has declared that “[n]othing in [HIPAA] shall be construed to invalidate or limit the authority, power or procedures established under any law providing for the reporting of disease or injury, child abuse, birth, or death, public health surveillance, or public health investigation or intervention,” 42 U.S.C. § 1320d-7(b).

WHEREFORE, it is requested that this Honorable Court:

- A. Deny the Petitioner’s Motion for Protective Order; and
- B. Grant such other and further relief as justice may require.

Respectfully submitted,

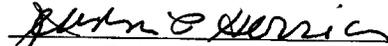
**DR. SHARON ALROY-PREIS,
DR. JOSE MONTERO, AND THE STATE
OF NEW HAMPSHIRE DEPARTMENT
OF HEALTH AND HUMAN SERVICES**

By their attorney,

MICHAEL A DELANEY
ATTORNEY GENERAL

Date: October 2, 2012

By:



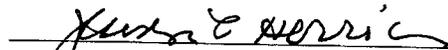
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing objection has been mailed to:

W. Scott O'Connell, Esquire
Gordon J. MacDonald, Esquire
Anthony J. Galdieri, Esquire
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Date: October 2, 2012



Jeanne P. Herrick, Bar No. 13817