



MATTER OF SHORT v. BD. OF MANAGERS OF THE NASSAU COUNTY MED. CTR.

85 A.D.2d 606 (1981)

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In the Matter of John Short, Respondent-Appellant, v. Board of Managers of the Nassau County Medical Center, Appellant-Respondent

Appellate Division of the Supreme Court of the State of New York, Second Department.

December 7, 1981

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Mangano, J. P., Weinstein, Thompson and Bracken, JJ., concur.

Judgment affirmed, without costs or disbursements.

The request for disclosure of the medical records — 29 in number — was properly granted. (See Public Officers Law, § 89, subd 2, par [c], cl i; cf. *Matter of Kryston v Board of Educ.*, [77 A.D.2d 896](#).) The Board of Managers of the Nassau County Medical Center (board) has not satisfied its burden of showing that the records are exempt from disclosure. Subdivision 2 of section 136 of the Social Services Law is inapplicable because the board has not shown, or even alleged, that the records contain information obtained by an employee of the County Department of Social Services. The physician-patient prohibition against disclosure (CPLR 4504, subd [a]), also relied on by the board, has its statutory limitations. (See *Matter of Schulman v New York City Health & Hosps. Corp.*, [44 A.D.2d 482](#), *affd* [38 N.Y.2d 234](#).) It is inapplicable in cases such as this, where a request for access to medical records is made under the Freedom of Information Law, identifying details are deleted, and there is no possibility that the identity of the patients will be known (Public Officers Law, § 87, subd 2; § 89, subd 2, par [c], cl i). Access to a memorandum was properly denied. It is uncontroverted that the memorandum is material prepared for litigation (see Public Officers Law, § 87, subd 2, par [a]; CPLR 3101, subd [d]; *Matter of Westchester Rockland Newspapers v Mosczydlowski*, [58 A.D.2d 234](#); *Matter of Sea Crest Constr. Corp. v Stubing*, [82 A.D.2d 546](#)).

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