

Doctor, administrators convicted for viewing HIPAA-protected records

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A doctor and two hospital administrative employees each face up to a year in prison after pleading guilty on July 20, 2009 to accessing a celebrity patient's medical files.

Although patient privacy concerns most often arise when patient information is improperly disclosed, the Health Insurance Portability and Accountability Act also limits the reasons health care providers can access patients' records. In this Arkansas case, a TV anchorwoman had been brutally attacked at her home in 2008, leading to her death in the hospital several days later. After hearing TV reports of the case, the doctor (who was also a medical director at the hospital), a hospital account representative, and a hospital emergency room unit coordinator were each curious about her condition. Although they were not involved in treating the anchorwoman, they each used their hospital access to look into her medical file. When the hospital discovered the three had accessed the patient's records without any legitimate purpose, it suspended the doctor's privileges for two weeks, and it fired the two administrative employees.

After a United States Attorney investigated the HIPAA violations, all three of the individuals pled guilty to the misdemeanor offense of improperly accessing patient records. There was no suggestion any of the three had improperly disclosed the patient's information to anyone or had even contemplated doing so. The doctor and the two administrators will face sentencing, including the potential of up to a year in jail, after a presentencing report is prepared in the next few months.

It is a crime under federal law to use a unique health identifier, to obtain protected patient records, or to disclose individually identifiable health information without a proper purpose. Typically, patient information is improperly obtained if it is not done with the patient's specific authorization or for treatment, payment, or health care operations. There is no exception for medical staff.

In cases like this Arkansas case, the punishment for violating federal medical records law may be a term of up to a year in prison and a fine of up to \$50,000. If the violation was committed with fraudulent intent, the fine may be up to \$100,000 and the term of imprisonment may be as long as five years. In the worst cases, where the offense is committed for commercial advantage, personal gain, or to cause harm, the punishment may include a fine of up to \$250,000 and a prison term as long as ten years.

This case emphasizes the importance of health care providers establishing effective HIPAA policies and ensuring compliance and enforcement by all staff. HIPAA protects celebrities and everyone else alike, so health care providers should be sure to warn their staff about the adverse consequences of looking into anyone's medical records.

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