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Confidentiality: Nurse Had Ex-Husband's Consent To Access His Medical Chart.

A registered nurse was fired for using her computer access code at work to pull up her ex-husband's medical records at his request.

She filed a grievance which resulted in her reinstatement with back pay. The Court of Appeals of Virginia turned down the hospital's appeal and upheld her reinstatement.

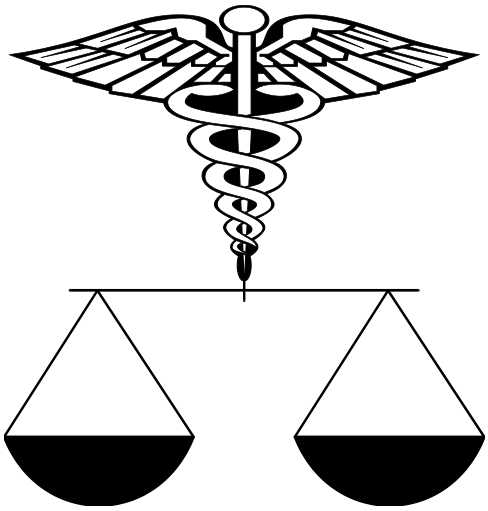
The patient had become confused about certain aspects of his treatment, including the significance of some of his lab results, and asked his ex-wife to pull up his medical chart from the hospital so that she could help him by advising him in a difficult time.

The patient had previously signed documents which gave his ex-wife authority to access his medical records, including a durable power of attorney, advance medical directive and the hospital's own authorization forms specifically naming his ex-wife.

He testified he had wanted to give his ex-wife full authority to speak with his healthcare providers, obtain his records and act as his agent in every respect.

No HIPAA Violation by the Hospital

The hospital argued in defense of its decision to terminate the nurse that it was required to do so by the US Health Insurance Portability and Accountability Act (HIPAA).



HIPAA does not change the fact that one person can act as the authorized representative of another person for purposes of accessing confidential medical information, provided that a power of attorney or other appropriate formal legal document has been properly executed according to state law in the local jurisdiction.

COURT OF APPEALS OF VIRGINIA
February 2, 2016

The hospital claimed that HIPAA does not permit direct access to the electronic medical records of one individual by another individual who does not have a legitimate work-related reason for such access.

HIPAA further requires healthcare facilities to enact policies to protect patients' medical confidentiality and to enforce those policies by imposing serious consequences upon employees who violate HIPAA.

However, the Court pointed out that HIPAA and Federal regulations still give the patient the right to access the patient's own medical records.

HIPAA also allows the patient to appoint a representative to access the patient's confidential records on the patient's behalf and requires a healthcare facility to honor such a request from the representative.

Proper Authorization Is Required

The Court pointed out it was essential for the nurse, as she did this case, to have had the patient execute all of the legal documents required by state law to gain access to confidential medical information. That included a power of attorney, advance medical directive and the state-run hospital's own medical authorization documents. **University v. Jordan, 2016 WL 392005 (Va. App., February 2, 2016).**

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