Disclosure Of HIV Status Of Patient: No Grounds For Suit In This Case, Court Says.

The Court of Appeals of Ohio recently had to decide a case involving allegations that a patient's sister-in-law told her husband that her mother had told her someone with a certain last name living on a certain street in the town was being treated for HIV at the local hospital. The sister-in-law's aunt did work in the hospital's medical records department and would have had access to the patient's confidential medical records.

A hospital, clinic or individual healthcare provider cannot knowingly disclose the identity of a person who has been tested for HIV, or the results of an HIV test, or the identity of a person who has been diagnosed with HIV or AIDS, without the person's consent.

Such disclosure is a violation of the law, for which the individual can sue.

COURT OF APPEALS OF OHIO, 1997.

The court noted carefully that state law strictly prohibits knowing, unauthorized disclosure by a healthcare facility or individual provider of the fact a person has been tested for HIV, the test results and/or a person's diagnosis with HIV or AIDS.

However, in this case the court ruled the chain of gossip and innuendo was not strong enough to implicate the hospital itself for intentional wrongdoing, just because the last proven link in the chain had a sister who had access to the patient's chart. It could not be proven a hospital employee had actually leaked the information, the court ruled. **Ackerman vs. Medical College of Ohio Hospital, 680 N.E. 2d 1309 (Ohio App., 1997).**

Psychiatric Assessment: Nurse Did Not Detain Or Interrogate The Patient.

It was the patient who voluntarily presented himself in the emergency room. He complained about a blackout that preceded a cocaine binge. He asked for psychiatric treatment.

The nurse questioned the patient about the circumstances leading up to coming to the hospital seeking a psychiatric admission. The patient voluntarily answered her questions.

The patient admitted he must have committed an armed robbery during his blackout to get the $1400 he found he had with him to go on his cocaine binge. At this point the nurse properly got a hospital security guard to sit with the patient, who was still free to leave, told the physician and called the police.

Once voluntarily admitted to the hospital, the patient was put in a locked observation room, but was still free to ask to leave, and did not have to answer the physicians' questions.

The nurse, physicians and the hospital did not arrest, detain or interrogate the patient or violate his constitutional rights.

UNITED STATES DISTRICT COURT, ILLINOIS, 1997.

When a patient comes in voluntarily for mental health reasons, a nurse can and must obtain a full history. The history, among other things, must include what it was that brought the patient to the emergency room seeking treatment.

If the patient voluntarily discloses that he or she has just committed a crime, the nurse can take appropriate safety measures and call the police. The nurse and the hospital are not to be held liable in a civil lawsuit for damages if the authorities decide to come to the hospital and arrest the patient for the criminal conduct the patient has voluntarily disclosed, while the patient is still choosing to remain at the hospital voluntarily for assessment or treatment.

According to the U.S. District Court for the Northern District of Illinois, when a nurse takes a psychiatric history from a voluntary mental health patient, the nurse is not engaged in custodial interrogation and is not in a position to violate the patient's civil or constitutional rights. Custodial interrogation as defined by *Miranda vs. Arizona* (U.S. Supreme Court, 1966) is questioning initiated by law enforcement officers after they have taken the person into police custody or deprived the person of his or her liberty in a significant fashion. The suspect must know the suspect is speaking with a government agent and has been coerced into custody, the court said, before *Miranda* rights become an issue.

No person in this patient's circumstances could have believed he was in the custody of the government while giving a history in the emergency department or while in an observation room on the inpatient psychiatric unit. He knew he was in a hospital where he had voluntarily chosen to go for medical and psychiatric treatment.

The court threw out all the allegations a conspiracy by the nurses, doctors, hospital security staff, the local police and the FBI. **Copeland vs. Northwestern Memorial Hospital, 964 F. Supp. 1225 (N.D. Ill., 1997).**