

Health Information Compliance Alert

Court Cases: CAUSE TO COMPLAIN OVER PRIVACY DISMISSAL

A doctor's right to protect patient privacy trumps even an employer's right to fire for any reason.

The **Supreme Court of New York** March 21 ruled that a doctor employed by **The New York Times** has a cause for action against the paper after it dismissed her for refusing to share her patients' medical records with unauthorized company personnel.

Dr. **Sheila Horn** alleges that departments within the paper directed her to hand over employees' medical records to them without the employees' consent. In its defense, the Times argued that New York's employment-at-will doctrine provided it the right to fire Horn for any reason.

In its decision the Supreme Court noted that while New York generally does not impose an obligation upon employers to deal with its employees fairly and in good faith, there does exist in contracts an implied obligation that each party will not intentionally try to do anything that would prevent the other party from carrying out their side of the agreement. And by asking Horn to violate patient confidentiality, the court ruled, the Times was doing precisely that

Confidentiality, the court ruled, is a "primary tenet of the medical profession" and the "obligation to safeguard patients' confidences directly affects the quality of medical care."

Horn v. New York Times, 2002 N.Y. App. Div. LEXIS 3031 at *15 (Mar. 21, 2002).