

Health Information Compliance Alert

Health Information News: WILL DOCTOR GENTLY WEEP OVER BEATLE'S PHI LEAKS?

Staten Island University Hospital's head of radiation oncology has been replaced for allegedly forcing Beatles star **George Harrison** to sign a guitar on his deathbed - but it only gets worse, according to a lawsuit filed against the physician last week.

Harrison's physical and mental health had greatly deteriorated over the last two weeks he was bedridden in hospital. According to one of the charges in the lawsuit filed against Dr. **Gilbert Lederman**, the doctor brought his three children with him to see Harrison while he was undergoing stereotactic radiosurgery treatment. At that time the physician asked Harrison to autograph his son's guitar, and the former Beatles star indicated that he didn't think he could even remember how to spell his name. That's when Lederman allegedly took Harrison's hand and guided it letter by letter until Harrison had "signed" the autograph, the suit charges.

Dr. Lederman's wife, Dr. **Josiane Lederman** says the allegations against her husband have been "like a brick falling on our heads." She says the way in which her husband has been portrayed by the media "is not how he is at all. He's a sweet, caring, dedicated and devoted doctor who has always had very close relationships with all his patients," she told the New York Post.

The \$10-million lawsuit, filed by Harrison's estate, charges that Lederman preyed upon the vulnerability of a dying man; it also charges that the physician created a "circus atmosphere" in the hospital by giving several interviews and for disclosing Harrison's protected health information. Harrison's widow, **Olivia**, and his son, **Dhani** are also attempting to obtain the guitar signed by the former Beatle.

Lederman was fined \$5,000 last month by the state Health Department for disclosing Harrison's PHI. Shortly thereafter he was replaced as head of the hospital's radiation oncology department. Lederman's lawyer says the reasons for the physician's removal have nothing to do with the lawsuit's allegations.

HIPAA HASSLES ARE 'SPEEDBUMPS,' NOT 'ROADBLOCKS,' SAY PROVIDERS

While health care providers across the nation still become frustrated with HIPAA's restrictions from time to time, it appears that most providers are beginning to view these HIPAA hassles as temporary aggravations.

While HIPAA's privacy rule became effective nearly nine months ago, it would be an understatement to say that compliance with the regulation has caused some logistical snafus. A few lingering annoyances include patients not recognizing what it truly means when they opt out of a hospital directory, as well as physicians denying the use of faxes to transmit prescription information even though HIPAA doesn't preclude such transmissions. Additionally, physicians often refuse even to use patients' names in waiting rooms, assigning them numbers instead.

Probably the biggest HIPAA headache: Interpretation of the regs, says **Stony Brook University Hospital** spokesman **Patrick Calabria**, according to the Long Island Business News. For example, providers are forced to interpret what HIPAA truly means when it requires "security" for, say, fax machines or email transmissions.

Yet, despite the troubles adjusting to the relatively young regulation, it's clear to most providers that regulatory confusion is something that will fade in time. "Once everybody gets [HIPAA], it will allow things to go faster," **Allan DeKaye**, president of **DeKaye Consulting**, told LIBN.

And when providers cease taking the regulation "too far," HIPAA compliance will be made much easier. "The fundamental principal of HIPAA is that you must take reasonable steps to secure information, said DeKaye. "Do you have to buy a \$50,000 shredder? No. Do you have to do more than throw [medical documents] in a wastebasket where anybody can pick it up? Yes," he told LIBN.

FLU OUTBREAK TEST HIPAA

Arkansas health officials are citing fear of HIPAA noncompliance as the reason for keeping mum on information about deaths from the current flu outbreak, The Review Appeal reports. "We're still feeling our way with HIPAA in that there's a real gray area," explained Dr. **Fay Boozman**, Arkansas' health director.

While Arkansas has reported three flu-related deaths, the only identifying information it will release is that the deaths involved adults. This is in contrast to states like Colorado, who have released a bevy of information about their flu deaths in the hopes of preempting further fatalities.

Spokesperson **Ann Wright** said that health officials' previous warnings to Arkansas residents made further information unnecessary. However, many public health officials believe that knowledge is crucial to prevention.

"If it's 12- to 16-year old asthmatics who were on steroids, they would be immune-compromised. If you're a parent of a child like that, you need to know - that does not violate HIPAA," said Dr. **Robin McFee**, director of the **Center of Bioterrorism and Weapons of Mass Destruction Preparedness**.

DISPELLING HIPAA'S MYTHS

In a letter dated Jan. 12, **HHS' Office for Civil Rights** Director **Richard Campanelli** addressed OCR's mission to clear up confusion regarding the HIPAA regulation's privacy protections.

Though he foresees an end to HIPAA misinterpretation through OCR's guidance and outreach programs, he acknowledges that some interpretations are likely to linger.

Here are the most common HIPAA myths OCR hopes to dispel:

1. HIPAA interferes with patient treatment. No, providers can freely share PHI for treatment purposes without obtaining an authorization;
2. HIPAA makes life easy for criminals. Actually, hospitals can share information with law enforcement to identify and find criminals while still protecting the privacy of victims.
3. HIPAA cuts patients off from their families and friends. The patients decide who can be privy to their PHI. If the patient is incapacitated, doctors can share when it is in the best interests of the patient;
4. HIPAA stops hospital visits. The patient decides whether to provide information for the hospital directory so that callers and visitors have access to their information;
5. HIPAA impedes ambulances. No, emergency response teams can disclose patient information as needed to quickly find patients and get them to the hospital;
6. HIPAA is anti-electronic. Doctors can communicate via e-mail, the telephone or fax machines. However, they must protect their patients' PHI while doing so.

