

LEGAL EAGLE EYE NEWSLETTER

April 2025

For the Nursing Profession

Volume 33 Number 4

Nurses' Unauthorized Access To Hospital's Patient Records: Court Finds Negligence.

The New York Supreme Court, Appellate Division, recently ruled that former hospital patients do have the right to sue the hospital for negligence in failing to protect their confidential medical records stored on the hospital computer system from unauthorized access by hospital staff nurses.

The Court ruled that a common law negligence cause of action exists in this situation.

The Court made its ruling without going into the details as to what exactly is expected from a hospital.

Prior law for this situation rested on the well established common law doctrine that employers are not vicariously liable for their employees' actions when their employees' misconduct falls outside the scope of their duties as employees.

The common law ruled out cases alleging vicarious liability against employers whose employees assaulted patrons or outside parties, or stole from them, or damaged their property, or invaded their privacy with unauthorized access to confidential information.

Liability cases were accepted where the employer itself did not take adequate measures to prevent employee misconduct.

However, those cases tended to rise or fall on the ability of the victim to prove that the employee in question had an existing propensity the employer ignored.



The hospital can be liable for negligence in a civil lawsuit if the hospital does not take adequate precautions to prevent staff nurses from unauthorized access to patient records.

Reasonable care must be taken in obtaining, retaining, securing, safeguarding and protecting confidential patient information from unlawful access by hospital staff.

NEW YORK SUPREME COURT
APPELLATE DIVISION
March 21, 2025

The US Health Insurance Portability and Accountability Act (HIPAA) sets a strong public policy requiring healthcare facilities to maintain the confidentiality of patients' private information.

However, the courts have ruled that HIPAA does not allow a private party to file a civil lawsuit against a healthcare facility or an individual provider.

The rationale is that the US Congress did not write language into the law when it was passed expressly allowing for such private civil lawsuits, apart from administrative enforcement of conditions of participation pertaining to patient records.

Unclear at this time is the issue how damages would be computed in a case of this nature when it reaches the stage of jury deliberation in a civil courtroom.

The Court was not dealing in the highly technical area of data breach by computer hackers getting into a healthcare corporation's patient database and extracting data to be sold on the black market.

This case deals expressly with the conduct of hospital nurses who are expected to limit their access to computerized records on the system to the records of patients to whom they have been assigned to provide care.

Family members, neighbors or acquaintances are strictly off limits. Hurley v. Health, __ N.Y.S. 3d __, 2025 WL 878375 (N.Y. App., March 21, 2025).

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