

HIPAA: Spouse Has Authority To Obtain Medical Records After Death, Court Says.

The US Health Insurance Portability and Accountability Act of 1996 (HIPAA) provides strong legal protection for the confidentiality of patients' medical records.

The Court of Appeals of Georgia has ruled, however, that a healthcare facility cannot use the Act as a shield to prevent the widow of a deceased nursing home resident from obtaining copies of all the treatment records.

The court framed the issue candidly. It was no secret that the widow, who was represented by an attorney, wanted the records for the express purpose of assessing whether or not to sue the facility for negligence and, if so, for use as evidence against the facility in court.

The surviving spouse has legal authority to file a lawsuit over the circumstances that wrongfully caused the deceased spouse's death.

That brings the widow within the definition of persons authorized to act on the patient's behalf as that phrase is used in the HIPAA.

COURT OF APPEALS OF GEORGIA
February 17, 2009

Another major justification for breaking medical confidentiality is when the party seeking a patient's medical records has a court order requiring the healthcare facility to hand over the records in question. Alvista Healthcare Center v. Miller, ___ S.E. 2d ___, 2009 WL 368383 (Ga. App., Febru-