

# Confidentiality: Charge Nurse Is Fired, Had Copied, Removed Records For Legal Purposes.

***The charge nurse copied pages from charts for more than a year and forwarded them to the director of nursing and the administrator in reference to concerns over the performance of a staff LPN whom she supervised.***

***She was not reprimanded or told not to copy pages from the charts.***

***Performance review is a legitimate concern and does not violate medical confidentiality.***

***Later, however, in sharp contrast, the charge nurse began copying material from patients' charts for the alleged purpose of protecting herself in the event she herself was reported to the state board of nursing.***

***The latter records were not turned over to her superiors. The charge nurse took the copies home with her, a clear violation of the facility's policies and a violation of HIPAA as well.***

***The charge nurse had her own complicated history of disciplinary issues with her employer.***

***Regardless of what else was going on, a gross breach of patients' rights confidentiality was a legitimate reason to fire her.***

UNITED STATES DISTRICT COURT  
OREGON  
August 25, 2008

The US District Court for the District of Oregon dismissed a complex lawsuit filed by a former nursing-home charge nurse against her former employer alleging retaliation, wrongful discharge and violation of her rights under the US and Oregon family and medical leave laws.

The charge nurse's termination was the culmination of a long history of personnel disputes and disciplinary issues concerning the safety and quality of her own patient care and her nursing charting.

The court ruled, regardless of what else was going on, that the facility had grounds to terminate the charge nurse after she began photocopying and taking home with her portions of hers and other nurses' patients' medical charts allegedly for her own protection in the event she was reported to the state board of nursing.

## **Copying of Patients' Records**

### **Legitimate vs. Illegitimate Practices**

The court pointed out it was perfectly legitimate for the charge nurse to copy material from charts and forward the copies to her director of nursing and the administrator as part of an ongoing evaluation of a particular staff LPN's job performance.

Quality review and performance assessment are necessary and legitimate functions that do not violate medical confidentiality as long as patients' records stay within the treating facility.

A nurse's concern for the nurse's own legal self-protection, on the other hand, is not a legitimate reason to copy any patient's confidential records.

The charge nurse only dug herself in deeper by taking the copies home with her, by maintaining her own private files and by making no effort to conceal the identities of the patients.

When patient's medical records must enter the court system to resolve legal issues that do not directly involve the patient in question, Federal law requires that all patient-identifying information must first be redacted. ***Howard v. Milwaukie Conv. Hosp.***, 2008 WL 4117167 (D. Or., August 25, 2008).