

Confidentiality: Patient Data Downloaded By Whistleblower Nurse.

The Court of Appeals of Texas ruled that a nurse's former employer, a hospital, was not entitled to a court injunction requiring the nurse to account for and return approximately 3,000 pages of patient-chart face sheets and other demographic data she obtained by downloading her office computer's entire hard drive onto a portable storage device.

She copied the data after being informed her employment had been terminated as of her return date from a scheduled two-week vacation because she told her supervisor she was going to file a written report with state officials about patient-care violations she had witnessed.

Nurses have a duty to report what they believe to be violations of the law by a hospital, that is, patient abuse, neglect and other unprofessional conduct.

An employer cannot retaliate against an employee who acts in good faith as a whistleblower.

COURT OF APPEALS OF TEXAS
August 7, 2009

Prior to the court hearing date the nurse had not divulged the data to anyone but hers and the hospital's attorneys. She told the judge it was her intention to release the data only to state and Federal inspectors, and only if requested.

The court upheld the nurse's conduct over objections based on medical confidentiality. The court's rationale was to validate the intent and purpose of the state's whistleblower law. The law not only permits but requires nurses to report abuse, neglect and other illegal and wrongful acts. Westlake Surgical v. Turner, 2009 WL 2410276 (Tex. App., August 7, 2009).