

Patient Takes Away His Original Hospital Chart: Conviction For Robbery Upheld By Court.

A patient had emergency cardiac catheterization after an apparent heart attack.

He was told he was being scheduled for open-heart surgery first thing the next morning.

Patient Demanded His Chart For a Second Opinion

The patient demanded a copy of his chart so he could get a second opinion.

The medical records department was not open and would not be open until later the next morning after his surgery would already be underway. Medical records alone was authorized and no one else was willing to copy the patient's chart for him.

The patient grabbed his chart and left. He struck a hospital security guard with his fist during a scuffle in the parking lot.

The Court of Appeals of Texas ruled the patient was guilty of stealing hospital property. His use of force, that is, striking the security guard, elevated the seriousness of the offense from simple theft to robbery.

He was sentenced to two years supervised probation. Beason v. State, 2008 WL 82225 (Tex. App., January 9, 2008).

By law a medical chart is the facility's property. It does not belong to the patient.

The Health Insurance Portability and Accessibility Act of 1996 (HIPAA) gives patients rights of access to their medical records, that is, the right to inspect original records and to obtain copies for their own use.

However, the very way HIPAA was worded necessarily implies that the health-care facility still has a superior right to possession.

HIPAA and other laws defining medical confidentiality give patients extensive rights to control how the information in their charts is used.

These laws, however, did not change the basic legal principle that the chart itself belongs to the facility. It is a criminal offense for a patient or anyone else to remove a patient's chart.

COURT OF APPEALS OF TEXAS
January 9, 2008
