

CONFIDENTIALITY CONFRONTATIONS

Privacy Regulations Set Hospitals, Journalists at Odds

Editor's note: The Association of Health Care Journalists has been examining hospitals' practice of requiring journalists to sign confidentiality agreements, a trend that has been increasing since the patient privacy rules in the Health Insurance Portability and Accountability Act of 1996 took effect. The AHJC has been preparing a policy statement on the issue, which it is expected to issue soon. The following story on the subject is reprinted from the association's fall 2007 issue of HealthBeat.

By Phil Galewitz

Special to TelevisionWeek

Eastern Maine Medical Center this fall began asking reporters coming to the hospital to sign a patient confidentiality statement. The agreement bars journalists from disclosing information they discover at the facility that the hospital deems "not related to the story."

This means that if a reporter goes to the hospital to check out the latest CT scan or MRI and notices the governor or another celebrity being wheeled in on a stretcher, the journalist would be prohibited from reporting it.

The penalty?

"Failure to do so may result in

damage to the relationship [with the hospital] and the access to patients [the] news organization currently enjoys with Eastern Maine Medical Center," reads the statement.

The Bangor Daily News and three Maine television stations have refused to sign the agreement. As a result, none of them are allowed into the hospital to report news. They still can communicate with hospital personnel by telephone.

Eastern Maine is one of a growing number of hospitals across the country asking reporters to sign confidentiality statements.

The hospitals say they are following guidelines set up [in 2007] by the Joint Commission (formerly the Joint Commission on the Accreditation of Health Care Organizations). Commission spokesman Ken Powers said the organization's guidelines are meant to further protect the public's privacy while in the hospital. He said it is up to the individual hospital to decide how to implement the policy.

Hospitals and the press have always had a challenging relationship, and the privacy rules in HIPAA (the Health Insurance Portability and Accountability Act of 1996) further strained communications as hospitals have grown more fearful about

the inadvertent release of patient information.

Bangor Daily News health reporter Meg Haskell did not sign the Eastern Maine Medical Center confidentiality agreement. "Of course, we all understand the issue of patient confidentiality, but we question signing an agreement we don't completely understand," she said. She notes the hospital statement asks the media to follow all Joint Commission confidentiality policies but does not spell out what they are.

Eastern Maine public relations officials, some of whom are former journalists, acknowledge the confidentiality statement puts media in an awkward spot. For instance, a reporter who is in the hospital for treatment is not required to sign the statement and thus is free to contact the media on anything he or she sees at the hospital. But if the reporter were on duty at the hospital, he or she would not be allowed to disclose patient information to the media.

"This new program is not without its headaches," one hospital official said.

Eastern Maine and local media are planning to meet to discuss the issue.

According to its Web site, Cincin-



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nati Children's Hospital Medical Center asks the media who go into any patient care areas to sign a confidentiality statement. Its statement reads: "In the course of my observation at CCHMC, I may see, overhear, access or temporarily possess PHI (protected health information) of a patient. I understand that such PHI must be maintained in the strictest confidence. As a condition of my observation or visit, I hereby agree that I will not at any time during or after my observation at CCHMC use, disclose or give PHI to any person whatsoever for any purpose. I understand that a violation of this agreement may result in civil and/or criminal penalties under federal and state law."

Rick Wade, spokesman for the American Hospital Association, said he is not surprised some hospitals are asking reporters to sign confidentiality statements. "HIPAA has changed the world, and some hospi-

tals feel like they are under the gun," he said. "Every hospital is reacting to its own experience."

Some of the concerns arise when celebrities are in the hospital and reporters "stake out" the facility to learn any details, Wade said.

Of course, the media are not the only ones snooping around when a celebrity visits a hospital.

In October, more than two dozen staffers at a New Jersey hospital were suspended for four weeks after allegedly peeking at actor George Clooney's confidential medical information after he was hurt in a motorcycle accident. Clooney was treated at Palisades Medical Center in North Bergen, N.J. ■

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'SICKO'

Continued from Page 39

in a while there is a story about a patient denied essential care due to an insurance company denying coverage (as in former Sen. John Edwards' campaign), but not any more than before 'Sicko' appeared."

John Pollock, author of "Tilted Mirrors: Media Alignment With Political and Social Change," thinks TV news began seriously targeting health care issues before "Sicko." He points to Magic Johnson's 1991 announcement that he was HIV-positive as the turning point for media and public opinion alike. That "was the Pandora's box that generated the changes that led to the daily cable and network television reports of health icons such as CNN's Dr. Sanjay Gupta."

Rose Ann DeMoro, executive director, California Nurses Association, said the film has resulted in a movement for change, reinforced by network news' health care coverage. "There's never been a movement like this: the 'Sicko' movement. In the fight for Medicare-for-all, the latest December Yahoo/AP Poll showed that 65% of all Americans support expanding Medicare to all patients," she said.

"What 'Sicko' exposed is that the U.S. national health care policy itself is sick. ... Since 'Sicko,' the debate has

changed. Government-sponsored health care, like Medicare-for-all, is now on the forefront of the public's mind. What 'Sicko' taught America is that health insurance is not health care. Coverage is not care, because the holes in the coverage are large enough to slip through and die."

"Why Canada and every other civilized country on this planet has been able to figure this out and we haven't is a disgrace," Mr. Moore said. "I know we're better than that as Americans. ...

"We wouldn't think of not having a nationwide education system, we wouldn't think of not having an interstate highway system. The fact that we don't have it for health care, I swear to God, 100 years from now we're going to look pretty silly when they write the history of this era, in a time of extreme wealth and knowledge, that the richest country on earth couldn't find it within themselves to do this."

Mr. Moore said, "I'm optimistic and I've been buoyed by the change in covering this issue and the reporting. The reporting needs to continue and journalists need to really explain how single-payer works. It's not just a term; explain it. What it really means when you put it in everyday language for people, it's such common sense. It's as simple as saying there should be two handles on the faucet, one should say hot and the other should say cold. That makes great sense." ■

DR. OZ

Continued from Page 45

ica make the economic decision not to buy it. They can afford it. They're making incomes that are reasonable, but for a variety of reasons, they roll the dice and don't get the insurance they probably should have. Fifty percent of people don't have a choice. There are some people who are really in trouble, but many actually have the opportunity to get it.

I would ask them, is what they are giving up financially worthwhile. People who smoke say they can't afford nicotine patches to stop smoking, but cigarettes cost more than nicotine patches. They priced them that way on purpose. You can't make that argument, but people still make it. You have to call people on the carpet.

However, there are many times when ... if something is not essential, you [should] not get it. For example, CT angiograms, which are rapid CT scans to look at your heart arteries. When Oprah had hers on the show, I spoke very clearly about the fact that there are some people who would really benefit from this. However, it absolutely should not be thought of as a basic screening test. ... Not just because of the cost, but also because of the risk of radiation. ...

TVWeek: Do you believe America needs a better health care policy?

Dr. Oz: Oh yes, of course. We have a terrible health care policy. ... I think there are things we can do that are fairly simple that would have a huge impact. Some of them are not easy to do from the perspective of the average consumer, but we're going to have to do them.

No. 1, everybody has to be in the system. We can no longer allow people to walk around without insurance. That means you have to make it affordable for them, but also mandatory. ... No. 2, we have to change the tax laws so it's fair for everybody. Right now people who don't work for large companies don't have access to the same price of insurance that I have, for example, at the university. We can do that with vouchers, we can do it with a chit from the government, to have a certain amount of money each year for your health care plus catastrophic insurance, which you can use as you wish.

There are good ideas, but they're going to cost money. At the end of the day they're not going to be more expensive than what we're spending now. And eventually we'll get more for our money. The big question is not are we spending too much, it's are we getting our money's worth? The answer to the latter is no.

TVWeek: It seems that the TV networks have made a concerted effort to improve the quality of the health care reporting on the nightly news.

Dr. Oz: Absolutely, and I think they have also done a lot of stuff on the Web. A lot of time goes into these reports; they're short, but they're deep in scope. The fact that the networks are investing that kind of effort into making information available to Americans reflects back to the fact that we have a population that's a little bit older and much more willing to think about health issues than even 20 years ago.

TVWeek: Do you have any pet peeves about the way TV is approaching health care?

Dr. Oz: Yes, I think we too often assume that we have to have headline news. Sometimes a topic doesn't have a headline to it, but given 30 seconds I could get you interested in it. ... Heath Ledger's death is a good example. ... If you're on six medications, you have a 94% chance of having a drug interaction. Now that's not a headline issue, but it was because he died. That's the kind of insight that catches your attention if you give me a few seconds to explain it to you. I think we don't give the public enough credit to pay attention. ■



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