

Case 5: Dubious Donations

One part of the federal Health Insurance Portability and Accountability Act (HIPAA) states that health care providers may not discuss any patient with anyone without the patient's permission, if the patient is 18 years old or older. Parents or guardians of younger patients have access to their medical records and are permitted to discuss these records with medical personnel.

Dr. John Sauk is an internationally respected gastroenterologist and professor of medicine at a major university hospital. One day Dr. Sauk gets a call from the development office of the university, asking if he can see an elderly woman that afternoon. The woman is going to meet with the university's development director that day to continue discussing a generous eight-figure donation. Despite his busy schedule, Dr. Sauk agrees to make time.

Dr. Sauk sees that the woman is in her early eighties. As well as conducting a physical exam, he spends a significant amount of time talking to her about her physical history, her diet, and her living conditions. He obtains her online medical records as well. He identifies a lower bowel irritation which can easily be treated with a well-tolerated drug and some dietary changes. Otherwise, the elderly woman seems to be in reasonably good health.

However, throughout his conversations with her, Dr. Sauk notices that the elderly woman shows significant signs of dementia. He also sees in her records that there are some comments from other physicians who have treated her in the past, suggesting that they, too, had seen signs of dementia. But there is no indication in her records that the woman has identified anyone to act on her behalf in making medical decisions for her.

This leaves Dr. Sauk in an uncomfortable position regarding the elderly woman's discussions at the development office. He does not know whether the development director is unaware of the mental state of the patient, or is aware and is continuing discussions with her about making a donation regardless. To protect the patient (and the university), he could call the development office and warn them. But this would require violating the HIPAA privacy rules. According to these guidelines, Dr. Sauk cannot even let the patient's family know that he has seen her.

Study questions:

1. What is the point of regulations guaranteeing the privacy of an adult's medical records? Does this rationale for medical privacy apply in the present case? If it does not apply, does that mean that Dr. Sauk should make an exception?
2. If Dr. Sauk does nothing, is he putting the university at risk? What are his professional responsibilities, both as a doctor and as an employee of the university?
3. Under what conditions, if any, do we lose the right to choose what to do with our own money?

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