

### Disclosing patient's name leads to \$2.4 million HIPAA settlement

(May 11, 2017) - Controversy erupted in 2015 when a large Texas healthcare system challenged the validity of a patient's driver's license upon admission, sparking protests and national attention after it led to her arrest and possible deportation.

In response, and for several weeks afterward, Memorial Hermann Health System referred to the patient by name while explaining its actions in statements to the press, state lawmakers and immigration advocacy groups.

Now, Memorial Hermann will pay \$2.4 million to settle a federal enforcement action for improperly disclosing a patient's name, without admitting a violation of the Health Insurance Portability and Accountability Act of 1996 (PL 104-191).

Reporting the patient's name to law enforcement was allowed under HIPAA, according to the Department of Health and Human Services, but putting it in a press release was not.

"Senior management should have known that disclosing a patient's name on the title of a press release was a clear HIPAA privacy violation that would induce a swift OCR response," said Roger Severino, director of the HHS Office of Civil Rights, in a statement.

"This case reminds us that organizations can readily cooperate with law enforcement without violating HIPAA, but that they must nevertheless continue to protect patient privacy when making statements to the public and elsewhere," he added.

The settlement also said Memorial Hermann failed to document whether any employees were sanctioned over the incident. A spokeswoman for the 13-hospital, 24,000-employee system did not respond to a request for comment.

The health system agreed to rewrite its policies and retrain employees as part of the settlement.

The apparent lack of sanctions and the size of the healthcare system probably were major factors in the amount of money it took to settle the short-lived incident, said Adam Greene, a partner at Davis Wright Tremaine LLP who was not involved in the matter.

"This was a big issue with respect to illegal immigration and whether this would have a chilling effect on immigrants seeking healthcare, which led to the need for a press release," he added.

"It's a good reminder under HIPAA that the fact something may be public doesn't mean you can confirm it or release any information," Greene said. "It's interesting because it's a reminder all individuals who seek health care have privacy rights."

By Paul Merrion, CQ Roll Call

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