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Lawyers 'fishing' through medical records

3 June, 2014 Kate Aubusson 4 comments





Lawyers are exploiting privacy laws to fish through medical records for information to discredit patients' insurance and compensations claims, experts say.

Under the **Privacy Act**, a doctor cannot refuse a patient's request to access their medical record unless doing so would pose a serious threat to the patient or others.

The provision was designed to support an individual's right to their personal medical information.

But it was also increasingly being "misused" by insurers and lawyers who had been granted full access to records by patients for their claims, psychiatrist Dr Bill Pring told the annual congress of the Royal Australian and New Zealand College of Psychiatrists.

"[Third parties] are free to go on a fishing expedition through the files," said Dr Pring, who was involved in consultation before the Act was changed in 2001.

He spoke out after two of his patients were stung, having had claims declined on the basis of sensitive and "unrelated" information from their medical files.

Most patients had no inkling they were authorising access to their complete medical history when signing paperwork relating to insurance and compensation claims, said Dr Sara Bird, manager of medicolegal advisory services at MDA National.

"It's all hidden in the fine print," Dr Bird (pictured) said.

"Anyone who has had an accident on the Pacific Highway and is then asked to sign an insurance form would never anticipate that their complete medical records would go their insurer.

"GPs deal with a lot of incredibly sensitive information — mental health issues, STIs, life events [that] patients have every right to keep private," she said.

Dr Bird recommended that GPs who received medical record requests from third parties contact the patient directly, ensure they understood that their entire record would be released and give them a chance to withdraw consent.

If in doubt, doctors should seek medicolegal advice before contacting the third party to request an updated consent form for medical information specific the claim, she said.

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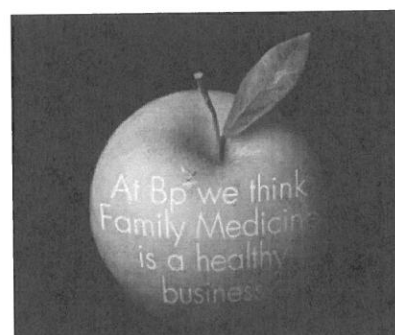
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Should doctors refuse to work in mandatory detention centres given the concerns over potential human rights abuses and the detention of children?

- Yes - doctors working in these centres are propping up a system that by its very nature is unethical.
- No - the presence of doctors, with their ethical obligations, means there is a voice to both advocate for detainees welfare and ensure they have access to health care.

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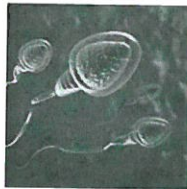
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ali · 13 hours ago

I have few w/c patients & when an insurance company ask for the record, they will get only the record related to the specific injury & never the complete records.

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water rat · a day ago

How come it took a so-called 'expert' to bring this to light..? We GPs have been protesting against this phishing for years, but no-one bothered to take us seriously. It makes an absolute joke of the so-called privacy act. I get the feeling the only ones disadvantaged by it are us and the patient, as when you ring a public hospital path lab or Xray dept for an important result, it is us who are given the privacy runaround, whereas lawyers and insurance companies just basically scare the patient into giving consent by implying they won't get their cover or whatever with out it.

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Richard Hurst · a day ago

Or you can supply a report and charge a fee, and only submit the record if served a written subpoena. Remember, most of the workers in insurance companies are under 23 and have no life experience, and don't even realise what they are asking for when they request a complete medical record.

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just a thought → Richard Hurst · 21 hours ago

To suggest that the investigations process of a multinational insurance company is left in the hands of inexperienced 23 year olds is ridiculous. My partner is an experienced private investigator who works on behalf of insurance companies where clients are claiming 100s of 1000s of dollars. The insurers want the best and are quite happy to pay upwards of 90 dollars an hour for good investigation or surveillance. It is predominantly small businesses that are hurt by unsubstantiated claims through increased premiums when there are pay outs - especially work related injuries. Whilst this article suggests that all insurance companies are evil scum out to get people, I can assure readers of this site that it is the total opposite - they will quite often settle to avoid the costs associated with litigation. Whilst I wouldn't deny that there would be times where the system doesn't work, you can't write off the whole thing secondary to 2 anecdotes where there has been a ruling against a patient. Let's face it - if it were a receptionist of GP surgery claiming "psychological injury" secondary to unsubstantiated "bullying" from a General Practitioner, you could quite easily write an article that refutes everything mentioned above.

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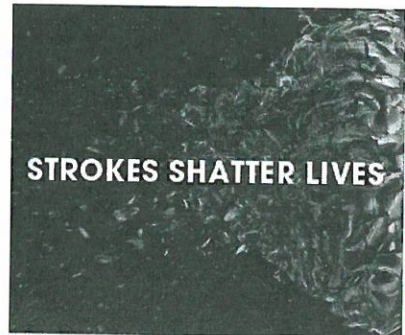
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