

Can A Court Order Disclosure of Patient Identity in Response to an Employment Claim?

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In ***Peace v. Premier Primary Care Physicians***, the District Court for the Northern District of Illinois considered whether a medical practice could be required to **disclose patient names** and contact information in response to a lawsuit brought by two former employees seeking overtime wages and alleging **retaliatory discharge**. In its answer, Premier alleged that the employees were **terminated** for unprofessional behavior and misconduct. Premier claimed that the employees were terminated because: (1) they were disruptive in the workplace and inappropriate with patients; (2) they adversely impacted the patient schedule and patient relationships; and (3) the medical practice received numerous patient complaints regarding the plaintiffs, claiming that they were rude, unhelpful, and failed to give reminder calls for appointments.

In response, the plaintiffs sought discovery of names and contact information for all of Premier's patients, in addition to an unredacted patient schedule. After Premier refused to disclose this information, claiming that it was confidential patient information, the plaintiffs filed a motion to compel discovery of this information.

Unfortunately for both the medical practice and its patients, Premier's defenses made the patient's information fair game. Because Premier claimed that the plaintiffs were terminated based on a "pattern of disruption of the work place and unprofessional behavior and performance in a manner that adversely impacted the schedule, patient flow, and patient relationships", the court ordered Premier to provide names and contact information for 25 patients selected by the plaintiffs.

In light of this decision, healthcare professionals should bear in mind the potential disclosure pitfalls that could result from their defensive strategy when responding to employment claims. Unfortunately, you may have to decide between protection of patient privacy interests and mounting a vigorous defense. Any potential disclosure should be evaluated in light of HIPAA, state law, and ethical requirements. If the parties agree to disclosure—or if a court orders disclosure—the disclosing party should seek a protective order from the court before providing any patient information, no matter how limited. Healthcare professionals are advised to approach discovery disputes in a cooperative, collaborative manner in an effort to avoid such a Hobson's choice.

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