



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

EXECUTIVE OFFICE

July 8, 2009

Dear Chief Executive Officer:

Over the last three years, the New York Attorney General's Office has participated in an investigation that uncovered a scheme involving breaches of patient confidentiality at New York hospitals. We write to advise you of the scheme and to seek information from your hospital to assist us in addressing this problem on a state-wide, systemic basis.

Our investigation has revealed that hospital employees at a number of public and private hospitals have been selling to outsiders confidential information about patients treated at the hospitals after motor vehicle accidents. The illegal sale and purchase of this confidential patient information not only violates New York State and federal law, but also allows criminal organizations (consisting of corrupt medical providers, attorneys, clinic owners, "steerers," and others) to enter hospitals and enlist patients in a complex scheme to commit insurance fraud and other crimes by billing automobile insurance companies for medically unnecessary treatment and/or treatment that was not actually provided, and bringing unfounded lawsuits.

So far, the ongoing investigation has resulted in criminal charges against two hospital employees for bribe receiving and official misconduct, and against 12 other individuals and nine corporations for their involvement in a criminal enterprise that submitted over a million dollars in fraudulent claims to insurance carriers.

The law, including the New York State Public Health Law and the federal Health Insurance Portability and Accountability Act ("HIPAA"), requires your hospital to keep patient information confidential and to provide adequate security. We ask that you immediately ensure that your hospital is abiding by these obligations. We will be increasing our scrutiny of these issues and we are in the process of making it faster and easier for hospital patients to advise us if their rights to confidentiality are violated.

While our investigation is ongoing, we are also considering possible reforms to combat the problems we have uncovered. To that end, we seek information from your hospital about

how your hospital seeks to prevent and address this type of misconduct. Please provide a written response to the following questions.

1. Is your hospital a public or private institution? Is it an independent facility or part of a hospital system?
2. Approximately how many motor-vehicle accident victims does your hospital treat each year?
3. Who provides security for your hospital (eg, is it provided by hospital staff or a contractor)? Who supervises your hospital's security? Is it supervised by the hospital's own administration or at some higher level (eg, corporate or system-wide)?
4. Who is responsible for receiving and addressing complaints about your hospital's security?
5. Describe your hospital's security system and procedures for screening visitors. As part of your description, indicate: (a) whether the system is in place at every public entrance to the hospital, (b) what information is obtained from visitors and how long that information is retained, (c) whether the system takes visitors' photographs and if so, how long the photographs are retained and whether the stored photographs are linked to the other information obtained from the visitors, and (d) whether, and if so, how often, hospital security personnel review the stored data to identify frequent visitors.
6. Does your hospital require visitors to present proof of their identities? If so, what forms of proof are accepted? Does the hospital retain a copy of the proof of identity?
7. What type of pass or identification does your hospital issue to visitors? Does the pass or identification restrict the visitor to a particular portion of the hospital? If so, how is the restriction indicated and enforced?
8. Does your hospital require or permit patients (or their authorized representatives) to approve their visitors in advance?
9. How does your hospital restrict employees' access to confidential patient information, both in hard copy and in its computer systems?
10. Has your hospital become aware of any employee unlawfully disclosing confidential patient information? If so, what steps has your hospital taken to punish the employee and/or address the situation?
11. Does your hospital require its employees to report violations of the law and hospital policy? If so, how are employees made aware of this requirement? What, if any, protection is provided to employee "whistleblowers"?

12. What, if any, steps does your hospital take to educate patients about their rights to confidentiality, the possible problem of patients being solicited by those seeking to commit insurance fraud, and who the patients should contact if they believe their rights have been violated?

13. What, if any, other information would you like to share about these issues?

Please send us your answers to these questions by July 15, 2009. If you have any questions, please call Criminal Prosecutions Bureau Chief Gail Heatherly at (212) 416-8750.

Thank you for your cooperation.

Very truly yours,

A handwritten signature in blue ink that reads "Robin L. Baker" with a horizontal line extending to the right.

Robin L. Baker
Executive Deputy Attorney General
For Criminal Justice