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The American College of Legal Medicine Comments on the Physical Removal of President Donald Trump's Medical Records from his Personal Physician's Office

EAST DUNDEE, IL, MAY 7, 2018—On the morning of Feb. 3, 2017, three individuals came unannounced to Dr. Harold Bornstein's New York City medical office. It is alleged that they intimidated, demanded, and took Dr. Bornstein's original medical records of President Trump. Dr. Bornstein had been Donald Trump's personal physician for several decades, prior to his election as the 45th President of the United States.

[The American College of Legal Medicine](#), the most prominent professional society in the United States concerned with the intersection of law and medicine, contends that the alleged handling of this matter breaks a sacrosanct law within the State of New York.

"A New York State licensed physician has the responsibility to retain and make copies of one's original medical records, and has the responsibility to release those copies only upon verification of a HIPAA authorization form signed by the patient. It is a breach of a physician's duty to release patient medical records to anyone other than the patient, absent a signed release or personal request to do so," said Dr. David Donnersberger, MD, JD, MA, FCLM, President of the American College of Legal Medicine.

"Furthermore," Dr. Donnersberger continued, "a physician has the responsibility to review the medical record and not include in the surrendered copied materials any personal notes and observations, which might include speculations or impressions unrelated to a diagnosis or treatment, any information disclosed to him in confidence by other persons on the basis of an expressed condition that the information would never be disclosed to the patient or any other person, and any information and clinical records subject to New York's Mental Hygiene Law."

"Any person who violates, disobeys or disregards any regulations or laws related to the creation, release, maintenance or disclosure of medical records may be held to civil penalties of as much as \$2,000 per violation."



Dr. Donnersberger also noted that a party requesting a medical record should have a signed HIPAA authorization form that must be presented to the physician, and a copy of this form must be added to the patient’s medical record or the name and address of the third party and a notation of the purpose for the disclosure must be indicated in the patient’s record.

“All states have statutory rules outlining physician responsibilities for patient record retention and preservation,” said Eli N. Avila, MD, JD, MPH, FCLM, DABLM, Board Member of the ACLM. “In New York, a healthcare provider must maintain their adult patient records for at least six years, unless the law provides otherwise. New York State courts have consistently held that medical records, including radiographic films, are property of the physician or the facility that created the records. Hence, it is widely accepted that physicians own the physical medical record; but patients own the information contained in it.”

About the American College of Legal Medicine (www.aclm.org)

The American College of Legal Medicine (ACLM) is the most prominent professional society in the United States concerned with addressing issues that arise at the interface of law and medicine. Fellows of the American College of Legal Medicine, which comprise over 50% of its membership, have degrees in law and one or another health science. The majority have both MD and JD degrees. Others are JDs with DDS, RN, or PhD degrees. College members also include physicians (M.D., D.O.), attorneys (J.D., L.L.B), dentists, Registered Nurses, podiatrists, scientists, and other health professionals. Through its medical legal resources, the ACLM educates and assists health care and legal professionals, advances the administration of justice, influences health policy, improves health care, promotes research and scholarship, and facilitates peer group interaction. In addition, the American College of Legal Medicine represents the specialty of legal medicine in the American Medical Association’s Specialty and Service Society.

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