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Nurse's Gory Tweets Leave Privacy Attys Gobsmacked

By **Jeff Overley**

Law360, New York (August 5, 2016, 7:15 PM ET) -- Allegations that a nurse at a major Chicago hospital tweeted about a shooting victim's death and blood-soaked hospital room are a stunning cautionary tale that health care providers can use to hammer home how workers may be held liable for privacy lapses, attorneys say.

business...#traumaproblems
#westsideshitshow



Reply to Dixie McCall



A Chicago nurse allegedly tweeted this image of a patient's room, prompting a lawsuit.

The allegations surfaced in **a new lawsuit** accusing Karrie Anne Runtz, a trauma nurse at Mount Sinai Hospital, of "recklessly and outrageously" tweeting about the April 2015 death of 24-year-old Mikal Johnson. According to the suit, Runtz sent tweets to 1,300 followers describing Johnson as "DOA" and included a grisly photograph of a large pool of blood in his treatment room.

The now-deleted Twitter account, which was known to local media, used the screenname "Dixie McCall," the handle @traumanatrix and the hashtags #sinaitrauma and #westsideshitshow to complain about a steady stream of patients with bullet wounds in Mount Sinai's emergency department. The account's bio section read, "diva of death..mistress of mayhem. kicking ass, taking names & saving lives. tough as nails chicgo chick. you think you know, but you have no idea."

Attorneys who've seen lots of galling health privacy lapses — such as nurses snooping into the records of celebrity patients or a hospital **allowing reality TV crews** to film patients — say that the “traumanatrix” situation seems especially egregious.

“I don't know of any that's as crazy as this,” Day Pitney LLP counsel Eric Fader said.

As with a handful of previous eye-popping lapses, the details of the traumanatrix saga could help hospital privacy officers get their messages across to employees.

For example, hospital employees have received prison sentences for selling the patient records of Britney Spears and peering into the patient records of Arnold Schwarzenegger, sending an unmistakable warning about the risks of violating patient privacy. In the traumanatrix case, Runtz is being personally sued and could theoretically be liable for hefty damages, something privacy officers can emphasize to hospital staff.

“These sort of jarring examples are great teachable moments,” said Dianne Bourque of Mintz Levin Cohn Ferris Glovsky and Popeo PC.

A Mount Sinai spokeswoman on Friday declined to comment on the allegations, saying the hospital hadn't been served with the complaint yet.

It's unclear whether other hospital employees were aware of the traumanatrix account. Online archives show the account was created in August 2013 and has tweeted about Mount Sinai since at least May 2014. In addition, a now-deleted account with the same handle and profile picture — a drawing of a nurse with pin-up girl looks — was previously on Instagram.

Runtz and Mount Sinai are being sued under state law for infliction of emotional distress. Mount Sinai is also facing negligence allegations because it “knew or should have known” that the tweets would inflict emotional harm on Johnson's family, according to the complaint filed by Johnson's mother.

A spokeswoman for U.S. Department of Health and Human Services declined to say whether an Office for Civil Rights investigation has been opened into potential violations of the Health Insurance Portability and Accountability Act.

In order for a HIPAA violation to have occurred, the tweets would probably need to have contained so-called protected health information that was “individually identifiable” about Johnson. At a

glance, the tweets may not meet that test, according to experts.

"That's hard to say because blood and gore is not PHI in and of itself," Ice Miller LLP partner Kim Metzger said.

But Metzger added that certain details in Runtz's alleged tweets — the location, the time of day, the bloody room, the patient's death and an allegation that Johnson's family members attacked hospital staff — could be sufficient to connect the dots and make it clear about whom she was tweeting.

"If the information was specific enough ... then it's entirely possible for that information to be considered PHI," Metzger said.

In any event, attorneys said they'll be watching for whether Mount Sinai announces any disciplinary action in connection with the tweet. There's precedent for such public punishments — in 2013, for example, Cedars-Sinai Medical Center in Los Angeles **announced the firing of six staffers** for prying into the records of a patient believed to be reality television star Kim Kardashian West.

"You increase the odds of people thinking before they do something like that if they see the harsh fallout that will come from it," Bourque said.

At the same time, there are limits to what can be accomplished through discipline or training. Ultimately, attorneys say, staying on the right side of the law depends in large part on workers using common sense.

"I don't think you should need to be told, 'Don't post a picture of a patient's pool of blood online,'" Fader said.

--Editing by Christine Chun and Kelly Duncan.

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