Protocol for Physician Review of Video Surveillance

A HIPAA Compliant Subpoena or a Patient’s Written Authorization Is Required for a Physician to Review Video Surveillance

To Person or Entity Requesting an Ellis Clinic Physician to View Video Surveillance:

The Health Insurance Portability and Accountability Act (HIPAA) has ridged requirements concerning a patient’s Protected Health Information (PHI). Severe penalties apply to medical providers, agencies and persons presenting a video.

Further information and instruction can be obtained by making an appointment with Ellis Clinic’s HIPAA Privacy Officer, John W. Ellis, M.D.. Dr. Ellis is a nationally recognized authority and instructor in Legal Medicine, the Federal Workers’ Compensation Act (FECA) and Office of Workers’ Compensation Programs (OWCP). Dr. Ellis’ curriculum vitae can be seen at www.EllisClinic.com.

Requirements to Present a Video for Physician Review:

- A HIPAA compliant subpoena or patient’s written authorization is required to present a video or for Ellis Clinic to even acknowledge we have a patient. Be Careful! An official looking letter with a government agency’s letterhead does not make it HIPAA compliant.
- Photo ID copy attached to your written request.
- Make an appointment with Ellis Clinic’s HIPAA Privacy Officer.
- Payment in Advance or OWCP pre-approval is required for physician’s time and services
  - $500 per hour to view a video.
  - If a Medical Opinion report is requested, the fee must be negotiated and agreed.

Employees’ Compensation Appeals Board Ruling on Video Surveillance

United States Department of Labor, Employees’ Compensation Appeals Board, DECISION and ORDER, Docket No. 11-863, Issued September 26, 2012.

- Video must first be seen by Employee and their attorney.
- Employee’s Statement must always accompany the video.
- If an agency, such as the Department of Justice or the Office of Inspector General, presents a video to a physician, the agency has become an agent for the employee’s employer.
- Federal employers cannot talk with the employee’s selected physician. They must go through the Office of Workers’ Compensation Programs (OWCP).
- The person may be on medications making the video poor evidence of the ability to work.
- The above is a partial summary. Read the ruling and the HIPAA law.