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Patient given her original medical records by mistake

The patient is really upset, she decides she's going to go to a second doctor for a second opinion, so she asks her first doctor's office to go ahead and get her medical records, and for whatever reason they give her the original medical records, that now she brings over to doctor number two. When she ultimately brings a lawsuit against doctor number one, do we have to give a copy of her original records to the attorney for doctor number one?

Do you want to know the answer? You think you really know the answer?

Come join me for a moment to see whether or not this is a trick question.

Hi, I'm Gerry Oginski, I'm a New York, medical malpractice and personal injury attorney, practicing law in the state of New York.

It sort of is a trick question, and here's why every doctor in New York is required to maintain patient's records. So now, if a patient wants copies of their records, the doctor and their office is obligated to give the patient copies of the record. They have to sign a permission slip, known as an authorization. Then the office will make copies, and go ahead and give the patient the records to go ahead, and do whatever they want with it.

Now in this instance, in the question I asked the office gave the patient her original records, and they did not keep a copy for themselves. Now the patient goes to doctor number two, shows doctor number two the original records, and goes ahead and begins treating her, and trying to fix the problems that doctor one created.

Now she brings a lawsuit against doctor number one, and now the defense attorney says, "Hey where are the records? We don't have the records, we only have a note saying records given to the patient". Are we obligated to then give copies of the records that we have to the defense attorney? The answer is, absolutely yes! We have an obligation to provide to the defense attorney whatever medical records we have.

In this instance where these original records were provided to my client innocently, by mistake and then they got brought to doctor number two, now who has the original records? Doctor number two, but we have copies of them, and doctor number two has certified that he has the original record that was brought to him by the patient. Yes we do have an obligation to give the doctor, and his attorney, copies of his own records.

Is that sufficient? Is the doctor and his attorney going to say okay, we accept that? No, they're also going to want a permission slip from my client, to get doctor number two's records, which includes in this case doctor number one's records. We have an absolute obligation to provide whatever records that we are relying on to the defense, even if they already have the original record, and even if they already have copies. That's our obligation, and if we fail to give them copies of whatever records we maintain, that could be a significant problem for us and our case.

So, why do I share this great trivia question with you, and I hope you got the answer correct?

I share it with you, just to give you an insight, and an understanding to what goes on in a civil lawsuit involving medical malpractice matter, or an accident matter, or even a wrongful death matter, here in New York. You know, I recognize you're watching this video, because you've got questions, or concerns, about your own particular matter.

Well if your matter did happen here in New York, and you're thinking about bringing a lawsuit, but you have legal questions that need to be answered, then what I invite you to do is ... You know what I'm going to say right? Pick up the phone and call me. I can answer your legal questions.

You know, this is something I do, every single day, and I'd love to talk to you. You can reach me at 516-487-8207, or by email at Gerry@oginski-law.com

That's it for today's video, I'm Gerry Oginiski, have a wonderful day.