



STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

LORI SWANSON
ATTORNEY GENERAL

102 STATE CAPITOL
ST. PAUL, MN 55155
TELEPHONE: (651) 296-6196

October 20, 2008

Mr. Robert Delsman, Jr.
3809 Little Fairfield Street
Eureka, CA 95503

Dear Mr. Delsman:

I thank you for your correspondence dated August 22, 2008 and received in this Office on September 29, 2008.

You state that you purchased long-term disability insurance through GE Disability Benefits Center in 1995. You indicate that in August of 2008, your physician told you that his office had received an "Authorization for Release of Health Information" form from GE Disability Benefits Center and ProSource Billing, Inc. demanding release of your protected health information. You note that you examined the authorizations received by your physician and found they were forgeries. You state that you have discovered three different forgeries sent on multiple occasions in an attempt to obtain your private health information. You explain that you sent the forged documents to the Northern California Office of the FBI for review, and you were told that the FBI had referred this matter to the Minneapolis field office. You ask for any assistance this Office can provide.

Under Minnesota law the Attorney General's Office has limited authority. For instance, it does not have jurisdiction to provide legal advice to private citizens. Notwithstanding this limitation, I can provide the following comments, which I hope will be helpful.

First, it is troubling that your physician has received forged documents seeking your health information. I commend you for taking the time to pursue this matter. It is appropriate that you also filed a complaint with the FBI.

Second, I enclose a copy of Minn. Stat. § 144.293 for your information which explains how, under Minnesota law, individuals, including health care providers, must handle health records. I also enclose a copy of Minn. Stat. § 144.298, which provides that a person who forges a signature on a consent form is liable for damages, plus costs and reasonable attorneys fees under Minnesota law. If you have suffered damages as a result of illegal actions by GE Disability Benefits Center or ProSource Billing, Inc., I recommend you consult with a lawyer who may be able to assist you in recovering compensation for those damages. If you cannot identify an attorney to advise you, the Minnesota State Bar Association's Attorney Referral Service is available on the Internet at www.mnfindalawyer.com. If you do not have Internet

Facsimile: (651) 297-4193 • TTY: (651) 297-7206 • Toll Free Lines: (800) 657-3787 (Voice), (800) 366-4812 (TTY) • www.ag.state.mn.us

An Equal Opportunity Employer Who Values Diversity



Printed on 50% recycled paper (15% post consumer content)

access, it may be available at your nearest public library. The Lawyer Referral Services Program of the State Bar of California can be contacted toll free at 1-866-442-2529.

Third, under Minnesota law, insurance companies, as well as insurance-support organizations, are prohibited from obtaining information in connection with an insurance transaction by pretending to be someone else. I enclose a copy of Minn. Stat. § 72A.493 for your information. I also enclose a copy of Minn. Stat. § 72A.504, which provides that a person who violates Minn. Stat. § 72A.493 is subject to a \$3,000 fine or imprisonment for a year, or both. In Minnesota, insurance companies are licensed and regulated by the Minnesota Department of Commerce. Accordingly, I strongly recommend that you file a complaint with the Department, which can be reached as follows:

Glenn Wilson, Commissioner
Department of Commerce
Market Assurance Division
85 East Seventh Place, Suite 500
St. Paul, MN 55101
(651) 296-2488
1-800-657-3602

Fourth, you state that GE Disability Benefits Center is located in Eden Prairie, Minnesota. You do not indicate where ProSource Billing, Inc. is located, although a search of the Internet indicates that a company by that name is located in Sauk Rapids, Minnesota. Because forgery is a crime and the violation of Minn. Stat. § 72A.493 is punishable as a crime, I also recommend that you file a complaint with the Eden Prairie and Sauk Rapids police departments, which may be reached as follows:

Eden Prairie Police Department
8080 Mitchell Road, #106
Eden Prairie, MN 55344
(952) 949-6200

Sauk Rapids Police Department
115 2nd Avenue North
Sauk Rapids, MN 56379
(320) 251-9451

Fifth, the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") establishes minimum federal standards for the privacy of protected health information ("PHI"). The U.S. Department of Health and Human Services ("HHS") enacted a privacy rule to implement these provisions of HIPAA. Unfortunately, HIPAA does not go as far as many people would like in establishing safeguards for the privacy of health information. For your information, I enclose an HHS publication entitled *Summary of the HIPAA Privacy Rule*, which describes how the privacy rule operates and explains the various rights to which people are entitled under HIPAA.

Sixth, HIPAA applies to "covered entities," a term that includes providers, health plan companies, and health care clearing houses. Under HIPAA, these "covered entities," which would include licensed health care providers, are required to comply with certain standards

Mr. Robert Delsman, Jr.
October 20, 2008
Page 3

designed to maintain the confidentiality of PHI and to ensure that patients are aware of, and can exercise certain rights with respect to that information. For example, covered entities, with certain exceptions, must provide individuals with a document called the "Notice of Privacy Practices," which describes the ways which the covered entity will use and disclose an individual's PHI. HIPAA requires covered entities to act in accordance with their Notice of Privacy Practices. I encourage you to file a complaint with the federal Office for Civil Rights, which is charged with enforcement of HIPAA. You may reach the Office for Civil Rights as follows:

Office for Civil Rights
U.S. Department of Health & Human Services
601 East 12th Street - Room 248
Kansas City, MO 64106
(816) 426-7278; (816) 426-7065 (TDD)
(816) 426-3686 FAX

Finally, this Office values your concern about companies misleading their customers. I am forwarding your complaint to Mr. Charles Ferguson, the Manager of the Consumer Services Division. The Attorney General's Office frequently takes legal action against companies that violate Minnesota consumer protection laws. Mr. Ferguson will review this matter to determine if we can take action against GE Disability Benefits Center or ProSource Billing, Inc.

I thank you again for your correspondence.

Sincerely,



ANGELA SKARDA
Citizen Research Specialist

Enclosures: Minn. Stat. § 144.235
Minn. Stat. § 144.298
Minn. Stat. § 72A.493
Minn. Stat. § 72A.504
Summary of the HIPAA Privacy Rule

cc: Charles Ferguson, Manager, Consumer Services

AG: #2318108-v/401947/AKM