

## **CONNECTICUT POST**

# **Court: Westport doctor can be sued for confidentiality violation**

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HARTFORD -- In a case involving a Westport doctor's office, the state [Supreme Court](#) has ruled that patients can sue for negligence if a medical office violates regulations that dictate how medical offices must maintain patient confidentiality.

This is the first time the state's highest court has ruled regarding this issue. Connecticut now joins Missouri, West Virginia and North Carolina in similar rulings.

"Before this ruling, individuals could not file a lawsuit claiming violation of their privacy under the (Health Insurance Portability and Accountability Act of 1996) regulations," said Trumbull lawyer [Bruce Elstein](#), who brought the case. "It was for that reason that we filed a negligence claim, claiming the medical office was negligent when it released confidential medical records contrary to the requirements set forth in the regulations."

The law was passed to protect the privacy of patients' health information.

[Emily Byrne](#), who now lives in Vermont, claims the [Avery Center for Obstetrics and Gynecology](#) in Westport violated her right to privacy. She is seeking unspecified damages.

In fall 2004, Byrne learned that she was pregnant, according to her lawsuit against the medical office. Shortly afterward, she called the Avery Center to instruct them not to release any of her medical information to the father of the child, with whom she was no longer in a relationship," the suit states.

But despite her clear instructions and in violation of its own stated privacy policy, the suit states that the Avery Center released her medical file upon subpoena. It failed to make any attempt to notify Byrne of the subpoena or to seek guidance from a court on the disclosure, the suit states.

"The man, who now lives in San Antonio, used that personal information for a campaign of harm, ridicule, embarrassment and extortion," said Elstein, adding that the trial judge and state Appellate Court recognized the sensitivity of the case and the importance of the issue, and granted special permission to hear it early before the final judgment.

"The state Supreme Court agreed that a violation of HIPAA regulations may constitute a violation of generally accepted standards of care, and remanded the case back to the lower court for trial," Elstein said.