

## **The Story of the Banker, State Commission, Health Records, and the Called Loans: An Urban Legend?**

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**Version 1.5, December 12, 2011**  
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This document is maintained at <http://bobgellman.com/rg-docs/rg-bankerstory.pdf>.

### **Summary and Conclusion**

This document reviews the record of a story involving the misuse of health records by a banker who served on a state health commission. The question is whether the story is true or whether it constitutes an urban legend. The story has never been properly substantiated in any meaningful way and should not be given credibility. The point is not that health records are never abused. This is not the case. The point is simply that the banker's story cannot be accepted as true.

Here is a basic version of the banker story:

A banker on a state health commission had access to records of all the patients in his state who had been diagnosed with cancer. He cross-referenced that list with a list of patients who had outstanding loans at his bank, and called in the loans of those with cancer.

The story varies somewhat from source to source. Sometimes the state is identified and sometimes not. Sometimes the commission is a state commission and sometimes a county commission. Sometimes the loans called are mortgages and sometimes they are other types of loans. The bank or the banker has never been named.

The conclusion offered here is that there is no firm basis for believing the story has any basis in fact, and there are some reasons for concluding that the story could not be true. Tracing the story back to its origins, there appear to be two independent points of origin for the story. Both of these sources acknowledged that they have no substantiation for the story. It appears that the story is nothing more than a rumor mentioned by "someone" at a conference. The story was then repeated, embellished, and recited by others so often that the story appeared to have considerable authority behind it.

What follows is a chronological review of the evidence and an analysis. An appendix offers quotes from the publications cited in the discussion. Nearly all of the evidence offered here was

compiled by John Fanning when he served as Privacy Advocate for the Department of Health and Human Services. His file on the *Banker Story* was made available to Robert Gellman, who prepared this document with assistance from Fanning, Maya Bernstein, current privacy advocate at HHS, and Ed Mierzwinski, US PIRG. Some additional searching for evidence was done by Gellman using standard Internet search tools in October 2011. The search was by no means exhaustive. Because the story's heyday was in the 1990s, evidence was relatively hard to find on the Internet.

### Chronological Review

According to John Fanning, former Privacy Advocate for the Department of Health and Human Services, the banker story first appeared at a February 1993 HHS conference on health records and privacy. <http://aspe.hhs.gov/pic/reports/ahrq/4441.pdf>. The story came from a comment made from the floor and, according to Fanning, was not included in the conference proceedings. This began what will be called here the *conference thread*. A search of the proceedings confirms Fanning's recollection, but the proceedings available on the Internet do not appear to be reliably searchable using PDF search tools, and there is no assurance that the search was exhaustive or correct. Key parts of the proceedings were read closely, however.

The second source is a September 1993 article in *Hospital Risk Management*. The article included a comment from Edward E. Bartlett, PhD, a risk management consultant in Rockville, MD, about a banker on a state health commission who used information to call in loans at his bank of people with cancer. This article will be called the *Bartlett thread*.

Fanning followed up personally with Bartlett as summarized in Fanning's June 29, 1999 memo on the "Banker Story".

I called Dr Edward E. Bartlett, of Bartlett Associates, Rockville, and the Early Diagnosis Steering Committee (tel 301 670 xxxx). The first printed reference I can find to this story is an account of the event attributed to him in the newsletter "Hospital Risk Management", Vol 15, Number 9, p.132:

'Edward E. Bartlett, PhD, a risk management consultant in Rockville, MD, recalls one particular misuse of patient information. A banker on a state health commission had access to all the patients in his state who had been diagnosed with cancer. He cross-referenced that list with a list of patients who had outstanding loans at his bank, and called in the loans of those with cancer.'

[Bartlett] said he heard the story at a conference of the American Health Information Management Association. He does not know what state was involved. He has been called a few times with this query.

Thus, the Bartlett thread appears to have no firm substantiation. Bartlett did not identify the state whose records were supposedly used. His version is that loans of those identified by the banker as having cancer were called in. It was a story heard at a conference.

The next reference to the banker story is from a November 1993 news story in the New Orleans Times Picayune. This version locates the banker in the Midwest and states that the banker called in *mortgages* of those borrowers with cancer. The article cites an unidentified report from the American Hospital Association to HHS. This is the *only* reference found anywhere to a hospital association report. It is possible that the reporter mixed up the HHS conference and the *Hospital Risk Management* publication. The publication was published by American Health Consultants, Atlanta, Georgia. It did not appear to have any connection to the American Hospital Association. This version of the banker story contains the first reference to mortgages. It is difficult to determine the source, although the Bartlett thread seems likely.

The next reference is from the National Journal, which mentions an otherwise unidentified April 1993 U.S. Department of Health and Human Services task force report. In this story, a Midwestern banker was a member of his county's health board. The story says that patient names and Social Security numbers had been removed, but the banker was able to use professional and address information to see who was suffering from various diseases. He cross-referenced this with a list of all his bank's customers, and called due the mortgages of anyone with cancer.

The HHS report cited here cannot be identified with certainty, but it is likely to be the proceedings of the previously mentioned HHS conference on health records and privacy held in Washington on February 11 and 12, 1993. The conference proceedings were edited and published. This may be the "task force report" where the banker story originated. The HHS sponsor was the Task Force on Privacy. Thus, the National Journal story is from the conference thread.

The National Journal article has more. It states:

The anecdote's source, C. Peter Waagemann, director of the private think tank, Boston's Medical Records Institute, says his group, which advocates protected patient-data computerization, has gathered many more examples, with results ranging from embarrassment to the ruination of careers.

It may be that Waagemann was the individual at the HHS conference who put the banker story in circulation. That conclusion is not firm, but it appears likely that the reporter talked to him and he identified himself as the source. It is known from the conference proceedings that Waagemann presented at the conference, and the record shows that he offered several horror stories, but the banker story was not one found in the proceedings of the conference.

In 1999, Brian T. Geffert from KPMG did research on the banker story at the request of John Fanning. He reported that he talked to Waagemann, but that Waagemann could not confirm the details. Geffert's emails quotes Waagemann:

A number of writers have researched this. I was told about it at a seminar by a person who was directly involved in the case in the role of the local medical records manager. The case seemed real and I cited it at a few meetings. However, subsequent research could not confirm it because my contact person

moved and no one could be found to confirm or deny it. Seven years have passed since and I have little hope for more clarification.

This is additional evidence that the *conference thread* is unsubstantiated. If Waegemann was in fact the source, he could offer no details or confirmation despite “subsequent research.” If any of the writers that he mentioned found a source for the story, Waegemann did not offer any more information to Geffert. In a Wall Street Journal story from 2003, Waegemann was quoted in the same vein: “I tried many times for many organizations to retrace it, but I never found the banker.” The conference thread seems very doubtful.

In 1995, a Ross Anderson editorial in the British Medical Journal cited the Bartlett version. Beverly Woodward did the same in an article in the New England Journal of Medicine. She mistakenly identified Bartlett as the author of the cited article from the *Hospital Risk Management* newsletter when he was just quoted in the article. In her version, the banker was from Maryland, and loans of cancer victims were called in by the banker.

Geffert also contacted Woodward, who offered this statement:

Due to a misunderstanding the banker was identified as a Maryland banker, but in fact was not from Maryland. The source of the story, who is in risk management, does not wish to provide further details. So I do not think you will be able to get ‘hard core facts’ at this point. But I had no reason to disbelieve his report. There are, in any case, many verifiable reports of discrimination that have resulted from invasions of privacy.

It is not clear how Woodward concluded that the Maryland identification was wrong, but the comment suggests that she may have spoken to Bartlett, who is a risk management consultant. Bartlett said, as quoted above, that he did not know which state it was.

Additional articles citing the banker story appeared in 1996 and 1997. A story in Time Magazine cited a health care newsletter as the source. That may be the newsletter that reported the original Bartlett version. Several other articles cited the Time version. The banker story continued to be repeated during the next few years, but no actual, independent source for the story was ever cited.

The banker’s story was cited in 2000 by HHS in the preamble to the HIPAA health privacy rule. HHS sourced the story to the National Journal article. The National Journal article cited an HHS report. But the report most likely cited is a conference proceeding that does not include the story. Further, John Fanning’s 1999 memo contains his statement that they did not include the story in the abridgment of the floor discussion in the published proceedings, perhaps because of the lack of substantiation. Thus, HHS in 2000 effectively cited evidence that HHS in 1993 did not think was reliable.

There are additional sources, and each known source is reproduced in relevant part later in this document. These additional sources, which extend to 2003, do not appear to offer any new or

different substantiation from the sources cited above. When it is possible to tell, each source appears traceable to the conference thread or the Bartlett thread.

### **Analysis**

The banker story nearly always involves a banker on a health commission. Sometimes the commission was in Maryland, sometimes in the Midwest. In one version, it was in Massachusetts. In another, it was a county health board.

The loans that were called were either just plain loans or mortgages. Many versions reported that loans were called on individuals with cancer. A law firm that repeated the story stated that “callable loans” were called. This small addition to the story may have been the result of a lawyer’s awareness that not all loans can be called at will by a bank.

Can mortgages be called by a bank because of illness? The answer today is no. Most mortgages have standard terms so that they can be packaged and sold to investors. The Multistate Fixed Rate Note--Single Family--Fannie Mae/Freddie Mac Uniform Instrument Form 3200 is a form used for mortgages purchases by Fannie Mae and Freddie Mac.

<http://www.freddiemac.com/uniform/unifnotes.html>.

The note has two provisions that allow acceleration of the loan. First, if the borrower defaults by not making required payments, the note holder may require the borrower “to pay immediately the full amount of Principal which has not been paid and all the interest.” Second, if the borrower sells or transfers all or any part of the Property or any Interest in the Property without the Lender’s prior written consent, the Lender may require immediate payment in full of all sums. The actual terms of the security instrument may vary state by state. See <http://www.freddiemac.com/uniform/unifsecurity.html>. Taking the Maryland version as likely representative, there is no provision that allows for acceleration in case of illness of the borrower. Indeed, even the death of a borrower does not entitle the lender to accelerate the loan, which is secured by the value of the property and not the credit or status of the borrower.

Whether these standard mortgage instruments were in common use in and around the time that the banker’s story arose in the early 1990s has not been researched for this document. However, after the effective date of the Fair and Accurate Credit Transactions Act (FACTA) – an amendment to the Fair Credit Reporting Act (FCRA) – a creditor is prohibited from obtaining or using medical information to make credit decisions. 15 U.S.C. § 1681b(g)(2). The law and its regulations recognize some exceptions to the prohibition. The numerous agencies that regulate banks issued similar rules to implement FACTA. The rules of the Office of the Comptroller of the Currency are representative. 12 C.F.R. § 41.30. The exceptions include information about medical debt used to calculate repayment ability, amount of disability income, value of a medical device used as collateral, and others. A specific provision prohibits a credit from taking a consumer’s physical, mental, or behavioral health, condition or history, type of treatment, or prognosis into account as part making a decision about eligibility or continued eligibility for credit. 12 C.F.R. § 41.30(d)(iii). The final rule on the use of health information took effect on April 1, 2006, 70 Federal Register 70664.

It is clear that calling loans over health status became illegal under federal law when the final FACTA rules took effect. The House Committee report accompanying FACTA said little about the reasons for the restrictions on use of medical information in determining credit eligibility. House Report 108-263, <http://www.gpo.gov/fdsys/pkg/CRPT-108hrpt263/pdf/CRPT-108hrpt263.pdf>.

Tellingly, the medical information restriction was not opposed by the banks. In testimony before the House Committee on Financial Services, Edward L. Yingling, Executive Vice President of the American Bankers Association, testified that “the use of medical information in a credit decision obtained without the knowledge and consent of the borrower is just plain wrong.” <http://archives.financialservices.house.gov/media/pdf/061703ey.pdf>. That testimony does not prove that no bank ever used health information, but it suggests both that it was not common or seen as defensible by the banking industry.

If the banker story had a date after 2005, it would be easy to conclude that the calling of loans based on health status was illegal and also that it was highly unlikely. It is difficult to be as definitive for the period before 1993 when the story is alleged to have occurred. However, it remains highly unlikely that mortgage instruments changed much in recent years, and no evidence has been found to support the notion that mortgages could be called because of the health status of borrowers.

There is also some reason to believe that the banker might not have been able to obtain the information needed to call in loans. It is not clear that a state health commission could have provided information to its members that would enable them to identify individuals and their diagnoses. Both Fanning and Gellman investigated the possibility that the Maryland Health Care Access and Cost Containment Commission could have been the source of the records used by a banker. Both were told by Commission staff that a disclosure of identifiable records to a member of the Commission was “essentially impossible” in their system. It is impossible to generalize about all state (or county) health commissions. Whether other state Commissions had practices similar to Maryland’s has not been researched.

## **Appendix: Banker Story Sources and Evidence**

This section contains information from and about most available sources that included the banker story. As much information from the cited documents as is relevant is quoted here, and the sources are identified as best as possible. Some of the sources are available on the Internet, and URLs appear when known.

### **News Stories, Articles, and Other Published Accounts**

- The first reference to the banker story is from John Fanning, who reported in a 1999 memo that “I first heard the story at the February 1993 Conference, Health Records: Social Needs and Personal Privacy, sponsored by the Task Force on privacy, OASPE and AHCPR, DHHS. As I recall, the observation was made from the floor in a discussion. We did not use this point in the abridgements of floor discussion that appeared in the published conference proceedings.” The proceedings are at <http://aspe.hhs.gov/pic/reports/ahrq/4441.pdf>, and a search found that the words *bank*, *banker*, *cancer*, and *loan* do not appear. However, the proceedings available on the Internet do not appear to be reliably searchable using PDF search tools.
- *RMs Need to safeguard computerized patient records to protect hospitals*, *Hospital Risk Management* (September 1993) (vol. 15, n9, pages 129, 132).

Edward E. Bartlett, PhD, a risk management consultant in Rockville, MD, recalls one particular misuse of patient information. A banker on a state health commission had access to all the patients in his state who were diagnosed with cancer. He cross-referenced that list with a list of patients who had outstanding loans at this bank, and called in the loans of those with cancer.

- Robert S. Boyd, *Medical Record Storage Brings Up Privacy Issues: Computer Files Are Easy Prey*, *New Orleans Times Picayune* (November 13, 1993) (page A6).

For example, a few years ago, a Midwestern banker who served on a state health commission, checked the names of his bank’s borrowers against the commission’s list of cancer patients, looking for bad risks.

He called in the mortgages of those he found on both lists, according to a report from the American Hospital Association to the Department of Health and Human Services.

- Marianne Lavelle, *Health Plan Debate Turning to Privacy*, *National Journal* (May 30, 1994).

An April 1993 U.S. Department of Health and Human Services task force report cited the case of a Midwestern banker who discovered some valuable data as a member of his county’s health board. Even though patient names and Social Security numbers had been removed, he was able to use professional and address information to see who was suffering from various diseases. He cross-referenced

this with a list of all his bank's customers, and called due the mortgages of anyone with cancer.

The anecdote's source, C. Peter Waagemann, director of the private think tank, Boston's Medical Records Institute, says his group, which advocates protected patient-data computerization, has gathered many more examples, with results ranging from embarrassment to the ruination of careers.

- Ross Anderson, *NHS-wide networking and patient confidentiality*, Editorial, British Medical Journal, BMJ 1995;311:5-6 (1 July), <http://www.bmj.com/content/311/6996/5.full>.

Thirdly, the United States has gone much further in building health care networks than the NHS, and the problems are starting to become apparent to doctors and patients there. For example, a banker who sat on a state health commission accessed a list of people who had been diagnosed as having cancer and promptly called in their loans. [3] The records of sports and political personalities are regularly accessed by the curious, and a Harris poll in 1993 found that a quarter of all respondents had experienced improper disclosure of their medical information.

[3] Bartlett ED. RMS need to safeguard computerised patient records to protect hospitals. *Hospital risk management* 1993;15:129–33.

- Beverly Woodward, *The Computer-Based Patient Record and Confidentiality*, New England Journal of Medicine (November 23, 1995) (vol. 333, n21, pages 1419, 1421).

An example is the case of the Maryland banker who cross-referenced a list of patients with cancer against a list of people who had outstanding loans at his bank and then called in the loans. [12]

[12] Bartlett E. RMS [sic] need to safeguard computerized patient records to protect hospitals. *Hosp. Risk Manage* 1993; 15:132.

- Christine Gorman & Michael Brunton, *Who's Looking At Your Files? Prying Eyes Find Computerized Health Records an Increasingly Tempting Target*, Time (May 6, 1996), reprinted at <http://www-rohan.sdsu.edu/faculty/dunnweb/rprnts.medicalprivacy.html>.

In 1993 a health-care newsletter reported that a banker serving on a state health commission had pulled up a list of everyone who was battling cancer in his area. The banker then checked it against a list of customers at his bank and called in the loans of the cancer patients.

- Mark Levy, *Supreme Court Ruling: Jaffee v. Redmond, 1996*, San Francisco Recorder (July 24, 1996), reprinted at <http://www.fpamed.com/2008/05/supreme-court-r/>.

Worse, according to Time magazine, several years ago a banker who served on a state health commission obtained a list of every cancer patient in his community

and proceeded to call in their loans. The banker's name was not made public, and he was never punished.

- James Rule & Lawrence Hunter, *Privacy wrongs: corporations have more right to your data than you do*, Washington Monthly (November 1996) (vol. 28, n11, page 17(4)).

In a case reported recently in Time, for example, a banker serving on a state health commission pulled a list of cancer patients in his area, determined which ones had loans from his bank, then called in the loans.

- Ruslan Novik, Medical Malpractice (May 20, 1997) (prepared in conjunction with *BA436: Insurance Planning and Alternatives for Business* and updated by Ryan M. Waite, Oregon State University).

The potential abuse of computer data bases was illustrated in a recent case in which a banker served as a member of a state health information commission. The banker succeeded in obtaining a list of all the patients diagnosed with cancer in the state. He then matched the list with all outstanding loans from his bank. Shortly afterward, those persons with a cancer diagnosis received a notice recalling the loan.

- Joshua Quittner, Time (August 25, 1997) (vol. 150, n8, page 28(8)).  
<http://edition.cnn.com/ALLPOLITICS/1997/08/18/time/pmain.html>.

How a banker on Maryland's state health commission pulled up a list of cancer patients, cross-checked it against the names of his bank's customers, and revoked the loans of the matches.

- Gordon & Glickson, Legal Review: *Protecting the Confidentiality and Integrity of Patient Records* (1997) (Chicago, IL).

One such example involved a member of a state health commission – who was also a banker – who printed out a list of local cancer patients, cross-referenced it with a list of bank customers with callable loans, and then called in those patient's loans. [6]

[6] Gorman, C. "Whose Looking at Your Files?" Time 6 May 1996, p.60.

- Grant Kelly, *Patient data, confidentiality, and electronics*, Editorial, British Medical Journal, BMJ 316:718 (Published 7 March 1998), <http://www.bmj.com/content/316/7133/718.full>

"Banks access computer records, foreclose on cancer patients." [1] This emotive headline from America in 1993 demonstrated the risks to confidentiality posed by electronic patient records—which are easy to inspect, copy, and transmit without anyone knowing.

[1] RMs need to safeguard computerised patient records to protect hospitals.  
Hospital Risk Management 1993Sep:129-129.

- Amy M. Jurevic, *When technology and health care collide: issues with electronic medical records and electronic mail*, 66 UMKC L. Rev. 809 (1998).

A banker on a state health commission had access to a list of all the patients with cancer. He cross-referenced the patient list with his client list and called in the patients' loans. [2]

[2] *RMs Need to Safeguard Computerized Patient Records to Protect Hospitals*, HOSP. RISK MGMT 129-140 (1993).

- Privacy? At most HMOs you don't have any, USA Today (July 13, 1998) (page 12A).

· The New England Journal of Medicine reported that a Maryland banker...  
Use computerized medical records to determine which of his loan custo...  
Cancer. He then called the loans on sick individuals.

[note: The available photocopy of the story has a few letters missing at the end of sentences.]

- Sophie Boukhari, *Cybersnoopers on the prowl*, UNESCO Courier (September 1998), [http://findarticles.com/p/articles/mi\\_m1310/is\\_1998\\_Sept/ai\\_54116032](http://findarticles.com/p/articles/mi_m1310/is_1998_Sept/ai_54116032).

Internet users can lie to get past these questions. A study by the University of Georgia, in the United States, showed that 40 per cent did so when the questions got too detailed. But "most people are very naive," says Alain Weber, an Internet expert with the French League for Human Rights. "They wouldn't be so free with the information if they knew how it could be used." A US banker in Maryland, for example, recently obtained a list of cancer patients, matched them with his customers and then automatically rejected loan applications from those who were ill.

- Center for Public Integrity, *Nothing Sacred: The Politics of Privacy* (1998) (page 31).

A Midwestern banker who served on a state health commission checked the names of his bank's borrowers against the commission's list of cancer patients, and then called in the mortgages of those he found on both lists, according to an American Hospital Association report to the Health and Human Services Department. [33]

[33] Robert S. Boyd, "Medical Record Storage Brings Up Privacy Issues: Computer Files Are Easy Prey," *The Times-Picayune* (New Orleans), November 13, 1993, p. A6.

- Ellen Goodman, *Write a Prescription for Medical Privacy* (August 14, 1998), [http://articles.baltimoresun.com/1998-08-14/news/1998226059\\_1\\_medical-records-blanket-permission-doctor-office](http://articles.baltimoresun.com/1998-08-14/news/1998226059_1_medical-records-blanket-permission-doctor-office).

Stories abound. The banker on a county health care board who called due the mortgages of people suffering from cancer.

- Maggie Scarf, *Brave New World*, *The New Republic* (July 12, 1999) (pages 16, 18)

In one incident described in the November 23, 1995, *New England Journal of Medicine*, a Maryland banker who was sitting on a state health commission used data about his bank's depositors to figure out which ones were suffering from cancer – and then called in their outstanding loans.

- Amitai Etzioni, *The Limits of Privacy* (1999) (page 140).

There are numerous reports of unauthorized use of medical records. A database created by the state of Maryland in 1993 to keep the medical records of all its residents for cost containment purposes was used illegally by state employees to sell confidential information on Medicaid recipients to sales representatives of health maintenance organizations (HMOs), and it was also used by a banker to call in the loans of those bank customers whom he thus discovered had cancer. [3]

[3] Booth Gunter, "It's No Secret: What You Tell Your Doctor – and What Medical Documents Reveal About You – May Be Open to the Scrutiny of Insurers, Employers, Lenders, Credit Bureaus, and Others," *Tampa Tribune*, 6 October 1996, 1.

- Department of Health and Human Services, *Preamble to the HIPAA health privacy rule*, 65 Federal Register 82468 (December 28, 2000).

· A banker who also sat on a county health board gained access to patients' records and identified several people with cancer and called in their mortgages. See the *National Law Journal*, May 30, 1994.

- Kris Hundley, *How secure are your medical records?*, *St. Petersburg Times* (May 13, 2001)

\*\*\*A Midwestern banker who served on his county's health board cross-referenced customer accounts with patient information, then called due the mortgages of anyone with cancer.

- American Civil Liberties Union, *Defend Your Data*, downloaded from [www.aclu.org/privacy](http://www.aclu.org/privacy) on February 17, 2002.

Your right to privacy and that of all citizens is under unprecedented assault....

And what they do know can indeed hurt you. Consider the following examples:

° In Maryland, a banker accessed medical records to find people diagnosed with cancer. Once he identified them, the bank called in their loans.

- Sean Marciniak, *Medical Data Can Show Up in Credit Reports*, Wall Street Journal (August 6, 2003).

It's unclear how many creditors, if any, evaluate a consumer's risk on the basis of health. In 1993, a government report referred to a case of a banker operating out of the Midwest, who used medical data to determine which of his customers suffered from disease, then called due the mortgages of those customers who had cancer. However, the government's source of this anecdote, C. Peter Waegemann, executive director of the Boston-based Medical Records Institute, acknowledged recently that he heard the story from a source he trusts but was never able to verify it. "I tried many times for many organizations to retrace it, but I never found the banker," he said.

### Other Evidence

- Geffert Email (December 1, 1999)

Brian T. Geffert of KPMG reported to John Fanning via email on 9/1/99 that doing "a good amount of research, we have not been able to actually located [sic] the name of the individual or if a lawsuit has been brought against an individual for using medical records to recall a loan." Geffert offered citations to articles that mentioned the story, several of which are identified above. Other citations that could not be found are:

*Dembner, Alice. Psychiatrists warm of each access to patient's records. Boston Globe. May 5, 1997.*

*Jimenez, Ralph. Bill Would ban raids on Rx records; More abuses are feared as drug firms, others use database for sales. The Boston Globe. June 14, 1998.*

*Kolata, Gina. Advent of Testing for Breast Cancer Genes Leads to Fear of Disclosure and Discrimination. The New York Times. Feb 4, 1997.*

[However, this story does not appear to contain any reference to the banker story. [http://www.nytimes.com/specials/women/warchive/970204\\_1792.html](http://www.nytimes.com/specials/women/warchive/970204_1792.html).]

*Senate Bill HB 0490: Confidentiality of medical information. Sponsored by Representative David Mittelman. April 21, 1998. This was apparently a New Hampshire state bill. Another part of the email reports: Janet Monahan, of the NH Medical Society, stated 'In Massachusetts, a banker who is serving on a State health commission, pulled up a list of everyone who is battling cancer in his area.*

*The banker checked it against a list of customers in his bank and called in the loans of the cancer patients.” (Senate Bill HB 0490).*

Geffert contacted two individuals who appear to be early sources of the story. Beverly Woodward, author of the New England Journal story, said:

Due to a misunderstanding the banker was identified as a Maryland banker, but in fact was not from Maryland. The source of the story, who is in risk management, does not wish to provide further details. So I do not think you will be able to get ‘hard core facts’ at this point. But I had no reason to disbelieve his report. There are, in any case, many verifiable reports of discrimination that have resulted from invasions of privacy.

Peter Waegemann, Executive Director of the Medical Records Institute said:

A number of writers have researched this. I was told about it at a seminar by a person who was directly involved in the case in the role of the local medical records manager. The case seemed real and I cited it at a few meetings. However, subsequent research could not confirm it because my contact person moved and no one could be found to confirm or deny it. Seven years have passed since and I have little hope for more clarification.

Geffert’s conclusion: “We have been unable to determine the actual name of the individual or if a lawsuit was ever brought against an individual for using medical records as a basis for recalling loans of patients.”

- Fanning Memo (June 29, 1999)

Called Maryland Health Care Access and Cost Commission. Ben Steffen (410 764 xxxx) wasn't there. Called Mark Parham's number (410 764 xxxx). He is gone; talked to successor, David Sharp (facsimile 410 358 xxxx) and told him about article. He was not familiar with story, but said that ethical and practical factors would make such a disclosure essentially impractical in their system.

I faxed him the article. He will call it to attention of Ben Steffen when he returns tomorrow, and they will call it to attention of head of agency, John Colmers. I suggested that latter should be informed in case he was asked about it in a public forum.

I called Dr Edward E. Bartlett, of Bartlett Associates, Rockville, and the Early Diagnosis Steering Committee (tel 301 670 xxxx). The first printed reference I can find to this story is an account of the event attributed to him in the newsletter "Hospital Risk Management", Vol 15, Number 9, p.132:

Edward E. Bartlett, PhD, a risk management consultant in Rockville, MD, recalls one particular misuse of patient information. A banker on a state health

commission had access to all the patients in his state who had been diagnosed with cancer. He cross-referenced that list with a list of patients who had outstanding loans at his bank, and called in the loans of those with cancer.

He said he heard the story at a conference of the American Health Information Management Association. He does not know what state was involved. He has been called a few times with this query.

I note that the newsletter article is not by Bartlett, despite the NEJM citation that lists him as author. Nor does the newsletter mention Maryland as the site of the event.

I first heard the story at the February 1993 Conference, Health Records: Social Needs and Personal Privacy, sponsored by the Task Force on Privacy, OASPE and AHCPR, DHHS. As I recall, the observation was made from the floor in a discussion. We did not use this point in the abridgements of floor discussion that appeared in the published conference proceedings.

- Gellman Recollection (November 2011)

When working for the House Subcommittee on Government Information at some uncertain time but probably around 1999, I contacted Ben Steffen at the Maryland Health Care Access and Cost Commission to ask about the banker story. My recollection is that I was told that it would be essentially impossible for any member of the Commission to obtain identifiable health records. I also recall discussing this conversation with John Fanning shortly after it occurred, and we both heard more or less the same story from the Commission. I have no documentation of this phone call, however.

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### Document History

12/12/11      Version 1.5. First public release.