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## Methodist Hospital sued over alleged secret taping of patient calls

Methodist says it's 'saddened and surprised' by doctor's lawsuit

By **L.M. Sixel** Updated 11:19 pm, Thursday, June 8, 2017



Photo: Pat Sullivan, STF

Houston Methodist Hospital in the Texas Medical Center.

A prominent doctor alleged in a lawsuit filed in state district court that **Houston Methodist Hospital** secretly recorded telephone conversations between patients and nurses without their knowledge for as long as eight years.

The practice, if true, may violate state and federal privacy laws, legal specialists said.

**Eric Haufrect**, who specializes in obstetrics and gynecology, said he complained to top Methodist officials when he learned of the recordings from his nurse and believed it was his duty to report the breach of confidentiality to executives, according to the lawsuit filed Wednesday in state district court in Harris County.

Less than two months later he was removed as vice chairman of the obstetrics and gynecology department and became the target of a "whisper campaign" by the hospital to damage his reputation, according to the lawsuit.

Methodist denied retaliating against Haufrect or attacking his reputation, but did not specifically address the allegations of recording nurses and patients without their knowledge or consent. In a letter sent to board members and provided to the **Houston Chronicle** in response to requests for comment, Houston Methodist chief executive **Marc Boom** said the hospital was "saddened and surprised" by Haufrect's lawsuit.

His letter said an investigation was launched after Haufrect raised his concerns and "appropriate actions were taken." He added that recordings are made on some appointment lines to improve patient service, which is legal under Texas law.

Boom said that Haufrect was removed as vice chairman of the ob-gyn department "because he did not fulfill his duties," noting that Haufrect remains on staff at the same salary and benefits he received before he lost his leadership post.

"There was no retaliation - this is completely false," Boom said in the letter. "We regret that Dr. Haufrect has chosen to take such a negative and spiteful action after a long-distinguished career."

**Wayne Fisher**, the Houston lawyer representing Haufrect, said he would not comment outside of what is in the lawsuit.

### ***Invasion of privacy***

**Rogge Dunn**, an employment lawyer who handles privacy and wiretapping claims in Dallas, said that secret taping without the knowledge of either party is an invasion of privacy and a violation of wiretapping laws. If there were retaliation against the doctor who exposed the practice, it would make the situation "doubly appalling," he said.

Dunn said it's difficult to know why Methodist, a sophisticated organization, might tape calls between patients and providers. It could be for quality control purposes, defense against malpractice claims or to gather evidence to refute harassment or other allegations, he said.

But, he added, "You just can't do that."

Haufrect has been on staff at Houston Methodist since 1977 and at one time served as president of the medical staff. He is known for treating famous patients, delivering the babies of many **Houston Astros** players including **Lance Berkman**, **Roy Oswalt** and **Brad Lidge**. He told the Chronicle in 2008 that there were times when he looked out on the playing field and realized he had delivered babies for all nine Astros in the lineup.

In his suit, Haufrect alleged the hospital violated the Texas Occupational Code, which protects confidential communication between patients and health care providers and the **Texas Health** and Safety Code, which forbids hospitals from disciplining employees for reporting a violation.

Haufrect said in the lawsuit that he discovered the recordings in October when his nurse heard about it from a phone technician. Assuming there was some mistake, Haufrect sent an email to hospital administrators asking for more information.

What he heard back set off warning bells for Haufrect: It turned out the recordings were hospital policy, had been taking place hospital-wide for eight years and were made without the consent or knowledge of physicians, nurses or patients, according to his lawsuit. Individual departments such as obstetrics and gynecology could not opt out.

"He was subsequently informed that the recordings were legal, that he had 'no true privacy' at the office and all recorded conversations at work were the property of Houston Methodist Hospital," according to the lawsuit.

### ***Email trail draws criticism***

Alarmed the secret recordings could violate state and federal privacy laws, Haufrect raised the issue with partners in his medical practice, the chair of the ob-gyn department and the head of the **Houston Methodist Physician Organization**, the group of physicians who work for Methodist. The hospital's human resources policy manual requires "all alleged, apparent or potential breaches of confidentiality **must** (emphasis intended) be reported as soon as possible," according to the lawsuit.

The following day, **Robert Phillips**, the CEO of the physician organization and a cardiologist at Houston Methodist, reprimanded Haufrect for discussing the phone recording issue with his partners and was "furious" that an email trail had been created, according to the lawsuit. Phillips did not return a call for comment.

Haufrect went directly to the president of the medical staff, who called a meeting with the hospital chairman, hospital CEO and legal counsel for Houston Methodist Hospital, according to the lawsuit. Haufrect, along with the others, were told during that

meeting, according to the lawsuit, that the recordings were launched in mid-October but had since been erased and that there was "no harm, no foul."

Haufrect suggested an investigation, but was rebuffed, the lawsuit said.

Less than two months later, in mid-December, Haufrect was asked to resign as vice chairman of the obstetrics and gynecology department, a position he held for eight years. Haufrect refused and immediately was removed from the position by Phillips.

Within a month, several physicians told Haufrect that word was going around that he would be dismissed from the department, according to the lawsuit.

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