

# **Protocol for Physician Review of Video Surveillance**

## **A HIPAA Compliant Subpoena or a Patient's Written Authorization Is Required for a Physician to Review Video Surveillance**

### **To Person or Entity Requesting an Ellis Clinic Physician to View Video Surveillance:**

The Health Insurance Portability and Accountability Act (HIPAA) has ridged requirements concerning a patient's Protected Health Information (PHI). Severe penalties apply to medical providers, agencies and persons presenting a video.

Further information and instruction can be obtained by making an appointment with Ellis Clinic's HIPAA Privacy Officer, John W. Ellis, M.D.. Dr. Ellis is a nationally recognized authority and instructor in Legal Medicine, the Federal Workers' Compensation Act (FECA) and Office of Workers' Compensation Programs (OWCP). Dr. Ellis' curriculum vitae can be seen at [www.EllisClinic.com](http://www.EllisClinic.com).

### **Requirements to Present a Video for Physician Review:**

- A HIPAA compliant subpoena or patient's written authorization is required to present a video or for Ellis Clinic to even acknowledge we have a patient. Be Careful! An official looking letter with a government agency's letterhead does not make it HIPAA compliant.
- Photo ID copy attached to your written request.
- Make an appointment with Ellis Clinic's HIPAA Privacy Officer.
- Payment in Advance or OWCP pre-approval is required for physician's time and services
  - \$500 per hour to view a video.
  - If a Medical Opinion report is requested, the fee must be negotiated and agreed.



### **Employees' Compensation Appeals Board Ruling on Video Surveillance**

United States Department of Labor, Employees' Compensation Appeals Board, DECISION and ORDER, Docket No. 11-863, Issued September 26, 2012.

- Video must first be seen by Employee and their attorney.
- Employee's Statement must always accompany the video.
- If an agency, such as the Department of Justice or the Office of Inspector General, presents a video to a physician, the agency has become an agent for the employee's employer.
- Federal employers cannot talk with the employee's selected physician. They must go through the Office of Workers' Compensation Programs (OWCP).
- The person may be on medications making the video poor evidence of the ability to work.
- The above is a partial summary. Read the ruling and the HIPAA law.