

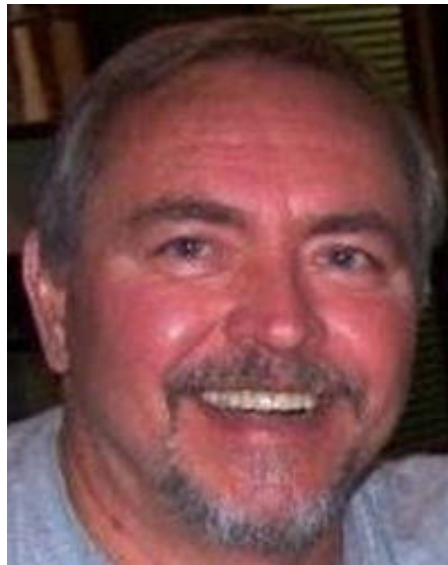
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Colonoscopy; heart test; prescription refills

## Casey: Local CPA wants medical faxes to stop

For four years, Richard Beason has been receiving faxes with private medical information about Roanoke-area patients. And he's been unable to put a halt to it.

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Richard Beason

Courtesy of Richard Beason

Richard Beason's fax machine works pretty hard, spitting out documents regularly. One that came in July 13 was from a Roanoke cardiology office. He read part of that to me over the phone.

"Patient has been complaining of fatigue and daytime somnolence," it reads. "We have obtained nocturnal pulse oximetry."

That same day Beason received a report on a colonoscopy that was done at a surgery center in the New River Valley. It indicates the doctor found a polyp in a patient with a history of colon cancer, Beason said.

On July 17 came a prescription refill request from a local pharmacy. It was marked second request. Beason received the first request on June 24. Both were intended for a family practice doctor in Daleville.

And then there was the May 12 fax regarding medication changes for a resident at a Roanoke assisted living center.

"It said 'epilepsy, hypertension and gastro something or other,'" Beason told me. He got another one July 21 listing the same patient.

Beason gazes at these papers with no small amount of wonder. To him, they all might as well be written in Greek. His business isn't medicine; it's numbers. For 40 years, he's worked as a certified public accountant. His office is in his Botetourt County home.

"I do taxes for businesses and individuals, consulting and accounting work, financial planning," he said.

Somehow, his fax machine number has wormed its way into certain elements of the local health care system. How and why is unclear, but it's been going on for at least four years, Beason said. Since it started, he's received "at least 100" medical-related faxes. Generally, they're two to five pages.

The information in the documents gets pretty personal, Beason said. All the recent faxes he's received contain patient names. Some have birth dates and addresses. A few list medications patients are taking.

A couple of them are medical test results. One had a long list of diagnoses. It's not the kind of information anyone would want floating around.

Beason said he used to get them more frequently. For a while about two years ago, medical faxes were coming in weekly, occasionally daily, he said.

Back then, much of the traffic seemed to come from different Carilion Clinic offices, Beason told me. So he called Carilion.

"The first four or five [calls], the lady I talked to sloughed it off," he said. Then, "somehow, it got back to the attorneys for Carilion. Until the Carilion attorneys jumped all over it and said, 'you can't let this happen,' they didn't do anything."

At that time, Carilion asked him to sign some documents promising he hadn't shared the information and that he would shred any more inadvertent medical faxes to his office. I asked him to show me the documents he signed, but he was unable to find them.

After that, "I stopped getting stuff from Carilion," he said. "It slowed down considerably."

But by then, medical entities outside Carilion had his fax machine number, so Beason continued to get occasional medical faxes.

In many of the instances, Beason has contacted the errant sender. But that can be time consuming. First, he has to figure out whom to call. Sometimes, but not always, that's clear from the fax cover sheet. On some occasions faxes have arrived with no cover sheet, he said.

When Beason calls, he usually gets "an answering system that says, 'Dial 1 for this person, and 2 for that.' And when you finally get somebody, you find out you should be talking to somebody else."

When he gets the right person on the line, he tells them, "you all realize that's private information you're not supposed to be sending around?" The typical response is "oh, yeah."

"It can easily be an hour," Beason said. "I'm busy. I'm a solo practitioner. It gets irritating after a while."

On some occasions, he has not contacted health providers who mistakenly sent faxes. That's because Beason spends about half his time at a home he owns in South Carolina. When he's there and medical faxes come into his Botetourt office, an aide shreds them, he said.

In recent weeks, Beason started getting documents from or intended for Carilion again. And he fears it's going to snowball and become a regular thing, like it did last time.

"Like a virus, it starts back up again," he said.

This time around, all the errant faxes seemed destined for Carilion Family Practice in Daleville. Most of them were addressed to the same physician. It turns out that the last four digits of fax numbers for Beason's office and the medical office are identical. The first three digits are different, though.

The cardiology report was from a Carilion cardiologist to a Carilion family practice doctor. The two prescriptions refill requests, from Kroger pharmacy in Daleville, were addressed to that same Carilion family practice doctor.

Two faxes regarded medication changes for a patient. They were from North Roanoke Assisted Living Center and were also addressed to Carilion Family Practice in Daleville.

Beason said he received no cover sheet for the colonoscopy report, so it's unclear who was supposed to get that. It was sent by a Carilion surgeon in the New River Valley.

All of this is pretty important stuff because of a 1996 law known as the Health Insurance Portability and Accountability Act, aka HIPAA. It sets nationwide privacy standards for health information and holds health care providers responsible for safeguarding such information. It also sets standards for protecting health information that's transferred in an electronic form.

Such as by fax machine.

According to the U.S. Health and Human Services website, the law "holds violators accountable, with civil and criminal penalties that can be imposed if they violate patients' privacy rights." It also sets standards for reporting breaches.

Christen Church, an attorney at Gentry Locke whose practice areas include intellectual property, health care regulation compliance and data privacy and security, said what I described seemed to clearly fall under the category of "inadvertent" breaches, rather than "malicious" ones. But either way, under the law it sounds like a breach, she said.

In the early days of HIPAA, its security rules included exemptions for information transmitted between two actual fax machines. The law considered such data "telephonic," rather than "electronic." And in that case, errant faxes were not necessarily a breach, particularly if there was little risk of harm to the patient, Church said.

But if the fax originated from a computer — which is more likely these days — the exemption doesn't apply. HIPAA breach notification rules, finalized in 2013, also removed much of the discretion health care entities have in determining the risk of harm to the patient, Church said.

Now, any unauthorized disclosure of protected health information, in paper or electronic form, is presumed to be a breach unless it meets limited exceptions, she added.

Health care entities covered by HIPAA are obligated to notify affected patients when breaches are discovered, Church said.

Both Carilion and Kroger said they were investigating the faxes to Beason, and he said Carilion has contacted him.

On July 21 and again on Thursday, I called North Roanoke Assisted Living to ask them about faxes they had mistakenly sent Beason. The administrator there, who identified himself only as Jaron, said he would pass my messages along to the facility's owner. But no one got back to me.

In an emailed statement, Vicki Clevenger, Carilion's chief compliance and privacy officer, said: "Carilion takes its obligation to protect patient privacy very seriously. We have initiated an investigation of this issue, which is standard protocol whenever we discover or learn about a patient privacy concern."

Clevenger noted that federal law allows up to 60 days to conduct a thorough investigation. "As needed based on the results of the investigation, we will follow the requirements in state and federal law related to reporting and disclosure. As you might expect, our commitment to our patients' privacy precludes us from commenting on specific cases," she said.

Chris Turnbull, a Carilion spokesman, said the health care organization has reviewed its internal databases and had an outside contractor sweep its external websites. Those turned up no mistaken listing of Beason's fax number by Carilion entities.

"We also continuously monitor our online listings to ensure that telephone numbers (and fax numbers, when appropriate) are up-to-date and accurate for anyone searching the internet for a number. This week, we double-checked 21 such sites and all of the numbers listed for the Daleville practice are accurate."

There's also a potential the mix-up is the result of human error, he said.

“Any number of scenarios could have resulted in Mr. Beason receiving misdirected faxes, and it’s premature to speculate on why without having all the facts,” Turnbull said.

He added that Carilion fax cover sheets contain a confidentiality notice and a request that people who receive faxes sent in error contact the sender.

Or, Turnbull added, people who receive erroneous Carilion faxes can call the hospital corporation’s main phone number at (540) 981-7000 and ask for the Privacy Office.

Kroger spokeswoman Allison McGee said the grocery chain first learned of the issue when I called their Daleville pharmacy.

At this point, “Kroger has no documentation of any error. Kroger is investigating the matter. Kroger’s facsimile form contains a confidentiality statement, asking any unintended recipient of a fax to notify us immediately and destroy the fax. Kroger’s Confidentiality Coordinator’s phone number also is listed,” she said.

Beason just wants the errant medical faxes to stop.

It’s been going on for years, he reminded me. He’s spent hours trying to get the attention of errant senders, and he’s still receiving medical faxes.

“All the calling we’ve done, and all the fooling we’ve done, nothing was happening,” Beason said. “So I called you, hoping to get their attention.”

Beason hasn’t yet notified any patients that he’s receiving their confidential health information.

“I guarantee you, if I did, they’d go crazy,” he told me.

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## Dan Casey

Dan Casey knows a little bit about a lot of things but not a heck of a lot about most things. That doesn't keep him from writing about them, however. So keep him honest!