

## Long-Term Care Survey Alert

### **READER QUESTION: Can a Meddling Family Member Spell HIPAA Trouble?**

The answer depends on who's telling the person what.

Question: How should our facility handle situations where a resident's family member seems to obtain regular updates on other residents to take back to her church and community? Is this a HIPAA violation?

Answer: It depends "on whether the family member is getting information about the resident from the nursing home staff or just by virtue of hearing the resident's family members talk about him," says **Heather Berchem**, an attorney with Murtha Cullina LLP, in New Haven, Conn. "If the family member gleans information by overhearing the nursing staff talk to a resident, I'd be concerned," adds Berchem. For example, "the staff should not be pulling a curtain and having a private discussion with the resident or his family while the resident's roommate and family members are in the room."

**Also:** "The facility should have policies [reinforcing] that staff should not provide information directly about a resident to other residents' families or visitors when asked," Berchem stresses.

"Staff are allowed under HIPAA to provide general directory information. So if a person called and asked if Mrs. So and So was back from the hospital, technically that is facility directory information because the caller is asking about the resident by name," Berchem says. Even so, "if you know the person is broadcasting that information to her congregation, for example, you have to think through whether providing even that basic information is a good idea. The staff can ask the resident/responsible party if they object to the facility giving out information that someone could take back to her church or community."