

Health Information Compliance Alert

Reader Question ~ "MARKETING," "RESEARCH" OR JUST PLAIN QA?

Question: I work for a chemical dependency care facility, and we're considering creating new services and products, but we'd like former patients to provide input on what they found most useful to them. Is contacting former patients for the purpose of creating new products/services considered "marketing" under HIPAA?

Answer: The answer to this question depends on how you're planning to use a patient's protected health information and what you're planning to contact these former patients for. "It's certainly permissible for a provider to use an individual's PHI to talk with them about treatment or services or products that they offer, just like an insurance company can contact its members to tell them about a new benefit or something of that nature," advises **Brian Gradle**, an attorney with the Washington office of Hogan & Hartson.

Where you can get into trouble is if you're using peoples' health information to contact them about something unrelated to that treatment or for a more commercial enterprise like fundraising, says Gradle. But HIPAA doesn't prohibit you from talking treatment with former patients.