

## Health Information Compliance Alert

### THE THIRD DEGREE: READER QUESTIONS ANSWERED

#### HEAR TREATMENT TALK? SPILL THE PHI

**Question:** A speech therapist at the local elementary school sent us a request for information on one of our minor patients who is being considered for the speech therapy program. Do we need to obtain the parents' authorization to comply with this request?

- Utah subscriber

**Answer:** "No," says **Robert Markette**, an attorney with Gilliland & Caudill in Indianapolis. "As long as the request is so the speech therapist can treat the child, it is okay" to disclose the medical record without involving the parents, he clarifies.

**Caution:** The school's therapist may not be able to send information back to you without the parent's involvement due to the Family Educational Rights and Privacy Act (FERPA), Markette warns.

**The Bottom Line:** Cover all your bases and free up the flow of information between your facility and your patient's school by asking the parents to authorize the exchange, Markette suggests.

#### DON'T DRIVE PRIVACY AWAY WITH YOUR PATIENTS

**Question:** We want to hire a company to transport patients to and from other medical facilities for treatment. The taxi service would have access to patients' names, addresses and other information needed to identify and bill for their work (including Social Security numbers). Should we sign a business associate agreement with the company or do we need to ask patients to authorize the disclosure of their information to the company?

- Tennessee subscriber

**Answer:** "It depends on whether the company is working on your behalf," says attorney **Ann Bittinger** of Jacksonville, FL's Bittinger Law.

**Important:** If you shop out a service that you would normally do for yourself, the company providing the service falls under the business associate umbrella, Bittinger explains. But, if the service isn't part of your standard operations, then a business associate agreement won't cover your obligations, she says.

**The Bottom Line:** Instead of a business associate agreement, "you need each patient's authorization before you can release their PHI," Bittinger says. Good idea: Ask patients to authorize your disclosure of their PHI to the taxi company when you offer them the service.

**Editors note:** We can find the answers to your questions, too. Send them to [Kellyq@eliresearch.com](mailto:Kellyq@eliresearch.com) and then look for experts' guidance in the next issue.

