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PROPER PLANNING MAY CREATE PEACE OF MIND



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THE HEALTH INSURANCE PORTABILITY ACT

Congress passed the Health Insurance Portability & Accountability Act (HIPAA) in 1996. Beginning April 14, 2003, covered entities are required to comply with the provisions of the Privacy Rule regarding use and disclosure of protected health information (PHI) (see 45 C.F.R. 164.524). The Privacy Rule affects trial lawyers representing clients in casualty cases as well as elder law attorneys representing guardians, health care surrogates, Personal Representatives, and trustees of qualified income trusts, special needs trusts and pooled trusts.

HIPAA COVERED ENTITIES:

During a tort case a trial lawyer may need to contact the Agency for Health Care Administration or, the company under contract for collections, to determine the existence and amount of a Medicaid Third Party Liability lien or estate recovery lien. An elder law attorney may need to contact AHCA to ascertain reimbursement from a trust. The billing records constitute PHI.

HIPAA MEDICAL RELEASE:

Effective April 14, 2003, attorneys will be required to

submit a HIPAA compliant medical release before PHI will be released. The release must be submitted to Health Management Systems, Inc. at 2002 Old St. Augustine Road, Suite B-16, Tallahassee, FL 32301 (1-877-446-7868). A HIPAA-compliant Florida medical release form has been created and can be obtained from HMS. An expiration date can be included; if no date is specified it will expire after 5 years.

WHO CAN SIGN THE RELEASE?

The HIPAA medical release must be signed by the Medicaid beneficiary or, by an individual who has authority to act on behalf of the Medicaid beneficiary (i.e. parent of a minor; legal guardian; trustee; agent under a power of attorney; personal representative of an estate). Any person acting on behalf of the Medicaid recipient must provide a copy of the legal document that is the basis for their authority.

SPECIFIC KINDS OF HEALTH INFORMATION:

Requests for information about alcohol and drug treatment, mental health treatment, and HIV and sexually transmitted diseases must be specifically requested and described in the

“Information You Want Disclosed” section of the medical release (i.e. treatment plan, discharge plan).

ANNOUNCEMENT

We are pleased to announce that our firm is a Business Patron of the Eagle Program of the Academy of Florida Trial Lawyers.

Meet The Staff

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- Medicaid & SSI
- Nursing Home Resident Rights
- Estate Planning

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- Guardianship
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