

Health Care Alert: HHS Previews Long-Awaited Final Omnibus HIPAA Rule

Related Attorneys

J. Liam Gruzs

Related Industries

Health Care

CLIENT ALERT | 1.18.2013

On January 17, 2013, HHS announced the release of the long-awaited final omnibus HIPAA rule. According to HHS Office for Civil Rights Director Leon Rodriguez, "This final omnibus rule marks the most sweeping changes to the HIPAA Privacy and Security Rules since they were first implemented. These changes not only greatly enhance a patient's privacy rights and protections, but also strengthen the ability of my office to vigorously enforce the HIPAA privacy and security protections, regardless of whether the information is being held by a health plan, a health care provider, or one of their business associates."

The final omnibus rule is based on the changes first imposed under the Health Information Technology for Economic and Clinical Health ACT (HITECH), enacted as part of the American Recovery and Reinvestment Act of 2009 and the Genetic Information Nondiscrimination Act of 2008 (GINA).

The final omnibus rule will be effective on March 26, 2013. Covered entities and business associates will have until September 23, 2013 to comply.

The omnibus final rule is comprised of the following four final rules:

- Final modifications to the HIPAA Privacy, Security and Enforcement Rules mandated by HITECH, which include:
 - Make business associates directly liable for compliance with HIPAA Privacy Rule and Security Rule requirements.
 - Strengthen the limitations on the use and disclosure of PHI for marketing and fundraising purposes, and prohibit sale of PHI without individual authorization.
 - Expand individual rights to receive electronic copies of their health information and restrict disclosures to health plans concerning treatment for which an individual has paid out-of-pocket in full.
 - Require modifications to and redistribution of a covered entity's notice of privacy practice.

- Modify individual authorizations and other requirements to facilitate research and disclosure of child immunization proof to schools and to enable access to decedent information by family members or others.
- Adopt the HITECH enhancements to the Enforcement Rule.
- Final rule adopting changes to HIPAA Enforcement Rule to incorporate the increased and tiered civil penalty structure provided by HITECH.
- Final rule on breach notification for unsecured PHI under HITECH, which replaces the breach notification rule's "harm" threshold with a more objective standard.
- Final rule modifying the HIPAA Privacy Rule as required by GINA.

The Rulemaking announced today, which will be published in the Federal Register on January 25, 2013, may be pre-viewed in the Federal Register at <https://www.federalregister.gov/public-inspection>.

Please contact [Lisa Pierce Reisz](#) (614.464.8353) or [Liam Gruzs](#) (614.464.5488) to discuss specific compliance requirements for health care providers, health plans and business associates.

Vorys attorneys will discuss this rule during a complimentary webinar on Thursday, Feb. 7. [Click here](#) to learn more about the event and RSVP.

We will also continually analyze the new rule with a series of blog posts at [HealthHITEch Law](#).