

HHS Proposes Modifications to the HIPAA Privacy, Security and Enforcement Rules

If you have any questions, please contact the following, or your Vorys relationship attorney:

Melissa J. Mitchell
mjmitchell@vorys.com
614.464.6238

J. Liam Gruzs
jlgruzs@vorys.com
614.464.5488

On July 8, 2010, the U.S. Department of Health and Human Services (“HHS”) published proposed rules to modify the HIPAA Privacy, Security and Enforcement Rules. The proposed modifications provide important details about how the Health Information Technology for Economic and Clinical Health Act (“HITECH”) will change HIPAA.

Since its passage in 2009, HITECH expanded the enforcement of HIPAA by increasing civil and criminal penalties and fines for violations. In addition, HITECH gave each state Attorney General concurrent authority to enforce HIPAA.

The proposed rules:

1. Change HIPAA’s privacy and security requirements for protected health information (“PHI”);
2. Require Business Associates to comply with HIPAA’s privacy and security requirements for PHI;
3. Establish new limits on the use and disclosure of PHI for fundraising and marketing purposes;
4. Expand Individuals’ rights to access and receive an accounting of disclosures of their PHI;
5. Require Covered Entities and Business Associates to provide notification to Individuals about breaches of their PHI;
6. Alter the process for determining the minimum necessary amount of PHI; and
7. Require Covered Entities to comply with certain requests from Individuals for restrictions on the disclosure of PHI.

Once it is published in the Federal Register, the notice of proposed rulemaking may be viewed and commented on for 60 days at www.regulations.gov. HHS will then consider the comments and revise the proposed rules and publish final rules. Affected entities will have 180 days from the date of publication of the final rules to come into compliance.

This client alert is for general information purposes and should not be regarded as legal advice.