

# U.S. Department of Health and Human Services Publishes Final HIPAA Rule Alert

January 24, 2013

The final rule (1) makes final modifications to the Health Insurance Portability and Accountability of 1996 Act (HIPAA) Privacy, Security and Enforcement Rules mandated by the Health Information Technology for Economic and Clinical Health (HITECH) Act; (2) adopts changes to the HIPAA enforcement rule to incorporate the increased and tiered civil monetary penalties initially published in the October 30, 2009 Interim Final Rule; (3) replaces the breach notification rule's "harm" threshold with a more objective standard; and, (4) modifies the HIPAA Privacy Rule to prohibit most health plans from using or disclosing genetic information for underwriting purposes, pursuant to the Genetic Information Nondiscrimination Act. The effective date is March 26, 2013. But HHS provides a grace period that gives covered entities and business associates until September 23, 2013 to comply with the applicable requirements. The modification of the HIPAA Rules will affect covered entities, their business associates, and their subcontractors as follows:

- Makes business associates directly liable for compliance with certain HIPAA Privacy and Security Rules' requirements
- Adds subcontractors to the definition of "business associates," thereby extending the business associate HIPAA Privacy and Security Rules' requirements to subcontractors
- Strengthens limitations on the use and disclosure of protected health information (PHI) for marketing and fundraising purposes, and prohibits the sale of PHI without individual authorization
- Expands individuals' right to receive electronic copies of their records
- Restricts disclosures to a health plan for treatment for which the individual paid out of pocket in full
- Requires modification and redistribution of a covered entity's notice of privacy practices

- Modifies the authorization for research, and disclosure of child immunization, and enables access to decedent information by family members.

## Authored By



Patricia S. Calhoun

## Related Practices

[Cybersecurity and Privacy](#)  
[Health Care](#)

## Related Industries

[Health Care](#)

©2025 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.