

HIPAA AdminSimp -- Compliance Day Is Here
Dispassionate Enforcement or Compassionate Persecution?

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The Administrative Simplification Subtitle of the Health Insurance Portability and Accountability Act of 1996, known as HIPAA, will revolutionize how health information is, and patients are, treated privacy-wise, security-wise, and otherwise. The transactions and data codes sets rule requirements under HIPAA, as well as privacy and security, will be included in the enforcement part of HIPAA. Because of the many changes in health care delivery that HIPAA will require, lots of anxiety has been created about penalties. Certainly few areas of the HIPAA law are more important than the enforcement provisions.

Covered entities will need to address their de facto enforcement obligations with respect to business associates in order to avoid governmental enforcement against covered entities. But a careful reading of the law should provide comfort and encouragement that notwithstanding the hype, the enforcement procedure likely will not be so bad after all. Covered entities and business associates who study and learn can be prepared to meet the challenges of the HIPAA law. Note also that not discussed further below are possible state law enforcement activities based upon HIPAA and the new national standard set by HIPAA and likely to be embraced by state Attorneys General and judges in state courts in evaluating privacy and security compliance in health care with respect to breach of contract, negligence and class action litigation.

In fact, the civil enforcement provisions of the HIPAA law evidence a Congressional mandate that civil sanctions – that is, monetary fines -- under HIPAA should be imposed leniently and in a way that will encourage compliance and not make covered entities feel as if they are being persecuted for inadvertent violations of the HIPAA law.

Although the Office for Civil Rights, to which the Department of Health and Human Services delegated the privacy enforcement responsibility, has not promulgated a proposed

enforcement rule, the HIPAA law provides a clear indication of Congressional intent regarding how enforcement should proceed. It can therefore be expected that the OCR enforcement rule will mirror the HIPAA law enforcement provisions and the enforcement language already set forth in the HIPAA final privacy rule. CMS will enforce the transactions and security rules.

These civil penalty enforcement provisions of the HIPAA law begin as follows:

"GENERAL PENALTY FOR FAILURE TO COMPLY WITH REQUIREMENTS AND
STANDARDS

SEC. 1176. (a) GENERAL PENALTY.--

(1) IN GENERAL.--Except as provided in subsection (b), the Secretary shall impose on any person who violates a provision of this part a penalty of not more than \$100 for each such violation, except that the total amount imposed on the person for all violations of an identical requirement or prohibition during a calendar year may not exceed \$25,000.

"(2) PROCEDURES.--The provisions of section 1128A (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to the imposition of a civil money penalty under this subsection in the same manner as such provisions apply to the imposition of a penalty under such section 1128A."

Thus the magnitude of a penalty assessment surely can add up, particularly for repeated transactional defaults. But Congress provided a generous and unusual opportunity in HIPAA to prevent, to deflect and possibly to avoid any penalty (*emphasis supplied*):

"(b) LIMITATIONS.--

"(1) OFFENSES OTHERWISE PUNISHABLE.--A penalty may *not* be imposed under subsection (a) with respect to an act if the act constitutes an offense punishable under section 1177 [namely, "HIPAA For Crooks": the criminal provisions].

(2) NONCOMPLIANCE NOT DISCOVERED.--A penalty may *not* be imposed under subsection (a) with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did *not* know, and by exercising reasonable diligence would *not* have known, that such person violated the provision."

So, if a covered entity is able to satisfy the Office for Civil Rights that the covered entity did not know, and by exercising reasonable diligence would not have known, of a violation of the HIPAA law, no penalty may be imposed under (a).

And even if the covered entity did know, or by exercising reasonable diligence would have known that the covered entity would be a violator (*emphasis supplied*), the possibility of deflecting a penalty would still exist:

"(3) FAILURES DUE TO REASONABLE CAUSE.--

(A) IN GENERAL.--Except as provided in subparagraph (B), a penalty may ***not*** be imposed under subsection (a) if--

"(i) the failure to comply was due to reasonable cause and ***not*** to willful neglect; and

"(ii) the failure to comply is corrected during the 30-day period beginning on the first date the person liable for the penalty knew, or by exercising reasonable diligence would have known, that the failure to comply occurred."

Accordingly, no penalty would be imposed if a failure to comply with the HIPAA law – which failure a covered entity knew would be a failure – was due to reasonable cause and not to willful neglect, and the failure is corrected within thirty days after the first date on which the covered entity knew, or by exercising reasonable diligence could have known (whether or not, it appears, there was actual knowledge on the part of the covered entity) that the failure occurred. So, after receiving a complaint from the Office for Civil Rights, the possibility exists that a covered entity could promptly correct the problem and thereby avoid any penalties.

And more opportunities will exist to have penalties abated (***emphasis supplied***):

"(B) EXTENSION OF PERIOD.--

(i) NO PENALTY.--The period referred to in subparagraph (A)(ii) ***may be extended*** as determined appropriate by the Secretary based on the nature and extent of the failure to comply.

(ii) ASSISTANCE.--If the Secretary determines that a person failed to comply because the person was ***unable*** to comply, the Secretary may provide ***technical assistance*** to the person during the period described in subparagraph (A)(ii). Such assistance shall be provided in any manner determined appropriate by the Secretary."

So, the thirty-day correction and cure period could be extended by the Office for Civil Rights and during that additional period, the Office for Civil Rights could provide technical assistance. This could mean that the violation would be able to be corrected without any penalty being imposed by the OCR.

And finally, a penalty may be reduced (***emphasis supplied***):

"(4) REDUCTION.--In the case of a failure to comply which is due to ***reasonable cause*** and ***not*** to willful neglect, any penalty under subsection (a) that is ***not*** entirely waived under paragraph (3) ***may be waived*** to the extent that the payment of such penalty would be excessive relative to the compliance failure involved."

Thus even if a penalty was going to be imposed, the Office for Civil Rights could reduce the penalty if deemed to be "excessive." As this review of the enforcement part of the HIPAA law indicates, Congress would seem to have intended the civil enforcement procedure to

be a conciliatory and encouraging process and not a process of persecution, because there are so many avenues for “mercy” to be shown by OCR and CMS (but not for the Department of Justice).

Although we have not yet seen the preliminary rules that are being prepared by the Office for Civil Rights and CMS now, we can hope that those working on the enforcement rules adhere to what Congress said in HIPAA. And regardless, the courts are bound to respect the HIPAA law.

We don’t know what will be done regarding the criminal penalties under HIPAA. Perhaps the Department of Justice will offer some guidance regarding what “knowingly” and what “intent” will be viewed by the DOJ as meaning, under the HIPAA law, when HIPAA criminal prosecutions occur. In any event, the criminal part of HIPAA penalties follows:

"WRONGFUL DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

SEC. 1177. (a) OFFENSE.--A person who knowingly and in violation of this part--

- (1) uses or causes to be used a unique health identifier;
 - (2) obtains individually identifiable health information relating to an individual; or
 - (3) discloses individually identifiable health information to another person,
- shall be punished as provided in subsection (b).

(b) PENALTIES.--A person described in subsection (a) shall--

- (1) be fined not more than \$50,000, imprisoned not more than 1 year, or both;
- (2) if the offense is committed under false pretenses, be fined not more than \$100,000, imprisoned not more than 5 years, or both; and
- (3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, be fined not more than \$250,000, imprisoned not more than 10 years, or both.”

Questions raised by “HIPAA for crooks” include what “knowingly” will be found to mean under HIPAA; what “intent” will be found to mean under HIPAA; whether the confusion that arose under the anti-fraud and anti-kickback laws in health care relative to “the sole purpose” or “only one of several purposes” will find its way into HIPAA criminal enforcement; how the law of false claims, conspiracy and obstruction of justice and other such laws will relate to HIPAA enforcement; and how the Office for Civil Rights, CMS and federal prosecutors will determine which alleged violations are treated as civil violations and which alleged violations are treated as criminal violations. Surely all covered entities will want to have corporate compliance programs established and maintained in a manner consistent with the Federal Sentencing Guidelines, in order to endeavor either to avoid or to reduce the severity of criminal penalties.

With all the foregoing in mind, certainly the sooner covered entities begin the process of getting ready for HIPAA enforcement, the better. The key to avoiding penalties will be having

policies and procedures in place that evidence a good faith intention to endeavor to comply with the HIPAA law. A summary of what to do to endeavor to avoid civil HIPAA penalties follows:

- Use reasonable diligence to know as much as you can about HIPAA
- Establish policies that evidence a reasonable approach to prevention
- Don't be neglectful, willfully or otherwise, or reckless
- Try to cure breaches within 30 days
- Ask for an extension if necessary
- Seek technical advice if necessary
- Be sure to document everything done in furtherance of HIPAA corporate compliance, preparation, implementation, and education and training.

Ignorance will not be bliss, and avoidance will not be blissful. Instead, the only way to prepare for HIPAA is the old fashioned way: study it and learn it. Patients will expect no less, and covered entities surely will want to do even more to assure that their patients receive both quality care and the privacy and security protections, and the benefits of the transactions and data code sets standardization, that patients deserve and, under the law, are going to be required.

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"(2) if the offense is committed under false pretenses, be fined not more than \$100,000, imprisoned not more than 5 years, or both; and

"(3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, be fined not more than \$250,000, imprisoned not more than 10 years, or both.

(ii) To ensure appropriate State regulation of insurance and health plans to the extent expressly authorized by statute or regulation;

(iii) For State reporting on health care delivery or costs; or

(iv) For purposes of serving a compelling need related to public health, safety, or welfare, and, if a standard, requirement, or implementation specification under part 164 of this subchapter is at issue, if the Secretary determines that the intrusion into privacy is warranted when balanced against the need to be served; or

(2) Has as its principal purpose the regulation of the manufacture, registration, distribution, dispensing, or other control of any controlled substances (as defined in 21 U.S.C. 802), or that is deemed a controlled substance by State law.

(b) The provision of State law relates to the privacy of individually identifiable health information and is more stringent than a standard, requirement, or implementation specification adopted under subpart E of part 164 of this subchapter.

(c) The provision of State law, including State procedures established under such law, as applicable, provides for the reporting of disease or injury, child abuse, birth, or death, or for the conduct of public health surveillance, investigation, or intervention.

(d) The provision of State law requires a health plan to report, or to provide access to, information for the purpose of management audits, financial audits, program monitoring and evaluation, or the licensure or certification of facilities or individuals.

§ 160.204 Process for requesting exception determinations.

(a) A request to except a provision of State law from preemption under § 160.203(a) may be submitted to the Secretary. A request by a State must be submitted through its chief elected official, or his or her designee. The request must be in writing and include the following information:

(1) The State law for which the exception is requested;

(2) The particular standard, requirement, or implementation specification for which the exception is requested;

(3) The part of the standard or other provision that will not be implemented based on the exception or the additional data to be collected based on the exception, as appropriate;

(4) How health care providers, health plans, and other entities would be affected by the exception;

(5) The reasons why the State law should

not be preempted by the federal standard, requirement, or implementation specification, including how the State law meets one or more of the criteria at § 160.203(a); and

(6) Any other information the Secretary may request in order to make the determination.

(b) Requests for exception under this section must be submitted to the Secretary at an address that will be published in the Federal Register. Until the Secretary's determination is made, the standard, requirement, or implementation specification under this subchapter remains in effect.

(c) The Secretary's determination under this section will be made on the basis of the extent to which the information provided and other factors demonstrate that one or more of the criteria at § 160.203(a) has been met.

§ 160.205 Duration of effectiveness of exception determinations.

An exception granted under this subpart remains in effect until:

(a) Either the State law or the federal standard, requirement, or implementation specification that provided the basis for the exception is materially changed such that the ground for the exception no longer exists; or

(b) The Secretary revokes the exception, based on a determination that the ground supporting the need for the exception no longer exists.

Subpart C - Compliance and Enforcement

§ 160.300 Applicability.

This subpart applies to actions by the Secretary, covered entities, and others with respect to ascertaining the compliance by covered entities with and the enforcement of the applicable requirements of this part 160 and the applicable standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter.

§ 160.302 Definitions.

As used in this subpart, terms defined in § 164.501 of this subchapter have the same meanings given to them in that section.

§ 160.304 Principles for achieving compliance.

(a) *Cooperation.* The Secretary will, to the extent practicable, seek the cooperation of covered entities in obtaining compliance with the applicable requirements of this part 160 and the applicable standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter.

(b) *Assistance.* The Secretary may provide

technical assistance to covered entities to help them comply voluntarily with the applicable requirements of this part 160 or the applicable standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter.

§ 160.306 Complaints to the Secretary.

(a) *Right to file a complaint.* A person who believes a covered entity is not complying with the applicable requirements of this part 160 or the applicable standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter may file a complaint with the Secretary.

(b) *Requirements for filing complaints.*

Complaints under this section must meet the following requirements:

(1) A complaint must be filed in writing, either on paper or electronically.

(2) A complaint must name the entity that is the subject of the complaint and describe the acts or omissions believed to be in violation of the applicable requirements of this part 160 or the applicable standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter.

(3) A complaint must be filed within 180 days of when the complainant knew or should have known that the act or omission complained of occurred, unless this time limit is waived by the Secretary for good cause shown.

(4) The Secretary may prescribe additional procedures for the filing of complaints, as well as the place and manner of filing, by notice in the Federal Register.

(c) *Investigation.* The Secretary may investigate complaints filed under this section. Such investigation may include a review of the pertinent policies, procedures, or practices of the covered entity and of the circumstances regarding any alleged acts or omissions concerning compliance.

§ 160.308 Compliance reviews.

The Secretary may conduct compliance reviews to determine whether covered entities are complying with the applicable requirements of this part 160 and the applicable standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter.

§ 160.310 Responsibilities of covered entities.

(a) *Provide records and compliance reports.* A covered entity must keep such records and submit such compliance reports, in such time and manner and containing such

information, as the Secretary may determine to be necessary to enable the Secretary to ascertain whether the covered entity has complied or is complying with the applicable requirements of this part 160 and the applicable standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter.

(b) *Cooperate with complaint investigations and compliance reviews.* A covered entity must cooperate with the Secretary, if the Secretary undertakes an investigation or compliance review of the policies, procedures, or practices of a covered entity to determine whether it is complying with the applicable requirements of this part 160 and the standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter.

(c) *Permit access to information.*

(1) A covered entity must permit access by the Secretary during normal business hours to its facilities, books, records, accounts, and other sources of information, including protected health information, that are pertinent to ascertaining compliance with the applicable requirements of this part 160 and the applicable standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter. If the Secretary determines that exigent circumstances exist, such as when documents may be hidden or destroyed, a covered entity must permit access by the Secretary at any time and without notice.

(2) If any information required of a covered entity under this section is in the exclusive possession of any other agency, institution, or person and the other agency, institution, or person fails or refuses to furnish the information, the covered entity must so certify and set forth what efforts it has made to obtain the information.

(3) Protected health information obtained by the Secretary in connection with an investigation or compliance review under this subpart will not be disclosed by the Secretary, except if necessary for ascertaining or enforcing compliance with the applicable requirements of this part 160 and the applicable standards, requirements, and implementation specifications of subpart E of part 164 of this subchapter, or if otherwise required by law.

§ 160.312 Secretarial action regarding complaints and compliance reviews.

(a) *Resolution where noncompliance is indicated.*

(1) If an investigation pursuant to § 160.306 or a compliance review pursuant to §

160.308 indicates a failure to comply, the Secretary will so inform the covered entity and, if the matter arose from a complaint, the complainant, in writing and attempt to resolve the matter by informal means whenever possible.

(2) If the Secretary finds the covered entity is not in compliance and determines that the matter cannot be resolved by informal means, the Secretary may issue to the covered entity and, if the matter arose from a complaint, to the complainant written findings documenting the non-compliance.

(b) *Resolution when no violation is found.* If, after an investigation or compliance review, the Secretary determines that further action is not warranted, the Secretary will so inform the covered entity and, if the matter arose from a complaint, the complainant in writing.

PART 164 – SECURITY AND PRIVACY

Subpart A – General Provisions

- 164.102 Statutory basis.
- 164.104 Applicability.
- 164.106 Relationship to other parts.

Subparts B-D – [Reserved]

Subpart E – Privacy of Individually Identifiable Health Information

- 164.500 Applicability.
- 164.501 Definitions.
- 164.502 Uses and disclosures of protected health information: general rules.
- 164.504 Uses and disclosures: organizational requirements.
- 164.506 Uses and disclosures to carry out treatment, payment, or health care operations.
- 164.508 Uses and disclosures for which an authorization is required.
- 164.510 Uses and disclosures requiring an opportunity for the individual to agree or to object.
- 164.512 Uses and disclosures for which an authorization or opportunity to agree or object is not required.
- 164.514 Other requirements relating to uses and disclosures of protected health information.
- 164.520 Notice of privacy practices for protected health information.
- 164.522 Rights to request privacy protection for protected health information.
- 164.524 Access of individuals to protected health information.
- 164.526 Amendment of protected health information.
- 164.528 Accounting of disclosures of

protected health information.

- 164.530 Administrative requirements.
- 164.532 Transition requirements.
- 164.534 Compliance dates for initial implementation of the privacy standards.

Authority: 42 U.S.C. 1320d-2 and 1320d-4, sec. 264 of Pub. L. No. 104-191, 110 Stat. 2033-2034 (42 U.S.C. 1320d-2(note)).

Subpart A--General Provisions

§ 164.102 Statutory basis.

The provisions of this part are adopted pursuant to the Secretary's authority to prescribe standards, requirements, and implementation specifications under part C of title XI of the Act and section 264 of Public Law 104-191.

§ 164.104 Applicability.

Except as otherwise provided, the provisions of this part apply to covered entities: health plans, health care clearinghouses, and health care providers who transmit health information in electronic form in connection with any transaction referred to in section 1173(a)(1) of the Act.

§ 164.106 Relationship to other parts.

In complying with the requirements of this part, covered entities are required to comply with the applicable provisions of parts 160 and 162 of this subchapter.

Subpart B-D--[Reserved]

Subpart E - Privacy of Individually Identifiable Health Information

§ 164.500 Applicability.

(a) Except as otherwise provided herein, the standards, requirements, and implementation specifications of this subpart apply to covered entities with respect to protected health information.

(b) Health care clearinghouses must comply with the standards, requirements, and implementation specifications as follows:

(1) When a health care clearinghouse creates or receives protected health information as a business associate of another covered entity, the clearinghouse must comply with:

(i) Section 164.500 relating to applicability;

(ii) Section 164.501 relating to definitions;

(iii) Section 164.502 relating to uses and disclosures of protected health information, except that a clearinghouse is prohibited from



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HIPAA Electronic Health Care Transactions and Code Sets Complaint Submission Form

You may use this form to file a HIPAA complaint. This form is for the submission of complaints about covered entities that are not compliant with the HIPAA electronic health care transactions and code set standards. This form should be used to file complaints regarding the privacy of health information.

If you prefer to submit a paper-based form, you may [download an Adobe based complaint form. \(PDF, 80KB\)](#)

All fields marked with a * are mandatory.

Section A: Your Contact Information (Person or Entity Filing The Complaint)

*First Name Middle Initial *Last Name

*Title

*Organization

*Street Address Line 1

Street Address Line 2

*City *State *ZIP

*Telephone Number () - extension

Email Address

Section B: Information About The Entity For Which You Are Filing A Complaint

*Entity Name

Tax Identification Number

Medicare Identification Number

*Type of covered entity (Click all that apply)

Health Care Clearinghouse

Health Plan

Health Care Provider

Covered Entity Contact Person:

First Name Middle Initial Last Name

Title

* Street Address Line 1

Street Address Line 2

* City * State * ZIP

Telephone Number () - extension

Section C: Specific Complaint.

* Type of Complaint (Check all that apply)

Transactions

- Health claims and equivalent encounter information
- Enrollment and disenrollment in a health plan
- Eligibility for a health plan
- Health care payment and remittance advice
- Health plan premium payments
- Health claim status
- Referral certification and authorization
- Coordination of benefits

Code Sets

- ICD-9 diagnosis
- ICD-9 procedure
- HCPCS
- CPT-4
- Dental
- NDC

* Provide comments in the area below:

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**Department of Health and Human Services
Health Insurance Portability and Accountability Act of 1996 (HIPAA)
Electronic Health Care Transactions and Code Sets Complaint Submission Form**

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If you choose, you can now file on-line at <http://cms.hhs.gov/hipaa/hipaa2/default.asp>. Or you may mail your complaint to the following address:

HIPAA Complaint
7500 Security Blvd., C5-24-04
Baltimore, MD 21244

Section A: Your Contact Information (person or entity filing the complaint)		
First Name: _____	Middle Initial: ____	Last Name: _____
Title: _____		Organization: _____
Street Address Line 1: _____		
Street Address Line 2: _____		
City: _____	State: _____	Zip Code: _____
Telephone Number: _____		Extension: _____
Email Address: _____		

Section B: Information about the Entity that you are filing a complaint about		
Name of Covered Entity: _____		
Tax Identification Number: _____		Medicare Identification Number: _____
Type of Covered Entity (Check one)		
<input type="checkbox"/> Health Care Clearinghouse		
<input type="checkbox"/> Health Plan		
<input type="checkbox"/> Health Care Provider (choose one)		
<input type="radio"/> Dentist		
<input type="radio"/> DME Supplier		
<input type="radio"/> Home Health Agency		
<input type="radio"/> Hospice		
<input type="radio"/> Hospital		
<input type="radio"/> Nursing Home		
<input type="radio"/> Pharmacy		
<input type="radio"/> Physician/Group Practice		
<input type="radio"/> Other		
Covered Entity Contact Person:		
First Name: _____	Middle Initial: ____	Last Name: _____
Title: _____		
Street Address Line 1: _____		
Street Address Line 2: _____		
City: _____	State: _____	Zip Code: _____
Telephone Number: _____		Extension: _____



News Release

FOR IMMEDIATE RELEASE
October 15, 2002

Contact: CMS Press Office
(202) 690-6145

CMS NAMED TO ENFORCE HIPAA TRANSACTION AND CODE SET STANDARDS HHS Office for Civil Rights To Continue To Enforce Privacy Standards

HHS Secretary Tommy G. Thompson announced today that the Centers for Medicare & Medicaid Services (CMS) will be responsible for enforcing the transaction and code set standards that are part of the administrative simplification provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

"HIPAA administrative simplification is going to streamline and standardize the electronic filing and processing of health insurance claims, save money and provide better service for providers, insurers and patients," Thompson said.

"To accomplish this will require an enforcement operation that will assure compliance and provide support for those who file and process health care claims and other transactions," Thompson said. "CMS is the agency best able to do this."

CMS will continue to enforce the insurance portability requirements of HIPAA. The HHS Office for Civil Rights (OCR) will enforce the HIPAA privacy standards. CMS and OCR will work together on outreach and enforcement and on issues that touch on the responsibilities of both organizations - such as application of security standards or exception determinations.

Ruben J. King-Shaw Jr., CMS deputy administrator and chief operating officer, said CMS will create a new office to bring together its responsibilities under HIPAA, including enforcement.

"Concentrating these CMS responsibilities in a new office with a single mission will give us the most efficient operation possible, while providing strong support for all our partners in the health care community," King-Shaw said.

The new CMS office will establish and operate enforcement processes and develop regulations related to the HIPAA standards for which CMS is responsible. These standards include transactions and code sets, security, and identifiers for providers, insurers and employers for use in electronic transactions. The office will report directly to the deputy administrator.

The office also will conduct outreach activities to HIPAA covered entities such as health care providers and insurers to make sure they are aware of the requirements and to help them comply.

Federal law requires most health plans, clearing houses, and those providers that conduct certain transactions electronically to be compliant with the HIPAA transactions standards by Oct. 16, 2002, unless they file on or before Oct. 15 for a one-year extension. Those who are not compliant and have not filed for the extension may be subject to statutory penalties. (The law gives certain small health plans until Oct. 16, 2003 to comply).

Enforcement activities will focus on obtaining voluntary compliance through technical assistance. The process will be primarily complaint driven and will consist of progressive steps that will provide opportunities to demonstrate compliance or submit a corrective action plan.

A fact sheet summarizing the administrative simplification standards required by HIPAA is available at <http://www.hhs.gov/news/press/2002pres/hipaa.html>. More detailed information about the standards is available at <http://www.cms.hhs.gov/hipaa>.

###

Note: All HHS press releases, fact sheets and other press materials are available at <http://www.hhs.gov/news>.

Last Revised: October 15, 2002

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[Fact Sheets](#) [Discrimination Complaint Form](#) [Title VI of The Civil Rights Act of 1964 Fact Sheet](#)

HOW TO FILE A COMPLAINT WITH OCR

If you believe you have been discriminated against because of your race, color or national origin, you may file a complaint with OCR within 180 days from the date of the alleged discriminatory act. (OCR may extend the 180-day period if good cause is shown.) Include the following information in your written complaint, or request a Discrimination Complaint Form from OCR:

- *Your name, address and telephone number.* You must sign your name. (If you file a complaint on someone's behalf, include your name, address, telephone number, and state- ment of your relationship to that person--e.g., spouse, attorney, friend, etc.)
- Name and address of the institution or agency you believe discriminated against you.
- How, why and when you believe you were discriminated against.
- Any other relevant information.

Send the complaint to the [OCR regional office below or to the Washington, D.C. headquarters' address](#) on the front of this Fact Sheet.

Once a complaint is filed with OCR, the law prohibits the alleged discriminating party from taking any retaliatory actions against a complainant or any person who provides information to OCR regarding a complaint. OCR should be notified immediately in the event of retaliatory action.

Upon receipt of your complaint, OCR staff will review the issues to determine coverage by Title VI. If your complaint raises covered issues, an investigation will be initiated. If discrimination is found, OCR will negotiate with the institution or organization to voluntarily correct the discriminatory action. If negotiations are unsuccessful, enforcement proceedings may be instituted to suspend or terminate Federal funding.

If we determine your complaint is not within our jurisdiction, OCR may forward it to an appropriate agency that may be able to help you.

Additional information about the rights of persons under Title VI, as well as information on other laws enforced by OCR, may be obtained by contacting an OCR office. For circumstances where you require a quick answer regarding a civil rights problem, you may call us at the following Hotlines:

Voice: 1-800-368- 1019; TDD: 1-800-537-7697

The Office for Civil Rights employees will make every effort to provide prompt service.

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Aug. 1990
ocrmail@hhs.gov

the back of each piece of glass. The first layer applied to the glass is a tin solution, which is an adhesion promoter so that the silver will bond to the glass. After the tin solution, a silver solution is applied, which creates a metal film on the glass surface, giving the mirror its reflective surface. The third step is to apply a copper solution, which helps keep the silver from oxidizing and creates a surface to which the mirror backing paint will adhere. Finally, the mirror backing paint is applied. This adds a hard coating that protects the solutions from becoming scratched or damaged and further protects the silver solution from corrosion.

Both Lilly and Valspar produce all of the components, other than glass, necessary to make a mirror. The United States mirror solutions and mirror backing paint markets are highly concentrated, and the proposed acquisition would produce a firm controlling over 90% of the mirror solutions markets and over 60% of the mirror backing paint market. Both companies have frequently competed against each other for customers. By eliminating competition between the two most significant competitors in these highly concentrated markets, the proposed acquisition would allow the combined firm to exercise market power unilaterally, thereby increasing the likelihood that purchasers of mirror solutions as well as mirror backing paint would be forced to pay higher prices and that innovation and service levels in these markets would decrease.

Significant impediments to new entry exist in the mirror solutions and mirror backing paint markets. A new entrant into any of these markets would need to undertake the difficult, expensive and time-consuming process of developing a competitive product, establishing reliable U.S. distribution and technical support, and developing a reputation among mirror manufacturers for consistently producing a high-quality product. Because of the difficulty of accomplishing these tasks, new entry into either the mirror solutions markets or the mirror backing paint market could not be accomplished in a timely manner. Additionally, new entry into any one of these markets is made more unlikely because of the limited sales opportunities available to new entrants.

The Consent Agreement effectively remedies the acquisition's anticompetitive effects in the United States mirror solutions and mirror backing paint markets by requiring Valspar to divest its mirror coatings business. Pursuant to the Consent Agreement, Valspar is required to divest its mirror coatings business to Spraylat

Corporation within ten days of the date the Commission places the Order on the public record. Should Valspar fail to do so, the Commission may appoint a trustee to divest the business.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed buyer of divested assets must not itself present competitive problems. The Commission is satisfied that Spraylat is a well-qualified acquirer of the divested assets. Based in Mount Vernon, New York, Spraylat is a family owned company that manufactures and sells specialty paints and coatings for industrial uses. Spraylat possesses the necessary industry expertise to replace the competition that existed prior to the proposed acquisition. Furthermore, Spraylat poses no separate competitive issues as the acquirer of the divested assets.

The Consent Agreement includes a number of provisions that are designed to ensure that the transfer of Valspar's mirror coatings business to the acquirer is successful. The Consent Agreement requires Valspar to provide incentives to certain key employees to accept employment, and remain employed, by the acquirer. Valspar is also prohibited from inducing key customers from terminating their contracts with the acquirer for a period of one year. Finally, Valspar employees involved with its mirror coating business are prohibited from disclosing any confidential information to employees involved with the Lilly business.

In order to ensure that the Commission remains informed about the status of the Valspar mirror coatings business pending divestiture, and about efforts being made to accomplish the divestiture, the Consent Agreement requires Valspar to report to the Commission within 30 days, and every thirty days thereafter until the divestiture is accomplished. In addition, Valspar is required to report to the Commission every 60 days regarding its obligations to provide transitional services and facilities management.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or to modify in any way its terms.

By direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 00-33028 Filed 12-27-00; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office for Civil Rights; Statement of Delegation of Authority

Notice is hereby given that I have delegated to the Director, Office for Civil Rights (OCR), with authority to redelegate, the following authorities vested in the Secretary of Health and Human Services:

1. The authority under section 262 of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended, to the extent that these actions pertain to the Standards for the Privacy of Individually Identifiable Health Information, to:

A. impose civil monetary penalties, under section 1176 of the Social Security Act, for a covered entity's failure to comply with certain requirements and standards;

B. make exception determinations, under section 1178(a)(2)(A) of the Social Security Act, concerning when provisions of State laws that are contrary to the federal standards are not preempted by the federal provisions; and

2. The authority under section 264 of HIPAA, as amended, to administer the regulations, "Standards for the Privacy of Individually Identifiable Health Information," 45 CFR Part 164, and General Administrative Requirements, 45 CFR Part 160, as these requirements pertain to Part 164, and to make decisions regarding the interpretation, implementation and enforcement of these Standards and General Administrative Requirements.

I hereby affirm and ratify any actions taken by the Director of OCR, or any subordinates, involving the exercise of the authorities delegated herein prior to the effective date of this delegation. This Delegation of Authority is effective concurrent with the effective date of the regulations, 45 CFR Parts 160 through 164.

Dated: December 20, 2000.

Donna E. Shalala,
Secretary.

[FR Doc. 00-33039 Filed 12-27-00; 8:45 am]

BILLING CODE 4153-01-M

HIPAA ADMINISTRATIVE SIMPLIFICATION PRIVACY RULE CONTRARY & MORE STRINGENT STATE LAW PROJECT

The Health Law Section's eHealth and Privacy Interest Group is embarking on a new project and is looking for interested volunteers. The Interest Group is looking for volunteers to help compile a nationwide database of state privacy laws. The database will be available to anyone who needs the information to determine whether such laws are contrary to and/or more stringent than HIPAA's final privacy rule.

This project is necessary because under the Administrative Simplification Subtitle of the Health Insurance Portability and Accountability Act of 1996, and more particularly, Section 264(c)(2), stating: (2) PREEMPTION — A [privacy] regulation promulgated under paragraph (1) shall not supersede a contrary provision of State law, if the provision of State law imposes requirements, standards, or implementation specifications that are more stringent than the requirements, standards, or implementation specifications imposed under the regulation....," it will be necessary for "Covered Entities" and "Business Associates" and others to determine whether HIPAA privacy rule standards and requirements are contrary to and/or more stringent than applicable State law.

This need for state law determinations creates an enormous task and will require constant monitoring, analysis, and application of judgment. But perhaps the most difficult part of this task will be determining what the relevant State law (which includes constitutional, statutory and common law) will be for any analysis. It is here that our Project can be helpful. Unfortunately, we understand that the federal government does not have the resources available now to engage in such a project.

So, the Interest Group's approach will be to enlist the aid and support of lawyer-members of the American Bar Association's Health Law Section, as well as members of other Sections (such as the Science and Technology Section and the Business Law Section) interested in HIPAA. At least one volunteer, and more likely many volunteers, will be assigned for every state and in the four additional jurisdictions (the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the U.S. Virgin Islands) for which such determinations must be made, in order to participate in preparing, maintaining and updating a database of relevant constitutional, statutory and common law.

The project intends to make maximum use of existing resources so that such database projects already underway by others for certain States and jurisdictions can be shared and enhanced. A leadership team of several lawyers would be appointed to serve as the liaison between each State and jurisdiction, and the leadership of our Interest Group project. The Interest Group intends to complete the project not later than the end of this year.

If you are looking for a way to make a professional contribution to how health care privacy will be maintained and enhanced by HIPAA and otherwise as part of your public service commitment as a member of the bar, this project is worthy of your consideration. There is a paucity of resources otherwise available for the information that the project will produce and maintain, and therefore this surely is an area in which the American Bar Association can assist our government, over two hundred eighty million patients, and those involved in the health care delivery system, in furtherance of the public interest.

For more information or to volunteer to be a part the project, contact Section Director Jill Peña at 312/988-5548 or e-mail her at jillpena@staff.abanet.org.

NOMINATION COMMITTEE

The Nominating Committee for the Section has been appointed. The Committee will consider nominees for Vice Chair, Secretary, Finance Officer, Delegate to the ABA House of Delegates, and two Council Members. The Nominating Committee will submit a report to Council. Elections will be held at the ABA Annual Meeting in August. The report of the Nominating Committee will be published on the Section web site (www.abanet.org/health) no later than June 21, 2002. The members of the Nominating Committee are:

- Robert L. Roth, Crowell & Moring, Washington, DC
- Patricia T. Meador, Kennedy Covington Lobdell & Hickman, Research Triangle Park, NC
- Christina M. Mireles, Crowell & Moring, Washington, DC

Contact Section Director Jill Peña at 312/988-5548 or jillpena@staff.abanet.org if you have any questions or comments.



Resume of Alan S. Goldberg, JD, LLM

Alan S. Goldberg is a member of the bars of the District of Columbia, Massachusetts and Florida. Mr. Goldberg concentrates in the practice of business and administrative law including the delivery of health care and information technology. Goulston & Storrs provides creative solutions in the areas of real estate, taxation, estate planning, bankruptcy, health care and medical devices, litigation, and complex business transactions nationally, and internationally via a London, UK office.

Mr. Goldberg's introduction to health law occurred in the 1960s, during the dawning of the Medicare and Medicaid programs era as a judge advocate and prosecuting attorney in the United States Navy, and Mr. Goldberg was also involved in **investigative actions relating to the USS Pueblo and the Seablabs project**. Mr. Goldberg joined Goulston & Storrs in 1967 upon graduation from Boston College Law School, where he was a member of the Law Review and received an academic scholarship, and as a Lecturer in Law presented a course in land finance. In 1978 Mr. Goldberg received an LL.M. (Taxation) from Boston University School of Law. Mr. Goldberg is an Adjunct Professor of Law at **University of Maryland School of Law and Mr. Goldberg also taught at Boston's Suffolk University Law School**. He is a Past President of National Health Lawyers Association ('91-'92); served on its **Board of Directors** from 1981 to 1993; and **served as an Internet advisor to the Health Lawyers Board**. Mr. Goldberg received the National Health Lawyers Association David J. Greenburg Service Award in 1996.

Mr. Goldberg has published extensively on a broad range of health law, and **many** other legal issues and has frequently lectured for American Health Lawyers Association and **also for many bar and for other** associations; the Massachusetts Hospital Association, Dental Society, Medical Society, and Long Term Care Foundation, the American Telemedicine Association, the Workgroup For Electronic Data Interchange, the Healthcare Information and Management Systems Society, and **for governmental and other** organizations and he **participates in many national teleconferences as a moderator and a lecturer**.

Mr. Goldberg was the moderator of the Health Law Forum computer on-line feature of CounselConnect; he is the Editor of a law and computer technology column entitled "The Computer Wizard" published by the American Bar Association's Business Law Section magazine "Business Law Today"; and he is the founding moderator of the American Health Lawyers Association Health Information and Technology Internet listserv. Mr. Goldberg has presented loss prevention seminars relating to technology issues to the membership of Attorneys' Liability Assurance Society. Among Mr. Goldberg's current interests are national and international challenges and opportunities involving the application of technology to the practice of law and medicine and to the delivery of healthcare, including issues involving the Internet, security and encryption, privacy and confidentiality, software licensing and devices, corporate compliance programs, and telemedicine. Mr. Goldberg has served as Vice Chair of the American Health Lawyers Association Health Information and Technology **Practice Group**, and **Chair of the American Bar Association Health Law Section's e-Health & Privacy Interest Group**; and he cochairs The National HIPAA Summit series of events and **originated the HIPAA HERO® teaching methodology**.

Mr. Goldberg is the Webmaster of <http://www.healthlawyer.com>; and agoldberg@goulstorrs.com is his e-mail address and Mr. Goldberg is now resident in the Washington, DC office of Goulston & Storrs.

and current information and data resources, including citations, textual material, and the legal work involved in making decisions and judgments, and rendering opinions, cost simplified and expedited. In addition, we will provide information regarding and links to information of others, relating to the subject of our Project and believed to be useful.

All who visit this web site are invited to provide comments and suggestions regarding our approach. Volunteer lawyers are still needed, and expressions of interest in participating in the Project are invited. Contact Kim Jensen at jensenk@staff.abanet.org.

DISCLAIMER

The materials and advice provided at this web site, and in connection with this Project, reflect the views of the individuals that prepared and do not represent the position of the American Bar Association Health Law Section. Such materials and information provided on this web site, and in connection with this Project, are provided solely for educational purposes and do not create a business or professional services relationship. While all reasonable attempts are made to ensure the accuracy of such materials and information, neither the American Bar Association or its Health Law Section, nor contributors to this Project, make any express or implied representation or warranties about the accuracy of such materials and information for any purpose or the suitability of such materials and information for any particular use. Such materials and information are provided upon the condition and understanding that the publisher, contributors and participants are not engaged in rendering legal or other professional services. The professional services of competent legal counsel should be retained for legal advice regarding particular facts and circumstances.

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Alan S. Goldberg's Law, Technology & Change Home Page SM

Last Updated April 11, 2003

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**Welcome from Alan S.
Goldberg, Webmaster**



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Note: the Webmaster is a member of the bars of the District of Columbia, the Commonwealth of Massachusetts, & the State of Florida

The Webmaster has served on the adjunct faculty of

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&

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>Citizens for Health et al. vs. Tommy G. Thompson, Complaint for Declaratory and Injunctive Relief April 10, 2003 USDC ED PA

The Webmaster's LeadingLinks (sm)

>Letters dated 12/09/02 to OCR & 4/01/03 from OCR about state board of pharmacy inspections & HIPAA AdminSimp accountings for disclosures

>Review of Protected Health Information and Applicability of Business Associate Agreements Under the Health Insurance Portability and Accountability Act (HIPAA) for the Purposes of Survey and Certification

"DATE: March 14, 2003 FROM:

Director Survey and Certification Group SUBJECT: Review of Protected Health Information and Applicability of Business Associate Agreements Under the Health Insurance Portability and Accountability Act (HIPAA) for the Purposes of Survey and Certification TO: Survey and Certification Regional Office Management (G-5) State Survey Agency Directors The purpose of this letter is to provide guidance regarding the appropriateness of executing business associate agreements between the state survey agencies (SAs) and providers, and the provision of individually identifiable health care information during surveys under the HIPAA Privacy Rule. Several SAs have received requests from providers to enter into business associate agreements, which were addressed in the "Standards for Privacy of Individually Identifiable Health Information" (HIPAA Privacy Rule) published December 28, 2000, and most recently amended August 14, 2002 (65 Fed. Reg. 82462, as modified by 67 Fed. Reg. 53182). Additionally, several providers have expressed concern over the release of protected health information (PHI) to surveyors under the HIPAA Privacy Rule...."

"In summary, to the extent that the information sought by an SA is PHI for survey and certification work that is either 1) required by law or 2) for health care oversight activities, the surveyed entity does not need to receive an authorization prior to releasing the necessary PHI to the SA. Furthermore, surveyed entities do not need to execute a business associate agreement with SAs prior to releasing PHI as SAs are not business associates of the surveyed entities under the HIPAA Privacy Rule definition of "business associate." SAs do not conduct a function or activity of the surveyed entity on the surveyed entity's behalf. (See 45 CFR 160.103). We have attached a suggested template for use by the SAs in response to requests to take part in business associate agreements with providers, and to address provider's concerns over the release of PHI for oversight activities." Effective Date: April 14, 2003

>Medicare Fee for Service Contractor Guidance on the HIPAA Privacy Rule

Program Memorandum Department of Health & Human Services (DHHS) Intermediaries/Carriers Centers for Medicare & Medicaid Services (CMS) Transmittal AB-03-034 Date: FEBRUARY 28, 2003 CHANGE REQUEST 2484 SUBJECT: Medicare Fee for Service Contractor Guidance on the HIPAA Privacy Rule

"The purpose of this Program Memorandum (PM) is to provide guidance in describing the roles of Medicare FFS contractors (i.e., fiscal intermediaries, carriers, DMERC and Program Safeguard Contractors) and the Centers for Medicare & Medicaid Services (CMS) in implementing the "Standards for Privacy of Individually Identifiable Health Information" ("Privacy Rule") for the Original Medicare ("Original Medicare") Fee-For-Service (FFS) Health Plan. This guidance summarizes the operational activities that are being developed to ensure Original Medicare's compliance with the Privacy Rule by the April 14, 2003 compliance date required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA)."

www.hipaanotice.com

Notices of Privacy Practices on the Web

>[Readability of HIPAA Privacy Notices](#)

**Mark Hochhauser, Ph.D.,
Readability Consultant, 3.12.03,
"...had a consulting relationship
with the US Department of
Health and Human Services and
the Health Resources and
Services Administration (HRSA)
in 2002 on the readability of
HIPAA privacy notices."**

**Links are not necessarily to the
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>[Centers for Medicare & Medicaid Services Notice](#)

- > [*MetLife® Dental HIPAA Notice*](#)
- > [*MetLife® Long Term Care HIPAA Notice*](#)
- > [*MetLife® Medical Insurance HIPAA Notice*](#)
- > [*Aetna Notices*](#)
- > [*University of Michigan Health System*](#)
- > [*WorkCare™*](#)
- > [*Bothwell Regional Health Center*](#)
- > [*Siouxland Community Health Center*](#)
- > [*Rhode Island Department of Human Services \(Long Version\)*](#)
- > [*Rhode Island Department of Human Services Notice \(Short Version\)*](#)
- > [*American Republic Insurance Company*](#)
- > [*United Concordia Dental Insurer*](#)

Lawyers & HIPAA Administrative Simplification Privacy Rule Business Associate Agreements

- > [*Preamble, Final Privacy Rule Amendments, Lawyers & Business Associate Agreements*](#)
- > [*North Carolina Society of Healthcare Attorneys HIPAA and Business Associate Agreements for Lawyers*](#)
- > [*NCSHA Business Associate Agreement Proposal*](#)

***Goldberg Dates HIPAA* (sm)**

(Webmaster's Chart of Some Important HIPAA Administrative Simplification Dates)

The Webmaster's US Government & Other LeadingLinks (SM) & Information



THOMAS

**Library of Congress Databases --
Legislation, Congressional Record,
and Committees**

**Centers for Medicare &
Medicaid Services HIPAA
Administrative Simplification**

[>Delegation of authority within
Centers for Medicare & Medicaid
Services for HIPAA Administrative
Simplification](#)

[>CMS Provider HIPAA Readiness
Checklist - Getting Started- Moving
toward Compliance with the
Electronic Transactions & Code
Sets Requirements](#)

[>CMS HIPAA Electronic
Transactions & Code Sets
Information Series - HIPAA 101
For Health Care Providers' Offices
- 1/03](#)

[>CMS Medicare Handbook
Including Medicare Program
HIPAA Medicare & You: Notice of
Privacy Practices 2003 \(via CMS
Web site\)](#)

[>HHS Frequently Asked Questions
About Electronic Transaction
Standards Adopted Under HIPAA](#)

[>HHS Frequently Asked Questions](#)

[>Office of Management & Budget -
Office of Information and
Regulatory Affairs \(OIRA\) -
Executive Order Submissions Under
Review](#)

[>Federal Register
Online](#)

[>OIG/American Health Lawyers
As'n -- Corporate Responsibility &
Corporate Compliance: A Resource
for Health Care Boards of Directors
\(corrected version, 4/03\)](#)

[>Office of the Inspector
General](#)

[>Corporate Integrity
Agreements](#)

[>Excluded Individuals](#)

6. *Point of Contact.* Tim Burke, Director, Travel Management Policy Division (MTT), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405; telephone 703-872-8611; e-mail, timothy.burke@gsa.gov.

7. *Expiration Date.* This bulletin expires when the new eTravel services is fully implemented within your agency.

[FR Doc. 03-6662 Filed 3-19-03; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office for Civil Rights

Notice of Addresses for Submission of HIPAA Health Information Privacy Complaints

AGENCY: Office for Civil Rights, HHS.

ACTION: Notification of addresses for submission of HIPAA Health Information Privacy Complaints for violations occurring on or after April 14, 2003.

SUMMARY: This notice sets out the addresses for filing a complaint with the Secretary of the Department of Health and Human Services, for non-compliance by a covered entity with the standards for privacy of individually identifiable health information under 45 CFR parts 160 and 164 (the Privacy Rule). The Privacy Rule implements certain provisions of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191. Complaints must be submitted in writing to the Office for Civil Rights at the appropriate address, as described below.

EFFECTIVE DATE: April 14, 2003.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** section for the list of addresses for filing complaints.

SUPPLEMENTARY INFORMATION: 45 CFR section 160.306 establishes general provisions for submission of complaints against a covered entity for non-compliance with the HIPAA Privacy Rule. A person who believes a covered entity is not complying with these requirements may file a complaint with the Secretary. A covered entity is a health plan, health care clearinghouse, and any health care provider who conducts certain health care transactions electronically. Complaints to the Secretary must: (1) Be filed in writing, either on paper or electronically; (2) name the entity that is the subject of the complaint and describe the acts or omissions believed to be in violation of the applicable

requirements of part 160 or the applicable standards, requirements, and implementation specifications of subpart E of part 164; and (3) be filed within 180 days of when the complainant knew or should have known that the act or omission complained of occurred, unless this time limit is waived by the Office for Civil Rights for good cause shown. Complaints to the Secretary may be filed only with respect to alleged violations occurring on or after April 14, 2003.

The Secretary has delegated to the Office for Civil Rights (OCR) the authority to receive and investigate complaints as they may relate to the Privacy Rule. See 65 FR 82381 (Dec. 28, 2000). Individuals may file written complaints with OCR by mail, fax or e-mail at the addresses listed below. Individuals may, but are not required to, use OCR's Health Information Privacy Complaint Form. To obtain a copy of this form, or for more information about the Privacy Rule or how to file a complaint with OCR, contact any OCR office or go to www.hhs.gov/ocr/hipaa/. For more information on what entities are covered by HIPAA, go to www.cms/hipaa/hipaa2/support/tools/decisionsupport/default.asp.

As listed below, health information privacy complaints to the Secretary should be addressed to the OCR regional office that is responsible for matters relating to the Privacy Rule arising in the State or jurisdiction where the covered entity is located. Complaints may also be filed via email at the address noted below.

Where To File Complaints Concerning Health Information Privacy

For complaints involving covered entities located in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, or Vermont:

Region I, Office for Civil Rights, U.S. Department of Health and Human Services, Government Center, J.F. Kennedy Federal Building—Room 1875, Boston, Massachusetts 02203. Voice phone (617) 565-1340. FAX (617) 565-3809. TDD (617) 565-1343.

For complaints involving covered entities located in New Jersey, New York, Puerto Rico, or Virgin Islands:

Region II, Office for Civil Rights, U.S. Department of Health and Human Services, Jacob Javits Federal Building, 26 Federal Plaza—Suite 3312, New York, New York, 10278. Voice Phone (212) 264-3313. FAX (212) 264-3039. TDD (212) 264-2355.

For complaints involving covered entities located in Delaware, District of

Columbia, Maryland, Pennsylvania, Virginia, or West Virginia:

Region III, Office for Civil Rights, U.S. Department of Health and Human Services, 150 S. Independence Mall West, Suite 372, Public Ledger Building, Philadelphia, PA 19106-9111. Main Line (215) 861-4441. Hotline (800) 368-1019. FAX (215) 861-4431. TDD (215) 861-4440.

For complaints involving covered entities located in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, or Tennessee:

Region IV, Office for Civil Rights, U.S. Department of Health and Human Services, Atlanta Federal Center, Suite 3B70, 61 Forsyth Street, SW., Atlanta, GA 30303-8909. Voice Phone (404) 562-7886. FAX (404) 562-7881. TDD (404) 331-2867.

For complaints involving covered entities located in Illinois, Indiana, Michigan, Minnesota, Ohio, or Wisconsin:

Region V, Office for Civil Rights, U.S. Department of Health and Human Services, 233 N. Michigan Ave., Suite 240, Chicago, Ill. 60601. Voice Phone (312) 886-2359. FAX (312) 886-1807. TDD (312) 353-5693.

For complaints involving covered entities located in Arkansas, Louisiana, New Mexico, Oklahoma, or Texas:

Region VI, Office for Civil Rights, U.S. Department of Health and Human Services, 1301 Young Street, Suite 1169, Dallas, TX 75202. Voice Phone (214) 767-4056. FAX (214) 767-0432. TDD (214) 767-8940.

For complaints involving covered entities located in Iowa, Kansas, Missouri, or Nebraska:

Region VII, Office for Civil Rights, U.S. Department of Health and Human Services, 601 East 12th Street—Room 248, Kansas City, Missouri 64106. Voice Phone (816) 426-7278. FAX (816) 426-3686. TDD (816) 426-7065.

For complaints involving covered entities located in Colorado, Montana, North Dakota, South Dakota, Utah, or Wyoming:

Region VIII, Office for Civil Rights, U.S. Department of Health and Human Services, 1961 Stout Street—Room 1185 FOB, Denver, CO 80294-3538. Voice Phone (303) 844-2024. FAX (303) 844-2025. TDD (303) 844-3439.

For complaints involving covered entities located in American Samoa, Arizona, California, Guam, Hawaii, or Nevada:

Region IX, Office for Civil Rights, U.S. Department of Health and Human Services, 50 United Nations Plaza—

Room 322, San Francisco, CA 94102.
Voice Phone (415) 437-8310. FAX
(415) 437-8329. TDD (415) 437-8311.

For complaints involving covered entities located in Alaska, Idaho, Oregon, or Washington:

Region X, Office for Civil Rights, U.S. Department of Health and Human Services, 2201 Sixth Avenue—Suite 900, Seattle, Washington 98121-1831. Voice Phone (206) 615-2287. FAX (206) 615-2297. TDD (206) 615-2296.

For all complaints filed by e-mail send to: OCRComplaint@hhs.gov.

FOR FURTHER INFORMATION CONTACT:

Lester Coffey, Office for Civil Rights, Department of Health and Human Services, Mail Stop Room 506F, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. Telephone number: (202) 205-8725.

Dated: March 12, 2003.

Richard M. Campanelli,

Director, Office for Civil Rights.

[FR Doc. 03-6651 Filed 3-19-03; 8:45 am]

BILLING CODE 4153-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Health Statistics (NCHS), Classifications and Public Health Data Standards Staff, Announces the Following Meeting

Name: ICD-9-CM Coordination and Maintenance Committee Meeting.

Time and Date: 9 a.m.—4 p.m., April 3, 2003.

Place: Centers for Medicare and Medicaid Services (CMS) Auditorium, 7500 Security Boulevard, Baltimore, Maryland.

Status: Open to the public.

Purpose: The ICD-9-CM Coordination and Maintenance (C&M) Committee will hold its first meeting of the 2003 calendar year cycle on Thursday, April 3, 2003. The C&M meeting is a public forum for the presentation of proposed modifications to the International Classification of Diseases, Ninth-Revision, and Clinical Modification.

Matters to be Discussed: Agenda items include: Hepatitis C, acute and unspecified; worn out joint prosthesis; deep vein thrombosis; aftercare following organ transplant; aftercare following abnormal pap smear; encounter for pregnancy test-negative result; allergic dermatitis due to animal dander; endometrial hyperplasia with and without atypia; mechanical

complication of esophagostomy; and ICD-10 Procedure Classification System (PCS); Updates on: Bipolar Radiofrequency Ablation; and Blunt Micro-Dissection with Chronic Total Occlusion (CTO) Catheter Laparoscopic/Thorascopic approaches.

Contact Person for Additional Information: Amy Blum, Medical Classification Specialist, Classifications and Public Health Data Standards Staff, NCHS, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone 301-458-4106 (diagnosis), Amy Gruber, Health Insurance Specialist, Division of Acute Care, CMS, 7500 Security Blvd., Room C4-07-07, Baltimore, Maryland 21244, telephone 410-786-1542 (procedures).

Notice: In the interest of security, (CMS) has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Notice: This is a public meeting. However, because of fire code requirements, should the number of attendants meet the capacity of the room, the meeting will be closed.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: March 14, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03-6681 Filed 3-19-03; 8:45 am]

BILLING CODE 4360-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health; Meeting

The National Institute for Occupational Safety and Health (NIOSH) at the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Continue Discussions on the Approval of Respiratory Devices Used to Protect Workers in Hazardous Environments.

Times and Dates: 8 a.m.—11:30 a.m., April 10, 2003. 8 a.m.—11:30 a.m., April 24, 2003.

Place: Marriott Key Bridge, 1401 Lee Highway, Arlington, Virginia (April 10); Colorado School of Mines, 1500 Illinois Street, Golden, Colorado (April 24).

Status: These meetings are hosted by NIOSH and will be open to the public, limited only by the space available. The meeting room at each location will accommodate approximately 75 people. Interested parties should make hotel reservations directly with the Marriott Key Bridge (703-524-6400/800-327-9789) in Arlington, Virginia, or the Golden Hotel (303-279-0100/800-233-7214) in Golden, Colorado, referencing the NIOSH/NPPTL Public Meeting. Interested parties should confirm their attendance to either meeting by completing a registration form and forwarding it by e-mail (confserv@netl.doe.gov) or fax (304-285-4459) to the Event Management Office. A registration form may be obtained from the NIOSH Homepage (<http://www.cdc.gov/niosh>) by selecting Conferences and then the event.

Requests to make presentations at the public meeting should be mailed to the NIOSH Docket Officer, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone 513-533-8303, Fax 513-533-8285, E-mail

niocindocket@cdc.gov. All requests to present should contain the name, address, telephone number, relevant business affiliations of the presenter, a brief summary of the presentation, and the approximate time requested for the presentation. Oral presentations should be limited to 15 minutes.

After reviewing the requests for presentation, NIOSH will notify each presenter of the approximate time that their presentation is scheduled to begin. If a participant is not present when their presentation is scheduled to begin, the remaining participants will be heard in order. At the conclusion of the meeting, an attempt will be made to allow presentations by any scheduled participants who missed their assigned times. Attendees who wish to speak but did not submit a request for the opportunity to make a presentation may be given the opportunity at the conclusion of the meeting, at the discretion of the presiding officer.

Comments on the topics presented in this notice and at the meetings should be mailed to the NIOSH Docket Office, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone 513-533-8303, Fax 513-533-8285. Comments may also be submitted by e-mail to