

Stimulus Bill Includes Major HIPAA Changes

On February 17, 2009, President Obama signed into law The American Recovery and Reinvestment Act of 2009 (the "Stimulus Bill"). Contained within the sweeping provisions of the Stimulus Bill are major changes to the Health Insurance Portability and Accountability Act ("HIPAA"). The legislation marks the first significant change to HIPAA in several years and is expected to have a lasting impact on the healthcare industry. Healthcare providers, health and benefits plans and numerous third parties and entities that provide services to the healthcare industry or otherwise handle protected health information, will be affected by the changes and should take appropriate steps now to ensure compliance with the new federal law.

The significant changes to HIPAA include:

- New requirements to provide written notice to individuals, as well as the Department of Health and Human Services, when protected health information has been improperly disclosed;
- A significant expansion of existing HIPAA security and privacy rules to, and imposition of direct liability on, business associates;
- New requirements to provide individuals with access to electronic medical records maintained by providers or other covered entities;
- New and expansive requirements to track and account to individuals for disclosures of electronic medical records made for treatment, payment and healthcare operations purposes (disclosures previously exempt from such accounting);
- Increased civil penalties for HIPAA violations up to \$50,000 per violation, or up to a maximum of \$1,500,000 for multiple violations in any given year; and
- New civil enforcement authority granted to state attorneys general.

During the coming months, the Department of Health and Human Services will be promulgating new regulations addressing the above changes in greater detail, as well as addressing other HIPAA changes not discussed above. The effective dates of the changes vary, with some changes having already taken effect. Healthcare providers and health plans, and entities providing services to them, should be aware of the various changes and be prepared to adopt policies and procedures consistent with HIPAA's new requirements.

As always, if you have any questions or concerns about HIPAA or other Healthcare related issues in general, please contact the Healthcare Professionals at Robison, Curphey & O'Connell:

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