



When is Compliance Required?

HIPAA's rules and regulations are being written by the federal department of Health and Human Services and have been released at different times and have different compliance dates. The rules may be amended on an annual basis. Key compliance dates include:

April 14, 2003 – Compliance with the privacy rule requirements.

October 16, 2003 – Compliance with the transactions and code sets requirements.

July 30, 2004 – Compliance with the unique employer identifier standard.

April 21, 2005 – Compliance with the security rule requirements.

What are the Penalties?

The Centers for Medicare and Medicaid Services (CMS) will be responsible for enforcing the transactions and code sets standards and security standards, while the Office for Civil Rights (OCR) will enforce the privacy standards. OCR has indicated that enforcement will be complaint-driven. The Department of Health and Human Services and its Office for Civil Rights will contact entities and attempt to settle complaints through voluntary compliance. However, willful or repeated violations of HIPAA AS rules and regulations could result in civil monetary penalties or criminal penalties.

The civil penalty for failing to comply with a transaction, code set or identifier rule requirement is:

- Each violation: \$100.
- Maximum penalty for all violations of an identical requirement may not exceed \$25,000 annually.

- Violations of several different requirements may result in penalties greater than \$25,000.

Wrongful disclosure of health information is subject to criminal penalties:

- Wrongful disclosure offense: up to \$50,000 fine and one year imprisonment
- Offense under false pretenses: up to \$100,000 and five years imprisonment
- Offense with intent to profit: up to \$250,000 and ten years imprisonment

For More Information

Department of Health & Human Services HIPAA-AS
<http://aspe.os.dhhs.gov/admsimp/>

Office for Civil Rights HIPAA - Privacy
<http://www.hhs.gov/ocr/hipaa/>

Centers for Medicare & Medicaid Services HIPAA-AS
<http://www.cms.hhs.gov/hipaa/hipaa2/default.asp>

Workgroup for Electronic Data Interchange
<http://www.wedi.org/>

HIPAA (Government Information Value Exchange for States) GIVES
<http://www.hipaagives.org/>

National Governors Association Center for Best Practices - HIPAA
http://www.nga.org/center/topics/1,1188,D_4324,00.html

Florida's State Technology Office – HIPAA
<http://www.myflorida.com/myflorida/sto/hipaa/index.html>

Florida Medicaid Program – HIPAA
<http://www.fdhc.state.fl.us/Medicaid/hipaa/index.shtml>

HIPAA

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT



**State Technology Office
State of Florida**



HIPAA

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

SUMMARY

New federal legislation requires the use of standards when sending and receiving certain health information in an electronic format and imposes restrictions on how organizations use, disclose and protect an individual's health information.

While legislators and other officials may communicate with state agencies about constituent health care issues, state agencies may not respond about an individual's protected health information unless the individual constituent has given an authorization to the agency to disclose the information.

You may contact the appropriate agency to obtain an authorization form for constituents to sign.

What is HIPAA?

The Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 (HIPAA) was signed into law in August of 1996, and is being implemented in phases. The federal legislation addressed several issues: health care access, portability and renewability; preventing health care fraud and abuse; medical liability reform and *administrative simplification*.

The goals of Title II, Subtitle F - Administrative Simplification (AS) are two-fold. It seeks

1. To improve the efficiency and effectiveness of the health care system through the establishment of standards and requirements for the *electronic transmission* of certain health information, and

2. To protect the security and privacy of health care information by setting standards regarding its use and disclosure.

To meet these goals, HIPAA-AS addresses five specific areas:

Electronic Data Interchange (EDI) – the electronic transfer of information in a standard format between trading partners. Standardization will reduce the administrative costs associated with the exchange of health information among physicians, hospitals and health plans.

Code Sets – data elements used to uniformly document the reasons why patients are seen and what procedures are performed during their visit.

Identifiers – unique numbers used consistently by all parties to identify each health care provider, health plan and employer. In the past, providers had to keep track of multiple identification numbers.

Privacy – establishes a minimum national standard for the protection of individuals' medical records and other personal health information. Honors more stringent state laws regarding the privacy and protection of health information and provides individuals with new health privacy rights, enforceable through the Office for Civil Rights, to ensure consistent protection of health information that is used and stored in providing modern high quality health care.

Security – establishes a national minimal standard to protect the confidentiality, integrity and availability of electronically formatted protected health information. Affected organizations must implement basic safeguards to protect electronic health information from unauthorized access, deletion and transmission.

Who is Affected?

HIPAA requires all **health plans** (e.g.: health insurance companies, HMOs, Medicare and Medicaid), all **health care clearinghouses** (e.g. entities who translate and interpret billin information) and those **health care provider** electronically transmitting certain health transactions (e.g. claims, eligibility, referral: claims status) to comply with its administrative rules and regulations. HIPAA also extends certain responsibilities for maintaining the privacy and security of health information to vendors who perform services on behalf of health plans, health care providers and health care clearinghouse through arrangements called business association agreements.

Due to their health care-related activities, the following state agencies are subject to HIPAA's rules and regulations:

- Agency for Health Care Administration (administers Florida's Medicaid program).
- Department of Corrections (provides health care to inmates).
- Department of Health (provides health care to clients through county health departments and Children's Medical Services).
- Department of Children and Families (operates hospitals).
- Department of Elder Affairs (administers care management services for the elderly).
- Department of Veterans' Affairs (operates nursing homes).
- Department of Management Services (the Division of State Group Insurance manages the State of Florida's self-insured health plan).