



Legal Alert

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New HIPAA/HITECH Rules Effective March 26, 2013

The Department of Health and Human Services, Office of Civil Rights ("OCR") issued the preliminary version of the revised HIPAA/HITECH rules on January 18, 2013. The official version will be published in the Federal Register on January 25, 2013 and will be effective March 26, 2013. Covered entities and business associates will have until September 23, 2013 to bring their policies, practices, and contracts into compliance with the new regulations. Until then, the existing rules and guidance materials govern compliance. The preliminary version of the regulations is available at:

<https://s3.amazonaws.com/public-inspection.federalregister.gov/2013-01073.pdf>

The preliminary version of the regulation is 563 pages long. It includes changes and clarifications to the sections governing the contents and dissemination of the Notice of Privacy Practices, use of protected health information for marketing and fundraising, the definition of a business associate, security requirements, and breach notification, among other changes. One change will affect business associates and their "downstream" contractors in particular. Under the new regulations, persons or businesses that contract with a business associate to assist the business associate in meeting its obligations to the covered entity are also business associates. This means that the contractor will be directly regulated by OCR for many aspects of HIPAA/HITECH compliance and will be at risk for sanctions and penalties for non-compliance.

We will be reviewing the new regulations in depth over the next several weeks. If you have any questions or would like assistance with your policies, procedures or contracts, please contact us.