

# LEGAL ALERT

December 2000

## HEALTH CARE LAW UPDATE

### Final HIPAA Privacy Rules

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On December 20, 2000, HCFA issued the long-awaited final rules relating to Standards for Privacy of Individually Identifiable Health Information. The final rules will significantly change the way that medical information will be stored, used and disclosed. Indeed, the final rules impose requirements that are much more extensive than the proposed standards. These rules will directly impact every aspect of the health care business for providers such as hospitals, physicians, long-term care facilities. The rules also apply to anyone doing business with providers, such as billing companies, accountants, attorneys, consultants, vendors and suppliers, and to many employer-sponsored health plans.

There are several major changes from the proposed rules that were published in October 1999:

First, the proposed rules applied only to information created or maintained in electronic form. However, the final rules apply to virtually all patient information, whether in written, verbal or electronic form.

Second, the proposed rules did not require patient consent for routine uses, including treatment, payment and health care operations. The final rules require advance written consent by the patient for almost all uses or disclosures of health information.

Third, employer-sponsored health plans will be required to ensure that health information is not accessible to the employer for any employment-related purposes, except with specific authorization by the employee.

The basic operation of the rules remains the same. Any

protected information can be used or disclosed only as specifically authorized by the detailed regulations. Except in limited cases, any disclosure must be limited to the minimum information that is necessary for the authorized purpose.

Providers must give patients clear written notice of their rights under the privacy rules, including the right to inspect and copy information, to request corrections of any information believed to be inaccurate or incomplete, and to obtain a record of disclosures unrelated to treatment or payment. All providers must maintain documented internal procedures to protect the privacy of medical information, appoint a responsible individual as the "privacy official," and train all employees with access to health information. In addition, providers must take affirmative steps to ensure

that people with whom they do business, such as accountants, billing companies, and attorneys, comply with the standards.

While the regulations provide a two year period for coming into compliance, the sweeping changes made by the new privacy standards will require considerable planning and education. The HIPAA Project Team from Smith Haughey Rice & Roegge's Health Law Department has already undertaken substantial efforts to prepare for issuance of these final rules, as well as the related final rules for electronic transactions and

proposed rules for security of electronic health information.

We will be analyzing the new HIPAA rules at these upcoming programs:

- "Health Care Corporate Compliance Programs" – January 17, 2001, in Grand Rapids. Sponsored by Lorman Educational Services.
- "Current Trends in Health Care" – January 18, 2001, in Lansing. Sponsored by MHAIC.

In addition, we will be sending out a detailed summary of the final privacy rules in the near future.

As you begin planning for compliance with the privacy rules or if you would like more information about the upcoming seminars, please feel free to contact Jay Hardin, Richard Kraus or Veronica Marsich, the members of our HIPAA Project Team. A link to the text of the regulations can be found on our web site at [http://www.shrr.com/HIPAA\\_Privacy\\_rules.htm](http://www.shrr.com/HIPAA_Privacy_rules.htm)

**Smith Haughey Rice & Roegge has offices in Grand Rapids, Lansing and Traverse City.**

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