

## Important Effective dates for HITECH Act (Subtitle D)

February 17, 2009 HITECH Act Enacted

On February 17, 2009 upon Enactment

- Application of tiered civil monetary penalties (i.e. for violations occurring post enactment)
- State Attorney General Authority to Enforce (i.e. bring a civil action on behalf of citizens post enactment)

By April 20, 2009 Within 60 Days of Enactment

- HHS must set forth a list of technologies and methodologies that render information "unusable, unreadable or indecipherable." Directly relevant to breach notification requirements.

By August 18, 2009 Within 180 Days of Enactment

- HHS and FTC must each promulgate interim final regulations on breach notification; which apply to breaches discovered on or after the interim final regulations have been published.

### **HIPAA Survival Guide Note:**

Breach notification is covered in [Section 13402 of HITECH's Subtitle D.](#)

By December 31, 2009 By this Specific Date

- HHS must adopt rules for the initial prioritized set of standards related to accounting for disclosures; with the regulations required to implement the standard due six (6) months after the standard has been adopted.

By February 18, 2010 Due Within One Year Post Enactment

- HHS and FTC study on privacy and security requirements for PHR vendors and applications
- GAO study on best practices for disclosures for treatment and use of electronic informed consent.
- First annual report on HIPAA enforcement.
- First annual guidance on the most effective and appropriate technical safeguards for health information.
- HHS study on de-identification.
- HHS implementation of health information privacy educational initiative.

On February 18, 2010 Effective One Year Post Enactment

- **Application of rules to, and accountability for, business associates.**
- Clarification regarding which entities are required to be business associates.
- Patient's right to restrict disclosures to health plans.
- Deeming of limited data set as satisfying the minimum necessary standard.
- Patient's right to electronic access to, and an electronic copy of, their health record.
- Clarification regarding marketing provisions.
- Opt-out for fund raising communications; HIPAA's current provisions regarding fund raising remain in full force an effect.
- Clarification regarding the ability to impose criminal penalties against individuals.
- **Civil monetary penalties and settlements flowing to HHS/OCR (Office of Civil Rights) for enforcement.**
- **Requirement for HHS to begin conducting mandatory audits.**

**By August 18, 2010** Within 18 months of enactment

- Secretary's guidance on minimum necessary
- Regulations resale of data prohibition (effective 6 months post promulgation)
- GAO report on methodology for providing individuals with a percentage of HIPAA penalties
- Regulations on imposition of civil monetary penalties in cases of willful neglect (and with respect to when the Secretary can civilly pursue violations of HIPAA that qualify as criminal)

**By January 1, 2011** By this specific date

- Initial deadline for complying with new accounting for disclosure rules for entities implementing EHR systems post January 1, 2009.

**By February 18, 2011** Within 24 Months of Enactment

- HHS to provide guidance regarding "minimum necessary."
- Promulgated regulations regarding prohibition on the sale of PHI data, which will be effective six (6) months post promulgation.
- GAO report on methodology for providing individuals with a percentage of HIPAA penalties.
- Promulgation on imposition of civil monetary penalties in cases of "willful neglect" and that HHS can pursue a civil action that would otherwise qualify as criminal.

**By February 18, 2011** Within 24 Months of Enactment

- Clarification of HHS' ability to pursue civil penalties when criminal penalties are not pursued; applies to violations discovered on or after.

- **HHS' requirement to impose civil monetary penalties in cases of "willful neglect"; applies to violations discovered on or after.**

**On February 18, 2012** 36 Months of Enactment

- HHS to promulgate methodology for providing individuals with a percentage of HIPAA penalties that OCR collects.

**By 2013** By this Year

- Extended deadline for older systems to comply with the new accounting for disclosure rules.

**By January 1, 2014** By this Specific Date

- Initial deadline for older systems to comply with the new accounting for disclosure rules.

**On February 18, 2014** 60 Months of Enactment

- GAO study on impact of American Recovery and Reinvestment Act (ARRA).

**By 2016** By this Year

- Extended deadline for older systems to comply with the new accounting for disclosure rules.