

The Regulatory Sprint Catches up to HIPAA: New Proposed HIPAA Rules

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by Alissa Smith

Today, the Department of Health and Human Services' ("HHS") Office for Civil Rights ("OCR") issued a Notice of Proposed Rulemaking ("NPRM") which proposes significant changes to the Health Insurance Portability and Accountability Act ("HIPAA") and to the Health Information Technology for Economic and Clinical Health Act ("HITECH") Privacy Rule (the "Privacy Rule"). The NPRM includes numerous changes to the Privacy Rule that are part of HHS' Regulatory Sprint to Coordinated Care which is intended to eliminate administrative barriers to a health care delivery system that fosters care coordination and value-based care for patients. OCR also issued a fact sheet about this NPRM, which is available [here](#).

This NPRM comes nearly two years after OCR issued a Request for Information ("RFI") in December 2018 calling for information from the public regarding ways that HIPAA regulations could be modernized to support coordinated, value-based care.

These changes in federal regulations are anticipated to make a significant impact on healthcare providers and other stakeholders that may have been reticent to initiate certain care coordination arrangements because of perceived HIPAA violations or a lack of regulatory certainty.

Clarifications to existing regulations will impact stakeholders beyond their involvement in care coordination arrangements. The changes will also impact data sharing arrangements and reduce unnecessary administrative burdens on health care providers and health plans, such as eliminating the requirement to obtain an individual's signature for the Notice of Privacy Practices ("NPP") or the requirement to retain copies of the NPP for six years. Further, the proposed changes to the Privacy Rule provide clarification to

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the laws governing patient rights of access to their health records, and help to better facilitate disclosures of health information in order to improve care for patients in emergencies or who are experiencing a health crisis, including mental health crises and opioid overdose situations.

Comments to the NPRM are invited from stakeholders, and will be due some time in February 2021, at a date that is 60 days after the NPRM is published in the Federal Register. Please contact the author of this post or your regular Dorsey attorney if you have questions about how these changes to the Privacy Rule could impact you, and for assistance in submitting comments to the OCR.

The team of attorneys in Dorsey & Whitney's Healthcare Transactions and Regulations Practice Group will continue to closely monitor these changes, and post updates and analysis on Dorsey's Health Law Blog and on Dorsey's Regulatory Sprint Webpage as new information becomes available.