



Client Alert

Contact Attorneys Regarding
This Matter:

Tracy M. Field
404.873.8648 - direct
404.873.8649 - fax
tracy.field@agg.com

Jessica T. Grozine
404.873.8526 - direct
404.873.8527 - fax
jessica.grozine@agg.com

Arnall Golden Gregory LLP
Attorneys at Law
171 17th Street NW
Suite 2100
Atlanta, GA 30363-1031
404.873.8500
www.agg.com

HHS Issues Interim Final Rule for Breach Notification under the HITECH Act and Designates OCR Regional Office Privacy Advisors

On August 24, 2009, U.S. Department of Health and Human Services (HHS) published an interim final rule on breach notification requirements that implements provisions of the Health Information Technology for Economic and Clinical Health (HITECH) Act, passed as part of American Recovery and Reinvestment Act of 2009 (ARRA). The new regulations require health care providers, health plans, and other entities (including business associates) covered by the Health Insurance Portability and Accountability Act (HIPAA) to notify individuals when their health information is breached.

The interim final rule will become effective September 23, 2009. **Covered entities and business associates should take note that breaches of unsecured protected health information occurring after September 23, 2009 will have to be reported as required under the new regulations.** Thus, quick action is required to assess whether covered entities want to adopt systems to maintain PHI in a "secured" format and ensure that breaches of unsecured PHI are reported in accordance with new regulations. HHS will "use [its] enforcement discretion to not impose sanctions for failure to provide the required notifications for breaches that are discovered before 180 calendar days from the publication of [the] rule." To view the interim final rule, [click here](#).

In addition, late last week, the Office of Civil Rights (OCR) named OCR Regional Managers in each of the HHS Regional offices to serve as the Regional Office Privacy Advisors. These individuals will provide guidance and education to covered entities, business associates, and individuals with respect to the HIPAA Privacy and Security Rules. The designation was mandated under Section 13403(a) of the HITECH Act. For a listing of Regional Managers [click here](#).

Arnall Golden Gregory LLP serves the business needs of growing public and private companies, helping clients turn legal challenges into business opportunities. We don't just tell you if something is possible, we show you how to make it happen. Please visit our website for more information, www.agg.com.

This alert provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice.