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Changes to the HIPAA Privacy Rule: What OCR's Final Rule Means for Covered Entities and Business Associates

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On November 19, 2026, the U.S. Department of Health and Human Services (HHS) Office for Civil Rights (OCR) published a final rule modernizing the HIPAA Privacy Rule (the Final Rule). The Final Rule generally requires faster and cheaper patient access to health records, including through personal health apps; emphasizes transparency about fees and individual rights; and encourages sharing information for care coordination and case management. With compliance becoming mandatory in July 2027, covered entities and business associates should consider the impact of the Final Rule on their patient access and disclosure policies, fee schedules, and Notices of Privacy Practices (NPPs) and update their websites and personal health apps.

Major Takeaways From the Final Rule

- Covered entities must respond to a patient's request to access health information within 15 calendar days (down from 30 days in the current HIPAA regulations), although a single 30-day extension remains available in certain situations.
- Patients may receive electronic records through a personal health app if the covered entity can readily produce them in that form.
- A covered entity may no longer charge fees when an individual is inspecting their protected health information (PHI) or accessing electronic protected health information (ePHI) maintained by that entity and must notify individuals of fees for requesting copies of PHI by publishing fee schedules on their websites.
- NPPs must be updated to include new rights added in the Final Rule and better explain individual rights and how to use them.

- Certain existing business associate agreements (BAAs) are deemed compliant with the Final Rule for a transition period ending upon the earlier of January 18, 2028, or the agreements' renewal or modification.

Strengthening Individual Right of Access

Covered entities must now respond to requests for health information "as soon as practicable," and the Final Rule clarifies the response must occur no later than 15 calendar days after receipt of the request. If a covered entity needs more time to respond, the deadline may be extended by 30 calendar days; however, the Final Rule only permits one such extension. Importantly, if another federal or state law sets a shorter deadline to respond to requests for information, covered entities must meet this shorter deadline to meet the "as soon as practicable" standard for responses.

The Final Rule also expands the ways in which an individual can receive health information. Individuals may request to receive health information through a personal health app for free. The Final Rule permits the use of these personal health apps but specifies that the information in the app should be managed, shared and controlled primarily for the individual — not for the covered entity or another person. Notably, covered entities are only required to share records through an app if this format is readily available; that is, covered entities do not need to create an app to comply with the Final Rule. Note that requests to send PHI to personal health apps are not treated as a "right of access to direct," but rather akin to sharing with the individuals themselves.

Furthermore, OCR clarifies an individual's "right of access to direct" (i.e., right to direct a covered entity to send ePHI to a person designated by that individual) is limited to ePHI in an electronic health record. Covered entities are also prohibited from using burdensome methods to verify an individual's identity. This means covered entities may not use a verification method if a less burdensome measure is practicable (e.g., requiring a wet signature when e-signatures suffice under other laws).

Changes to Fees

The Final Rule also aims to expand individuals' access to PHI by regulating fees. Notably, entities may not charge fees when an individual merely inspects their PHI or accesses ePHI through the internet, such as viewing ePHI through a personal health app. Covered entities are still permitted to charge "reasonable, cost-based" fees,

including for labor for copying PHI (into electronic or non-electronic form), supplies, postage and shipping, and preparing a summary of PHI, but the fees must actually reflect the costs. Additionally, covered entities must post their fee schedules on their websites and make schedules available to individuals at the point of service and upon request.

Notice of Privacy Practices

The Final Rule requires NPPs to reflect the addition of a new right under the Final Rule, specifically, the right to discuss the NPP and inquire about the entity's privacy practices with a contact person or office identified by the covered entity. Furthermore, the Final Rule removes the requirement for a covered health care provider with a direct treatment relationship to obtain a written acknowledgment of receipt of the NPP.

Care Coordination and Case Management

The Final Rule revises the definition of "health care operations" to clarify that health plans and covered providers may engage in care coordination and case management for both individual patients and across populations. The Final Rule also allows covered entities to share PHI with social services agencies, community-based organizations, home- and community-based services providers, or similar third parties for individual-level care coordination and case management activities.

Implications for Business Associate Agreements

BAAs must include terms to allow covered entities and business associates to comply with the Final Rule; however, certain existing BAAs are deemed compliant for a transition period. To be deemed compliant, the BAA must have existed and complied with the HIPAA Privacy Rule before the Final Rule was published on November 19, 2026, and must not be renewed or changed between January 18 and July 17, 2027. If such agreements meet these requirements after July 17, 2027, they are deemed compliant with the Final Rule for a transition period ending upon the earlier of January 18, 2028, or the agreements' renewal or modification.

Compliance Considerations

In light of the Final Rule, covered entities and business associates may be considering a range of issues and action items in advance of the July 2027 compliance date. Depending on an organization's particular facts and circumstances, some takeaways and potential considerations may include whether:

- Policies and procedures are in place to facilitate responding to requests for information within the 15-day deadline, including processes for requesting extensions when needed.
- Health information can be disseminated on health apps and whether any gaps in security exist.
- Identity verification measures impose obstacles that OCR may consider unreasonable.
- Fees for access requests include any charges that the Final Rule no longer allows and whether standard fee schedules are available on the websites, at the point of service and upon request.
- NPPs reflect new rights and better explain individual rights and how to use them, and whether updated notices are distributed to patients.
- Disclosures of PHI to social services agencies and other third parties that provide services to specific individuals to improve care coordination may be applicable.
- Existing BAAs are deemed to be compliant with the Final Rule, and if so, whether those BAAs reflect the changes made by the Final Rule before the transition period ends.

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- 23 June 2025 Kirkland Alert Oregon SB 951 — Nation's Toughest Limits on Private Equity in Physician Practices Now Law

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