

Table of Contents

CHAPTER 1. INTRODUCTION

- § 1:1 The rise of information security and privacy
- § 1:2 General privacy principles
- § 1:3 Fair Information Practices—Origins
- § 1:4 Organisation for Economic Co-operation and Development guidelines
 - Scope of guidelines
- § 1:6 —Basic principles of national application—Collection limitation principle
 - Data quality principle
- § 1:8 —Purpose specification principle
- § 1:9 —Use limitation principle
- § 1:10 —Security safeguards principle
- § 1:11 —Openness principle
- § 1:12 —Individual participation principle
- § 1:13 —Accountability principle
- § 1:14 —Basic principles of international application—Free flow and legitimate restrictions
 - National implementation
- § 1:16 —International co-operation and interoperability
- § 1:17 Principles adopted by the Asia-Pacific Economic Cooperation
- § 1:18 APEC information privacy principles—Preventing harm
 - Notice
- § 1:20 —Collection limitation
- § 1:21 —Uses of personal information
- § 1:22 —Choice
- § 1:23 —Integrity of personal information
- § 1:24 —Security safeguards
- § 1:25 —Access and correction
- § 1:26 —Accountability
- § 1:27 The FTC's formulation of FIPs
- § 1:28 Privacy and security—The seven U.S. Safe Harbor privacy principles

CHAPTER 2. HEALTH INFORMATION AND PRIVACY AND SECURITY

- § 2:1 A preliminary matter—Health Information

HEALTH CARE PRIVACY AND SECURITY

Technology for Economic and Clinical Health Act
of 2009

- § 2:2 Health Information Technology for Economic and
Clinical Health Act—Increased civil penalties

I. INTRODUCTION

- § 2:3 Importance of health privacy
§ 2:4 Health record interoperability
§ 2:5 An overview of California’s approach
§ 2:6 Thoughts on interoperability models
§ 2:7 Personal health records
§ 2:8 Restrictions on disclosure of prescription drug
information
§ 2:9 Disclosure of health records to law enforcement
§ 2:10 Constitutional issues and collection of
prescription information
§ 2:11 HIPAA and discovery
§ 2:12 Liability for medical records disclosed outside the
course and scope of employment
§ 2:13 Federal jurisdiction in HIPAA

II. HIPAA

A. IN GENERAL

- § 2:14 Background
§ 2:15 Compliance dates for implementation of new or
modified standards and implementation
specifications
§ 2:16 Overview of HIPAA
§ 2:17 Inapplicability to employers
§ 2:18 An overview of recent changes to HIPAA
§ 2:19 Other rulemaking and guidance
§ 2:20 Changes to the definition of business associate
§ 2:21 Changes to the definition of electronic media
§ 2:22 Enforcement for business associates
§ 2:23 Time for compliance
§ 2:24 45 CFR §§ 160.306, 160.308, 160.310, and
160.402 regarding complaints to the secretary,
compliance reviews, restrictions on certain
conduct, and civil monetary penalties
§ 2:25 Factors for assessing civil monetary penalties
§ 2:26 Affirmative defenses and waiver of penalties
§ 2:27 Changes to the applicability language
§ 2:28 Changes regarding hybrid entities—
Organizational requirements

TABLE OF CONTENTS

§ 2:29	Security and safeguards
§ 2:30	Agreements with business associates
§ 2:31	Physical and technical safeguards
§ 2:32	Organizational requirements
§ 2:33	Policies procedures and documentation requirements
§ 2:34	Changes to the definition of electronic media
§ 2:35	Applicability of 45 CFR § 164.500
§ 2:36	Use and disclosures of protected health information
§ 2:37	Sale of protected health information and minimum necessary
§ 2:38	Satisfactory assurances and decedent's information
§ 2:39	Organizational requirements
§ 2:40	Uses and disclosures for treatment, payment, or health care operations
§ 2:41	Uses and disclosures for which authorization is required
§ 2:42	Genetic information
§ 2:43	Uses and disclosures requiring an opportunity to agree or to object
§ 2:44	Uses and disclosures for which an authorization or opportunity to agree or to object is not required
§ 2:45	Other requirements relating to uses and disclosures of protected health information
§ 2:46	Notice of privacy practices
§ 2:47	Rights to request privacy protection for protected health information
§ 2:48	Access of individuals to protected health information
§ 2:49	Administrative requirements
§ 2:50	Transition provisions
§ 2:51	Costs and benefits
§ 2:52	Privacy and security requirements
§ 2:53	New statutory requirements under ARRA
§ 2:54	Annual guidance
§ 2:55	Education on health information privacy
§ 2:56	Application of knowledge elements associated with contracts
§ 2:57	Application of civil and criminal penalties
§ 2:58	Business associate contracts required for certain entities
§ 2:59	Improved enforcement under the Social Security Act

HEALTH CARE PRIVACY AND SECURITY

- § 2:60 Effective date and regulations
- § 2:61 Distribution of certain civil monetary penalties collected
- § 2:62 Establishment of methodology to distribute percentage of CMPS collected to harmed individuals
- § 2:63 Effective date
- § 2:64 Audits
- § 2:65 Relationship to other laws—HIPAA state preemption
- § 2:66 —HIPAA
- § 2:67 Construction of law
- § 2:68 Reports on compliance
- § 2:69 Study and report on application of privacy and security requirements to non-HIPAA covered entities
- § 2:70 Guidance on implementation specification to de-identify protected health information
- § 2:71 GAO report on treatment disclosures
- § 2:72 Report required
- § 2:73 Study
- § 2:74 Restrictions on certain disclosures and sales of health information; accounting of certain protected health information disclosures; access to certain information in electronic format
- § 2:75 Disclosures required to be limited to the limited data set or the minimum necessary
- § 2:76 Determination of minimum necessary
- § 2:77 Application of exceptions
- § 2:78 Exception
- § 2:79 Accounting of certain protected health information disclosures required if covered entity uses electronic health record
- § 2:80 Regulations
- § 2:81 Response to requests for accounting
- § 2:82 Effective date
- § 2:83 Prohibition on sale of EHRs or PHI
- § 2:84 Regulations regarding the prohibition of sale
- § 2:85 Effective date
- § 2:86 Access to certain information in electronic format
- § 2:87 Conditions on certain contacts as part of health care operations—Marketing
- § 2:88 Refill reminders
- § 2:89 Opportunity to opt out of fundraising
- § 2:90 Effective date
- § 2:91 Duties under HIPAA and state law

TABLE OF CONTENTS

§ 2:92	Intent and violations of HIPAA
§ 2:93	Government violations of the Rehabilitation Act
 B. SCOPE OF HIPAA REGULATIONS AND ENFORCEMENT	
§ 2:94	Statutory basis and purpose
§ 2:95	Applicability
§ 2:96	Modifications
§ 2:97	General rule and exceptions—Preemption
§ 2:98	Process for requesting exception determinations
§ 2:99	Duration of effectiveness of exception determinations
§ 2:100	Applicability
§ 2:101	Principles for achieving compliance
§ 2:102	Complaints to the Secretary
§ 2:103	Compliance reviews
§ 2:104	Responsibilities of covered entities and business associates
§ 2:105	Secretarial action regarding complaints and compliance reviews
§ 2:106	Investigational subpoenas and inquiries
§ 2:107	Investigational inquiries are non-public investigational proceedings conducted by the Secretary
§ 2:108	Refraining from intimidation or retaliation
§ 2:109	Basis for a civil money penalty
§ 2:110	Amount of a civil money penalty
§ 2:111	Violations of an identical requirement or prohibition
§ 2:112	Factors considered in determining the amount of a civil money penalty
§ 2:113	Affirmative defenses
§ 2:114	Waiver
§ 2:115	Limitations
§ 2:116	Authority to settle
§ 2:117	Penalty not exclusive
§ 2:118	Notice of proposed determination
§ 2:119	Failure to request a hearing
§ 2:120	Collection of penalty
§ 2:121	Notification of the public and other agencies
§ 2:122	HIPAA rules during COVID-19 emergency
§ 2:123	HIPAA Privacy Rule and disclosures and requests for information about COVID-19 Vaccine

HEALTH CARE PRIVACY AND SECURITY

- § 2:124 HHS Guidance on HIPAA Rules and remote communication technologies for audio-only technologies
- § 2:125 Information blocking
- § 2:126 Selected recent enforcement matters—In the Matter of Providence Health & Services
- § 2:127 —In the Matter of CVS Pharmacy
- § 2:128 —In the Matter of Rite Aid
- § 2:129 —In the Matter of Management Services Organization Washington, Inc.
- § 2:130 —In the Matter of Cignet Health Center
- § 2:131 —In the Matter of the General Hospital Corporation and Massachusetts General Physicians Organization, Inc.
- § 2:132 —In the Matter of the Regents of the University of California, on behalf of the University of California at Los Angeles
- § 2:133 —In the Matter of BCBST
- § 2:134 —In the Matter of Phoenix Cardiac Surgery, P.C.
- § 2:135 —In the Matter of Alaska Department of Health and Human Services (DHSS)
- § 2:136 —In the Matter of Massachusetts Eye and Ear Infirmary
- § 2:137 —In the Matter of Hospice of North Idaho
- § 2:138 —In the Matter of Idaho State University
- § 2:139 —In the Matter of Shasta Regional Medical Center
- § 2:140 —In the Matter of WellPoint, Inc.
- § 2:141 —Affinity Health Plan, Inc.
- § 2:142 —Adult & Pediatric Dermatology, P.C.
- § 2:143 —In the Matter of Skagit County, Washington
- § 2:144 —In the Matter of QCA Health Plan, Inc.
- § 2:145 —In the Matter of Concentra Health Services
- § 2:146 —In the Matter of Columbia University in the City of New York
- § 2:147 —In the Matter of the New York and Presbyterian Hospital
- § 2:148 —In the Matter of Parkview Health System, Inc.
- § 2:149 —In the Matter of Anchorage Community Mental Health Services, Inc.
- § 2:150 —In the Matter of Cornell Prescription Pharmacy
- § 2:151 —In the Matter of St. Elizabeth’s Medical Center
- § 2:152 —In the Matter of Cancer Care Group
- § 2:153 —In the Matter of Lahey Clinic Hospital, Inc.

TABLE OF CONTENTS

§ 2:154	—In the Matter of Triple-S Management Corporation
§ 2:155	—In the Matter of the Board of Regents of the University of Washington
§ 2:156	—In the Matter of Lincare, Inc.
§ 2:157	—In the Matter of P.T., Pool & Land Physical Therapy, Inc.
§ 2:158	—In the Matter of North Care Memorial Health Care
§ 2:159	—In the Matter of Feinstein Institute for Medical Research
§ 2:160	—In the Matter of Raleigh Orthopaedic Clinic, P.A.
§ 2:161	—In the Matter of New York and Presbyterian Hospital
§ 2:162	—In the Matter of Catholic Health Care Services
§ 2:163	—In the Matter of Oregon Health & Science University
§ 2:164	—In the Matter of the University of Mississippi
§ 2:165	—In the Matter of Advocate Health Care Network
§ 2:166	—In re the Matter of Care New England Health System
§ 2:167	—In the Matter of St. Joseph Health
§ 2:168	—In the Matter of University of Massachusetts Amherst
§ 2:169	—In the Matter of Presence Health Network
§ 2:170	—In the Matter of MAPFRE Life Insurance Company of Puerto Rico
§ 2:171	—In the Matter of Children’s Medical Center of Dallas
§ 2:172	—In the Matter of South Broward Hospital District d/b/a Memorial Healthcare System
§ 2:173	—In the Matter of Metro Community Provider Network
§ 2:174	—In the Matter of Children’s Digestive Health, S.C.
§ 2:175	—In the Matter of CardioNet, Inc.
§ 2:176	—In the Matter of Memorial Herman Health System
§ 2:177	—In the Matter of St Luke’s-Roosevelt Hospital Center Inc.
§ 2:178	—Fresenius Medical Care North America (FMCNA)
§ 2:179	—Filefax, Inc

HEALTH CARE PRIVACY AND SECURITY

- § 2:180 —The University of Texas MD Anderson Cancer Center
- § 2:181 —Boston Medical Center (BMC), Brigham and Women’s Hospital (BWH), and Massachusetts General Hospital (MGH)
- § 2:182 —Anthem
- § 2:183 —Allergy Associates of Hartford, P.C. (Allergy Associates)
- § 2:184 —Advanced Care Hospitalists PL (ACH)
- § 2:185 —Pagosa Springs Medical Center (PSMC)
- § 2:186 —Cottage Health
- § 2:187 —Touchstone Medical Imaging
- § 2:188 —Medical Informatics Engineering, Inc. (MIE)
- § 2:189 —Elite Dental Associates, Dallas
- § 2:190 —Jackson Health System (JHS)
- § 2:191 —University of Rochester
- § 2:192 —Texas Health and Human Services Commission
- § 2:193 —Sentara Hospitals
- § 2:194 —West Georgia Ambulance, Inc.
- § 2:195 —Practice of Steven A. Porter, M.D.
- § 2:196 —Metropolitan Community Health Services (Metro), doing business as Agape Health Services
- § 2:197 —Lifespan Health System Affiliated Covered Entity (Lifespan ACE)
- § 2:198 —Athens Orthopedic Clinic PA (“Athens Orthopedic”)
- § 2:199 —CHSPSC LLC
- § 2:200 —Premera Blue Cross
- § 2:201 —HIPAA Right of Access Initiative
- § 2:202 —Aetna Life Insurance Company and affiliated covered entity
- § 2:203 —The City of New Haven, Connecticut (New Haven)
- § 2:204 —Lifetime Healthcare Companies and affiliates
- § 2:205 —Peachstate Health Management, LLC, d/b/a AEON Clinical Laboratories (Peachstate)
- § 2:206 —The Diabetes, Endocrinology & Lipidology Center, Inc. (“DELC”)
- § 2:207 —Children’s Hospital & Medical Center (CHMC)
- § 2:208 —Dr. Donald Brockley, D.D.M.
- § 2:209 —Jacob and Associates
- § 2:210 —Dr. U. Phillip Igbinadolor, D.M.D. & Associates, P.A. (UPI)

TABLE OF CONTENTS

§ 2:211	—Northcutt Dental-Fairhope, LLC (Northcutt Dental)
§ 2:212	—Advanced Spine & Pain Management (ASPM)
§ 2:213	—Denver Retina Center
§ 2:214	—Dr. Robert Glaser
§ 2:215	—Rainrock Treatment Center, LLC dba Monte Nido Rainrock (“Monte Nido”)
§ 2:216	—Wake Health Medical Group
§ 2:217	—Oklahoma State University—Center for Health Sciences (OSU-CHS)
§ 2:218	—ACPM Podiatry
§ 2:219	—Associated Retina Specialists, of New York
§ 2:220	—Lawrence Bell, Jr., D.D.S.
§ 2:221	—Coastal Ear, Nose, and Throat (ENT)
§ 2:222	—Danbury Psychiatric Consultants (DPC)
§ 2:223	—Erie County Medical Center Corporation
§ 2:224	—Fallbrook Family Health Center
§ 2:225	—Hillcrest Nursing and Rehabilitation
§ 2:226	—MelroseWakefield Healthcare (MWH)
§ 2:227	—Memorial Hermann Health System
§ 2:228	—Southwest Surgical Associates (SWSA)
§ 2:229	—New England Dermatology P.C., d/b/a New England Dermatology and Laser Center (“NDELC”)
§ 2:230	—Family Dental Care, P.C.
§ 2:231	—Great Expressions Dental Center of Georgia, P.C.
§ 2:232	—B. Steven L. Hardy, D.D.S., LTD, doing business as Paradise Family Dental (“Paradise”)
§ 2:233	—Banner Health Affiliated Covered Entities
§ 2:234	—David Mente, MA, LPC (“Mente”)
§ 2:235	—MedEvolve, Inc.
§ 2:236	—Manasa Health Center, LLC
§ 2:237	—Yakima Valley Memorial Hospital
§ 2:238	—iHealth Solutions, LLC (doing business as Advantum Health)
§ 2:239	United Healthcare Insurance Company
§ 2:240	L.A. Care Health Plan
§ 2:241	Green Ridge Behavioral Health, LLC (“GRBH”)
§ 2:242	Doctors’ Management Services, Inc.
§ 2:243	St. Joseph’s Medical Center
§ 2:244	Optum Healthcare
§ 2:245	Montefiore Medical Center
§ 2:246	Lafourche Medical Group, LLC

HEALTH CARE PRIVACY AND SECURITY

- § 2:247 Change Healthcare
- § 2:248 Phoenix Healthcare
- § 2:249 Essex Residential Care, LLC, d/b/a Hackensack Meridian Health, West Caldwell Care Center (Hackensack Meridian Health)
- § 2:250 Heritage Valley Health System
- § 2:251 Cascade Eye and Skin Centers, P.C.
- § 2:252 Providence Medical Institute
- § 2:253 Gums Dental Care, LLC
- § 2:254 Plastic Surgery Associates of South Dakota in Sioux Falls
- § 2:255 Bryan County Ambulance Authority
- § 2:256 Rio Hondo Community Mental Health Center
- § 2:257 Holy Redeemer Family Medicine
- § 2:258 Gulf Coast Pain Consultants, LLC
- § 2:259 Children's Hospital Colorado
- § 2:260 Inmediata Health Group, LLC
- § 2:261 Elgon Information Systems
- § 2:262 Virtual Private Network Solutions, LLC
- § 2:263 USR LLC
- § 2:264 Solara Medical Supplies, LLC (Solara)
- § 2:265 South Broward Hospital District d/b/a Memorial Healthcare System (Memorial Healthcare System)
- § 2:266 Northeast Surgical Group, P.C. (NESG)
- § 2:267 Warby Parker, Inc.
- § 2:268 Oregon Health & Science University (OHSU)
- § 2:269 Health fitness
- § 2:270 Northeast Radiology, P.C. ("NERAD")
- § 2:271 Guam Memorial Hospital Authority
- § 2:272 PIH Health, Inc. ("PIH")
- § 2:273 Comprehensive Neurology, PC ("Comprehensive")

C. HEARINGS

- § 2:274 Applicability
- § 2:275 Hearing before an ALJ
- § 2:276 Rights of the parties
- § 2:277 Authority of the ALJ
- § 2:278 Ex parte contacts with the ALJ
- § 2:279 Prehearing conferences
- § 2:280 Authority to settle
- § 2:281 Discovery
- § 2:282 Exchange of witness lists, witness statements, and exhibits

TABLE OF CONTENTS

§ 2:283	Subpoenas for attendance at hearing
§ 2:284	Fees
§ 2:285	Form, filing, and service of papers
§ 2:286	Computation of time
§ 2:287	Motions
§ 2:288	Sanctions
§ 2:289	Collateral estoppel
§ 2:290	The hearing
§ 2:291	Statistical sampling
§ 2:292	Witnesses
§ 2:293	Evidence
§ 2:294	The record
§ 2:295	Post hearing briefs
§ 2:296	ALJ's decision
§ 2:297	Appeal of the ALJ's decision
§ 2:298	Stay of the Secretary's decision
§ 2:299	Harmless error

D. SECURITY

§ 2:300	Statutory basis for security and privacy regulations
§ 2:301	Applicability of regulations
§ 2:302	Organizational requirements—Hybrid entities
§ 2:303	Safeguard requirements for affiliated covered entities
§ 2:304	Documentation
§ 2:305	Relationship to other portions of the regulations
§ 2:306	Applicability
§ 2:307	In general
§ 2:308	Security management process
§ 2:309	—Risk analysis
§ 2:310	—Risk management
§ 2:311	—Sanction policy
§ 2:312	—Information system activity review
§ 2:313	Assigned security responsibility
§ 2:314	Workforce security
§ 2:315	—Authorization and/or supervision
§ 2:316	—Workforce clearance procedure
§ 2:317	—Termination procedures
§ 2:318	Information access management
§ 2:319	—Isolating health care clearinghouse functions
§ 2:320	—Access authorization
§ 2:321	—Access establishment and modification

HEALTH CARE PRIVACY AND SECURITY

- § 2:322 —Access establishment and modification
implementation
- § 2:323 Security awareness and training
- § 2:324 —Security reminders
- § 2:325 —Protection from malicious software
- § 2:326 —Log-in monitoring
- § 2:327 —Password management
- § 2:328 Security incident procedures
- § 2:329 Contingency plan
- § 2:330 —Data backup plan
- § 2:331 —Disaster recovery plan
- § 2:332 —Emergency mode operation plan
- § 2:333 —Testing and revision procedures
- § 2:334 —Applications and data criticality analysis
- § 2:335 Evaluation
- § 2:336 Business associate contracts and other
agreements
- § 2:337 Physical safeguards
- § 2:338 Device and media controls
- § 2:339 Technical safeguards
- § 2:340 Organizational requirements
- § 2:341 —Requirements for group health plans
- § 2:342 Policies and procedures
- § 2:343 Cybersecurity

E. PRIVACY

- § 2:344 Application of privacy provisions and penalties
to business associates
- § 2:345 Applicability
- § 2:346 Application to health care clearinghouses
- § 2:347 Exceptions
- § 2:348 Uses and disclosures of deidentified protected
health information
- § 2:349 Deidentification guidance
- § 2:350 Use and disclosure of genetic information for
underwriting purposes
- § 2:351 Sale of protected health information
- § 2:352 Minimum necessary
- § 2:353 Uses and disclosures of PHI subject to an agreed
upon restriction
- § 2:354 Creation of not individually identifiable
information
- § 2:355 Disclosures to business associates
- § 2:356 Deceased individuals

TABLE OF CONTENTS

§ 2:357	Personal representatives
§ 2:358	Adults and emancipated minors
§ 2:359	Deceased individuals
§ 2:360	Confidential communications
§ 2:361	Abuse, neglect, endangerment situations
§ 2:362	Processing and disclosures with notice
§ 2:363	Disclosures by whistleblowers and workforce member crime victims
§ 2:364	Substance use disorder records
§ 2:365	Reproductive privacy after Roe
§ 2:366	Rescission of HHS notice and guidance on gender affirming care, civil rights and patient privacy

F. USES AND DISCLOSURES

§ 2:367	Business associate contracts
§ 2:368	Other arrangements for business associate agreements
§ 2:369	Business associate contracts with subcontractors
§ 2:370	Requirements for group health plans
§ 2:371	Uses and disclosures by group health plans
§ 2:372	Requirements for a covered entity with multiple covered functions
§ 2:373	Uses and disclosures to carry out treatment, payment, or health care operations
§ 2:374	—Treatment, payment, or health care operations
§ 2:375	Uses and disclosures for which an authorization is required
§ 2:376	—Sale of protected health information
§ 2:377	—Valid authorization
§ 2:378	—Other requirements of authorizations
§ 2:379	Uses and disclosures requiring an opportunity for the individual to agree or to object
§ 2:380	Opportunity to object—Emergency circumstances
§ 2:381	Uses and disclosures for involvement in the individual's care and notification purposes
§ 2:382	Uses and disclosures for disaster relief purposes
§ 2:383	Uses and disclosures when the individual is deceased
§ 2:384	Uses and disclosures for which an authorization or opportunity to agree or object is not required
§ 2:385	—Uses and disclosures for public health activities
§ 2:386	—Disclosures about victims of abuse, neglect, or domestic violence

HEALTH CARE PRIVACY AND SECURITY

- § 2:387 —Uses and disclosures for health oversight activities
- § 2:388 —Disclosures for judicial and administrative proceedings
- § 2:389 — —Defining satisfactory assurances
- § 2:390 —Disclosures for law-enforcement purposes
- § 2:391 — —Limited information for identification and location purposes
- § 2:392 — —Victims of a crime
- § 2:393 — —Decedents
- § 2:394 — —Crime on premises
- § 2:395 — —Reporting crime in emergencies
- § 2:396 —Uses and disclosures about decedents
- § 2:397 —Uses and disclosures for cadaveric organ, eye, or tissue donation purposes
- § 2:398 —Uses and disclosures for research purposes
- § 2:399 — —Documentation of waiver approval
- § 2:400 —Uses and disclosures to avert a serious threat to health or safety
- § 2:401 —Uses and disclosures for specialized government functions—Military and veterans activities
- § 2:402 — —Separation or discharge from military service
- § 2:403 — —Foreign military personnel
- § 2:404 — —National security and intelligence activities
- § 2:405 — —Protective services for the President and others
- § 2:406 — —Medical suitability determinations
- § 2:407 — —Correctional institutions and other law-enforcement custodial situations
- § 2:408 — —Covered entities that are government programs providing public benefits
- § 2:409 —National Instant Criminal Background Check System.
- § 2:410 —Disclosures for workers' compensation
- § 2:411 Other requirements relating to uses and disclosures of protected health information—Deidentified data
- § 2:412 —Reidentification
- § 2:413 —Minimum necessary uses of PHI
- § 2:414 —Minimum necessary disclosures of PHI
- § 2:415 —Minimum necessary requirements for PHI
- § 2:416 —Limited data set
- § 2:417 —Uses for fundraising

TABLE OF CONTENTS

§ 2:418	—Uses and disclosures for underwriting and related purposes
§ 2:419	—Verification requirements
§ 2:420	—Verification
§ 2:421	Notice of privacy practices for protected health information—Right to notice of privacy practices for PHI
§ 2:422	—Requirements for electronic notice
§ 2:423	—Joint notice by separate covered entities
§ 2:424	Rights to request privacy protection for PHI
§ 2:425	—Confidential communications requirements
§ 2:426	Access of individuals to PHI
§ 2:427	—Review of denial of access
§ 2:428	—Requests for access and timely action
§ 2:429	—Providing access
§ 2:430	—Time and manner of access
§ 2:431	—Denial of access
§ 2:432	Amendment of PHI
§ 2:433	—Actions on notices of amendment
§ 2:434	—Documentation
§ 2:435	Accounting of disclosures of protected health information
§ 2:436	—Content of the accounting
§ 2:437	—Providing the accounting
§ 2:438	—Documentation
§ 2:439	Administrative requirements—Personal designation
§ 2:440	—Safeguards
§ 2:441	—Complaints to the covered entity
§ 2:442	—Documentation of complaints
§ 2:443	—Mitigation
§ 2:444	—Refraining from intimidating or retaliatory acts
§ 2:445	—Waiver of rights
§ 2:446	—Policies and procedures
§ 2:447	— —Changes to privacy practices stated in the notice
§ 2:448	— —Changes to other policies or procedures
§ 2:449	—Documentation
§ 2:450	—Retention period
§ 2:451	—Group health plans
§ 2:452	Transition provisions—Use and disclosure of information
§ 2:453	—Effect of prior contracts or other arrangements with business associates

HEALTH CARE PRIVACY AND SECURITY

- § 2:454 Compliance dates for initial implementation of the privacy standards
- § 2:455 Public records laws and HIPAA protections
- § 2:456 State Medicaid restrictions and HIPAA
- § 2:457 De-identified information
- § 2:458 Disclosures to business associates
- § 2:459 Restrictions and exceptions
- § 2:460 HIPAA and ex parte communications between physicians

III. PROMOTION OF HEALTH INFORMATION TECHNOLOGY

- § 2:461 Office of the National Coordinator for Health Information Technology
- § 2:462 Certification of HIT
- § 2:463 Reports and publications
- § 2:464 Detailing of federal employees
- § 2:465 Appointment of Chief Privacy Officer
- § 2:466 HIT Policy Committee
- § 2:467 HIT Standards Committee
- § 2:468 Role of National Coordinator in the HIT Standards Committee
- § 2:469 Process for adoption of endorsed recommendations
- § 2:470 Adoption of standards, implementation specifications, and certification criteria
- § 2:471 Application and use of adopted standards and implementation specifications by federal agencies
- § 2:472 Voluntary application and use of adopted standards and implementation specifications
- § 2:473 Federal health information technology
- § 2:474 Transitions
- § 2:475 Relation to HIPAA privacy and security law
- § 2:476 Incentives for the use of health information technology
- § 2:477 Immediate funding
- § 2:478 Health information technology implementation assistance—Health information technology extension program
- § 2:479 —Health information technology research center
- § 2:480 Health information technology regional extension centers
- § 2:481 —Application review
- § 2:482 State grants to promote health information technology

TABLE OF CONTENTS

§ 2:483	Required match of state grants
§ 2:484	Requirement of a strategic plan
§ 2:485	Use of funds
§ 2:486	Guidance and regulations
§ 2:487	Private sector contributions
§ 2:488	Matching requirements
§ 2:489	Effective date
§ 2:490	Demonstration program to integrate information technology into clinical education
§ 2:491	Financial support, evaluation, and reports
§ 2:492	Information technology professionals in health care
§ 2:493	General grant and loan provisions
§ 2:494	Private right of action—Availability
§ 2:495	First Amendment and restrictions on health data
§ 2:496	Prior restraints and private information
§ 2:497	Enforcement

IV. PATIENT SAFETY AND QUALITY IMPROVEMENT ACT

§ 2:498	Overview of Act
§ 2:499	Patient safety databases
§ 2:500	Patient safety organizations
§ 2:501	Confidentiality provisions
§ 2:502	Constitutional rights of privacy in certain medical records; disclosure to disciplinary boards
§ 2:503	Continued protection of information
§ 2:504	Limitations on disclosures to providers
§ 2:505	Limitations on adverse employment actions
§ 2:506	Civil enforcement
§ 2:507	Regulations

V. REPRODUCTIVE HEALTH PRIVACY

§ 2:508	Federal government and reproductive health privacy
---------	---

VI. OFFSHORING

§ 2:509	Offshore operations in healthcare
---------	-----------------------------------

CHAPTER 3. STATE HEALTH INFORMATION AND PRIVACY AND SECURITY

I. INTRODUCTION

- § 3:1 Importance of health privacy
- § 3:2 No duty on pharmacists related to identity theft

II. SPECIFIC STATE LAWS

A. ALASKA

- § 3:3 Electronic medical records

B. ARIZONA

- § 3:4 Communicable diseases—Confidentiality of information
- § 3:5 —Release of information to government entities
- § 3:6 —Form of authorization
- § 3:7 —Restrictions upon redisclosure
- § 3:8 —Applicability to death certificates
- § 3:9 —Disclosure to at-risk third parties
- § 3:10 —Inapplicability to entities governed by title 20
- § 3:11 —Exceptions for investigations
- § 3:12 —Disclosure pursuant to court order
- § 3:13 —Criminal enforcement
- § 3:14 —Civil penalties

C. CALIFORNIA

- § 3:15 Disclosures of medical information
- § 3:16 —Application of chapter
- § 3:17 —Restrictions and required disclosures
- § 3:18 —Permitted disclosures
- § 3:19 — —Disclosures for diagnosis or treatment
- § 3:20 — —Disclosures for billing
- § 3:21 — —Disclosures to committees
- § 3:22 — —Disclosures to the coroner and educational institutions
- § 3:23 — —Employment-related health care services
- § 3:24 — —Disclosures to insurers
- § 3:25 — —Disclosures to a probate investigator and organ procurement organizations
- § 3:26 — —Disclosures based upon federal law

TABLE OF CONTENTS

§ 3:27	— —Anonymous data
§ 3:28	— —Disclosure to disease management programs
§ 3:29	— —Disclosure under other laws
§ 3:30	— —Disclosure via ethical conduct
§ 3:31	—Other disclosures
§ 3:32	—Limitations upon disclosures
§ 3:33	—Corporations that maintain medical information
§ 3:34	—Destruction of records
§ 3:35	—Disclosures by pharmaceutical companies
§ 3:36	—Treatment with psychotherapist
§ 3:37	— —Inapplicability to use of information by law enforcement
§ 3:38	—New restrictions on confidentiality effective 2015
§ 3:39	—Enforcement
§ 3:40	—California Medical Information Act (CMIA) litigation
§ 3:41	—Entity for enforcement
§ 3:42	—California data security
§ 3:43	—Creation of new entity
§ 3:44	—Enforcement under section 1280.1 of the Health and Safety Code
§ 3:45	—Restrictions on unauthorized access
§ 3:46	—Reporting obligations
§ 3:47	—Enforcement
§ 3:48	—Enforcement and regulations
§ 3:49	—Restrictions on California government employees
§ 3:50	AIDS status—General provisions
§ 3:51	—Restrictions and enforcement
§ 3:52	—Disclosure to health care providers
§ 3:53	—Preclusion of testing without consent
§ 3:54	—New additions regarding AIDS testing
§ 3:55	—Disclosures without consent
§ 3:56	Requests by businesses for medical information— Oral requests
§ 3:57	—Written requests
§ 3:58	—Exemptions
§ 3:59	Disclosure of medical information to specified individuals
§ 3:60	Disclosure of medical information for disaster relief efforts
§ 3:61	Disclosure of medical information—Public disclosures of limited information

HEALTH CARE PRIVACY AND SECURITY

- § 3:62 Online privacy for reproductive health services providers
- § 3:63 —Soliciting or trading in names and private information
- § 3:64 —Exemptions for interactive computer services
- § 3:65 —Exemptions for interactive computer services
- § 3:66 Prohibition of disclosure of information by related to legal abortion
- § 3:67 Prohibition of disclosure of medical information related a gender-affirming health care or gender-affirming mental health care of child

D. CONNECTICUT

- § 3:68 Connecticut Data Privacy Act
- § 3:69 Confidentiality of pharmacy records
- § 3:70 Pharmacy rewards

E. FLORIDA

- § 3:71 Ownership and control of patient records
- § 3:72 Exceptions
- § 3:73 Transfer of records
- § 3:74 Enforcement
- § 3:75 Fees

F. HAWAII

- § 3:76 Restrictions on Pharmacy Benefits Managers and marketing

G. INDIANA

- § 3:77 Health Care Providers

H. MARYLAND

- § 3:78 Maryland Online Data Privacy Act of 2024

I. MASSACHUSETTS

- § 3:79 Commonwealth of Massachusetts v. South Shore Hospital, Inc
- § 3:80 Commonwealth of Massachusetts v. Beth Israel Deaconess Medical Center, Inc.

J. MICHIGAN

- § 3:81 Medical records—Records retention

TABLE OF CONTENTS

- § 3:82 —Destruction of records
- § 3:83 —Enforcement
- § 3:84 —Ownership
- § 3:85 Health facilities—Patient records
- § 3:86 —Public record status
- § 3:87 —Disciplinary actions against health professionals—Reporting requirements
- § 3:88 —Exemption for peer review documents
- § 3:89 —Patient records—Contracting with third parties
- § 3:90 — —Termination of operations
- § 3:91 — —Ownership of medical records
- § 3:92 — —Enforcement

K. NEW HAMPSHIRE

- § 3:93 Pharmacy disclosures—Restrictions
- § 3:94 — —New Hampshire and Maine laws held unconstitutional
- § 3:95 —Disclosures by clearinghouses
- § 3:96 Use and disclosure of PHI—Marketing and fundraising
- § 3:97 —Enforcement
- § 3:98 —Breach notice requirements
- § 3:99 Use and Disclosure of PHI—Health information organization
- § 3:100 —Unauthorized disclosure

L. NEW YORK

- § 3:101 New York Health Information Privacy Act
- § 3:102 Geofencing

M. NEVADA

- § 3:103 Consumer Health Data
- § 3:104 Electronic transmission of health information

N. NORTH DAKOTA

- § 3:105 Health Information Organizations
- § 3:106 Voluntary participation in the health information organization—Prohibition on withholding care or benefits

O. PENNSYLVANIA

- § 3:107 Breach of Personal Information Notification Act

P. TENNESSEE

§ 3:108 Litigation protective orders

Q. TEXAS

- § 3:109 Medical records privacy—Health law
- § 3:110 —Applicability
- § 3:111 —Sovereign immunity
- § 3:112 —Covered entity
- § 3:113 —Duties of the executive commissioner
- § 3:114 —Protected health information not public
- § 3:115 —Exemptions—Partial exemption
- § 3:116 — —Processing payment transactions by
financial institutions
- § 3:117 — —Nonprofit agencies
- § 3:118 — —Workers' compensation
- § 3:119 — —Employee benefit plan
- § 3:120 — —American Red Cross
- § 3:121 — —Information relating to offenders with
mental impairments
- § 3:122 — —Education records
- § 3:123 — —Crime victim compensation
- § 3:124 —Access to and use of protected health
information—Training required
- § 3:125 — —Consumer access to EHR
- § 3:126 — —Consumer information website
- § 3:127 — —Consumer complaint report by Attorney
General
- § 3:128 —Prohibited acts—Reidentified information
- § 3:129 — —Marketing uses of information
- § 3:130 — —Sale of protected health information
prohibited; exceptions
- § 3:131 — —Notice and authorization required for
electronic disclosure of protected health
information; Exceptions
- § 3:132 —Enforcement—Remedies
- § 3:133 — —Disciplinary action
- § 3:134 — —Exclusion from state programs
- § 3:135 — —Mitigation
- § 3:136 — —Audits of covered entities
- § 3:137 — —Funding
- § 3:138 Electronic health records

R. VERMONT

§ 3:139 Restrictions on prescription drug marketing

TABLE OF CONTENTS

§ 3:140 Enforcement

S. WASHINGTON

§ 3:141 MyHealth My Data Act

T. WISCONSIN

§ 3:142 Healthcare records—Access

§ 3:143 —Additional restrictions

§ 3:144 —Preservation or destruction of patient health care records

§ 3:145 —Preservation or destruction of patient health care record—Exceptions

§ 3:146 —Applicability

§ 3:147 —Contents of certain patient health care records

§ 3:148 —Violations related to patient health care records—Enforcement

§ 3:149 — —Exceptions

§ 3:150 —Additional restrictions contained in the State Alcohol, Drug Abuse, Developmental Disabilities and Mental Health Act

§ 3:151 —Confidentiality of patient health care records

§ 3:152 — —Other exceptions

§ 3:153 — —Other reports made without informed consent

§ 3:154 — —Redisclosure

§ 3:155 Willfulness under Wisconsin’s Medical Privacy Law

CHAPTER 4. NOTICE OF SECURITY BREACHES

I. INTRODUCTION

§ 4:1 Overview of notice of security breach laws

§ 4:2 State data breach laws “At a Glance”

§ 4:3 Data security legislation

§ 4:4 Theft of laptop computers

§ 4:5 Steps to comply with notice of security breach laws

§ 4:6 Access

§ 4:7 Form of notice

II. GLB ACT REQUIREMENTS

§ 4:8 Response programs for unauthorized access to customer information and customer notice

- § 4:9 Notice to customers of unauthorized access,
content and delivery

III. HIPAA AND PERSONAL HEALTH RECORD BREACHES

- § 4:10 HIPAA and Personal Health Records Breaches
- § 4:11 Defining a “breach”
- § 4:12 Statutory requirements
- § 4:13 Timing of notice
- § 4:14 Form of notice
- § 4:15 Notice to other entities
- § 4:16 Report to Congress on breaches
- § 4:17 Requirement to issue regulations
- § 4:18 Temporary breach notification requirement for
vendors of personal health records and other
non-HIPAA covered entities
- § 4:19 Notification by third-party service providers
- § 4:20 Application of requirements for timeliness,
method, and content of notifications
- § 4:21 Notification of the Secretary
- § 4:22 Enforcement
- § 4:23 Regulations and effective date

IV. HIPAA BREACH REGULATIONS

- § 4:24 Applicability
- § 4:25 Notification to individuals
- § 4:26 Discovery of breaches
- § 4:27 Timing of notice
- § 4:28 Form of notice
- § 4:29 Notification to the media
- § 4:30 Issues to consider with the HIPAA media notice
- § 4:31 Notification to the Secretary
- § 4:32 Notification by a business associate
- § 4:33 Timing of notice—Business associate
- § 4:34 Form of notice
- § 4:35 Administrative requirements and burdens of
proof
- § 4:36 FTC PHR Breach Rule
- § 4:37 FTC enforcement actions—GoodRX
- § 4:38 —BetterHelp
- § 4:39 —Easy Healthcare (Premom)
- § 4:40 Breach notification requirements
- § 4:41 Timing of notice
- § 4:42 Form of notice

TABLE OF CONTENTS

- § 4:43 Notice to other entities
- § 4:44 Enforcement
- § 4:45 Effective date
- § 4:46 Centers for Medicare & Medicaid Services requirements
- § 4:47 HIPAA and online tracking technologies

V. GENERAL

- § 4:48 Veterans Administration security breach and data security regulations

VI. SPECIFIC STATE PROVISIONS

A. ALASKA

- § 4:49 Alaska “At a Glance”
- § 4:50 Notice of security breach
- § 4:51 Timing of disclosures
- § 4:52 Entities that maintain data
- § 4:53 Form of disclosures
- § 4:54 Notice to other entities
- § 4:55 Enforcement
- § 4:56 Effective date

B. ARIZONA

- § 4:57 Arizona “At a Glance”
- § 4:58 Notice of security breaches
- § 4:59 Timing of disclosures
- § 4:60 Form of disclosures
- § 4:61 Entities that maintain data
- § 4:62 Existing security policies
- § 4:63 Exemptions from disclosures
- § 4:64 Enforcement
- § 4:65 Preemption
- § 4:66 Effective date

C. ARKANSAS

- § 4:67 Arkansas “At a Glance”
- § 4:68 Notice of security breaches
- § 4:69 Timing of notice
- § 4:70 Entities that maintain data
- § 4:71 Existing security policies
- § 4:72 Enforcement

D. CALIFORNIA

- § 4:73 California “At a Glance”

HEALTH CARE PRIVACY AND SECURITY

- § 4:74 Notice of security breaches
- § 4:75 Timing of disclosures
- § 4:76 Form of disclosures
- § 4:77 Notice to other entities
- § 4:78 Entities that maintain data
- § 4:79 Existing security policies
- § 4:80 Enforcement
- § 4:81 Preemption
- § 4:82 Additional burdens
- § 4:83 California's Office of Privacy Protection's
recommendations
- § 4:84 State agency notice law—Notice of security
breaches
- § 4:85 Timing of disclosures
- § 4:86 Form of disclosures
- § 4:87 Entities that maintain data
- § 4:88 Existing security policies
- § 4:89 California Department of Insurance
guidance/notice

E. COLORADO

- § 4:90 Colorado "At a Glance"
- § 4:91 Notice of security breaches
- § 4:92 Timing of disclosures
- § 4:93 Form of disclosures
- § 4:94 Entities that maintain data
- § 4:95 Existing security policies
- § 4:96 Exemption from disclosure
- § 4:97 Notice to other entities
- § 4:98 Enforcement
- § 4:99 Preemption
- § 4:100 Effective date

F. CONNECTICUT

- § 4:101 Connecticut "At a Glance"
- § 4:102 Notice of security breaches
- § 4:103 Timing of disclosures
- § 4:104 Form of disclosures
- § 4:105 Notice to other entities
- § 4:106 Credit monitoring
- § 4:107 Entities that maintain data
- § 4:108 Existing security policies
- § 4:109 Exemptions from disclosures
- § 4:110 Enforcement

TABLE OF CONTENTS

- § 4:111 Department of Insurance guidance
- § 4:112 Notice of security breach

G. DELAWARE

- § 4:113 Delaware “At a Glance”
- § 4:114 Notice of data security breaches
- § 4:115 Timing of disclosures
- § 4:116 Form of disclosures
- § 4:117 Entities that maintain data
- § 4:118 Existing security policies
- § 4:119 Notice to other entities
- § 4:120 Preemption
- § 4:121 Enforcement

H. FLORIDA

- § 4:122 Florida “At a Glance”
- § 4:123 Notice of security breach
- § 4:124 Timing of disclosures
- § 4:125 Entities that maintain data
- § 4:126 Form of notice
- § 4:127 Preemption
- § 4:128 Notice to other entities
- § 4:129 Enforcement

I. GEORGIA

- § 4:130 Georgia “At a Glance”
- § 4:131 Notice of security breaches
- § 4:132 Timing of disclosures
- § 4:133 Form of notice
- § 4:134 Entities that maintain data
- § 4:135 Notice to other entities
- § 4:136 Telephone security breach
- § 4:137 Enforcement

J. GUAM

- § 4:138 Notice of security breach
- § 4:139 Timing of notice
- § 4:140 Form of notice
- § 4:141 Entities that maintain data
- § 4:142 Existing security policies
- § 4:143 Preemption
- § 4:144 Enforcement

K. HAWAII

- § 4:145 Hawaii “At a Glance”
- § 4:146 Notice of security breaches
- § 4:147 Timing of disclosures
- § 4:148 Form of disclosures
- § 4:149 Entities that maintain data
- § 4:150 Notice to other entities
- § 4:151 Enforcement
- § 4:152 Preemption
- § 4:153 Effective date

L. IDAHO

- § 4:154 Idaho “At a Glance”
- § 4:155 Notice of security breaches
- § 4:156 Timing of disclosures
- § 4:157 Form of disclosures
- § 4:158 Entities that maintain data
- § 4:159 Existing security policies
- § 4:160 Enforcement
- § 4:161 Preemption

M. ILLINOIS

- § 4:162 Notice of security breach
- § 4:163 Timing of disclosures
- § 4:164 Form of notice
- § 4:165 Entities that maintain data
- § 4:166 Form of notice
- § 4:167 Existing security policies
- § 4:168 State agency requirements
- § 4:169 Entities subject to the federal Health Insurance
Portability and Accountability Act of 1996
- § 4:170 Enforcement

N. INDIANA

- § 4:171 Indiana “At a Glance”
- § 4:172 Notice of security breaches—State agencies
- § 4:173 Timing of disclosures—State agencies
- § 4:174 Form of disclosures—State agencies
- § 4:175 Notice to other entities—State agencies
- § 4:176 Notice of security breaches
- § 4:177 Timing of disclosures
- § 4:178 Entities that maintain data

TABLE OF CONTENTS

§ 4:179	Form of disclosures
§ 4:180	Notice to other entities
§ 4:181	Existing security policies
§ 4:182	Enforcement

O. IOWA

§ 4:183	Iowa “At a Glance”
§ 4:184	Notice of security breach
§ 4:185	Entities that maintain data
§ 4:186	Timing of notice
§ 4:187	Form of notice
§ 4:188	Notice to other entities
§ 4:189	Exceptions
§ 4:190	Enforcement

P. KANSAS

§ 4:191	Kansas “At a Glance”
§ 4:192	Notice of security breaches
§ 4:193	Timing of disclosures
§ 4:194	Form of disclosures
§ 4:195	Entities that maintain data
§ 4:196	Existing security policies
§ 4:197	Notice to other entities
§ 4:198	Enforcement
§ 4:199	Preemption

Q. KENTUCKY

§ 4:200	Kentucky “At a Glance”
§ 4:201	Notice of security breach
§ 4:202	Timing of disclosures
§ 4:203	Entities that maintain data
§ 4:204	Form of disclosures
§ 4:205	Notice to other entities
§ 4:206	Existing security policies
§ 4:207	Preemption

R. LOUISIANA

§ 4:208	Louisiana “At a Glance”
§ 4:209	Notice of security breaches
§ 4:210	Entities that maintain data
§ 4:211	Exemptions from disclosures
§ 4:212	Timing of disclosures

HEALTH CARE PRIVACY AND SECURITY

- § 4:213 Form of disclosures
- § 4:214 Notice to other entities
- § 4:215 Existing policies
- § 4:216 Enforcement
- § 4:217 Preemption
- § 4:218 Effective date
- § 4:219 Litigation under Louisiana security breach law

S. MAINE

- § 4:220 Maine “At a Glance”
- § 4:221 Notice of security breaches
- § 4:222 Timing of disclosures
- § 4:223 Form of disclosures
- § 4:224 Entities that maintain data
- § 4:225 Notice to other entities
- § 4:226 Preemption
- § 4:227 Enforcement

T. MARYLAND

- § 4:228 Maryland “At a Glance”
- § 4:229 Notice of security breaches
- § 4:230 Timing of disclosures
- § 4:231 Entities that maintain data
- § 4:232 Form of notice
- § 4:233 Notice to other entities
- § 4:234 Waiver of law
- § 4:235 Preemption
- § 4:236 Enforcement

U. MASSACHUSETTS

- § 4:237 Massachusetts “At a Glance”
- § 4:238 Notice of security breaches
- § 4:239 Form of notice
- § 4:240 Entities that maintain data
- § 4:241 Notice to other entities
- § 4:242 Additional requirements on state agencies
- § 4:243 Timing of notice
- § 4:244 Effect of existing policies
- § 4:245 Enforcement
- § 4:246 Additional rulemaking

V. MICHIGAN

- § 4:247 Michigan “At a Glance”

TABLE OF CONTENTS

§ 4:248	Notice of security breaches
§ 4:249	Entities that maintain data
§ 4:250	Timing of notice
§ 4:251	Form of disclosures
§ 4:252	Notice to other entities
§ 4:253	Exemptions from disclosures
§ 4:254	Enforcement
§ 4:255	Effective date
§ 4:256	Improper advertising of security breaches
§ 4:257	—Enforcement

W. MINNESOTA

§ 4:258	Minnesota “At a Glance”
§ 4:259	Notice of security breaches
§ 4:260	Timing of disclosures
§ 4:261	Form of disclosures
§ 4:262	Entities that maintain data
§ 4:263	Existing security policies
§ 4:264	Preemption
§ 4:265	Notice to other entities
§ 4:266	Enforcement

X. MISSISSIPPI

§ 4:267	Mississippi “At a Glance”
§ 4:268	Notice of security breaches
§ 4:269	Timing of disclosures
§ 4:270	Entities that maintain data
§ 4:271	Form of notice
§ 4:272	Existing security policies
§ 4:273	Preemption
§ 4:274	Enforcement
§ 4:275	Effective date

Y. MISSOURI

§ 4:276	Missouri “At a Glance”
§ 4:277	Notice of security breach
§ 4:278	Timing of disclosures
§ 4:279	Entities that maintain data
§ 4:280	Form of notice
§ 4:281	Exemptions from disclosures
§ 4:282	Notice to other entities
§ 4:283	Existing security policies
§ 4:284	Preemption

HEALTH CARE PRIVACY AND SECURITY

§ 4:285 Enforcement

Z. MONTANA

- § 4:286 Montana “At a Glance”
- § 4:287 Notice of security breaches
- § 4:288 Timing of disclosures
- § 4:289 Form of disclosures
- § 4:290 Entities that maintain data
- § 4:291 Notice to other entities
- § 4:292 Existing security policies
- § 4:293 Enforcement
- § 4:294 Effective date
- § 4:295 Insurance security breaches—Notice of security breaches
- § 4:296 —Entities that maintain data
- § 4:297 —Notice to other entities
- § 4:298 —Timing of notice
- § 4:299 —Development of procedures
- § 4:300 —Montana guidance

AA. NEBRASKA

- § 4:301 Notice of security breaches
- § 4:302 Timing of disclosures
- § 4:303 Form of disclosures
- § 4:304 Notice to other entities
- § 4:305 Entities that maintain data
- § 4:306 Existing security policies
- § 4:307 Enforcement
- § 4:308 Preemption

BB. NEVADA

- § 4:309 Nevada “At a Glance”
- § 4:310 Notice of security breaches
- § 4:311 Timing of disclosures
- § 4:312 Form of disclosures
- § 4:313 Entities that maintain data
- § 4:314 Existing security policies
- § 4:315 Preemption
- § 4:316 Notice to other entities
- § 4:317 Data collector’s private right of action
- § 4:318 Enforcement
- § 4:319 Notice requirements on government entities

TABLE OF CONTENTS

CC. NEW HAMPSHIRE

- § 4:320 New Hampshire “At a Glance”
- § 4:321 Notice of security breaches
- § 4:322 Timing of disclosures
- § 4:323 Form of disclosures
- § 4:324 Entities that maintain data
- § 4:325 Notice to other entities
- § 4:326 Enforcement
- § 4:327 Preemption
- § 4:328 Effective date
- § 4:329 Unauthorized disclosure of PHI
- § 4:330 Enforcement

DD. NEW JERSEY

- § 4:331 New Jersey “At a Glance”
- § 4:332 Notice of security breaches
- § 4:333 Timing of disclosures
- § 4:334 Form of disclosures
- § 4:335 Entities that maintain data
- § 4:336 Exemptions from disclosure
- § 4:337 Existing security policies
- § 4:338 Notice to other entities
- § 4:339 Enforcement

EE. NEW MEXICO

- § 4:340 Notice of security breach
- § 4:341 Timing of notice
- § 4:342 Entities that maintain data
- § 4:343 Form of notice
- § 4:344 Notice requirements
- § 4:345 Exemptions
- § 4:346 Notice to other entities
- § 4:347 Enforcement

FF. NEW YORK

- § 4:348 New York “At a Glance”
- § 4:349 Businesses
- § 4:350 Timing of disclosures
- § 4:351 Form of disclosures
- § 4:352 Entities that maintain data
- § 4:353 Notice to other entities
- § 4:354 Enforcement

HEALTH CARE PRIVACY AND SECURITY

- § 4:355 State agencies
- § 4:356 New York City security breaches

GG. NORTH CAROLINA

- § 4:357 North Carolina “At a Glance”
- § 4:358 Notice of security breaches
- § 4:359 Timing of disclosures
- § 4:360 Form of disclosures
- § 4:361 Entities that maintain data
- § 4:362 Notice to other entities
- § 4:363 Existing security policies
- § 4:364 Enforcement

HH. NORTH DAKOTA

- § 4:365 North Dakota “At a Glance”
- § 4:366 Notice of security breaches
- § 4:367 Timing of disclosures
- § 4:368 Form of disclosures
- § 4:369 Notice to other entities
- § 4:370 Entities that maintain data
- § 4:371 Existing security policies
- § 4:372 Enforcement

II. OHIO

- § 4:373 Ohio “At a Glance”
- § 4:374 Notice of security breach
- § 4:375 Timing of disclosures
- § 4:376 Form of disclosures
- § 4:377 Entities that maintain data
- § 4:378 Notice to other entities
- § 4:379 Enforcement
- § 4:380 Preemption
- § 4:381 Ohio guidance
- § 4:382 Governmental entities—Notice of security breach
- § 4:383 —Timing of disclosures
- § 4:384 —Form of disclosures
- § 4:385 —Entities that maintain data
- § 4:386 —Notice to other entities
- § 4:387 —Enforcement

JJ. OKLAHOMA

- § 4:388 Oklahoma “At a Glance”

TABLE OF CONTENTS

§ 4:389	Notice of security breach
§ 4:390	Timing of disclosures
§ 4:391	Form of disclosures
§ 4:392	Entities that maintain data
§ 4:393	Existing security policies
§ 4:394	Enforcement
§ 4:395	Effective date

KK. OREGON

§ 4:396	Oregon “At a Glance”
§ 4:397	Notice of security breach
§ 4:398	Timing of notice
§ 4:399	Entities that maintain data
§ 4:400	Form of notice
§ 4:401	Notice to other entities
§ 4:402	Exceptions
§ 4:403	Enforcement

LL. PENNSYLVANIA

§ 4:404	Pennsylvania “At a Glance”
§ 4:405	Notice of security breach
§ 4:406	Timing of notice
§ 4:407	Form of notice
§ 4:408	Entities that maintain data
§ 4:409	Notice to other entities
§ 4:410	Preemption
§ 4:411	Existing security policies
§ 4:412	Enforcement

MM. PUERTO RICO

§ 4:413	Puerto Rico “At a Glance”
§ 4:414	Notice of security breach
§ 4:415	Timing of notice
§ 4:416	Notice to other entities
§ 4:417	Entities that maintain data
§ 4:418	Form of notice
§ 4:419	Existing security policies
§ 4:420	Public entities
§ 4:421	Enforcement
§ 4:422	Regulations
§ 4:423	Regulations—Entities that maintain data
§ 4:424	Regulations—Timing of notice
§ 4:425	Regulations—Form of notice

HEALTH CARE PRIVACY AND SECURITY

§ 4:426 Regulations—Enforcement

NN. RHODE ISLAND

- § 4:427 Rhode Island “At a Glance”
- § 4:428 Notification of breach
- § 4:429 Timing of notice
- § 4:430 Notice to other entities
- § 4:431 Form of notice
- § 4:432 Effect of other policies
- § 4:433 Preemption
- § 4:434 Enforcement
- § 4:435 Rhode Island Division of Insurance

OO. SOUTH CAROLINA

- § 4:436 South Carolina “At a Glance”
- § 4:437 Private entities—Notice of security breach
- § 4:438 —Timing of disclosure
- § 4:439 —Entities that maintain data
- § 4:440 —Form of notice
- § 4:441 —Existing security policies
- § 4:442 —Enforcement
- § 4:443 —Preemption
- § 4:444 —Notice to other entities
- § 4:445 —Effective date
- § 4:446 Agencies—Notice of security breach
- § 4:447 —Timing of disclosure
- § 4:448 —Entities that maintain data
- § 4:449 —Form of notice
- § 4:450 —Effect of existing procedures
- § 4:451 —Enforcement
- § 4:452 —Notice to other entities
- § 4:453 —Effective date
- § 4:454 Consumer-credit-reporting agency—Enforcement

PP. TENNESSEE

- § 4:455 Tennessee “At a Glance”
- § 4:456 Notice of security breaches
- § 4:457 Timing of disclosures
- § 4:458 Form of disclosures
- § 4:459 Entities that maintain data
- § 4:460 Existing security policies
- § 4:461 Notice to other entities
- § 4:462 Exemptions from disclosures

TABLE OF CONTENTS

§ 4:463 Enforcement

QQ. TEXAS

- § 4:464 Texas “At a Glance”
- § 4:465 Notice of security breaches
- § 4:466 Timing of disclosures
- § 4:467 Form of disclosures
- § 4:468 Entities that maintain data
- § 4:469 Existing security policies
- § 4:470 Notification to other entities
- § 4:471 Enforcement
- § 4:472 State and local agency breach notification requirements

RR. UTAH

- § 4:473 Utah “At a Glance”
- § 4:474 Notice of security breach
- § 4:475 Timing of notice
- § 4:476 Entities that maintain data
- § 4:477 Form of notice
- § 4:478 Effect of existing policies
- § 4:479 Preemption
- § 4:480 Enforcement

SS. VERMONT

- § 4:481 Vermont “At a Glance”
- § 4:482 Notice of security breaches
- § 4:483 Timing of disclosures
- § 4:484 Entities that maintain data
- § 4:485 Form of disclosures
- § 4:486 Notice to other entities
- § 4:487 Preemption
- § 4:488 Enforcement
- § 4:489 Enforcement against government entities
- § 4:490 Vermont Attorney General guidance

TT. VIRGIN ISLANDS

- § 4:491 Notice of security breach
- § 4:492 Timing of notice
- § 4:493 Form of notice
- § 4:494 Entities that maintain data
- § 4:495 Existing security policies

UU. VIRGINIA

- § 4:496 Virginia “At a Glance”
- § 4:497 Notice of security breaches
- § 4:498 Timing of notice
- § 4:499 Form of disclosure
- § 4:500 Entities that maintain data
- § 4:501 Notice to other entities
- § 4:502 Existing security policies
- § 4:503 Exemptions from notice
- § 4:504 Employers and payroll service providers
- § 4:505 Enforcement
- § 4:506 Preemption
- § 4:507 Breach of medical information notification—
 - Notice of security breach
- § 4:508 —Timing of disclosures
- § 4:509 —Form of disclosures
- § 4:510 —Entities that maintain data
- § 4:511 —Notice to other entities
- § 4:512 —Preemption

VV. WASHINGTON

- § 4:513 Washington “At a Glance”
- § 4:514 Notice of security breaches
- § 4:515 Timing of disclosures
- § 4:516 Form of disclosures
- § 4:517 Notice to other entities
- § 4:518 Entities that maintain data
- § 4:519 Existing security policies
- § 4:520 Enforcement
- § 4:521 Other requirements

WW. WASHINGTON D.C.

- § 4:522 Washington D.C. “At a Glance”
- § 4:523 Notice of security breach
- § 4:524 Timing of disclosures
- § 4:525 Form of notice
- § 4:526 Entities that maintain data
- § 4:527 Existing security policies
- § 4:528 Exemptions from disclosures
- § 4:529 Notice to other entities
- § 4:530 Enforcement

XX. WEST VIRGINIA

- § 4:531 West Virginia “At a Glance”

TABLE OF CONTENTS

§ 4:532	Notice of security breach
§ 4:533	Timing of notice
§ 4:534	Form of notice
§ 4:535	Entities that maintain data
§ 4:536	Notice to other entities
§ 4:537	Existing security policies
§ 4:538	Enforcement

YY. WISCONSIN

§ 4:539	Wisconsin “At a Glance”
§ 4:540	Notice of security breach
§ 4:541	Entities that maintain data
§ 4:542	Timing of notice
§ 4:543	Form of notice
§ 4:544	Notice to other entities
§ 4:545	Preemption
§ 4:546	Wisconsin insurance guidance

ZZ. WYOMING

§ 4:547	Wyoming “At a Glance”
§ 4:548	Notice of security breaches
§ 4:549	Timing of disclosures
§ 4:550	Form of disclosures
§ 4:551	Enforcement
§ 4:552	Entities that maintain data
§ 4:553	Preemption

CHAPTER 5. GENETIC PRIVACY

I. INTRODUCTION

§ 5:1	Overview
-------	----------

II. FEDERAL STATUTES

§ 5:2	Genetic privacy
§ 5:3	Genetic nondiscrimination in health insurance
§ 5:4	Limitations on genetic testing
§ 5:5	Prohibition on collection of genetic information
§ 5:6	Scope of application
§ 5:7	Genetic information regarding a fetus or embryo
§ 5:8	ERISA enforcement
§ 5:9	Rulemaking
§ 5:10	Effective date

HEALTH CARE PRIVACY AND SECURITY

- § 5:11 Discrimination in group premiums based upon genetic information
- § 5:12 Limitations on genetic testing—Prohibition on collection of genetic information
- § 5:13 Restrictions on the collection of genetic information
- § 5:14 Application of certain requirements
- § 5:15 Applications to genetic information of a fetus or embryo
- § 5:16 Enforcement authority relating to genetic discrimination
- § 5:17 Prohibition of health discrimination on the basis of genetic information
- § 5:18 Prohibition on the use of genetic information in setting premium rates
- § 5:19 Prohibition on genetic information as preexisting condition
- § 5:20 Limitation on requesting or requiring genetic testing
- § 5:21 Research exception
- § 5:22 Prohibition on collection of genetic information
- § 5:23 Enforcement
- § 5:24 Elimination of option of non-federal governmental plans to be excepted from requirements concerning genetic information
- § 5:25 Regulations—Initial timing
- § 5:26 Effective date
- § 5:27 No group-based discrimination on basis of genetic information—Amendments to the Internal Revenue Code of 1986
- § 5:28 Restrictions on the collection of genetic information
- § 5:29 Scope of application
- § 5:30 Enforcement
- § 5:31 Regulations and effective date
- § 5:32 Amendments to Title XVII of the Social Security Act relating to medigap
- § 5:33 Limitations on genetic testing and genetic information
- § 5:34 Prohibition on collection of genetic information
- § 5:35 Requirements of group benefits; core group benefits; uniform outline of coverage
- § 5:36 Effective date and transiting provisions—Changes to HIPAA privacy rules
- § 5:37 Amendments to HIPAA regulations—Enforcement
- § 5:38 Employment issues—Employment discrimination

TABLE OF CONTENTS

§ 5:39	Improper acquisition of genetic information
§ 5:40	Employment agency practices
§ 5:41	Labor practices
§ 5:42	Training programs
§ 5:43	Confidentiality of genetic information
§ 5:44	Enforcement
§ 5:45	Prohibition on retaliation
§ 5:46	No cause of action based upon disparate impact
§ 5:47	Formation of a commission
§ 5:48	Medical information that is not genetic information
§ 5:49	Additional regulations
§ 5:50	Rules of construction
§ 5:51	Effective date

III. SELECTED REGULATIONS

§ 5:52	Statutory basis
§ 5:53	Preexisting conditions
§ 5:54	Discrimination against participants and beneficiaries based upon a health factor
§ 5:55	Limitations on group health plans
§ 5:56	Limitation on requesting or requiring genetic testing
§ 5:57	Prohibitions on the collection of genetic information
§ 5:58	Collection prior to or in connection with enrollment
§ 5:59	Exception
§ 5:60	Additional rules for group health plans
§ 5:61	Additional restrictions on group health plans and health insurers
§ 5:62	Federal DNA collection laws
§ 5:63	Collection and use of DNA identification information
§ 5:64	Additional limitations
§ 5:65	Enforcement
§ 5:66	Privacy protection standards
§ 5:67	Expungement of records
§ 5:68	Privacy protections

IV. STATE LAW

A. ALASKA

§ 5:69	Genetic privacy
--------	-----------------

HEALTH CARE PRIVACY AND SECURITY

- § 5:70 Civil enforcement
- § 5:71 Criminal enforcement
- § 5:72 Genetic privacy

B. ARIZONA

- § 5:73 Genetic privacy

C. ARKANSAS

- § 5:74 Genetic privacy

D. CALIFORNIA

- § 5:75 Genetic privacy
- § 5:76 Direct to consumer genetic testing companies

E. COLORADO

- § 5:77 Genetic privacy
- § 5:78 Application to insurers
- § 5:79 Civil enforcement

F. CONNECTICUT

- § 5:80 Restrictions on genetic testing

G. DELAWARE

- § 5:81 Genetic privacy
- § 5:82 Retention of samples of genetic information
- § 5:83 Access to genetic information
- § 5:84 Conditions for disclosure to third-parties
- § 5:85 Scope of application
- § 5:86 Parental rights
- § 5:87 Enforcement

H. FLORIDA

- § 5:88 Genetic privacy

I. GEORGIA

- § 5:89 Genetic testing
- § 5:90 Civil enforcement

J. HAWAII

- § 5:91 Genetic privacy

TABLE OF CONTENTS

K. IDAHO

- § 5:92 Genetic privacy
- § 5:93 Restrictions on employers
- § 5:94 Enforcement
- § 5:95 Insurance

L. ILLINOIS

- § 5:96 Genetic privacy
- § 5:97 Exceptions
- § 5:98 Use of genetic testing by employers
- § 5:99 Disclosure of information
- § 5:100 Civil enforcement

M. IOWA

- § 5:101 Restrictions on genetic testing
- § 5:102 Additional restrictions
- § 5:103 Adoption of rules
- § 5:104 Enforcement
- § 5:105 Exceptions

N. KANSAS

- § 5:106 Use of genetics tests in employment

O. LOUISIANA

- § 5:107 Restrictions on prenatal genetic testing
- § 5:108 Other restrictions
- § 5:109 Exemptions
- § 5:110 Enforcement

P. MAINE

- § 5:111 Employment discrimination
- § 5:112 Discrimination on the basis of genetic information or testing

Q. MARYLAND

- § 5:113 Use of genetic tests in employment
- § 5:114 Use of genetic tests

R. MASSACHUSETTS

- § 5:115 Genetic privacy

HEALTH CARE PRIVACY AND SECURITY

§ 5:116 Enforcement

§ 5:117 Exceptions

S. MICHIGAN

§ 5:118 Genetic privacy

T. MINNESOTA

§ 5:119 Genetic privacy

§ 5:120 —Exceptions

§ 5:121 Genetic testing in employment

§ 5:122 Enforcement

U. MISSOURI

§ 5:123 Genetic privacy

V. NEBRASKA

§ 5:124 Restrictions on genetic testing

W. NEVADA

§ 5:125 Genetic privacy

§ 5:126 Disclosure of information

§ 5:127 Procedure to obtain consent

§ 5:128 Enforcement

X. NEW HAMPSHIRE

§ 5:129 General restrictions

§ 5:130 Restrictions upon use in employment

§ 5:131 Genetic testing in health insurance

§ 5:132 Civil enforcement

Y. NEW JERSEY

§ 5:133 Genetic privacy

§ 5:134 Data destruction requirements

§ 5:135 Disclosure of identity

§ 5:136 Notice to person tested

§ 5:137 Regulations

§ 5:138 Enforcement

§ 5:139 Insurance restrictions

§ 5:140 Employment discrimination

Z. NEW MEXICO

§ 5:141 Genetic privacy

TABLE OF CONTENTS

- § 5:142 Genetic discrimination
- § 5:143 Rights of retention
- § 5:144 Enforcement

AA. NEW YORK

- § 5:145 Restrictions on employment discrimination
- § 5:146 New York civil rights law
- § 5:147 Confidentiality
- § 5:148 Exceptions
- § 5:149 Enforcement

BB. NORTH CAROLINA

- § 5:150 Restrictions on genetic testing

CC. OKLAHOMA

- § 5:151 Employment discrimination
- § 5:152 Enforcement
- § 5:153 Exceptions

DD. OREGON

- § 5:154 Genetic privacy
- § 5:155 Rights of individuals
- § 5:156 Inspection right
- § 5:157 Disclosure of biological specimen or clinical
individually identifiable health information
- § 5:158 Disclosure of genetic information
- § 5:159 Enforcement
- § 5:160 Other requirements

EE. RHODE ISLAND

- § 5:161 Genetic privacy

FF. SOUTH CAROLINA

- § 5:162 Genetic privacy
- § 5:163 Genetic testing
- § 5:164 Enforcement

GG. SOUTH DAKOTA

- § 5:165 Genetic testing and insurance
- § 5:166 Genetic information and employers

HH. TEXAS

- § 5:167 Genetic privacy

HEALTH CARE PRIVACY AND SECURITY

- § 5:168 Confidentiality of genetic information
- § 5:169 Disclosure with authorization
- § 5:170 Disclosure of test results to the individual
- § 5:171 Destruction of samples
- § 5:172 Uses of genetic information
- § 5:173 Destruction of material
- § 5:174 Disclosure of test results
- § 5:175 Confidentiality of genetic information
- § 5:176 Exceptions
- § 5:177 Disclosure with authorization
- § 5:178 Enforcement
- § 5:179 Insurance restrictions and genetic privacy
- § 5:180 Improper use of tests
- § 5:181 Testing related to pregnancy
- § 5:182 Destruction of materials
- § 5:183 Disclosure of test results
- § 5:184 Confidentiality of genetic information
- § 5:185 Exceptions
- § 5:186 Disclosure with authorization
- § 5:187 Enforcement
- § 5:188 Direct to consumer genetic testing companies
- § 5:189 Texas Genomic Act of 2025

II. UTAH

- § 5:190 Genetic privacy
- § 5:191 Restrictions on employers
- § 5:192 Restrictions upon health insurers
- § 5:193 Enforcement

JJ. VERMONT

- § 5:194 Genetic privacy
- § 5:195 Genetic testing and employers
- § 5:196 Genetic testing and insurance
- § 5:197 Enforcement

KK. VIRGINIA

- § 5:198 Genetic privacy

LL. WASHINGTON

- § 5:199 Genetic privacy
- § 5:200 Genetic privacy litigation

MM. WISCONSIN

- § 5:201 Use of genetic testing in employment situations

TABLE OF CONTENTS

§ 5:202 Exceptions

Table of Laws and Rules

Table of Cases