

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
- § 1:5 —Scope of guidelines
- § 1:6 —Basic principles of national application—
Collection limitation principle
- § 1:7 — —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
- § 1:15 —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
- § 1:19 —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. (“DELIC”)
- § 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 (“NDELIC”)

§ 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”)
- § 2:274 Vision Upright MRI
- § 2:275 Baycare Health System
- § 2:276 Comstar, LLC
- § 2:277 Deer Oaks—The Behavioral Health Solution
- § 2:278 Syracuse ASC, LLC
- § 2:279 BST and Co. CPAs, LLP
- § 2:280 Top of the World Ranch Treatment Center (TWRTC)
- § 2:281 MMG Fusion, LLC
- § 2:282 Regional Women’s Health Group, LLC (“RWHG”), doing business as Axia Women’s Health

TABLE OF CONTENTS

- § 2:283 Assured Imaging Affiliated Covered Entities
("Assured Imaging")
- § 2:284 Consociate, Inc., doing business as Consociate
Health
- § 2:285 Star Group, L.P. Health Benefits Plan

C. HEARINGS

- § 2:286 Applicability
- § 2:287 Hearing before an ALJ
- § 2:288 Rights of the parties
- § 2:289 Authority of the ALJ
- § 2:290 Ex parte contacts with the ALJ
- § 2:291 Prehearing conferences
- § 2:292 Authority to settle
- § 2:293 Discovery
- § 2:294 Exchange of witness lists, witness statements,
and exhibits
- § 2:295 Subpoenas for attendance at hearing
- § 2:296 Fees
- § 2:297 Form, filing, and service of papers
- § 2:298 Computation of time
- § 2:299 Motions
- § 2:300 Sanctions
- § 2:301 Collateral estoppel
- § 2:302 The hearing
- § 2:303 Statistical sampling
- § 2:304 Witnesses
- § 2:305 Evidence
- § 2:306 The record
- § 2:307 Post hearing briefs
- § 2:308 ALJ's decision
- § 2:309 Appeal of the ALJ's decision
- § 2:310 Stay of the Secretary's decision
- § 2:311 Harmless error

D. SECURITY

- § 2:312 Statutory basis for security and privacy
regulations
- § 2:313 Applicability of regulations
- § 2:314 Organizational requirements—Hybrid entities
- § 2:315 Safeguard requirements for affiliated covered
entities
- § 2:316 Documentation
- § 2:317 Relationship to other portions of the regulations

HEALTH CARE PRIVACY AND SECURITY

- § 2:318 Applicability
- § 2:319 In general
- § 2:320 Security management process
- § 2:321 —Risk analysis
- § 2:322 —Risk management
- § 2:323 —Sanction policy
- § 2:324 —Information system activity review
- § 2:325 Assigned security responsibility
- § 2:326 Workforce security
- § 2:327 —Authorization and/or supervision
- § 2:328 —Workforce clearance procedure
- § 2:329 —Termination procedures
- § 2:330 Information access management
- § 2:331 —Isolating health care clearinghouse functions
- § 2:332 —Access authorization
- § 2:333 —Access establishment and modification
- § 2:334 —Access establishment and modification
implementation
- § 2:335 Security awareness and training
- § 2:336 —Security reminders
- § 2:337 —Protection from malicious software
- § 2:338 —Log-in monitoring
- § 2:339 —Password management
- § 2:340 Security incident procedures
- § 2:341 Contingency plan
- § 2:342 —Data backup plan
- § 2:343 —Disaster recovery plan
- § 2:344 —Emergency mode operation plan
- § 2:345 —Testing and revision procedures
- § 2:346 —Applications and data criticality analysis
- § 2:347 Evaluation
- § 2:348 Business associate contracts and other
agreements
- § 2:349 Physical safeguards
- § 2:350 Device and media controls
- § 2:351 Technical safeguards
- § 2:352 Organizational requirements
- § 2:353 —Requirements for group health plans
- § 2:354 Policies and procedures
- § 2:355 Cybersecurity

E. PRIVACY

- § 2:356 Application of privacy provisions and penalties
to business associates

TABLE OF CONTENTS

- § 2:357 Applicability
- § 2:358 Application to health care clearinghouses
- § 2:359 Exceptions
- § 2:360 Uses and disclosures of deidentified protected health information
- § 2:361 Deidentification guidance
- § 2:362 Use and disclosure of genetic information for underwriting purposes
- § 2:363 Sale of protected health information
- § 2:364 Minimum necessary
- § 2:365 Uses and disclosures of PHI subject to an agreed upon restriction
- § 2:366 Creation of not individually identifiable information
- § 2:367 Disclosures to business associates
- § 2:368 Deceased individuals
- § 2:369 Personal representatives
- § 2:370 Adults and emancipated minors
- § 2:371 Deceased individuals
- § 2:372 Confidential communications
- § 2:373 Abuse, neglect, endangerment situations
- § 2:374 Processing and disclosures with notice
- § 2:375 Disclosures by whistleblowers and workforce member crime victims
- § 2:376 Substance use disorder records
- § 2:377 Reproductive privacy after Roe
- § 2:378 Recission of HHS notice and guidance on gender affirming care, civil rights and patient privacy

F. USES AND DISCLOSURES

- § 2:379 Business associate contracts
- § 2:380 Other arrangements for business associate agreements
- § 2:381 Business associate contracts with subcontractors
- § 2:382 Requirements for group health plans
- § 2:383 Uses and disclosures by group health plans
- § 2:384 Requirements for a covered entity with multiple covered functions
- § 2:385 Uses and disclosures to carry out treatment, payment, or health care operations
- § 2:386 —Treatment, payment, or health care operations
- § 2:387 Uses and disclosures for which an authorization is required
- § 2:388 —Sale of protected health information
- § 2:389 —Valid authorization

HEALTH CARE PRIVACY AND SECURITY

- § 2:390 —Other requirements of authorizations
- § 2:391 Uses and disclosures requiring an opportunity for the individual to agree or to object
- § 2:392 Opportunity to object—Emergency circumstances
- § 2:393 Uses and disclosures for involvement in the individual's care and notification purposes
- § 2:394 Uses and disclosures for disaster relief purposes
- § 2:395 Uses and disclosures when the individual is deceased
- § 2:396 Uses and disclosures for which an authorization or opportunity to agree or object is not required
- § 2:397 —Uses and disclosures for public health activities
- § 2:398 —Disclosures about victims of abuse, neglect, or domestic violence
- § 2:399 —Uses and disclosures for health oversight activities
- § 2:400 —Disclosures for judicial and administrative proceedings
- § 2:401 — —Defining satisfactory assurances
- § 2:402 —Disclosures for law-enforcement purposes
- § 2:403 — —Limited information for identification and location purposes
- § 2:404 — —Victims of a crime
- § 2:405 — —Decedents
- § 2:406 — —Crime on premises
- § 2:407 — —Reporting crime in emergencies
- § 2:408 —Uses and disclosures about decedents
- § 2:409 —Uses and disclosures for cadaveric organ, eye, or tissue donation purposes
- § 2:410 —Uses and disclosures for research purposes
- § 2:411 — —Documentation of waiver approval
- § 2:412 —Uses and disclosures to avert a serious threat to health or safety
- § 2:413 —Uses and disclosures for specialized government functions—Military and veterans activities
- § 2:414 — —Separation or discharge from military service
- § 2:415 — —Foreign military personnel
- § 2:416 — —National security and intelligence activities
- § 2:417 — —Protective services for the President and others
- § 2:418 — —Medical suitability determinations

TABLE OF CONTENTS

§ 2:419 — —Correctional institutions and other law-enforcement custodial situations

§ 2:420 — —Covered entities that are government programs providing public benefits

§ 2:421 —National Instant Criminal Background Check System.

§ 2:422 —Disclosures for workers' compensation

§ 2:423 Other requirements relating to uses and disclosures of protected health information—Deidentified data

§ 2:424 —Reidentification

§ 2:425 —Minimum necessary uses of PHI

§ 2:426 —Minimum necessary disclosures of PHI

§ 2:427 —Minimum necessary requirements for PHI

§ 2:428 —Limited data set

§ 2:429 —Uses for fundraising

§ 2:430 —Uses and disclosures for underwriting and related purposes

§ 2:431 —Verification requirements

§ 2:432 —Verification

§ 2:433 Notice of privacy practices for protected health information—Right to notice of privacy practices for PHI

§ 2:434 —Requirements for electronic notice

§ 2:435 —Joint notice by separate covered entities

§ 2:436 Rights to request privacy protection for PHI

§ 2:437 —Confidential communications requirements

§ 2:438 Access of individuals to PHI

§ 2:439 —Review of denial of access

§ 2:440 —Requests for access and timely action

§ 2:441 —Providing access

§ 2:442 —Time and manner of access

§ 2:443 —Denial of access

§ 2:444 Amendment of PHI

§ 2:445 —Actions on notices of amendment

§ 2:446 —Documentation

§ 2:447 Accounting of disclosures of protected health information

§ 2:448 —Content of the accounting

§ 2:449 —Providing the accounting

§ 2:450 —Documentation

§ 2:451 Administrative requirements—Personal designation

§ 2:452 —Safeguards

§ 2:453 —Complaints to the covered entity

HEALTH CARE PRIVACY AND SECURITY

- § 2:454 —Documentation of complaints
- § 2:455 —Mitigation
- § 2:456 —Refraining from intimidating or retaliatory acts
- § 2:457 —Waiver of rights
- § 2:458 —Policies and procedures
- § 2:459 — —Changes to privacy practices stated in the notice
- § 2:460 — —Changes to other policies or procedures
- § 2:461 —Documentation
- § 2:462 —Retention period
- § 2:463 —Group health plans
- § 2:464 Transition provisions—Use and disclosure of information
- § 2:465 —Effect of prior contracts or other arrangements with business associates
- § 2:466 Compliance dates for initial implementation of the privacy standards
- § 2:467 Public records laws and HIPAA protections
- § 2:468 State Medicaid restrictions and HIPAA
- § 2:469 De-identified information
- § 2:470 Disclosures to business associates
- § 2:471 Restrictions and exceptions
- § 2:472 HIPAA and ex parte communications between physicians

III. PROMOTION OF HEALTH INFORMATION TECHNOLOGY

- § 2:473 Office of the National Coordinator for Health Information Technology
- § 2:474 Certification of HIT
- § 2:475 Reports and publications
- § 2:476 Detailing of federal employees
- § 2:477 Appointment of Chief Privacy Officer
- § 2:478 HIT Policy Committee
- § 2:479 HIT Standards Committee
- § 2:480 Role of National Coordinator in the HIT Standards Committee
- § 2:481 Process for adoption of endorsed recommendations
- § 2:482 Adoption of standards, implementation specifications, and certification criteria
- § 2:483 Application and use of adopted standards and implementation specifications by federal agencies

TABLE OF CONTENTS

- § 2:484 Voluntary application and use of adopted standards and implementation specifications
- § 2:485 Federal health information technology
- § 2:486 Transitions
- § 2:487 Relation to HIPAA privacy and security law
- § 2:488 Incentives for the use of health information technology
- § 2:489 Immediate funding
- § 2:490 Health information technology implementation assistance—Health information technology extension program
- § 2:491 —Health information technology research center
- § 2:492 Health information technology regional extension centers
- § 2:493 —Application review
- § 2:494 State grants to promote health information technology
- § 2:495 Required match of state grants
- § 2:496 Requirement of a strategic plan
- § 2:497 Use of funds
- § 2:498 Guidance and regulations
- § 2:499 Private sector contributions
- § 2:500 Matching requirements
- § 2:501 Effective date
- § 2:502 Demonstration program to integrate information technology into clinical education
- § 2:503 Financial support, evaluation, and reports
- § 2:504 Information technology professionals in health care
- § 2:505 General grant and loan provisions
- § 2:506 Private right of action—Availability
- § 2:507 First Amendment and restrictions on health data
- § 2:508 Prior restraints and private information
- § 2:509 Enforcement

IV. PATIENT SAFETY AND QUALITY IMPROVEMENT ACT

- § 2:510 Overview of Act
- § 2:511 Patient safety databases
- § 2:512 Patient safety organizations
- § 2:513 Confidentiality provisions
- § 2:514 Constitutional rights of privacy in certain medical records; disclosure to disciplinary boards

HEALTH CARE PRIVACY AND SECURITY

- § 2:515 Continued protection of information
- § 2:516 Limitations on disclosures to providers
- § 2:517 Limitations on adverse employment actions
- § 2:518 Civil enforcement
- § 2:519 Regulations

V. REPRODUCTIVE HEALTH PRIVACY

- § 2:520 Federal government and reproductive health privacy

VI. OFFSHORING

- § 2:521 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

TABLE OF CONTENTS

- § 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
- § 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

HEALTH CARE PRIVACY AND SECURITY

- § 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
- § 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

TABLE OF CONTENTS

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
§ 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

HEALTH CARE PRIVACY AND SECURITY

§ 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

§ 3:127.10 — —Consumer notice

§ 3:128 —Prohibited acts—Reidentified information

§ 3:129 — —Marketing uses of information

§ 3:130 — —Sale of protected health information prohibited; exceptions

TABLE OF CONTENTS

- § 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 record & AI law

R. VERMONT

- § 3:139 Restrictions on prescription drug marketing
- § 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

TABLE OF CONTENTS

- § 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 FTC Breach notification requirements
- § 4:41 FTC Breach Notification Rule—Timing of notice
- § 4:42 FTC Breach Notification Rule—Form of notice
- § 4:43 FTC Breach Notification Rule—Notice to other entities
- § 4:44 FTC Breach Notification Rule—Enforcement
- § 4:45 FTC Breach Notification Rule—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

HEALTH CARE PRIVACY AND SECURITY

- § 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”
- § 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

TABLE OF CONTENTS

§ 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
§ 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

HEALTH CARE PRIVACY AND SECURITY

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

TABLE OF CONTENTS

§ 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
§ 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

HEALTH CARE PRIVACY AND SECURITY

§ 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
§ 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

TABLE OF CONTENTS

- § 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”
- § 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”

HEALTH CARE PRIVACY AND SECURITY

- § 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
- § 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

TABLE OF CONTENTS

- § 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

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
- § 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”

TABLE OF CONTENTS

- § 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”
- § 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

HEALTH CARE PRIVACY AND SECURITY

- § 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
- § 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

TABLE OF CONTENTS

- § 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
- § 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”

HEALTH CARE PRIVACY AND SECURITY

- § 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

TABLE OF CONTENTS

- § 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”
- § 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

§ 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

TABLE OF CONTENTS

§ 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
§ 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

HEALTH CARE PRIVACY AND SECURITY

- § 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
- § 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

TABLE OF CONTENTS

- § 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

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

HEALTH CARE PRIVACY AND SECURITY

- § 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
- § 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

UU. MONTANA

- § 5:124 Genetic privacy

V. NEBRASKA

- § 5:125 Restrictions on genetic testing

W. NEVADA

- § 5:126 Genetic privacy
- § 5:127 Disclosure of information
- § 5:128 Procedure to obtain consent

TABLE OF CONTENTS

§ 5:129 Enforcement

X. NEW HAMPSHIRE

§ 5:130 General restrictions

§ 5:131 Restrictions upon use in employment

§ 5:132 Genetic testing in health insurance

§ 5:133 Civil enforcement

Y. NEW JERSEY

§ 5:134 Genetic privacy

§ 5:135 Data destruction requirements

§ 5:136 Disclosure of identity

§ 5:137 Notice to person tested

§ 5:138 Regulations

§ 5:139 Enforcement

§ 5:140 Insurance restrictions

§ 5:141 Employment discrimination

Z. NEW MEXICO

§ 5:142 Genetic privacy

§ 5:143 Genetic discrimination

§ 5:144 Rights of retention

§ 5:145 Enforcement

AA. NEW YORK

§ 5:146 Restrictions on employment discrimination

§ 5:147 New York civil rights law

§ 5:148 Confidentiality

§ 5:149 Exceptions

§ 5:150 Enforcement

BB. NORTH CAROLINA

§ 5:151 Restrictions on genetic testing

CC. OKLAHOMA

§ 5:152 Employment discrimination

§ 5:153 Enforcement

§ 5:154 Exceptions

DD. OREGON

§ 5:155 Genetic privacy

HEALTH CARE PRIVACY AND SECURITY

- § 5:156 Rights of individuals
- § 5:157 Inspection right
- § 5:158 Disclosure of biological specimen or clinical individually identifiable health information
- § 5:159 Disclosure of genetic information
- § 5:160 Enforcement
- § 5:161 Other requirements

EE. RHODE ISLAND

- § 5:162 Genetic privacy

FF. SOUTH CAROLINA

- § 5:163 Genetic privacy
- § 5:164 Genetic testing
- § 5:165 Enforcement

GG. SOUTH DAKOTA

- § 5:166 Genetic testing and insurance
- § 5:167 Genetic information and employers

GH. TENNESSEE

- § 5:168 Genetic privacy

HH. TEXAS

- § 5:169 Genetic privacy
- § 5:170 Confidentiality of genetic information
- § 5:171 Disclosure with authorization
- § 5:172 Disclosure of test results to the individual
- § 5:173 Destruction of samples
- § 5:174 Uses of genetic information
- § 5:175 Destruction of material
- § 5:176 Disclosure of test results
- § 5:177 Confidentiality of genetic information
- § 5:178 Exceptions
- § 5:179 Disclosure with authorization
- § 5:180 Enforcement
- § 5:181 Insurance restrictions and genetic privacy
- § 5:182 Improper use of tests
- § 5:183 Testing related to pregnancy
- § 5:184 Destruction of materials
- § 5:185 Disclosure of test results
- § 5:186 Confidentiality of genetic information

TABLE OF CONTENTS

- § 5:187 Exceptions
- § 5:188 Disclosure with authorization
- § 5:189 Enforcement
- § 5:190 Direct to consumer genetic testing companies
- § 5:191 Texas Genomic Act of 2025

II. UTAH

- § 5:192 Genetic privacy
- § 5:193 Restrictions on employers
- § 5:194 Restrictions upon health insurers
- § 5:195 Enforcement

JJ. VERMONT

- § 5:196 Genetic privacy
- § 5:197 Genetic testing and employers
- § 5:198 Genetic testing and insurance
- § 5:199 Enforcement

KK. VIRGINIA

- § 5:200 Genetic privacy

LL. WASHINGTON

- § 5:201 Genetic privacy
- § 5:202 Genetic privacy litigation

MM. WISCONSIN

- § 5:203 Use of genetic testing in employment situations
- § 5:204 Exceptions

Table of Laws and Rules

Table of Cases