Client Alert: OCR's Request for Information on Adapting HIPAA Privacy Rules

The Department of Health and Human Service's Office for Civil Rights (OCR) recently published a Request for Information (RFI) related to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) as amended by the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH). Public comments on the RFI are **due by February 11, 2019**.

The RFI is part of an initiative led by Deputy Secretary Eric Hargan called the "Regulatory Sprint to Coordinated Care" and is motivated in part by a desire to adapt the regulations to deal with the opioid crisis and to further value-based care coordination.

Deputy Secretary Hargan has indicated that "[i]n addressing the opioid crisis, we've heard stories about how the Privacy Rule can get in the way of patients and families getting the help they need. We've also heard how the Rule may impede other forms of care coordination that can drive value. I look forward to hearing from the public on potential improvements to HIPAA, while maintaining the important safeguards for patients' health information."

The RFI poses **54 specific questions** related to stakeholders' experience operating under HIPAA and HITECH, and their opinions about the existing framework and potential modifications to applicable regulations, focusing largely on the Privacy Rule. In particular, OCR is seeking to better understand:

- Promoting the sharing of information for treatment, care coordination, and case management;
- Facilitating the involvement of family members and caregivers in patient care, and addressing other issues related to the opioid crisis and serious mental illness;
- Accounting for disclosures of PHI from electronic health records for treatment, payment, and health care operations as required by HITECH; and
- Eliminating or modifying the current requirement for covered entities to make a good faith effort to obtain a written acknowledgment of receipt of a Notice of Privacy Practices.

The RFI also requests any other input related to amending HIPAA to reduce unnecessary burdens and promote coordinate care.

A full copy of the RFI may be downloaded from the Federal Register at: https://www.federalregister.gov/public-inspection/.

We are encouraged by OCR's willingness to consider the operational challenges encountered by the health care industry by the current regulatory regime and will be hosting a roundtable on Thursday, January 17, 2019 to discuss current challenges posed by the Privacy Rule and how to best respond to the RFI.

Register Today!

For questions regarding this update, please contact:

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