

*Do you have health care clients?*

*Do you see patient medical information?*

The rules have changed.

# HIPAA

# EZOLD

THE EZOLD LAW FIRM, P.C.  
EMPLOYMENT • BUSINESS • HEALTH LAW

Call Ezold Law at 610.660.5585

Privacy, Security and Compliance for Health Care Business Associates What you need to know now



## New HIPAA regulations apply to Business Associates of health care providers, payors and clearing houses

Changes to The Health Insurance Portability and Accountability Act of 1996 (HIPAA) in 2013 now impose **significant compliance obligations** on businesses that provide services to health care providers, payors and clearing houses.

If your business has **access to patient information**, then the new HIPAA regulations require your business to meet many of the same compliance obligations that a health care provider must meet.

This new regulatory regime is broad and carries **significant penalties for non-compliance**.

If your company meets the regulatory definition of a "Business Associate," you **must** now comply with relevant HIPAA provisions to safeguard your clients' patient data.

Under the law, **compliance is mandatory**, and the obligation to comply began on September 23, 2013.

## What HIPAA Requires

If you see your clients' patient information you are likely a business associate under the new rule. The new HIPAA rule, effective September 23, 2013, requires a Business Associate to put a privacy and security compliance program in place.

The Business Associate, at minimum must:

- Designate a security official
- Perform a security Risk Assessment
- Implement Privacy Policies
- Implement Security Policies
- Implement a Breach Incident Plan
- Implement and document workforce HIPAA training
- Execute or update Business Associate Agreements (BAA) with provider clients and downstream contractors

## Your Potential Exposure

HIPAA violations can result in significant penalties. A few recent examples show the violation cited and the penalty.

- Phoenix Cardiac Surgery, P.C. — **\$100,000**  
*Use of internet-based calendar and email*
- Alaska Dept. of Health & Social Services — **\$1.7 million**  
*No workforce training or risk management*
- Adult Pediatric & Dermatology, P.C. — **\$150,000**  
*No HIPAA policies in place and lost thumb drive*
- Mass General — **\$1 million**  
*Employee left patient schedule on commuter train*
- Massachusetts Eye & Ear — **\$1.5 million**  
*One laptop stolen*
- Providence Home and Community Services and Hospice — **\$100,000**  
*Lost laptops*

Most penalties are levied due to issues found in a post-breach investigation. Business Associates are now exposed to these same investigations, audits and penalties.

***The Office for Civil Rights publishes all breaches on a webpage referred to as the "Wall of Shame."***



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## How the Ezold Firm Can Help

The Ezold Law Firm's Business & Health Law Group has developed a **Compliance Program** to address the new HIPAA compliance needs of a Business Associate. This program assists your business in achieving compliance.

The Ezold Law Firm will:

- Assess the compliance needs of your business
- Formulate policies tailored to your operations
- Proactively address any compliance gaps
- Deliver workforce HIPAA training tailored for you
- Draft your Business Associate Agreements
- Advise on documentation obligations

After implementation, The Ezold Law Firm can:

- Assess new compliance needs
- Respond to HIPAA audits and investigations
- Counsel your team in suspected breach events

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**Christopher Ezold** is Managing Partner of the firm's Business & Health Law Group. He advises health care providers and their Business Associates on navigating the legal minefield of modern health care. Mr. Ezold focuses his practice on corporate formation, financing, contracts, licensure and credentialing, HHS audits, and regulatory and statutory compliance, including HIPAA, Stark, AKS and False Claims Act issues.



**Melanie Bork Graham** counsels businesses and health care providers, with an emphasis on information privacy and security. She has extensive experience in contractual litigation and resolving insurance coverage disputes. Ms. Graham obtained the designation of Certified Information Privacy Professional (CIPP), the global standard in privacy certification, through the International Association of Privacy Professionals (IAPP). Ms. Graham is currently a candidate for a Masters of Public Health from Thomas Jefferson University.



**Laura Sunstein Murphy** advises small business and health care provider clients on all transactional aspects of their businesses. Her practice includes a focus on structuring business relationships to comply with federal and state health care program anti-referral laws, restrictive covenant enforceability, confidentiality and HIPAA.

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