

# Health Information Compliance Alert

## Industry Notes

### Unnecessary HIPAA Barriers Removed to Tighten Gun Control

With a view to bringing under control the spate of gun violence strikes, the Obama administration issued a Notice of Proposed Rulemaking (NPRM) to facilitate criminal background checks, according to a Jan. 3 HHS press release. This will enable the National Instant Criminal Background Check System (NICS) to collect critical information regarding the mental health of buyers which may currently be barred due to legal barriers within HIPAA.

The NICS "helps to ensure that guns are not sold to those prohibited by law from having them, including felons, those convicted of domestic violence, and individuals involuntarily committed to a mental institution," says the release. "To date, background checks have prevented over two million guns from falling into the wrong hands," it added.

The proposal will enable covered entities to disclose details to the NICS in cases where individuals have been found to be mentally unstable and/or a threat to society or themselves. However, "the proposed rule would not change the existing permitted uses and disclosures of protected health information under the HIPAA Privacy Rule," the press release pointed out.

**Resources:** To learn more please see: [www.federalregister.gov](http://www.federalregister.gov).

### CMS Postpones Stage Two EHR Meaningful Use Deadline by 1 Year

If your electronic health record (EHR) implementation isn't quite ready for prime time, don't fret. That's the word from the Centers for Medicare & Medicaid Services' (CMS) latest announcement, which indicates that you'll have until 2016 to meet the stage two requirements for EHR meaningful use. That deadline was previously set for 2015, giving you an extra year to meet the stage two requirements.

"Under the revised timeline, Stage 2 will be extended through 2016 and Stage 3 will begin in 2017 for those providers that have completed at least two years in Stage 2," CMS reps said in a Dec. 6 statement. "The goal of this change is two-fold: first, to allow CMS and ONC to focus efforts on the successful implementation of the enhanced patient engagement, interoperability and health information exchange requirements in Stage 2; and second, to utilize data from Stage 2 participation to inform policy decisions for Stage 3."

The CMS reps were quick to point out that a significant amount of progress was made during the EHR incentive program's first stage. "Between 2009 and 2012, EHR adoption nearly doubled among physicians and more than tripled among hospitals," the news release notes. "As of Oct. 2013, 85 percent of eligible hospitals and more than six in 10 eligible professionals had received a Medicare or Medicaid EHR incentive payment."

To read more about the EHR stage two postponement, visit [www.healthit.gov/buzz-blog/electronic-health-and-medical-records/progress-adoption-electronic-health-records](http://www.healthit.gov/buzz-blog/electronic-health-and-medical-records/progress-adoption-electronic-health-records).

### HIPAA Audits May Not Be Coming Soon Due To Budget Issues

You may get a little breathing room on HIPAA audits. The funding for security rule audits of health care providers seems to have dried up, the HHS Office for Civil Rights (OCR) has told the Office of the Inspector General (OIG).

In a new report, the OIG calls OCR on the carpet for a number of problems with its HIPAA auditing program, ranging from documentation to organization to actually conducting the audits. In one of its recommendations, the OIG urges OCR to "provide for periodic audits in accordance with HITECH to ensure Security Rule compliance at covered entities."

"OCR explained that no funds had been appropriated for it to maintain a permanent audit program and that funds used to support audit activities previously conducted were no longer available," the OIG says in a summary of the report. The full report is at [oig.hhs.gov](http://oig.hhs.gov).

#### Medicare Software Blocks Debility, Failure To Thrive, Dementia Hospice Diagnoses In Error

You'll need to download a software patch if you're using PC-ACE PRO32 v2.48.0.100 software and submitting hospice claims with principal diagnosis codes of 290.0, 294.8, 783.7 or 799.3. An institutional claim edit in the October release of the software incorrectly restricts usage of these codes, reports Home Health & Hospice Medicare Administrative Contractor CGS in a message to providers.

**Do this:** The January software release will fix the problem, CGS says.

#### Prepare For New Hospice Cost Report Form

Your time to give the Centers for Medicare & Medicaid Services (CMS) a piece of your mind on its latest version of the hospice cost report has run out. The agency proposed revisions to the report back in April. But it had a new iteration of the report in the Paperwork Reduction Act clearance process, and the agency took comments on the form until Dec. 23, it said in the Nov. 22 Federal Register.

The new form for freestanding hospices will be effective for cost reporting periods beginning on or after Oct. 1, 2014, notes Frost Ruttenberg & Rothblatt on its website. "Several reporting requirements have been removed including the reporting of over-the-counter drug costs, unduplicated census count, and average length of stay," FR&R says.

Numerous form changes support the new requirement to break down costs by each of the four levels of care, FR&R notes: continuous, routine, inpatient respite, and general inpatient (GIP).

The new form and supporting information are at

[www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html](http://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html) □ scroll down to the Nov. 22 "Hospice Cost and Data Report" link.