

HHS Provides Resources on HIPAA Privacy Rule to Support Reproductive Health Care

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HHS Webpage: HIPAA and Reproductive Health (updated June 27, 2024)

Available at <https://www.hhs.gov/hipaa/for-professionals/special-topics/reproductive-health/index.html>

HHS's Office for Civil Rights (OCR) has updated its HIPAA and Reproductive Health webpage to assist stakeholders, HIPAA covered entities, and business associates. As background, in April 2024, HHS issued a HIPAA privacy rule to support reproductive health care privacy (2024 Privacy Rule). Among other things, the 2024 Privacy Rule prohibits the disclosure of protected health information (PHI) related to lawful reproductive health care in certain circumstances; adds a new attestation requirement that applies when HIPAA covered entities or business associates receive a request for PHI that is potentially related to reproductive health care; and requires changes to covered entities' notice of privacy practices. Compliance with the 2024 Privacy Rule is required beginning December 23, 2023, except that compliance with the notice of privacy practices provisions is not required until February 16, 2026. The webpage includes links to the 2024 Privacy Rule, press release, and fact sheet, along with the following resources:

- *Video from OCR Director.* The video addresses stakeholder concerns regarding patients who may refrain from sharing information with health care providers out of fear that PHI may be used by or shared with law enforcement. Examples explain how the 2024 Privacy Rule resolves these issues.
- *Social Media Toolkit.* The toolkit provides talking points and key messages regarding the 2024 Privacy Rule.
- *OCR Presentation.* This slide presentation provides a summary of the 2024 Privacy Rule, including key dates.
- *Model Attestation.* A model attestation form is provided for covered entities and business associates to use when receiving requests for PHI that is potentially related to reproductive health care. The model attestation includes instructions for the person requesting PHI and information for business associates and covered entities.
- *OCR Guidance.* Summaries are provided of OCR guidance on specific topics related to reproductive health care.

EBIA Comment: The webpage's resources will help covered entities and business associates faced with the task of navigating the 2024 Privacy Rule. In particular, covered entities and business associates will want to review the model attestation and update HIPAA training, policies, and assessments before the December 23, 2024, compliance date. Note also that the notice of privacy practices needs to be revised prior to the February 16, 2026, compliance date. For more information, see EBIA's HIPAA Portability, Privacy & Security manual at Sections XXIII ("How the Privacy and Security Rules Affect Group Health Plans and Plan Sponsors"), and XXVI ("Core Privacy Requirement #1: Use and Disclosure Rules"). See

also EBIA's Self-Insured Health Plans manual at Section XI ("Coverage of Abortion Services and Related Benefits").

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