



**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

*"Quality Healthcare for All"*

## ***COMPLIANCE ALERT 13-16***

### ***REMINDER: New HIPAA Omnibus Rule Now in Effect***

**EXECUTIVE SUMMARY:** On January 17, 2013, the final rule to implement HIPAA and HITECH was issued by the Office of Civil Rights (OCR). The effective date was March 26, 2013 and although enforcement of all aspects won't be until September 23, 2013, HHSCS facilities must prepare for and comply with the changes.

**CHANGES and HHSC ACTIONS TO DATE:** Some of the most significant revisions and the actions HHSC has already taken include:

- **Business associates of covered entities are directly liable for compliance with all safeguard requirements under the HIPAA Privacy and Security Rule.** *HHSC Corporate legal department has developed a "business associate addendum (BAA)" which is included as part of all business associate contracts. Contract managers work with legal review to ensure that all business associates are appropriately addressed.*
- **Increased and tiered civil money penalty structure in place.** *HHSC needs no action here but must be cognizant of the increased enforcement efforts. Corporate wide training on the new HIPAA rule and HIPAA compliance will be provided to all HHSC employees no later than September 23, 2013.*
- **Tougher definition of what constitutes a HIPAA "breach."** The breach notification rule withdraws the "harm threshold" concept and replaces it with the requirement to provide that the protected health information has a low probability of being compromised. *HHSC's Chief Compliance and Privacy Officer and the Regional Compliance Officers are attending webinars, discussing with outside counsel, and with national HIPAA experts the impact of this change in assessment of risk and definition of "breach."*
- **Notice of Privacy Practice (NOPP) changes.** The NOPP must now include reference to breach notification and notify patients that they have the right to request removal of medical services for which they pay in full prior to the services being rendered. *HHSC is revising its NOPP to comply with these and other minor changes. Compliance officers will work on distribution practices both within and outside of the EMR.*

**ACTION NEEDED:** HHSC facilities should continue to educate and train staff on the new HIPAA policy and put operational procedures in place to comply.

Sources: USC §160 and 164