

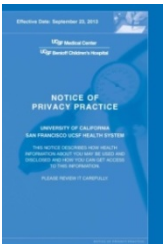

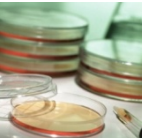









HIPAA Final Omnibus Rule
University of California San Francisco

On January 25, 2013, the U.S. Department of Health and Human Services (HHS) Office for Civil Rights (OCR) published the HIPAA Final Omnibus Rule, which amends and strengthens the HIPAA Rules. The compliance date is **September 23, 2013**. Please visit <http://www.hhs.gov/news/press/2013pres/01/20130117b.html> for more information.

Below is a summary of some of the new regulations and what you need to know to comply. If you have additional questions, please contact the Privacy Office at (415) 353-2750 or email Privacy@ucsf.edu.

Category	Summary of New Regulations	What You Need To Know
<p>Business Associates</p> 	<ul style="list-style-type: none"> Expands the definition of a Business Associate (BA) BAs directly liable for compliance with certain HIPAA provisions BA's subcontractors are considered BA's themselves and subject to the same HIPAA provisions Updated Business Associate Agreement (BAA) provisions 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> If you have a third-party relationship that involves patients' protected health information (e.g., medical transcriptionists, attorneys, consultants, cloud service providers), contact your Purchasing or Procurement Office to ensure you execute a current BAA <input checked="" type="checkbox"/> For existing BAs, Purchasing/Procurement will work with you to execute updated BAAs
<p>Self-Pay Restrictions</p> 	<p>The Covered Entity must agree to a patient's request to restrict disclosure of their PHI to a health plan if the PHI pertains to services for which the patient paid out of pocket in full</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> UCSF must agree to the restriction request if: <ul style="list-style-type: none"> It is related to a disclosure of PHI to a health plan; and The patient paid for the services out of pocket in full <input checked="" type="checkbox"/> Contact your billing office with questions <input checked="" type="checkbox"/> For Medical Center patients, refer to Appendix A in Policy 5.02.01, Confidentiality, Access, Use and Disclosure of Protected Health Information and Patient Privacy
<p>Notice of Privacy Practice</p> 	<p>Requires changes to the Notice of Privacy Practice (NPP)</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> UCSF's NPP was updated to reflect the Final Omnibus Rule provisions and must be provided to all new patients beginning September 23, 2013 <input checked="" type="checkbox"/> Contact your Admitting/Registration Department to request an updated NPP <input checked="" type="checkbox"/> Destroy all copies of the previous NPP and Acknowledgement Form; do not provide them to patients <input checked="" type="checkbox"/> Note: the current version has the Effective Date of September 23, 2013 listed on the front cover
<p>Right to Receive Electronic Copies</p> 	<p>Provides patients the right to obtain an electronic copy of their PHI</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> If a patient requests an electronic copy of their medical records and if they are maintained electronically, UCSF must provide electronic copies <input checked="" type="checkbox"/> Refer the medical records request to the appropriate medical records department (e.g., HIMS for the Medical Center)
<p>Research</p> 	<ul style="list-style-type: none"> Permits the use of a compound authorization for conditioned and unconditioned authorizations Permits the use of an authorization to encompass future research studies 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> The UC Permission to Use Personal Health Information for Research form is being updated and will be available in the coming months <input checked="" type="checkbox"/> Contact Committee on Human Research (CHR) for questions regarding research authorization

Category	Summary of New Regulations	What You Need To Know
<p>Child Immunization Records</p> 	<p>Provides greater flexibility to disclose student immunization records to schools where state law requires them to have proof of immunization for students (this includes California schools)</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> While you still need to obtain parental agreement to disclose the immunization records, this agreement can now be <i>verbal</i> or written <input checked="" type="checkbox"/> If verbal agreement is obtained, it must be documented in the patient's record
<p>Emailing Patients</p> 	<p>Clarifies that Covered Entities may send unencrypted emails to individuals if they have advised the individual of the risk, and the individual still prefers the unencrypted email</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Utilize MyChart to communicate electronically with patients where possible <input checked="" type="checkbox"/> If a patient does not want to communicate via MyChart or secure, encrypted email, you must notify the patient of the risks of sending unencrypted email (see standard language below) <input checked="" type="checkbox"/> If the patient still prefers unencrypted email, document that in the patient's record <input checked="" type="checkbox"/> Consider the following standard language to notify patients of the risks of sending unencrypted email: <ul style="list-style-type: none"> <i>"While UCSF strives to communicate with patients in a secure manner, UCSF cannot guarantee secure delivery of email transmissions sent outside of the UCSF MyChart system and the UCSF Secure Email system, and the unencrypted information in the email could be read by a third party. Should you still wish for your correspondence with UCSF to be sent in an unencrypted format, we will honor your request."</i>
<p>Marketing</p> 	<ul style="list-style-type: none"> • Modifies the definition of "marketing" which requires patient authorization • Marketing now includes communications for treatment and healthcare operations if the Covered Entity receives financial remuneration from a third party whose product or service is marketed in the communication 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> If you communicate with patients about products or services, and receive payment from a 3rd party to make that communication, you must obtain patient authorization before doing so <input checked="" type="checkbox"/> The authorization must disclose the fact that UCSF is receiving financial remuneration from the 3rd party <input checked="" type="checkbox"/> Contact the Marketing Department for questions relating to marketing communications
<p>Sale of PHI</p> 	<p>Prohibits a Covered Entity or BA from receiving remuneration in exchange for PHI without an individual's authorization, with limited exceptions (e.g., for treatment and payment purposes; as required by law)</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Please contact the Privacy Office if you plan to share PHI with a 3rd party and will receive compensation in exchange for the PHI <input checked="" type="checkbox"/> You must obtain authorization prior to disclosing the PHI
<p>Decedent Information</p> 	<p>Provides greater flexibility to use and disclose decedents' PHI 50 years after death</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Contact the appropriate medical records department (e.g., HIMS for the Medical Center) for medical records requests
<p>Breach Determination</p> 	<p>Changes the required risk assessment to determine whether a privacy "breach" has occurred under HIPAA. The new risk assessment is more objective and evaluates whether PHI has been compromised.</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Continue to report all actual or suspected privacy breach incidents to the UCSF Privacy Office <input checked="" type="checkbox"/> The UCSF Privacy Office will continue to assess all incidents to determine whether a privacy breach has occurred under HIPAA
<p>Genetic Information</p> 	<p>Clarifies that genetic information is health information</p>	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Be aware that use and disclosure of genetic information must be in accordance with the HIPAA regulations <input checked="" type="checkbox"/> Continue to report actual or suspected privacy breach incidents involving genetic information to the UCSF Privacy Office