

Recently Posted on the V&E HIPAA/HIT Extranet

We have recently posted to the V&E HIPAA/HIT Extranet (www.velaw.com) the following:

1. *ONC Final Rule – HITECH Page:*
Establishment of the Temporary Certification Program for Health Information Technology
2. *SAMHSA and HHS FAQs – HIT FAQs Page:*
Applying the Substance Abuse Confidentiality Regulations to Health Information Exchange
3. *CMS Website – HIT Page:* Link to new EHR Incentive Programs Website ■

ONC Finalizes EHR Certification Rule

The final rule to establish a temporary certification program for electronic health records (EHRs) was released by the ONC on June 18, 2010. The temporary program sets the criteria by which organizations can obtain authorization to test and approve EHRs so that hospitals and other providers are able to determine what technology meets the standards required to qualify for meaningful use incentive payments under ARRA. The rule allows non-profit organizations, including the pre-existing Certification Commission for Health Information Technology, to apply to become certification bodies, and anticipates that only a few entities will qualify. A final rule for a

permanent certification program is due in the fall. The ONC will hold informational calls for potential applicants, vendors, and providers on July 2, 2010, and will post the transcripts of each call on its [website](#) within 48 hours. The rule is posted on the HIPAA/HIT Extranet and can be found [here](#). (Information from *BNA's Health Care Daily Report*, June 21, 2010, *Modern Healthcare*, June 18, 2010, and the HHS HIT website, <http://healthit.hhs.gov/>, accessed June 30, 2010) ■

CMS Establishes “Meaningful Use” Website

CMS has set up a [website](#) devoted to information about the Medicaid and Medicare EHR incentive programs. The website provides the latest updates on eligibility, certification, meaningful use, registration, and other details providers need to know to qualify for and obtain incentive payments. The agency is working closely with the Office for Civil Rights (OCR) and the ONC to ensure that patient privacy and security of data are protected in implementing the EHR programs. In addition to rules and fact sheets, the site will include notices about related trainings and events. (Information from *Government Health IT*, June 21, 2010 and the CMS website: <http://www.cms.gov/EHRIncentivePrograms/>) ■

FTC Agrees to Exempt Providers Until Court Rules on Red Flag Lawsuit

The Federal Trade Commission has signed an agreement with health care providers to exempt them from the “red flags” rule until a lawsuit brought by the American Bar Association (ABA) is resolved. The joint stipulation signed by the FTC puts the lawsuit brought by physician organizations on hold until a federal appeals court rules on the ABA lawsuit. The agreement also gives the FTC 60 days after resolution of the ABA case to respond to the physicians’ lawsuit. (Information from *HDM Breaking News*, June 28, 2010) ■

Insurer Refuses to Pay University’s Data Breach Expenses

An insurer has filed suit in a Utah federal court claiming that it is not responsible for expenses incurred by the University of Utah after a significant data breach. In 2008, backup tapes containing personal information about 1.7 million hospital and clinic patients were stolen from the car of an employee of Perpetual Storage, the storage company that houses data for the University of Utah. The University spent \$3.3 million to provide notification, a toll-free support hotline, credit monitoring, and other services to the individuals affected, and sought reimbursement from its storage contractor. Colorado Casualty Insurance Co. provided breach insurance to Perpetual Storage, but the suit contends that the event is not covered. (Information from *Computer World*, June 4, 2010) ■