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Leon Rodriguez
Director
Office for Civil Rights
U.S. Department of Health & Human Services
200 Independence Avenue, SW
Hubert H. Humphrey Building, Room 509F
Washington, DC 20201

Dear Director Rodriguez:

The American Medical Association (AMA) is extremely concerned about the rapidly approaching September 23, 2013, deadline by which Health Insurance Portability and Accountability Act (HIPAA) covered entities—including physicians—are required to comply with sweeping changes to privacy, security, and breach notification requirements.

Since the publication of the final rule, the AMA has been educating physicians about the changes that are on the horizon. The rule requires physicians to make significant adjustments, including updating their Notice of Privacy Practices (NPP) and Business Associate Agreements (BAA), which often require consultation with an attorney as well as working closely with their vendors and consultants to ensure systems are encrypted. The AMA remains committed to educating physicians on how they can best comply with the new regulatory requirements. We recently released a HIPAA Toolkit, sample NPP and BAA, and information on encrypting protected health information as part of these efforts. These materials, along with other privacy and security resources, are available on our website for no charge.

Nonetheless, we have received an increasing number of inquiries and questions that strongly suggest that more outreach and education are needed in order to help physicians comply with these significant new requirements. We recognize and appreciate that the Office of Civil Rights coordinated with the Workgroup for Electronic Data Interchange (WEDI) on a series of webinars on the new rule. However, as you are likely aware, physicians are contending with a plethora of changes stemming from the Affordable Care Act, the Health Information Technology for Economic and Clinical Health Act, and the implementation of ICD-10, which compete for limited time and financial resources. Frankly, physicians are struggling to keep up with overlapping deadlines and changing regulatory requirements. We therefore, believe, that more education and time are necessary to prepare for the new HIPAA rules.

The principle of keeping patient information private is held in the highest regard by physicians. As an increasing amount of health care information becomes digitized and physicians are adopting new

technology at a record pace, it is imperative that physicians, and the health care industry as a whole, have adequate time and knowledge to put in place the appropriate safeguards to protect and maintain the confidentiality of patient information.

While the AMA recognizes and appreciates that the final rule allows covered entities with existing BAAs an additional year to comply, physicians are being inundated with new contracts that must meet the updated HIPAA requirements. Physicians must enter into new BAAs for electronic health record vendors and are required to begin exchanging information under the Meaningful Use Program. These changing practice models require physicians to learn new ways to protect their patients' information in an increasingly electronic environment. Most physicians are not technologists but need to understand how to operate in a digital environment to better serve their patients. We know from physician experience in the Meaningful Use Program that many physicians are struggling with the security risk analysis requirement and more education is needed.

For the reasons detailed above, the AMA respectfully requests OCR to:

- 1. Delay enforcement of the Omnibus rule by at least six months to allow physicians more time to prepare;**
- 2. Update your frequently asked questions upon which physicians heavily rely;**
- 3. Work more closely with the Centers for Medicare & Medicaid Services and the Office of the National Coordinator to maximize channels of communication to increase awareness and preparedness; and**
- 4. Consult with the WEDI and other industry stakeholders to assess compliance readiness before operationalizing any enforcement activities.**

Thank you in advance for your consideration of this matter, and the AMA hopes that you will give thoughtful consideration to our recommendations. Please contact Mari Savickis, Assistant Director, Federal Affairs at 202-789-7414 or mari.savickis@ama-assn.org should you have any questions.

Sincerely,

James L. Madara, MD