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Summary of Key Changes to the HIPAA Privacy and Security Rules

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On January 25, 2013, the Office for Civil Rights of the Department of Health and Human Services issued final rules modifying the Health Insurance Portability and Accountability Act of 1996 (HIPAA). These significant changes to HIPAA become effective March 26, 2013, but compliance is not required until September 23, 2013. The following summarizes the key changes that will affect podiatrists.

- **Notice of Privacy Practices (NPP):** NPPs must be revised to:
 - specify uses and disclosures of protected health information (PHI) that require written patient authorization, such as marketing and fundraising;
 - include a statement of the right of the patient to be notified of an unauthorized disclosure of PHI; and
 - inform patients that the practitioner must withhold information from an insurance company if the patient so requests *and* pays out of pocket in full for the service.
- **Business Associate Agreements (BAA):** BAAs must be revised to add provisions stating that business associates must:
 - use "appropriate safeguards" to protect electronic PHI;
 - report breaches of PHI to the practice;
 - enter into written agreements with their subcontractors to protect PHI; and
 - comply with the HIPAA Privacy Rule to the extent that the business associate carries out the practitioner's obligations under the Privacy Rule.
- **Breach Notification to Patients:** New standards are provided as to when patients must be notified of a breach (i.e., an unauthorized disclosure) of their PHI.
- **Access to PHI:** Practitioners who maintain PHI in electronic form must allow patients to obtain a copy of such in electronic format *and* direct the practice to transmit an electronic and/or paper copy directly to a third party, if requested by the patient.
- **Deceased Patients:**
 - HIPAA protections do not apply to patients who have been deceased for more than 50 years.
 - Practitioners may disclose a deceased patient's PHI to a family member or close personal friend "to the extent the information is relevant to that person's involvement in the decedent's care," and the disclosure is not inconsistent with the decedent's prior expressed wishes.
- **Marketing and Fundraising Activities by Practitioners:**
 - Practitioners must get written authorization from the patient when the practice receives financial remuneration from a third party that is

marketing its products or services.

- Practitioners must give patients the opportunity to opt out of fundraising communications from the practice.

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