

Lack of Security Rules Results in High Price Tags for Unsuspecting Business Owners

May, 2012

AMY L. MOORE



Associate Attorney at Underwood Perkins, P.C. practicing in the area of commercial transactions, including mergers and acquisitions; representation of professional practices.

Failure to have and follow a Security Policy is a violation of federal law.



Federal health care privacy law, commonly referred to as the HITECH Act, requires healthcare providers and many other businesses who do business with healthcare providers to adopt and implement security policies covering HIPAA security rules (a “Security Policy”). Failure to have and follow a Security Policy may run afoul of existing federal laws, and in recent months, the Department of Health & Human Services has begun imposing significant administrative fines for failure to adopt and follow a Security Policy.

Last Month, a 2-owner medical practice paid \$100,000 to settle claims based on failure to follow security rules.



In addition to healthcare providers, and businesses that 1) provide legal, actuarial, accounting, consulting, data aggregation, management, administrative, accreditation or financial services to them (referred to as “business associates”) and 2) that may have access to protected information in the course of performing services – **even if such access may be unintended** – are required by federal law to implement security rules covering the following:

- Limiting use and access to protected health information;
- Adopting safeguards to prevent its disclosure;
- Accounting for disclosures and notifications of breaches;
- Amending and updating the information when asked;
- Ensuring compliance of subcontractors; and
- Establishing and administering minimum security measures, including the restriction of access to information via physical and technical security measures.

A business can become compliant with federal law by adopting and implementing a plan that includes the federally required steps.



In addition to being prepared in the event of an audit, businesses may also reassure covered healthcare provider customers that they are HITECH compliant, as required by federal law.

To discuss whether or not your business is required by law to adopt and enact a Security Policy, please contact Amy Moore at amoore@uplawtx.com, or call (972) 661-5114.