



February 3, 2024

Department of Health and Human Services
Office for Civil Rights
Attention: HIPAA Security Rule NPRM
Hubert H. Humphrey Building, Room 509F
200 Independence Avenue SW
Washington D.C. 20201

Re: RIN Number 0945-AA22

To Whom it May Concern,

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking (NPRM) on the HIPAA Security Rule to Strengthen the Cybersecurity of Electronic Protected Health Information, published in the Federal Register on January 6, 2025. LeadingAge Illinois/Iowa is a trade association, serving a continuum of long-term care service providers throughout the states of Illinois and Iowa.

LeadingAge Illinois/Iowa, along with its members, understand the intention and purpose behind the NPRM. However, there are several provisions in the rule that will significantly impact health care providers throughout the country. It is very difficult to provide a tangible example of the significant impact as each member vastly differs with technological implementation, including electronic health records. We have several large, multisite providers who have fully implemented technology, while others only use electronic records to the extent necessary by the Federal and State government. Similarly, some members have a full information technology department with dedicated resources allocated, while others contract outside services to cover the minimum services.

Under the Administrative Safeguards section and the Workforce Security standard, requirements are being proposed to terminate access to electronic health records as soon as possible, but not later than one hour after the workforce member's employment or other arrangement ends. Many of our members provide services 24 hours per day, 7 days per week. The expectation that termination of access is completed no later than one hour after a person leaves employment is unrealistic. An example of this would include a rural nursing home provider having an employee call in and resign their position on a Friday evening. While the staff on duty will likely notify an on-call manager, the rest of the management staff, including those with the ability to terminate access, will likely not be notified until

Monday morning at the earliest. LeadingAge Illinois/Iowa members would like to see the workforce termination procedures be revised to include as soon as possible, but no later than close of business on the next business day. This would also include the business associate provision.

With the varying levels of technological integration among our members, we also have a varying level of cybersecurity measures within those systems. Unless a provider has a strong IT support system, they may need to have an evaluation to understand where they are with each of the proposed standards and implementation specifications. For example, they may conduct a risk assessment on the internal system but have likely not reviewed each business associate subcontractor that accesses technology within their system to determine compliance. Each covered entity will need to complete an evaluation to gather an understanding of whether they are in compliance and what is necessary to achieve compliance. An IT contractor with many long-term care providers provided us with a cost estimate of \$10,000 - \$30,000 for a technology evaluation for providers who don't have a strong IT system to gather a compliance plan.

The Centers for Medicare & Medicaid Services (CMS) Quality, Certification, & Oversight Reports (QCOR) website identified 14,785 active nursing home providers in the country as of December 2024. If even half of the active nursing home providers need to complete a technology evaluation to prepare for a final rule, it would cost a minimum of \$73.9 million dollars based on the estimate provided for consultation fees. This estimate does not include numerous other provider types, equipment and services that would be necessary to achieve compliance. A vast majority of LeadingAge Illinois/Iowa members are non-profit, which significantly limits their resources. Coupled with low Medicare and Medicaid reimbursement, the financial impact of a final rule may be catastrophic to a vital industry caring for older adults throughout the nation.

While cybersecurity is very important, we encourage a more phased-in approach. A phased-in approach could establish standards with implementation dates spanned out over months or even years to aid in absorbing costs over a longer period of time. We also urge you to make funding available through the use of grants to aid in covering the costs of consulting and equipment upgrades necessary to comply.

Respectfully submitted,



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