

# Health Law ALERT

*Current legal insights for health care executives*

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## *Health Information Technology and the Stimulus Package: What does it mean to you?*

Today, President Barack Obama is expected to sign the American Recovery and Reinvestment Act. Contained within that legislation is the “Health Information Technology for Economic and Clinical Health Act” (the “HITECH Act”).

The HITECH Act contains funding mechanisms to encourage the development of health information technology (HIT) as well as privacy and security provisions.

The HITECH Act (the “Act”) includes roughly \$19 billion to accelerate the adoption of HIT by physicians and hospitals, much of which will go to promoting a certified system for electronically exchanging and using health information (like patient records).

To promote HIT, the Act provides significant monetary incentives through Medicare and Medicaid to physicians and hospitals that adopt and use an electronic health records system. The Act also includes provisions for an eventual reduction in Medicare payments as a disincentive for physicians and hospitals that do not adopt

an electronic health records system. To lessen the financial burden of adopting new HIT, the Act provides for low-interest loans to certain healthcare providers and grants to regional health information exchanges.

To protect patients, the Act also includes provisions addressing privacy and security of personal health information. Among those provisions, the Act: specifically applies privacy and security obligations to business associates in the same manner as covered entities, addresses restrictions on certain disclosures of health information, requires notification in the case of a privacy or security breach, increases the penalties for violating federal privacy and security laws, provides more resources for the enforcement of those laws, and permits patients to request an audit of all disclosures of their health information made through electronic means.

Despite the seeming burden of compliance, the HIT provisions in the Act are likely to lead to new business opportunities. Hospitals and physicians are eligible to

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receive millions of dollars in incentives and vendors that develop HIT products that meet the Act's standards should find a large new market of customers.

[Click here](#) if you would like an excerpt of the Health Information Technology provisions of the American Recovery and Reinvestment Act.

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