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## Violators of HIPAA Now Have Something To Fear

The Health Insurance Portability and Accountability Act (HIPAA) prohibits the wrongful disclosure of Protected Health Information (PHI). PHI is defined as any information that identifies an individual and relates to either (1) the individual's past, present or future physical or mental health; (2) the provision of health care to the individual; or (3) the past, present or future payment for health care.

Initially, these PHI protections received much attention. However, as the years passed with only a few HIPAA prosecutions and no fines, many covered entities' fears dwindled - until now.

In January 2007, Fernando Ferrer, Jr. of Naples, Florida was convicted by a federal jury of violating HIPAA. According to the United States Department of Justice press releases, Ferrer's cousin, Isis Macado, a former employee of the Westin Clinic, downloaded more than one thousand patients' PHI and then sold that information to Ferrer. The theft resulted in the submission of more than \$7 million in fraudulent Medicare claims, with approximately \$2.5 million paid to providers and suppliers.

Macado pled guilty on January 12, 2007 and testified against Ferrer at trial. Both are awaiting sentencing on April 27, 2007. Macado faces a maximum penalty of five years in prison, a \$250,000 fine and may be ordered to pay restitution.

In addition to the HIPAA violation, Ferrer was also convicted of computer fraud, conspiring to defraud the United States (the Medicare fraud) and identity theft. In total he faces a maximum penalty of 30 years in prison. For the HIPAA violation alone, he could receive a maximum statutory term of imprisonment of ten (10) years.

FBI Special Agent in Charge, Solomon, stated, "Under HIPAA, we expect health care employees to keep our personal information confidential and secure. We will not stand by when this confidentiality is broken and criminals sell and profit from patients' health records. . ."

Although there have been few HIPAA enforcement actions to date, the FBI and DOI's new focus on prosecutions of HIPAA violations should cause covered entities and other service providers to reexamine their HIPAA policies and procedures, in order to avoid severe penalties for HIPAA violations.

For more information concerning HIPAA and the protection of PHI please [contact us](#).