

PUBLIC LAW 111-5—FEB. 17, 2009  
Division A, Title XIII, Subtitle D

SEC. 13407. TEMPORARY BREACH NOTIFICATION REQUIREMENT FOR  
VENDORS OF PERSONAL HEALTH RECORDS AND OTHER NON-HIPAA  
COVERED ENTITIES.

(a) IN GENERAL.—In accordance with subsection (c), each vendor of personal health

(e) ENFORCEMENT.—A violation of subsection (a) or (b) shall be treated as an unfair and deceptive act or practice in violation of regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. (57)(1)(B)) regarding unfair or deceptive acts or practices.

(f) DEFINITIONS.—For purposes of this section:

(1) BREACH OF SECURITY.—The term “breach of security” means, with respect to unsecured PHR identifiable health information of an individual in a personal health record, acquisition of such information without the authorization of the individual.

(2) PHR IDENTIFIABLE HEALTH INFORMATION.—The term “PHR identifiable health information” means individually identifiable health

(1) REGULATIONS; EFFECTIVE DATE.—To carry out this section, the Federal Trade Commission shall promulgate interim final regulations by not later than the date that is 180 days after the date of the enactment of this section. The provisions of this section shall apply to breaches of security that are discovered on or after the date that is 30 days after the date of publication of such interim final regulations.

(2) SUNSET.—If Congress enacts new legislation establishing requirements for notification in the case of a breach of security that apply to entities that are not covered entities or business associates, the provisions of this section shall not apply to breaches of security discovered on or after the effective date of regulations implementing such legislation.

(E) the number of subpoenas or inquiries issued;

(F) the Secretary's plan for improving compliance with and enforcement of such provisions for the following year; and

(G) the number of audits performed and a summary of audit findings pursuant to section 13411.

(2) AVAILABILITY TO PUBLIC.—Each report under paragraph (1) shall be made available to the public on the Internet website of the Department of Health and Human Services.

(b) STUDY AND REPORT ON APPLICATION OF PRIVACY AND SECURITY

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professional providing treatment evaluation in such definitions and may, based on such study, issue regulations to revise such definition.