

# Dinsmore & Shohl LLP

ATTORNEYS

## Health Care Hot Topics (November 2009)

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### Current ODH Reporting Requirements for H1N1

According to Columbus Public Health and the Franklin County Board of Health, providers are no longer required to report a single confirmed case of H1N1. As of August 5, 2009, the Ohio Department of Health no longer considers H1N1 a novel influenza virus. Thus, public health surveillance for this virus will now be identical to that done for seasonal influenza viruses. Accordingly, the only H1N1-related cases that must be reported to the Ohio Department of Health are: (1) those resulting in pediatric death, (2) those requiring hospitalization, or (3) those comprising an "unusual cluster." These three criteria are contained in OAC 3701-3-02(B)(1)(m)(pediatric mortality), 3701-3-02(B)(2)(q)(hospitalizations), and 3701-3-02(C)(cluster).

### Red Flags Rule Delayed Again, Now Effective June 1, 2010

The Federal Trade Commission ("FTC") has again delayed enforcement of the Red Flags Rule, this time at the request of members of Congress. The press release can be found [here](#). In addition, some politicians have not given up the fight to exempt certain small business, including small medical practices, from complying with the FTC's Identity Theft Prevention Plan mandate. Rep. Adler of New Jersey introduced a bill that has already passed the house (H.R. 3763) that would amend the Fair Credit Reporting Act to provide for an exclusion for certain businesses including a healthcare practice with twenty (20) or fewer employees. [Stay tuned](#) to see if this exemption passes the Senate.

### 2010 Physician Fee Schedule - Sweeping Changes

The new Fee Schedule finalizes many of the sweeping changes contained in the proposed Fee Schedule such as:

1. Elimination of consultation codes;
2. Accreditation requirement for providers of advanced imaging services;
3. New coverage for cardiac and pulmonary rehab services; and,
4. Expanded list of designated health services under Stark law.

See the full 2010 Fee Schedule [here](#).

### New Interim Rule Creates Higher Penalties for HIPAA Violations

On October 30th, HHS published its new HIPAA rules that increase penalties for HIPAA and HITECH violations. The rule becomes effective Nov. 30th, and applies to violations occurring on or after Feb. 18,

2009. Covered entities that violate HIPAA or HITECH could be liable for penalties ranging from \$100 to \$50,000 depending on the nature of the violation, the resulting harm, and other factors such as the covered entities' history of prior compliance and financial condition. The interim final rule can be found [here](#).