

WARNING: Failure to allow my admittance to your establishment will place you personally and this business in violation of the

HIPAA Act and The Americans With Disabilities Act

and subject to subsequent law suits and fines.

Beaufort County, SC:

EMERGENCY ORDINANCE 2020-03

4. The following individuals are exempt from this Ordinance: any person under the age of two or at the discretion of the parent, custodian or guardian, or who is unable to safely wear a Face Covering due to age or an underlying health condition, or who is unable to remove the Face Covering without the assistance of others; and any person traveling in a personal vehicle, or when a person is alone or is in the presence of only household members in an enclosed space, and people who are actively drinking or eating. This Ordinance does not relieve business establishments and restaurants from other social distancing requirements imposed by the Governor's Executive Orders.

The **HIPAA Privacy Rule** establishes national standards to protect individuals' medical records and other personal health information and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically.

What are the penalties for violation of Hipaa?

HIPAA violations are expensive. The **penalties** for noncompliance are based on the level of negligence and can range from \$100 to \$50,000 per **violation** (or per record), with a maximum **penalty** of \$1.5 million per year for **violations** of an identical provision.

What is a HIPAA Violation?

The Health Insurance Portability and Accountability Act of 1996 is a landmark piece of legislation that was introduced to simplify the administration of healthcare, eliminate wastage, prevent healthcare fraud, and ensure that employees could maintain healthcare coverage when between jobs.

There have been notable updates to HIPAA to improve privacy protections for patients and health plan members over the years which help to ensure healthcare data is safeguarded and the privacy of patients is protected. Those updates include the HIPAA Privacy Rule, HIPAA Security Rule, HIPAA Omnibus Rule, and the HIPAA Breach Notification Rule.

A HIPAA violation is a failure to comply with any aspect of HIPAA standards and provisions detailed in detailed in 45 CFR Parts 160, 162, and 164.

The combined text of all HIPAA regulations published by the Department of Health and Human Services Office for Civil Rights runs to 115 pages and contains many provisions. There are hundreds of ways that HIPAA Rules can be violated, although the most common HIPAA violations are:

- Impermissible disclosures of protected health information (PHI)
- Unauthorized accessing of PHI
- Improper disposal of PHI
- Failure to conduct a risk analysis
- Failure to manage risks to the confidentiality, integrity, and availability of PHI
- Failure to implement safeguards to ensure the confidentiality, integrity, and availability of PHI
- Failure to provide [HIPAA training](#) and security awareness training
- Theft of patient records
- Unauthorized release of PHI to individuals not authorized to receive the information
- Sharing of PHI online or via social media without permission
- Mishandling and mismailing PHI
- Texting PHI
- Failure to notify an individual (or the Office for Civil Rights) of a security incident involving PHI within 60 days of the discovery of a breach
- Failure to document compliance efforts

How are HIPAA Violations Uncovered?

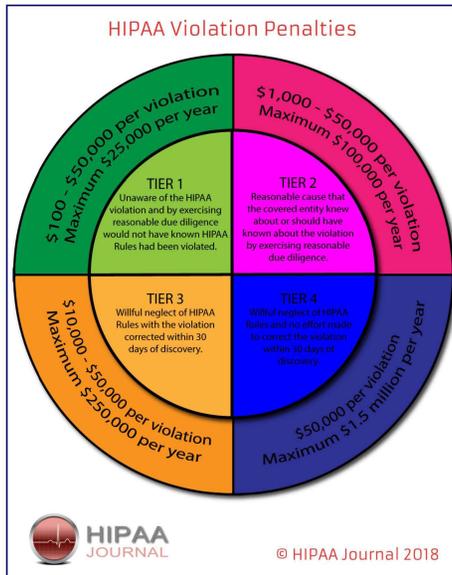
The HHS' Office for Civil Rights is the main enforcer of HIPAA Rules and investigates complaints of HIPAA violations reported by healthcare employees, patients, and health plan members. OCR also investigates all covered entities who report breaches of more than 500 records and conducts investigations into certain smaller breaches. OCR also conducts periodic audits of HIPAA covered entities and business associates.

State attorneys general also have the power to investigate breaches and investigations are often conducted due to complaints about potential HIPAA violations and when reports of breaches of patient records are received.

What are the Penalties for Violations of HIPAA Rules?

The penalties for violations of HIPAA Rules can be severe. State attorneys general can issue fines up to a maximum of \$25,000 per violation category, per calendar year. OCR can issue fines of up to \$1.5 million per violation category, per year. Multi-million-dollar fines can be – and have been – issued.

While healthcare providers, health plans, and business associates of covered entities can be fined, there are also potential fines for individuals who violate HIPAA Rules and criminal penalties may be appropriate. A jail term for violating HIPAA is a possibility, with some violations carrying a penalty of up to 10 years in jail.



The **Americans with Disabilities Act of 1990** or **ADA** ([42 U.S.C. § 12101](#)) is a [civil rights](#) law that prohibits [discrimination](#) based on [disability](#). It affords similar protections against discrimination to [Americans with disabilities](#) as the [Civil Rights Act of 1964](#), which made discrimination based on [race](#), [religion](#), [sex](#), national origin, and other characteristics illegal. In addition, unlike the Civil Rights Act, the ADA also requires covered employers to provide [reasonable accommodations](#) to employees with disabilities, and imposes [accessibility](#) requirements on public accommodations.

In 1986, the [National Council on Disability](#) had recommended the enactment of an Americans with Disabilities Act (ADA) and drafted the first version of the bill which was introduced in the House and Senate in 1988. The final version of the bill was [signed into law](#) on July 26, 1990, by President [George H. W. Bush](#). It was later [amended in 2008](#) and signed by President [George W. Bush](#) with changes effective as of January 1, 2009.

Title III—public accommodations (and commercial facilities)

See [42 U.S.C. §§ 12181–12189](#).

Under Title III, no individual may be discriminated against on the basis of disability with regards to the full and equal [enjoyment](#) of the goods, services, facilities, or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation. Public accommodations include most places of lodging (such as inns and hotels), recreation, transportation, education, and dining, along with stores, care providers, and places of public displays.

CIVIL MONETARY PENALTIES INFLATION ADJUSTMENT UNDER TITLE III

On March 28, 2014, the Department of Justice issued a [Final Rule](#) that adjusts for inflation the civil monetary penalties assessed or enforced by the Civil Rights Division, including civil penalties available under title III of the Americans with Disabilities Act of 1990 (ADA). For the ADA, this adjustment increases the maximum civil penalty for a first violation under title III from \$55,000 to \$75,000; for a subsequent violation the new maximum is \$150,000. The new maximums apply only to violations occurring on or after April 28, 2014.

This Final Rule is a non-discretionary agency action made pursuant to Section 4 of the Federal Civil Penalties Adjustment Act of 1990, as amended (Adjustment Act), which mandates the Attorney General to adjust for inflation the civil penalties assessed or enforced by the Department of Justice. The amounts of the adjustment were determined according to a specific mathematical formula set forth in Section 5 of the Adjustment Act. The previous adjustment under the ADA occurred in 1999.