



CLIENT ADVISORY

PHYSICIANS MUST REPORT NAMES OF HIV PATIENTS TO DEPARTMENT OF PUBLIC HEALTH

On November 14, 2006, the Public Health Council of the Massachusetts Department of Public Health ("DPH") voted unanimously to require physicians in Massachusetts to report to DPH the name of any patient who tests positive for HIV. The requirement will go into effect on January 1, 2007. According to published reports, the information provided by physicians will be kept within a closed computer network in a state laboratory. The information will not be accessible via the internet or through state computer systems. Only a limited number of state health professionals will have access to the information.

Physicians in Massachusetts are already required to disclose the names of AIDS patients to DPH. However, up until now HIV cases were only reported using a code. DPH has stated that the basis for requiring physicians to disclose the names of HIV patients was in response to threats from the Federal Center for Disease Control to withhold approximately \$15 million in funding for the state. The federal government is placing increased pressure on states to adopt uniform HIV reporting standards.

Pursuant to the HIPAA Privacy Rule, a physician is permitted to disclose protected health information to a public health authority without the written authorization of the individual or without providing the individual with an opportunity to agree to object to such disclosure. (45 C.F.R. 164.512(b)(1)(i)). DPH is a public health authority under the HIPAA Privacy Rule. Therefore, there is no liability exposure for physicians who appropriately report the names of HIV patients to DPH.

DPH is expected to release additional information about the new requirement/regulations within the next few weeks. The Rogers Law Firm will continue to monitor this matter for any new developments.

If you have any questions or concerns, please do not hesitate to contact any of the attorneys at The Rogers Law Firm at 617-723-1100.