

CLIENT ADVISORY

**Massachusetts Extends Compliance Deadlines for
Personal Information Security Standards**

The Massachusetts Office of Consumer Affairs and Business Regulation (“OCABR”) has extended the deadlines for compliance with its standards detailing how businesses protect and store consumers’ personal information. The OCABR regulates these measures through the enforcement of its Standards for the Protection of Personal Information of Residents of the Commonwealth (“OCABR Standards”).¹ The general compliance deadline has been extended from January 1, 2009 to May 1, 2009, which is consistent with the new Federal Trade Commission (“FTC”) Identity Theft Red Flag regulations (“Red Flag Rules”).²

The OCABR Standards apply to all persons and businesses that own, license, store or maintain personal information about a Massachusetts resident. The regulations set forth minimum requirements to safeguard against identity theft and abuse of personal information that is stored electronically or by paper filing. The OCABR Standards also require businesses to ensure that third-party service providers are capable of meeting these requirements and are contractually bound to comply with protecting this type of information. The deadline for ensuring that third-party service providers are capable of protecting personal information and contractually binding them to do so has been extended from January 1, 2009 to May 1, 2009, and the deadline for requiring written certification from third-party providers has been further extended to January 1, 2010. The regulations also require specific measures for the encryption of laptop computers and other electronic devices to protect personal information. Compliance with laptop security must be completed by May 1, 2009 and the encryption of other devices, such as memory sticks, DVDs and PDAs must be completed by January 1, 2010.

On November 5, 2008, The Rogers Law Firm issued a Client Advisory detailing a similar delay in enforcement of the FTC Red Flag Rules.³ The Red Flag Rules require creditors subject to FTC enforcement under the Fair and Accurate Credit Transactions Act of 2003 to implement programs that identify detect and respond to practices that could indicate identity theft. Compliance deadlines for the regulations under the OCABR and the FTC are now both set for May 1, 2009, allowing Massachusetts businesses to address both standards in the same time frame.

This Client Advisory is published by The Rogers Law Firm to keep its clients informed of developments in health law. The Client Advisory should not be construed or relied upon as legal advice or legal opinion on any specific facts or circumstances. If you have any questions or concerns regarding the Client Advisory or would like legal advice or legal opinion concerning a specific matter, please do not hesitate to contact any of the attorneys at The Rogers Law Firm at 617-723-1100.

¹ 201 CMR § 17.00.

² 16 CFR § 681.2.

³ See http://www.therogerslawfirm.com/advisories/client_advisory19.pdf.