

## HIPAA Brings Down the Hammer

American Academy of Estate Planning Attorneys Blog  
June 13, 2011 - **Randi J. Siegel, Guest Blogger**

Many of us have found ourselves complaining, or have heard clients complain, about HIPAA (Health Insurance Portability and Accountability Act). Hospitals and doctors' offices now require the completion of additional paperwork. Hospitals, doctors, and health insurers sometimes refuse to share information with patients or with family members, citing HIPAA as the barrier even when it isn't.

But recent news reminds us why certain pieces of this law were enacted in the first place. In February of this year, in response to particularly egregious infractions, the U.S. Department of Health and Human Services (HHS) imposed its **first civil monetary penalty** against a healthcare provider for HIPAA violations. The penalty amount: **\$4.3 million**. Shortly thereafter, HHS announced a settlement of **\$1 million** with another provider for a significant HIPAA breach.

These cases illustrate two major types of personal privacy violations that HIPAA is designed to curtail. In the first case, HHS found that a health care entity **failed to provide timely personal health information (PHI) to patients upon their request**. The organization essentially ignored patient requests for their medical records for months at a time. HHS also found that the healthcare provider did not cooperate with the HHS investigation, and that it did so out of *willful neglect*. This neglect resulted in an additional fine of \$3 million, on top of the \$1.3 million for the initial infractions.

Conversely, in the second case, a healthcare provider **disclosed patients' personal health information without approval**. An employee lost documents from an Infectious Disease practice by leaving them on a subway while commuting (the employee intended to work on them at home). These documents, never found, included patients' billing records with names, birth dates, medical record numbers, health insurers and policy numbers, and diagnoses. Some of these patients were being treated for HIV/AIDS. In addition to the \$1 million settlement, the covered entity agreed to a three-year remediation plan to help it prevent future infractions.

By imposing these large financial penalties, HHS appears to be getting serious about enforcement of patients' privacy rights. And while HIPAA may create administrative hassles that patients will continue to complain about, patients can also take some comfort in knowing that there is now a greater deterrent to doctors and hospitals mistreating their personal medical information, either by disclosing too much or too little of it.

**Do you have HIPAA Authorization forms? If not then call Nancy at 783-4575 to get more details about having these documents prepared.**

Deason Law Firm  
July/August 2011

## Now That You're Retired, Maximize Your Retirement Income

*Although much of the last decade has been an exception, historically, stock returns have outpaced inflation by the widest margin and have provided the strongest returns over the long term.*

Those long-awaited golden years have arrived, and you're enjoying a well-deserved retirement. You've saved and invested wisely to provide a financial cushion. Where do you go from here?

**Factor in Inflation** - You may want to start by considering the impact of inflation. With longer life expectancies, the need to finance ongoing living expenses, and the requirement to take annual distributions from retirement accounts, you'll want to be sure your returns exceed the rising cost of living. Even at a moderate 3% rate, inflation can substantially cut the purchasing power of your savings over 20 years. A balanced portfolio of investments to maximize security while building needed profitability may be crucial to your financial well-being.

**Keep Stocks Working for You** - Many people believe that retirement investing means allocating everything to investments that present little risk to principal, such as money market accounts or certificates of deposit. While the vast majority of these investments historically have not lost value, you should also consider the risk that long-term returns may not keep pace with inflation.

Historically, stock returns have generally outpaced inflation by the widest margin and have provided the strongest returns over the long term. Depending on your risk tolerance, you may want to consider keeping a portion of your portfolio invested in stocks and stock mutual funds throughout your retirement.<sup>1</sup>

**A Focus on Yield** - Along with some stock investments, a significant portion of your principal will likely be invested in fixed-income investments to provide a consistent stream of income. How much risk (maturity and credit risk) you need to take in these investments depends in part on how much income you need.<sup>2</sup>

Government bonds of varying maturities and coupon rates typically are available to match your projected cash flow needs. You can buy bonds maturing (meaning principal will be repaid) in one, two, and three years based on your expected cash needs in those years. You'll earn the stated rate of interest and likely have little risk of loss of principal, since you shouldn't need to sell the bonds before the scheduled due date. The rest of your bond portfolio may be invested in higher-yielding, longer-term investments.

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**Arizona Trust Code** In 2009 Arizona adopted a new Trust Code that allows greater protection for beneficiaries and surviving spouses: 1. You no longer have privacy when a spouse dies. (unless your trust has waived that requirement); 2. You now have to give an accounting to the beneficiaries of your trust (unless your trust has waived that requirement); 3. You can now provide much greater protection for your spouse and beneficiaries from lawsuits, divorce, creditors, etc. NOW, with the new Arizona Trust Code, the use of Living Trusts has moved forward as a significant tool for the protection of the surviving spouse and children from a variety of legal and financial pitfalls!

If you WANT to take advantage of the new creditor protection provisions for your spouse and children, call 783-4575 today to schedule an appointment. If you DON'T want to be required to give trust information to all beneficiaries, call 783-4575 today to schedule an appointment. If you DON'T want to be required to give accountings to all beneficiaries, call 783-4575 and schedule a review appointment with Mr. Deason. We look forward to hearing from you.

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**Your Retirement Distribution** - For many people, retirement is also a time to elect required minimum distributions (RMDs) from company pension and retirement savings plans, IRAs, or annuities. Because these distributions often involve complex analysis of income and tax scenarios, it's wise to consult your financial advisor.

Currently, withdrawals from traditional IRAs must begin no later than April 1 following the year you turn 70 1/2. After that, you must make annual withdrawals by December 31 each year. If you have substantial assets that generate more income each year than you spend, consider sheltering some of your investments in an annuity. Your investment earnings will grow and compound tax deferred until withdrawal, when they are taxed as ordinary income. Because annuities may impose fees and surrender charges, study them closely to determine whether they are appropriate for you.

When building a portfolio that is appropriate for your particular circumstances, and deciding how much should be allocated to each asset class, consider your risk tolerance and your need for income versus growth. **Call our office at 783-4575 to schedule an appointment with one of our advisors who can help you find the right balance.** <sup>1</sup>Share prices may fall in value as well as increase, and there is no assurance that the full value of an investment in stocks can ever be recovered. <sup>2</sup>Bond values are not guaranteed. A bond's market price may vary significantly from face value. Investors may receive the face value or redemption value of a bond only if it is held to maturity or call date. High-yield bonds present greater risk of default. General risks inherent to investments in stocks include the fluctuation of market prices and dividend, loss of principal, market price at sell may be more or less than initial cost and potential illiquidity of the investment in a falling market. Any performance information discussed with represent past performance. Past performance does not guarantee future results. Investment return and principal value will fluctuate so that investors' shares, when redeemed, will be more or less than their original cost. © 2010 Standard & Poor's Financial Communications. All rights reserved.

*This is a complimentary, educational newsletter. If you are NOT interested in receiving*

Whether your Family Wealth Trust or Living Trust requires an attorney to assist you with Trust Administration is dependent on the details in your Trust. In some cases you will not need legal work done to administer your Trust. But, in a vast majority of cases, an attorney's helping hand can ease the burden of transferring titles, collecting death benefits, asserting the role as the Successor Trustee and distributing assets when applicable. For more information, call Nancy at 783-4575.

**Estate Planning Seminars**  
Thurs., August 11th  
9:30am or 6:30pm

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