

endar year may not exceed \$25,000.”, added subpars. (A) to (C), and inserted concluding provisions.

Subsec. (a)(3). Pub. L. 111-5, §13410(d)(2), added par. (3).

Subsec. (b)(1). Pub. L. 111-5, §13410(e)(2)(A), substituted “No penalty may be imposed under subsection (a) and no damages obtained under subsection (d)” for “A penalty may not be imposed under subsection (a)”.

Pub. L. 111-5, §13410(a)(1)(A), substituted “a penalty has been imposed under section 1320d-6 of this title with respect to such act” for “the act constitutes an offense punishable under section 1320d-6 of this title”.

Subsec. (b)(2). Pub. L. 111-5, §13410(d)(3)(A), redesignated par. (3) as (2) and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: “A penalty may not be imposed under subsection (a) of this section with respect to a provision of this part if it is established to the satisfaction of the Secretary that the person liable for the penalty did not know, and by exercising reasonable diligence would not have known, that such person violated the provision.”

Subsec. (b)(2)(A). Pub. L. 111-5, §13410(e)(2)(B)(ii), which directed amendment of cl. (ii) of subpar. (A) by inserting “or damages” after “the penalty”, was executed by making the insertion in subpar. (A) to reflect the probable intent of Congress and the intervening amendment by Pub. L. 111-5, §13410(d)(3)(B)(i), which struck out the cl. (ii) designation. See below.

Pub. L. 111-5, §13410(e)(2)(B)(i), substituted “no penalty may be imposed under subsection (a) and no damages obtained under subsection (d)” for “a penalty may not be imposed under subsection (a)”.

Pub. L. 111-5, §13410(d)(3)(B)(i), substituted “in subparagraph (B) or subsection (a)(1)(C), a penalty may not be imposed under subsection (a) if the failure to comply is corrected” for “in subparagraph (B), a penalty may not be imposed under subsection (a) of this section if—

“(i) the failure to comply was due to reasonable cause and not to willful neglect; and

“(ii) the failure to comply is corrected”.

Subsec. (b)(2)(B). Pub. L. 111-5, §13410(d)(3)(B)(ii), substituted “(A)” for “(A)(ii)” in two places.

Subsec. (b)(2)(B)(i). Pub. L. 111-5, §13410(e)(2)(C), substituted “With respect to the imposition of a penalty by the Secretary under subsection (a), the period” for “The period”.

Subsec. (b)(3). Pub. L. 111-5, §13410(e)(2)(D), inserted “and any damages under subsection (d)” after “any penalty under subsection (a)”.

Pub. L. 111-5, §13410(d)(3)(A), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (b)(4). Pub. L. 111-5, §13410(d)(3)(A), redesignated par. (4) as (3).

Subsec. (c). Pub. L. 111-5, §13410(a)(1)(B), added subsec. (c).

Subsec. (d). Pub. L. 111-5, §13410(e)(1), added subsec. (d).

Subsec. (e). Pub. L. 111-5, §13410(f), added subsec. (e).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 effective 12 months after Feb. 17, 2009, except as otherwise specifically provided, see section 13423 of Pub. L. 111-5, set out as an Effective Date note under section 17931 of this title.

Amendment by section 13410(a)(1) of Pub. L. 111-5 applicable to penalties imposed on or after the date that is 24 months after Feb. 17, 2009, see section 17939(b)(1) of this title.

Amendment by section 13410(d)(1)–(3) of Pub. L. 111-5 applicable to violations occurring after Feb. 17, 2009, see section 17939(d)(4) of this title.

Amendment by section 13410(e)(1), (2) of Pub. L. 111-5 applicable to violations occurring after Feb. 17, 2009, see section 17939(e)(3) of this title.

§ 1320d-6. Wrongful disclosure of individually identifiable health information

(a) Offense

A person who knowingly and in violation of this part—

(1) uses or causes to be used a unique health identifier;

(2) obtains individually identifiable health information relating to an individual; or

(3) discloses individually identifiable health information to another person,

shall be punished as provided in subsection (b) of this section. For purposes of the previous sentence, a person (including an employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1320d-9(b)(3) of this title) and the individual obtained or disclosed such information without authorization.

(b) Penalties

A person described in subsection (a) of this section shall—

(1) be fined not more than \$50,000, imprisoned not more than 1 year, or both;

(2) if the offense is committed under false pretenses, be fined not more than \$100,000, imprisoned not more than 5 years, or both; and

(3) if the offense is committed with intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm, be fined not more than \$250,000, imprisoned not more than 10 years, or both.

(Aug. 14, 1935, ch. 531, title XI, §1177, as added Pub. L. 104-191, title II, §262(a), Aug. 21, 1996, 110 Stat. 2029; amended Pub. L. 111-5, div. A, title XIII, §13409, Feb. 17, 2009, 123 Stat. 271.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-5 inserted at end “For purposes of the previous sentence, a person (including an employee or other individual) shall be considered to have obtained or disclosed individually identifiable health information in violation of this part if the information is maintained by a covered entity (as defined in the HIPAA privacy regulation described in section 1320d-9(b)(3) of this title) and the individual obtained or disclosed such information without authorization.”

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 effective 12 months after Feb. 17, 2009, see section 13423 of Pub. L. 111-5, set out as an Effective Date note under section 17931 of this title.

§ 1320d-7. Effect on State law

(a) General effect

(1) General rule

Except as provided in paragraph (2), a provision or requirement under this part, or a standard or implementation specification adopted or established under sections 1320d-1 through 1320d-3 of this title, shall supersede any contrary provision of State law, including a provision of State law that requires medical or health plan records (including billing information) to be maintained or transmitted in written rather than electronic form.

(2) Exceptions

A provision or requirement under this part, or a standard or implementation specification