

*Client Advisory for Pharmaceutical Manufacturers*

**August 2002**

## HIPAA PRIVACY : NEW ISSUES FOR MARKETING

On August 9, 2002, the Department of Health and Human Services issued final modifications to the HIPAA Privacy Rule. Included are a number of significant changes to the regulations that govern Marketing.

- **Compliance with the regulations is required as of April 14, 2003.**

### FINAL MODIFICATIONS TO THE MARKETING PROVISIONS

- Covered Entities (such as physicians, pharmacies, hospitals and health plans) must obtain an individual's written authorization to use his or her protected health information (PHI) for marketing purposes except for face-to-face encounters and communications involving promotional gifts of nominal value.
- The definition of "marketing" does not include communications by the Covered Entity about treatment options or the Covered Entity's own products or services.
- Covered Entities are prohibited from disclosing PHI to a third party for the marketing activities of the third party, or selling lists of patients and enrollees to third parties.

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