

Connections for Health Partners:

Because some IDN-6 partners that are subject to HIPAA's requirements do not have full-time staff dedicated exclusively to HIPAA compliance, this memo is to bring to your attention HIPAA updates related to COVID-19 being issued by the federal government that may apply to your organization or practice. Please forward to whoever at your organization would find this information useful.

While some excerpts are provided here, we encourage someone at your organization to read up on these issues. You will want to have an action plan for sharing patient information, in ways that may differ from your normal practices, before you find yourself needing to take action quickly during this response to COVID-19.

1. [PHI] Disclosures for Emergency Preparedness - A Decision Tool: Overview

Below is a link to a decision tool published by HHS to help determine when PHI may be released during an emergency situation.

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/decision-tool-overview/index.html>

Also, here is a user-friendly [HHS decision/process flow chart](#) for quick reference.

2. Enforcement of Telehealth rules relaxed: "[The] Office of Civil Rights will exercise its enforcement discretion and will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules against covered health care providers in connection with the good faith provision of telehealth during the COVID-19 nationwide public health emergency. This notification is effective immediately; ... [the link below] explains how covered health care providers can use everyday communications technologies to offer telehealth to patients responsibly."

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

3. Hospitals: Limited Waiver of HIPAA Sanctions and Penalties During Public Health Emergency: Hospitals will not be sanctioned during this period for failing to comply with the HIPAA Privacy Rule under certain circumstances, like obtaining patient agreement to speak with family members involved in the patient's care. Hospitals need to note the limited circumstances under which the waiver applies, however. The attached document is a good refresher for anyone on HIPAA in the context of an emergency situation. [HHS Limited Waiver of HIPAA Sanctions and Penalties](#)

4. Anti-discrimination rules not relaxed: OCR has not waived or relaxed requirements related to anti-discrimination laws. Be mindful not to implement any workflow, policy, or procedural changes that will have a discriminatory impact on protected categories of populations, particularly people with disabilities, without including in those policies how those populations will be accommodated.

5. Cyber Scams: HHS is reminding people to be mindful of cyber scams tied to COVID-19 and to utilize all usual security protections around opening email messages and links embedded in messages.

This message does not contain legal advice and should not be relied upon as such. I encourage you to contact your legal counsel should you need legal advice on these matters.

- HHS Decision/Process Flow Chart
- HHS Limited Waiver of HIPAA Sanctions and Penalties