Limited Waiver of HIPAA Sanctions and Penalties During COVID-19 Public Health Emergency

On March 17, Health and Human Services Office of Civil Rights (OCR) announced a limited waiver of sanctions and penalties against covered hospitals for violations of the following provisions of the HIPAA Privacy Rule:

- Requirements to obtain a patient's agreement to speak with family members or friends involved in the patient's care - 45 CFR 164.510(b);
- Requirements to honor a request to opt out of the facility directory - 45 CFR 164.510(a);
- Requirement to distribute a notice of privacy practices - 45 CFR 164.520;
- A patient's right to request privacy restrictions - 45 CFR 164.522(a);
- A patient's right to request confidential communications - 45 CFR 164.522(b).


Key Points to Note

- **Limited duration**: The waiver became effective on March 15, 2020. Importantly, the waiver only applies for up to 72 hours from the time a hospital implements its emergency/disaster protocols. The waiver is intended to allow hospitals time to implement emergency/disaster protocols (e.g. in response to a natural disaster) but is of limited assistance to hospitals addressing longer-term public health emergencies such as COVID-19.

- **HIPAA Privacy Rules continue to apply**: until or unless OCR announces additional waivers, all other HIPAA Privacy Rule requirements continue to apply. As an example, OCR also announced on March 17 it will not exercise enforcement of HIPAA requirements related to use of expanded telehealth communications technologies during the COVID-19 public health emergency. See [Expanded Medicare Telehealth Services](https://www.hhs.gov/sites/default/files/expanded-medicare-telehealth-services.pdf) posted on PULSE for additional information.

- Even without a waiver, the HIPAA Privacy Rule allows patient information to be shared in a public health emergency for specified purposes and conditions. See [HIPAA Privacy and Novel Coronavirus](https://www.hhs.gov/sites/default/files/hipaa-and-novel-coronavirus.pdf) posted on PULSE under the Clinical Guidance tab for additional information.

- We will continue to monitor for additional announcements from OCR and issue updated guidance as applicable. In the meantime, hospitals should continue to follow HIPAA Privacy requirements.