

HIPAA in the Days of Coronavirus

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Effective communication is of paramount concern in the current public health crisis, including essential communication with patients who are or may be sick.

To that end, the Office for Civil Rights (OCR), which prosecutes Health Insurance Portability and Accountability Act (HIPAA) violations, has announced a waiver of prosecution for certain telehealth communications in light of the novel coronavirus. The OCR announced this week it will not impose penalties for good faith provision of telehealth using "non-public facing audio or video communication products" during the nationwide public health emergency. The office said that includes some technologies, and the manner in which they are used by covered providers, that "may not fully comply with the requirement of the HIPAA Rules."

The announcement specifically identified Apple FaceTime, Facebook Messenger video chat, Google Hangouts video and Skype as permissible applications.

However, the OCR cautioned that Facebook Live, Twitch and TikTok, which are public facing, should not be used. This announcement joins guidance issued by the OCR in February and earlier this month addressing HIPAA compliance in light of the ongoing pandemic.

These announcements serve as a reminders that compliance with black letter law of HIPAA in the current environment requires a balance of patient privacy, reasonableness and practicality. For more information regarding HIPAA compliance during this public health emergency, contact [Kathy Kravitz](#), any member of the [Barley Snyder Health Care Industry Group](#) or any member of the [COVID-19 Response Service Team](#).

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