



End of the COVID-19 Public Health Emergency

What Behavioral Health Providers Need to Know about Telehealth and Privacy

During the COVID-19 public health emergency (PHE) the U.S. Department of Health and Human Services' (HHS) Office for Civil Rights (OCR) exercised HIPAA enforcement discretion to support the health care sector and the public in responding to COVID-19.

Specifically, OCR sought to increase patient access to telehealth services by waiving penalties for violations of certain requirements under HIPAA. OCR also provided flexibility for sharing patient identifying protected health information (PHI) for public health purposes. With the end of PHE, these measures have expired.

WHAT YOU NEED TO KNOW

- OCR has resumed enforcing violations of the HIPAA rules related to the use of telehealth for the provision of behavioral health services.

[Click here to find out more about the HIPAA rules and guidance on compliance for telehealth.](#)

- OCR has resumed enforcing violations of the HIPAA rules regarding uses and disclosures of PHI for public health activities and health oversight activities.

Timeline

- **January 31, 2020**
HHS declares a national Public Health Emergency (PHE) for COVID-19¹.
- **March 2020**
OCR announces² it will exercise enforcement discretion and would not impose penalties for violations of the HIPAA rules for the good-faith provision of telehealth using non-public facing remote communication technology (e.g., FaceTime, Zoom, Skype, Facebook Messenger)³.
- **April 7, 2020**
OCR announces⁴ that it will exercise enforcement discretion by not imposing penalties for violations of certain provisions⁵ of the HIPAA rules for the good-faith use or disclosure of PHI by business associates for public health activities and health oversight activities under [45 CFR § 164.512\(b\)](#) or [\(d\)](#), provided that business associates notified covered entities of such disclosures within 10 days. For more information about business associates see this [HHS guidance](#).
- **April 11, 2023**
OCR announces that HIPAA enforcement discretion will expire on May 11, 2023, with the end of the COVID-19 PHE. Health care providers covered by HIPAA are given a 90-day transition period to come into compliance with the HIPAA rules related to the provision of telehealth.
- **May 11, 2023**
The Covid-19 Public Health Emergency Ends.
- **August 9, 2023**
The 90-day transition period ends for health care providers covered by HIPAA, and they now must come into full compliance with HIPAA rules related to provision of telehealth.

For More Information Resources

This resource is one of many that are available within the CoE-PHI's resource library, which can be found at coephi.org.

Request Technical Assistance

You can request brief, individualized technical assistance and join our mailing list for updates, including news about the publication of new resources and training opportunities [on our website](#).

References

1. U.S. Department of Health and Human Services, Office of the Assistant Secretary for Preparedness and Response, Determination that a Public Health Emergency Exists (January 31, 2020) <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>.
2. Notice of Expiration of Certain Notifications of Enforcement Discretion Issued in Response to the COVID-19 Nationwide Public Health Emergency, 88 Fed. Reg. 22380, 22382 (April 13, 2023), <https://www.federalregister.gov/d/2023-07824/p-29>.
3. It has never been acceptable for covered entities to use public-facing platforms such as TikTok, Facebook Live, Twitch, or public chat rooms to communicate with patients because these platforms allow for indiscriminate access to the communication. See, U.S. Department of Health and Human Services Office for Civil Rights, FAQs on Telehealth and HIPAA during the COVID-19 nationwide public health emergency, available at <https://www.hhs.gov/sites/default/files/telehealth-faqs-508.pdf>.
4. Enforcement Discretion Under HIPAA To Allow Uses and Disclosures of Protected Health Information by Business Associates for Public Health and Health Oversight Activities in Response to COVID-19, 85 Fed. Reg. 19392, 19393 (April 7, 2020), available at <https://www.federalregister.gov/documents/2020/04/07/2020-07268/enforcement-discretion-under-hipaa-to-allow-uses-and-disclosures-of-protected-health-information-by>.
5. See, 45 CFR § 164.502(a)(3); 45 CFR § 164.502 (e)(2); 45 CFR §164.504 (e)(1), (5).