



COVID-19 Webinar

Safeguarding Protected Health Information

The COVID-19 outbreak poses unique data protection problems for health care organizations and the companies with which they work. These entities must safeguard Protected Health Information in accordance with HIPAA regulations while meeting their obligations to protect public health and coping with extraordinary operational challenges.

Fox Rothschild has created this helpful, at-a-glance guide to proper handling of Protected Health Information as a supplement to its COVID-19 Privacy Concerns and Response Strategies webinar.

Isolation & Quarantine Enforcement: Public Health Service Act

- Authorizes U.S. Secretary of Health and Human Services to take measures to prevent the spread of communicable disease
- Day-to-day authority delegated to Centers for Disease Control and Prevention
- States and tribal authorities have police power to enforce isolation and quarantine, often implemented by local authorities.

COVID-19 Notification Issues

- If health care providers suspect a patient has COVID-19 they should notify infection control personnel at their facility and consult with local or state health departments to determine if patients meet “Persons Under Investigation” criteria.
- Patient permission is not required to notify state and local health authorities.

Protected Health Information Under HIPAA

- Individually identifiable health information created, received or maintained by a covered entity or business associate
 - o Covered Entities: group health plans, most health care providers
 - o Business Associates: people or entities that provide services to covered entities involving creating, receiving, maintaining or transmitting PHI, and their subcontractors

Health and Human Services COVID-19 Bulletin: Permitted Disclosures

- For public health activities, including to notify those at risk, if authorized by law
- To family, friends and others involved in care and for notification
- To prevent serious and imminent threats



Health and Human Services COVID-19 Bulletin: Non-Permitted Disclosures

- To media and others not involved in the patient's care
 - o Generally need patient permission to disclose PHI to media or public
 - o In response to specific request, hospital may disclose patient name and limited information, such as condition, unless patient objects
 - o May disclose patient information if patient is incapacitated and disclosure is in their best interest

Concerns for Covered Entities and Business Associates Working From Home

- HIPAA Privacy and Security Rules Follow You Home
 - o Security Risk Assessment must cover personal and mobile devices used to create, receive, maintain or transmit PHI
 - o PHI breach vulnerability when working from home
 - o Data breach produces business interruption, customer mistrust and HIPAA violation

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