

HIPAA FAQs for Implementing Telehealth Services to Patients During the COVID-19 Nationwide Public Health Emergency

1. **Q:** *Where can health care providers conduct telehealth?*
A: Providers should always use private locations and patients should not receive telehealth services in public or semi-public settings, absent patient consent or emergency circumstances. If telehealth cannot be provided in a private settings, reasonable HIPAA safeguards should be implemented to limit incidental uses or disclosures of PHI such as lowered voices, not using a speakerphone, or recommending that the patient move to a reasonable distance from others when discussing PHI.

2. **Q:** *What kind of remote communication platform should providers use to treat patient using telehealth?*
A: TTUHSC's Zoom and Skype for Business are the approved platforms by TTUHSC IT for providers to use if they are offering telehealth services to patients. Providers must ensure that the session is not recorded. If a TTUHSC Zoom account is dedicated for telehealth, TTUHSC IT can place it in a group that prohibits recording. Otherwise, the individual TTUHSC employee who is hosting the meeting should confirm that the session is not recorded. For information on TTUHSC's Zoom, TTUHSC users can visit IT institutional online service, <https://SolveIT.ttuhs.edu>. A solution entitled "TTUHSC Zoom" has links to other solutions that will guide the end-user step by step through the process to install the app, set up an account, and begin using TTUHSC's Zoom.

The Office of Civil Rights has indicated they would not impose sanctions during the COVID-19 emergency for using alternative platforms to communicate with patients. Facetime is an additional approved platform by the TTUHSC IT Department for providers to use if they are offering telehealth services to patients during this emergency timeframe.

PLEASE NOTE: TTUHSC has a Business Associate Agreement (BAA) with Zoom and also provides Microsoft Skype for Business as a service to TTUHSC staff. Both platforms are preferred methods for delivering telehealth visits. TTUHSC does not have a BAA with FaceTime and telehealth delivered through this platform should be limited. However, FaceTime may be used if the patient is not able to connect via TTUHSC's Zoom and Skype for Business.

3. **Q:** *Are there any non-acceptable forms of remote communication for telehealth?*
A: Yes. TTUHSC IT does not authorize or approve the use of public-facing remote communication products such as TikTok, Facebook Live, Twitch, or a chat room like Slack. These are not acceptable forms of remote communication for telehealth because they are designed to be open to the public or allow wide or indiscriminate access to the communication.

4. **Q:** *If TTUHSC uses telehealth services during the COVID-19 outbreak and electronic PHI is intercepted during transmission, will OCR impose a penalty on the covered entity for violating the HIPAA Security Rule?*

A: No. The OCR will not pursue penalties for breaches that result from good faith provisions of telehealth services implemented by TTUHSC during the designated COVID-19 public health care emergency.

5. **Q:** *Can TTUHSC share PHI of an individual who has been infected with, or exposed to, COVID-19 with a correctional institution or law enforcement official having lawful custody of an inmate or other individual?*

A: Yes. HIPAA permits a covered entity to disclose PHI of an individual who has been infected with, or exposed to, COVID-19, with law enforcement, paramedics, other first responders, and public health authorities without the individual's HIPAA authorization if the facility or official determines that the PHI is needed for providing health care to the individual; for the health and safety of the individual, other inmates, officers, employees, and others present at the correctional institution, or persons responsible for the transporting or transferring of inmates; for law enforcement on the premises of the correctional institution; or for the administration and maintenance of the safety, security and good order of the correctional institution.

6. **Q:** *Are members of the TTUHSC workforce responsible for the protection of PHI when providing health care to patients no matter from any location?*

A: Members of the TTUHSC workforce are reminded that each of us are responsible for the protection of PHI when treating patients using telehealth, working remotely or at a correctional institution. Faculty and staff do not automatically have unrestricted access to all PHI. As a reminder, do not access a patient's medical record unless you have a legitimate work related reason (e.g., you are involved in the treatment of the patient).

A list of recommendations to protect PHI are located on the TTUHSC Coronavirus webpage under the Compliance Tab. The document is titled "HIPAA Consideration When Working From Home". We recommend reviewing this document to ensure PHI is being protected in accordance with the HIPAA Privacy and Security Rule.

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References:

<https://www.hhs.gov/sites/default/files/telehealth-faqs-508.pdf>

<https://www.hhs.gov/about/news/2020/03/20/ocr-issues-guidance-on-telehealth-remote-communications-following-its-notification-of-enforcement-discretion.html>

<https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus.pdf>