

HHS Eases HIPAA Enforcement

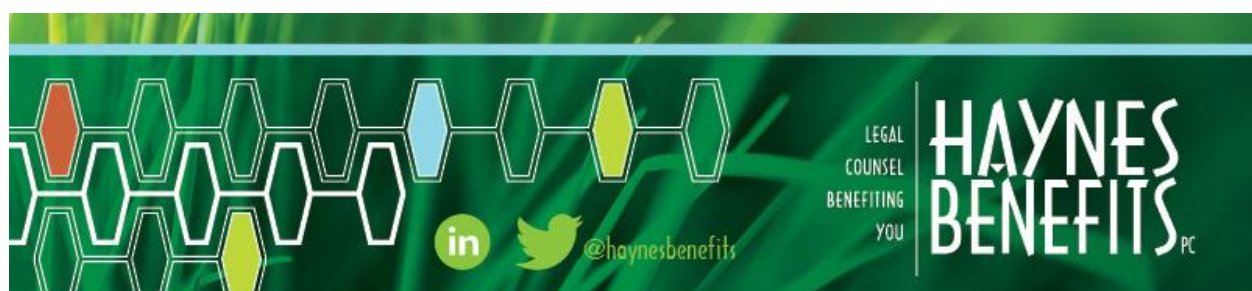
In February 2020, the Health & Human Services Office for Civil Rights (“HHS”) released a bulletin reminding covered entities and their business associates that HIPAA still applies during an emergency. Since then, HHS has repeatedly eased its stance on enforcement due to COVID-19.

On March 17, 2020, HHS announced a Notification of Enforcement Discretion to inform the public on how it will apply the HIPAA Privacy Rule to telehealth remote communications during this public health emergency. The announcement stated that HHS would waive potential penalties for HIPAA violations against health care providers that serve patients through everyday communications technology, such as FaceTime or Skype, if used in good faith for telehealth treatment or diagnostic purposes.

On April 2, 2020, HHS released another Notification of Enforcement Discretion to inform the public on how it will apply the HIPAA Privacy Rule to business associates. Current regulations allow a HIPAA business associate to use and disclose personal health information (“PHI”) for public health purposes only if expressly permitted by its business associate agreement with a HIPAA covered entity. Effective immediately, HHS will exercise discretion in enforcement and will not impose potential penalties for violations of certain provisions of the Privacy Rule against covered health care providers, or their business associates, for uses and disclosures of PHI for public health purposes.

The Rule is scheduled to be published on April 7, 2020. To review the Rule, see <https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-07268.pdf>.¹

¹ Accessed on April 6, 2020.



This Rule will remain in effect until the Secretary of HHS declares that the public health emergency no longer exists, or the expiration date of the declaration pass, whichever comes first.

If you need further assistance understanding HIPAA provisions and how they may apply, please contact our office.

Any guidance provided herein by Haynes Benefits is subject to change at any moment as a result of additional legislation and regulatory guidance.

Dated: April 9, 2020

The content herein is provided for educational and informational purposes only and does not contain legal advice. Please contact our office if you have any questions about compliance requirements applicable to your employee benefit plans or other HR compliance matters.