

COVID-19: PROTECT-PREPARE-PREVENT

MSDA MEMBER UPDATES

and

UPDATED GUIDANCE ON:

TELEMEDICINE | HIPAA | PRESCRIBING CONTROLLED SUBSTANCES

MARCH 27TH, 2020



MSDA Announcements-March 27th, 2020

- ▶ ****NOTE**** UPDATED COVID-19 GUIDANCE: Telemedicine | HIPAA | Controlled Substances
- ▶ Associate and RT Member COFFEE HOUR-March 31st at 2:00 ET
- ▶ Next State Member COFFEE HOUR- APRIL 8th at 2:00 ET
- ▶ 2020 MSDA Symposium Nov. 8th-10th Cancelled
- ▶ MSDA Staff Available for **Technical Support**-Contact Mary or Marty
- ▶ **MSDA 2019 State Survey** Support Available- Contact Marty
- ▶ **Opioid Learning Sessions** for States Scheduled To Start May 2020
- ▶ **Adult Dental ROI Learning Sessions** Available- Contact Marty

Health Insurance Portability and Accountability Act 1996 (HIPAA)

- ▶ **Purpose:** “Protect privacy and security of protected health information.”
- ▶ **Authority:**
 - ▶ Office of Civil Rights (OCR)
 - ▶ Department of Health and Human Services (HHS)

COVID-19 HIPAA & TELEDENTISTRY
GUIDANCE



- ▶ COVID-19 HHS Guidance
- ▶ HIPAA and Telemedicine/Teledentistry
- ▶ <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

OCR AND HHS GUIDANCE

- ▶ *“We are empowering medical providers to serve patients wherever they are during this national public health emergency.*
- ▶ *We are especially concerned about reaching those most at risk, including older persons and persons with disabilities.”*

REMOTE COMMUNICATIONS
DURING THE COVID-19 NATIONWIDE
PUBLIC HEALTH EMERGENCY



“During the COVID-19 national emergency, ...

- ▶ covered health care providers subject to the HIPAA Rules may seek to communicate with patients, and provide **telehealth services, through remote communications technologies....**
- ▶ Some technologies... and the manner in which they are used by...health care providers, may not fully comply with the requirements of the HIPAA Rules.
- ▶ **OCR** will exercise its enforcement discretion and **will not impose penalties for noncompliance with the regulatory requirements under the HIPAA Rules** against covered health care providers in connection with the **good faith provision** of telehealth during the COVID-19 nationwide public health emergency.
- ▶ **This notification is effective immediately.”**

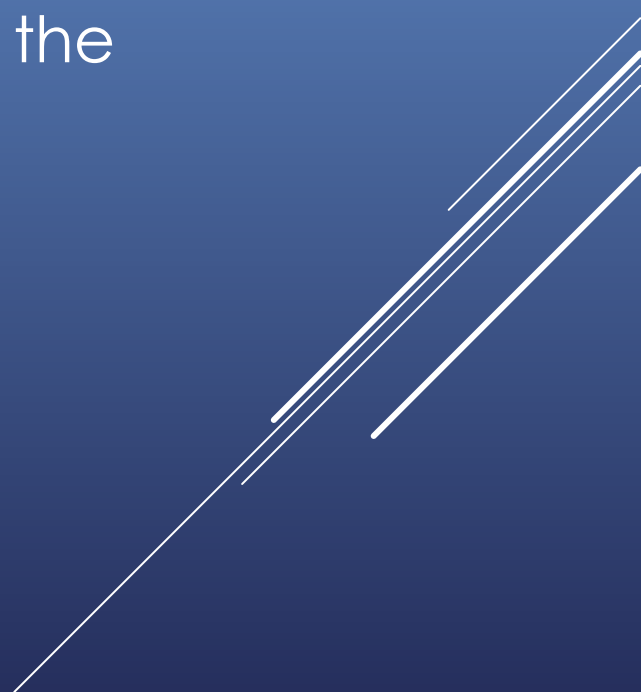
REMOTE COMMUNICATIONS
DURING THE COVID-19 NATIONWIDE
PUBLIC HEALTH EMERGENCY

- ▶ [Continued]
- ▶ “A covered health care provider that wants to use **audio or video communication technology** to provide telehealth to patients during the COVID-19 nationwide public health emergency can use any non-public facing remote communication product that is available to communicate with patients. ”

REMOTE COMMUNICATIONS
DURING THE COVID-19 NATIONWIDE PUBLIC
HEALTH EMERGENCY

- ▶ [Continued]
- ▶ “OCR is exercising its enforcement discretion to **not impose penalties for noncompliance with the HIPAA Rules** in connection with the **good faith provision** of telehealth using such non-public facing audio or video communication products during the COVID-19 nationwide public health emergency.”

REMOTE COMMUNICATIONS DURING THE COVID-19 NATIONWIDE PUBLIC HEALTH EMERGENCY



▶ [Continued]

▶ This exercise of discretion **applies to telehealth provided for any reason, regardless of whether the telehealth service is related to the diagnosis and treatment of health conditions related to COVID-19.**

- ▶ [Continued]
- ▶ “Under this Notice, covered health care providers may use popular applications that allow for video chats, including Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype, to provide telehealth without risk ... [of] penalty for noncompliance with the HIPAA Rules ...
- ▶ Providers are encouraged to notify patients that these third-party applications potentially introduce privacy risks, and
- ▶ providers should enable all available encryption and privacy modes when using such applications.”

REMOTE COMMUNICATIONS DURING THE COVID-19 NATIONWIDE PUBLIC HEALTH EMERGENCY

▶ [Continued]

NOT APPROVED DEVICES and APPLICATIONS:

- ▶ “Under this Notice,... Facebook Live, Twitch, TikTok, and other similar video communication applications **should not be used in the provision of telehealth by covered health care providers.**”

REMOTE COMMUNICATIONS
DURING THE COVID-19 NATIONWIDE
PUBLIC HEALTH EMERGENCY

- ▶ [Continued]
- ▶ **HIPAA COMPLIANT APPLICATIONS**
- ▶ ...For providers seeking **additional privacy protections** for telehealth while using video communication products... technology vendors that are HIPAA compliant include:

Skype for Business / Microsoft Teams	Updox	VSee
Doxy.me	Google G Suite Hangouts Meet	Zoom for Healthcare
Cisco Webex Meetings / Webex Teams	Amazon Chime	GoToMeeting

There may be other technology vendors that offer HIPAA-compliant video communication products that will enter into a HIPAA BAA with a covered entity. Further, OCR does not endorse any of the applications that allow for video chats listed above.

HIPAA COMPLIANT APPLICATIONS

COVID-19 NATIONAL EMERGENCY TELEMEDICINE AND CONTROLLED SUBSTANCES

▶ Authority:

- ▶ Drug Enforcement Agency (DEA)
 - ▶ Department of Health and Human Services (HHS)
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- ▶ On March 16, 2020, the Secretary, with the concurrence of the Acting DEA Administrator, designated that the telemedicine allowance under section 802(54)(D) applies to all schedule II-V controlled substances in all areas of the United States.

COVID-19 NATIONAL EMERGENCY
TELEMEDICINE AND CONTROLLED SUBSTANCE



- ▶ “Accordingly, as of March 16, 2020, and continuing for as long as the Secretary’s designation of a public health emergency remains in effect,
- ▶ DEA-registered practitioners in all areas of the United States may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, **provided all of the following conditions are met:**
 - ▶ The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice;
 - ▶ The telemedicine communication is conducted using an: **audio-visual; real-time, two-way interactive communication** system; and
 - ▶ The practitioner is acting in accordance with applicable **Federal and State laws.**

COVID-19 NATIONAL EMERGENCY TELEMEDICINE AND CONTROLLED SUBSTANCES

Next State Member Coffee Hour: April 8th, 2020; 2:00 – 3:00 ET

COVID-19: PROTECT-PREPARE-PREVENT

Phase 2: Aerosol Free Dental Care—

Benefits; Payment Models and Budget Development

Note: Watch for Email Communication

FINANCIAL MODEL FOR BUNDLING
AEROSOL-FREE DENTAL SERVICES

