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OCR Encourages Good-Faith Efforts, Reasonableness Amid COVID-19

By Theresa Defino

It was a question no government official probably ever expected to face, yet this is no ordinary time: Could a quarantined physician provide telehealth services from home or from a quarantine area and not violate HIPAA?

Yes, according to Tim Noonan, deputy director for health information privacy at the HHS Office for Civil Rights (OCR).

“So, first, let me say, I do appreciate the willingness of a physician who’s quarantined to want to continue to serve the public by offering to provide telehealth services,” Noonan said at an April 24 OCR webinar. “It seems in every crisis there are stories of selfless acts that occur that reflect our good nature and spirit.”

Telehealth was the topic of a notification of enforcement discretion and FAQs OCR issued in March.^[1] At that time, OCR was envisioning a doctor still in an office and a patient at home, according to its FAQ document. But as growing numbers of providers are falling ill with COVID-19, this situation must have arisen for at least one webinar participant.^[2] “Our guidance supporting the notification stated our expectation that health care providers would ordinarily conduct telehealth in private settings and recommended some reasonable safeguards for instances when it cannot be performed in a private setting,” Noonan said.

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