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TRIAGE: RAPID LEGAL LESSONS FOR BUSY
HEALTH CARE PROFESSIONALS

HIPAA Concerns in the Context of Novel Coronavirus (COVID 19)

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CORONAVIRUS – COVID 19

- Zoonotic disease, meaning, originates from animals
- First reported on December 31, 2019
- Declared “public health emergency of international concern” by the WHO on January 30
- As of March 8th:
 - 105,586 confirmed cases
 - 3,584 deaths globally

HIPAA PRIVACY - GENERALLY

- The HIPAA Privacy Rule protects against the unauthorized disclosure of protected patient health information, or “PHI” by covered entities
- “Covered entities” include health plans, health care providers, and health care clearinghouses

OCR BULLETIN

- On February 3rd, 2020, OCR published a [bulletin](#) which specifically addresses the applicability of the HIPAA Privacy rule in the context of the Coronavirus outbreak.
- The bulletin (i) provides a reminder to Covered Entities that HIPAA still applies in the event of a public health emergency; and (ii) describes several of the key areas where disclosure of PHI without patient consent is permissible when dealing with triaging and treating Covid-19

HIPAA PRIVACY CONCERNS

- OCR published [bulletin](#) outlines specific instances in which disclosure may be permitted:
 - If necessary for treatment of patient
 - In the context of public health activities in order to ensure public health and safety
 - To a public health authority (CDC, as well as state and local health departments)
 - At the direction of a public health authority
 - To persons at risk of spreading or contracting COVID-19

HIPAA PRIVACY CONCERNS

- OCR published [bulletin](#) outlines specific instances in which disclosure may be permitted:
 - Disclosures to family, friends, or others involved in a patient's care (OCR notes that covered entity should at least obtain verbal permission from the individual prior to disclosing PHI, or should reasonably infer that patient does not object)
 - Disclosures to prevent (or lessen) a serious and imminent threat

Today's Presenters



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