

COVID-19 Novel Corona Virus and Disclosure of Patient Information

How do federal and state laws about patient confidentiality apply during infectious disease outbreaks or other emergencies?

ALLOWABLE

Public Health Activities

- **Public Health Authorities:** Federal and state laws allow disclosure of health information without the patient's authorization to public health authorities and others responsible for ensuring public health and safety that is necessary to carry out their public health missions (e.g., CDC, state and local health departments).
- **To Persons at Risk:** Federal and state laws permit disclosure of a patient's health information to a person at risk of contracting or spreading a disease as necessary to prevent or control the spread of the disease

ALLOWABLE WITH CAUTION

Family and Friends

- **To Family, Friends and Others involved in Patient's Care:** Federal and state laws allow disclosure of health information to the patient's family members, friends, and other persons who have been identified by that patient as being involved in their care. Additionally, BMC may share information about a patient as necessary to identify, locate, and notify family members, guardians, or anyone else responsible for the patient's care, of the patient's location, general condition, or death. This may include, where necessary, notifying family members and others, the police, the press, or the public at large.
- **When the Patient is Awake, Unconscious or Incapacitated:** When possible, prior to disclosure, BMC should obtain verbal permission from the patient to disclose his or her health information or otherwise be able to reasonably infer that the patient does not object; *if the individual is incapacitated or not available*, a provider may share information for these purposes if, in their professional judgment, doing so is in the patient's best interest.

Prevent a Serious and Imminent Threat

- **Law Enforcement, Family, Friends and Caregivers:** BMC may disclose a patient's health information to anyone who is in a position to prevent or lessen the serious and imminent threat, including family, friends, caregivers, and law enforcement without a patient's permission. HIPAA expressly defers to the professional judgment of health professionals in making determinations about the nature and severity of the threat to health and safety.

Resource: "BULLETIN: HIPAA Privacy and Novel Coronavirus" (February 3, 2020).

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

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STOP AND CONTACT LEGAL AND COMPLIANCE

Media and Others *Not* Involved in Patient Care

- **To Others Not Involved in the Patient's Care:** No hospital staff person is authorized to speak to the media without appropriate authorization. All such requests must be referred to and coordinated with Corporate Communications. Requests from all other individuals should be referred to the Legal or Compliance Departments.

REMEMBER

Safeguarding Information

- **Minimum Necessary:** Although federal and state laws allow for disclosure of health information for the above reasons, providers must make reasonable efforts to limit the disclosure to the minimum necessary to accomplish the purpose of the disclosure. Even in emergency situations, BMC must continue to implement reasonable safeguards to protect patient information from impermissible use and disclosures.

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