

KnowDoShare

Office for Civil Rights Guidance for HIPAA Compliant Media Access to Patients and PHI

What you need to **Know**:

- Due to the Public Health Emergency concerning the coronavirus disease 2019 (COVID-19), on 05.05.20, the Office for Civil Rights (OCR) provided updated guidance to ensure that entities continue to comply with all HIPAA requirements for allowing media access to patients and their Protected Health Information (PHI).
- Any access to patient treatment areas by the media must follow HIPAA regulations. The media cannot be present in a treatment area until and unless *ALL patients who are or who will be in the area have signed a HIPAA Authorization*.
- Filming or recording a patient requires a signed HIPAA authorization be obtained BEFORE the event begins.
- Covering a patient's face with a mask does not suffice to deidentify the individual. Obscuring a patient's face after filming is also not acceptable.

What to **Do**:

Ensure your key staff are aware that HIPAA protections and processes have not changed and that any access by the media is coordinated and managed by the Marketing and Communications departments, and that all required authorizations are obtained first and kept on file as required by law and regulation.

Contact Designated Division Privacy Officers for questions or further clarification.

What to **Share**:

Our CSH facilities need to ensure that we follow all HIPAA requirements and previously established OCR expectations related to media access as highlighted below:

- The COVID-19 public health emergency does not alter the HIPAA Privacy Rule's existing restrictions on disclosures of protected health information (PHI) to the media.
- HIPAA does not permit covered health care providers to give the media, including film crews, access to any areas of their facilities where patients' PHI will be accessible in any form (e.g., written, electronic, oral, or other visual or audio form), without first obtaining a written HIPAA authorization *from each patient whose PHI is in the area or would be accessible to the media, even if they are not the individual being filmed*.
- Covered health care providers must ensure that reasonable safeguards are in place to protect against unauthorized disclosures of PHI. Reasonable safeguards can include installing computer monitor privacy screens to prevent the film crew from viewing PHI on computers and setting up opaque barriers to block the film crew's access to the PHI of patients who did not sign an authorization.

- Masking of patients does NOT meet the requirement to deidentify a patient. A masked patient will still have to sign a HIPAA authorization to be filmed or if the film crew might see that patient.
- It is not sufficient for a covered health care provider to have the media shield patients' identities when airing recorded video (such as by blurring, pixelation, or voice alteration) after the fact. Prior, express authorization from the patient is always required.

For further information, click the following link: <https://www.hhs.gov/sites/default/files/guidance-on-media-and-film-crews-access-to-phi.pdf>

