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OCR Issues Bulletin on Civil Rights Laws and HIPAA Flexibilities That Apply During the COVID-19 Emergency

Today, the Office for Civil Rights (OCR) at the U.S Department of Health and Human Services (HHS) is issuing a bulletin to ensure that entities covered by civil rights authorities keep in mind their obligations under laws and regulations that prohibit discrimination on the basis of race, color, national origin, disability, age, sex, and exercise of conscience and religion in HHS-funded programs, including in the provision of health care services during COVID-19.

OCR is particularly focused on ensuring that covered entities do not unlawfully discriminate against people with disabilities when making decisions about their treatment during the COVID-19 health care emergency.

OCR enforces the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Age Discrimination Act, and Section 1557 of the Affordable Care Act which prohibits discrimination in HHS funded health programs or activities. These laws, like other civil rights statutes OCR enforces, remain in effect. As such, persons with disabilities should not be denied medical care on the basis of stereotypes, assessments of quality of life, or judgments about a person's relative "worth" based on the presence or absence of disabilities or age. Decisions by covered entities concerning whether an individual is a candidate for treatment should be based on an individualized assessment of the patient and his or her circumstances, based on the best available objective medical evidence.

"Our civil rights laws protect the equal dignity of every human life from ruthless utilitarianism," said Roger Severino, OCR Director. "HHS is committed to leaving no one behind during an emergency, and helping health care providers meet that goal." "Persons with disabilities, with limited English skills, and older persons should not be put at the end of the line for health care during emergencies." Severino added.

The Bulletin may be found at: <https://www.hhs.gov/sites/default/files/ocr-bulletin-3-28-20 - PDF>

Today's bulletin also reminds health care covered entities of unprecedented HIPAA flexibilities recently made available by OCR in response to the COVID-19 emergency concerning:

- OCR's Notice of Enforcement Discretion allowing providers to serve patients where they are through commonly used apps like FaceTime, Skype, and Zoom to provide telehealth remote communications:
 - <https://www.hhs.gov/about/news/2020/03/20/ocr-issues-guidance-on-telehealth-remote-communications-following-its-notification-of-enforcement-discretion.html>

- Guidance that empowers first responders and others who receive protected health information about individuals who have tested positive or been exposed to COVID-19 to help keep both first responders and the public safe.
 - <https://www.hhs.gov/about/news/2020/03/24/ocr-issues-guidance-to-help-ensure-first-responders-and-others-receive-protected-health-information-about-individuals-exposed-to-covid-19.html>
- Guidance on how health care providers can share information with the CDC, family members of patients, and others, to help address the COVID-19 emergency.
 - [https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus - PDF](https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus-pdf)

For general information regarding COVID-19, please see: <https://www.coronavirus.gov/>