



## **Office for Civil Rights (OCR) Announces Enforcement Discretion re Use of Web-based Scheduling Applications for COVID-19 Vaccinations**

January 25, 2021

On January 19, 2021 the Department of Health and Human Services' Office for Civil Rights (OCR) announced it will be exercising enforcement discretion and will not impose financial penalties on HIPAA-covered entities or their business associates for violations of the HIPAA rules in connection with the good faith use of online or web-based scheduling applications (WBSAs) for scheduling individual appointments for COVID-19 vaccinations.

While the [notice of enforcement discretion](#) is in effect, OCR will not impose penalties against HIPAA covered entities, their business associates, and WBSA vendors that meet the definition of business associate under the HIPAA rules for good faith uses of WBSAs for scheduling COVID-19 vaccination appointments. While penalties will not be imposed, OCR encourages the use of reasonable safeguards to protect the privacy of individuals and the security of ePHI, including limiting use to the minimum necessary information, using encryption technology and all privacy settings. That includes adjusting the calendar display to hide names or only show initials. If a vendor stores ePHI, the storage should only be temporary and ePHI should be destroyed no later than 30 days after the appointment. The WBSA vendor should be instructed not to disclose any ePHI in a manner inconsistent with the HIPAA rules.

The enforcement discretion applies to the use of WBSAs for the limited purpose of scheduling individual appointments for COVID-19 vaccinations during the COVID-19 public health emergency. The notification is effectively immediately, is retroactive to December 11, 2020, and will remain in effect for the duration of the COVID-19 nationwide public health emergency. The notice of enforcement discretion does not apply to an appointment scheduling application that connects directly to electronic health record (EHR) systems.

A WBSA is a non-public facing online or web-based application that allows individual appointments to be scheduled in connection with large scale COVID-19 vaccination. The purpose of a WBSA is to allow covered healthcare providers to rapidly schedule large numbers of appointments for COVID-19 vaccinations. A WBSA may not meet all requirements of the HIPAA Rules and would therefore not be permitted for use in connection with electronic protected health information (ePHI) under normal circumstances. It is also possible that the vendor of a WBSA may not be aware that their solution is being used by healthcare providers in connection with ePHI, which would see the vendor classified as a business associate under HIPAA. Thus, the need for the additional flexibilities announced by OCR.