

March 31, 2025

The Honorable Robert F. Kennedy, Jr.
Secretary
Department of Health and Human Services
200 Independence Ave. SW
Washington, D.C. 20201

The Honorable Anthony Archeval
Acting Director
Office for Civil Rights
200 Independence Ave. SW
Washington, D.C. 20201

Dear Secretary Kennedy and Acting Director Archeval:

On behalf of the American Academy of Family Physicians (AAFP), which represents more than 128,300 family physicians and medical students across the country, I am writing to request that **the Department of Health and Human Services work with Congress to effect much needed change to the Health Insurance Portability and Accountability Act (HIPAA) to increase the ability for physician practices to utilize real-time audio-visual communication platforms with patients by extending the HIPAA requirements to the technology vendors eliminating the need for Covered Entities (CEs) to obtain a Business Associate Agreement (BAA) for commonly used platforms.** This change will improve care for patients by easing the burden physician practices face when delivering valuable telehealth services utilizing commonly available real-time audio-visual communication technologies (e.g., FaceTime or other video conferencing capability on cell phones or personal tablets).

The proliferation of digital health technologies means that the number of potential technologies and communication platforms interacting with protected health information (PHI) has grown exponentially. The current framework for HIPAA compliance places an undue burden on physician practices as CEs to execute individual business associate agreements with an increasingly unreasonable number of technology providers. At the same time, the use of some technologies has become increasingly common, including mobile phones and tablets that facilitate common communication platforms such as FaceTime. Consequently, the original conception of HIPAA – which places all the compliance burden on CEs – has become increasingly difficult to manage and should be revisited. Not extending HIPAA requirements to commonly used technologies is imposing unnecessary barriers to timely and efficient care via technologies

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that patients frequently prefer and that family physicians and other clinicians are well-prepared to deliver.

Extending HIPAA privacy and security requirements to technology vendors of commonly available real-time audio-visual communication technologies used in the delivery of care would address several pressing issues:

- 1. Shared Accountability:** Ensuring all technology vendors handling PHI are directly accountable under HIPAA would remove the burden of the BAA contracting process from thousands of individual physician practices across the country and create a more centralized and efficient standardized process minimizing the risk of breaches and misuse of sensitive health information. It is important to note that most widely available audio-video communications technologies (e.g., FaceTime) are equipped with end-to-end encryption of audio and video content/communications.
- 2. Streamlined Compliance:** Removing the necessity for countless BAAs between CEs and the vendors of these commonly used devices and platforms would simplify the compliance process for all involved, including the federal government. Relieving physicians and their practices of unnecessary administrative burdens will allow them to focus more on patient care and less on regulatory compliance.
- 3. Improving Patient Access to Care:** Allowing CEs to deliver care via commonly used, end-to-end encrypted technologies like FaceTime without requiring a BAA can significantly improve access to care. These technologies facilitate timely follow-ups with a patient's usual care provider, making it easier for patients to receive prompt, efficient care.
- 4. Adaptability and Futureproofing:** As the pace of technological advancements continue to accelerate, the health care sector must remain adaptable. Incorporating technology vendors' handling of PHI under HIPAA ensures that new technologies and innovative health solutions adhere to stringent privacy and security standards from inception.

There is precedent in health care for holding all information exchange participants accountable for HIPAA data privacy and security protections without executing multiple BAAs. In the Trusted Exchange Framework and Common Agreement (TEFCA), even those not covered by HIPAA must comply with all HIPAA privacy and security requirements demonstrating that extending HIPAA

1133 Connecticut Ave., NW, Ste. 1100
Washington, DC 20036-1011

info@aafp.org
(800) 794-7481
(202) 232-9033

www.aafp.org

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protections beyond CEs and their business associates is both feasible and beneficial, ensuring a more comprehensive safeguarding of PHI.

We believe extending HIPAA requirements to technology vendors strengthens PHI protection and creates a more efficient and simplified regulatory environment. It will ease the burden of compliance for CEs, many of whom are busy physician practices, while also establishing accountability for HIPAA compliance with technology vendors. The end result is better, more efficient care for patients and a more resilient and secure health information ecosystem.

Thank you for considering this important request. We believe this change will positively impact health data and the overall integrity of the health care system. Please contact Mandi Neff, AAFP Regulatory & Policy Strategist, at (202) 655-4928 or mneff2@aafp.org with any questions.

Sincerely,



Steven P. Furr, MD, FAAFP
Board Chair
American Academy of Family Physicians