

COVID -19 Test Subjects and HIPAA Compliance

As the Covid -19 virus pandemic cases continue to experience a surge in numbers, the need for efficient and emergency testing of suspected cases using the RT-PCR swab and blood antibody testing cannot be overemphasized.

It is important to note that while these test procedures are deemed necessary protocol, the results of test subjects should comply strictly with [HIPAA privacy and security rules](#).

Although the virus has led to a declaration of a public health emergency, it does not grant private organizations or business entities, the authorization to use and share COVID-19 test results of covered parties contrary to the popular public misconception.

HIPAA Compliance for providers of Healthcare.

In order to prevent health care providers and other medical practitioners from getting sanctions due to violating HIPAA compliance, the Department of Health and Human Services (HHS) has created an [official website](#) aimed at providing HIPAA and security related information pertaining COVID-19.

Some of the information available from the website include guidelines issued by the HHS which states that "[The HHS Office for Civil Rights \(OCR\) has provided Bulletins, Notifications of Enforcement Discretion, Guidance, and Resources that help explain how patient health information may be used and disclosed in response to the COVID-19 nationwide public health emergency.](#)"

HIPAA Compliance for Employers and Third parties.

Under HIPAA, COVID-19 test results are disclosed primarily to the test subject as an individual patient by the health care provider to enable treatment and isolation to begin. However, this is also subject to exemption as disclosure without patient authorization can be granted if the case poses a serious threat or danger to public health. This disclosure of test results can be given to persons in positions of public service to reduce the risk of a spread and to create awareness. This does not include third parties such as employers.

Disclosure of test results to employers must comply strictly with HIPAA privacy rules. As earlier stated, the results are to be disclosed primarily to the individual patient and only after a written authorization that meets HIPAA privacy requirement by the test subject is given, can the results of such COVID-19 tests be released to an employer.

There are very few exceptions of disclosure of test results to employers without a written authorization. This limiting circumstance is stated in the website as part of the [HHS Office for Civil Rights \(OCR\) Enforcement discretion policy on the COVID-19 Public health emergency](#)

It is important to recognize that these exceptions may not apply to employers who have mandated COVID-19 testing as part of their fitness-for-duty examination.