



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

MANDY COHEN, MD, MPH • Secretary

ELIZABETH CUERVO TILSON, MD, MPH • State Health Director

September 26, 2018

MEMORANDUM

TO: Hospital Administrators
Private Physicians
Local Health Directors

FROM: Elizabeth Cuervo Tilson, MD MPH
State Health Director and Chief Medical Officer
N.C. Department of Health and Human Services

SUBJECT: Release of Patient Information to Public Health Officials

North Carolina General Statute 130A-144(b) requires that “physicians, persons in charge of medical facilities or laboratories, and other persons shall, upon request and proper identification, permit a local health director or the State Health Director to examine, review, and obtain a copy of medical or other records in their possession or under their control which the State Health Director or a local health director determines pertain to the (i) diagnosis, treatment, or prevention of a communicable disease or communicable condition for a person infected, exposed, or reasonably suspected of being infected or exposed to such a disease or condition, or (ii) the investigation of a known or reasonably suspected outbreak of a communicable disease or communicable condition.”

The following protocol for proper identification has been reviewed and approved by the Department of Health and Human Services, the North Carolina Association of Local Health Directors, and the North Carolina Healthcare Association:

A request should be considered legitimate when a health care provider or facility is presented with:

1. A letter on local health department or Department of Health and Human Services letterhead signed by the local or state health director requesting such information, which can be verified by calling the phone number on the letterhead; or
2. A request made by telephone, when there is personal knowledge of the person requesting the information; or
3. A request made by telephone, when verification is made as follows:
 - a. Request the phoning individual’s telephone number so that a return call can be made.

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF PUBLIC HEALTH

LOCATION: 225 North McDowell St., Raleigh, NC 27603
MAILING ADDRESS: 1902 Mail Service Center, Raleigh, NC 27699-1902
www.ncdhhs.gov • TEL: 919-733-7301 • FAX: 919-733-1020

AN EQUAL OPPORTUNITY / AFFIRMATIVE ACTION EMPLOYER

- b. Call the local health department to verify the identity of the caller and his/her telephone number; and
- c. Return the call at the verified number, or

4. An identification card indicating that the person making the request is an employee of the local health department or the Department of Health and Human Services (the requesting individual could also be asked for their driver's license that would provide additional picture identification).

Under the Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information; Final Rule (Privacy Rule) covered entities such as your organization may disclose, without individual authorization, protected health information required by law (45 CFR§164.512 (a)). You also may disclose without individual authorization, to public health authorities "...authorized by law to collect or receive such information for the purpose of preventing or controlling disease, including, but not limited to, the reporting of disease,...and the conduct of public health surveillance, public health investigations, and public health interventions..." (45 CFR§164.512(b)).

Communicable disease reporting to local public health directors and to the State Health Director is not affected by HIPAA and is addressed in North Carolina General Statute 130A, Article 6, Communicable Disease reporting. The HIPAA Privacy Rule defers to state statutes that require disease reporting. If you have any questions or concerns, please contact the Division of Public Health, HIPAA Office at 919-707-5000.

Attachments

GS_130A-143

§ 130A-143. Confidentiality of records.

All information and records, whether publicly or privately maintained, that identify a person who has AIDS virus or who has or may have a disease or condition required to be reported pursuant to the provisions of this Article shall be strictly confidential. This information shall not be released or made public except under the following circumstances:

- (1) Release is made of specific medical or epidemiological information for statistical purposes in a way that no person can be identified;
- (2) Release is made of all or part of the medical record with the written consent of the person or persons identified or their guardian;
- (3) Release is made for purposes of treatment, payment, research, or health care operations to the extent that disclosure is permitted under 45 Code of Federal Regulations §§ 164.506 and 164.512(i). For purposes of this section, the terms "treatment," "payment," "research," and "health care operations" have the meaning given those terms in 45 Code of Federal Regulations § 164.501;
- (4) Release is necessary to protect the public health and is made as provided by the Commission in its rules regarding control measures for communicable diseases and conditions;
- (5) Release is made pursuant to other provisions of this Article;
- (6) Release is made pursuant to subpoena or court order. Upon request of the person identified in the record, the record shall be reviewed in camera. In the trial, the trial judge may, during the taking of testimony concerning such information, exclude from the courtroom all persons except the officers of the court, the parties and those engaged in the trial of the case;
- (7) Release is made by the Department or a local health department to a court or a law enforcement official for the purpose of enforcing this Article or Article 22 of this Chapter, or investigating a terrorist incident using nuclear, biological, or chemical agents. A law enforcement official who

receives the information shall not disclose it further, except (i) when necessary to enforce this Article or Article 22 of this Chapter, or when necessary to conduct an investigation of a terrorist incident using nuclear, biological, or chemical agents, or (ii) when the Department or a local health department seeks the assistance of the law enforcement official in preventing or controlling the spread of the disease or condition and expressly authorizes the disclosure as necessary for that purpose;

- (8) Release is made by the Department or a local health department to another federal, state or local public health agency for the purpose of preventing or controlling the spread of a communicable disease or communicable condition;
- (9) Release is made by the Department for bona fide research purposes. The Commission shall adopt rules providing for the use of the information for research purposes;
- (10) Release is made pursuant to G.S. 130A-144(b); or
- (11) Release is made pursuant to any other provisions of law that specifically authorize or require the release of information or records related to AIDS. (1983, c. 891, s. 2; 1987, c. 782, s. 13; 2002-179, s. 7; 2011-314, s. 4.)

http://www.ncqa.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-143.html

GS_130A-144

§ 130A-144. Investigation and control measures.

(a) The local health director shall investigate, as required by the Commission, cases of communicable diseases and communicable conditions reported to the local health director pursuant to this Article.

(b) Physicians, persons in charge of medical facilities or laboratories, and other persons shall, upon request and proper identification, permit a local health director or the State Health Director to examine, review, and obtain a copy of medical or other records in their possession or under their control which the State Health Director or a local health director determines pertain to the (i) diagnosis, treatment, or prevention of a communicable disease or communicable condition for a person infected, exposed, or reasonably suspected of being infected or exposed to such a disease or condition, or (ii) the investigation of a known or reasonably suspected outbreak of a communicable disease or communicable condition.

(c) A physician or a person in charge of a medical facility or laboratory who permits examination, review or copying of medical records pursuant to subsection (b) shall be immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of complying with a request made pursuant to subsection (b).

(d) The attending physician shall give control measures prescribed by the Commission to a patient with a communicable disease or communicable condition and to patients reasonably suspected of being infected or exposed to such a disease or condition. The physician shall also give control measures to other individuals as required by rules adopted by the Commission.

(e) The local health director shall ensure that control measures prescribed by the Commission have been given to prevent the spread of all reportable communicable diseases or communicable conditions and any other communicable disease or communicable condition that represents a significant threat to the public health. The local health department shall provide, at no cost to the patient, the examination and treatment for tuberculosis disease and infection and for sexually transmitted diseases designated by the Commission.

(f) All persons shall comply with control measures, including submission to examinations and tests, prescribed by the Commission subject to the limitations of G.S. 130A-148.

(g) The Commission shall adopt rules that prescribe control measures for communicable diseases and conditions subject to the limitations of G.S. 130A-148. Temporary rules prescribing control measures for communicable diseases and conditions shall be adopted pursuant to G.S. 150B-13.

(h) Anyone who assists in an inquiry or investigation conducted by the State Health Director for the purpose of evaluating the risk of transmission of HIV or Hepatitis B from an infected health care worker to patients, or who serves on an expert panel established by the State Health Director for that purpose, shall be immune from civil liability that otherwise might be incurred or imposed for any acts or omissions which result from such assistance or service, provided that the person acts in good faith and the acts or omissions do not amount to gross negligence, willful or wanton misconduct, or intentional wrongdoing. This qualified immunity does not apply to acts or omissions which occur with respect to the operation of a motor vehicle. Nothing in this subsection provides immunity from liability for a violation of G.S. 130A-143. (1893, c. 214, s. 16; Rev., s. 4459; 1909, c. 793, s. 8; C.S., s. 7158; 1957, c. 1357, s. 1; 1973, c. 476, s. 128; 1983, c. 891, s. 2; 1987, c. 782, s. 14; 1991, c. 225, s. 1; 1995, c. 228, s. 1; 2001-28, s. 2; 2004-80, s. 6; 2009-501, s. 2.)

http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-144.html