

Mission:

To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.



Rick Scott
Governor

John H. Armstrong, MD, FACS
State Surgeon General & Secretary

Vision: To be the **Healthiest State** in the Nation

June 4, 2014

TO LICENSED HEALTH CARE PROVIDERS

Re: Communicable Disease Investigation and Reporting

As Rule 64D-3.029, *Florida Administrative Code (FAC)*, has been revised and updated, it is important that the requirements imposed by the Privacy Rule of the Health Insurance Portability and Accountability Act (HIPAA) be understood and followed especially in regard to disease reporting responsibilities and protections.

Review or inspection of medical records:

Issues have occasionally arisen concerning the impact of HIPAA on the authority of the Department and its county health departments in obtaining copies of records of patients suspected of being infected with a communicable disease. The applicable section of the HIPAA regulations allowing disclosure of protected health information from patient records for communicable disease investigation is 45 CFR section 154.512(b) which provides that access without patient consent may be granted to "A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions." Furthermore, Section 381.031(3), *Florida Statutes (F.S.)*, affirmatively requires licensed health care providers to allow department personnel access to communicable disease information in patient medical records and specifically provides: "Health care practitioners, licensed health care facilities, and laboratories shall allow the department to inspect and obtain copies of such medical records and medical-related information, notwithstanding any other law to the contrary." This same statute creates an exception to confidentiality laws and also provides security to the practitioner by stating: "A health care practitioner...may not be held liable in any manner for damages and is not subject to criminal penalties for providing patient records to the department as authorized by this section."

Reporting cases of communicable disease:

HIPAA does not change the obligation of health care providers, laboratories, and hospitals to report cases of disease listed in Chapter 64D-3, *FAC*, or the obligation to cooperate with the Department's epidemiology investigations.

HIPAA Section 45 CFR 160.203(c) specifically defers to state law with respect to "reports of disease, injury, child abuse, birth, or death for the conduct of public health." Also, health care providers are specifically allowed to report these and other matters that contain protected health information to the public health authority without notice to your patient (45 CFR 164.512(b)). In fact, Section 381.0031(7), *F.S.*, requires licensed health care practitioners to report diseases of public significance to the Department of Health. Chapter 64D-3, *FAC*, specifies the diseases required to be reported. These state requirements are not reduced or changed by the federal law.

Florida Department of Health

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Tracking communicable disease is of great importance. This is especially so in light of bio-terrorist concerns and other emerging disease threats. Our ability to track communicable diseases has allowed this state to successfully respond to health threats, such as an anthrax bioterrorist attack, introductions of measles, chikungunya fever, Middle Eastern Respiratory Syndrome (MERS), dengue fever, an influenza pandemic, and numerous outbreaks of enteric infections related to restaurants, nursing homes, and child care centers. The backbone of communicable disease surveillance and investigation is practitioner reporting.

Let me again emphasize the importance of disease reporting and our appreciation of your efforts to report timely. Please visit our website at www.floridahealth.gov/DiseaseReporting for more information about disease reporting.

Diseases and conditions should be reported to your county health department. Please visit <http://www.floridahealth.gov/CHDEpiContact> to obtain your county health department disease reporting contact information.

We look forward to continued public health and health care practitioner partnership that fosters a rapid response to public health investigations and to the success of protecting, promoting, and improving the health of all people in Florida through integrated state, county, and community efforts.

Sincerely,



Kimberly A. Tendrich
Chief Privacy Officer



Anna M. Likos, MD, MPH
Director, Division of Disease Control and Health
Protection
State Epidemiologist