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State of California—Health and Human Services Agency
California Department of Public Health



EDMUND G. BROWN JR.
Governor

December 15, 2017

To: All California Health Care Providers and Local Health Officers

Re: HIPAA and Public Health Disclosures

Dear Stakeholders,

There has been some confusion surrounding the effect of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule on public health reporting requirements. Therefore, the California Department of Public Health (CDPH) is providing this document to clarify your ongoing legally mandated reporting requirements.

Your reporting obligations for communicable diseases have not changed under HIPAA. Furthermore, you continue to have a legal obligation to provide information for public health, surveillance/reporting, investigations, and interventions. The HIPAA Privacy Rule indicates that State law, including State procedures established under such law, is not preempted or overridden by contrary HIPAA privacy provisions in the area of public health disease or injury reporting and the conduct of public health surveillance, investigation, or intervention. (45 C.F.R. § 160.203 (2013).) The following provisions of State law are applicable and are not preempted by HIPAA.

Under California law, health care providers are required to report specified diseases or conditions to the local health officer for the jurisdiction where the patient resides.¹ (Cal. Code Regs., tit. 17, § 2500.) The State and local health departments are authorized by law to conduct infectious disease investigations and interventions. Upon receiving a report of a disease, the local health officer must take whatever steps are deemed necessary for the investigation and control of the disease, condition, or outbreak reported. (Cal. Code Regs., tit. 17, § 2501, subd. (a).) Further, local health officers must prepare individual case and outbreak reports and provide these to the State Department of Public Health. (Cal. Code Regs., tit. 17, § 2502, subd. (b).) It is mandatory to supply personal health information related to the individual's disease to the local health officer who collects the information in order to prepare such case reports. (Cal. Code Regs., tit. 17, § 2502, subd. (g).)

¹ HIV reporting regulations have further requirements to report HIV to the local health jurisdiction where the provider is located. (See Cal. Code Regs., tit. 17, §§ 2643.5-2643.15.)



The authority and requirements of local health officers with respect to reportable and communicable diseases, including HIV, are identified in Health and Safety Code section 120175:

"Each health officer knowing or having reason to believe that any case of the diseases made reportable by regulation of the department, or any other contagious, infectious or communicable disease exists, or has recently existed, within the territory under his or her jurisdiction, shall take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases."

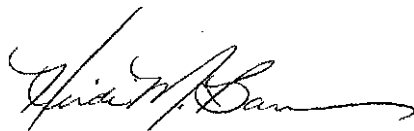
For sexually transmitted diseases, Health and Safety Code section 120575 provides:

"It is the duty of the local health officers to use every available means to ascertain the existence of cases of infectious venereal diseases within their respective jurisdictions, to investigate all cases that are not, or probably are not, subject to proper control measures approved by the board, to ascertain so far as possible all sources of infection, and to take all measures reasonably necessary to prevent the transmission of infection."

State law also makes it a misdemeanor if you do not provide the requested information to aid in the investigation of sexually transmitted diseases. (Health & Saf. Code, §120600.)

The California Department of Public Health appreciates your cooperation in continuing to protect the health, safety, and privacy of all Californians and stands ready to help you with data, security, and privacy requirements. If you have any further questions, we advise you to contact your local attorney. You may also contact Dr. Bauer or Dr. Mark directly at the email below. Questions related to HIV surveillance and reporting may be directed to Deanna Sykes, PhD, Chief, HIV Surveillance Section at Deanna.Sykes@cdph.ca.gov or (916) 449-5835.

Sincerely,



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