



STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
BUREAU FOR PUBLIC HEALTH

Bob Wise
Governor

March 31, 2003

Paul L. Nusbaum
Secretary

Dear Health Care Provider:

State and Local Health Department personnel and State and Regional Epidemiologists in West Virginia may collect, and health care providers must report, information including personally identifiable health information (PHI), relative to Reportable Diseases, Events, and Conditions in West Virginia under Title 64, Legislative Rule, Series 7, 64CSR7, Reportable Disease Legislative Rule.

This rule applies to physicians and other licensed health practitioners; local health officers; other public health providers; private or public laboratories; all health care facilities; the bureau; health care professional licensing boards and agencies; any individual administering immunizations; administrators of schools, camps, and vessels; administrators of health care facilities operated by the department; the State registrar of vital statistics; county humane officers, dog wardens, sheriffs, pathologists, coroners, and medical examiners; and any other person investigating or treating disease, health conditions, or cause of death. Any person listed in Subsection 1.6. of this rule who is subject to the provisions of this rule who fails to report a disease or condition as required by this rule or otherwise fails to act in accordance with this rule is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500), as provided under W. Va. Code §16-1-18. Each violation is considered a separate offense.

The HIPAA Privacy Rule, (*45 CFR Parts 160 and 164*) guarantees certain privacy rights to individuals. However, the Rule provides that PHI may be used and disclosed without the authorization of the subject of that information to the extent a law requires the production of that information. (*See 45 CFR 164.512(a)*). The HIPAA Privacy Rule also provides that PHI may be used and disclosed to a public health authority without the authorization of the subject of that information for public health activities and purposes that are authorized by law. (*See 45 CFR 164.512(b)(1)(i)*). Examples are preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions.

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As such, an individual's authorization is not required for information supplied to a public health authority needing PHI to conduct public health activities authorized by law. According to HIPAA and clarifications recently received from the Centers for Medicare and Medicaid Services (CMS), "Disclosures made pursuant to a law that mandates the production of information are not subject to any limitations under the HIPAA Privacy Rule so long as the disclosure complies with and is limited to the relevant requirements of that law."

HIPAA permits and the WV Reportable Disease Legislative Rule requires that you report diseases and conditions as specified in the rule and assist public health authorities in their investigation and management of the outbreak. The Legislative Rule precludes the need for a Business Associate Agreement or other contract with the Public Health Authority before you provide the requested information.

"For further information on reportable conditions, please contact your local health department or the Infectious Disease Epidemiology Program at 304-558-5358 or 1-800-423-1271 or consult our website at: <http://www.wvdhhr.org/bph/oehp/sdc/idep.htm>

Sincerely,



Chris Curtis, M.P.H.
Acting Commissioner

CC:mm:cjm