

February 1, 2007

TO LICENSED HEALTH CARE PROVIDERS

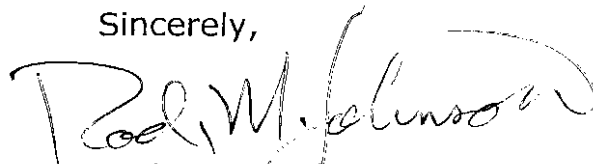
Re: Communicable Disease Investigation

Issue has arisen concerning the impact of HIPAA on the authority of the Department and its county health departments in regards to obtaining copies of records of patients suspected of being infected with a communicable disease. The applicable section of the HIPAA regulations allowing disclosure of patient records for communicable disease investigation is 45 CFR section 164.512(b) which provides that access 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, 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."

Furthermore Section 381.031(3), Florida Statutes, affirmatively requires licensed health care providers to allow department personnel access to communicable disease information in patient medical 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."

Please assure the continued flow of information and response to public health investigations to allow for the success of our Communicable Disease Prevention and Control Program.

Sincerely,



Rodney M. Johnson, JD, BCHL
Department Privacy Officer

OFFICE OF THE GENERAL COUNSEL

2585 Merchants Row Boulevard, Prather Building, Suite 110, Tallahassee, FL 32399
MAIL TO: 4052 Bald Cypress Way, BIN A02, Tallahassee, FL 32399-1703
Phone (850) 245-4005, Suncom 205-4005, Fax (850) 413-8743, Suncom 293-8743

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TO LICENSED HEALTH CARE PROVIDERS

Re: Communicable Disease Reporting

Implementation of the privacy rule of the Health Insurance Portability and Accountability Act (HIPAA) has resulted in some misunderstanding of health care provider's obligation to report communicable disease. The Department is substantially concerned that misrepresentation of this federal law will impact the state's mandatory reporting diseases of significant concern. HIPAA does not change the obligation to report or the obligation to cooperate with the Department's epidemiology investigations.

HIPAA Section 45 CFR 160.203(c) specifically defers to state law "reports of disease, injury, child abuse, birth or death for the conduct of public health." Also, as a health care provider you are specifically allowed to report these and other matters to the public health authority without notice to your patient (45 CFR 164.512(b)). In fact, Florida Statute Section 381.0031 requires licensed health care practitioners to report diseases of public significance to the Department of Health. Chapter 64D-3, Florida Administrative Code, specifies the diseases requiring your report. These state requirements are not reduced or changed by the federal law.

Tracking communicable disease is of great importance. This is especially so in light of bio-terrorist concerns. Our ability to track communicable diseases allowed this state to successfully react to an anthrax scare. The backbone to tracking communicable disease is practitioner reporting.

Let me again emphasize the importance of you maintaining your high level of significant disease reporting. Please assure the continued flow of information and response to public health investigations to assure our continued ability to respond.

Sincerely,



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