



NEW YORK CITY DEPARTMENT OF

HEALTH AND MENTAL HYGIENE

Mary T. Bassett, MD, MPH

*Commissioner*

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Dear Colleague:

At times we hear of health care providers having questions about the impact of the Health Insurance Portability and Accountability Act (HIPAA), and the regulations promulgated thereunder, on the public health activities conducted by the New York City Department of Health and Mental Hygiene (DOHMH). I want to make clear that HIPAA and the privacy regulations related to it do not change the legal authority or obligation of providers to report diseases and conditions to DOHMH or to grant access to medical records that are needed part of a public health investigation.

In enacting HIPAA, Congress was very clear in its intent that this legislation not impede public health practice [42 USCA §1320d-7(b)]. The Department of Health & Human Services similarly recognized the importance of continuing to authorize the sharing of protected health information for public health purposes. The federal regulations permit “covered entities” (e.g., hospitals, physicians) to disclose protected health information without an individual’s authorization or the opportunity for the individual to agree or object, to a public health authority, “...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...” [45 CFR §164.512(b)(1)(i)].

Furthermore, the privacy regulations permit providers to disclose protected health information without an individual’s authorization or the opportunity for the individual to agree or object when disclosure is required by law [45 CFR §164.512(a)]. The New York City Health Code, the New York State Sanitary Code, effective in New York City, and the New York State Public Health Law authorize and require the reporting of numerous diseases or conditions (for example, communicable diseases such as measles, syphilis, immunizations administered to persons 18 years of age and under, and HIV/AIDS [See Health Code §§11.03 and 11.07, 10 NYCRR §2.10 and Public Health Law §2130]). Providers are also required to report outbreaks or suspected outbreaks, as well as “any unusual manifestation of a disease or condition of public health interest.” Health Code §11.03(c). The authority to investigate these reports can be found in the Health Code §11.03(e) and may involve the need to access medical records of contacts as well as the initial reported case.

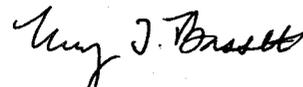
In addition to the information you are routinely required to report to us, there may be instances when DOHMH may request information necessary for a public health activity. As you may be aware, the HIPAA Privacy Rule, with limited exceptions, require covered entities to limit the amount of information disclosed to the minimum necessary to accomplish the intended purpose. Disclosing the minimum necessary is not applicable to disclosures required by law [45 CFR §164.502(b)(2)(v)]. As per the Privacy Rule, when DOHMH requests information as authorized by law, the covered entity may rely on our representation that the information we request is the minimum amount of information necessary to carry out the authorized public health activity [45 CFR §164.514(d)(3)(iii)].

We ask that you give this information to all levels of office staff to ensure compliance and cooperation. This includes providing access to paper and electronic medical records as necessary. Failure to report information to DOHMH, as required by law, would be a violation of the public health law outlined above and may result in you or your institution being subjected to legal sanctions.

DOHMH is legally mandated to ensure the confidentiality of all information received from providers, and continues to attach the highest level of confidentiality to reported information. The health care provider community is an essential partner in our efforts to better protect the health of New York City residents. We look forward to your continued cooperation.

If you have any questions, please contact DOHMH's Privacy Officer at [nelcock@health.nyc.gov](mailto:nelcock@health.nyc.gov) or [PrivacyOfficer@health.nyc.gov](mailto:PrivacyOfficer@health.nyc.gov).

Sincerely,



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