

These are only a few of the mandatory disclosures that health care providers are required to make. Public health workers will also require access to certain information pertinent to the report in order to conduct investigation, surveillance and intervention activities. These activities are also permissible under HIPAA, and required under state law.

The information gathered from these required disclosures is still confidential. For example, South Carolina law requires that DPH maintain confidentiality of information gathered from patients' medical records. This information can be released *only* if the information is modified to prevent the identification of a patient or physician, unless that information is being shared with another public health authority. Other laws also protect the confidentiality of information reported to DPH, such as South Carolina Code Section 44-37-30 (infant metabolic and genetic screenings). Also, medical records are not public records that can be disclosed pursuant to the SC Freedom of Information Act.

Must I Account For Disclosures Made For Public Health Purposes, Including Required Reporting?

Yes, the Privacy Rule states that a patient is entitled to receive an accounting of uses and disclosures of their protected health information, even if the use or disclosure is permitted or required by law. Therefore, any disclosure made to DPH, whether or not required by law, must be reported to the patient who requests an accounting of disclosures.

Resources

Where can I get more information and additional guidance?

The U.S. Department of Health and Human Services, Office of Civil Rights (OCR), website: www.hhs.gov/hipaa contains:

- The full text of the HIPAA Privacy Rules
- Information on the Privacy Rules
- OCR guidance
- Frequently Asked Questions (FAQs) and answers, including questions about public health activities and permissible disclosures.

For further information on public health reporting, please contact:

South Carolina Department of Public Health

Privacy Officer
2100 Bull Street
Columbia, SC 29201
Phone (803) 898-3318
dph.sc.gov

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Public Health and HIPAA

Legally Sharing Information with Public Health Agencies

The South Carolina Department of Public Health (DPH) is the public health authority in South Carolina, authorized by law to obtain access to health information in order to protect the public's health. This brochure is provided as a guide to health care providers that have the responsibility to make reports to DPH, to allow access to an individual's health information for investigation and surveillance, and to assist in continued efforts to protect the public's health.



This brochure is not intended to serve as legal advice, nor should it be considered an endorsement of the resources provided. If you have questions, be sure to contact your legal counsel to determine your own compliance with the law and appropriate policies and procedures.

HIPAA (The Health Insurance Portability and Accountability Act of 1996) was enacted to address the efficiency and effectiveness of the health care system in the United States. A federal regulation has been established under HIPAA to address the privacy of an individual's health information or "protected health information," as defined in the Regulation. This Regulation, known as the "Privacy Rule," has a compliance date of April 14, 2003.

What Does The Privacy Rule Do?

The Privacy Rule defines how health care providers can use and disclose protected health information. While the Privacy Rule imposes limits on disclosing and sharing protected health information, it DOES NOT change requirements under state law to report and to allow access to protected health information to DPH as the public health authority.

This is specifically addressed in the preamble to the Privacy Rule:

“The final rule continues to permit covered entities to disclose protected health information without individual authorization directly to public health authorities, such as the Food and Drug Administration, the Occupational Safety and Health Administration, the Centers for Disease Control and Prevention as well as state and local public health departments, for public health purposes...” [Standards for Privacy of Individually Identifiable Health Information, 65 Fed. Reg. 82,526 (2000) (45 C.F.R. pts. 160 and 164).]

“[S]ection 1178(b) of the [Social Security] Act as explained in the [Notice of Proposed Rulemaking for the Privacy Rule], explicitly carves out protection for state public health laws. This provision states that: ‘(N)othing in this part shall be construed to invalidate or limit the authority, power, or procedures established under any law providing for the reporting of disease or injury, child abuse, birth or death, public health surveillance, or public health investigation or intervention.’” [Standards for Privacy of Individually Identifiable Health Information, 65 Fed. Reg. 82,624 (2000) (45 C.F.R. pts. 160 and 164).]

Is Patient Authorization Needed To Report Or Share Information With DPH?

The Privacy Rule [See 45 C.F.R. §160 and §164] provides for a number of situations in which protected health information may be shared without a patient's authorization. Those situations include:

- (a) Uses and disclosures required by law.
 - (1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law. (45 C.F.R. §164.512(a))



- (b) Uses and disclosures for public health activities.
 - (1) Permitted disclosures. A covered entity may disclose protected health information to:
 - (i) 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;
 - (ii) A public health authority authorized by law to receive reports of child abuse or neglect. (45 C.F.R. §164.512(b))

How Does S.C. Law Protect These Disclosures?

In South Carolina, health care providers are required by law to make many disclosures for public health purposes. **The state law requirements concerning these mandatory disclosures are not changed by HIPAA.** For example, hospitals or physicians must share with or report information to DPH for many reasons, such as: contagious and infectious disease reporting, environmental and occupational disease notifications, epidemiological studies, and reporting of births and deaths. Immunization information must also be reported or available to DPH for public health activities. (ex. S.C. Code §§44-1-110, 44-29-10 *et seq.*, 44-31-10, 44-37-10, 44-38-60, Regulations 61-19, 61-20, 61-21).