



STATE OF MICHIGAN

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

GRETCHEN WHITMER
GOVERNOR

ELIZABETH HERTEL
DIRECTOR

MEMORANDUM

DATE: February 15, 2021

TO: Local Health Departments
Health Care Providers
Other Interested Parties

FROM: Elizabeth Hertel, Director *EH*

SUBJECT: Disclosures of Protected Health Information for Disease Prevention and Control under the Michigan Public Health Code

Michigan's System of Public Health Disease Investigations and Surveillance

Public Health Authorities in Michigan

- The Michigan Department of Health and Human Services (MDHHS) and local health departments (LHDs) are the public health authorities responsible for overseeing and safeguarding Michigan's public health. ¹
- MDHHS and LHDs "may inspect, investigate, or authorize an inspection or investigation to be made of, any matter, thing, premise, place, person, record, vehicle, incident, or event" in carrying out their duties. ²
- MDHHS and LHD investigators who present their identification **MUST** be promptly provided with medical, epidemiologic, or other information relevant to a public health investigation.³ This includes, but is not limited to, information about persons who may be a health threat to others, who may have been exposed to a disease, or whose information is needed for an investigation.⁴
- MDHHS and LHDs are empowered to take "human, animal, environmental, or other types of specimens or cause such specimens to be obtained by appropriate means, including venipuncture, in the course of an investigation of a reported disease, infection, or condition."⁵

¹ MCL 333.2221; 333.2433; *see generally* 333.1101 et seq.

² MCL 333.2241; MCL 333.2446

³ R. 325.174(2)-(3)

⁴ *Id.*

⁵ R. 325.174(4)

HIPAA AND PUBLIC HEALTH

- HIPAA's Privacy Rule restricts the "use" and "disclosure" of certain "protected health information" held by "covered entities" (e.g., hospitals, doctor's offices, pharmacies, clinical laboratories, and business associates of these entities).⁶
- HIPAA authorizes covered entities to disclose protected health information to public health authorities (e.g., MDHHS, LHDs) 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.⁷
- HIPAA authorizes covered entities to use or disclose protected health information as required by law.⁸ Because Michigan law mandates compliance with MDHHS and LHD investigative activities, covered entities **MUST COMPLY** with these requests.
- Disclosure made to public health authorities for the public health purposes described above **do not require authorization or an opportunity to object** by the individual to whom the records relate.⁹

Reporting Requirements

- Physicians and laboratories **MUST** report certain "reportable diseases" to local health departments within 24 (or in some cases, 72) hours of diagnosis or discovery.¹⁰
 - The current list of reportable diseases can be found at:
www.michigan.gov/brickbook
 - Communicable disease information and resources can be found at:
www.michigan.gov/cdinfo
- Physicians and other health professionals may report any disease, infection or condition that threatens the public health.¹¹
- Identifiable medical and epidemiological information reported to MDHHS as a part of a disease investigation is confidential, and is no open to public inspection unless:
 - The individual to whom the information relates consents to its release, OR
 - The director of MDHHS or an LHD determines that public inspection is necessary to protect the public health.¹²

EH:el

⁶ See generally 45 C.F.R. Part 160 and)Part 164

⁷ 45 C.F.R.164.512(b)(1)(i)

⁸ 45 C.F.R. 164.512(a)

⁹ 45 CFR 164.512

¹⁰ See generally R. 325. 173.

¹¹ R.325.173(4), (8)

¹² R.325.181(2).