



IOWA DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL

This FAQ addresses legal questions that have arisen during the COVID-19 pandemic related to law enforcement officials and EMS providers. This document is intended to provide guidance to the Department of Public Health, local health departments, and hospitals. This FAQ was developed by the Attorney General's Office but does not constitute a formal opinion of the Attorney General. This document was last updated on March 27, 2020.

**Law enforcement officials and EMS providers have requested local public health departments provide them with a list, including the name and addresses, of all COVID-19 positive patients in their jurisdiction. Is local public health required or authorized to provide such a list to law enforcement or EMS?**

Summary: Local boards of health have been directed by the Department of Public Health to provide a list of the names and addresses of all individuals known to have tested positive for COVID-19 in their jurisdiction to their local public safety answering point (PSAP)<sup>1</sup>, which will then disclose this information to law enforcement and EMS on a per-call basis only. The PSAP will inform law enforcement or EMS being dispatched to the scene of the name and address of a COVID-19 positive patient so that law enforcement and EMS can take extra precautions or use PPE to lessen the risk of exposure. The PSAP should disclose the minimum amount of information necessary to enable the responder to take appropriate action on each particular call.

Legal analysis: Most local boards of health are covered entities under HIPAA and therefore must comply with both federal and state confidentiality laws. [The Department of Public Health is not a covered entity under HIPAA, and therefore its disclosures are not governed by HIPAA but must comport with state confidentiality laws]. There is no law, whether federal or state, which requires local boards of health to provide law enforcement and EMS with a list of COVID-19 positive patients in their jurisdiction and hence local boards are not legally required to do so. Local boards of health are required to disclose patient information under HIPAA in only two situations - to patients themselves and to HHS during audit - neither of which are relevant to this inquiry.

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<sup>1</sup> A PSAP is a twenty-four hour public safety communications facility that receives 911 service calls and directly dispatches emergency response services or relays calls to the appropriate public or private safety agency, including agencies providing fire, police, ambulance, or emergency medical services. Iowa Code § 34A.2(22), (23).

Local boards of health are permitted to disclose patient identifiable information only if such disclosure is authorized by HIPAA and state confidentiality laws such as Iowa Code chapters 22 and 139A. On March 24, 2020, the Office for Civil Rights (OCR) issued a guidance document which outlined the circumstances under which covered entities are permitted - but not required - to disclose patient identifiable information under HIPAA to law enforcement and EMS, including to persons who may be at risk of contracting a disease if the covered entity is authorized by law to notify such person in the conduct of a public health intervention or investigation (45 CFR 164.512(b)(1)(iv); and when the disclosure is necessary to prevent or lessen a serious and imminent threat to the health of a person and is to a person reasonably able to prevent or lessen the threat (45 CFR 164.512(j)(1)). [Note: These HIPAA exemptions do not apply to disclosures made by the Department of Public Health because it is not a covered entity under HIPAA].

In light of the unprecedented nature and scope of the COVID-19 pandemic and the March 24, 2020, OCR guidance, the Department of Public Health has directed local boards of health to provide the following information to the public safety answering points (PSAPs) within their jurisdiction: name and address of persons testing positive for COVID-19.<sup>2</sup> This notification should be provided as a part of the case tracking process. The PSAP should “flag” this information in the system to be seen only when a call is received about the person or related to the person’s address. The PSAP will inform law enforcement or EMS being dispatched to the scene of the name and address of a COVID-19 positive patient so that the responder can take extra precautions or use PPE to lessen the risk of exposure. The PSAP should disclose the minimum amount of information necessary to enable the responder to take appropriate action for each particular call.

The disclosure from local public health to the PSAPs is authorized in the March 24, 2020, OCR guidance document, which states a covered entity such as a local board of health may under HIPAA provide a list of names and addresses of all positive individuals to a dispatch “for use on a per-call basis.” The guidance states a local board of health “should not distribute compiled lists of individuals to EMS personnel, and instead should disclose only an individual’s information on a per-call basis.” Distribution of compiled lists of patient names and addresses directly to law enforcement or EMS personnel would likewise be inconsistent with state law. *See* Iowa Code §§ 22.7(2) and (16), 139A.3.

Flagging the name and address of COVID-19 positive patients in the PSAP is sufficient to ensure law enforcement and EMS are aware they need to utilize PPE and take proper

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<sup>2</sup> Previous direction from the Department authorized local public health to disclose the address of a COVID-19 positive patient to their PSAP so that the address could be “flagged” in the system and a responder directed to utilize PPE. The guidance has been broadened to include disclosure of the patient name and testing status.

precautions. Disclosing a list of all COVID-19 positive patients directly to law enforcement and EMS is not necessary to achieve this benefit, nor does it serve any additional purpose that flagging the name and address in the PSAP does not. In addition, to expect local public health departments to provide a list of all COVID-19 positive patients to all local law enforcement agencies and all EMS services in their jurisdiction is unreasonable and unfeasible given the numbers of law enforcement and EMS agencies in each county, the growing numbers of positive patients, the substantial workload of all public health officials at this time, and the significant confidentiality concerns such a blanket disclosure raises.

**If a law enforcement officer or an EMS provider is exposed to an individual who – after their contact – tests positive for COVID-19, will the responder be informed of the exposure and what precautions should they take?**

Yes, all known exposures will be disclosed to law enforcement officers and EMS providers by the Department of Public Health or the local public health department. State and local public health authorities are authorized by law to disclose to a law enforcement officer or an EMS provider (and all other contacts of the infected person) that they have been exposed to a COVID-19 positive person. If a responder is notified that he or she has been exposed to a COVID-19 positive person, they should follow the “Isolation Guidance for Essential Services Personnel” found on the Iowa Department of Public Health’s COVID-19 webpage.

**Is a hospital legally authorized to notify other providers who have treated or will treat a hospital patient infected with COVID-19? For example:**

**If EMS has transported a patient from a long-term care facility to a hospital where the patient tests positive, can or must the hospital inform EMS and the long-term care facility that the patient tested positive? Similarly, if law enforcement transported a patient from a jail to a hospital where the patient tests positive, can or must the hospital inform law enforcement and the jail facility that the patient tested positive?**

If a hospital patient tests positive for COVID-19 the hospital must report the positive case to the Department of Public Health. The Department and the county health department will then notify all contacts to the positive case that they have been exposed to a positive patient, including the EMS or law enforcement officers who transported the patient and the facility from which the patient was transferred. Local public health will provide guidance to EMS, law enforcement officers, and the facility staff about monitoring their condition, testing, and isolation. [Here is a complete listing of this guidance.](#)

Hospitals have expressed concern that local public health may become overwhelmed and unable to promptly notify EMS and law enforcement who had contact with the patient. At the current time, it is important that local public health conduct the notifications to ensure that uniform and consistent guidance is provided to such contacts about required actions. If the local public health system becomes overwhelmed and is unable to provide notification to EMS, law enforcement, and others who may have been exposed to the patient, the Department may request that the hospital conduct such notification. Such notification would be authorized under HIPAA to occur without patient authorization if the notification was made at the direction of the Department and accompanied by a statement that the notification of a person exposed to COVID-19 is necessary to conduct a public health intervention and to prevent or lessen a serious and imminent threat to the health or safety of a person. 45 CFR 164.512(b)(1)(i) and (iv), 164.512(j).

In addition, hospitals can disclose information directly to law enforcement and EMS without direction from a public health authority under certain limited circumstances allowed by HIPAA, including disclosures which are necessary to avert a serious threat to health or safety and which are made to persons reasonably able to prevent or lessen the threat. 45 CFR 164.512(j). On March 24, 2020, the Office for Civil Rights (OCR) issued a guidance document which outlines those limited circumstances under which hospitals can disclose identifiable information about a COVID-19 positive patient to law enforcement and EMS. In reviewing section “j”, the guidance document indicates that a hospital may disclose such identifiable information to responders “if the covered entity believes in good faith that the disclosure of the information is necessary to prevent or minimize the threat of imminent exposure to such personnel in the discharge of their duties.” The guidance document emphasizes that disclosures must be limited to the “minimum necessary” to accomplish the purpose for disclosure.

Hospitals which have questions about whether a direct disclosure to law enforcement or EMS is authorized should contact their legal counsel. A couple items of note:

The role of a hospital during the COVID-19 outbreak is to provide clinical treatment to infected patients in need of acute care; the role of public health is to identify patients infected with COVID-19, conduct detailed patient interviews to identify case contacts, notify case contacts, provide appropriate recommendations to cases and case contacts, and monitor positive cases. A hospital does not have a duty, nor is a hospital generally authorized, to identify all case contacts and conduct notification of such individuals. It is important to understand the distinct purposes and functions of these entities when assessing whether a particular disclosure is authorized.

For example, hospitals may in good faith determine that it is not necessary for the hospital to notify case contacts, including law enforcement and EMS, because public health has already done so or such notification by public health is imminent. Likewise, and to address a scenario discussed in the March 24, 2020, OCR guidance document, hospitals may in good faith determine that it is not necessary to provide a list of names and addresses of all individuals who have tested positive or received treatment for COVID-19 to an EMS dispatch because local public health is already providing such information to PSAP's in the manner discussed above. Hospitals may in good faith determine that providing such information to EMS dispatch would result in a duplication of efforts, inconsistencies and confusion, and significant administrative burdens at a time when hospital resources are particularly scarce and overburdened. Again, hospital staff reviewing whether to notify case contacts or assessing how to respond to requests for patient-identifiable information from law enforcement or EMS should consult with their legal counsel in reaching these decisions.