

ASPR TRACIE Technical Assistance Request

Request Receipt Date (by ASPR TRACIE): 26 July 2019

Response Date: 1 August 2019

Type of TA Request: Complex

Request:

The requestor asked for technical assistance in identifying guidance and other information on quarantine and isolation legal authorities, particularly as it pertains to possible Health Insurance Portability and Accountability Act (HIPAA) violations. He noted that their current state law requires them to place placards on the premises of the person being isolated/quarantined from a disease, and he believes this violates HIPAA laws.

Response:

The ASPR TRACIE Team reviewed existing materials; namely the [Epidemic/ Pandemic Flu, Healthcare-Related Disaster Legal/ Regulatory/ Federal Policy, SARS/MERS](#), and [VHF/Ebola](#) Topic Collections. We also conducted a search online for relevant resources.

Section I includes materials with information specific to quarantine and isolation legal authorities. Section II provides links to resources related to HIPAA.

In particular, we would like to highlight the following resource that has a list of various state statutes: National Conference of State Legislatures, [State Quarantine and Isolation Statutes](#); and the ASPR TRACIE [HIPAA and Disasters: What Emergency Professionals Need to Know](#) factsheet. In this factsheet, there is additional information on determining if you are a covered entity or not (<https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/HIPAA-ACA/AreYouaCoveredEntity.html>). If you are a covered entity, note the permissible disclosures sections in the factsheet.

ASPR TRACIE has public health law subject matter experts (SME) as part of our Cadre if you are interested in being connected directly to a SME. Please contact the [Assistance Center](#) for additional information. Please note that ASPR TRACIE does not provide legal advice and our resources should not replace the advice of your legal counsel.

A list of comprehensively developed Topic Collections can be found here: <https://asprtracie.hhs.gov/technical-resources/topic-collection>.

I. Resources on Quarantine and Isolation Legal Authorities

Centers for Disease Control and Prevention. (2012). [Social Distancing Law Assessment Project](#).

This publication provides an overview of the Social Distancing Law Assessment Project, conducted in 17 jurisdictions in 2007 and nine additional jurisdictions in 2010, to

examine their level of legal preparedness to implement social distancing strategies effectively. It includes a template and sample documents.

Centers for Disease Control and Prevention. (2014). [Legal Authorities for Isolation and Quarantine](#).

This webpage includes definitions of key terms, a list of diseases for which isolation and quarantine can be authorized, and a summary of related Federal, state, local, and tribal laws.

National Conference of State Legislatures. (2014). [State Quarantine and Isolation Statutes](#).

This webpage includes a table that summarizes state law authority for quarantine and isolation within state borders, including authority to initiate quarantine and isolation, limitations on state quarantine powers, and penalties for violations. **NOTE:** Please review the list of additional resources provided at the end of this webpage.

Orenstein, D. (2011). [Pandemic and All-Hazards Preparedness Reauthorization Act \(PAHPRA\) of 2013: State-Based Isolation or Quarantine Procedures](#). Robert Wood Johnson Foundation, Network for Public Health Law.

This factsheet provides links to a sample of language from state statutes, regulations, and model law regarding confidentiality measures relevant to state-based isolation or quarantine procedures. **NOTE:** [The Pandemic and All-Hazards Preparedness and Advancing Innovation Act of 2019](#) was signed into law June 2019.

Sunshine, G. and Ransom, M. (2015). [Ebola and the Law: Legal Preparedness for Physicians and Hospitals](#). Centers for Disease Control and Prevention, Office for State, Tribal, Local and Territorial Support.

The authors synthesize the information they shared during the presentation “Ebola and Public Health Law” on the following topics: the duty to plan and comply with the plan, public health powers, disease investigation, isolation and quarantine, and medical guidance for Ebola patients. **NOTE:** Section II B, beginning on page 7, provides sample isolation/quarantine legal authorities from different states.

The Network for Public Health Law. (2018). [Emergency Legal Preparedness and Response: Resource Collection](#).

This collection includes links to resources on a variety of health law topics, including social distancing powers, liability, mental and behavioral health preparedness, and crisis standards of care. Emergency planners and public health officials can use these resources when developing plans and/or responding to local, state, or regional public health emergencies. **NOTE:** Please review the Social Distancing Powers section for more information related to isolation/quarantine.

U.S. Department of Health and Human Services, Office of the Assistant Secretary for Public Affairs and Office of the Assistant Secretary for Preparedness and Response. (2007). [Public Health Emergency Response: A Guide for Leaders and Responders](#).

The purpose of this guide is to provide public officials and first responders with information on public health emergencies. It includes sections on isolation and quarantine, which provide definitions, legal and regulatory information, and strategies for non-pharmaceutical interventions.

II. HIPAA Resources

ASPR TRACIE. (2016). [HIPAA and Disasters: What Emergency Professionals Need to Know](#).

Knowing what kinds of patient information can be released, to whom, and under what circumstances, is critical for healthcare facilities in disaster response. This guide is designed to answer frequently asked questions regarding the release of information about patients following an incident.

Hodge, J.G. (2012). [Public Health Law 101: A CDC Foundational Course for Public Health Practitioners](#). Centers for Disease Control and Prevention.

The Public Health Law 101 course provides an introduction to fundamental principles of law, ethics, and the legal system as they frame public health practice in the United States. It is meant to be delivered by attorneys. Module 6 content includes a review of the basic principles of health information privacy, confidentiality, and security, as well as the scope, structure, and implementation of the HIPAA privacy rule.

U.S. Department of Health and Human Services. (n.d.). [Health Information Privacy – Is HIPAA Privacy Rule Suspended during a National or Public Health Emergency?](#) (Accessed 7/30/2019.)

This webpage provides guidelines regarding the application of HIPAA during emergencies.

U.S. Department of Health and Human Services, Office for Civil Rights. (n.d.). [Emergency Situations: Preparedness, Planning, and Response](#). (Accessed 7/30/2019.)

This website covers HIPAA privacy rules during emergency planning and response, including waivers. The website also provides links to other patient rights issues during emergencies.

U.S. Department of Health and Human Services, Office for Civil Rights. (n.d.). [HIPAA Policy Brief: When HIPAA Covered Entities Can Disclose Protected Health Information to Public Health Authorities](#). (Accessed 7/30/2019.)

This policy brief addresses the use of protected health information and the circumstances in which a HIPAA covered entity is permitted to disclose such information to public health authorities.

U.S. Department of Health and Human Services, Office for Civil Rights. (n.d.). [HIPAA Training & Resources](#). (Accessed 7/30/2019.)

These training and resource materials were developed to help entities implement privacy and security protections. This webpage includes videos and slides from state attorneys general training and educational programs for healthcare providers.

U.S. Department of Health and Human Services, Office for Civil Rights. (n.d.). [Public Health Authority Disclosure Request Checklist](#). (Accessed 7/30/2019.)

This checklist is intended for public health authorities who must meet certain legal requirements specific to the protection of individual health information.

U.S. Department of Health and Human Services, Office for Civil Rights. (n.d.). [Security Rule Guidance Material](#). (Accessed 7/30/2019.)

This webpage assists healthcare professionals find information about the HIPAA Security Rule and provides links to other standards and resources on safeguarding electronic protected health information.