



Iowa Health Care Association
Iowa Center for Assisted Living
Iowa Center for Home Care

Frequently Asked Questions: Public Health Reporting Obligations for Facilities with Positive COVID-19 Case

ISSUED: MARCH 10, 2020

1. **Q:** Who is required to report under the Communicable and Infectious Disease Reporting and Control Act and related regulations hereafter “Act”?

A: Health Care Providers (includes those licensed to practice medicine, nursing, and PA’s among others); Hospitals; Clinical Laboratories; and other Health Care Facilities (including residential care facilities and nursing facilities)

2. **Q:** Is reporting a positive test of COVID-19 to the State a HIPAA violation?

A: No, HIPAA has an exception allowing for covered entities to report protected information without authorization to public health authorities (See 45 CFR 164.512(b)). Facilities are required to inform the individual about whom the public health disclosure was made after the disclosure. See IHCA HIPAA materials on the IHCA website and consult your attorney for further guidance. Please note, HIPAA continues to apply in regard to disclosures to other entities and individuals.

3. **Q:** Is reporting a positive test and related information to the state a violation of any state privacy laws?

A: No, this reporting is required by state law and will not be considered a violation of any state privacy related law.

4. **Q:** Am I subject to liability for reporting this information?

A: State law provides that anyone who “acting reasonably, and in good faith, files a report, releases information (to the state under the appropriate act) or otherwise cooperates with

an investigation under this chapter is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for such action” information in parenthesis added for clarification. See IA Code 139A.3(2)(a).

5. **Q:** Is reporting under the Act confidential?

A: Per state law/regulation the information report is confidential and will not be accessible to the public. However, the identity of the business may be released to the public if the state determines such a release of information is necessary for the protection of the public.

6. **Q:** Can I share reported information with other residents in the facility if I have a positive case?

A: Potentially and to a limited degree depending on the circumstances, HIPAA still applies so the disclosure needs to be limited to the minimum necessary and needs to comply with HIPAA requirements. There are two HIPAA exceptions which are relevant. The first is for disclosure to those who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition if the covered entity ... is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation. The second allows for some disclosure if the covered entity, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and the disclosure is to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat. See CFR 164.512(b)(1)(iv); 45 CFR 164.512(j) and IHCA website HIPAA materials. Consult your attorney for further guidance.

7. **Q:** Should I let the individual about whom I have reported to public health officials know of the disclosure to public health officials?

A: You should inform the individual about whom the disclosure was made that you are required by state law to report cases of infectious and communicable diseases under the Communicable and Infectious Disease Reporting Act to public health officials and indicate what disclosure you made regarding that individual. Contact your attorney for additional guidance about HIPAA disclosures.

IHCA will continue to add to these FAQ's as new issues and questions arise. Check the IHCA website frequently for updates to this document.

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