

Legal Authority from CSR64-7 in reference to pain clinic investigation

Confidentiality and notification

7.7. The Commissioner or the local health officer shall not disclose the identity of the community, school, camp, daycare, health care facility, restaurant or food establishment or other setting where an outbreak or cluster of disease occurs, unless the release is necessary to inform the public to take preventive action to stop the spread of disease or to notify providers or laboratories to identify additional cases of disease. Data on community outbreaks and clusters may be released by the Commissioner in aggregate on a regular basis, identifying the county of occurrence of the outbreak or cluster. Data on healthcare-associated outbreaks and clusters may be released by the Commissioner in aggregate on a regular basis, identifying the surveillance region of occurrence of the outbreak or cluster.

7.8. If the Commissioner becomes aware of an ongoing risk to public health through investigation of an outbreak in a health care facility and the health care facility fails to take appropriate corrective action within a reasonable period of time after notification by the Commissioner, the Commissioner shall file a complaint with the Office of Health Facilities Licensure and Certification. If the Commissioner becomes aware that a licensed practitioner is practicing in such a way as to place the health of the public at risk and the licensed practitioner fails to take appropriate corrective action within a reasonable period of time after notification by the Commissioner, the Commissioner shall file a complaint with the practitioner's licensing board.

7.9. During the course of an outbreak or exposure investigation, if the Commissioner learns of patients who may have been exposed to a serious infectious condition, such as, but not limited to, hepatitis B or C or human immunodeficiency virus (HIV), and the health of the patient or their family members or close contacts may be at risk, the Commissioner shall notify the patient of the nature of the exposure or possible exposure and action that may be taken by the patient to prevent further risk to their health or the health of their family members or close contacts. In the course of notification of the patient, the Commissioner may identify a health care provider or health care facility to the extent necessary to inform the patient of the nature of the exposure or possible exposure.

Responsibilities of health providers and facilities

§64-7-14. Persons, Facilities, and Laboratories Required to Report; Other Related Responsibilities.

14.1. Health Care Providers and health care facilities.

14.1.a. Any health care provider who or health care facility which suspects, diagnoses, or cares for a patient with a disease or condition listed in this rule shall:

14.1.a.1. Report the disease or condition as required by this rule;

14.1.a.2. Assist public health officials in appropriate case and outbreak investigation and management and in any necessary contact investigation and management;

14.1.a.3. Make every effort to submit the specimens identified in protocols specified by the Commissioner to establish an accurate diagnosis of the disease or condition to a laboratory approved by the Commissioner;

14.1.a.4. If the disease or condition is communicable, advise, in consultation with State and local public health officials, the patient, and as necessary, members of the patient's household and other patient contacts regarding the precautions to be taken to prevent further spread of the disease. In cases of sexually transmitted diseases, HIV, and tuberculosis, the Bureau recommends that health care providers and health care facilities refer contact notification activities to the STD/HIV/TB program and local health departments for tuberculosis rather than attempt to accomplish the notification themselves;

14.1.a.5. Follow a method of control specified by the Commissioner in established protocols in the West Virginia Reportable Diseases Protocol Manual (available online at www.dide.wv.gov), or by methods developed in consultation with the Commissioner;

14.1.a.6. Assist the Commissioner or the local health officer by promoting implementation of the control method for the disease or condition specified in the protocol with the patient, and, as applicable, members of the patient's household, facility staff, and other involved individuals; and

14.1.a.7. Assist the Commissioner or local health officer in ruling out previously reported cases of infectious disease by submitting copies of negative laboratory tests of medical evaluations.

Confidentiality requirements ...

§64-7-20. Confidentiality.

20.1. Any epidemiologic information collected and maintained pursuant to this rule by local health officers or the Commissioner which identifies an individual or facility as having or suspected of having a reportable disease or condition, or as having been identified in an epidemiologic investigation is confidential and exempt from disclosure as provided in W. Va. Code §29B-1-1, et seq., the Freedom of Information Act. The same information is also confidential and exempt from disclosure pursuant to a subpoena, unless accompanied by a Court Order signed by a Judge.

20.2. In the case of an individual, the Commissioner or a local health officer may release confidential information identified in subsection 20.1. of this section to the following:

20.2.a. The patient;

20.2.b. The patient's legal representative whose authority encompasses the authority to access the patient's confidential information;

20.2.c. Individuals who maintain and operate the data and medical record systems used for the purposes of this rule, if the systems are protected from access by persons not otherwise authorized to receive the information;

20.2.d. The patient's physician or other medical care provider when the request is for information concerning the patient's medical records and is, in the determination of the Commissioner or the local health officer, to be used solely for the purpose of medical evaluation or treatment of the patient;

20.2.e. Any individual with the written consent of the patient and of all other individuals identified, if applicable, in the information requested;

20.2.f. Staff of a federal, State, or local health department or other agencies with the responsibility for the control and treatment of disease, to the extent necessary for the agency to enforce specific relevant provisions of federal, State and local law, rules and regulations concerning the control and treatment of disease;

20.2.g. Medical personnel caring for a potentially exposed individual to the extent necessary to protect the health or life of the exposed individual;

20.2.h. The manager or director of a licensed facility, restaurant, school or daycare where the case or suspected case resides, or is employed or in attendance, if determined absolutely necessary by the Commissioner for protection of the public's health under the following provisions:

20.2.h.1. Disclosed information is limited to the name of the individual, the name of the disease, laboratory test results associated with the reportable disease and steps the manager or director shall take to assure protection of the health of the public; and

20.2.h.2. The personal identity of the employee shall be kept confidential by the manager or director to whom a disclosure was made; and

20.2.i. The persons to whom reports are required to be filed under W. Va. Code §49-6A-1, et seq., regarding children suspected to be abused or neglected is subject to the confidentiality protections of W. Va. Code §§16-4-10, 16-29-1 and 16-3C-3, or any other applicable confidentiality code section.

20.3. In the case of a licensed facility, the Commissioner or a local health officer may release confidential information to the public when there is a clear and convincing need to protect the public's health as determined necessary by the Commissioner.