

# HIPAA and Medical Information Related to Newborn Hearing Screening, Diagnosis, and Intervention

## EARLY HEARING DETECTION AND INTERVENTION

**Disclaimer of Legal Advice:** The following is the Minnesota Department of Health's (MDH) analysis of how Minnesota Statute §§ 144.966 interacts with the Health Insurance Portability and Accountability Act (HIPAA privacy rule 45 CFR 160 and 164). This is not legal advice and you should not rely on it as legal advice. Consult with a lawyer for legal advice.

### Question

Does the Health Insurance Portability and Accountability Act (HIPAA) permit disclosure of specific patient medical information related to newborn hearing screening and confirmed hearing loss to MDH and contractors working on the behalf of MDH (including local public health agencies and parent support agencies contracted through Minnesota Statute §§ 144.966) without patient authorization?

### Answer

The Minnesota Department of Health has concluded that HIPAA permits a provider and/or the provider's medical records department or staff to release a patient's medical information pertaining to newborn hearing screening and confirmed hearing loss management in accordance with Minnesota Statute §§ 144.966 without the patient's authorization, unless the patient's parent has elected in writing not to have the testing performed. This conclusion is based on review of the HIPAA privacy rule, available on the Web site of the U.S. Department of Health and Human Services (DHHS; [The HIPAA Privacy Rule](http://www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/index.html) <http://www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/index.html>)

The medical information being released must be related to the hearing screening, rescreening, or diagnosis and hearing loss management/medical intervention. This may include, but is not limited to, personally identifiable information on the patient, information on tests conducted and results of tests conducted, and other pertinent information.

### Rationale

HIPAA governs the use and disclosure of protected health information (PHI). It applies to health plans, health care clearinghouses, and health care providers who transmit certain health claims information electronically. These entities are **covered entities** under the rule.

A covered entity must obtain a written authorization from the individual, for the use and disclosure of PHI **unless** the disclosure is to the individual for treatment, payment, or health care operations, or **the disclosure falls under one of the specified exceptions**. The HIPAA

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privacy rule, specifically 45 CFR §164.512, addresses the uses and disclosures of PHI for which an authorization or an opportunity to agree or object is not required. Specifically:

Section 164.512(a) permits disclosures that are required by law, including statutes and rules; and Section 164.512(b) permits a covered entity to disclose PHI to:

“(i) A public health authority that is **authorized by law to collect or receive** such information 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;”

Under the HIPAA privacy rule, 45 CFR 164.501, **public health authority** is defined as “an agency or authority of ... a State . . . **that is responsible for public health matters as part of its official mandate.**” Therefore, to the extent that a public health authority is authorized by law to collect or receive information for public health purposes, covered entities may disclose PHI to the public health authority without the patient’s authorization.

Minnesota Statutes, section 144.966, directs MDH to oversee early hearing detection and intervention programs. Among other things, section 144.966 requires MDH to collect, and health care providers to report to MDH, health information relating to newborn hearing screening and confirmation of hearing loss.

## Summary

In summary, Minnesota Statute §§ 144.966 allows MDH to collect health information pertinent to newborn hearing screening and confirmed hearing loss.

Therefore, HIPAA does not prevent health care providers, including their medical records departments and their staff, can share protected health information pertaining to newborn hearing screening and confirmed hearing loss with the following entities without patient authorization: MDH, contractors working on behalf of MDH, or local public agencies.

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*To obtain this information in a different format, call the Early Hearing Detection and Intervention program: 651-201-5466.*