

HIPAA and the Medical Information Related to the Birth Defects Information System

BIRTH DEFECTS MONITORING AND ANALYSIS

Disclaimer of Legal Advice: The following is Minnesota Department of Health (MDH) analysis of how Minnesota Statutes sections 144.2215 to 144.2219 interact with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, 45 CFR parts 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 birth defects to MDH and contractors working on behalf of MDH (including local public health agencies) 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 disclose a patient's medical information pertaining to birth defects in accordance with Minnesota Statutes sections 144.2215 to 144.2219 without the patient's authorization. This conclusion is based on review of the HIPAA Privacy Rule available on the website of the [U.S. Department of Health and Human Services \(www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/index.html\)](http://www.hhs.gov/ocr/privacy/hipaa/administrative/privacyrule/index.html).

The medical information being disclosed must be related to the birth defect diagnosis, management, and related interventions. This may include, but is not limited to, personally identifiable information on the patient, information on tests and procedures conducted, results of tests and procedures conducted, diagnoses, referrals to other providers and services, 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.

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The HIPAA 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. 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 144.2215 requires the Commissioner of Health to establish and maintain an information system containing data on the cause, treatment, prevention, and cure of major birth defects. The Commissioner must design the Birth Defects Information System to allow the Commissioner to monitor incidence trends of birth defects to detect potential public health problems, predict risks, and assist in responding to birth defects clusters; more accurately target intervention, prevention, and services for communities, patients, and their families; inform health professionals and citizens of the prevalence of and risks for birth defects; and conduct scientific investigation and surveys of the causes, mortality, methods of treatment, prevention, and cure for birth defects. Minnesota Statutes section 144.2217 classifies information on individuals collected for the Birth Defects Information System as private data on individuals. The data may only be used for the purposes in Minnesota Statutes sections 144.2215 to 144.2219.

Summary

In summary, Minnesota Statutes sections 144.2215 to 144.2219 authorize MDH and local public health authorities to collect health information pertinent to the diagnosis, cause, treatment, prevention, and cure of birth defects.

Therefore, providers, their medical records departments, and their staff can share medical information with MDH and contractors working on behalf of MDH (including local public health agencies) pertaining to birth defects diagnosis, management, and related interventions without patient authorization.

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Minnesota Department of Health
Chief Legal Counsel
625 Robert St. N.
PO Box 64975
St. Paul, MN 55164
651-201-5000
www.health.state.mn.us

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To obtain this information in a different format, call the Birth Defects Monitoring and Analysis program: 651-201-3650.