



STATE OF ALABAMA DEPARTMENT OF
PUBLIC HEALTH

Donald E. Williamson, MD
State Health Officer

January 18, 2012

Dear Alabama Newborn Screening Providers:

Subject: HIPAA and Newborn Screening Information

In light of HIPAA, concerns have been raised regarding sharing information with the Alabama Department of Public Health regarding newborn screenings. Exchange of information regarding newborn screenings is permissible under HIPAA because HIPAA allows the disclosure of protected health information without patient authorization if the disclosure is required by law or if the disclosure is required for public health activities. Disclosures regarding newborn screenings fall into both of these categories.

Specifically, the HIPAA regulations state that they do not pre-empt laws “for the conduct of public health surveillance, investigation, or intervention.” 45 CFR 160.203(a)(2)(c). The regulations further provide that disclosures can be made without patient consent if the disclosure is required by law or if the disclosure is required for public health activities such as “preventing and controlling disease, injury, or disability” and “the conduct of public health surveillance, public health investigation, and public health interventions.” 45 CFR 164.512(a) and (b).

State law requires that health care providers report all results of the newborns tested to the Alabama Department of Public Health. Ala. Admin. Code 420-10-1-.04(2). Therefore, providers must continue reporting newborn screening results to the Alabama Department of Public Health pursuant to state law and in compliance with HIPAA.

The U.S. Department of Health and Human Services (HHS), who promulgated the HIPAA regulations, and the Centers for Disease Control (CDC) emphasized the public health exception to HIPAA in guidance issued on April 11, 2003. The guidance states that covered entities may disclose protected health information to public health entities, without patient authorization, for the conduct of public health surveillance, investigations, or interventions, as well as for the purpose of preventing or controlling diseases. Additionally, the HHS Office of Civil Rights guidance issued on July 6, 2001 states that covered entities may rely on the judgment of a public health entity when requesting a disclosure as to the minimum amount of information that is needed by Public Health.

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In conclusion, state law gives the State Board of Health the authority to designate newborn screenings and the authority to promulgate “such rules and regulations as it considers necessary to provide for the care and treatment of those newborn infants.” Ala. Code § 22-20-3(b). Pursuant to this authority, the Board of Health has adopted the above-described regulations that require the reporting of all newborn screenings. Because HIPAA does not pre-empt laws for the conduct of public health surveillance, investigation, or intervention and HIPAA allows disclosures for public health activities, you may continue to release newborn screening information without patient authorization to Public Health for the conduct of public health activities. Furthermore, you may rely on Public Health’s judgment as to the minimum amount of information necessary in the disclosure request.

If you have any concerns or questions regarding these matters, please do not hesitate to contact me at 334-206-5209 or samarria.dunson@adph.state.al.us.

Sincerely,

A handwritten signature in cursive script that reads "Samarria Dunson".

Samarria Dunson
Privacy Officer

SMD/jsjw