

**Disclosures of Protected Health Information (PHI)
That are Required by North Carolina Law**

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I. Individuals and Groups Who May Demand PHI

- A. North Carolina law requires the disclosure of confidential medical information or records to certain people upon their demand. Patient permission is not necessary for these disclosures. The following is a partial list of those who may demand records or information:
1. *Information related to abused or neglected children.*
 - a. The director of the department of social services (or the director's representative) may demand *any* records or information the director (or representative) believes is relevant to either the assessment or investigation of a child protective services case, *or* the provision of child protective services. GS 7B-302(e).
 - b. A guardian ad litem (GAL) appointed to represent a child in a child protective services case may demand *any* records or information the GAL believes to be relevant to the case. GS 7B-601(c).
 2. *Information related to child fatalities.* The following groups that are involved in the review of child deaths may demand *any* records or information that they believe to be relevant to their tasks:
 - a. the N.C. State Child Fatality Prevention Team
 - b. a community child protection team or local child fatality review team
 - c. the N.C. Child Fatality Task Force.GS 7B-1413.
 3. *Information related to minors seeking a judge's permission to marry.* A 14- or 15-year-old who wants to get married must: (1) either be expecting a child or already have a child,¹ and (2) obtain a judge's permission to marry. The person the 14- or 15-year-old intends to marry must be the person believed to be the child's other parent. The judge is required to appoint a guardian ad litem (GAL) to represent the best interest of the minor. A GAL representing a minor in this circumstance may demand any confidential information, including confidential medical information, that the GAL determines is relevant to the case. GS 51-2.1(d).

¹ This applies equally to boys and girls. A 14- or 15-year-old boy can seek a judge's permission to marry a girl or woman he has impregnated, or who has already borne a child by him. Minors who are 16 or 17 need parental permission to marry, but they do not have to be expecting a child or have a child.

4. *Communicable disease investigations and bioterrorism.*
 - a. Either a local health director or the State Health Director may demand medical or other records pertaining to:
 - i. the diagnosis, treatment, or prevention of a communicable disease or condition for a person reasonably suspected of being infected or exposed to the disease or condition, or
 - ii. the investigation of a known or reasonably suspected outbreak of a communicable disease or condition.GS 130A-144(b).
 - b. GS 130A-476(a) permits (but does not require) health care providers to report to the State Health Director or a local health director any event that may indicate an illness, condition, or health hazard caused by bioterrorism. If a voluntary report of this nature is made, then either the State Health Director or a local health director may demand to see records that pertain to those reports. GS 130A-476(c).
 - c. G.S. 130A-476(b) authorizes the State Health Director to issue a temporary order *requiring* health care providers to report symptoms, diseases, conditions, trends in the use of health care services, or other health-related information that the State Health Director determines is needed to investigate a possible bioterrorist incident. (See part II.A.3.c. of this outline for more details). The State Health Director or a local health director may demand records containing confidential or protected health information that pertain to those reports. GS 130A-476(c).
5. *Other public health hazards.* Health care providers and facilities must permit the State Health Director to examine and copy records that the State Health Director deems are necessary to prevent, control, or investigate a disease or health hazard that may present a clear danger to the public health. GS 130A-15.
6. *Immunization information.*
 - a. Health care providers must disclose immunization certificates and information concerning immunizations upon request to local health departments, the NC Department of Health and Human Services, or the patient's attending physician. GS 130A-153(c).
 - b. In addition, health care providers must disclose certain immunization information² upon request to any of the following: K-12 schools (whether public, private, or religious); licensed and registered child care facilities; Head Start programs; colleges and universities (whether public, private, or religious); HMOs; and state or local health departments in other states. 10A NCAC 41A.0406.

² 10A NCAC 41A.0406 specifies the information to be disclosed to the organizations in this list: name and address; name of the parent, guardian, or person standing in loco parentis; date of birth; gender; race and ethnicity; vaccine type, date and dose number administered; the name and address of the physician or local health department that administered each dose; and the existence of a medical or religious exemption (see the rule for more details on the specific information to be disclosed about exemptions).

7. *Medical examiners.* The chief medical examiner or a county medical examiner may demand the records of a patient who has died and whose death is under investigation. GS 130A-385.

B. HIPAA covered entities must comply with the verification requirements of the HIPAA privacy rule (section 164.514(h)) before disclosing PHI to the above persons on their demand. In general, this means the covered entity must verify the identity of the individual demanding the information and verify their authority to obtain the information.

II. Required Reporting

A. North Carolina law also requires the reporting of certain things that may involve the disclosure of medical information. Patient permission is not required for these disclosures. Reports that must be made include the following:

1. *Child abuse and neglect.* Any person or institution must report known or suspected child abuse or neglect, child dependency, and child deaths believed to be due to maltreatment to the county department of social services. GS 7B-301.

2. *Abuse or neglect of adults.* Any person having reasonable cause to believe that a disabled adult is in need of protective services must make a report to the director of social services. GS 108A-102.

3. *Communicable diseases & bioterrorism.*

a. Physicians and certain others must report known or suspected cases or outbreaks of reportable communicable diseases to the local health department. GS 130A-135 through 130A-140. The list of reportable communicable diseases may be found at 10A NCAC 41A.0101.

b. The State Health Director has the authority to issue a temporary order requiring health care providers to report symptoms, diseases, conditions, trends in the use of health care services, or other health-related information when the information is necessary to investigate or conduct surveillance of illnesses or symptoms that may indicate the existence of a communicable disease or condition that endangers the public health. GS 130A-141.1.

c. The State Health Director has the authority to issue a temporary order requiring health care providers to report symptoms, diseases, conditions, trends in the use of health care services, or other health-related information that the State Health Director determines is needed to conduct a public health investigation of a possible bioterrorist incident. GS 130A-476(b).

4. *Reports to law enforcement.*³

a. Gunshot wounds and other wounds, injuries & illnesses caused by criminal acts – Health care providers and administrators of health care facilities must report

³ For more information about required reports to law enforcement, see *Reporting Patient Injuries to Law Enforcement: It's Not Just Gunshot Wounds*, by Jill Moore (Coates' Canons blog post, Oct. 25 2011), at <http://sogweb.sog.unc.edu/blogs/localgovt/?p=5792>.

the following types of wounds/injuries to local law enforcement authorities: wounds and injuries caused by firearms; illnesses caused by poisoning; wounds and injuries caused by knives or other sharp instruments if it appears to the treating physician that a criminal act was involved; any other wound, injury, or illness involving grave bodily harm if it appears to the treating physician that criminal violence was involved. GS 90-21.20(a) and (b).

- b. Non-accidental recurrent illness or serious physical injury to a minor child – The treating physician or administrator of a health care facility must make a report to local law enforcement when a child under age 18 is treated for a recurrent illness or serious physical injury that appears to the treating physician to have been caused by non-accidental trauma. GS 90-21.20(c1).
5. *Cancer/CNS tumors.* All health care facilities and health care providers that detect, diagnose, or treat cancer must report diagnoses of cancer to the central cancer registry. GS 130A-209. As of January 1, 2006, diagnoses of benign brain or central nervous system tumors must also be reported to the registry.
 6. *Occupational diseases and injuries.*
 - a. Physicians must report occupational injuries that occur on farms and other reportable occupational diseases and illnesses to the Department of Health and Human Services. GS 130A-456.
 - b. Persons in charge of laboratories that provide diagnostic services must report findings related to reportable occupational diseases and illnesses to the Department. GS 130A-458.
 - c. The list of reportable occupational diseases and illnesses may be found at 10A N.C.A.C. 41C.0702.
 7. *Information about jail inmates.* Jails must disclose medical records or information about inmates in some circumstances:
 - a. Whenever a jail transfers an inmate to another jail, the transferring jail must provide any medical records or health information it has about the inmate to the receiving jail. G.S. 153A-225(b1).
 - b. Jails must report inmate deaths:
 - i. immediately to the medical examiner and coroner (in counties that have a coroner), and
 - ii. within five days to the local health director and state secretary of health and human services.G.S. 153A-225(b).