North Carolina Communicable Disease Law: Communicable Disease Reporting

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North Carolina law provides for both mandatory and voluntary communicable disease reporting, and both routine and non-routine reporting occasions. There are also special provisions in state law for reports of conditions that may have been caused by terrorism using nuclear, biological, or chemical agents. If a communicable disease is believed to have been caused by bioterrorism, both the usual communicable disease reporting requirements and the requirements that are specific to bioterrorism apply.

Routine Communicable Disease Reporting

State laws require physicians and certain others to routinely report more than 70 communicable diseases and conditions.

Physicians

A physician must make a report when the physician has reason to suspect that a person who has consulted him or her professionally—in other words, a patient—has a disease or condition that has been designated reportable.[1] The list of reportable communicable diseases is adopted as a rule by the Commission for Public Health and is published in the North Carolina Administrative Code.[2] The types of diseases on the list include those with public health significance, including tuberculosis, many vaccine-preventable diseases, laboratory-confirmed HIV, hepatitis, sexually transmitted infections, foodborne diseases, illnesses caused by contaminated water, mosquito- and tick-borne illnesses, novel influenzas, and diseases that may be caused by bioterrorism. The patient's permission is not required to make the report. To the contrary, the physician must make the report, even if the patient objects.

Reports must be made to the local health department[3] and within time frames prescribed by the Commission for Public Health. Some diseases and conditions must be reported immediately, some within 24 hours, and some within seven days. [4] The information to be reported is prescribed by the administrative rules. It always includes the patient's name and the disease or condition being reported. Additional information may be required as well, depending on the disease or condition.[5] The law specifically gives the duty to report to physicians and doesn't mention other types of health care providers, but if another practitioner—such as a nurse—suspects a reportable communicable disease in a patient, that practitioner should notify the supervising physician to ensure the report is made.

Other Reporters

In addition to physicians, other entities and people who are required to make communicable disease reports include laboratories, operators of restaurants , and school principals and child day care operators. These reporters' legal duties are not exactly the same as the duties imposed on physicians. An administrative rule specifies the lab test results that trigger a laboratory's duty to report.[6] Laboratory reports may be made electronically via the North Carolina Electronic Disease Surveillance System.

A restaurant operator is required to report only when the operator has reason to suspect an outbreak of a foodborne illness associated with the operator's establishment, or when the operator has reason to suspect a food handler at the establishment has a foodborne illness or condition.[7] A state administrative rule specifies the seventeen diseases and conditions that restaurant operators must report. The report must be made to the local health department.

State law directs school principals and child care operators to report to the local health department when a person in the school or child care facility has any reportable disease.[8] However, if the report is about a student, a school principal's ability to report may be limited by the federal Family Educational Rights and Privacy Act (FERPA),[9] which permits such reports without prior parental consent only if the illness creates a health or safety emergency in the school.[10]

Medical facilities are authorized, but not required, to make a report to the local health department when a patient in the facility is reasonably suspected of having a reportable communicable disease or condition.[11] This may appear redundant because any physicians who work in the facilities are already required to make reports, but this provides another route to get the information if for some reason a physician's report is not made. In the absence of this law, the facilities may not be able to make such reports due to confidentiality laws.[12]

Temporary Orders to Report

A state statute authorizes the state health director to issue a temporary order requiring health care providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information that may indicate the existence of a communicable disease or condition that threatens the public health.[13] Note that this authority is limited to the state health director. Local health directors may not issue such orders.

The state health director's order must specify which health care providers must report,[14] what information must be reported, and the period of time for which reporting is required. The period of time specified in the order may not exceed 90 days. If a longer period of is necessary to protect the public health, the Commission for Public Health may adopt rules to continue the reporting requirement.[15]

This law provides a mechanism for public officials to act quickly to seek information about emerging illnesses. The North Carolina state health director has used this authority on a few occasions since the law was enacted, most recently in the summer of 2014 when orders were issued to require physicians and laboratories to report suspected or confirmed infections caused by chikungunya, a mosquito-borne virus, and suspected or confirmed cases of Middle Eastern respiratory syndrome (MERS).

Local Health Directors

Local health directors are the recipients of communicable disease reports, but they are also mandated reporters. First, local health directors are responsible for forwarding all the reports that they receive to the state Division of Public Health. In most cases, this may be done electronically, via the North Carolina Electronic Disease Surveillance System, also known as NC EDSS.[16] However, there are administrative rules that require telephone reports of certain findings.[17] Second, if a local health department receives a report about a person who is a resident of a county served by a different local health department, the local health director who received the report must report the case and any laboratory findings to the local health director for the county where the person resides.[18]

The local health director must also make reports to the Division of Public Health In the event of an outbreak. If the outbreak involves a reportable disease, the local health director must submit a written report of the outbreak investigation, its findings, and the actions taken to control the outbreak within 30 days. If the outbreak involves a disease or condition that is not reportable, the health director must give appropriate control measures for the disease and inform the Division of Public Health about the circumstances of the outbreak within 7 days.[19]

Immunity from Liability for Reporters

A person who makes any of the reports described above is immune from any liability that might otherwise be imposed for making the report under state law.[20] Reporters nevertheless sometimes worry about liability under other laws, such as HIPAA. However, the HIPAA Privacy Rule specifically permits disclosures of protected health information to public health authorities pursuant to laws requiring or authorizing reports about disease.[21] Please see the section on confidentiality for additional information about the interaction between HIPAA and state communicable disease laws.

Health Care-Associated Infections

Since 2012, North Carolina hospitals have been required to participate in a surveillance system designed to monitor health care-associated infections.[22] Health care-associated infections are, in essence, infections that patients acquire from the environment in the facility itself. More specifically, they are defined as infections caused by infectious agents or toxins when there is no evidence that the patient was already infected before being admitted to the health care setting.[23] Hospitals must make monthly

reports of such infections. The reports are made electronically through the National Healthcare Safety Network.[24]

Reports Related to Nuclear, Biological, or Chemical Terrorism

Mandatory Reports

The state health director may issue a temporary order requiring certain reports when the director determines reports are necessary to the conduct of an investigation or surveillance of an illness, condition, or health hazard that may have been caused by terrorism using nuclear, chemical, or biological agents.[25] Note that this authority is limited to the state health director. Local health directors may not issue such orders.

The temporary order may require health care providers to report symptoms, diseases, conditions, trends in use of health care services, or other health-related information. The order must specify which health care providers must report, [26] what information must be reported, and the period of time for which reporting is required, not to exceed 90 days. If a period of longer than 90 days is necessary to protect the public health, the Commission for Public Health may adopt rules to continue the reporting requirement.

To date, no temporary orders have been issued under the authority of this statute—all of the state health director temporary orders of recent years have been under the authority of the communicable disease temporary order statute described above. A temporary order issued under the authority of this statute would supplement but not replace the usual requirements for reporting communicable diseases. Physicians and other mandatory reporters would still be required to comply with routine communicable disease reporting laws while the temporary order was in effect.

A person who makes a report pursuant to the State Health Director's temporary order is immune from any liability that might otherwise arise under North Carolina law.[27] Reporters nevertheless sometimes worry about liability under other laws, such as HIPAA. However, the HIPAA Privacy Rule specifically permits disclosures of protected health information to public health authorities pursuant to laws requiring or authorizing reports about disease.[28] Please see the section on confidentiality for additional information about the interaction between HIPAA and state communicable disease laws.

Voluntary Reports

North Carolina's public health bioterrorism laws also authorize voluntary reports to public health officials in certain circumstances. Health care providers,[29] people in charge of health care facilities,[30] and units of state or local government may make voluntary reports of events that that may indicate an illness, condition, or other health hazard that may have been caused by terrorism using nuclear, chemical, or biological agents. The events that may be reported include unusual types or

numbers of symptoms or illnesses, unusual trends in health care visits, or unusual trends in prescriptions or purchase of over-the-counter pharmaceuticals. The information may be reported to either the state health director or a local health director.[31]

A person or entity that makes a report under this provision must refrain from disclosing personally identifiable information, if practicable. The reference to what is "practicable" seems to recognize the possibility that some circumstances might require that a person's identity be disclosed; however, if that information is not necessary it should not be disclosed. A person who makes a voluntary report in good faith is immune from liability that might otherwise arise under state law. A person who fails to make a report is also immune from liability, unless the person is a health care provider who had actual knowledge that a condition or illness was caused by the use of a nuclear, biological or chemical weapon of mass destruction. [32]

North Carolina Statutes and Rules – Communicable Disease Reporting

Statutes

Communicable diseases, generally

- G.S. 130A-134 Reportable diseases and conditions.
- G.S. 130A-135 Physicians to report.
- G.S. 130A-136 School principals and child care operators to report.
- G.S. 130A-137 Medical facilities may report.
- G.S. 130A-138 Operators of restaurants and other food or drink establishments to report.
- G.S. 130A-139 Persons in charge of laboratories to report.
- G.S. 130A-140 Local health directors to report.
- G.S. 130A-141 Form, content, and timing of reports.
- G.S. 130A-141.1 Temporary order to report.
- G.S. 130A-142 Immunity of persons who report
- G.S. 130A-143 Confidentiality of records.

Health care-associated infections

- G.S. 130A-150 Statewide surveillance and reporting system.

Bioterrorism

- G.S. 130A-476 Access to health information.

Rules

Communicable diseases, generally

- 10A N.C.A.C. 41A .0101 Reportable Diseases and Conditions
- 10A N.C.A.C. 41A .0102 Method of Reporting
- 10A N.C.A.C. 41A .0103 Duties of Local Health Director: Report Communicable Diseases
- 10A N.C.A.C. 41A .0104 Release of Communicable Disease Records: Research Purposes
- 10A N.C.A.C. 41A .0105 Hospital Emergency Department Data Reporting

Health care-associated infections

- 10A N.C.A.C. 41A .0106 Reporting of Health-Care Associated Infections

[1] N.C. Gen. Stat. § 130A-135 (hereinafter G.S.).

[2] N.C. Admin. Code, tit. 10A, ch. 41A, § .0101(a) (hereinafter N.C.A.C.). The N.C. Administrative Code is available at http://reports.oah.state.nc.us/ncac.asp.

[3] The statute states that reports must be made to the local health director. In practice, it is likely that a communicable disease nurse or other appropriate health department staff member would receive the report.

[4] 10A N.C.A.C. 41A. 0101(a).

[5] 10A N.C.A.C. 41A. 0102(a).

[6] G.S. 130A-139; 10A N.C.A.C. 41A .0101(c).

[7] G.S. 130A-138; 10A N.C.A.C. 41A .0102(b) & (c).

[8] G.S. 130A-136.

[9] 20 U.S.C. 1232g; 34 C.F.R. Part 99.

[10] 34 C.F.R. 99.31 (10) (authorizing disclosures without prior consent in connection with health or safety emergencies as described in section 99.36); 34 C.F.R. 99.36 (authorizing disclosure when an educational agency or institution, considering the totality of the circumstances, determines there is an articulable and significant threat to the health or safety of the student or other individuals).

[11]. G.S. 130A-137.

[12] For more information, see the section on confidentiality.

[13] G.S. 130A-141.1.

[14] The temporary order may require any of the following persons to report: “a physician licensed to practice medicine in North Carolina or a person who is licensed, certified, or credentialed to practice or provide health care services, including, but not limited to, pharmacists, dentists, physician assistants, registered nurses, licensed practical nurses, advanced practice nurses, chiropractors, respiratory care therapists, and emergency medical technicians.” See G.S. 130A-141.1(b) (incorporating by reference the definition of “health care provider” in G.S. 130A-476(g)).

[15] G.S. 130A-141.1(a).

[16] G.S. 130A-40; see also 10A N.C.A.C. 41A .0103(a)(3) (describing the methods and time frames for forwarding reports to the state). For a brief description of the history and features of NC EDSS, see http://epi.publichealth.nc.gov/cd/lhds/manuals/cd/ncedss/NCEDSS.pdf.

[17] 10A NCAC 41A .0103(a)(3)(A) requires the local health director to make telephone reports of all cases of primary, secondary, and early latent syphilis to the regional office of the HIV/STD Prevention and Care Branch within 24 hours of either making the diagnosis at the health department or receiving a report of the diagnosis from a physician. 10A N.C.A.C. 41A .0103(a)(3)(B) requires the local health director to make a telephone report of all reactive syphilis serologies of pregnant women and certain others to the regional office of the Division of Public Health within 24 hours of receipt.

[18] G.S. 130A-40.

[19] 10A N.C.A.C. 41A .0103(c).

[20] G.S. 130A-142.

[21] 45 C.F.R. 164.512(a) and (b).

[22] G.S. 130A-150.

[23] The administrative rules define the term as "a localized or systemic condition in the patient resulting from an adverse reaction to the presence of an infectious agent(s) or its toxin(s) with no evidence that the infection was present or incubating when the patient was admitted to the health care setting."

[24] For more information about the National Healthcare Safety Network, see http://www.cdc.gov/nhsn/.

[25] G.S. 130A-476(b).

[26] The temporary order may require any of the following persons to report: "a physician licensed to practice medicine in North Carolina or a person who is licensed, certified, or credentialed to practice or provide health care services, including, but not limited to, pharmacists, dentists, physician assistants, registered nurses, licensed practical nurses, advanced practice nurses, chiropractors, respiratory care therapists, and emergency medical technicians." See G.S. 130A-476(g).

[27]. G.S. 130A-476(d).

[28] 45 C.F.R. 164.512(a) and (b).

[29] For purposes of this statute, “health care provider” is defined to include “a physician licensed to practice medicine in North Carolina or a person who is licensed, certified, or credentialed to practice or provide health care services, including, but not limited to, pharmacists, dentists, physician assistants, registered nurses, licensed practical nurses, advanced practice nurses, chiropractors, respiratory care therapists, and emergency medical technicians.” G.S. 130A-476(g)(1).

[30] For purposes of this statute, “health care facility” is defined to include “hospitals, skilled nursing facilities, intermediate care facilities, psychiatric facilities, rehabilitation facilities, home health agencies, ambulatory surgical facilities, or any other health care related facility, whether publicly or privately owned.” G.S. 130A-476(g)(2).

[31] G.S. 130A-476(a).

[32] G.S. 130A-476(a).