State of California—Health and Human Services Agency
California Department of Public Health

RON CHAPMAN, MD, MPH
Director

EDMUND G. BROWN JR.
Governor

June 15, 2012

To All California Health Care Providers:

Re: HIPAA and Public Health Disclosures

Dear Health Care Provider,

There has been some confusion surrounding the effect of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule on public health reporting requirements. Therefore, the California Department of Public Health is providing this document to clarify your ongoing legally mandated reporting requirements.

Your reporting obligations for communicable diseases have not changed under HIPAA. Furthermore, you continue to have a legal obligation to provide information for public health, surveillance/reporting, investigations and interventions.

The HIPAA Privacy Rule (at 45 Code of Federal Regulations, § 160.203(c) indicates that State law, including State procedures established under such law, is not preempted or overridden by contrary HIPAA privacy provisions in the area of public health disease or injury reporting and the conduct of public health surveillance, investigation, or intervention. The following provisions of State law are applicable and are not preempted by HIPAA:

Under California law, health care providers are required to report specified diseases or conditions to the local health officer for the jurisdiction where the patient resides. (Cal. Code Regulations, title 17, § 2500.) The State and local health departments are authorized by law to conduct infectious disease investigations and interventions. Upon receiving a report of a disease, the local health officer must take whatever steps are deemed necessary for the investigation and control of the disease, condition or outbreak reported. (Cal. Code Regulations, title 17, § 2501.) Further, local health officers must prepare individual case and outbreak reports and provide these to the State Department of Public Health. It is mandatory to supply personal health information related to the individual's disease to the local health officer who collects the information in order to prepare such case reports. (Cal. Code Regulations, title 17, § 2502(g)). The authority of local health officers with respect to reportable and communicable diseases is spelled out in the Health and Safety Code, § 120175:

"Each health officer knowing or having reason to believe that any case of the diseases made reportable by regulation of the department, or any other contagious, infectious or communicable disease exists, or has recently existed, within the territory under his or her jurisdiction, shall take measures as may be necessary to prevent the spread of the disease or occurrence of additional cases."

With respect to sexually transmitted diseases, Health and Safety Code, § 120575 provides:

"It is the duty of the local health officers to use every available means to ascertain the existence of cases of infectious venereal diseases within their respective jurisdictions, to investigate all cases that are not, or probably are not, subject to proper control measures approved by the board, to ascertain so far as possible all sources of infection, and to take all measures reasonably necessary to prevent the transmission of infection."

State law also makes it a misdemeanor if you do not provide the requested information to aid in the conduct of the investigation of sexually transmitted diseases. (Health & Safety Code, §120600.)

The California Department of Public Health appreciates your cooperation in continuing to protect the health, safety, and privacy of all Californians and stands ready to help you in these challenging times with data, security and privacy requirements.

If you have any further questions, we advise you to contact your local attorney. You may also contact Dr. Bauer directly at the number or email below.

Sincerely,

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