

HIPAA and Vital Records

Quoted from a memorandum by the Iowa Attorney General's Office, dated October 2, 2009.

First, entities, including hospitals, physicians, funeral directors, and county boards and officials, are not required to obtain consent or authorization from an individual prior to transmitting vital records information to IDPH. First, although the requirements of HIPAA generally preempt state law, HIPAA provides for certain exemptions to this general preemption rule. One such exception applies when state statute and state administrative rules provide for "the reporting of . . . birth or death, or for the conduct of public health surveillance, investigation, or intervention." 45 CFR 160.203. As you know, Iowa Code chapter 144 and 641 Administrative Code chapters 95 – 107 authorize the reporting of vital statistics, including births, deaths, and fetal deaths, to the state registrar of IDPH. These provisions of law are not preempted by HIPAA and the reporting of this information does not require prior consent or authorization.

Second, HIPAA also provides for a number of "permitted disclosures," i.e. those disclosures of protected health information for which consent or authorization is not required. HIPAA authorizes such disclosures "to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law." 45 CFR 164.512(a). HIPAA further authorizes disclosures for public health activities to "a public health authority that is authorized by law to collect or receive such information for the purposes of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of . . . vital events such as birth or death, and the conduct of public health surveillance, public health investigators, and public health interventions[.]" 45 CFR 164.512(b)(i). The Department [i.e., *Iowa Department of Public Health*] is required by Iowa Code chapter 144 and the accompanying administrative rules to collect and receive information regarding vital events such as births and deaths. Hence, HIPAA does not require that entities such as hospitals, physicians, funeral directors, or county boards and officials obtain consent or authorization prior to releasing vital record information.

Also, County Recorders' offices and the state registrar's office are not "covered entities" under HIPAA in that they are not health plans, health care clearinghouses, or health care providers, as defined by HIPAA. 45 CFS 160.102. Accordingly, neither county recorders' offices nor the state registrar's office are required under HIPAA to obtain consent or authorization prior to releasing vital records. In determining issues of access to vital records, county recorders' offices and the state registrar's office should continue to follow Iowa Code chapter 144 and Administrative Code chapter 641.