



STATE OF NEW YORK DEPARTMENT OF HEALTH

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Commissioner

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OFFICE OF HEALTH
SYSTEMS MANAGEMENT

Raymond Sweeney
Director

Brian Hendricks
Executive Deputy Director

April 18, 1994

Dear Hospital Administrator:

On April 20, 1994, implementing regulations for Title IV, Subtitle B of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (Ryan White Act) P.L. 101-381, are effective. These federal regulations were published in the Federal Register on March 21, 1994 (59 F.R. 13418) and are enclosed. Medical facilities are required to evaluate and disclose relevant information concerning emergency response employee (ERE) exposure to specified airborne and bloodborne infectious diseases, including HIV. EREs are defined to include firefighters, law enforcement officers, emergency medical technicians, and other professional emergency responders, paid or volunteer.

Disclosure may be made only to designated officers of emergency response employees after a determination is made that the employee was exposed to an infectious disease listed in the federal regulations. **The information to be disclosed by the medical facility may not include patient name or address.** Disclosure of exposure to infectious diseases is mandated within 48 hours of receipt of a written request for information from the ERE's designated officer. Hospitals also have an affirmative responsibility to notify designated officers of a possible exposure to infectious pulmonary tuberculosis.

With respect to HIV, the federal law and regulations require medical facilities to respond to requests and to determine if an ERE is at significant risk of becoming infected with HIV. If such a risk exists, the facility shall review the medical record of the patient for laboratory tests and for signs or symptoms of the disease/infection. The federal law does not mandate HIV testing of patients. In those cases in which there is positive or negative evidence of possible HIV infection, the facility must advise the patient that federal law requires disclosure of the information to the requesting ERE through the designated officer (DO). Disclosure to the DO is required even without the patient's consent because the federal law and regulations preempt state laws and require medical facilities to disclose information. The result of the evaluation must be shared with the designated officer of the ERE. The New York State Public Health Law (PHL) requires that a statement prohibiting further redisclosure of confidential HIV information must accompany these disclosures to EREs. Unauthorized redisclosures, not in conformance with federal law, violate PHL Article 27-F.

Federal regulations also require that in the event the facility later determines that the patient has an infectious disease, it must so inform the designated officer. This requirement applies until discharge or for 60 days post admission, whichever comes first.

In addition, upon the request of a designated officer of the ERE, a public health officer shall review those cases in which a facility states that the facts were insufficient to make a determination. The public health officer may then advise the designated officer concerning the collection of necessary information to establish risk of exposure or may resubmit the request to the facility. The public health officers shall be the local county or New York City health commissioner or director of public health in which the medical facility is located (see enclosed list).

The law also establishes a federal administrative process for receiving and investigating alleged violations. Complaints regarding disclosure may be filed with the federal authorities. Consequently, we recommend that facility staff familiarize themselves with the details of the federal regulations.

For your convenience, we have provided the following summary of the federal protocol.

I. AFFIRMATIVE NOTIFICATION

If a victim of an emergency is transported by emergency response employees to a medical facility and the same facility makes a determination that the victim has a culture confirmed infectious pulmonary tuberculosis, the medical facility shall so notify the designated officer (D.O.) of the emergency response employees who transported the victim. The hospital must notify the D.O. as soon as is practicable, but not later than 48 hours after the determination is made.

II. NOTIFICATION UPON REQUEST

a) Initiation of process by employee:

If an emergency response employee believes that he/she may have been exposed to an infectious disease on the federal list by a victim who was transported to a medical facility, the designated officer of the employee shall, upon the request of the employee, collect the facts relating to the exposure and make a determination of whether the employee may have been exposed to an infectious disease by the victim.

b) Submission of Request to Medical Facility:

If a designated officer makes a determination that an emergency response employee may have been exposed to an infectious disease on the federal list, the designated officer shall sign and submit a written request to the facility. We will inform designated officers that these requests should be directed to the Chief Operating Officer of the hospital unless you designate otherwise. The request must summarize the circumstances involved in the possible exposure.

1) Upon receiving a request, the medical facility should assure that the person making the request has been previously listed as the designated officer for that organization. If so, the medical facility should review the patient's medical record for diagnostic tests or signs and symptoms that may indicate an infectious disease, and make a determination, based on the circumstances reported suggesting a significant risk of transmission, whether the ERE was exposed to an infectious disease included on the federal list. No identifying information may be contained in the disclosure.

2) When a facility makes a determination that the emergency response employee involved had a significant risk of exposure to an infectious disease included on the federal list, the medical facility shall, in writing, notify the designated officer of the infectious disease involved.

3) When a medical facility makes a determination that the emergency response employee involved has not been exposed to an infectious disease on the federal list, the medical facility shall, in writing, inform the designated officer.

4) Insufficient Information:

(a) If a medical facility finds that the facts are insufficient to make a determination of a possible exposure, the medical facility shall, in writing, inform the designated officer who submitted the request of the insufficiency of the facts.

(b)(i) If a medical facility finds that the facility possesses no information on whether the victim involved has an infectious disease included on the federal list, the medical facility shall, in writing, inform the designated officer who submitted the request of the insufficiency of such medical information.

(ii) The designated officer may either request a re-review of the determination of insufficient information from a public health officer who may resubmit the request to the facility, or advise the designated officer regarding collection of additional facts.

(iii) If after making its initial response, a medical facility later determines that the victim involved has an infectious disease, the medical facility shall make the determination of exposure and provide the designated officer with appropriate information. This requirement applies until discharge, or 60 days post admission, whichever comes first.

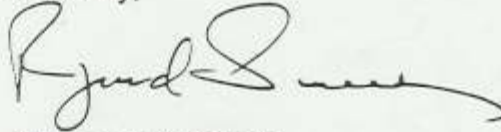
d) Time for Making Response:

After receiving a request from the designated officer, a medical facility shall respond as soon as is practicable, but not later than 48 hours after receiving the request.

Organizations that employ EREs have been notified and directed to provide the hospitals they serve with the name of their designated officer and mechanism of contact. The Department of Health has determined, that unless notified otherwise, the chief operating officer of each emergency response organization will serve as its designated officer.

Questions should be directed to the Department's Bureau of Hospital Services at 518-474-5013.

Sincerely,

A handwritten signature in black ink, appearing to read "Raymond Sweeney", with a long horizontal flourish extending to the right.

Raymond Sweeney
Director
Office of Health Systems Management

Enclosures

- 1) Federal Regulations
- 2) Letter sent to Emergency Response Organizations
- 3) Medical Assessment Information
- 4) List of Public Health Officers