

# EMS Legal Services

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## LEGAL MEMORANDUM

**Date Requested:** 03-26-2020

**Date Supplied:** 03-26-2020

**To:** Whom It may Concern

**From:** Frank Foster Legal Counsel

**Subject:** Hospitals and Nursing homes Can and Should Supply Addresses of Quarantined and Corona Virus (COVID-19) Infected Patients Directly to ambulance districts.

**Legal Question: Can Hospitals and nursing homes share addresses with Ambulance Districts where individuals are either quarantined for the Corona Virus COVID-19 or have the disease without violating HIPAA? Yes. Patient Information when Transporting from their facility? Yes, actually mandated to do so.**

Individual Patient Authorizations are not required for disclosures to public health authorities that are authorized by law to collect or receive PHI for the purpose of preventing or controlling diseases **45 CFR s 164.512(b)(1)(i)**.

The hospitals and nursing homes are obviously local health authorities but I submit the Ambulance Districts and EMS responding agencies also meet that HIPAA definition **45 CFR 165.501**.

Additionally, persons at risk of contracting or spreading disease may receive disclosure of another individual's PHI without consent or authorization of the individual *as part of the public health intervention* **45 CFR s 164.512(b)(1)(iv)**.

The level of information we need from the Hospitals and nursing homes meets the HIPAA minimally necessary standard.

When transporting a COVID-19 patient *from* a Hospital or Nursing Home the sending facility *can* share the information with EMS per the treatment exception to the HIPAA privacy rules **45 CFR 164.506(2)**. They are also *mandated* to do so per **19 CSR 30-40.047** and also the Federal Ryan White legislation **42 USC 300ff-131 to 300ff-141**.

Failure of an entity to follow a statutory and regulatory standard is *negligence per se* (plaintiff does not have to make an offer of proof on the nature of the duty and or what constitutes a breach of that duty. Therefore, failure by a hospital or nursing home to comply with **19 CSR 30-40.047** and also the Federal Ryan White legislation **42 USC 300ff-131 to 300ff-141** could lead to significant liability for the organizations and individuals involved in violation of that regulatory and statutory mandate to inform EMS.

Consequently, the Hospitals and nursing homes should and must share this essential address information directly to the Ambulance Districts as reporting through the County Health Departments would only cause inordinate and unnecessary delay in getting this essential information to the Ambulance Districts. For the Safety of EMS responders this information is time critical.

Please share these legal conclusions with whomever it may be desirable.