

INFORMATION BRIEF

Minnesota House of Representatives

Research Department

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Health Data Collected Without Individual Consent

This information brief summarizes, in table form, state statutes and rules that require or authorize health care providers or facilities, insurers, or government agencies or entities to collect or disseminate health data on identifiable individuals without their consent.

Minnesota Statutes and Rules contain numerous provisions for collecting health data on individuals without their consent. Some of the statutes expressly state that consent is not required. Others are silent, implying that consent isn't needed.

The purpose of statutes like these may include the following:

- identifying carriers of communicable disease and providing them care or notifying their contacts
- obtaining the most complete possible samples of individuals with given health characteristics for research purposes or public health planning
- enforcing criminal and regulatory laws
- improving state laws and policies in particular areas
- verifying the appropriateness of health care payments

Some people object to some health data reporting laws on grounds that they deny individuals the ability to control the release of information about themselves or their minor children. The public policy question involves a balance between promoting public health research or services and fostering individual autonomy.

Federal regulations affect the state's ability to obtain certain health data on individuals. Pursuant to the Health Insurance Portability and Accountability Act (HIPAA), federal limits have been imposed on the release of individually identifiable health information without the patient's consent or authorization. For purposes of this information brief, there are limitations on statutes that authorize rather than require certain data sharing. The table in this report indicates when a statute that authorizes health data release (1) may conflict with HIPAA regulations or (2) may be permitted by HIPAA regulations. 45 C.F.R. 160 and 164.

The health data statutes and rules described in this report are organized alphabetically by subject. The statutes are summarized first, followed by the rules. The table provides information on the following topics:

- the type of data being reported
- who is authorized or required to report the data
- whether reporting is mandatory or optional
- who receives the reported data
- the purposes for reporting the data
- whether, and the extent to which, data may be further released without the subject's consent

References to Minnesota Statutes are to the Minnesota Statutes as amended through the 2004 session. References to Minnesota Rules are to the Minnesota Rules 2003. An index on [page 17](#) lists the topics covered and their page numbers.

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Statutes					
Abortion complications: an illness or injury related to an induced abortion Minn. Stat. § 145.4132	A physician who encounters the complication or the facility at which the complication is encountered	R	Commissioner of Health	To compile an annual public report containing statistics on the reported information from the previous calendar year	All data on the reporting form must be included in the public report, except that the commissioner must keep any individually identifiable data confidential
Abortions: information on the method of abortion, gestational age, the woman receiving the abortion, and the physician performing the abortion Minn. Stat. § 145.4131	A physician performing an abortion or a facility at which an abortion is performed	R	Commissioner of Health	To compile an annual public report containing statistics on the reported information from the previous calendar year	All data on the reporting form must be included in the public report, except that the commissioner must keep any individually identifiable data confidential
Autopsy subject's health records (other than health data protected under section 13.38) Minn. Stat. §§ 390.11, subd. 7; 383B.225	An individual with custody or knowledge of the records or data	R—upon written request of the coroner or Hennepin County medical examiner	Coroner/medical examiner	Use in the autopsy	Mental health data are to remain confidential but the coroner's report may contain a summary of them
Birth record data and recognition of parentage data Minn. Stat. § 144.225, subd. 2b	Commissioner of Health	R	Commissioner of Human Services	To enable the Commissioner of Human Services to identify a child who is subject to threatened injury by a person responsible for the child's care	Not authorized
Birth registration and fetal death reports: information identifying a risk for disease, disability, or developmental delay in mother or child Minn. Stat. § 144.225, subd. 2a	Commissioner of Health	A (HIPAA § 164.512 (b)(1)(i))	Local board of health and Commissioner of Human Services	To assure access to health, social, or educational services, to administer medical assistance programs, and other public health purposes	Not authorized

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Brain or spinal cord injury: name of the individual, information on the injury, and other required information Minn. Stat. § 144.663	A health care provider or institution	R	Commissioner of Health	(1) Give the Commissioner of Economic Security the individual's name (2) Nonidentifying data may be provided to researchers (3) Develop injury prevention, treatment, and rehabilitation programs	Not authorized
Burn injury of a specified type and magnitude Minn. Stat. § 626.52, subd. 3	A health professional who treats it	R	State fire marshal	Not stated	Not authorized
Cancer surveillance: a record of every cancer case Minn. Stat. §§ 144.671-144.69	Licensed health professionals and health care institutions who treat cancer	R	Commissioner of Health	(1) Monitor incidence trends of cancer (2) Target intervention resources (3) Inform professionals and citizens about locally elevated cancer rates (4) Provide data for research	Prohibited. Unauthorized dissemination is a misdemeanor
Child abuse or neglect investigation: health data on a child who is in a licensed human services or health department facility which is being investigated Minn. Stat. § 626.556, subd. 10, para. (h) and subd. 10d	A facility must allow inspection and copying of these and other specified records	R	Commissioner of Human Services, Ombudsman for Mental Health and Mental Retardation, local social service agencies, and local law enforcement agencies	Child abuse or neglect investigation	The data may be shared with law enforcement and court services
Child being placed under child protection law: medical records Minn. Stat. § 260C.208	Not specified	R	Social service agency responsible for placing the child	Accomplishing placement of the child	Not authorized

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Child maltreatment: medical records of (1) a child who may have died from maltreatment and (2) the child's parent, as related to prenatal care Minn. Stat. § 256.01, subd. 12, para. (c)	Health care provider	R	Child mortality review panel	To make recommendations to improve child protection law and policy	Authorized in specified circumstances
Child protection: medical records of (1) a child who may have died from maltreatment and (2) the child's parent, as related to prenatal care Minn. Stat. § 256.01, subd. 15	Health care provider	R	Citizen Review Panel	Examine policies and procedures of state welfare agencies	Authorized in specified circumstances
Civil commitment pre-petition screening subject's medical records, if the individual is in a treatment facility Minn. Stat. § 253B.07, subd. 1	Treatment facility	R	Pre-petition screening team	For report to court	Not admissible in any court proceeding but civil commitment
Death investigation data Minn. Stat. § 13.31, subd. 2	A person in charge of a body of a person believed to have died due to a public health emergency	R	Commissioner of Health	Not stated	Not authorized
Driving ability: health data on a condition that significantly impairs a person's ability to drive a motor vehicle Minn. Stat. § 171.131	A diagnosing physician	A (May conflict with HIPAA)	Commissioner of Public Safety	Require the individual to have an examination to determine the ability to drive	Not authorized

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
<p>Emergency care: health data records on a patient who needs emergency care and is unable to consent to the release of records</p> <p>Minn. Stat. § 144.335, subd. 3a, para. (b)(1)</p>	<p>A health care provider</p>	<p>A (HIPAA § 164.506)</p>	<p>Another health care provider</p>	<p>Emergency treatment when the patient is unable to give consent</p>	<p>Not authorized</p>
<p>Emergency medical services person exposure to bloodborne pathogens: test results of source individual's blood for bloodborne pathogens, if source individual refuses to consent to blood test</p> <p>Minn. Stat. §§ 144.7401–144.7415</p>	<p>A facility that obtains a source individual's blood test results for bloodborne pathogens</p>	<p>R—at the request of the emergency medical services person who may have experienced a significant exposure, if the criteria in sections 144.7406, subdivision 2, or 144.7407, subdivision 2, are met</p>	<p>Emergency medical services person who may have experienced a significant exposure to the source individual</p>	<p>To diagnose and treat a bloodborne pathogen-related illness in an emergency medical services person who experiences a significant exposure</p>	<p>Test results may be used in the health threat procedures in sections 144.4171 to 144.4186. Otherwise they are private data and may not be used as evidence in any other criminal or civil proceeding</p> <p>Minn. Stat. §§ 144.7409, 144.7411</p>
<p>(1) Firearm wounds, or (2) Other dangerous weapon wounds where there is reasonable cause to believe the injured individual was the perpetrator of a crime</p> <p>Minn. Stat. § 626.52, subd. 2</p>	<p>A health professional called on to treat such a wound</p>	<p>R</p>	<p>Police department or county sheriff</p>	<p>Not stated, but the implicit purpose is to facilitate a law enforcement investigation</p>	<p>Not authorized</p>

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Health care data on anyone, including health outcomes data, patient functional status, health status, and health records and claims files Minn. Stat. §§ 62J.301, 62J.321, 62J.451, and 62J.452, subd. 3	A health care provider or group purchaser	R	Commissioner of Health (must encrypt to protect the patient's identity)	Data collection to develop state health policy, monitor trends, and estimate health care expenditures	May be released to researchers, providers, and group purchasers. Patient identifying data held by the Health Data Institute may be released (1) to researchers as per section 144.335 , or (2) to a contractor or vendor for a survey, if that entity complies with data privacy requirements
Health professional being investigated by a health licensing board: (1) records of mental and physical examinations of the physician ordered by the board (2) any medical or health data on the physician held by a provider, insurer, or government agency Minn. Stat. §§ 146A.08, subd. 4, 147.091, subd. 6, 147A.13, subd. 6, 148.261, subd. 5, 148.10, subd. 1, (12), 148.941, subd. 8, 148B.281, subd. 3, 5, 148B.175, subd. 3, 5, 148B.68, subd. 3, 150A.08, subd. 5 & 6, 153.21, 156.125	(1) A provider who performs the examination (2) A provider, insurer, or agency holding the data	R	Relevant Licensing Board	Investigation of alleged disciplinary violations	Upon judicial review, the board record is sealed

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
<p>Health threats: health data (identifying, describing, preventing, and controlling disease) on anyone</p> <p>Minn. Stat. § 13.3805, para. (b)</p>	<p>Commissioner of Health or a local board of health</p>	<p>A (HIPAA § 164.512(b)(1)(i))</p>	<p>(1) An individual's physician (2) With the commissioner's approval, elsewhere as appropriate</p>	<p>(1) For diagnosis or treatment (2) To locate or identify a carrier, to alert individuals at risk, or to diminish a public health threat</p>	<p>Not authorized</p>
<p>Health threats to others or noncompliant behavior (infectious diseases)</p> <p>Minn. Stat. § 144.4175 (See § 144.4172, subds. 8 & 10 for definitions)</p>	<p>A licensed health or human services professional</p>	<p>A (HIPAA § 164.512(b)(1)(i))</p>	<p>Commissioner of Health</p>	<p>Implicit: to trigger health threat procedures to prevent carriers from injuring others</p>	<p>Not under this section, but see § 13.3805, para. (b)</p>
<p>Hepatitis B (HBV) infection status of mother of newborn</p> <p>Minn. Stat. § 144.3352</p>	<p>Commissioner of Health or local board of health</p>	<p>A (HIPAA § 164.512(b)(1)(i) and (2))</p>	<p>Physician attending the newborn</p>	<p>Not stated</p>	<p>Not authorized</p>
<p>HIV, Hepatitis B (HBV), or Hepatitis C (HCV) positive status of licensed health professional</p> <p>Minn. Stat. § 214.19</p>	<p>(1) An individual with actual knowledge that a licensed individual has been diagnosed with HIV, HBV, or HCV (2) A regulated individual diagnosed with HIV, HBV, or HCV</p>	<p>(1) A (individuals who are not providers are not covered by HIPAA) (2) R</p>	<p>Commissioner of Health</p>	<p>To reduce the risk of HIV, HBV, or HCV transmission in the provision of health care</p>	<p>Not under this section, but see section 13.3805, para. (b)</p>
<p>HMO health data on individuals</p> <p>Minn. Stat. § 62D.14</p>	<p>HMO</p>	<p>R</p>	<p>Commissioner of Health</p>	<p>Investigating a suspected violation of HMO laws</p>	<p>As authorized by section 60A.03, subdivision 9</p>
<p>Huntington's disease data, related to genetic counseling</p> <p>Minn. Stat. 13.3805, subd. 2</p>	<p>Commissioner of Health</p>	<p>A (May conflict with HIPAA)</p>	<p>Hennepin County Medical Center</p>	<p>Not stated</p>	<p>Not authorized</p>

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Immunization data (identifying information on the patient and the parent, date and type of vaccine, other vaccine information, and whether there is a contraindication for the vaccine) Minn. Stat. § 144.3351	Health care providers, group purchasers, schools, child care facilities, boards of health, community action agencies providing services on behalf of the patient, and the Commissioner of Health	A (HIPAA § 164.512 (b)(1)(i))	Data may be exchanged among the listed entities	To provide services on behalf of the patient	Not authorized
Independent medical examination: results of medical examinations requested or paid for by a third party Minn. Stat. § 144.335, subd. 3c	A health care provider	A (May conflict with HIPAA)	Third party who requested or paid for the patient's examination	Implicit: for the third party's purposes	Not authorized
Inmate's bloodborne pathogen blood test results, if inmate refuses to consent to blood test and if a corrections employee may have experienced a significant exposure to the inmate Minn. Stat. §§ 241.33–241.342	A correctional facility that obtains an inmate's blood test results for bloodborne pathogens	R—at the request of the corrections employee who may have experienced a significant exposure, if the criteria in sections 241.335 , subdivision 2, or 241.336 , subdivision 2, are met	Corrections employee who may have experienced a significant exposure to the inmate	To diagnose and treat a bloodborne pathogen-related illness in a corrections employee who experiences a significant exposure	Test results may be used in the health threat procedures in sections 144.4171 to 144.4186 . Otherwise they are private data and may not be used as evidence in any other criminal or civil proceeding Minn. Stat. §§ 241.338, 241.339
Maternal death data: health records on any woman who died during a pregnancy or within 12 months of a fetal death, a live birth, or other termination of a pregnancy Minn. Stat. § 145.901	Provider or other responsible authority	R	Commissioner of Health	Assist in the planning, implementation, and evaluation of medical, health, and welfare services systems and to reduce the numbers of preventable maternal deaths	Records are confidential data on individuals or confidential data on decedents. Otherwise data may not be used in discovery or as evidence in any administrative, civil, or criminal proceeding

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Medical research: health records on anyone generated before January 1, 1997 Minn. Stat. § 144.335, subd. 3a, para. (d)(1)	A health care provider	A—if patient does not object (Process may not comply with HIPAA § 164.512 (i))	External researcher	Medical or scientific research	Must have patient consent for further release in identifiable form
Medically neglected infant: health data on an infant alleged to be the victim of medical neglect Minn. Stat. § 626.556, subd. 10c	A hospital	R	Local social services agency must arrange an independent review of the medical records	To determine whether appropriate nutrition, hydration, and medication are being provided and to determine if medical neglect has occurred	May become part of the record in a juvenile court proceeding for a child in need of protection
Mentally retarded persons and those with related conditions, chemical dependency, or emotional disturbance: health data on an issue in the scope of the duties of the Ombudsman for Mental Health and Mental Retardation Minn. Stat. § 245.94, subd. 1	A government agency, facility, or program holding the data	R	Ombudsman for Mental Health and Mental Retardation	To advocate or mediate on behalf of a client whose rights have been adversely affected and to investigate the quality of services provided to clients	Not authorized
Missing child: x-rays (dental or skeletal) of the child Minn. Stat. § 299C.56	A dentist, physician, or medical facility in possession of the x-rays	R	Law enforcement agency that provides a written statement that an active search is under way for the child	Implicit: for purposes of identifying the child, if found	Not authorized

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Occupational diseases (identifying information on the patient and employer, the disease, and any other required information) Minn. Stat. § 144.34	A physician caring for an individual believed to be suffering from a disease caused by the individual's employment	R	Health department	The health department may investigate and make recommendations to eliminate or prevent occupational diseases reported under this section, and may study and give advice on conditions suspected of causing disease	Evidence from reports under this section may not be used in workers' compensation or personal injury actions
Patient records where a health professional is the subject of an occupational disciplinary investigation Minn. Stat. §§ 146A.06, 147.131, 147A.15, subd. 3, 148.191, subd. 2, 148.104, 148.941, subd. 4, 148B.282, 148B.09, 148B.11, subd. 3, 148B.5915, 148B.66, 150A.081, subd. 2, 153.20	Individual under investigation must provide records. If the patient does not consent to release, the patient identity must be deleted from the records	R	Relevant licensing board	Investigation of alleged disciplinary violations	Not authorized
Predatory offender medical data Minn. Stat. § 244.052	Not specified	R	End of confinement review committee at the correctional facility	Assess the public risk posed by an offender about to be released from confinement	As authorized by the Data Practices Act
Pregnant woman: use of a controlled substance for a nonmedical purpose	(1) A physician who received positive results from a toxicology test on a newborn or pregnant woman when there is reason to believe the mother used a controlled substance for a nonmedical purpose, or if other	(1) R	Local social services agency and health department	To allow the local social services agency to conduct an assessment and offer services, including civil commitment	Child Abuse Reporting Act provisions on retention, access to, and destruction of child abuse data apply

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
<p>Minn. Stat. §§ 626.5561, subd. 1, and 626.5562</p>	<p>medical evidence of prenatal exposure was present</p> <p>(2) Any individual who knows or has reason to believe that a woman is pregnant and has used a controlled substance for a nonmedical purpose during the pregnancy</p>	<p>(2) A—anyone (Individuals who are not providers are not covered by HIPAA when disseminating data) R—mandated reporters</p>			
<p>Related providers: health records on anyone</p> <p>Minn. Stat. § 144.335, subd. 3a, para. (b)(2)</p>	<p>A health care provider</p>	<p>A (HIPAA § 164.506)</p>	<p>Provider in a related health care entity</p>	<p>Current treatment of the patient</p>	<p>Prohibited</p>
<p>Secure treatment facility patient’s bloodborne pathogen blood test results, if patient refuses to consent to blood test and if secure treatment facility employee may have experienced a significant exposure to the patient</p> <p>Minn. Stat. §§ 246.71-246.722</p>	<p>A secure treatment facility that obtains a patient’s blood test results for bloodborne pathogens</p>	<p>R—at the request of the secure treatment facility employee who may have experienced a significant exposure, if criteria in sections 246.715, subdivision 2, or 246.716, subdivision 2, are met</p>	<p>Secure treatment facility employee who may have experienced a significant exposure to the patient</p>	<p>To diagnose and treat a bloodborne pathogen-related illness in a secure treatment facility employee who experiences a significant exposure</p>	<p>Test results may be used in the health threat procedures in sections 144.4171 to 144.4186. Otherwise they are private data and may not be used as evidence in any other criminal or civil proceeding</p> <p>Minn. Stat. §§ 246.718, 246.719</p>
<p>Sex offenders’ medical data</p> <p>Minn. Stat. § 244.05, subd. 7</p>	<p>Not specified</p>	<p>R</p>	<p>Commissioner of Corrections</p>	<p>To assist the commissioner in making a preliminary determination on a petition for civil commitment</p>	<p>Not authorized</p>

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Student health records compiled by a school and containing growth, vision, and hearing screening results, and findings of health assessments Minn. Stat. § 144.29	Child's school	R	Any school in this state or the state education agency in another state if the child transfers	Not stated	Not authorized
Tuberculosis: person with active or suspected tuberculosis, carrier failing to undergo treatment, or person who fails to follow contagion precautions; report content is specified Minn. Stat. § 144.4804	A licensed health professional or anyone	R—for health professional A—for other (Individuals who are not providers are not covered by HIPAA when disseminating data)	Commissioner of Health or a disease prevention officer	Issuance of a health order under section 144.4805 , or an apprehend and hold order under section 144.4808 , if needed	Data on individuals in a health order are private; investigative data are confidential; court records may be sealed Minn. Stat. § 144.4813
Violent threat by patient (specific, serious, threat of physical violence against a specific victim) Minn. Stat. §§ 148.975	Licensed psychologists and psychological practitioners	R—for kind of threat described here A—for violent behavior or suicide threats for which a duty to warn does not exist (may conflict with HIPAA)	(1) Specific victim, or, if unable to do so, (2) The law enforcement agency closest to the potential victim	Implicit: protect potential victim	Not authorized
Vulnerable adults: medical records Minn. Stat. § 626.557, subs. 9b and 10	A facility where the vulnerable adult may have been subject to maltreatment	R	Law enforcement or county adult protection agency investigating the alleged maltreatment	To conduct an investigation of alleged maltreatment	Data is maintained as private, but may be shared among law enforcement, prosecutors, and county agencies handling a complaint. The statute also provides a schedule for destroying data in a vulnerable adult report file

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Workers' compensation claim: related health records Minn. Stat. § 176.135, subd. 7	A health care provider treating an individual with a workers' compensation claim	R	Insurer	To substantiate the charge and its relation to the injury	Not authorized
Workers' compensation current claim: (1) Health data directly related to the current injury or disability; and (2) Medical billing information submitted by an employee, employer, provider, or insurer Minn. Stat. § 176.138	(1) The entity holding the data (2) An insurer or self-insured employer	R A (HIPAA § 164.506(c)(4)(ii))	(1) The employee, employer, insurer, or Department of Labor and Industry (2) Another insurer	(1) To process a workers' compensation claim (2) To identify duplicate billings	(1) Not authorized. Data are classified as private. Copies requested by a party other than the employee are to be provided to the employee or attorney (2) Data may not be used for any purpose other than identifying duplicate billings. Data must be destroyed after verification that there was no duplicate billing. The data subject has a cause of action if the data is used in a way not permitted by this section
Workers' compensation data identifying injured or ill workers Minn. Stat. § 176.234	Commissioner of Labor and Industry	R	Commissioner of Health	Specific epidemiologic investigations being conducted by the Department of Health	Not authorized

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Rules					
Communicable diseases listed in Minn. Rules part 4605.7040 Minn. Rules part 4605.7030	A physician or any other licensed health care provider attending a case, suspected case, carrier, or death from one of the listed diseases; an infection control practitioner designated by a health care facility; and medical laboratories	R	Commissioner of Health	Not stated	Copies of disease reports and information received by the commissioner shall be forwarded to appropriate local boards of health Minn. Rules part 4605.7300
Individual in an institution, school, child care facility, or camp who has a disease that may threaten public health Minn. Rules part 4605.7070	Individual in charge of the facility or any other individual with knowledge of the disease	R	Commissioner of Health	Not stated	Copies of disease reports and information received by the commissioner shall be forwarded to appropriate local boards of health Minn. Rules part 4605.7300
Infectious disease acquired outside the state and considered rare here or considered a public health problem Minn. Rules part 4605.7060	Physician	R	Commissioner of Health	Not stated	Copies of disease reports and information received by the commissioner shall be forwarded to appropriate local boards of health Minn. Rules part 4605.7300
Maternal deaths (connected with pregnancy, abortion, or within three months after giving birth) Minn. Rules part 4615.0800	Physician and hospital where death occurred	R	Department of Health	Not stated	Not authorized

Data	Reported by	Required (R) Authorized (A)	Who gets it	Purpose	Further release
Sexually transmitted diseases (STDs): <ul style="list-style-type: none"> • Sexual or needle-sharing contacts of individuals treated for STDs • Individuals suspected of being infected with an STD who refuse examination or treatment • Individuals believed to have an STD who have not completed treatment Minn. Rules part 4605.7700	Physicians	R	Commissioner of Health	Not stated	Not authorized

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