

## Information Brief

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H8.4 - AIDS

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REPORTING REQUIREMENTS FOR AIDS

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I. THE COLLECTION AND DISSEMINATION OF DATA
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The Minnesota Government Data Practices Act [M.S. §§13.01 to 13.88] was passed to balance the principles of "freedom of information" with "data privacy" when these principles are in conflict because the information is held by a governmental agency.

The Act categorizes data collected by the government as data on individuals and data not on individuals. These two categories are further classified by the degree of access allowed.

Data on individuals is regulated as follows:

- Public data is accessible to anyone.
- Private data is accessible only to the data subject and governmental officials whose duties reasonably require access.
- Confidential data is accessible only to those governmental officials whose duties reasonably require access.

#### Health Data

Data created, collected and maintained by the Department of Health is classified as either private or confidential.

Data on individuals collected and maintained by the Department pursuant to an epidemiologic investigation or for purposes of treatment or control of sexually transmitted diseases are classified as confidential.

This data may only be disclosed to the individual's personal physician and to a local health officer\* for purposes of treatment, continued medical evaluation and control of the disease [M.S. §13.38(2)].

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\*The local health officer is defined as a physician who is a member of the local Board of Health or appointed by the local board [M.S. §145.01].

Medical Data

This is government data collected about an individual who is or was a patient at a medical facility or nursing home.

This data is generally classified as private and available only to the data subject with these exceptions:

- the patient's name, general condition and dates of admission or release are public data (unless requested by patient not to)
- the patient's condition may be communicated to family members or other appropriate persons (unless requested by patient not to)
- if the patient dies, medical data may be given to the surviving spouse or next of kin
- a medical provider may classify information as confidential if disclosure to the patient is likely to be detrimental to the patient's physical or mental health or the patient is likely to cause harm to her or himself or another [M.S. §144.335(2)]
- data may be released pursuant to a valid court order or for administrative purposes (federal funds or programs).

II. SPECIFIC REQUIREMENTS FOR REPORTING AIDS
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The Commissioner of Health is given general authority and responsibility "for the development and maintenance of an organized system of programs and services for protecting, maintaining, and improving the health of the citizens." [M.S. §144.05.]

This authority includes:

- conducting studies and investigations
- collecting and analyzing health data
- identifying and describing health problems
- developing and maintaining a coordinated system of services for the prevention and control of illness and disease
- providing health education and information.

The Commissioner is given broad authority to adopt reasonable rules "for the preservation of public health" pursuant to Minnesota Statutes §144.12.

Minn. Rules [4605.7000-4605.7800] establish a process and assign responsibility for reporting, investigating and controlling disease. These rules apply to cases, suspected cases and deaths from communicable diseases and syndromes, reporting of disease and disease control. Heading the list of reportable diseases is AIDS.

Any case, suspected case, carrier or resulting death from a reportable disease must be reported to the Commissioner within one working day or sooner.

- A "case" means a person with a diagnosed disease, in this instance AIDS.
- A "carrier" means a person identified as harboring the specific infectious agent in the absence of discernible clinical disease and who serves as a potential source of infection.
- "Suspected case" means a person having a condition or illness in which signs and symptoms resemble those of a recognized disease.

Persons who are required to report within one working day any case, suspected case, carrier or death from AIDS are as follows:

- physicians
- health care facilities
- medical laboratories
- any other licensed health care worker.

The following information is required to be reported:

the disease;  
date of first symptoms;  
patient information: name  
                                    birthdate  
                                    ethnic or racial origin  
                                    residence address  
                                    phone number  
                                    place of work, school or day care  
date of report;  
physician name, address, phone;  
hospital;  
name of person reporting (if not physician);  
diagnostic laboratory findings;  
name and locating information of contacts (if any); and  
other information pertinent to the case.

The Commissioner must maintain records of reports of all AIDS cases, suspected cases, carriers and deaths. A statewide summary of information must be prepared for local officials, but specific individual information in the reports is classified as private.

A controversy: reporting "carriers"

One controversy in the AIDS situation is the required reporting of "carriers." Carriers are people who have tested positive for the AIDS (HTLV-III) antibody. They do not exhibit AIDS symptoms; health officials believe 10% to 20% will go on to develop AIDS.

These people can transmit the disease through one of the four known methods of transmission:

- direct sexual contact
- sharing a hypodermic needle
- passage from an infected mother to her fetus or newborn
- blood transfusions. (This last method is unlikely now due to the highly accurate tests that are performed to detect the AIDS virus in any blood products.)

Education and counseling of AIDS carriers can significantly reduce the risk of spreading the disease. This is an important consideration in concerns over reporting carriers. Public health officials who want to prevent or limit the spread of disease are sometimes undecided about the need to report AIDS carriers if the reporting is a perceived barrier to testing. It is important to identify the carriers to begin the process of changing their personal behavior; this is the responsibility of local public health officials.

AIDS carriers fear that reporting information will not be kept confidential and they that will suffer discrimination as a result of the public's great fear of AIDS.

Carriers are afraid of discrimination in employment, health insurance coverage, housing and other forms of "shunning" by society if the information is not strictly confidential.

The Commissioner of Health has asked the AIDS Task Force to consider the above issues and make recommendations to her regarding the rule.

The Commissioner of Health is advised on such issues by the AIDS Task Force, an advisory group appointed by the Commissioner. The AIDS Task Force is composed of:

- two representatives from blood banks
- the chair of the CHS Advisory Committee
- two public health officials representing Hennepin county and the City of St. Paul
- a physician from the University with extensive background in treatment of this disease
- representatives of the Minnesota Medical Association
- representatives of the Minnesota Hospital Association
- two representatives, one of whom is a physician, of the Minnesota AIDS Project (a nonprofit organization whose purpose is to educate the public about AIDS and means to prevent transmission)
- a representative of the Minnesota Nurses Association
- a representative of the Public Health Nursing Directors Association
- a representative of the Mayo Clinic
- the Dean of the School of Public Health, University of Minnesota
- the Associate Dean of the Humphrey Institute, University of Minnesota
- a professor of ethics at the United Theological Seminary.