

Q & A FOR COUNTIES NOTIFYING FIRST RESPONDERS OF POSITIVE COVID-19 TEST RESULTS

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Wisconsin counties have voiced concerns regarding the extent to which a county may notify first responders responding to emergency calls that COVID-19 positive individuals may be present on scene based upon information known to county health officials. State and federal privacy laws restrict the ability of covered entities to release protected health information, but, subject to some limitations, an exception is made for the release of health information as necessary to avert a serious and imminent threat (*see 45 C.F.R. 164.512(j)*).

The Wisconsin Counties Association and its general counsel, von Briesen & Roper, s.c., have received many questions regarding a county's ability to release information to first responders where COVID-19 positive individuals may be present on the scene and, more specifically, how to make such a disclosure in a compliant manner. Our general counsel has prepared the Q & A below to provide additional information related to these disclosures. This information should be reviewed carefully with corporation counsel to ensure county compliance with applicable laws and regulations.

Q: Can a county share information it possesses with other units of government or first responders related to where positive COVID-19 tests have been reported?

*A: Yes, the information must be shared with 911 dispatch. The Governor's Emergency Order #19 requires local health officers to report to **dispatch centers** (not directly to law enforcement or first responders) any known positive COVID-19 cases within the dispatch center's jurisdiction. While HIPAA permits this notification through 45 C.F.R. 164.512(j), this emergency order requires it. The dispatch center, in turn, is required to inform law enforcement, first responders, and other public safety workers if there has been a positive COVID-19 test result at an address where they are making a contact for a legitimate purpose related to public safety. Note that generally only the addresses of individuals who have tested positive for COVID-19 may be disclosed and not any other individually identifying information unless necessary in unusual circumstances where an address would not suffice to protect first responders.*

Q: Can a county respond to a specific request from first responders regarding the positive or negative test results of a person or persons at a specific location?

A: No. Privacy laws require that any use or disclosure of protected health information be kept to the minimum amount reasonably necessary to accomplish the permissible use or disclosure's purposes. Here, guidance from federal agencies and Emergency Order #19 both contemplate that disclosures relating to COVID-19 be made to dispatch centers

and then from the dispatch center on a per-call basis to first responders actually making contact pursuant to a dispatch call.

Q: Once a first responder has been notified by dispatch of a positive COVID-19 case at an address, may the first responder tell other persons of the positive case?

A: No. Anyone receiving protected health information relating to a positive COVID-19 test must only use this information to take necessary precautions (e.g., donning appropriate PPE) and must not re-disclose the information for any other purpose.