

STATUTORY REFERENCES:
ACCESS TO HEALTH RECORDS NOTICE OF RIGHTS

This document contains specific language from the Access to Health Records Notice and its statutory references. The statutory references to the language from the Notice specify when health records or information from a health record may or must be released under federal and Minnesota law without patient consent.

NOTE: This document is not intended to provide legal advice. The references to Minnesota and federal law within this document are only summaries of the official legal language. To access the actual language of a particular area of the law in its entirety, visit the Minnesota statutory and federal regulations websites listed in this document. Minnesota Statutes are available at <https://www.revisor.leg.state.mn.us/pubs> where you can locate a specific statute section by entering the section in the “retrieve by number” box on the left side of the screen.

Health records or information from a health record may or must be released in the following circumstances:

When federal law requires it

- Under the HIPAA privacy rules. See 45 C.F.R. 164.512 at www.gpoaccess.gov/cfr/retrieve.html for the official language of the rules. (To access the particular section, type 45 in the TITLE box, 164 in the PART box, and 512 in the SECTION box. Click GO)
- In general, the federal privacy rules state that a patient must authorize the release of health information. The exceptions to that general rule are:
 - Section 164.512(a), authorizes uses and disclosures specifically authorized by law
 - Section 164.512(b), authorizes uses and disclosures for public health activities
 - Section 164.512(c), authorizes disclosures about victims of abuse, neglect, or domestic violence
 - Section 164.512(d), authorizes uses and disclosures for health oversight activities
 - Section 164.512(e), authorizes disclosures for judicial and administrative proceedings
 - Section 164.512(f), authorizes disclosures for law enforcement purposes
 - Section 164.512(g), authorizes uses and disclosures about decedents
 - Section 164.512(h), authorizes uses and disclosures for cadaveric organ, eye, or tissue donation purposes
 - Section 164.512(i), authorizes uses and disclosures for certain research purposes
 - Section 164.512(j), authorizes uses and disclosures to avert a serious threat to health or safety
 - Section 164.512(k), authorizes uses and disclosures for specialized government functions, including: military and veterans activities, national security and intelligence activities, protective services for the president and others, medical suitability determinations, correctional institutions and other law enforcement custodial situations, and covered entities that are government programs providing public benefits
 - Section 164.512 (l), authorizes disclosures for workers’ compensation

In a medical emergency

- Minnesota Statutes, section 13.3805, subdivision 1, paragraph (b), clause (2), authorizes health data held by the commissioner of health or a local board of health to be disclosed to the data subject's physician in certain circumstances, and to help prevent the spread of serious disease.
- Minnesota Statutes, section 144.291 defines "medical emergency" as medically necessary care which is immediately needed to preserve life, prevent serious impairment to bodily functions, organs, or parts, or prevent placing the physical or mental health of the patient in serious jeopardy. Minnesota Statutes, section 144.293, subdivision 5 does not require consent for the release of health records in a medical emergency when the provider is unable to obtain the patient's consent due to the patient's condition or the nature of the medical emergency. Consent is also not required for the release of health records to other providers within related health care entities when necessary for the current treatment of the patient and to licensed health care facilities when a patient is returning to, or resides in, the facility and is unable to provide consent.

When a court order or subpoena requires release of health information

- Minnesota Statutes, section 13.384, subdivision 3, paragraph (c), states that medical data held by a government entity provider may be disclosed pursuant to a valid court order.
- Minnesota Statutes, section 144.054, states that the commissioner of health may, as part of an investigation to determine whether a serious health threat exists, or to locate persons who may have been exposed to an agent which can seriously affect their health, issue subpoenas to require the production of books, records, and other information relevant to any matter involved in the investigation.
- Minnesota Statutes, section 390.11, subdivision 7a, states that a medical examiner has the power to subpoena any documents, records, and papers deemed useful in the investigation of a death.

Under Minnesota law, health records or information from a health record may or must be released to the following agencies, persons, or organizations for specific purposes:

➤ **Department of Health**

- Minnesota Statutes, section 144.215, subdivision 1, states that each live birth must be filed with the state registrar.
- Minnesota Statutes, section 144.221, subdivision 1, states that a death record for each death that occurs in the state shall be filed with the state registrar within five days after death and prior to burial or cremation.
- Minnesota Statutes, section 144.222, states that each fetal death or infant death (diagnosed as SIDS) that occurs in this state shall be reported within five days to the state registrar as prescribed by rule by the health commissioner.
- Minnesota Statutes, section 144.34, states that the commissioner of health must receive health information for purposes of investigating occupational diseases. Occupational diseases include: lead poisoning, carbon monoxide gas poisoning, or any other disease contracted as a result of the nature of employment.

- Minnesota Statutes, section 144.4175, states that the commissioner of health must receive health data relating to health threats. A health threat includes a person with a communicable disease who is unwilling or unable to act in a way that will not expose others to the disease.
- Minnesota Statutes, section 144.4804, states that the commissioner of health must receive information about a person with tuberculosis (TB) to issue a health order.
- Minnesota Statutes, section 144.663, states that the commissioner of health has access to traumatic brain or spinal cord injury data.
- Minnesota Statutes, section 144.68, subdivisions, 1 and 2, mandate every person licensed to provide health care and every hospital, medical clinic, or medical laboratory to prepare and forward to the health commissioner, upon request, a detailed record of each case of cancer treated or seen by the person professionally.
- Minnesota Statutes, section 144.9502, subdivision 3, states that every hospital, medical clinic, medical laboratory, other facility, or individual performing blood lead analysis must report the results after the analysis of each specimen analyzed to the commissioner of health.
- Minnesota Statutes, section 145.413, subdivision 2, mandates a report to the health commissioner regarding any woman who had an abortion and died from any cause within 30 days of the abortion, or from any cause potentially related to the abortion within 90 days of the abortion.
- Minnesota Statutes, sections 145.4131 and 145.4132, mandate reporting by physicians who perform abortions and encounter an illness of injury related to the abortion to the commissioner of health.
- Minnesota Statutes, section 145.901, states that the commissioner of health has access to medical data, medical examiner data, and health records created, maintained, or stored by providers without the consent of the subject of the data and without the consent of the parent, spouse, other guardian, or legal representative of the subject of the data when the subject of the data is a woman who died during a pregnancy or within twelve months of a fetal death, a live birth, or other termination of a pregnancy.
- Minnesota Statutes, section 62D.14, subdivision 3, states that the commissioner of health has the authority to examine HMOs, which includes the right to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed; and audit and inspect any books and records of a health maintenance organization.
- Minnesota Statutes, section 62J.321, subdivision 1, paragraph (a), states that the commissioner of health may require health care providers and health plan companies to collect and provide patient health records and claim files, and cooperate in other ways with the data collection process. Patient consent is not required for the release of data to the commissioner pursuant to sections 62J.301 to 62J.42 by any group purchaser, health plan company, health care provider; or agent, contractor, or association acting on behalf of a group purchaser or health care provider.
- Minnesota Statutes, section 176.234, states that health data related to workers compensation records from the commissioner of labor and industry, must, upon request be given to the commissioner of health for purposes related to specific epidemiologic investigations being conducted by the department of health.

- Minnesota Statutes, section 214.19, authorizes a person with actual knowledge that a regulated person has been diagnosed as infected with HIV, HBV, or HCV to file a report with the health commissioner. Regulated persons, defined under section 214.18, subdivision 5, are licensed dental hygienists, dentists, physicians, registered nurses, licensed practical nurses, podiatrists, registered dental assistants, physician's assistants, and chiropractors.
- Minnesota Statutes, section 626.5562, states that a physician must report to the health department, a positive test result of a pregnant woman who used a controlled substance for a non-medical purpose during pregnancy.

➤ **Department of Human Services**

- Minnesota Statutes, section 144.225, subdivision 2a, states that the health commissioner may disclose to a local board of health the health data associated with birth registration which identifies a mother or child at high risk for serious disease, disability, or developmental delay in order to assure access to appropriate health, social, or educational services. The commissioner of human services also has access to health data associated with birth registration for purposes of administering medical assistance, and for other public health purposes as determined by the commissioner of health. Subdivision 2b, states that the commissioner of human services has access to birth record data to enable the commissioner to identify a child who is subject to the threatened injury.
- Minnesota Statutes, section 253B.0921, authorizes a treating physician who makes medical decisions regarding the prescription and administration of medication for treatment of a mental illness to have access to the relevant sections of a patient's health records on past administration of medication at any treatment facility, if the patient lacks the capacity to authorize the release of records.
- Minnesota Statutes, section 256.01, subdivision 12, paragraph (c), states that the commissioner of human services has access to the medical records of a child, and the parent's medical records relating to prenatal care when there is reason to believe that a child's death was caused by maltreatment. Subdivision 15, allows for access to the data by citizen review panels established by the commissioner.
- Minnesota Statutes, section 256B.27, subdivision 4, states that the commissioner of human services can examine medical records of persons determined to be eligible for medical assistance.
- Minnesota Statutes, section 626.556, subdivision 10, paragraph (g), states that the commissioner of human services can inspect medical records as part of a child maltreatment investigation.
- Minnesota Statutes, section 626.557, subdivisions 9b and 10, allows county social service agencies and the lead agency in an investigation of vulnerable adult maltreatment to inspect and copy not public data and medical records as necessary to conduct the investigation.

➤ **Department of Public Safety**

- Minnesota Statutes, section 171.131, tells the commissioner of public safety to examine drivers where a doctor has voluntarily provided information indicating the

driver is no longer fit to drive. The section also says that the doctor is not liable for telling the commissioner about the driver.

➤ **Department of Commerce**

- Minnesota Statutes, section 62Q.73, subdivisions 1, 3, 4, and 5, authorize the external review of an appealed health care service or claim. The independent organization conducting the review may give the commissioners of commerce and health data about the review. Data from the review may include information from the medical record of the person appealing the health care service or claim.

➤ **Department of Finance**

- Minnesota Statutes, section 62D.145, subdivision 2, paragraph (a), clause (6), authorizes disclosure of information held by an HMO to the commissioner of finance to meet the requirements of contracts for benefit plans.

➤ **Department of Labor and Industry**

- Minnesota Statutes, section 176.138, authorizes the release of medical data to the department of labor and industry and the employee, the employer, or the insurer who are parties in a workers compensation claim.
- Minnesota Statutes, section 176.231, subdivisions 3,4,6 and 7, authorize reports of death or injury during the course of employment to be given to commissioner of labor and industry

➤ **Department of Corrections**

- Minnesota Statutes, section 244.05, subdivision 7, requires the commissioner of correction's access to private medical data of a sex offender for purposes of the assessment and referral decision of a civil commitment determination.

➤ **Department of Education**

- Minnesota Statutes, section 626.556, subdivision 10, paragraph (g), authorizes the commissioner of education to inspect and copy medical records as part of a child maltreatment investigation.

➤ **Insurers and employers in workers' compensation cases**

- Minnesota Statutes, section 176.138, authorizes the release of medical data to the department of labor and industry and the employee, the employer, or the insurer who are parties in a workers compensation claim.

➤ **Ombudsman for Mental Health and Developmental Disabilities**

- Minnesota Statutes, section 245.94, subdivision 1, paragraph (e), states that the ombudsman is not required to obtain consent for access to private data on clients with developmental disabilities, or for access to private data on decedents who were receiving services for mental illness, developmental disabilities, or emotional disturbance. These data are necessary for the ombudsman to mediate or advocate on

behalf of a client. Subdivision 2a, states that the ombudsman must be notified within 24 hours after a client suffers death or serious injury.

- Minnesota Statutes, section 626.556, subdivision 10, paragraph (g), states that the ombudsman can inspect and copy medical records as part of child maltreatment investigation and receive information from medical examiners and coroners if a child died as a result of maltreatment.

➤ **Health professional licensing boards/agencies**

- Minnesota Statutes, section 146A.06, authorizes the Office of Complementary and Alternative Health Care, created in the department of health, to obtain medical records from an unlicensed practitioner who is under investigation (the identifying information must be deleted if there is no patient consent). An unlicensed practitioner engages in complementary and alternative health care, and holds himself or herself out to be a practitioner of complementary or alternative health care.
- Minnesota Statutes, section 147.091, subdivision 6, paragraph (b), authorizes the Board of Medical Practice to obtain medical data and health records during an investigation of a doctor.
- Minnesota Statutes, section 147.131, authorizes the Board of Medical Practice to obtain patient medical records from a physician who is under investigation (the identifying information must be deleted if there is no patient consent).
- Minnesota Statutes, section 147A.17, authorizes the Board of Medical Practice to obtain patient medical records from a physician's assistant who is under investigation (the identifying information must be deleted if there is no patient consent).
- Minnesota Statutes, section 148.104, authorizes the Chiropractic Board to obtain patient medical records from a chiropractor who is under investigation (the identifying information must be deleted if there is no patient consent).
- Minnesota Statutes, section 148.191, subdivision 2, paragraph (b), authorizes the Board of Nursing to obtain patient medical records from a nurse who is under investigation (the identifying information must be deleted if there is no patient consent).
- Minnesota Statutes, section 148B.09, authorizes the Board of Marriage and Family Therapy to obtain patient medical records from a therapist who is under investigation (the identifying information must be deleted if there is no patient consent).
- Minnesota Statutes, section 150A.081, authorizes the Board of Dentistry to obtain patient medical records from a dentist who is under investigation (the identifying information must be deleted if there is no patient consent).
- Minnesota Statutes, section 153.20, authorizes the Board of Podiatric Medicine to obtain patient medical records from a podiatrist who is under investigation (the identifying information must be deleted if there is no patient consent).
- Minnesota Statutes, section 214.10, subdivision 8, paragraphs (c) and (d), authorize investigations of licensees, which may include the collection of data from patient medical records. The licensees are defined under section 214.01, subdivision 2, and include: nursing home administrators, unlicensed alternative and complementary care practitioners, doctors, nurses, chiropractors, optometrists, podiatrists, physical therapists, psychologists, social workers, marriage and family and behavioral health

- therapists, mental health practitioners, alcohol and drug counselors, dieticians and nutritionists, dentists, veterinarians, and pharmacists.
- Minnesota Statutes, section 214.23, authorizes the referral of all regulated persons infected with HIV, HBV, or HCV to the commissioner of health. (Section 214.24, authorizes the inspection of the practice and section 214.25, subdivision 1, refers to the commissioner of health's data.) The regulated persons under this section are licensed dental hygienists, dentists, physicians, registered nurses, licensed practical nurses, podiatrists, registered dental assistants, physician's assistants, and chiropractors.
- **Victims of serious threats of physical violence**
- Minnesota Statutes, section 148.975, subdivision 2, states that a licensed psychologist has the duty to warn a potential victim of a serious threat of physical violence upon the potential victim by a client of the psychologist.
 - Minnesota Statutes, section 611A.19, states that the HIV test results of an adult convicted of or a juvenile adjudicated delinquent for criminal sexual conduct or any other violent crime are given to the victim of the sexual assault or other violent crime.
- **State Fire Marshal**
- Minnesota Statutes, section 299F.04, authorizes the fire marshal to investigate a fire resulting in human death, which could include obtaining health information about the decedent from the medical examiner or coroner.
 - Minnesota Statutes, section 626.52, subdivision 3, authorizes the fire marshal to receive health information from a health professional regarding specific burn injuries.
- **Local welfare agencies**
- Minnesota Statutes, section 626.556, subdivision 10, paragraph (g), authorizes the inspection of medical records as part of child maltreatment investigation.
 - Minnesota Statutes, section 626.556, subdivision 10, paragraph (h), authorizes the viewing of prior medical records and examination information of a child when investigating maltreatment.
 - Minnesota Statutes, section 626.556, subdivision 10, paragraph (h), clause (3), states that a local welfare or law enforcement agency may collect prior medical records relating to alleged maltreatment of a child.
 - Minnesota Statutes, section 626.5561, authorizes a local welfare agency to receive reports from mandatory reporters about a pregnant woman who has used a controlled substance, including the consumption of alcoholic beverages during the pregnancy that is habitual or excessive, for non-medical purposes.
- **Medical examiners or coroners**
- Minnesota Statutes, section 390.11, subdivision 7a, gives the coroner or medical examiner the ability to request health related records on a decedent in certain types of deaths (outlined in subdivision 1), including:
 - Unnatural deaths, including violent deaths, arising from homicide, suicide, or accident;

- deaths due to a fire or associated with burns or chemical, electrical, or radiation injury;
- unexplained or unexpected perinatal and postpartum maternal deaths;
- Deaths under suspicious, unusual, or unexpected circumstances;
- Deaths of persons whose bodies are to be cremated or otherwise disposed of so that the bodies will later be unavailable for examination;
- Deaths of inmates of public institutions and persons in custody of law enforcement officers who are not hospitalized primarily for organic disease;
- deaths that occur during, in association with, or as the result of diagnostic, therapeutic, or anesthetic procedures;
- deaths due to culpable neglect;
- stillbirths of 20 weeks or longer gestation unattended by a physician;
- sudden deaths of persons not affected by recognizable disease;
- unexpected deaths of persons notwithstanding a history of underlying disease;
- deaths in which a fracture of a major bone such as a femur, humerus, or tibia has occurred within the past six months;
- deaths unattended by a physician occurring outside of a licensed health care facility or licensed residential hospice program;
- deaths of persons not seen by their physician within 120 days of demise;
- deaths of persons occurring in an emergency department;
- stillbirths or deaths of newborn infants in which there has been maternal use of or exposure to unprescribed controlled substances including street drugs or in which there is history or evidence of maternal trauma;
- unexpected deaths of children;
- solid organ donors;
- unidentified bodies;
- skeletonized remains;
- deaths occurring within 24 hours of arrival at a health care facility if death is unexpected;
- deaths associated with the decedent's employment;
- deaths of nonregistered hospice patients or patients in nonlicensed hospice programs; and
- deaths attributable to acts of terrorism.
- Minnesota Statutes, section 390.32, subdivision 6, paragraph (b), gives the medical examiner the ability to request health related records on a decedent when a death is being investigated upon recommendation by the sheriff.
- Minnesota Statutes, section 626.556, subdivision 9, gives the medical examiner or coroner the ability to receive health information relating to a child who has died as a result of maltreatment.

➤ **Schools, childcare facilities, and Community Action Agencies to transfer immunization records**

- Minnesota Statutes, section 121A.15, subdivision 7, allows the transfer of files kept on immunization records among schools and childcare facilities.
- Minnesota Statutes, section 144.3351, authorizes the exchange of immunization records with other statutorily listed entities.

➤ **Medical or scientific researchers**

- Minnesota Statutes, section 144.295, subdivision 1, states that health records generated before January 1, 1997, may be released to an external researcher solely for purposes of medical or scientific research if the patient has not objected or does not elect to object after that date. For health records generated on or after January 1, 1997, the provider must disclose in writing to patients currently being treated by the provider that health records, regardless of when generated, may be released. The patient may object to this, in which case the records will not be released. The provider must also use reasonable efforts to obtain the patient's written general authorization that describes the release of records, which does not expire but may be revoked or limited in writing at any time by the patient or the patient's authorized representative.

➤ **Parent/legal guardian who did not consent for a minor's treatment, when failure to release health information could cause serious health problems**

- See Minnesota Statutes, sections 144.341-144.347 and section 144.3441, for circumstances when a minor does not need to obtain initial consent from a parent or guardian to receive treatment.
- Minnesota Statutes, section 144.343, subdivision 2, states that no abortion operation shall be performed upon an unemancipated minor or upon a woman for whom a guardian or conservator has been appointed, until at least 48 hours after written notice to the minor's "parent" about the pending operation.
- Minnesota Statutes, section 144.346, states that a health professional may inform the parent or legal guardian of a minor patient of any treatment given or needed where, in the judgment of the professional, failure to inform the parent or guardian would seriously jeopardize the health of the minor patient.

➤ **Law enforcement agencies**

- Minnesota Statutes, section 13.384, subdivision 2, paragraph (c), states that law enforcement agencies can obtain hospital directory information from a government hospital for a lawful investigation about to an individual.
- Minnesota Statutes, section 299C.56, subdivision 2, authorizes a law enforcement agency to execute a written declaration and present it to a health care agency to collect identifying data of a missing child.
- Minnesota Statutes, section 626.52, subdivision 2, authorizes local law enforcement agencies to receive information about gun injuries from a physician mandated to report them.
- Minnesota Statutes, section 626.556, subdivision 10, paragraph (g), authorizes law enforcement to inspect and copy medical records as part of child maltreatment investigation.
- Minnesota Statutes, section 626.556, subdivision 10, paragraph (h), clause (3), states that a local welfare or law enforcement agency may collect prior medical records relating to alleged maltreatment of a child.

- **Insurance companies and other payors paying for an independent medical examination**
 - Minnesota Statutes, section 144.297, states that a provider may release health records created as part of an independent medical examination to the third party who requested or paid for the examination.