

April, 2011

Dear Vaccines for Children Providers,

The New Mexico Department of Health (DOH), a “covered entity” under the Health Insurance Portability and Accountability Act (HIPAA) and a public health agency, hereby grants the Public Education Department School Health Offices the authority to serve as a “public health authority” as defined by HIPAA for the limited purpose of collecting and communicating immunization information for school-aged children. This action is taken under my authority as Secretary of Health.

Schools are acting as a “public health authority” when they track the immunization status of children. Under federal guidelines, public health authorities include federal public health agencies, tribal health agencies, state public health agencies, local public health agencies, and anyone performing public health functions under a grant of authority from a public health agency. 45 CFR §164.501.

Under HIPAA, immunization data are protected health information. HIPAA permits covered entities to disclose, without individual authorization, protected health information to public health authorities authorized by law to collect or receive such information for the purpose of preventing or controlling disease. New Mexico law authorizes and requires each school superintendent to prepare a record showing the required immunization status of every child enrolled in or attending a school under his or her jurisdiction. NMSA 1978, § 24-5-4; NMAC 7.5.2.8.

The position of DOH is that the collection of immunization data constitutes public health surveillance for which disclosure of protected health information by covered entities is authorized by HIPAA regulations. 45 CFR §164.512(b)(i). Therefore, covered entities may provide immunization records of students to New Mexico Schools without a HIPAA-compliant individual authorization. The New Mexico Statewide Immunization Information System (NMSIIS), the registry for immunization information, also grants access to the school nurses for determining the immunization status of children. It is our goal that the NMSIIS comprehensive registry will protect primary care providers and further facilitate the school nurses' role in surveillance and control of communicable disease.

Thank you for your cooperation in keeping New Mexico's school children protected from vaccine-preventable diseases.

Sincerely,



Catherine D. Torres, M.D.
Cabinet Secretary