Release of COVID-19 Personal Health Information to EMS and the Public

FROM
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QUESTION
Should a list of COVID-19 positive patients be released by the NM Department of Health (NMDOH) to Emergency Medical Services (EMS) Agencies and/or the public?

RESPONSE
Although the Health Insurance Portability and Accountability Act of 1996 (HIPAA) allows for the disclosure of COVID-19 positive status to EMS, it does not require it. There are other methods for health care workers to obtain this information rather than the state releasing a list of names and addresses to these entities or the public. Further, although personal protective equipment (PPE) supplies are limited, there are currently no EMS agencies in NM who are in such short supply that the agency does not have the appropriate PPE for providers who would require it during patient care.

BACKGROUND
- **Bias**: There is an inherent concern about bias and discrimination in the treatment of individuals who may be COVID-19 positive or at a location with a known COVID-19 positive person.
- **Privacy**: If a list of COVID-19 positive individuals were made public, it would not only be EMS agencies with access. It may also expand to include insurance companies, employers, banks, etc. Once published, it would always exist in the public domain even long after this pandemic is over.
  - For the information to be useful to EMS, the person’s address would also have to be released (because EMS is dispatched by address and not a person’s name), which poses a significant invasion of privacy. Also, the COVID-19 positive patient may not be at home at the time of an EMS call.
  - There is no way to keep this flow of information to the treating EMS providers only, meaning the data would be accessible to others. For example: an individual ended a relationship where interpersonal violence occurred and moved to a new location for safety. Because of the individual’s COVID-19 status, his/her name and address has been released to dispatch and perhaps announced over the radio system. Public citizens can listen to dispatch radio transmissions, potentially revealing the name and new address of the interpersonal violence survivor and placing him/her at risk.
- **Fidelity**: It is unclear at this time the entities responsible in maintaining and updating the list of COVID-19 positive individuals upon release to EMS/the public. It would be incorrect and out of date the moment it is released. Consider these questions, which are important considerations in maintaining fidelity:
  - How long does it take for a person with a positive COVID-19 test to get on this list?
  - How often would the list be updated and by whom?
  - When would a person get removed from the list if they had recovered from COVID-19? How long would it take to be removed from the list?
  - Would there be another list for patients who have died from COVID-19?
  - What about people who live with a COVID-19 positive individual but have not been tested?
As testing has expanded, is every testing location reporting their positive COVID-19 test results to NMDOH timely and accurately?

Special considerations need to be taken for minors, whose personal information is not typically disclosed to the public domain.

CONCLUSION
EMS should consider every patient encounter a possible COVID-19 positive patient. Decisions to increase the level of PPE for EMS providers should be based on the clinical situation and not on a deidentified list of COVID-19 individuals in their jurisdiction. Lastly, the release of COVID-19 personally identifiable information to EMS/the public sets a potentially ill precedent for the release of personal information related to other diseases like tuberculosis, HIV, Hepatitis, sexually transmitted infections, etc.