

State Analysis Guide

Employee Health Information and Preparedness Planning and Response

This *State Analysis Guide* is intended to assist state health agency staff and legal counsel with locating and analyzing their states' laws, rules, policies, and implementation plans that govern the public health agency as an employer so that they may obtain and use employee health information for preparedness planning and response. Space is provided on the document to insert references or summaries of appropriate state or local authorities. Because each state's law is unique, this guide may not identify all issues that arise in the course of analyzing a state's law. **The language and requirements of specific state/local laws, regulations, ordinances, rules, policies, guidances, case law, and other sources of legal authority overrule this general analysis guide in all instances. This resource is for informational purposes only and is not intended as a substitute for professional legal or other advice.**

Issues for Analysis	State/Local Information
Laws governing public health agencies.	
Laws governing health facilities.	
State privacy and health information privacy laws.	
Data collection and management laws, including laws that apply to electronic information.	
Freedom of information laws.	
Emergency preparedness laws.	
State occupational safety and health laws.	
State laws that protect against discrimination based on disability.	
State common law (i.e. law developed through court opinions).	
Civil service or other employment-related laws.	
Civil service or other employment policies and procedures.	

Issues for Analysis		State/Local Information
	Collective bargaining agreements.	
	Other.	
1. Before collecting, using, or sharing employee health information, consider the following questions and compare to answers in #1 above and the federal Americans with Disabilities Act and federal Occupational Safety and Health Act requirements, to the extent applicable.		
Collection:		
	Under what role is the public health agency collecting the information (e.g., public health authority, healthcare provider, or employer)?	
	What health information is being collected?	
	What is the purpose of collecting the information? E.g.:	
	To ensure adequate workforce to provide essential services during an emergency.	
	To protect the employee or coworkers' exposure to communicable illnesses.	
	To track exposure to disease, illness, or injury.	
	To obtain appropriate treatment for employee.	
	Other.	
	In what form is the information being collected (e.g., written, electronic, etc.)?	
	Is the collection appropriate and consistent with applicable laws?	
Use:		

Issues for Analysis		State/Local Information
	What is the data being used for?	
	If required, has the employee authorized the use of their health information?	
	Is the use appropriate and consistent with applicable laws?	
Disclosure:		
	Who is requesting the data disclosure?	
	What is the information request's purpose?	
	What specific information is being requested?	
	Is the information requested limited to the minimum necessary to fulfill the purpose?	
	If disclosure entails responding to a request under the state's freedom of information law, does an exemption apply?	
	If required, has the employee authorized the disclosure of their health information?	
	Is the disclosure appropriate and consistent with applicable laws?	

This resource is for informational purposes only and is not intended as a substitute for professional legal or other advice. The document was funded by CDC Award No. 1U38HM000454 to the Association of State and Territorial Health Officials; Subcontractor University of Michigan School of Public Health, Network for Public Health Law – Mid-States Region.