

May 19, 2020

COPY

Governor Tim Walz
1006 Summit Ave.
Saint Paul, Minnesota 55105

Dear Governor Walz,

We are deeply concerned with the April 2 “Notification Letter” sent by Commissioner Jan Malcolm to Minnesota hospitals regarding “Situational Awareness.”¹ The letter falsely suggests that the commissioner has the authority to compel hospitals to provide the Minnesota Department of Health (MDH) with all general population patient data rather than limited, specific and authorized data necessary to support MDH’s COVID-19 surveillance efforts.

To the extent that Minnesota hospitals have felt compelled to provide MDH with anything other than data the specifically related to COVID-19, we believe Commissioner Malcolm has abused her authority and infringed upon Minnesotans’ health privacy rights.

As we explained in our **April 29 letter to the commissioner**,² the statutes cited by MDH do not in fact grant MDH authority to compel hospitals to provide information on their **“total population,”** nor does it compel hospitals to establish an electronic interface with the department for **“near real-time”** transfer of patient data *“in the future for other related activities...Other conditions MDH might want to expand to after COVID-19...or other current or emerging public health threats.”*³ The department’s demand for non-COVID-19 data is an overreach of statutory authority.

In the FAQ document (*Hospital Alerting for Syndromic Surveillance: COVID-19/SAR-COV-1*),⁴ MDH describes this ongoing transfer of patient data related and unrelated to MDH as “syndromic surveillance,” which according to an online MDH document is **“Not an option in Minnesota.”**⁵

Legislators have become aware of the commissioner’s illegal demand for patient data. As MPR reports, *“Rep. Peggy Scott of Andover and Sen. Michelle Benson of Ham Lake said the Minnesota Department of Health shouldn’t be collecting admission, discharge and transfer data on patients if they aren’t being treated for COVID-19.”*⁶

¹ <https://www.health.state.mn.us/diseases/coronavirus/hcp/hospletter.pdf>

² https://www.cchfreedom.org/files/files/CCHF_Letter_to_MDH_4_29_2020.pdf

³ <https://www.health.state.mn.us/diseases/coronavirus/hcp/hospletterfaq.pdf> (#26; initial FAQ before revision)

⁴ <https://www.health.state.mn.us/diseases/coronavirus/hcp/syndromic.html> (revised FAQ)

⁵ <https://www.health.state.mn.us/facilities/ehealth/meaningfuluse/index.html#21>

⁶ <https://www.mprnews.org/story/2020/05/13/latest-on-covid19-in-mn>

Minnesotans agree. **Find enclosed over 1,500 petitions from Minnesotans and those who come to Minnesota hospitals for their care.**

In light of the MDH letter demanding hospitals violate state law and patient privacy rights, please call on Commissioner Malcolm to immediately rescind the April 2 Notification Letter and require her to inform every recipient of the Notification Letter that no non-COVID-19 data may be shared with MDH without express written consent of the patient, in compliance with Minnesota Statute 144.293.

Sincerely,

A handwritten signature in blue ink that reads "Twila Brase". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Twila Brase, RN, PHN
President and Co-founder

Enclosure: CCHF Letter to MDH Commissioner Jan Malcolm, 4/29/20