

Memo: Regarding Information Sharing

From: VDH Commissioner Norman Oliver

Dear Ms. Bunting:

Thank you for your letter, dated March 27, 2020, which you sent on behalf of the Virginia Peninsula Chief Administrative Officers. In this letter, you and your colleagues express your concern for the safety of your first responders, who are on the frontline of our efforts to battle the COVID-19 pandemic.

I know that you all are dedicated to providing excellent public safety services to your communities. I also know that you are committed to ensuring the safety of the workforce that provides those services. The Virginia Department of Health is committed to doing whatever we're able to do to help you meet these goals.

You ask that VDH release to the 911 Dispatch Centers "the names and addresses of individuals who have tested positive for COVID-19 or who are required to self-isolate within our municipalities, [and] their current location if different from their address and the dates they tested positive." In support of this request, you cite recent guidance from the Office for Civil Rights at the U.S. Department of Health and Human Services, regarding the disclosure of protected health information (PHI) to first responders in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule.

The OCR guidance and HIPAA rule do not apply to VDH in this case. We are not care providers for these individuals; rather, we are conducting case identification and contact investigations of people known to be infected with COVID-19. As the State Health Commissioner, I have the authority, under Section 32.1-41 of the Virginia Code, to release PHI if it is pertinent to an investigation.

I believe there is a path forward that allows us to protect first responders while protecting the privacy of individuals under investigation for possible COVID-19. I commit to VDH taking the following measures, which, by the way, need to apply across the Commonwealth:

1. First responders' anxiety over encountering people who are positive for COVID-19 stems, in part, from the scarcity of personal protective equipment (PPE). For PPE we obtain, we will make distribution of that PPE to first responders our top priority.
2. We will instruct local health departments that, where they know that first responders are going to be transporting someone we know to be positive for COVID-19, they should inform the first responders of that person's status;
3. VDH will work with the 911 Services Board to provide all 911 Dispatch Centers with a screening protocol so that requesters of public safety services are screened for COVID-19 or being at increased risk of having COVID-19. (All individuals tested by the state lab sign a voluntary agreement in which they are instructed to inform the 911 Dispatch Center of their test status if they ask for public safety services.)

This third action is extremely important for protecting our first responders. In addition to individuals who have tested positive for COVID-19, people exhibiting certain symptoms (fever, cough, and shortness of breath), as well as recent travelers from areas with community spread of COVID-19 (both in the United States and elsewhere in the world) are at higher risk of being infected. Use of such a screening

protocol is something we did during the Ebola outbreak several years ago, and I think it would be a good tool to use in this COVID-19 pandemic.

We understand that our first responders put themselves in harm's way in performing their duties, and we share your desire to provide them with as much protection as possible. Along those lines, we are working diligently to identify and obtain more personal protective equipment for first responders and healthcare personnel. We need to obtain more PPE so that it becomes easier for these frontline workers to practice universal precautions, which is appropriate in the emergency setting.

Please feel free to contact me if you have further questions or suggestions on how VDH can support your efforts.