



FRATERNAL ORDER OF POLICE OF OHIO, INC.

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April 6, 2020

Director Amy Acton
Ohio Department of Health
246 N High St.
Columbus, OH 43215

Dear Dr. Acton:

My name is Gary Wolske; I am President of the Fraternal Order of Police of Ohio, and I represent more than 23,000 first responders throughout our great state. I write to you today with concern regarding the lack of notification to first responders who have been dispatched to a home or facility where there are confirmed or presumptive positive cases of COVID-19. While I am thankful for your leadership during the ongoing COVID-19 pandemic and appreciate the aggregate data you share with Ohioans during your daily briefings, more needs to be done to protect our public safety forces. The information you provide and the orders you have issued certainly help keep our citizens healthy, safe, and alive, yet additional steps are needed to protect our first responders, who are at extreme risk of contracting COVID-19.

It is my understanding that the Ohio Department of Health has taken the position that each local Department of Health can decide to share positive and presumptive positive test information with police, fire, and corrections personnel. For the safety of our incredibly brave first responders, I am asking you to issue an order directing all local Departments of Health to immediately disclose the protected health information of every person who has a presumptive positive or positive test to any public safety entity who requests it. Mandatory notifications would substantially reduce the risk of spreading COVID-19, conserve desperately needed personal protective equipment, and improve contact tracing.

What our public safety personnel need to know is the name, address, sex, and age of any person who tested positive or is presumed positive for COVID-19. We believe the Ohio Department of Health could easily develop an app such as the OD MAPS app currently in use in Ohio. OD MAPS uses readily available technology to alert law enforcement of overdose hotspots and this technology could easily be adapted for the protection of our first responders during this COVID-19 crisis.

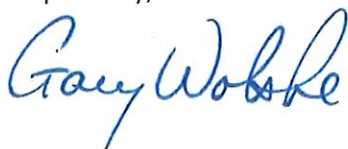
And, as I am sure you are aware, the United States Department of Health and Human Services - Office for Civil Rights in March of 2020 published a bulletin clarifying that the HIPAA Privacy Rule permits "a covered entity to disclose the protected health

information (PHI) of an individual who has been infected with, or exposed to, COVID-19, with law enforcement, paramedics, other first responders, and public health authorities without the individual's HIPAA authorization in certain circumstances." The following link will take you to the referenced document: (<https://www.hhs.gov/sites/default/files/hipaa-and-covid-19-limited-hipaa-waiver-bulletin-508.pdf>). Additionally, there is supporting case law in Ohio that states: "A physician may make disclosures without patient authorization where disclosure is necessary to protect or further countervailing interests, such as public health." Biddle v. Warren Gen. Hosp., 715 N.E.2d 518, 524 (Ohio 1999)

In closing, I want to reiterate my gratitude for the many steps you have taken to ensure the safety of our citizens and ask that you expand protections to our first responders by compelling local Departments of Health to immediately disclose to any public safety entity the protected health information of those persons with presumed positive or confirmed positive cases of COVID 19.

If I can be of assistance in any way, please do not hesitate to contact me at your convenience.

Respectfully,



Gary Wolske,
President
Fraternal Order of Police of Ohio