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**AUDITOR ADVISORY: Reynolds administration, not HIPAA,
determines whether public gets outbreak data**

Given the ongoing pandemic, apparent confusion about state versus federal law, and the Auditor of State's general responsibility to advise governmental entities on legal compliance under Iowa Code 11.6(7) and 11.11, the Auditor of State is issuing the following advisory to local officials about the disclosure of health information.

The Health Information Portability and Accountability Act (HIPAA) is a federal law that protects "personally identifiable health information." HIPAA prevents the disclosure of any information that could identify the name of an infected person. It does not prevent disclosure of aggregate data, statistics, or other information that doesn't identify any individual. For example, HIPAA does not prevent the disclosure of the number of individuals in a long-term care facility or a packing plant who have COVID-19, nor the identity of the business in question.

Iowa law can bar disclosure of the names of businesses involved in a public health report. However, Iowa Code 139A.3 gives the state epidemiologist and/or the Iowa Department of Public Health the authority to make those business names public if they determine "such a release of information necessary for the protection of the health of the public."

For example, disclosing the name of a business experiencing an outbreak allows members of the public to provide a more accurate answer on the testiowa.com assessment to the question **"Have you been around someone who tested positive for COVID-19 in the last two weeks?"** Health care providers; clinical laboratories; and local health board or department are dependent upon the IDPH or state epidemiologist's determination. However, those are the only bodies from which the law limits disclosures. For example, when the Wright County Board of Supervisors and the Marshalltown Mayor disclosed information about outbreaks in their communities, they did not violate the law.

This distinction between State and Federal law is important. Accurate communications and accurate understanding about law surrounding the pandemic is crucial for good decision-making and accountability. Disclosing the names of businesses experiencing COVID-19 outbreaks, or providing anonymized data related to outbreaks at such businesses, isn't prohibited by HIPAA or any other federal law. Such information is expressly disclosable when the Iowa Department of Public Health believes it is important for the public to know.