

February 28, 2018

The Honorable Alex Azar, M.D.
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Azar:

On behalf of the organizations below, we urge you to require the Centers for Disease Control and Prevention (CDC), or another agency within the U.S. Department of Health and Human Services (HHS), to act as the enforcement authority for the regulations contained in the Ryan White HIV/AIDS Treatment Extension Act of 2009 (RWA; P.L. 111-87). Part G of the RWA is an important provision which establishes notification requirements for emergency responders who have been exposed to life-threatening diseases. However, we have noticed a disturbing trend in hospitals across the United States whereby medical facilities are not complying with the RWA. These facilities have been inhibiting the testing and notification process for EMS personnel exposed to a covered infectious disease. No agency is currently permitted to take enforcement action for Part G of the RWA. Our organizations requested assistance from the previous administration, however this issue has remained unresolved. As a result, our organizations encourage HHS to empower an agency to ensure all hospitals achieve compliance with Part G of P.L. 111-87.

Firefighters and emergency medical services (EMS) personnel face many dangers including exposure to life-threatening diseases such as HIV/AIDS and hepatitis. The RWA established an important process where an emergency responder may receive a source patient's test results for certain illnesses when an emergency responder is exposed to the patient's blood or other potentially infectious materials through a needle-stick or other unprotected exposure. According to the RWA, each emergency response agency must have a Designated Officer (DO) to manage infection control issues. When a DO believes a responder in its agency had an exposure, the DO notifies the medical facility which received the patient. The medical facility must respond to a DO's notification as soon as possible within a 48-hour window and, when applicable, inform the DO of whether the source patient has tested positive, negative, or inconclusive for an illness listed in the RWA.

The process established by Part G of the RWA is an important one which rapidly clarifies whether a first responder was exposed to a potentially life-threatening disease. This rapid notification allows an emergency responder to begin any necessary treatment, but also protects all private source patient information by only sharing whether the source patient tested positive for illnesses and the date of the exposure. No other information, including source patient name or other identifying information, is shared with the DO or emergency responder.

There continues to be cases across the nation where emergency responders and DOs have reported exposures only to be denied source patient information by receiving hospitals. In some cases, responders have been instructed to register as a patient themselves so that they could be

followed by the receiving medical facility's occupational health group. This deviation in procedure not only violates Part G of the RWA, but requires the emergency responder to be tested for months, rather than receive the immediate screening recommended by the Occupational Safety and Health Administration and the CDC. This delay in treatment is emotionally distressing for the emergency responder and can cause significant delay to the start of potentially life-saving treatment. Additionally, this deviation from the RWA forces emergency responders to rely upon occupational health practitioners who are untrained in post-exposure care and counseling.

While the RWA did establish a mechanism by which these breaches can be reported to HHS, no agency within HHS is empowered to act once a violation has been reported. Our organizations have been in touch with the CDC regarding these recent breaches of the RWA. While CDC officials have been extremely interested and willing to lend assistance; they have confirmed that no agency within HHS has been given enforcement authority. P.L. 111-87 itself does not identify an agency responsible for the reporting, testing, and notification process other than the HHS Secretary.

In 2016, our organizations contacted the previous administration to express concern that no agency is empowered to enforce compliance with the RWA. Unfortunately, no actions were taken by HHS to identify an enforcement authority for Part G of P.L. 111-87. As a result, this problem is continuing to place emergency responders in danger of unknowingly exposing themselves to life-threatening diseases. Our organizations urge you to require the CDC, or other agency within HHS, to act as the enforcement agency for Part G of P.L. 111-87.

Thank you for your attention to this important issue. Firefighters and EMS personnel provide a critical service within the healthcare system and deserve to receive effective and timely post-exposure medical follow-up. Our organizations firmly believe that requiring RWA compliance by all hospitals across the nation is an important duty and provides an even more important safety net for the firefighters and EMS personnel across the nation. Our organizations look forward to working with your office to ensure that all hospitals comply with Part G of the RWA and that this critical safety issue for our nation's first responders is addressed.

Sincerely,

American College of Emergency Physicians
Congressional Fire Services Institute
International Association of Fire Chiefs
International Association of Fire Fighters
National Association of EMS Physicians
National Association of Emergency Medical Technicians
National Association of Public Safety Infection Control Officers
National Fire Protection Association
National Volunteer Fire Council