

# Can You Ask Workers about their Allergies for Emergency Response Planning? – Ask The Expert



## QUESTION

Can we require workers to tell us what allergies they have so we can make appropriate arrangements in our emergency response policy'

## ANSWER

Yes, as long as you ask the right way.

## EXPLANATION

Information about a worker's medical allergies is personal health information (PHI) that you generally can't collect under privacy laws. One way to get around that problem is to ask workers to disclose their allergies *without* disclosing their identities. That's because for medical information to be PHI, it must be traceable to an identifiable individual. So, information disclosed on an anonymous basis isn't privacy-protected.

If you do need personally identifiable information, e.g., you must know which workers have which allergies, you can still collect the information as long as:

- You do it for a legitimate purpose, which would include preparing an emergency response plan;
- Collecting the information is reasonably necessary to carry out the purposes;
- You ask for only the minimum information you need to accomplish the purpose; and
- You notify workers why you're collecting the information and how you intend to use it; and
- Keep the information secure and confidential and refrain from using or disclosing it for any other purpose.