

March 22, 2021

### **Via Electronic Delivery**

Senator Benson and Representative Scott:

Thank you for your letter received March 1, 2021, regarding the Vaccine Connector website. I appreciate you taking time to share your concerns about data collection and use of data with me. This is a good opportunity to explain the ways in which individually identifiable Connector data are used, how registrants are informed about use of their data, and how Connector data is protected.

### ***Use of Connector Data***

MDH takes data privacy and security seriously, and has taken the necessary steps to ensure that individually identifiable Connector data are only being used for the following purposes, which were identified in the Connector registration form:

- Notify people when they become eligible for the COVID-19 vaccine;
- Notify people about vaccination opportunities for which they might be eligible and that they may be interested in; and
- Directly connect people with vaccine opportunities for which they might be eligible, including assisting them with registering for or scheduling a vaccine appointment.

Many of the questions asked in the Connector relate to eligibility criteria for vaccination. While other demographic information collected may not be criteria for eligibility, this information may help us identify and notify individuals about vaccine opportunities for which they may be interested.

### ***Language Informing Individuals About Use of Their Data***

Language on the Connector website and registration form tell those registering how their data will be used, consistent with what is required by the Minnesota Government Data Practices Act, Minnesota Statutes, section 13.04, subdivision 2.

First, registrants are informed on the Connector landing page, the Notice of Intent to Collect Private Data, and final section of the registration form, that the requested data will be used to (1) provide individuals with notifications about COVID-19 vaccination updates or opportunities that are relevant to them; and (2) determine whether they are eligible for more direct assistance to be connected with vaccine opportunities, such as being pre-registered for certain vaccine opportunities (for example, state-operated vaccination clinics) or connected with resources to help schedule a vaccine appointment.

Second, the form addresses whether an individual may refuse or is legally required to provide the requested data. For example, in the Notice of Intent to Collect Private Data, registrants are informed that their enrollment in the Connector program is completely voluntary and that

selecting “prefer not to answer” when presented with that option does not prevent someone from being enrolled in the Connector program. Additionally, in the final section of the registration form (“Verification and Agreement”) registrants are asked to confirm their understanding that “enrolling in this program is not the only way I can learn about COVID-19 vaccination opportunities or get an appointment for a COVID vaccine.”

Third, the form addresses the known consequences of supplying or refusing to supply the data. Individuals are informed in the “Notice of Intent to Collect Private Data” that not supplying the data requested will result in the State not having enough information to provide notifications about or pre-registration for vaccine opportunities that may be relevant to the individual. At the same time, the notice states that that selecting “prefer not to answer” when that option is available does not prevent someone from being enrolled in the Connector program.

Fourth, the form lists the categories of government or other entities that may have access to Connector data. Of note, the notice needs to encompass all organizations that may possibly have authority to access or receive the data collected, but listing a category of organization in the notice does not mean data will necessarily be shared with that type of organization or all such organizations. It should also be noted that the “Notice of Intent to Collect Private Data” includes a reference to “other persons or entities authorized by law” as it is not possible to identify all entities, under all circumstances, that could conceivably have legal authorization under state or federal law to access private data.

Informing individuals that they have a right to an accounting of disclosure of their data is not an element of the notice required under Minnesota Statutes, section 13.04, subdivision 2. More generally, we are not aware of any provision of the Minnesota Government Data Practices Act that creates a right to an accounting of disclosures. As MDH is not a provider or HIPAA-covered entity, Connector data is not governed by the Minnesota Health Records Act or the HIPAA Privacy Rule.

### ***Protection of Connector Data***

Individually identifiable Connector data are only shared with other entities as allowed by law. When individually identifiable Connector data leaves custody of the public health system, there are processes in place to protect the data and make sure these data are only used for the intended purpose of connecting people to vaccine opportunities. These processes include:

- Putting in place data sharing agreements that specify how data will be used, how it must be secured, and how the data is to be returned/destroyed after the intended use is complete.
- Sharing only the minimum necessary data elements that will allow a person to be connected with vaccine opportunities.
- Obtaining additional verbal agreement from the individual for the sharing where possible.

Even where there is legal authority to share data, MDH will first, if possible, pursue ways to connect individuals with vaccine opportunities that do not involve sharing (by, for example,

providing the individual with a link or instructions on how to register themselves for specific vaccine opportunities).

After an individual has completed their vaccine series (either after the second dose in a two-dose series or after receiving a single-dose vaccine), their data must be retained for a period of six months before it can be destroyed, as required by the applicable category in MDH's retention schedule.

I hope this addresses your concerns. So much of what we've done in the past year together has been about keeping Minnesotans safe, and I want you to know that we think of the data they share as part of that effort. As I've indicated before, we are open to suggestions for how to improve the tools we make available to help Minnesotans get accurate and timely information about vaccines and vaccination opportunities.

Sincerely,

A handwritten signature in black ink, appearing to read "Jan Malcolm". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jan Malcolm  
Commissioner