

Rowan County Health Department
1811 East Innes Street – Salisbury, NC 28146-6030

MEMO

To: Rowan County Board of Commissioners
From: Alyssa Harris, Public Health Director
CC: Aaron Church, County Manager
Date: February 23, 2023
Re: Rowan County Health Department as a Non-Public Forum

Situation:

The First Amendment audit in practice is often a claim to be testing whether a local government is complying with the First Amendment by allowing them to film freely. This nationwide movement, loosely connected through social media and other online platforms, involves individuals who film their encounters with government officials and employees and subsequently post the videos online.

First Amendment auditors argue that their filming activities serve as an important form of accountability for government officials. Indeed, video recordings can provide a powerful medium for exposing corrupt or unlawful behavior. Many recent examples of law enforcement officers using excessive force would not have come to light without viral videos filmed by bystanders. On the other hand, many First Amendment audit videos are not capturing matters of public controversy. Rather, many of these videos capture mundane vignettes at local government buildings, such as a town clerk sitting at her desk, a receptionist at a tax assessor's office, or signs on the walls of city hall.

More information can be found: <https://canons.sog.unc.edu/2022/11/responding-to-first-amendment-audits-is-filming-protected-by-the-first-amendment/>

Background:

The Rowan County Department of Public Health provides a wide range of healthcare and social support programs, all of which are held to strict standards of confidentiality. Specifically, • HIPAA Privacy Rule (45 CFR¹ Parts 160 and 164): This is a federal law that governs when covered entities—a term that includes most health care providers, including LHDs—may use and disclose protected health information.

• Public health patient confidentiality law (GS² 130A-12): This is a state law that applies only to North Carolina LHDs and the NC Department of Health and Human Services (DHHS). Under this law, records in the possession of LHDs or DHHS are confidential and not subject to NC's public records law if they contain any of the following types of information:

- Information that is privileged under state law,
- Information that is protected under HIPAA, or



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- Information that is collected under the authority of the child lead screening an investigation program.

POLICY

To ensure safety and protect confidentiality, it is determined that the Rowan County Department of Health entry and waiting areas for patients are a nonpublic forum. Citizens with official business or for activities specifically authorized by the Health Director are allowed in the lobby area. The Department prohibits filming, recording, live-streaming, or any other type of recording that would compromise the identities of citizens conducting private business at the Department. Those without legitimate business within the Rowan County Department of Health may be asked to leave by someone of authority.

This is in alignment with the declaration of the Rowan County Department of Social Services as a Non-Public Forum.

Recommendations:

The Rowan County Board of Health unanimously approved the request to designate the Health Department as a Non-Public Forum at the meeting on Tuesday, February 14th, 2023. The votes included: Judy Klusman, County Commissioner; Dari Caldwell, Board of Health Chair; Dr. Amy Wilson, Board of Health Vice Chair; Carla Rose, Public Member; John Thomason, Public Member; Giles Goodman, Engineer; Dr. Mike Fuller, Pharmacist; and Dr. Corrie Connolly, Veterinarian. All were in agreement.

The Rowan County Board of Health respectfully requests Board of Commissioner's approval of this policy.