



Texas Health Care
Information Council

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OPINION COMMITTEE

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December 17, 2001

The Honorable John Cornyn
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

FILE # ML-42332-01
I.D. # 42332

REQUEST FOR OPINION

RQ-0480-JC

Dear General Cornyn:

As Executive Director of the Texas Health Care Information Council (THCIC) and on behalf of the agency's board members, I am requesting an Attorney General's opinion concerning THCIC's authority to develop reports based on the agency's hospital discharge data Encounter File or Research File under Chapter 108 of the Texas Health & Safety Code.

The 74th Legislature created the THCIC in 1995. The agency is charged by statute to collect inpatient discharge data from Texas hospitals for the purpose of making the data available to the public.

Encounter File. By agency rule, hospitals not exempted by statute from Chapter 108, Health & Safety Code, provide the agency with inpatient discharge data. This is specified by administrative rule (25 TAC §§1301.11-1301.20). Data from one or more claims concerning a given patient's hospital stay is compiled into the **Encounter File**. This file contains all data collected relating to a patient's stay, including patient-identifying data that is never released, such as name, Social Security number, patient control number, date of birth, and medical record number. Other information submitted to the payers, such as charges billed, list of procedures, and list of diagnoses is also collected; however, the entire Encounter File is accessible only to the hospital that provided the data and to THCIC staff and agency contract vendors who collect and store the data.

Public Use Data File (PUDF). As a subset of the **Encounter File**, the THCIC has created the **Public Use Data File (PUDF)**, as required by Chapter 108, Health & Safety Code, especially §108.006 and §108.011. The PUDF contains more than 100 data elements, including hospital name, patient gender, type of admission, source of payment, principal and other diagnoses, procedures, length of stay, risk of mortality score, severity of illness score, accommodation charges, and ancillary charges. (See 25 TAC §1301.18) These data elements have been checked by the agency against specific electronic audits to verify logical consistency and to spot selected obvious errors, and some data elements have been grouped (for example,

age categories rather than exact number of years of age) or recoded (for example, name of weekday admitted rather than actual date) prior to inclusion in the PUDF.

Research Data File. Some data elements excluded from the PUDF are available as part of the **Research File** for bonafide research purposes, provided that the Scientific Review Panel (SRP) approves the request (§108.0135, Health & Safety Code). The SRP is similar to Institutional Review Boards which are used by agencies, hospitals, and universities in many research settings where privacy and ethics are of special concern. The question of whether the Council is authorized to use data elements from the Research File under any circumstances has been raised.

Chapter 108, Health & Safety Code:

§108.010 (f). The methodology adopted by the council for measuring quality shall include case-mix qualifiers, severity adjustment factors, adjustments for medical education and research, and any other factors necessary to accurately reflect provider quality. (emphasis added)

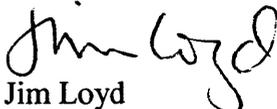
§108.011 (b). Subject to the restrictions on access to council data prescribed by Sections 108.010 and 108.013, and using the public use data and other data, records, and matters of record available to it, the council shall prepare and issue reports to the governor, the legislature, and the public as provided by this section and Section 108.006(a). The council must issue the reports at least annually. (emphasis added)

§108.011(c) Subject to the restrictions on access to council data prescribed by Sections 108.010 and 108.013, the council shall use public use data to prepare and issue reports that provide information relating to providers, such as the incidence rate of selected medical or surgical procedures. (partial; emphasis added)

Opinion Request. The THCIC requests your opinion whether agency reports may legally be based on use of data contained in either the Research File or the Encounter File. Further, if the answer is “yes,” is the agency required to obtain authorization from the Scientific Review Panel in order to use data from the Research File or Encounter File that is not contained in the PUDF?

Thank you for your assistance with this matter. Cue Boykin, Assistant Attorney General, Administrative Law Division, provides legal counsel to the THCIC. You may contact him (475-4239) or me if you need further background information.

Sincerely,



Jim Loyd
Executive Director
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