



Texas Health Care  
Information Council

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December 17, 2001

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

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DEC 20 2001  
OPINION COMMITTEE

RQ-0481-JC

REQUEST FOR OPINION

FILE # ML-42335-01  
I.D. # 42335

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 whether either Senate Bill 11 (Texas Legislature, 77<sup>th</sup> Session, 2001) requires that hospitals obtain written authorizations from patients prior to sending confidential identifying information to THCIC.

SB11 (Texas Legislature, 77<sup>th</sup> Session, 2001) amended (in part) Chapter 181 of the Health & Safety Code. Sec. 181.002 (below) suggests that the requirements found within Chapter 108 of the Health & Safety Code might prevail, given that Chapter 108 contains safeguards to protect the identify of both physicians and patients, including both civil and criminal penalties. (See Health & Safety Code, especially §108.011(i)(2), §108.013, §108.014 and §108.0141)

(SB11) Sec. 181.002. APPLICABILITY. (a) This chapter does not affect the validity of another statute of this state that provides greater confidentiality for information made confidential by this chapter.

(b) To the extent that this chapter conflicts with another law with respect to protected health information collected by a governmental body or unit, this chapter controls.

Section 181.103 suggests that hospitals are able to provide data to THCIC without obtaining each patient's written authorization. (See opening portion of Sec. 181.103 below) However, this text goes on to enumerate specific examples that do not explicitly include THCIC.

Sec. 181.103. DISCLOSURE OF INFORMATION TO PUBLIC HEALTH AUTHORITY. A covered entity may use or disclose protected health information without the express written authorization of the individual for public health activities or to comply with the requirements of any federal or state health benefit program or any federal or state law. A covered entity may disclose protected health information:

- (1) to a public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public interventions;
- (2) to a public health authority or other appropriate government authority authorized by law to receive reports of child or adult abuse, neglect, or exploitation; and

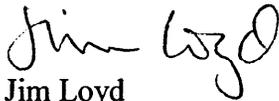
(3) to any state agency in conjunction with a federal or state health benefit program.

**Opinion Request.** The THCIC requests your opinion whether hospitals can report all of the information specified through Chapter 108, Health & Safety Code, and the Council's rules at 25 TAC §§1301.11-1301.20, without first obtaining written authorization from patients.

Senator Nelson was the sponsor of this bill. I presume that she will have an interest in this request and your opinion.

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,

A handwritten signature in black ink that reads "Jim Loyd". The signature is written in a cursive, slightly slanted style.

Jim Loyd

Executive Director

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