

Appendix I.

Legislative Authorization

Public Health Service Act
Section 306(a) & (b)

NATIONAL CENTER FOR HEALTH STATISTICS

Section 306. [242k](a) There is established in the Department of Health and Human Services the National Center for Health Statistics (hereinafter in this section referred to as the “Center”) which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

(b) In carrying out section 304(a), the Secretary, acting through the Center-

(1) shall collect statistics on-

(A) the extent and nature of illness and disability of the population of the United States (or any groupings of people included in the population), including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality,

(B) the impact of illness and disability of the population on the economy of the United States and on other aspects of the well-being of its population (or of such groupings),

(C) environmental, social, and other health hazards,

(D) determinants of health,

(E) health resources, including physicians, dentists, nurses, and other health professionals by specialty and type of practice and supply of services by hospitals, extended care facilities, home health agencies, and other health institutions,

(F) utilization of health care, including utilization of (i) ambulatory health services by specialties and type of practice of health professionals providing such service, and (ii) services of hospitals, extended care facilities, home health agencies, and other institutions,

(G) health care costs and financing, including the trends in health care prices and costs, the sources of payments for health care services, and Federal, State, and local governmental expenditures for health care services, and

(H) family formation, growth, and dissolution;

(2) shall undertake and support (by grant or contract) research, demonstrations, and evaluations respecting new or improved methods for obtaining current data on the matters referred to in a paragraph (1);

(3) may undertake and support (by grant or contract) epidemiologic research, demonstrations, and evaluations on the matters referred to in paragraph (1); and“

(4) may collect, furnish, tabulate, and analyze statistics, and prepare studies, on matters referred to in paragraph (1) upon request of public and nonprofit entities under arrangements under which the entities will pay the cost of the service provided. Amounts appropriated to the Secretary from payments made under arrangements made under paragraph (4) shall be available to the Secretary for obligation until expended.

Appendix II

Induction Letter



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service
Centers for Disease Control and Prevention

National Center for Health Statistics
6525 Belcrest Road
Hyattsville, Maryland 20782

Dear

For more than 30 years, the National Center for Health Statistics of the Centers for Disease Control and Prevention has administered the National Hospital Discharge Survey, the Nation's primary resource for monitoring the utilization of short-term, acute care hospitals. This voluntary survey has served as a valuable source of information for policymaking, health care research, academic education and various applications within the hospital industry. Because of its importance, the survey has had the continuing support of the American Hospital Association and the American Health Information Management Association.

The purpose of this letter is to request your participation in this survey. The National Center for Health Statistics will make every effort to facilitate the collection of discharge data from your hospital. An equitable basis for compensation will be arranged. All information will be held in strict confidence and will be used for statistical purposes only, as is required by Section 308(d) of the Public Health Service Act. All published summaries will be presented in such a way that no individual hospital or patient can be identified. Your participation is voluntary and there is no penalty for not participating in the survey; however, the success of this survey rests on the willingness of health professionals like you to provide current medical information.

We would like very much to discuss matters relating to the participation of your hospital in the National Hospital Discharge Survey. Therefore, within the next several days, a representative of the Bureau of the Census, acting as an agent of the National Center for Health Statistics, will telephone you to arrange for an appointment. This meeting should take less than an hour of your time. We have enclosed a packet that provides valuable information on the survey. In it you will find a description of the survey and copies of some of our latest published reports.

Your cooperation in this survey will be very much appreciated.

Sincerely yours,

Robert Pokras, Chief
Hospital Care Statistics Branch
Division of Health Care Statistics

Enclosures

Appendix III

American Hospital Association Endorsement Letter

American Hospital Association



840 North Lake Shore Drive
Chicago, Illinois 60611
Telephone 312.280.6000
Cable Address AMHOSP

January 1991

TO: Chief Executive Officer

SUBJECT: National Center for Health Statistics
National Hospital Discharge Survey

The National Center for Health Statistics has been conducting the National Hospital Discharge Survey since 1965. The objective of the survey is to produce statistics which are representative of patients discharged from all non-Federal short-stay hospitals. The results from this important survey are used to determine hospital utilization by age and sex of patients, their lengths of stay, and their diagnoses, surgical and non-surgical procedures. Diagnostic data are also classified by DRG. These data are used by hospitals, government agencies, and health care researchers to monitor and improve hospital care.

The American Hospital Association has reviewed the goals and methods of the survey and we endorse the study. As one of the hospitals selected nationwide, we encourage your hospital to participate.

Thank you for your cooperation.

Peter D. Kralovec
Director
Hospital Data Center

Appendix IV

Confidentiality Letter



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF THE SECRETARY
ROCKVILLE, MARYLAND 20857

OCT 16 1981

OFFICE OF THE GENERAL COUNSEL

To Whom It May Concern:

With reference to participation in the National Hospital Discharge Survey conducted by the Census Bureau for the National Center for Health Statistics (NCHS), the question of potential liability for violations of patient privacy has been raised by a few hospitals. We wish to assure those concerned that, in our opinion, there would be no basis for hospital liability arising out of the disclosures required of participants in the Hospital Discharge Survey.

Our conclusion is based on the fact that the patient information to be provided by hospitals does not contain any patient names, addresses, social security number, or other information which would permit identification of a patient with reference to other publicly available information. Participating hospitals supply a medical record number for each patient so that those conducting the survey may discuss particular records with the hospital from which the records came, if they need to verify or add to the data received on certain response forms. Since the information to be disclosed will not be in identifiable form, there is no reasonably foreseeable harm to individual patients in the disclosures and accordingly no liability would lie against the hospital. 1/

In addition, it is our understanding that the Census Bureau physically safeguards the data and its research staff with access to the data are bound by statutory confidentiality restrictions 13 USC §§ 8 and 9 governing the Bureau, and 42 USC 242m governing NCHS activities.

1/ See Park v. Consolidated Mutual Insurance Co., 423 F.2d 41 (3rd Cir. 1970) for case requiring a showing of loss as well as improper disclosure for court to give a remedy. See Hospital Law Manual, Volume for Attorneys "Medical Records" ¶3-22, pp. 58 and 60 citing Prosser Law of Torts §117 (4th ed. 1971) for discussion of the nature of the harm required to establish invasion of privacy. See also general discussion of tort liability in 74 Am. Jur. 2d. "Torts" §§ 6 and 10 (1974).

We also note that even where disclosures of information from confidential records are identifiable, various courts have upheld reasonable disclosures of otherwise privileged and protected information. See, for example: Whalen v. Roe, 429 U.S. 589 (1977) (This case upholds disclosures for a purpose in which there is a substantial public interest and which disclosures are circumscribed by statutory confidentiality protections.); and Dupont v. Finklea, 442 F.Supp. 821 (1977). (A Federal District Court found no violation of privacy rights where there was no showing that upon disclosure protected medical records would be used improperly.) See also 61 Am. Jur. 2d "Limitation of nondisclosure privilege because of public policy considerations" §170 (1981).

In conclusion, we believe hospitals may participate in this survey without concern about liability. Hospitals are encouraged to discuss the reasoning in this communication with their local legal counsel.

Susan Greene Merewitz
Susan Greene Merewitz
Senior Attorney
Office of the General Counsel
Public Health Division