



AUG 14 2001

TO: See Below

FROM: Privacy Act Officer, IHS

SUBJECT: Clarification of September 11, 2000 Policy Statement for Sharing Indian Health Service Data with State Health Department Immunization and Other Registries

This memorandum supercedes the September 11, 2000 memorandum issued by the IHS Chief Medical Officer, subject: Policy statement for sharing IHS data with State Health Department Immunization and Other Registries. This action is prompted by the numerous concerns and questions raised by IHS Area and Service Unit staff and IHS Office of General Counsel (OGC) Regional Attorney staff concerning the guidance and their requests for clarification of the guidance.

The following provides guidance regarding the sharing of IHS patient data with State and other registries, e.g., a State health department immunization, cancer, STD, birth defect, or other health care registry and is effective immediately.

In a July 21, 1998 memorandum to the IHS Privacy Act Officer, the Office of the General Council (OGC) provided general guidance concerning data-sharing with State or other registries. OGC suggested that IHS may disclose its health data with State and other registries in accordance with routine use nos. 1 or 7 contained in Privacy Act System of Records-Health and Medical Records Systems, 09-17-0001. 58 FR 36208 (July 6, 1993). However, IHS must first ascertain that the registry fulfills routine use nos. 1 or 7 criteria discussed below.

Routine Use I: *"Records may be disclosed to State, local or other authorized organizations which provide health services to American Indians and Alaska Natives or provide third-party reimbursement or fiscal intermediary functions, for the purpose of planning for or providing such services, billing or collecting third-party reimbursements and reporting results of*

medical examination and treatment." In order for IHS to disclose patient data to a State or other health care registry pursuant to routine use no. 1:

- the registry must be established by a State, local or other "authorized" organization, and
- this registry must be part of a system that plans for, provides, or pays for health services, and
- the purpose of the IHS disclosure to the registry must be so that the registry may (a) plan for or provide health services, or (b) provide payment for health services, or (c) report the results of medical examination and treatment.

OGC suggests that although some registries may not appear to fulfill the health services' criteria of routine use no. 1. Most registries do report the results of medical examinations and, on that general basis, IHS may disclose information in accordance with routine use no. 1.

Routine Use VII: *"The IHS health care providers may disclose information from these records regarding the commission of crimes or the occurrence of communicable diseases, tumors, suspected child abuse, births, deaths, alcohol or drug abuse etc., as required by Federal law or regulation or State or local law or regulation of the jurisdiction in which the facility is located. Disclosure may be made to organizations as specified by the law or regulation, such as births and deaths to State or local health departments, and crimes to law enforcement agencies."* In order for IHS to disclose patient data to a State or other health care registry pursuant to routine use no. 7:

- the data regards the commission of crimes or the occurrence of communicable diseases, tumors, suspected child abuse, births, deaths, alcohol or drug abuse etc.

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- the data is required by Federal law or regulation or State or local law or regulation of the jurisdiction in which the facility is located.
- the Disclosure is made to organizations as specified by the law or regulation, such as births and deaths to State or local health departments, and crimes to law enforcement agencies."

Routine use no. 7 allows IHS to disclose certain information where there is a Federal, State, or local statute or regulations which mandates the IHS facility to report the data. The data may only be reported to the organization or agency listed in the statute or regulation. IHS should require the registry to identify its legal authority for collecting the information.

In summary, OGC recommends that (1) IHS may obtain the patient's written consent to share the information with the registry when the health care provider has contact with the patient, or (2) the disclosures to the registry meets the criteria of routine uses no. 1 or 7.

It is also important to state that disclosures made pursuant to a routine use are discretionary not mandatory. Accordingly, the decision to share IHS patient data with the requesting organization's registry is made at the discretion of the appropriate Privacy Act system manager. At the Area level, this is the Area Director. At the Service Unit Level, this is the Service Unit Director/CEO.

If there are any questions regarding this memorandum, please contact Mr. William Tibbitts, Privacy Act Officer, Rockville, Maryland, at (301) 443-1116.

A handwritten signature in cursive script, appearing to read "William Tibbitts".

Addressees:

Area Directors
Area Chief Medical Officers
Service Unit Directors/CEO's
OGC Regional Attorneys - IHS
Area Privacy Act Advocates