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TO: Cancer Reporters

FROM: Nancy S. Weiss, Ph.D.

SUBJECT: Cancer Reporting after Implementation of the Health Insurance Portability and Accountability Act Privacy Standards

DATE: May 16, 2003

To assure continued cancer reporting under the Health Insurance Portability and Accountability Act (HIPAA), the Texas Department of Health (TDH) recently amended the cancer reporting requirements in Title 25, Texas Administrative Code, §91.4, relating to “What to Report,” with an effective date of April 24, 2003 (enclosure). The amendment specifies the types of neoplasms and data items that are required to be reported. The HIPAA Privacy Standards allow a covered entity to report information required by law (45 C.F.R. §164.512(a)) and for public health activities (45 C.F.R. §164.512(b)). The information you report under the cancer reporting rules falls within both of these exceptions.

Also, it is not necessary for cancer reporting facilities to have a Business Associate Agreement (BAA) with TDH to submit public health information (PHI). As outlined above, PHI can be submitted to TDH to comply with reporting laws and for public health activities.

To be HIPAA compliant for cancer reporting, only reportable cancer cases and data items specified in the Cancer Reporting Law, Rules and the Texas Cancer Registry (TCR) Cancer Reporting Handbook. (Chapter 82, Health and Safety Code §82.008 and Title 25, Health Services, Chapter 91 §91.4) should be submitted. The TCR Cancer Reporting Handbook is available for viewing at <http://www.tdh.state.tx.us/tcr/reporting.html>. For example, non-reportable information on cases of basal and squamous cell carcinomas of the skin or data items such as TNM stage of disease or tumor recurrence that may have been submitted in 2002, should no longer be submitted to the TCR.

Reporting facilities are required to permit access to confidential patient records for the purposes of assuring the completeness and accuracy of cancer reporting. The disease index or master patient listing is used as an audit screen for the TCR staff to identify and ensure complete reporting of cancer cases (Chapter 82, Health and Safety Code §82.008 (a), (b), (d) and Title 25, Health Services, Chapter 91 §91.3). Although the disease index may contain patient information not determined to be reportable under the Cancer Reporting Law and Rules, the Privacy Standards provide no barrier to a covered entity relying on a public official’s determination of what information the official requires to accomplish the purpose for the request under 45 C.F.R. §§ 164.512 and 164.514 (d)(3)(iii). Thus, the TCR may request access to a disease index containing non-reportable patient information.

Cancer Reporters
May 16, 2003
Page 2 of 2

If you have any additional questions regarding cancer reporting, please contact your regional cancer registry program manager or you may contact Linda LG Brown, MA, Program Specialist at (512) 458-7111, ext. 3608 or 1-800-252-8059 or LindaL.Brown@tdh.state.tx.us. Additional information regarding the cancer reporting law and rules can be found on the TCR web site at <http://www.tdh.state.tx.us/tcr/rules> or the TDH *HIPAA at TDH* web site <http://www.tdh.state.tx.us/hipaa/default.htm>.

It is my hope that this information helps to allay concerns regarding information disclosed to the TCR in compliance with existing law. Please share this information with others who may have similar concerns. Thank you for assisting us in providing cancer incidence information needed to reduce the burden of cancer on Texans.

cc: Facility Administrators

Enclosure