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Opinion No. 10-57

Disclosure of Information Reported to the Tennessee Stroke Database

QUESTIONS

1. Does the Tennessee Stroke Registry Act of 2008, Tenn. Code Ann. § 68-1-1903, permit the East Tennessee State University College of Public Health to disclose identifying information regarding hospitals, including but not limited to hospital names, when sharing data reported to the Tennessee Stroke Database?

2. What constitutes "hospital-specific information" within the meaning of Tenn. Code Ann. § 68-1-1903(c)(3)?

OPINIONS

1. No.

2. The term "hospital-specific information," as that term is used in Tenn. Code Ann. § 68-1-1903(c)(3), means non-aggregate data.

ANALYSIS

1. The Tennessee Stroke Registry Act of 2008, Tenn. Code Ann. § 68-1-1903, provides that the East Tennessee State University College of Public Health, in cooperation with the Tennessee stroke systems task force,[1] shall maintain a statewide stroke database that compiles information and statistics on stroke care involving prevalence, mortality and performance metrics that align with the stroke consensus metrics developed and approved by the American Heart Association, Centers for Disease Control and Prevention and the Joint Commission. Tenn. Code Ann. § 68-1-1903(a).

[1] We understand this to refer to Tenn. Code Ann. § 68-1-1901, which provides that "[t]he commissioner of health shall establish a stroke care, education, and outreach collaborative in each grand division of the state. The members of the collaborative shall be hospitals and health care providers providing stroke care in the grand division. The collaborative shall develop and support a program of education and outreach focused on helping community hospitals acquire the skills and resources necessary to qualify them as stroke centers, equipped for the treatment of a patient with acute stroke. The program will be targeted to hospitals and providers in the grand division."

Further, "[t]he college of public health shall make *aggregate* data available to the public health community via an annual report." *Id*. (Emphasis added). The statute requires that the college "shall support this data platform based on nationally available stroke registry tools that are based on nationally recognized, evidence-based guidelines," and that to every extent possible, the College of Public Health "shall coordinate with national voluntary health organizations involved in stroke quality improvement to avoid duplication and redundancy." *Id*. Beginning with calendar year 2009 and for each subsequent calendar year, hospitals are encouraged to report annually certain categories of information to the College of Public Health, which categories are described specifically in Tenn. Code Ann. § 68-1-1903(b)(1) - (20). However, Tenn. Code Ann. § 68-1-1903 "shall not be construed as a medical practice guideline and shall not be used to restrict the authority of a hospital to provide services for which it has received a license to provide such services under state law," nor shall it be construed "to authorize any disclosure of information that would be prohibited pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) compiled in 42 U.S.C. § 1320d, et seq." Tenn. Code Ann. § 68-1-1903(c)(1) and (2). Last, Tenn. Code Ann. § 68-1-1903(c)(3) provides that "[t]he college of public health shall not disclose any hospital-specific information reported to it."

The above language precludes the College of Public Health from disclosing any hospital-specific information reported to it; it also requires that the annual report, which is to be made available annually by the College of Public Health to the public health community, be in the form of "aggregate data." Therefore, it is our opinion that Tenn. Code Ann. § 68-1-1903 prohibits such annual report(s) promulgated by the College of Public Health from disclosing identifying information regarding hospitals, including but not limited to hospital names, when sharing data reported to the Tennessee Stroke Database.

2. As is referenced above, Tenn. Code Ann. § 68-1-1903(a) provides that the College of Public Health "shall make *aggregate* data available to the public health community via an annual report." (Emphasis added). Thus, the statutory proscription against release of "hospital-specific information," as that term is used in Tenn. Code Ann. § 68-1-1903(c)(3), means non-aggregate data. "When a statute's language is unambiguous, the legislative intent shall be derived from the plain and ordinary meaning of the statutory language." *Kite v. Kite*, 22 S.W.3d 803, 805 (Tenn. 1997) (citing *Carson Creek Vacation Resorts v. Dept. of Revenue*, 865 S.W.2d 1, 2 (Tenn. 1993).

Since the College of Public Health is limited to making available "aggregate" data gleaned from the various hospitals, it may only disclose combined or consolidated information in its reports. Black's Law Dictionary defines the adjective "aggregate" as "formed by combining into a single whole or total." *Black's Law Dictionary* 72 (8th ed. 2004). It also defines the word "specific" in pertinent part as, variously, "[o]f, relating to, or designating a particular or defined thing; explicit" and "[o]f or relating to a particular named thing." *Id.* at 1434. Therefore, we think that the statute clearly prohibits the College of Public Health from disclosing identifying information about specific hospitals, or from tying any facet of its annual report to any particular named hospital. Further, we would also caution against any disclosure of information by the

college that might indirectly or by implication identify a specific hospital (such as referring to an unnamed hospital's location by county, when only one hospital exists in such county).

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