

**Department of State Health Services
Agenda Item for State Health Services Council
January 30-31, 2008**

Agenda Item Title: Amendments to 25 TAC, §§421.61 - 421.67 and New §421.68 concerning the Collection and Release of Outpatient Surgical and Radiological Procedures at Hospitals and Ambulatory Surgical Centers

Agenda Number: 4a

Recommended Council Action:

For Discussion Only

For Discussion and Action by the Council

Background: The Texas Health Care Information Collection (THCIC) program is located in the Center for Health Statistics (CHS) section, which collects and reports on patient level data for public reporting on the quality of care and provides comparative information on hospitals and health maintenance organizations in Texas. THCIC contracts with a vendor to collect, process and generate a patient level encounter file that THCIC staff modify to protect patient and physician identities and to sell to the public and release to state agencies for analysis. THCIC is funded by General Revenue and by the sale of public use data as authorized by Health and Safety Code, Chapter 108.

Summary: The proposed rules require the submission, correction, and certification of selected revenue codes covering outpatient surgical or radiological procedures that occur in hospitals or ambulatory surgical centers that are required to report and not exempted from reporting under Health and Safety Code, Chapter 108.

The amendments and new rule are necessary to comply with Senate Bill 1731 (SB 1731), 80th Texas Legislature, 2007, and change the status from voluntary reporting of hospital based ambulatory surgical and emergency department data to required reporting of specific outpatient surgical and imaging procedures that occur in hospitals and ambulatory surgical centers operating in the state, that are not exempted under Health and Safety Code, Chapter 108.

Additionally, the proposed rules update language and references as a result of House Bill 2292 (HB 2292), 78th Texas Legislature, 2003, that consolidated the Texas Health Care Information Council into the Department of State Health Services.

The term "Council" is replaced by the term "Department" and the reference section numbers are updated in response to the consolidation by HB 2292. The language describing the "reporting hospitals" is modified to specify that hospital and ambulatory surgical centers which are not exempted by Health and Safety Code, Chapter 108, that perform certain surgical or radiological procedures covered under the specified revenue codes will be required to submit a minimum set of claim level data to the department.

Summary of Input from Stakeholder Groups: The following stakeholders were contacted by E-mail with a draft of the proposed amendments to meet and discuss on Wednesday, November 7, at 2:00 p.m. in room M-653, Moreton Building and obtain input regarding the draft of the proposed amendments : Texas Hospital Association (THA); Texas Medical Association (TMA) Texas Ambulatory Surgical Center Society (TASCS); Dallas-Fort Worth Hospital Council (DFWHC); Austin Radiological Association (ARA); Texas Organization of Rural and Community Hospitals (TORCH); Texas Association of Businesses (TAB); and Consumer's Union (CU).

All stakeholders with whom department staff spoke were in favor of the data collection effort on surgical and radiological procedure data. The ARA requested that the department collect and report on additional data and information from radiological and imaging facilities that were not in the scope or intent of SB 1731.

The stakeholders requested that the amendments specify revenue codes instead of procedure codes which were presented in the draft, because the revenue codes would require fewer changes to the rules and to their systems and would cover more procedure codes than was originally listed in the draft presented to the stakeholders. The procedure codes were removed and the revenue codes were put into the proposed amendments.

Proposed Motion: Motion to recommend HHSC approval for publication of rules contained in agenda item #4a.

Agenda Item Approved by Assistant Commissioner/Director: Ramdas Menon, Ph.D. **Date:** 12/5/07

Person Presenting: Bruce Burns, D.C. **Program:** Center for Health Statistics **Phone No:** 458-7111 ext 6431

Final CAM Approved by Consumer Affairs: Rosamaria Murillo **Date:** 12/17/07

TITLE 25 HEALTH SERVICES
PART 1 DEPARTMENT OF STATE HEALTH SERVICES
CHAPTER 421 HEALTH CARE INFORMATION [**HEALTH CARE INFORMATION COUNCIL**]
SUBCHAPTER D COLLECTION AND RELEASE OF OUTPATIENT SURGICAL AND RADIOLOGICAL PROCEDURES AT HOSPITALS AND AMBULATORY SURGICAL CENTERS [**AMBULATORY SURGICAL CARE AND EMERGENCY DEPARTMENT DATA ON REPORTING HOSPITALS**]
Amendments §§421.61 - 421.67
New §421.68

Proposed Preamble

The Executive Commissioner of the Health and Human Services Commission, on behalf of the Department of State Health Services (department), proposes amendments to §§421.61 - 421.67, and new §421.68 concerning the collection and release of patient level data from specific revenue codes covering surgical procedures or radiological procedures performed in Texas hospitals (as an outpatient service including in the emergency department) or ambulatory surgical centers.

BACKGROUND AND PURPOSE

Sections 421.61 - 421.67 relate to the collection and release of ambulatory surgical care and emergency department data on reporting hospitals. The sections were previously adopted as a voluntary submission process to the department. The department did not collect any data from hospital outpatient services or emergency department services because grant funds were requested, but not awarded to the department for this data collection. The rules were originally developed and adopted by the Texas Health Care Information Council (council) and were transferred to the Department of State Health Services on September 1, 2004, as a result of the consolidation of health and human services agencies under House Bill 2292 (HB 2292), 78th Texas Legislature, 2003.

The proposed rules are necessary to comply with Sections 2 and 3, Senate Bill 1731 (SB 1731), 80th Texas Legislature, 2007, amending the Health and Safety Code, Chapter 108. Chapter 108 requires the Executive Commissioner to adopt rules to implement the collection and release of data from health care facilities. Section 2 added “free-standing imaging center” to the list of facilities included under the term “Health Care Facility” in Health and Safety Code, §108.002(10), thereby authorizing the department to collect data from those facilities which are neither defined nor licensed by the state. Section 3 amended Health and Safety Code, §108.009(k), and established the prioritization of data collection efforts for the department as “inpatient and outpatient surgical and radiological procedures from hospitals, ambulatory surgical centers, and free-standing radiology centers.” The proposed amendments and new section do not address or include language requiring the collection of data from free-standing imaging centers, but does require submission of select revenue codes that include surgical and radiological procedures from hospitals and ambulatory surgical centers. The proposed amendments to §§421.61 - 421.67 establish rules regarding the submission, correction,

certification requirements and the new §421.68 provides rules regarding the release specifications of select revenue codes which cover surgical procedures or radiological procedures occurring in hospitals or ambulatory surgical centers.

The definition of “public use data” in Health and Safety Code, Chapter 108, requires that the data be severity and risk adjusted. The department is not aware of any severity and risk adjustment methodology for outpatient data that has been successfully tested and validated for public data release, therefore those data elements are not included in the list of data elements to be included in the public use data file in §421.68. The department requests that commenters submit recommendations regarding such methodologies or procedures.

The data cannot be required to be submitted to the department before the 90th day after the date the rules are adopted and must take effect not later than the first anniversary after the date the rules are adopted.

SECTION-BY-SECTION SUMMARY

In response to the consolidation of the council into the department, the term "Council" is replaced with the term "DSHS" throughout the sections and the referenced section numbers are updated throughout to reflect the numbers assigned when the rules were transferred to the department in 2004.

Throughout the sections the term “reporting hospital” is replaced with “facility” and “reporting hospitals” replaced with “facilities”.

Section 421.61 Definitions is amended by adding the following new terms and definitions to clarify new language: “Ambulatory surgical center”, “Anesthetized patient”, “APG” and “Outpatient”. The following terms and definitions were deleted because the terms were deleted from this subchapter are no longer used or necessary: “APC”, “Council”, “CPT”, “Discharge”, “DRG”, “Executive Director”, “Panel”, “Reporting hospital”, “Scientific Review Panel” and “TDH”. The following term descriptions are amended: “Attending physician” the Latin phrase “et seq.” was added to the referenced chapter; “Certification file” adds a clarifying statement regarding the contents of the file; “Certification Process” updates the title of the reference section; “Clinical Classification Software” adds clarifying language regarding the developer of the software; “Event claim” removes the section title name of the reference section; “Event file” removes the section title name of the reference section; “Facility” adds ambulatory surgical centers to hospitals as being required to report under this subchapter; “Facility Type Indicators” adds ambulatory surgical centers to the list of indicators which provide information to the data user regarding the type of health services provided by the facility; “Geographic identifiers” changes the phrase “public health region” to “health service region” in response to departmental terminology for the region; “HCPCS” updates changes at the United States Department of Health and Human Services; “Hospital” updates the referenced section; “IRB” adds clarifying language regarding the composition of the IRB and their role regarding release of outpatient event data; “Operating or Other Physician” updates agency name; “Public use data file” adds the phrase “For the purposes of this subchapter” to the description and removes the reference to ambulatory surgical care and emergency department, because the subchapter addresses the types of data in

the file; “Required minimum data set” updates the referenced sections and removes language that is no longer necessary; “Research data file” updates language to the current policy regarding research data release; “Submission” updates referenced section and removes the title name in accordance with administrative format guidelines; and, “Uniform physician identifier” adds clarifying language regarding the assignment of a uniform physician identifier for this title.

Section 421.62 is amended to include hospital outpatient and ambulatory surgical center data. Hospitals and ambulatory surgical centers will be required to report data to the department. The data to be reported will be determined by what surgical procedures or radiological services are covered by the revenue codes specified in §421.67(e) and were received by a patient of the facility. Also, the referenced rules were revised to reflect correct rule information.

Section 421.63(a) is amended to use defined terms regarding outpatient data submission.

Sections 421.64 and 421.65 are amended to revise section names of referenced sections in accordance with administrative format guidelines.

Section 421.66(c)(3) is amended to state which outpatient data is being certified by the facility and rule references were revised.

Section 421.67(d)(38)(C) - (F) is amended to remove references to HIPPS codes because those do not effect outpatient data collection or reporting.

Section 421.67(e) is added to specify revenue codes which cover surgical and radiological procedures of outpatients whose data shall be submitted to the department in compliance with this subchapter.

New §421.68 establishes rules regarding the protection of patient and physician identifying data and release of event data collected under this subchapter as mandated by Health and Safety Code, Chapter 108.

FISCAL NOTE

Ramdas Menon, Ph.D., Director, Center for Health Statistics, has determined that for each calendar year of the first five years that the sections are in effect, there will be fiscal implications to the state as a result of enforcing or administering the sections as proposed. The effect on state government will be a one time cost to the department of \$486,000 for development and modification to the current health care data collection system (data file format, file structures, logs, reports and three associated data software tools) and the University of Texas Medical Branch at Galveston (UTMB) stated a one time cost of \$10,000 for programming to submit the data as required by the proposed rule. The following four years there will be \$1,516,297 (average of \$379,000 per year, including a three percent increase per year) additional costs to the department. The Texas Center for Infectious Disease stated that there would be \$350 per year in additional costs: Harris County Psychiatric Center stated no additional costs would be required. The other state facilities provided no estimate of costs.

The fiscal implications of submitting the patient level data for the specified surgical procedures or radiological procedure codes and associated data as proposed for local governments that own or operate hospitals or ambulatory surgical centers will vary dependent on the complexity of the hospital's or ambulatory surgical center's information technology and contract requirements with any vendors involved in their information systems process. No cost estimates were received from local government entities. The department estimates that costs for local government entities may range from no additional costs up to a similar one time cost of \$10,000 as submitted by UTMB.

SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Dr. Menon anticipates that those hospitals or ambulatory surgical centers required to report under Health and Safety Code, Chapter 108 and these sections will incur costs dependent upon the complexity and status of their information systems. Hospitals and ambulatory surgical centers that do not collect racial and ethnic background information on their patients who receive the surgical services or radiological services covered under the revenue codes specified in the sections or do not submit data electronically will incur additional costs dependent on the complexity of their information technology system. Rural hospitals are exempt from reporting; therefore, rural hospitals that might qualify as a small business or micro-business are not included in this analysis.

Based on licensure records held by the department and DSHS staff knowledge of hospitals and ambulatory surgical centers in Texas, the department believes that the number of hospitals and ambulatory surgical centers (ASC) that are small businesses (for-profit, independently owned, and under 100 employees or under \$6 million in annual gross receipts) is approximately 170. The department is not aware of any hospitals (not including rural hospitals) that are micro-businesses (for-profit, independently owned, and under 20 employees). The department believes that the number of ambulatory surgical centers that are small businesses or micro-businesses is approximately 69.

Dr. Menon anticipates that hospitals and ambulatory surgical centers that are required to submit data will modify or have modified their computer systems to capture and submit the data. The hospitals and ambulatory surgical centers that are small businesses or micro-businesses that contract with a vendor or have built a computer system that is separate from their billing system will incur varying costs. These costs depend upon the complexity of their systems and contract requirements with any vendors involved with the hospital's or ambulatory surgical center's information technology systems for submitting the data, in particular the racial and ethnic background indicator codes as proposed.

Several small hospitals and ambulatory surgical centers were contacted, but not all of them provided a cost estimate as requested by the department. One ambulatory surgical center responded that there would be no significant costs and another responded that it would cost about \$40,500 for hardware and software to comply with the requirements in the proposed rules, because their current software system did not collect many of the data elements proposed. The cost estimate included a new server and new software, but did not include programming costs to collect ethnicity. The small hospitals contacted did not provide any cost estimates. Based on this information, the department estimates that the economic impact of the sections on hospitals and

ambulatory surgical centers that are small businesses or micro-businesses will range from no additional costs to an estimated \$50,000.

The department considered alternative methods of achieving the purposes of the proposed sections. The purposes of the sections could be broadly stated as enhancing the ability of the state and the department to collect data for analysis to assist the public in making informed choices when selecting a hospital or ambulatory surgical center for services. One alternative could be to not collect the outpatient data that will be required by these sections; in other words, not propose or adopt any new sections or amendments to these sections. Under that alternative, the department would continue to only collect the inpatient hospital data that it currently collects. While this alternative would provide the public with the current data to help the public make choices, it would not provide any new data to the public on hospital outpatient services and would provide no data on ambulatory surgical center services. In addition SB 1731 mandated prioritization of data collection efforts of the department as to inpatient and outpatient surgical and radiological procedures from hospital, ambulatory surgical centers, and free-standing radiology centers. The Texas Legislature appropriated funds for additional data collection, which funds are estimated by the department to be sufficient for the outpatient data collection and analysis mandated by these sections for hospitals and ambulatory surgical centers. This alternative was not accepted.

Another alternative could be to collect only hospital outpatient data but not ambulatory surgical center outpatient data. While this alternative would provide the public with the current data to help the public make choices and new data on hospital outpatient services, it would not provide no data on ambulatory surgical center services. In addition SB 1731 mandated prioritization of data collection efforts of the department as to inpatient and outpatient surgical and radiological procedures from hospital, ambulatory surgical centers, and free-standing radiology centers. The Texas Legislature appropriated funds for additional data collection, which funds are estimated by the department to be sufficient for the outpatient data collection and analysis mandated by these sections for hospitals and ambulatory surgical centers. This alternative was not accepted.

A third alternative could be to collect data based on procedures codes, rather than revenue codes. In meetings and discussions with stakeholders representing hospitals and ambulatory surgical centers, the department was requested by the stakeholders to use revenue codes because revenue codes would change fewer times than procedure codes and require fewer rule amendments and information system changes. Use of either type of codes would meet the purposes of these sections. The alternative of using procedures codes was not accepted because of the stated preference of the stakeholders.

The anticipated economic costs to persons (hospitals or ambulatory surgical centers that are required to report under Health and Safety Code, Chapter 108) who are required to comply with the sections as proposed will be dependent upon the complexity and status of their information systems and will range from no additional costs to an estimated \$50,000. There will be no effect on local employment.

PUBLIC BENEFIT

Dr. Menon has also determined that for each year of the first five years the sections are in effect, the public will benefit from the adoption of the amended sections. The public benefit anticipated as a result of collecting and reporting of this data is the ability to provide the public with data and information regarding the type of surgical services or radiological services, volume, average charges, and the complexity of patient services provided by the hospitals or ambulatory surgical centers. The public will benefit from health care provider reports and information about the quality of care being provided by hospital outpatient surgical services and ambulatory surgical centers. The standardized data and the reports and information developed by the department from the data will assist the consumer in making informed decisions on healthcare issues. The public will also benefit by having these rules updated to reflect the current organization of the department.

REGULATORY ANALYSIS

The department has determined that the proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. The proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The department has determined that the proposed rules do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Bruce M. Burns, D.C., Center for Health Statistics, Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756, Fax (512) 458-7740. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

LEGAL CERTIFICATION

The Department of State Health Services General Counsel, Lisa Hernandez, certifies that the proposed rules have been reviewed by legal counsel and found to be within the state agencies' authority to adopt.

STATUTORY AUTHORITY

The proposed amendments and new rule are authorized by Health and Safety Code, §108.006, §108.009, §108.010, §108.011 and §108.013, which require the Executive Commissioner to adopt rules necessary to carry out Chapter 108 including rules on data collection requirements, to

prescribe the process of data submission, to implement a methodology to collect and disseminate data reflecting provider quality, to specify data elements to be required for submission to the department and which data elements are to be released in a outpatient event public use data file; and Government Code, §531.0055, and Health and Safety Code, §1001.075, which authorize the Executive Commissioner to adopt rules and policies necessary for the operation and provision of health and human services by the department and for the administration of Health and Safety Code, Chapter 1001.

The proposed amendments and new rule affect the Health and Safety Code, Chapters 108 and 1001; and Government Code, Chapter 531.

Legend: (Proposed Amendment(s))

Single Underline = Proposed new language

[Bold Print, and Brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§421.61. Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) (No change.)

(2) Ambulatory Surgical Care Data--Data for events associated with facility **[reporting hospital]** services, which require surgery to be performed in an operating room on an anesthetized patient.

(3) Ambulatory surgical center--An establishment licensed as an ambulatory surgical center under the Health and Safety Code, Chapter 243.

(4) Anesthetized patient--For the purposes of this subchapter, an outpatient who receives an anesthetic (a substance that reduces sensitivity, feeling, or awareness to pain or bodily sensations or renders the patient unconscious) prior to surgical services from a hospital or ambulatory surgical center.

(5)**[(3)]** ANSI 837 Institutional Guide--American National Standards Institute, Accredited Standards Committee X12N, 837 Health Care Institutional Claim Implementation Guide.

[(4) APC--Ambulatory Payment Classification.]

(6) APG - Ambulatory Patient Group (APG)--A prospective payment system (PPS) for hospital-based outpatient care developed by 3M. APGs provide information regarding the kinds and amounts of resources utilized in an outpatient visit and classify patients with similar clinical characteristics.

(7)**[(5)]** Attending Physician--The individual licensed under the Medical Practice Act (Occupations Code, Chapter 151 et seq.) who would normally be expected to certify and recertify the medical necessity of the services rendered during the hospital episode.

(8)**[(6)]** Audit--An electronic standardized process developed and implemented by DSHS to identify potential errors and mistakes in file structure format or data element content by reviewing data fields for the presence or absence of data and the accuracy and appropriateness of data.

(9)**[(7)]** Certification File--One or more electronic files (may include reports concerning the data and its compilation process) compiled by DSHS that contain one record for each patient event which has at least one procedure covered in the revenue codes specified in §421.67 of this title (relating to Event Files--Records, Data Fields and Codes) submitted for each facility

[reporting hospital] under this subchapter during the reporting quarter and may contain one record for any patient event occurring during one prior reporting quarter for whom additional event claims have been received.

(10) [(8)] Certification Process--The process by which a provider confirms the accuracy and completeness of the certification file required to produce the public use data file as specified in §421.66[§1301.66] of this title (relating to Certification of Compiled Event Data).

(11) [(9)] Charge--The amount billed by a provider for specific procedures or services provided to a patient before any adjustment for contractual allowances, government mandated fee schedules or write offs for charity care, bad debt or administrative courtesy. The term does not include co-payments charged to health maintenance organization enrollees by providers paid by capitation or salary in a health maintenance organization.

(12) [(10)] Clinical Classification Software--A classification system that groups diagnoses and procedures into a limited number of clinically meaningful categories developed at the United States Department of Health and Human Services, Agency for Healthcare Research and Quality (AHRQ).

(13) [(11)] Comments--The notes or explanations submitted by the facilities [reporting hospitals], physicians or other health professionals concerning the provider quality reports or the encounter data for public use as described in the Texas Health and Safety Code, §108.010(c) and (e) and §108.011(g) respectively.

[(12) Council--The Texas Health Care Information Council, until the abolition of the Council, the Department of State Health Services after abolition of the Council.]

[(13) CPT--Current Procedural Terminology.]

(14) Data format--The sequence or location of data elements in an electronic record according to prescribed specifications.

[(15) Discharge--The formal release of a patient by a physician authorized to practice in a reporting hospital ambulatory surgical unit or emergency department; that is, the termination of a period of medical services by death or by disposition to a residence or another health care provider.]

(15) [(16)] DSHS--Department of State Health Services, the successor state agency to the Texas Health Care Information Council and the Texas Department of Health.

[(17) DRG--Diagnosis Related Group.]

(16) [(18)] EDI - Electronic Data Interchange--A method of sending data electronically from one computer to another. EDI helps providers and payers maintain a flow of vital information by enabling the transmission of claims and managed care transactions.

(17) [(19)] Electronic Filing--The submission of computer records in machine readable form by modem transfer from one computer to another (EDI) or by recording the records on a nine track magnetic tape, computer diskette or other magnetic media acceptable to DSHS.

(18) [(20)] Emergency Department--Department or room within a **[reporting]** hospital as determined by federal or state law for the provision of emergency health care.

(19) [(21)] Emergency Department Data--Events associated with hospital services in an emergency department or emergency room.

(20) [(22)] Error--Data submitted on a event file which are not consistent with the format and data standards contained in this subchapter or with auditing criteria established by DSHS.

(21) [(23)] Ethnicity--The status of patients relative to Hispanic background. Facilities [Reporting hospitals] shall report this data element according to the following ethnic types: Hispanic or Non-Hispanic.

(22) [(24)] Event--The medical screening examination, triage, observation, diagnosis or treatment of a patient within the authority of a facility [reporting hospital].

(23) [(25)] Event claim--A set of computer records as specified in §421.67 [**§1301.68**] of this title **[(relating to Event Files--Records, Data Fields and Codes)]** relating to a specific patient. "Event claim" corresponds to the ANSI 837 Institutional Guide term, "Transaction set."

(24) [(26)] Event file--A computer file as defined in §421.67 [**§1301.68**] of this title **[(relating to Event Files--Records, Data Fields and Codes)]** periodically submitted on or on behalf of a facility [reporting hospital] in compliance with the provisions of this subchapter. "Event File" corresponds to the ANSI 837 Institutional Guide terms, "Communication Envelope" or "Interchange Envelope."

[(27) Executive director--The chief administrative officer of the Council or of the department designated by the Department of State Health Services to perform the functions of the Council.]

(25) [(28)] Facility--For the purposes of this subchapter a facility is a **[reporting]** hospital or ambulatory surgical center, required to report under the Health and Safety Code, Chapter 108 and this subchapter.

(26) [(29)] Facility Type Indicators--An indicator that provides information to the data user as to the type of facility or the primary health services delivered at that **[reporting]** hospital (e.g., Hospital based ambulatory surgical unit and hospitals with an emergency department or emergency room) and ambulatory surgical centers. A facility [hospital] may have more than one indicator.

(27) [(30)] Geographic identifiers--A set of codes indicating the **[public]** health service region and county in which the patient resides.

(28) [(31)] HCPCS--Healthcare [HCFA's] Common Procedure Coding System of the [(HCFA-Health Care Finance Administrations (Now called) Centers for Medicare and Medicaid Services)]].

(29) [(32)] HIPPS--Health Insurance Prospective Payment System.

(30) [(33)] Hospital--A public, for-profit, or nonprofit institution licensed as a general or special hospital (25 TAC, §133.2(21)) [25 TAC §133.2(22)(52)], or a hospital owned by the state.

(31) [(34)] ICD--International Classification of Disease.

(32) [(35)] IRB--Institutional Review Board composed of DSHS' appointees or agents who have experience and expertise in ethics, patient confidentiality, and health care data who review and approve or disapprove requests for data or information other than the outpatient event public use data.

(33) [(36)] Operating or Other Physician--The "physician" licensed by the Texas Medical Board [Texas State Board of Medical Examiners], or "other health professional" licensed by the State of Texas who performed the principal procedure or performed the surgical procedure most closely related to the principal diagnosis.

(34) [(37)] Other health professional--A person licensed to provide health care services other than a physician. An individual other than a physician who provides diagnostic or therapeutic procedures to patients. The term encompasses persons licensed under various Texas practice statutes, such as psychologists, chiropractors, dentists, nurse practitioners, nurse midwives, and podiatrists who are authorized by the facilities [reporting hospital] to examine, observe or treat patients.

(35) Outpatient or patient--For the purposes of this subchapter a patient who receives surgical or radiological services from an ambulatory surgical center or a patient who receives surgical or radiological services from a hospital and is not admitted to a hospital for inpatient services. Outpatients include patients who receive one or more services covered by the revenue codes that are specified in §421.67(e) of this title, which may occur in the emergency department, ambulatory care, radiological, imaging or other types of hospital units. Outpatient includes a patient who is transferred from an ambulatory surgical center to another facility or a hospital patient who is under observation and not admitted to the hospital.

[(38) Panel--Scientific Review Panel.]

(36) [(39)] Patient account number--A number assigned to each patient by the facility [hospital], which appears on each computer record in a patient event claim. This number is not consistent for a given patient from one facility [hospital] to the next, or from one admission to the next in the same facility [hospital]. DSHS will delete or encrypt this number to protect patient confidentiality prior to release of data.

(37) [(40)] Physician--An individual licensed under the laws of this state to practice medicine under the Medical Practice Act, Occupations Code, Chapter 151 et seq.

(38) [(41)] Provider--For the purposes of this subchapter, a physician or facility [**reporting hospital**].

(39) [(42)] Public use data file--For the purposes of this subchapter, a [A] data file composed of event claims which have been altered by the deletion, encryption or other modification of data fields to protect patient and physician confidentiality and to satisfy other restrictions on the release of [**ambulatory surgical care and emergency department**] data imposed by statute.

(40) [(43)] Race--A division of patients according to traits that are transmissible by descent and sufficient to characterize them as distinctly human types. Facilities [**Reporting hospitals**] shall report this data element according to the following racial types: American Indian, Eskimo, or Aleut; Asian or Pacific Islander; Black; White; or Other.

[(44)] **Reporting hospital--A public, for-profit, or nonprofit institution licensed or owned by this state as a general or special hospital or a hospital owned by the state that volunteers to participate in the data collection, correction, certification and analysis process specified in this subchapter.]**

(41) [(45)] Required minimum data set--The list of data elements for which facilities [**reporting hospitals**] may submit an event claim for each patient event occurring in the facility [**hospital**]. The required minimum data set is specified in §421.67(d) [**§1301.68(d)**] of this title [(**relating to Event Files--Records, Data Fields and Codes**) and is only required if the hospital chooses to participate in reporting under this subchapter]. This list does not include all the data elements that are required by the ANSI 837 Institutional Guide to submit an acceptable event file. For example: Interchange Control Headers and Trailers, Functional Group Headers and Trailers, Transaction Set Headers and Trailers and Qualifying Codes (which identify or qualify subsequent data elements).

(42) [(46)] Research data file--A customized data file, which may include [**includes**] the data elements in the public use file and may include data elements other than the required minimum data set submitted to DSHS, except those data elements that could reasonably identify a patient or physician.

[(47)] **Scientific Review Panel--DSHS' appointees or agent who have experience and expertise in ethics, patient confidentiality, and health care data who review and approve or disapprove requests for data or information other than the public use data.]**

(43) [(48)] Submission--The transfer of a set of computer records as specified in §421.67[**§1301.68**] of this title [(**relating to Event Files--Records, Data Fields and Codes**)] that constitutes the event file for one or more reporting hospitals under this subchapter.

(44) [(49)] Submitter--The person or organization, which physically prepares an event file for one or more facilities [**reporting hospitals**] and submits them under this subchapter. A submitter may be a facility [**hospital**] or an agent designated by a facility [**hospital**] or its owner.

[(50) **TDH--Texas Department of Health, or its successor agency, the Department of State Health Services.**]

(45) [(51)] THCIC Identification Number--A string of 6 characters assigned by DSHS to identify facilities [**hospitals**] for reporting and tracking purposes.

(46) [(52)] Uniform patient identifier--A unique identifier assigned by DSHS to an individual patient and composed of numeric, alpha, or alphanumeric characters, which remains constant across facilities [**hospitals**] and patient events. The relationship of the identifier to the patient-specific data elements used to assign it is confidential.

(47) [(53)] Uniform physician identifier--A unique identifier assigned by DSHS [**the Council**] to a physician or other health professional who is reported as attending, providing health care services or treating a patient in a facility [**hospital**] and which remains constant across hospitals. The relationship of the identifier to the physician-specific data elements used to assign it is confidential. The uniform physician identifier shall consist of alphanumeric characters.

(48) [(54)] Validation--The process by which a provider verifies the accuracy and completeness of data and corrects any errors identified before certification.

§421.62. Collection of Hospital Outpatient and Ambulatory Surgical Center [**Care and Emergency Department**] Data.

(a) Each facility [**Reporting hospitals**] in operation for all or any of the reporting periods described in §421.63 [**§1301.63**] of this title (relating to Schedule for Filing Event Files) shall [**may**] submit to DSHS event claims as specified in §421.67[**§1301.68**] of this title [(**relating to Event Files--Records, Data Fields and Codes**)] on all patient events in which the patient received one or more of the surgical procedures or radiological services covered by the revenue codes specified in §421.67(e) of this title [**to DSHS**]. All facilities that are exempt under the Health and Safety Code, §108.0025, but choose [**If a hospital chooses**] to participate in reporting under this subchapter [, **the hospital**] shall comply with the requirements in this subchapter. To the extent the medical screening examination, triage, observation, diagnosis or treatment is made by a health professional, other than a physician, data elements specified in §421.67(d)(31) – (36)[**§1301.68(d)(31)-(36)**] of this title shall be filled accordingly or data elements §421.67(d)(33) [**§1301.68(d)(33)**] or (36) shall be marked with one of DSHS approved temporary "Physician" or "Other health professional" code numbers and data elements §421.67(d)(31)(A) – (C)[**§1301.68(d)(31)(A-C)**] or (34)(A) - (C) [(**34 (A-C)**)] may be left blank.

(b) All patient events in which the patient received one or more of the surgical procedures or radiological services covered by the revenue codes specified in §421.67(e) of this title shall be reported by the facility that [**reporting hospitals, for which the reporting hospital**] prepares

one or more bills for patient services. The facility [, **the reporting hospital**] shall submit an event claim corresponding to each bill containing the data elements required by §421.67[§1301.68] of this title [(**relating to Event Files - Records, Data Fields and Codes**)]. For all patients who received one or more of the surgical procedures or radiological services covered by the revenue codes specified in §421.67(e) of this title for which the facility [**hospital**] does not prepare a bill for patient services, the facility [**hospital**] shall submit an event claim containing the required minimum data set.

(c) Each facility [**All reporting hospitals**] shall submit event files by electronic filing unless the facility [**hospital**] receives an exemption letter from DSHS.

(d) Each facility [**All reporting hospitals**] shall submit event claims and event files in the format specified in §421.67[§1301.68] of this title [(**relating to Event Files--Records, Data Fields and Codes**)].

(e) Each facility [**All reporting hospitals**] shall submit event files, data certifications and other required information to DSHS or its agents at physical or telephonic addresses specified by DSHS. DSHS shall notify all facilities [**reporting hospitals**] and submitters in writing and by publication in the Texas Register at least 30 calendar days before any change in the addresses.

(f) Each facility [**Reporting hospitals**] may submit event files [**themselves**], or may designate an agent to submit the event files. If a facility [**hospital**] designates an agent, it shall inform DSHS of the designation in writing at least 30 calendar days prior to the agent's submission of any discharge report. The facility [**reporting hospital**] shall inform DSHS in writing at least 30 calendar days prior to changing agents or making the submissions itself.

§421.63. Schedule for Filing Event Files.

(a) For patient events [**discharges**] occurring on or after January 1, 2006, as specified by DSHS, facilities [**reporting hospitals**] shall file event files according to the following schedule as shown in paragraphs (1)-(4) of this subsection:

(1) Each event claim covering patient events occurring between January 1 and March 31, inclusive, shall be submitted no later than June 1 of the calendar year in which the discharge occurred.

(2) Each event file covering patient events occurring between April 1 and June 30, inclusive, shall be submitted no later than September 1 of the calendar year in which the discharge occurred.

(3) Each event file covering patient events occurring between July 1 and September 30, inclusive, shall be submitted no later than December 1 of the calendar year in which the discharge occurred.

(4) Each event file covering patient events occurring between October 1 and December 31, inclusive, shall be submitted no later than March 1 of the year following the year in which the discharge occurred.

(b) Extensions to processing due dates may be granted by DSHS in response to a written request signed by the facility's **[reporting hospital's]** chief executive officer. Requests must be in writing, must be received at least 5 working days prior to the due date and must be accompanied by adequate justification for the delay.

§421.64. Instructions for Filing Event Files.

(a) Electronic Data Interchange. Event files may be filed by modem using electronic data interchange (EDI). All event files and event claims shall be reported using the same file and record formats specified in §421.67[**§1301.68**] of this title **[(relating to Event Files - Records, Data Fields and Codes)]** regardless of the medium of transmission. DSHS shall document instructions for filing event files by EDI and shall make this documentation available to reporting hospitals at no charge and to the public for the cost of reproduction. DSHS shall notify facilities **[hospitals]** reporting under this subchapter and their designated agents directly in writing at least 90 days in advance of any change in instructions for filing event files by EDI. DSHS' instructions shall follow Department of Information Resources standards for EDI.

(b) File Transfer Protocol (FTP). Event files may be filed by FTP using a Transmission Control Protocol over Internet Protocol (TCP/IP) Network connection. DSHS shall document instructions for filing event files by FTP and shall make this documentation available to facilities **[reporting hospitals]** at no charge and to the public for the cost of reproduction or on DSHS' Internet website. DSHS shall notify facilities **[hospitals]** reporting under this subchapter and their designated agents directly in writing at least 90 days in advance of any change in instructions for filing event files by FTP. DSHS' instructions shall follow Department of Information Resources standards for FTP.

§421.65. Acceptance of Event Files and Correction of Data Content Errors.

(a) Upon receipt of an event file, DSHS shall establish a process to determine if it satisfies minimum criteria for processing. If it does not, DSHS shall establish a process to provide a report to be returned to the submitter regarding the invalid event file in a format and media that is approved for that provider and states the deficiencies. The facility **[reporting hospital]** shall submit a corrected event file within 10 calendar days of notification by DSHS or DSHS' agent. An event file does not meet minimum standards for processing if the file structure does not conform to the specifications in §421.67 [**§1301.68**] of this title (relating to Event Files - Records, Data Fields and Codes).

(b) Correction of Data Content Errors.

(1) DSHS shall establish an audit process for all event files accepted for processing. DSHS shall notify the facility **[reporting hospital]** identified from the event file in detail of all

errors detected in an event file which was received in an acceptable format as provided in §421.67~~§1301.68~~ of this title ~~[(relating to Event Files - Records, Data Fields and Codes)]~~.

(2) Within 30 calendar days of receiving initial notice of errors in an event file, the facility **[reporting hospital]** shall correct all event claims containing errors, add any event claims determined to be missing from the initial event file and resubmit the corrected and/or previously missing event claims. If the facility **[reporting hospital]** disagrees with any identified error, the facility **[hospital]** may indicate that the event **[discharge]** claim is as accurate as it can be or cannot be corrected. Each facility **[reporting hospital]** shall submit such modified and/or additional event claims as may be required to allow the chief executive officer or the chief executive officer's designated agent to certify the quarterly event file as required by §421.66 **[§1301.66]** of this title (relating to Certification of Compiled Event Data). Corrections to an [a] event file shall be submitted on approved media and formats as specified in §421.64 **[§1301.64]** of this title (relating to Instructions for Filing Event Files) and §421.67 **[§1301.68]** of this title ~~[(relating to Event Files-Records, Data Fields and Codes)]~~ unless DSHS approves another medium or format.

(3) Within 10 calendar days of receiving corrections to an event file from a facility **[reporting hospital]**, DSHS shall notify the facility **[reporting hospital]** of any remaining errors. The facility **[reporting hospital]** shall have 10 calendar days from receipt of this notice to correct the errors noted or indicate why the data should be deemed acceptable and complete. This process may be repeated until the data is substantially accurate and the facility **[reporting hospital]** is able to certify the event file as required by §421.66~~§1301.66~~ of this title ~~[(relating to Certification of Compiled Event Data)]~~ or the deadline for submitting corrections prior to certification is reached. Corrected data is required to be submitted on or before the following dates for the respective quarter's discharges; Quarter 1 - August 1, Quarter 2 - November 1, Quarter 3 - February 1, Quarter 4 - May 1. DSHS may grant an extension to all facilities **[hospitals with ambulatory surgical units or emergency departments]** when deemed necessary.

(4) Event claims that have not been previously submitted shall be submitted prior to the deadline for the following quarter's data. Correction and certification of these previously missing or additional event claims for the prior calendar quarter shall be made according to the deadlines established for following quarter in which the data that is scheduled to be processed as specified in §421.63(a)~~§1301.63(a)~~ of this title (relating to the Schedule for Filing Event Files), paragraph (3) of this subsection concerning the acceptance of event files and correction of data content errors), and §421.66(b)~~§1301.66(b)~~ and (d) of this title ~~[(relating to the Certification of Compiled Event Data)]~~. Corrections to event claims previously submitted or that have a statement **[discharge]** date prior to calendar quarter immediately before the calendar quarter being processed scheduled will not be processed.

(c) DSHS will document format acceptance criteria for event files. DSHS shall make this information available to submitters and facilities **[reporting hospitals]**.

§421.66. Certification of Compiled Event Data.

(a) Within 5 months after the end of each reporting quarter, DSHS shall establish a process to compile one or more electronic data files for each facility **[reporting hospital]** using the event claims received from each facility **[reporting hospital]**. The certification file shall have one record for each patient event during the reporting quarter and one record for any patient event occurring during one prior reporting quarter for which additional event claims have been received. The data files, including reports returned to the reporting hospitals, allows the facility **[reporting hospital]** to provide physicians and other health professionals the opportunity to review, request correction of, and comment on patients for whom an **[and]** event occurred under the jurisdiction of the facilities **[reporting hospitals]** and they are indicated as "attending" or "operating or other". DSHS shall determine the format and medium in which the quarterly file will be delivered to facilities **[reporting hospitals]**.

(b) The chief executive officer or chief executive officer's designated agent of each facility **[reporting hospital]** shall mark the appropriate box on the form provided whether the facility **[reporting hospital]** is certifying or not certifying the event data and reports in the certification file specified in subsection (a) of this section. The chief executive officer or chief executive officer's designated agent shall sign and return the form to DSHS by fax or mail. A person designated by the chief executive officer and acting as the officer's agent may sign the certification form. Designation of an agent does not relieve the chief executive officer of personal responsibility for the certification. If the chief executive officer or chief executive officer's designated agent does not believe the quarterly file is accurate, the officer shall provide DSHS with detailed comments regarding the errors or submit a written request (on a form supplied by DSHS) and provide the data, processes and resources necessary to correct any inaccuracy and certify the certification file subject to those corrections being made prior to the deadlines specified in this subsection. Corrections to certification event data shall be submitted on or prior to the following schedule: Quarter 1 - October 15; Quarter 2 - January 15; Quarter 3 - April 15; Quarter 4 - July 15. Chief Executive Officers or designees that elect not to certify shall submit a reasoned justification explaining their decision to not certify their discharge encounter data and attach the justification to the certification form. Election to not certify data does not prevent certification file data from appearing in the public use data file. Data that is not corrected and submitted by the deadline may appear in the public use data file.

(c) The signed certification form shall represent that:

(1) policies and procedures are in place within the facility's **[reporting hospital's]** processes to validate and assure the accuracy of the event data and any corrections submitted; and

(2) all errors and omissions known to the facility **[reporting hospital]** have been corrected or the facility **[reporting hospital]** has submitted comments describing the errors and the reasons why they could not be corrected; and

(3) to the best of their knowledge and belief, the data submitted accurately represents the facility's **[reporting hospital's]** administrative status of **[discharged]** patients in which the services covered by the revenue codes identified in §421.67(e) of this title (relating to Event File Records, Data Fields and Codes) were provided for the reporting quarter; and

(4) the facility [**reporting hospital**] has provided physicians and other health professionals a reasonable opportunity to review and comment on the event data of patients for which they were reported in one of the available physician number and name fields provided on the acceptable formats specified in §421.67[**§1301.68**] of this title [(**relating to Event Files--Records, Data Fields and Codes**)] (for example, "attending physician" or "operating or other physician" as applicable. The physicians or other health professionals may write comments and have errors brought to the attention of the chief executive officer or the chief executive officer's designated agent who [**and**] shall address any comments by the physicians or other health professionals; or

(5) if the chief executive officer or the officer's designee elects not to certify the event data file for a specific quarter, a written justification of any unresolved data issues concerning the accuracy and completeness of the data at the time of the certification shall be included on the certification form. Event claim data that has been audited, returned to the facility [**reporting hospital**] and is not certified, may be released and published in the public use data file and used by DSHS for analysis.

(d) Each facility [**reporting hospital**] shall submit its certification form for each quarter's data to DSHS by the first day of the ninth month (Quarter 1 - December 1; Quarter 2 - March 1; Quarter 3 - June 1; Quarter 4 - September 1) following the last day of the reporting quarter as specified in §421.63(a)(1) - (4) [**§1301.63(a)(1)-(4)**] of this title [(**relating to Schedule for Filing Event Files**)]. DSHS may extend the deadline for any or all facilities [**reporting hospitals**] when deemed necessary.

(e) Facilities [**Reporting hospitals**], physicians or other health professionals may submit concise written comments regarding any data submitted by the associated facilities [**reporting hospitals**] or relating to services[,], they have delivered which may be released as public use data. Comments shall be submitted to DSHS on or before the dates specified in subsection (d) of this section, regarding the submission of the certification form. Commenters are responsible for assuring that the comments contain no patient or physician identifying information. Comments shall be submitted electronically using the method described in §421.64(a)[**§1301.64(a)**] and (b) of this title (relating to Instructions for Filing Event Files).

(f) (No change.)

§421.67. Event Files--Records, Data Fields and Codes.

(a) Facilities [**Reporting hospitals**] shall submit event files, electronically in the file format for outpatient [**hospital**] bills defined by the American National Standards Institute (ANSI), commonly known as the ANSI ASC X12N form 837 Health Care Claims transaction for institutional claims. ANSI updates this format from time to time by issuing new versions.

(b) (No change.)

(c) In addition to the data elements contained in the ANSI 837 Institutional Guide, DSHS has specified the location where each of the following data elements in this subsection shall be reported in the ANSI 837 Institutional format Guide. Data element content, format and locations may change as state legislative requirements or federal legislative changes (i.e., HIPAA).

(1) Patient race - This data element shall be reported at Loop 2010BA or 2010CA in the segment DMG05 as a numeric value. Acceptable codes are 1 = American Indian/Eskimo/Aleut, 2 = Asian or, Pacific Islander, 3 = Black, 4 = White and 5 = Other Race. In order to obtain this data, the facility **[hospital]** staff retrieves the patient's response from a written form or asks the patient, or the person speaking for the patient to classify the patient. If the patient, or person speaking for the patient, declines to answer, the facility **[hospital]** staff is to use its best judgment to make the correct classification based on available data.

(2) Patient ethnicity - This data element shall be reported at Loop 2300 in the segment NTE02 as a numeric value. Acceptable codes are 1 = Hispanic or Latino Origin and 2 = Not of Hispanic or Latino Origin. In order to obtain this data, the facility **[hospital]** staff retrieves the patient's response from a written form or asks the patient, or the person speaking for the patient to classify the patient. If the patient, or person speaking for the patient, declines to answer, the facility **[hospital]** staff is to use its best judgment to make the correct classification based on available data.

(3) (No change.)

(4) THCIC Identification Number - This data element shall be submitted in data segment REF02 (Secondary Identification Number) of one of the following **[followings]** Loops where the patient received the event services:

(A) - (C) (No change.)

(d) Facilities **[Reporting hospitals]** shall submit the required minimum data set for all patients for which an event claim is required by this subchapter. The required minimum data set includes the following data elements as listed in this subsection:

(1) - (30) (No change.)

(31) Attending Physician or other health professional **[Attending Practitioner]**

Name:

(A) Attending Physician or other health professional **[Practitioner]** Last Name;

(B) Attending Physician or other health professional **[Practitioner]** First Name;

and

(C) Attending Physician or other health professional **[Practitioner]** Middle

Initial.

(32) Attending Physician or other health professional [**Practitioner**] Primary Identifier (National Provider Identifier, when HIPAA rule is implemented);

(33) Attending Physician or other health professional [**Practitioner**] Secondary Identifier (Texas state license number or UPIN);

(34) Operating [**Physician**] or Other Physician or other health professional [**Practitioner**] Name (if applicable):

(A) Operating [**Physician**] or Other Physician or other health professional [**Practitioner**] Last Name;

(B) Operating [**Physician**] or Other Physician or other health professional [**Practitioner**] First Name; and

(C) Operating [**Physician**] or Other Physician or other health professional [**Practitioner**] Middle Initial.

(35) Operating [**Physician**] or Other Physician or other health professional [**Practitioner**] Primary Identifier (National Provider Identifier, when HIPAA rule is implemented);

(36) Operating [**Physician**] or Other Physician or other health professional [**Practitioner**] Secondary Identifier (Texas state license number or UPIN);

(37) (No change.)

(38) Revenue Service Line Details (up to 999 service lines) (all applicable);

(A) - (B) (No change.)

(C) HCPCS [**HCPCS/HIPPS**] Procedure Modifier 1;

(D) HCPCS [**HCPCS/HIPPS**] Procedure Modifier 2;

(E) HCPCS [**HCPCS/HIPPS**] Procedure Modifier 3;

(F) HCPCS [**HCPCS/HIPPS**] Procedure Modifier 4;

(G) - (K) (No change.)

(39) - (41) (No change.)

(42) Service Provider Secondary Identifier - THCIC 6-digit facility [**Hospital**] ID assigned to each facility.

(e) Facilities shall submit the required minimum data set to DSHS for each patient who has one or more of the following revenue codes for services rendered to the patient in the facility.

- (1) 0321 Radiology - Diagnostic Angiocardiology;
- (2) 0322 Radiology - Diagnostic Arthrography;
- (3) 0323 Radiology - Diagnostic Arteriography;
- (4) 0329 Radiology - Diagnostic Other Radiology – Diagnostic;
- (5) 0330 Radiology - Therapeutic General Classification;
- (6) 0333 Radiology - Therapeutic Radiation Therapy;
- (7) 0339 Radiology - Therapeutic Other Radiology – Therapeutic;
- (8) 0340 Nuclear Medicine General Classification;
- (9) 0341 Nuclear Medicine Diagnostic;
- (10) 0342 Nuclear Medicine Therapeutic;
- (11) 0343 Nuclear Medicine Diagnostic Pharmaceuticals;
- (12) 0344 Nuclear Medicine Therapeutic Pharmaceuticals;
- (13) 0349 Nuclear Medicine Other Nuclear Medicine;
- (14) 0350 Computed Tomography (CT) Scan General Classification;
- (15) 0351 Computed Tomography (CT) - Head Scan;
- (16) 0352 Computed Tomography (CT) - Body Scan;
- (17) 0359 Computed Tomography (CT) - Other;
- (18) 0360 Operating Room Services General Classification;
- (19) 0361 Operating Room Services Minor Surgery;
- (20) 0369 Operating Room Services Other Operating Room Services;
- (21) 0400 Other Imaging Services General Classification;
- (22) 0401 Other Imaging Services Diagnostic Mammography;

- (23) 0403 Other Imaging Services Screening Mammography;
- (24) 0404 Other Imaging Services Positron Emission Tomography (PET);
- (25) 0409 Other Imaging Services Other Imaging Services;
- (26) 0481 Cardiology Cardiac Catheterization Lab;
- (27) 0483 Cardiology Echocardiology;
- (28) 0489 Cardiology Other Cardiology Services;
- (29) 0490 Ambulatory Surgical Care General Classification;
- (30) 0499 Ambulatory Surgical Care Other Ambulatory Surgical;
- (31) 0500 Outpatient Services General Classification;
- (32) 0509 Outpatient Services Other Outpatient;
- (33) 0610 Magnetic Resonance Technology General Classification;
- (34) 0611 Magnetic Resonance Technology Magnetic Resonance Imaging (MRI) -
Brain/Brainstem;
- (35) 0612 Magnetic Resonance Technology Magnetic Resonance Imaging (MRI) -
Spinal Cord/Spine;
- (36) 0614 Magnetic Resonance Technology Magnetic Resonance Imaging (MRI) -
Other;
- (37) 0615 Magnetic Resonance Technology Magnetic Resonance Angiography
(MRA) - Head and Neck;
- (38) 0616 Magnetic Resonance Technology Magnetic Resonance Angiography
(MRA) - Lower Extremities;
- (39) 0618 Magnetic Resonance Technology Magnetic Resonance Angiography
(MRA) - Other; and
- (40) 0619 Magnetic Resonance Technology Other Magnetic Resonance Technology;

Legend: (Proposed New Rule)
Regular Print = Proposed New Language.

§421.68. Event Data Release.

(a) DSHS records are public records under Government Code, Chapter 552, except as specifically exempted by Health and Safety Code, §108.010, §108.011 and §108.013 or other state or federal law. Copies of such records may be obtained upon request and upon payment of user fees established by DSHS. The public use data file shall be available for public inspection during normal business hours. Event claims in the original format as submitted to DSHS are not available to the public, are not stored at DSHS and are exempt from disclosure pursuant to Health and Safety Code, §§108.010, 108.011 and 108.013, and shall not be released. Likewise, patient and physician identifying data collected by the DSHS through editing of facility data shall not be released.

(b) Creation of codes and identifiers. DSHS shall develop the following codes and identifiers, as listed in paragraphs (1) - (2) of this subsection, required for creation of the public use data file and for other purposes.

(1) DSHS shall create a process for assigning uniform patient identifiers, uniform physician identifiers and uniform other health professional identifiers using data elements collected. This process is confidential and not subject to public disclosure. Any documents or records produced describing the process or disclosing the person associated with an identifier are confidential and not subject to public disclosure.

(2) DSHS shall create a process for assigning geographic identifiers to each event record.

(c) Creation of public use data file. DSHS will create a public use data file by creating a single record for each reportable outpatient event and adding, modifying or deleting data elements in the following manner as listed in this subsection:

(1) delete patient and insured name, Social Security Number, address and certificate data elements, any patient identifying information, and patient control and medical record numbers;

(2) convert patient birth date to age;

(3) convert procedure dates to a code for the day of the week;

(4) convert occurrence dates to day values;

(5) delete physician and other health professional names and numbers and assign a alphanumeric uniform physician identifier for the physicians and other health professionals who were reported as "attending" or "operating or other" on discharged patients;

(6) assign codes indicating the primary and secondary sources of payment;

(7) the minimum cell size required by Health and Safety Code, §108.011(i)(2), shall be five, unless DSHS determines that a higher cell size is required to protect the confidentiality of an individual patient or physician;

(8) convert all procedure codes to HCPCS codes (in the version that is current for the date the data was due to be submitted or the version in effect at the date of service);

(9) add nationally accepted risk and severity adjustment scores utilizing an algorithm approved by DSHS, when available and applicable;

(10) data elements to be included in the public use data file:

(A) Event Year and Quarter;

(B) Provider Name (Facility Name);

(C) THCIC Identification Number;

(D) Facility Type Indicators;

(E) Patient Sex/Gender;

(F) Patient ZIP Code;

(G) County Code;

(H) Health Service Region Code;

(I) Patient State;

(J) Patient Status;

(K) Patient Race;

(L) Patient Ethnicity;

(M) Claim Type Indicator;

(N) Type of Bill;

(O) Principal Diagnosis Code (Current version of ICD codes at the time data is submitted);

(P) Other Diagnosis Codes (Up to 24 diagnosis codes can be submitted and reported. Current version of HCPCS codes at the time data is submitted);

(Q) Principal Procedure code (if applicable) (Current version of HCPCS codes at the time data is submitted);

(R) Other Procedure codes (Up to 24 procedure codes can be submitted and report Current version of HCPCS codes at the time data is submitted);

(S) Reason For Visit (Current version of HCPCS codes at the time data is submitted);

(T) External Cause of Injury (E-codes), (if applicable) (Current version of ICD codes at the time data is submitted. Up to nine (9) E-codes can be submitted and reported);

(U) Day of Week Patient is provided services code (Sun. = 1, Mon. = 2, Tues. = 3, Wed. = 4, Thur. = 5, Fri. = 6, Sat. = 7);

(V) Age of patient;

(W) APG Grouper Version Number (Obtained from 3M APG Grouper);

(X) APG Code (Obtained from 3M APG Grouper) if applicable;

(Y) APG Category Code (Obtained from 3M APG Grouper) if applicable;

(Z) APG Type Code (Obtained from 3M APG Grouper) if applicable;

(AA) Final APG Assignment Code (Obtained from 3M APG Grouper) if applicable;

(BB) Final APG Category Code (Obtained from 3M APG Grouper) if applicable;

(CC) Clinical Classification Software Version Number;

(DD) Clinical Classification Software Category Codes, if applicable;

(EE) Uniform Physician Identifier assigned to Attending Physician or other Health Professional;

(FF) Uniform Physician Identifier assigned to Operating Physician or Other Physician or Other Health Professional;

(GG) Ancillary Service--Other Charges;

(HH) Ancillary Service--Pharmacy Charges;

(II) Ancillary Service--Medical/Surgical Supply Charges;

(JJ) Ancillary Service--Durable Medical Equipment Charges;
(KK) Ancillary Service--Used Durable Medical Equipment Charges;
(LL) Ancillary Service--Physical Therapy Charges;
(MM) Ancillary Service--Occupational Therapy Charges;
(NN) Ancillary Service--Speech Pathology Charges;
(OO) Ancillary Service--Inhalation Therapy Charges;
(PP) Ancillary Service--Blood Charges;
(QQ) Ancillary Service--Blood Administration Charges;
(RR) Ancillary Service--Operating Room Charges;
(SS) Ancillary Service--Lithotripsy Charges;
(TT) Ancillary Service--Cardiology Charges;
(UU) Ancillary Service--Anesthesia Charges;
(VV) Ancillary Service--Laboratory Charges;
(WW) Ancillary Service--Radiology Charges;
(XX) Ancillary Service--MRI Charges;
(YY) Ancillary Service--Outpatient Services Charges;
(ZZ) Ancillary Service--Emergency Service Charges;
(AAA) Ancillary Service—Ambulance Charges;
(BBB) Ancillary Service—Professional Fees Charges;
(CCC) Ancillary Service--Organ Acquisition Charges;
(DDD) Ancillary Service--ESRD Revenue Setting Charges;
(EEE) Ancillary Service--Clinic Visit Charges;
(FFF) Total Charges—Ancillary;

(GGG) Total Non-Covered Ancillary Charges;

(HHH) Total Charges;

(III) Total Non-Covered Charges;

(JJJ) Encounter Identifier - a unique number for each encounter for the quarter;

(KKK) Service Line Revenue Code;

(LLL) Service Line Procedure Code;

(MMM) HCPCS/HIPPS Procedure Code;

(NNN) HCPCS/HIPPS Procedure Modifiers (Up to 4 may be submitted and reported);

(OOO) Service Line Charge Amount;

(PPP) Service Line Unit Code;

(QQQ) Service Line Unit Count;

(RRR) Service Line Non-Covered Charge Amount; and

(SSS) Patient Country (when the address is not in United States of America and confidentiality can be maintained).

(d) Release of public use data files. DSHS shall release in an aggregate form, without uniform patient, physician or other health professional identifiers, public use data relating to facilities described by the Health and Safety Code, §108.0025(1), that are not rural providers because they do not meet the requirements of §108.0025(2).

(e) DSHS will make available a public use data file on electronic, magnetic or optical media for each quarter.

(1) DSHS shall release public use data from facilities that have certified the data as required by §421.66 of this title (relating to Certification of Compiled Event Data). A facility's failure to execute the certification form by the dates specified in §421.66(d) of this title, or election to not certify the discharge encounter data shall not prevent the DSHS from releasing the facility's data if DSHS believes the data submitted is reasonably accurate and complete. DSHS may suppress for any quarter's data one or more data elements if deemed necessary to comply with provisions of the statute.

(2) If additional event claims (not previously submitted as specified in §421.65(b)(4) of this title (Acceptance of Event Files and Correction of Data Content Errors), excluding replacement, adjustments and void/cancel claims become available after the initial release of the public use data file for any quarter, DSHS will add the discharge claims, that are received on or prior to the dates specified in §421.63(a)(1) – (4) of this title (relating to Schedule for Filing Event Files) of the following quarter, to the public use data file and make the additional records available to the public.

(f) Texas state agencies that request outpatient event data shall abide by the data users agreement.

(g) DSHS shall establish procedures for screening all requests to assure that filling the request will not violate the confidentiality provisions of Health and Safety Code, Chapter 108.

(h) The data elements specified for outpatient event reports in this section do not constitute "Provider Quality Data" as discussed in Health and Safety Code, §108.010.

(i) A public use data file which is disseminated to a requestor shall not be considered a report issued by DSHS as referenced in Health and Safety Code, §108.011(f), and requires no additional opportunity for the facility to review or comment on the data.

(j) Requests for outpatient event data files including data on one or more providers are matters of public record and copies of all requests shall be maintained by DSHS in accordance with DSHS records retention schedule.

(k) With any public use data file prepared by the DSHS, DSHS shall attach all comments submitted by providers, which relate to any data included in the file. DSHS shall also make these comments available at DSHS offices and on the DSHS Internet site.

(l) A outpatient event research data file may be released provided the following criteria are met:

(1) the DSHS Outpatient Data Research Data File Request Form is completed and submitted to DSHS;

(2) the requestor has made payment according to DSHS' fee schedule. The DSHS fee includes a non-refundable "Review of Request Fee";

(3) the Institutional Review Board reviews the research request and has determined the proposed research outcome can be achieved with the requested data;

(4) the Institutional Review Board grants authorization to the request or restricts access to specified data elements determined to be inappropriate for the research proposal in accordance with §421.10 of this title (relating to Institutional Review Board);

(5) the requestor agrees to dispose of the research data using authorized methods by the established end date stated on the written data release agreement; and

(6) the requestor has signed a written data release agreement.