



## TEXAS DEPARTMENT OF STATE HEALTH SERVICES

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April 30, 2012

J. Neal Rutledge, MD  
Committee Chair  
Austin Radiological Association  
10900 Stonelake Blvd  
Austin, Texas 78759

RE: The Establishment of a Stroke Registry at DSHS

Dear Dr. Rutledge:

Thank you for your dedicated leadership to reduce the burden and costs of cardiovascular disease and stroke in Texas. Your efforts are helping to create a healthier Texas.

This letter is in response to a request for consideration of the establishment of a stroke registry by the Texas Department of State Health Services (DSHS) or the Texas Council on Cardiovascular Disease and Stroke (Council). As you may be aware, DSHS was asked to consider creating and providing administrative support of a stroke data repository in order to support the Council's assigned function to develop a plan to address the cardiovascular disease and stroke burden in the State of Texas. The DSHS Office of General Counsel conducted extensive research regarding DSHS's authority to establish such a stroke registry.

As a state agency, DSHS is limited by the authority, powers, and rights that it is granted by legislation. Specific statutes authorize the department to collect health information and data in specific cases. In each of those cases, the law authorizing the collection of the data includes specific authority to collect patient information from specified providers, as well as provisions to ensure the confidentiality of data that is in the agency's possession. A specific legal requirement for a provider to release otherwise confidential medical information to a governmental agency is necessary because release of information, in the absence of such authority, may violate state and federal laws regarding the confidentiality of medical information.

Statutes that grant DSHS the authority to create registries provide independent support for the reporting of data or provide sufficient implied authority to create a registry. The legislation related to the stroke system falls short of other enabling statutes regarding the establishment of a registry. The current statute authorizes the Council to collect and analyze information related to cardiovascular disease and stroke through the collection of some data from existing sources, but does not authorize the collection of patient-level data directly from providers. Whereas legislation establishing other registries explicitly references the creation of such registries, the legislation creating the Council does not specifically authorize the creation of a "registry".

Additionally, if the statute creating the Council could be interpreted to require the establishment of a stroke registry, DSHS would not be required to create such a registry without the appropriated funds for this purpose, according to Article IX, Sec. 13.05, which states in part “No state agency or institution of higher education is required to reallocate or redistribute funds appropriated in this Act to provide funding for programs or legislation adopted by the 82nd Legislature for which there is not specific appropriation or contingency provision identified in this Act”. As you are aware, funding that was appropriated to the agency for the purposes of cardiovascular disease and stroke prevention programs was eliminated in the 82nd Session.

Furthermore, we understand that a potential private entity has volunteered to create a stroke registry at the request of a Council member. Unfortunately, even if funding were available and DSHS had the statutory authority to create a registry, DSHS is required to follow state procurement laws and any vendor working on behalf of DSHS would be subject to selection through required procurement laws and processes. Moreover, DSHS would need legislative authority to share patient-level data with this entity, and thus, at this point, would not be able to share patient-level data to populate a stroke registry.

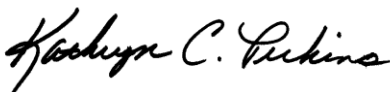
Lastly, even if DSHS were given the required statutory authority during the next Legislative Session, implementing such a program would be dependent on adequate appropriations for the procurement of services, personnel, and operational expenses for implementation of a stroke registry. Given the current cost containment and economic climate in Texas, any legislation with a fiscal note is not likely to pass during the next Legislative Session.

In summary, DSHS currently does not have the required statutory authority to establish a stroke registry, nor does it have the funding to implement a stroke registry. Finally, DSHS would not be able to work with a private entity to create a stroke registry in the absence of following state procurement guidelines and processes.

DSHS sincerely appreciates your persistence and determination to reduce the burden of cardiovascular disease and stroke in Texas. We value your commitment to improving the State of Texas’s stroke systems of care and we share your goals and will continue to work with you to improve the health of Texas.

Please contact Dr. Lauri Kalanges at (512) 776-7234 if you have further questions related to this matter.

Sincerely,



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Assistant Commissioner  
Division for Regulatory Services



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