**Section 1005.30 Departmental Procedures**

a) Where groupings of data are based upon fewer than twelve patient records containing deniable data elements, such groupings will be eliminated or combined with other groupings.

b) The Department shall review all requests for data to determine whether the request is technically feasible in terms of the ability of the Department to produce the required data:

1) from a known data base; and

2) under agreements by which the data came into State hands.

c) All requests for data which are not technically feasible shall be returned within 90 days to the applicant with a statement containing the reason why the request is being returned.

d) All requests for individual data or aggregated data which do not constitute or involve deniable data elements, health facility data or deniable aggregated data and which are technically feasible shall be processed within 120 days.

e) Any data pertaining to deniable data elements or fewer than twelve patients shall be deemed to constitute individual identifiable data. In no instance may this data be disseminated except pursuant to Section 1005.30(h) of this Part.

f) Any data pertaining to deniable data elements and/or fewer than six individual providers at any single identifiable health facility or serving a specified or identifiable geographic area shall be deemed to constitute deniable individual identifiable data. In no instance may this data be disseminated except pursuant to Section 1005.30(h) of this Part.

g) The Department shall review all requests involving deniable individual data, health facility data and deniable aggregated data in order to determine:

1) whether the purpose of the request is consistent with the purposes for which data from the Department may be used and purposes for which the data was collected.

2) the utility of each study for which data is requested.

h) *The department may make no disclosure of any item, collection or grouping of health data which makes the individual supplying or described in such data identifiable unless:*

1) The person requesting the data secures the written consent of the individual described in the data permitting the disclosure;

2) *The individual described in the data has consented* in writing *to the disclosure;* and

3) If *the disclosure is to a governmental entity in this state, in another state or to the federal government, provided that:*

A) *The data will be used for a purpose for which the data was collected by the department; and*

B) the applicant is qualified to undertake the intended study as determined by the Director based upon the advice of the Data Protection Review Board. The Director shall use, but is not limited to, the following criteria to determine if an applicant is qualified;

i) credentials or experience,

ii) complexity of request.

C) *The recipient of the data has entered into a written agreement satisfactory to the department, that it will protect such data in accordance with the requirements of this act and will not permit further disclosure without written authorization from the director.*

4) If *The disclosure is to an individual or organization, for a specified time period as set forth in the written agreement and as determined by the department, solely for bona fide research and statistical purposes, as determined in accordance with guidelines adopted by the department, and the department determines that: (1) the disclosures of the data to the requesting individual or organization is required for the research and statistical purposes proposed; and (2) the requesting individual or organization has entered into a written agreement satisfactory to the department that it will protect such data in accordance with the requirements of this Act and will not permit further disclosure without written authorization from the Director. In no event, however, may the name, address,* social security number, recipient number, *or other unique personal identifier or an individual supplying the data or described in it be disclosed under the subparagraph to the requesting individual or organization.*

5) If *the disclosure is to a governmental entity for the purpose of conducting an audit, evaluation or investigation of the department and such governmental entity agrees not to use such data for making any determination to whom the health data relates.*

i) *Any disclosure provided for in paragraph (h) of this Section shall be made at the discretion of the department except that the disclosure provided for in subparagraph (5) of paragraph (h) of this Section must be made when the requirements of that subparagraph have been met.*

j) *No identifiable health data obtained in the course of activities undertaken or supported under this act shall be subject to subpoena, or similar compulsory process in any civil or criminal, judicial, administrative or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data under the provisions of this Act be compelled to testify with regard to such health data, except that data pertaining to a party litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this Act.*

k) The Department, after completing its review, shall forward all requests for deniable aggregated data, health facility data and deniable data elements and, the results of its review and all supporting data to the Data Protection Review Board for its review. After the review of the Data Protection Review Board and Department, and upon finding that such request of deniable data is not required and is inappropriate, the Department will instruct the person making the request for deniable aggregated data or deniable data elements to modify their request in such a way that it will not, in order to be complied with, result in the dissemination of deniable data, or which would result in the identification of any individual patient or provider.