## Texas

### Cancer Surveillance System

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<tr>
<td>TX</td>
<td>STATUTE: T.S., Title 2, Chapter 82 RULE: T.A.C., Title 25, Part 1, Chapter 91, Subchapter A</td>
<td>Sec. 82.001. SHORT TITLE. This chapter may be cited as the Texas Cancer Incidence Reporting Act. Sec. 82.003. APPLICABILITY OF CHAPTER. This chapter applies to records of cases of cancer, diagnosed on or after January 1, 1979, and to records of all ongoing cancer cases diagnosed before January 1, 1979.</td>
<td>Sec. 82.008. DATA FROM MEDICAL RECORDS. (a) To ensure an accurate and continuing source of data concerning cancer, each health care facility, clinical laboratory, and health care practitioner shall furnish to the board or its representative, on request, data the board considers necessary and appropriate that is derived from each medical record pertaining to a case of cancer that is in the custody or under</td>
<td>Sec. 82.009. CONFIDENTIALITY. (a) Reports, records, and information obtained under this chapter are confidential and are not subject to disclosure under Chapter 552, Government Code, are not subject to subpoena, and may not otherwise be released or made public except as provided by this section or Section 82.008(h). The reports, records, and information obtained under this chapter are for the confidential use of the department and the persons or public or private entities that the department determines are necessary to carry out the intent of this chapter. (b) Medical or epidemiological information may be released: (1) for statistical purposes in a manner that prevents identification of individuals, health care facilities, clinical laboratories, or health care practitioners; (2) with the consent of each person identified in the information; or</td>
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<td>Sec. 82.004. <strong>REGISTRY REQUIRED.</strong> The board shall maintain a cancer registry for the state.</td>
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<td>Sec. 82.005. <strong>CONTENT OF REGISTRY.</strong> (a) The cancer registry must be a central data bank of accurate, precise, and current information that medical authorities agree serves as an invaluable tool in the early recognition, prevention, cure, and control of cancer. (b) The cancer registry must include: (1) a record of the cases of cancer that occur in the state; the control of the health care facility, clinical laboratory, or health care practitioner. The department may not request data that is more than three years old unless the department is investigating a possible cancer cluster. (3) to promote cancer research, including release of information to other cancer registries and appropriate state and federal agencies, under rules adopted by the board to ensure confidentiality as required by state and federal laws. (c) A state employee may not testify in a civil, criminal, special, or other proceeding as to the existence or contents of records, reports, or information concerning an individual whose medical records have been used in submitting data required under this chapter unless the individual consents in advance. (d) Data furnished to a cancer registry or a cancer researcher under Subsection (b) or Section 82.008(h) is for the confidential use of the cancer registry or the cancer researcher, as applicable, and is subject to Subsection (a).</td>
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and (2) information concerning cancer cases as the board considers necessary and appropriate for the recognition, prevention, cure, or control of cancer.

**RULE §91.2 Definitions**
The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

1. **Act**—The Texas Cancer Incidence Reporting Act, Texas Health and Safety Code, Chapter 82.

2. **(b)** A health care facility, clinical laboratory, or health care practitioner shall furnish the data requested under Subsection (a) in a reasonable format prescribed by the department and within six months of the patient's admission, diagnosis, or treatment for cancer unless a different period is prescribed by the United States Department of Health and Human Services.

3. **(c)** The data required to be furnished under this section must include patient identification and diagnosis.

**RULE §91.3 Who Reports, Access to Records**

- **(e)** Health care facilities, clinical laboratories, and health care practitioners are subject to federal law known as the Health Insurance Portability and Accountability Act of 1996 found at Title 42 United States Code §1320d et seq.; the federal privacy rules adopted in Title 45 Code of Federal Regulations (C.F.R.) Parts 160 and 164; and applicable state medical records privacy laws. Because state law requires reporting of cancer data, persons subject to this chapter are permitted to provide the data to the department without patient consent or authorization under 45 C.F.R. §164.512(a) relating to uses and disclosures required by law and §164.512(b)(1) relating to disclosures for public health activities. Both of these exceptions to patient consent or authorization are recognized in the state law.
(9) Personal cancer data--Information that includes items that may identify an individual.

(d) The department may access medical records that would identify cases of cancer, establish characteristics or treatment of cancer, or determine the medical status of any identified patient from the following sources:
   (1) a health care facility or clinical laboratory providing screening, diagnostic, or therapeutic services to a patient with respect to cancer; or
   (2) a health care practitioner diagnosing or providing treatment to a patient with cancer, except as described by Subsection (g)...

**RULE §91.9 Confidentiality and Disclosure.**

…(d) The Texas Cancer Registry is subject to state law that requires compliance with portions of the federal law and regulations cited in §91.3(e) of this title (relating to Who Reports, Access to Records). The department is authorized to use and disclose, for purposes described in the Act, cancer data without patient consent or authorization under 45 C.F.R §164.512(a) relating to uses and disclosures required by law, §164.512(b)(1) and (2) relating to uses and disclosures for public health activities, and §164.512(i) relating to uses and disclosures for research purposes.
(f) A health care facility, clinical laboratory, or health care practitioner that knowingly or in bad faith fails to furnish data as required by this chapter shall reimburse the department or its authorized representative for the costs of accessing and reporting the data.…

RULE §91.12 Requests and Release of Personal Cancer Data.

(a) Data requests for research.
   (1) Requests for personal cancer data shall be in writing and directed to: Department of State Health Services, Institutional Review Board (IRB), P.O. Box 149347, Austin, Texas 78714-9347.
   (2) Written requests for personal data shall meet the submission requirements of the department's IRB before release.
   (3) The branch may release personal cancer data to state, federal, local, and other public agencies and organizations if approved by the IRB.
   (4) The branch may release personal cancer data to private agencies, organizations, and associations if approved by the IRB.
   (5) The branch may release personal cancer data to any other individual or entities for reasons deemed necessary by the department to carry out the intent of the Act if approved by the IRB.

(b) Data requests for non-research purposes.
   (1) The branch may provide reports containing personal data back to the respective reporting entity from records previously submitted to the branch from each respective reporting entity for the purposes of case management and administrative studies. These reports will not be released to any other entity.
Sec. 82.010. IMMUNITY FROM LIABILITY. The following persons subject to this chapter that act in compliance with this chapter are not civilly or criminally liable for furnishing the information required under this chapter:

1. a health care facility or clinical laboratory;
2. an administrator, officer, or employee of a health care facility or clinical laboratory;
3. a health care practitioner or employee of a health care practitioner; and
4. an employee of the department.

2. The branch may release personal data to other areas of the department, provided that the disclosure is required or authorized by law. All communications of this nature shall be clearly labeled "Confidential" and will follow established departmental internal protocols and procedures.

3. The branch may release personal cancer data to state, federal, local, and other public agencies and organizations in accordance with subsection (a) of this section.

4. The branch may release personal cancer data to any other individual or entities for reasons deemed necessary to carry out the intent of the Act and in accordance with subsection (a) of this section.

5. An individual who submits a valid authorization for release of an individual cancer record shall have access to review or obtain copies of the information described in the authorization for release.