NIGB

Ethics and Confidentiality Committee

National Information Governance Board
Ethics and Confidentiality Committee
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Care Quality Commission
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19 September 2011

Dear Mr Seccombe

ECC 8-02 (FT1)/ 2011 Acute Inpatient Survey

Thank you for your application made under section 251 of the NHS Act 2006 and the Health Service (Control of Patient Information) Regulations 2002 ('section 251 support') to process patient identifiable information without consent. This was received on 07 September 2011.

Context

This application set out details of the transfer of patient identifiable data from acute and specialist trusts to defined survey contractors for the purpose of mailing out questionnaires for the 2011 acute inpatient survey. These survey contractors would be one of the following: Picker, Quality Health, Patient Perspective, or Capita. (Subsequent correspondence via the DH security review team has confirmed that TNS-BMRB is no longer to be used for the purposes of this activity). It was also noted that the Care Quality Commission (CQC) had commissioned Picker Institute Europe to manage and co-ordinate the survey programme under the title of the acute survey co-ordination centre.

The cohort would relate to inpatients aged 16 years or over who were discharged from acute and specialist NHS hospitals in June, July or August 2011 (earlier for smaller trusts), who had had one overnight stay in hospital. Inpatients treated for obstetrics/maternity or psychiatric reasons, private patients, current inpatients, those without a full UK postal address, and those who are found to be deceased prior to the start of the mailings would not be included in the cohort. Such checks would be carried out locally by the Trusts.

A recommendation of support was requested to cover the transfer of patient identifiable information (as listed within the application) from trusts and the subsequent processing of this information by specified contractors. It was indicated that that NHS trusts would be advised to employ the service of one of these 'approved contractors' to reduce the cost, burden and risk in the provision of survey data.

Outcome

It was agreed that this survey was important in terms of monitoring quality of care and therefore there was a high public interest in this activity taking place. It also appeared that the Care Quality

Commission had undertaken considerable improvements to the information governance arrangements and this was welcomed.

In particular, it was noted that the CQC would explore the feasibility for trusts to seek consent from patients for future surveys, for example by including obtaining and recording of consent as part of the admissions process. This was strongly welcomed and the expectation was that significant steps would be taken to progress this in future. Taking this commitment into account, it was agreed that due to the retrospective nature and the large numbers involved, the seeking of consent would not be practicable.

Members raised several queries, which subsequent correspondence clarified. In particular, correspondence focused on stop noted patients i.e. those patients listed through the PDS service as having an S flag which restricts the patient's location details from being shown in PAS. The applicant indicated that the reason for this is that some records are S-flagged for data quality reasons and some because of concerns about their contact details being available on a national system. It was stated that as the first of these is not a reason for these to be excluded from the sample, and the latter should be recorded locally in some way, a blanket removal of all S-flagged patients would be inappropriate. While understanding this was in the context of guidance being sent to Trusts, the Committee noted this point, and highlighted that recommendations of support could not be used to override dissent, and this would be for the applicant to manage appropriately with those locally submitting data to the contractors.

It is understood that the applicant has been liaising directly with the Department of Health in relation to review of security arrangements. Confirmation has been received by the NIGB on 19 September 2011 from the Department of Health security review team that they are prepared to make a conditional recommendation of satisfactory security arrangements.

Based upon the details above and in line with the responses to clarifications, it has been agreed that the minimum threshold for application of the Regulations has been achieved, and a recommendation of support has been provided to the details of this application. This is subject to the following specific and standard conditions of support.

Specific conditions of support

1. A commitment from the Care Quality Commission that it will submit relevant applications in good time and in line with published submission deadlines.

2. This recommendation of support does not cover the transfer of patient identifiable information where a patient has indicated dissent.

Please do not hesitate to contact me if you have any queries following this letter, I would be grateful if you could quote the above reference number in all future correspondence.

Yours sincerely

Natasha Dunkley
NIGB Approvals Manager

Ethics and Confidentiality Committee

Standard conditions of approval

This recommendation of support provided under section 251 of the NHS Act 2006 and the Health Service (Control of Patient Information) Regulations 2002 is subject to the following standard conditions:

The applicant will ensure that:

1. The specified patient identifiable information is only used for the purpose(s) set out in the application.

2. Confidentiality is preserved and that there is no disclosure of information in aggregate or patient level form that may inferentially identify a person, nor will any attempt be made to identify individuals, households or organisations in the data.

3. Requirements of the Statistics and Registration Services Act 2007 are adhered to regarding publication when relevant.

4. All staff with access to patient identifiable information have contractual obligations of confidentiality, enforceable through disciplinary procedures.

5. All staff with access to patient identifiable information have received appropriate ongoing training to ensure they are aware of their responsibilities.

6. Activities must be consistent with the terms and principles of the Data Protection Act 1998.

7. Audit of data processing by a designated agent is facilitated and supported.

8. The wishes of people who have withheld or withdrawn their consent are respected.

9. The NIGB Office is notified of any significant changes which impact on the terms of this recommendation of support

10. An annual review is provided no later than 12 months from the date of the final recommendation of support letter