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Joseph Shumlansky, Acting Chief, NEISS Branch

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Liability of NEISS Hospitals for allowing Federal employees to review hospital medical records

In your memorandum dated June 25, 1973, you asked "what federal authority can be cited which protects the hospital from civil liability in allowing federal NEISS resident coordinators access to medical (i.e., emergency, outpatient) records?"

Section 27(d) of the CPSA states:

> "No person shall be subject to civil liability to any person (other than the Commission or the United States for disclosing information at the request of the Commission."

It is our view that NEISS hospitals fall within the meaning of "person" as used in sec. 27 of the Act, above.

Section 1 of title 1 of the United States Code states in relevant part:

> "In determining the meaning of any Act or resolution of Congress, ... the word person may extend and be applied to partnerships and corporations, ... unless the context shows that such words were intended to be used in a more limited sense...."

Since most, if not all, NEISS hospitals are incorporated, they would fall within the provision cited above unless the context of sec. 27(d) of the Act, supra. shows that the word "person" was intended to be used in a more limited sense. Furthermore, it is our view that even if a NEISS hospital was not a partnership or a corporation it would still be included in the meaning of the word person as used in sec. 27.

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We believe that Congress did not intend to use "person" in a narrow sense but rather, meant for it to be given a broad construction. We base this belief on the fact that the word "person" as used in sec. 27 includes both the Commission and the United States in its meaning.— "No person shall be subject to civil liability to any person (other than the Commission or the United States)...." (Emphasis added.) Both the Commission and the United States are referred to as "any person". It is thus clear that Congress did not intend to use the word "person" in a narrow sense.

We therefore conclude that NEISS hospitals fall within the meaning of the word "person" as used in sec. 27(d) of the CPSA. Hospitals would thus not be subject to civil liability to any person, other than the Commission or the United States, for disclosing information at the request of the Commission.

MABrown:mli:7/9/73

cc: GC Chron
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