

Consumers Union

1300 Guadalupe, Suite 100, Austin, Texas 78701

Lisa McGiffert 477-4431 x115
mcgili@consumer.org

When Consumers Union asked the Texas Department of Health (TDH) for information about hospital complaints, we found that TDH receives on average 35 complaints against hospitals per day from across the state. Only 45 to 60 percent of the complaints logged against individual hospitals are investigated by TDH.

We asked for the complaint records on seven large hospitals in different areas of the state and found that the annual number of complaints against these hospitals ranged from 11 to 85. The nature of each complaint was explained using general categories.

But when we later asked to look at more detailed information about the complaints, TDH told us that a new law, which went into effect after our initial request, barred the release of any information other than aggregate statewide statistics. We were stunned to find that the number of complaints by hospital name were now considered confidential. According to TDH, even the person who makes the complaint cannot get information about the department's investigation of it.

In 1998, the Sunset Advisory Commission reviewed TDH. The Commission's staff report of findings and recommendations included a subsection on 'Public Access and Oversight' which identified the following issue: "Consumer access to regulatory information allows the public to make informed decisions. In the area of health, access to complaint and enforcement information on professionals and facilities is critical for people to obtain quality health services."

The report further emphasized this point: "Making such information available to the public is an important part of the disciplinary process



Access to Complaint Information On Hospitals

The Texas Department of Health receives an average of 35 complaints against hospitals every day, yet information about the type of problems people report with respect to any one hospital is completely confidential under a law passed last session.

so that the public, and those subject to regulation, can stay informed of potential hazards within a profession or facility, as well as the performance of individual professionals and facilities."

In 1999, Representative Patricia Gray passed HB 2824, basically an omnibus bill on the confidentiality of certain records and the subpoena power of agencies that license health and mental health professionals. The House committee added a section relating to hospital complaints and a House floor amendment changed that section to further restrict the public's access to hospital complaint information.

The new law makes confidential "[a]ll information and materials obtained or compiled by the department [of health] in connection with a complaint and investigation concerning a hospital." Hospital complaint information (with patient identities redacted) are no longer subject to the Texas Public Information Act.

The legislation represented an about-face from Sunset Commission

recommendations concerning public access to complaints. While Sunset lauded the value of public oversight, the legislation absolutely prohibited TDH from even admitting that a complaint exists. Only one person signed up in favor of HB 2824: a representative of the Texas Hospital Association. Representative Gray said she never intended to close hospital complaint information from public view.

Recommendation

Amend Section 241.051(d) of the Health and Safety Code to allow for public access to hospital complaint information in accordance with the Texas Public Information Act.

In Short

Under current law, "all information and materials obtained or compiled by the department [of health] in connection with a complaint and investigation concerning a hospital" is confidential. Even the person who filed a complaint can get no information about the complaint and no statistics by hospital are released.