

Meeting Minutes
August 19, 2021
South Carolina Data Oversight Council Meeting

DOC Members Present

Mr. Brandt Smith, SCMA (*phone*)
Dr. Aunyika Moonan, SCHA (*phone*)
Mr. Samuel Fields, SC DHHS (*phone*)
Dr. Harley Davis, DHEC (*phone*)

RFA Staff Present

Mr. Chris Finney (*phone*)
Ms. Sarah Crawford (*phone*)

Guests Present

Mr. Chris Jones (*phone*)
Mr. Joseph Shenkar (*phone*)
Ms. Marghretta Shisko (*phone*)
Dr. Zirui Song (*phone*)

The August 19, 2021 Data Oversight Council (DOC) meeting was called to order by Ms. Crawford at 3:04 pm. Dr. Harley Davis was introduced as the new representative from SC Department of Health and Environmental Control. The minutes from the February 18th, 2020 regular DOC meeting and April 2021 Special DOC Meeting were presented. Dr. Moonan motioned for approval of the meeting minutes and Ms. Hall seconded the motion and the minutes were approved unanimously.

The first application for the release of restricted data was from John B. White with Harrison Whit titled, “Expert Reports for In Re: South Carolina Opioid Litigation”. The request for all payer hospital data was for a study that will examine the impact of prescriber detailing by opioid manufacturers and the impact of the supply of opioids in South Carolina on physician prescribing, health care utilization, and health and economic outcomes for people living in South Carolina. The study will be included in an expert report in opioid litigation in SC. The DOC members expressed several concerns with this data request. There were questions regarding why the principle investigator for the request was the attorney Mr. John White and not the researchers that will be analyzing the data. Dr. Song commented that they were serving as experts for the case and other researchers may be used as experts as well, so the attorneys requested the data on behalf of their experts. There were also questions around the security of the data and who will have access. The data will reside at Greylock McKinnon Associates under the supervision of Dr. Michael Barnett and Dr. Zirui Song of Harvard School of Public Health and Harvard Medical School respectively. These data may also be accessed by Dr. Samuel Cooper with USC Upstate. All individuals with access to these data are listed on the

confidentiality agreement portion of the application and will be required to review, sign and abide by this contract. With these data being used for litigation, they will be subject to subpoena. Since most data requests for all payer hospital data are for research purposes, the DOC requested to table this request to allow them to consult with their internal counsel. The DOC will readjourn in two weeks to discuss their decision.

The second application for the release of restricted data was a request by James Krause, PhD with the Medical University of South Carolina titled “Number, Primary and Secondary Diagnoses, and Costs of Emergency Department Visits in a Population-based Cohort of People with Spinal Cord Injury”. The researcher will link Spinal Cord Injury registry data to inpatient and emergency department hospital data to predict subsequent ED related hospitalization utilization and the primary reasons (diagnoses) for those ED visits and hospitalizations. Mr. Smith motioned to approve the request with no modifications and Dr. Davis seconded the motion. The motion to approve the request with no modifications passed unanimously.

The third application for the release of restricted data was from Jihong Liu, PhD with the University of South Carolina titled “Multilevel Determinants of Racial/Ethnic Disparities in Maternal Morbidity and Mortality in the Context of the COVID-19 Pandemic”. The researcher is requesting all payer hospital data to investigate racial/ethnic disparities in maternal morbidity and mortality (MMM) and the contributing roles of social contexts (e.g., structural racism, racial discrimination) and telehealth access/uptake in the context of the COVID-19 pandemic by studying the distributions of COVID-19 cases and multilevel determinants of maternal health in SC. Dr. Moonan recommended that all requested dates be scrambled and Zip code and hospital ID be encrypted. Dr. Moonan motioned to approve the request with the specified modifications and Mr. Smith seconded this motion. The motion to approve the request with the specified modifications passed unanimously.

The fourth application for the release of restricted data was an amendment from Margaret McConnell with the Harvard T.H. Chan School of Public Health titled

“Randomized Evaluation of Nurse Family Partnership in South Carolina.” This is an amendment to the application that was originally approved at the March 8, 2016 DOC meeting. The amendment was for receiving Health Care Professional NPI number and hospital zip code to assess qualification of experience of the provider and the distance traveled to receive maternity, delivery and newborn care respectively. The DOC members wanted to be assured that the researchers would not be providing reports identifying individual providers or hospitals. The researcher has signed the confidentiality agreement that will not permit them to identify either without coming back to the DOC for approval. With that clarification, Dr. Davis motioned to approve the amended request and Mr. Smith seconded the motion. The motion to approve the request with no modifications passed unanimously.

The fifth application for the release of restricted data was from Dr. Alexander Pogrebniak, MD with the University of South Carolina School of Medicine titled “Analysis of Reoperation Rates in Strabismus Surgery from Health Databases.” This request is for all payer inpatient hospital and outpatient surgery discharge data to examine reoperation rates compared to type of strabismus, age at first surgery and de-identified geographic location. The researcher is requesting an interval between surgeries variable rounded to the 1/10th of a year. Dr. Moonan motioned to approve the request and Dr. Davis seconded this motion. The motion to approve the request with no modifications passed unanimously.

The sixth application for the release of restricted data was from David Slusky with the University of Kansas titled “Accessing the Safety Net: How Medicaid Affects Health, Employment, and Recidivism.” This request is for all payer inpatient hospital and emergency department data to study the causal impact of access to means-tested public health insurance coverage (Medicaid) on health outcomes for those recently released from incarceration. The researcher has requested the hospital records for all adults 18 to 65. The DOC members have concern regarding the size of the cohort and would like the researcher to refine the cohort more. Dr. Moonan motioned to table this request and Mr.

Fields seconded the motion. The motion to table the request and provide feedback to the researcher in regard to refining his cohort passed unanimously.

The seventh application for the release of restricted data was from Dr. Kathleen Brady, MD with the Medical University of South Carolina titled “Emergency Department Initiated Buprenorphine Utilization and Cost Analysis.” This request is for all payer inpatient hospital, outpatient surgery and emergency department discharge data to examine differences in health outcomes, healthcare utilization and charges comparing patients with Opioid Use Disorder (OUD) who received Emergency Department (ED)-initiated buprenorphine and those who did not using a propensity matched comparison group. The DOC found no issues with this request but did specify that RFA provide the month and year of admission and a timing variable in place of actual dates. Dr. Moonan motioned to approve with the specified modification and Mr. Smith seconded the motion. The motion to approve the request with the specified modifications passed unanimously.

The eighth application for the release of restricted data was from Kit Simpson with the Medical University of South Carolina titled, “Effects of telehealth on access to care and outcomes for SC patients.” This request is for all payer inpatient hospital, outpatient surgery and emergency discharge data for all patients over four years to examine the effect of telehealth care on access and outcomes for SC patients. The researcher has requested all records to be able to review the overall impact of telehealth. RFA will provide month and year of admission and a timing variable in place of actual dates. The DOC also requested to receive a copy of the publication and report once it is completed. Dr. Davis motioned to approve with the specified modification and Mr. Fields seconded the motion. The motion to approve the request with the specified modifications passed unanimously.

The ninth application for the release of restricted data was from Dr. Lauren Rayl, MD with PRISMA Health titled “The Correlation of Apparent Temperature on Emergency Department Psychiatric Services Utilization in Three Regions of South Carolina, USA.” This request is for all payer inpatient hospital and emergency

department discharge data to determine correlation between extreme temperature highs and lows and utilization for psychiatric concerns. The researcher will need actual dates and patient zip code to match with the environmental data and county of the health care facility to divide into regions of interest. There is a precedent for releasing actual dates and zip codes for environmental studies and Dr. Moonan was fine with the release of the facility county and not the actual facility ID. With these specifications Dr. Moonan motioned to approve this request and Mr. Fields seconded the motion. The motion to approve the request with no modifications passed unanimously.

The tenth application for the release of restricted data was from Hector Rodriguez, PhD, MPH with The University of California, Berkeley School of Public Health titled "Identifying associations between hospital and emergency department organizational characteristics and utilization." This request is for emergency department discharge data to link to get the health care facility ID to allow linkage of data from the American Hospital Association and the National Survey of Healthcare Organization and Systems to HCUP data to understand organizational characteristics associated with ED use. Mr. Smith motioned to approve this request with no modification and Dr. Davis seconded the motion. The motion to approve the request with no modifications passed unanimously.

The final application for the release of restricted data was from Vinita Leedom with the SC Department of Health and Environmental Control, titled "Surveillance of Congenital Heart Defects Among Children, Adolescents, and Adults." This request is for all payor hospital data for individuals with a congenital heard defect diagnosis during the calendar years 2010-2020. The request for this data is legislatively mandated in accordance with § 44-44-80. This legislation allows DHEC to access health and medical records for the purpose of surveillance and identification of birth defects in accordance with procedures promulgated by the department in regulation. With this information, Mr. Smith motioned to approve the request and Dr. Moonan seconded the motion. The motion to approve the request with no modifications passed unanimously.

The first topic for general discussion was subpoenas that had been sent to RFA for Opioid data. Along with the discussion of the John White request at the beginning of the meeting, the DOC members wanted to discuss with internal counsel before making any decisions.

The final topic for general discussion was around the release of HCUP data among for-profit entities. Millman, Inc. is asking to use the HCUP data in an application where their clients will be charged to use the data. The question posed to the DOC is whether there should be any restrictions imposed on the use of HCUP data. Mr. Smith and Dr. Moonan both expressed concerns of the use of these data for financial/commercial purposes. The consensus of the DOC was that HCUP should not release the SC data for commercial purposes.

This concluded the August 19, 2021 DOC call and the meeting was adjourned at 5:04 pm. The next scheduled DOC meeting is November 18, 2021 at 3:00 pm.

September 7, 2021
South Carolina Data Oversight Council Meeting

DOC Members Present

Ms. Katie Titus, SC Chamber of Commerce (*phone*)
Dr. Aunyika Moonan, SCHA (*phone*)
Mr. Samuel Fields, SC DHHS (*phone*)
Dr. Harley Davis, DHEC (*phone*)

RFA Staff Present

Mr. Chris Finney (*phone*)
Ms. Sarah Crawford (*phone*)

The September 7, 2021 Special Data Oversight Council (DOC) meeting was scheduled to review the data request from John B. White request titled, “Expert Reports for In Re: South Carolina Opioid Litigation”, which was tabled in the regularly scheduled meeting on August 19, 2021. This was the first meeting for Ms. Katie Titus with the Chamber of Commerce and she introduced herself to the group. The request for all payer hospital data was for a study that will examine the impact of prescriber detailing by opioid manufacturers and the impact of the supply of opioids in South Carolina on physician prescribing, health care utilization, and health and economic outcomes for people living in South Carolina. The study will be included in an expert report in opioid litigation in SC. The DOC members expressed several concerns with this data request. The DOC members talked with their individual organization’s counsel. Dr. Harley Davis discussed with the internal counsel at DHEC and they preferred that the actual researcher doing the analysis be listed as the PI or at a minimum the co-PI. There was a question on whether the DOC only reviewed / fulfilled “Research” requests. Ms. Crawford indicated that there was no stipulation in the legislation that the only data requests were “Research” request. Dr. Aunyika Moonan discussed with SCHA internal counsel and their decision was to deny the request and require the attorney’s go the subpoena route. There is concern about potential future litigation and the public perception of SCHA voting to approve this request and the focus in the future is on hospitals and / or physicians. Mr. Samuel Fields discussed with DHHS internal counsel and their primary focus is on protecting the privacy of the individual, particularly Medicaid beneficiaries. With that in mind, there were no significant concerns of the form and function of the request itself. It appears to still protect the confidentiality of the individuals and feel the request should move forward. Dr. Moonan had a question about the process for the subpoena. Dr. David Patterson discussed the previous subpoenas we have had from the Federal Government. The position of RFA is to not resist the will of the court but the subpoenas have always been submitted to the DOC for final review and approval. Mr. Chris Finney provided some background on the previous subpoenas which were submitted to the DOC for review and subsequently approved; RFA complied with the subpoena.

Mr. Brandt Smith with SCMA was unable to attend and Ms. Katie Titus wanted the opportunity to discuss with counsel at the Governor's Office. The DOC felt more feedback from members would be beneficial and it was decided to reconvene in two weeks to have the additional information.

September 22, 2021
South Carolina Data Oversight Council Meeting

DOC Members Present

Dr. Aunyika Moonan, SCHA
Mr. Samuel Fields, DHHS
Mr. Brandt Smith, SCMA
Ms. Madison Hall, Governor's Office
Ms. Katie Titus, SC Chamber of
Commerce

DOC Members Present cont.

Mrs. Elizabeth Blalock Fletcher, SRHS
Dr. William "Tripp" Jennings, Jr., SC
BCBS
Mr. Brandon Hulko, Molina Healthcare
Mr. Kevin Lee Tinch, Internetwork
Engineering

RFA Staff Present

Mr. Chris Finney
Ms. Sarah Crawford
Dr. W. David Patterson

The September 22, 2021 Special Data Oversight Council (DOC) meeting was scheduled to review the data request from John B. White request titled, "Expert Reports for In Re: South Carolina Opioid Litigation", which was tabled in the regularly scheduled meeting on August 19, 2021. This was the first meeting for Mrs. Elizabeth Blalock Fletcher, Senior Vice President, System Strategy & Community Health with Spartanburg Regional Healthcare System, Dr. William "Tripp" Jennings, Jr., Innovation Officer, VP at BlueCross BlueShield of South Carolina, Mr. Brandon Hulko, Director Government Contracts at Molina Healthcare, and Mr. Kevin Lee Tinch, Business Development Management with Internetwork Engineering. Introductions by all members and RFA staff were made. A brief synopsis of this request and previous discussions about this request was made for the benefit of new members and those unable to attend previous meetings.

The meeting was a continued discussion of the request for all payer hospital data from the Harrison White Law Firm. The data is for a study that will examine the impact of prescriber detailing by opioid manufacturers and the impact of the supply of opioids in South Carolina on physician prescribing, health care utilization, and health and economic outcomes for people living in South Carolina. The study will be included in an expert report in opioid litigation in SC. The DOC members have expressed several concerns with this data request. After reviewing the request and notes from previous meetings each member of the DOC provided their vote for this request. Dr. Harley Davis was unable to attend but provided an email outlining the decision from DHEC. DHEC will approve the request on the condition the PI be changed to the researcher spearheading the analysis. Mr. Samuel Fields voted to approve the request but was concerned about the overall scope of the project but felt the privacy of their beneficiaries was sufficient. On behalf of SCHA, Dr. Aunyika Moonan voted to deny the request and require the attorneys to go the litigation route for obtaining the data. The concern about potential future litigation and the public perception of SCHA voting to approve this request and the focus in the future is on hospitals and / or physicians. On behalf of SCMA, Mr. Brandt Smith voted to deny this request due to the concern of setting a precedent for a request that is based on litigation and not research. Ms. Katie Titus with the Chamber of Commerce voted to deny. Ms.

Madison Hall with the Governor's Office voted to deny. Ms. Elizabeth Fletcher opted to vote and voted to deny. Mr. Brandon Hulko voted to deny and require them to go through the legal process to obtain the data. Dr. Tripp Jennings voted to deny based on the breadth of the scope leans toward the possibility of this not being truly de-identified data. Mr. Kevin Tinch opted to abstain due to their newness of his position to the Council. With the votes of the members recorded and tallied the majority vote was to deny this request. The meeting was adjourned at 11:30am.

October 26, 2021
South Carolina Data Oversight Council Meeting

DOC Members Present

Dr. Aunyika Moonan, SCHA
Mr. Samuel Fields, DHHS
Mr. Brandt Smith, SCMA
Ms. Heather Kirby, DHHS
Dr. Harley Davis, DHEC

DOC Members Present cont.

Mr. Brandon Hulko,
Molina Healthcare
Mr. Kevin Lee Tinch,
Internetwork Engineering
Dr. William "Tripp" Jennings, Jr.,
SC BCBS

RFA Staff Present

Ms. Sarah Crawford
Dr. W. David Patterson

The October 26, 2021 Special Data Oversight Council (DOC) meeting was scheduled to review a subpoena sent to the RFA from Harrison White law firm. This subpoena came about due to the DOC's rejection of the data request from John B. White titled, "Expert Reports for In Re: South Carolina Opioid Litigation". The subpoena included all of the information that was requested in the original request that was denied.

The subpoena was sent to all of the members prior to the meeting to allow them the opportunity to review and get input from their internal counsel. The meeting began at 3:02 pm. Dr. Moonan started off the discussion, providing the opinion from SCHA Counsel. The opinion of SCHA Counsel is that there are grounds for objection to the subpoena due to the privileged and confidential nature of the data listed. Dr. Moonan did ask what the opinion of the counsel to RFA, Dr. Patterson stated that for RFA to comply with the subpoena it would involve additional work because these requested files do not exist. With that being said, RFA should be entitled to reasonable compensation for anything created. Since, the DOC has statutory authority over these data, the DOC's decision will be imperative for deciding whether to comply with the subpoena.

Dr. Jennings posed a question about the precedent for complying with subpoenas. Dr. Patterson provided details on subpoenas that RFA has received in the past primarily from the Federal Government and the DOC has made the decision to comply. The subpoena for a civil litigation is unprecedented and is new territory for both the RFA and the DOC.

Mr. Hulko, also had concern on behalf of the hospitals and objected to the subpoena. Mr. Smith with SCMA, also objected to the use of these data for litigation purposes and setting that precedent. Dr. Davis with DHEC had not had a chance to talk with DHEC counsel and was not prepared to provide a final decision. However, they would have approved the original request if it came from the researchers and not from the law firm. Mr. Fields with DHHS, needed additional time wanting RFA counsel to contact DHHS counsel to discuss the details of the subpoena. Mr. Kevin

Tinch, also voted to not comply with the subpoena. Overall, the DOC members had concern of the amount of data, inpatient, emergency department, outpatient surgery and imaging data for all individuals 18 and older for 23 years (1998-2020) and the potential threat to confidentiality of physicians, hospitals and patients.

With following "Robert's Rules of Order" for a majority vote, there were 5 of 7 votes to object and not to comply with the subpoena and 2 to abstain. The final decision of the DOC was to not comply with the subpoena. The RFA will get back with internal counsel and convey the DOC's wishes and draft a response to the subpoena. The meeting was adjourned at 3:25pm.