

**From:** [Herrmann, Alicia](#)  
**To:** [Middleton, Stacy \(OIC\)](#)  
**Subject:** IRO Online Database – Group Health Comments  
**Date:** Monday, October 05, 2015 4:49:17 PM

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Stacy,

Thank you again for your work on the IRO online database, and we appreciate the opportunity for stakeholders to provide input into this process. Accordingly, Group Health would like to share the following brief comments.

First, we are appreciative of the OIC's efforts to protect enrollee privacy and confidentiality of information with the new online IRO database. We continue, however, to have concerns in the circumstance of rare conditions, where the identity of an individual may become apparent through the use of the CPT code and/or diagnosis, particularly when the CPT code, diagnosis, or diagnosis subcategory is viewed in combination with other data elements such as insurer name and LEP status. In particular, we have some concerns that the data elements taken together in the aggregate may enable re-identification. For example, the inclusion of the gender categories (male, female, and transgender) may have the potential for re-identification when considered in conjunction with the other data elements.

In addition, as you are likely aware, while most ages are not considered an identifier under the HIPAA Privacy Rule, data containing specific ages over 89 does not meet HIPAA de-identification standards, unless those ages are aggregated into a single category of 90 or older.

See 45 CFR 164.514(b)(2). Therefore, Group Health has concerns with the requirement that carriers report the specific age of enrollees over 89 to the OIC without safeguards in place to preserve the security of that information, and for Public Records Act (RCW 42.56) requests.

Finally, California (approx. 38 million people) has a much larger population than Washington (approx. 7 million people). This difference in population may mean that Washington cannot adopt the California model and guarantee the same level of privacy. An individual with a rare disease in California may be more protected from identification by the greater population, whereas that same individual in Washington may be identifiable.

As a possible solution, we recommend the use of the HIPAA Privacy Rule's alternate path to confirm that data has been "de-identified". In accordance with 45 CFR 164.514(b)(1), a statistician with knowledge and expertise in rendering information not individually identifiable, may determine that the risk is so small that the information could be used alone, or in combination with other reasonable available information, to identify an individual who is a subject of the information. This additional precaution may be utilized, in combination with the OIC's efforts to limit the required data elements, to ensure the privacy protections of the IRO online database.

Thank you again for consideration of our comments. Please contact me with any questions regarding this information.

Sincerely,  
Alicia

**Alicia B. Herrmann** | SENIOR REGULATORY AFFAIRS CONSULTANT

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