

Data Use Agreement
Between
[Kentucky Department for Public Health]
And
Centers for Disease Control and Prevention (“CDC”), National Healthcare Safety Network (“NHSN”)

The [Kentucky Department for Public Health] and CDC/NHSN enter into this Data Use Agreement (the “Agreement”) effective 12/01/2017 (“Effective Date”). CDC/NHSN and the [Kentucky Department for Public Health] shall be referred to individually as a “Party,” or collectively as the “Parties.”

This Agreement establishes a formal data access and data use relationship between CDC/NHSN and the [Kentucky Department for Public Health]. This Agreement covers individual- and institution-identifiable data, received by the CDC/NHSN subject to the Federal Privacy Act, 5 USC §§552 and 552a, from the NHSN Patient Safety Component, Healthcare Personnel Safety Component, and Dialysis Component as listed in the attached document that have been voluntarily submitted to NHSN by healthcare institutions in [Kentucky and for which there is **no** State or applicable local mandate for reporting of such individual- or institution-identifiable data (“COVERED DATA”). However, COVERED DATA shall NOT include data pertaining to federal or tribal healthcare institutions.

The Parties shall abide by all applicable Federal and State laws, rules, and regulations including, without limitation, all patient confidentiality and medical record requirements and any applicable Institutional Review Board (“IRB”) requirements.

STATE’S OR MUNICIPALITY’S USES OF COVERED DATA

[Kentucky Department for Public Health] agrees to use the COVERED DATA for surveillance and/or prevention purposes only (e.g., evaluating the impact of a targeted program to reduce central line-associated bloodstream infections). [Kentucky Department for Public Health] specifically agrees not to use the COVERED DATA obtained under this data use agreement for purpose of public reporting of institution-specific data or any regulatory or punitive actions against healthcare institutions, such as a fine or licensure action. The Parties acknowledge that COVERED DATA is limited to those data specified in the attached document, which identifies the complete set of data items, e.g., facility survey data, central line associated bloodstream infection numerator data, that [Kentucky Department for Public Health] will have access to as a result of this Agreement.

[Kentucky Department for Public Health] agrees to designate an NHSN Group Administrator and CDC/NHSN agrees to grant the State’s designated NHSN Group Administrator access to the State’s COVERED DATA. In the event that the NHSN Group Administrator leaves that role prior to assigning a replacement via the NHSN application, CDC/NHSN requires notification in writing on official letterhead from the signatory or the signatory’s successor to assure continuity.

- The designated NHSN Group Administrator for [Kentucky Department for Public Health] is [Andrea Flinchum, HAI Prevention Program Coordinator, Frankfort, Kentucky andrea.flinchum@ky.gov].

[Kentucky Department for Public Health] agrees that access to individual- and institution-identifiable data provided under the terms of the Agreement will be limited solely to department staff or contractors who are explicitly authorized to use those data for surveillance and/or prevention purposes only.

DATA PROTECTIONS

CDC's legal authorities to obtain COVERED DATA from healthcare institutions are 42 U.S.C. section 241(a) (Public Health Service Act section 301(a)), pertaining to CDC's broad public health authority to conduct research and investigations, and 42 U.S.C. section 242k (Public Health Service Act section 306), pertaining to the collection of statistical data. CDC's authority to keep the COVERED DATA confidential (i.e., protected from an unauthorized release) is 42 U.S.C. section 242m (Public Health Service Act section 308(d)) and the Federal Privacy Act, 5 USC §§552 and 552a.

[Kentucky Department for Public Health] acknowledges that Federal statutes, including 18 U.S.C. section 1001 (providing penalties for making false statements to the Government of the United States), may be implicated if the State does not protect the COVERED DATA from release pursuant to this Agreement.

[Kentucky Department for Public Health] acknowledges that it will be the custodian of COVERED DATA stored in its data files and, as such, will be responsible for establishing and maintaining appropriate administrative, technical, and physical safeguards to prevent unauthorized access to or use of these files, for example, security awareness training and signed rules of behavior for all persons who have access to COVERED DATA, strong passwords and auditing for all access to COVERED DATA, approved encryption of COVERED DATA stored digitally.

The State or municipality will use the following safeguards to protect COVERED DATA stored in its data files:

[All Cabinet for Health and Family Services (CHFS) data and the CHFS computing environment is protected by multiple layers of information security defenses. CHFS is part of the Kentucky Information Highway, which is managed by the Commonwealth Office of Technology (COT). COT protects state information assets through multiple layers of firewalls, intrusion detection and prevention systems and regular monitoring of state traffic through various listening devices. Additionally, all CHFS production data resides in the COT data center. The COT data center provides multiple layers of secure physical access. Entry to the state data center is managed by Kentucky State Policy Facilities Security and staffed 24 hours per day.

CHFS controls all users to Cabinet resources through policy and procedure. Users requesting an account to the network must follow Cabinet policy and procedure to be granted an account. Account controls include supervisory approval and account creation by the network helpdesk. Users are only granted access to those resources needed to fulfill their job responsibilities. Network accounts are regularly audited and deactivated for non-use and inactivity.

All Cabinet users are made aware of their responsibilities for data use and CHFS data protection. All employees and contractors sign a CHFS data use agreement at initial

hiring and annually thereafter. Based on job responsibilities and the sensitivity of data to which a user has access, additional awareness activities and agreements may be required.
]

[Kentucky Department for Public Health] specifically agrees that, to the extent permitted by local, State and federal law, it will not release COVERED DATA requested under a State's or municipality's open records laws; to media; for litigation purposes; that is proprietary and if disclosed could cause competitive harm; or to anyone other than department staff or contractors who are explicitly authorized to use those data for surveillance and/or prevention purposes only.

The following State or municipal statutes, regulations, or policies provide additional safeguards that protect against the release of COVERED DATA:

[Kentucky Department for Public Health agrees to notify CDC in the event that the Kentucky Department for Public Health determines or reasonably believes it is legally obligated to release COVERED DATA for a purpose other than surveillance and prevention.]

[Kentucky Department for Public Health] agrees to inform CDC/NHSN in advance of any forthcoming changes to State or municipal law(s) that will reduce legal safeguards that protect against release of COVERED DATA. [Kentucky Department for Public Health] acknowledges that CDC/NHSN may terminate the Agreement as a result of this information.

PROVISION AND MANAGEMENT OF THE DATA

[Kentucky Department for Public Health] acknowledges that its access to COVERED DATA will be for adverse healthcare events and/or processes of care that occur subsequent to signing this agreement, specifically occurring on or after the first day of the fourth month following the signing date. COVERED DATA reported to NHSN for prior events or processes will not be accessible.

[Kentucky Department for Public Health] agrees to notify CDC in the event that the [Kentucky Department for Public Health] is obligated or chooses to release COVERED DATA for a purpose other than surveillance and prevention.

TERM AND TERMINATION OF AGREEMENT

This Agreement shall be effective for a period of 5 years beginning on the Agreement Effective Date, The Agreement may be terminated before the 5-year period upon submission by either Party of written notice by Signatory or Signatory successor, in which case the Agreement shall cease 5 days after the date that CDC/NHSN submits the notice to the [Department of Health] OR 5 days after CDC/NHSN receives a notice submitted by the Kentucky Department for Public Health].

In addition, upon CDC/NHSN's knowledge of a pattern or practice that constitutes a material breach of this Agreement by [Kentucky Department for Public Health], CDC/NHSN may immediately and unilaterally terminate this Agreement.

CDC requires that in the absence of a conflict with State or local law the [Kentucky Department for Public Health] must delete or otherwise destroy COVERED DATA stored in its files within one year of

the conclusion of this Agreement or a successor Agreement. CDC will retain all COVERED DATA in its files.

NOW, THEREFORE, by signing below, the Parties agree that they have read, understand, and agree to the conditions set forth above:

[Kentucky Department for Public Health]

CDC/NHSN

Signature Jonathan Ballard

Signature _____

Jonathan Ballard, MD, MPH, MPhil
State Public Health Epidemiologist
Director, Division of Epidemiology & Health Planning
Department for Public Health
Cabinet for Health and Family Services

Branch Chief, Surveillance Branch
CDC Division of Healthcare Quality
Promotion

Date 1/26/18

Date _____

Red= State or municipality to fill in appropriate information