

DATA USE AGREEMENT
Between
COUNTY OF LOS ANGELES DEPARTMENT OF PUBLIC HEALTH
And
CENTERS FOR DISEASE PREVENTION AND CONTROL,
NATIONAL HEALTHCARE SAFETY NETWORK

The County of Los Angeles Department of Public Health ("DPH") and the Centers for Disease Prevention and Control, National Healthcare Safety Network ("CDC/NHSN") enter into this Data Use Agreement ("Agreement") effective this 8th day of April, 2019 ("Effective Date"). DPH and CDC/NHSN 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 DPH and CDC/NHSN. This Agreement covers individual- and institution-identifiable data, received by CDC/NHSN subject to the Federal Privacy Act, 5 USC §§552 and 552a, from the NHSN Patient Safety Component, Healthcare Personnel Safety Component, Dialysis Component, and Outpatient Procedure Component as listed in the attached document that have been voluntarily submitted to NHSN by healthcare institutions in Los Angeles County 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

DPH 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). DPH specifically agrees not to use the COVERED DATA obtained under this Agreement for 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 DPH will have access to as a result of this Agreement.

DPH agrees to designate an NHSN Group Administrator and CDC/NHSN agrees to grant DPH's designated NHSN Group Administrator access to DPH'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 DPH is Kelsey OYong, Supervising Epidemiologist, koyong@ph.lacounty.gov, Los Angeles, CA.

DPH 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 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.

DPH 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 DPH does not protect the COVERED DATA from release pursuant to this Agreement.

DPH 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 (e.g., 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, and approved encryption of COVERED DATA stored digitally).

DPH will use the following safeguards to protect COVERED DATA stored in its data files:

DPH will be responsible for limiting the number of authorized users of the COVERED DATA, not to exceed ten (10) users to DPH employees and contractors only. The list of authorized users will be managed by the NHSN Group Administrator. COVERED DATA will only be accessed on secure DPH computers located at 313 N. Figueroa St., Los Angeles, CA 90012. DPH will use its reasonable efforts based on Department policies and procedures to secure, protect and manage the COVERED DATA. No copies or derivatives of the COVERED DATA will be made except as necessary for the purpose authorized in this Agreement.

DPH 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 the 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:

The County of Los Angeles Department of Public Health is subject to the California Public Records Act (Government Code section 6250 et seq.). The County and the CDC agree that the County will not disclose any information or data that is protected under State or federal laws protecting the confidentiality of individually identifiable medical information of any patients/clients. Further, the County shall not disclose any of the data or information received from the CDC pursuant to this Data Use Agreement (DUA) without first providing the CDC written notice and an opportunity to protect such information, via an exception to the public records requirements, injunctive relief, or any other legally permissible mechanism.

DPH 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. DPH acknowledges that CDC/NHSN may terminate the Agreement as a result of this information.

PROVISION AND MANAGEMENT OF THE DATA

DPH acknowledges that its access to COVERED DATA will be for surveillance of 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.

DPH agrees to provide advance notice to the CDC in the event that DPH 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 five (5) years beginning on the Agreement Effective Date. The Agreement may be terminated before the five-year period upon submission by either Party of written notice by Signatory or Signatory's successor, in which case the Agreement shall cease five (5) days after the date that CDC/NHSN submits the notice to DPH or five (5) days after CDC/NHSN receives a notice submitted by DPH.

In addition, upon CDC/NHSN's knowledge of a pattern or practice that constitutes a material breach of this Agreement by DPH, CDC/NHSN may immediately and unilaterally terminate this Agreement.

CDC requires that in the absence of a conflict with State or local law, DPH must delete or otherwise destroy COVERED DATA stored in its files within one (1) 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:

COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC HEALTH (DPH)

CENTERS FOR DISEASE
PREVENTION AND CONTROL (CDC)
NATIONAL HEALTHCARE SAFETY
NETWORK (NHSN)

Signature  Date 3/29/19
Barbara Fekrer, Ph.D., M.P.H., M.Ed.
Director

Signature  Date 4/8/2019
Daniel A. Pollock, M.D.
Branch Chief, Surveillance Branch
CDC Division of Healthcare Quality Promotion

Signature  Date 3/26/19
Kelsey OYong, M.P.H.
Healthcare-Associated Infection Coordinator