Data Use Agreement

Between

Montana Department of Public Health and Human Services

And

Centers for Disease Control and Prevention ("CDC"), National Healthcare Safety Network ("NHSN")

The Montana Department of Public Health and Human Services and CDC/NHSN enter into this Data Use Agreement (the "Agreement") effective 1 / 9 / 2018 ("Effective Date"). CDC/NHSN and the Montana Department of Public Health and Human Services 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 Montana Department of Public Health and Human Services. 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 Montana 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

The Montana Department of Public Health and Human Services 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). The Montana Department of Public Health and Human Services 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 The Montana Department of Public Health and Human Services will have access to as a result of this Agreement.

The Montana Department of Public Health and Human Services 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 the Montana Department of Public Health and Human Services is Erika Baldry Healthcare Associated Infection Epidemiologist, Erika.Baldry@mt.gov, Helena Montana

The Montana Department of Public Health and Human Services 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.

Montana Department of Public Health and Human Services 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.

The Montana Department of Public Health and Human Services 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:

- The Montana Department of Public Health and Human Services Communicable Disease Control and Prevention Bureau Security and Confidentiality Policy (CDCPB S&C) October 15, 2014 (compliant with Centers for Disease Control and Prevention Data Security and Confidentiality Guidelines for HIV, Viral Hepatitis, Sexually Transmitted Diseases, and Tuberculosis Programs: *Standards to facilitate Sharing and use of Surveillance Data for Public Health Action*).

The Montana Department of Public Health and Human Services 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:

- Title 50, Chapter 15, Montana Code Annotated
- Article 2, Section 10, Montana Constitution
- Montana Department of Public Health and Human Services Health Insurance Portability and Accountability Act (HIPAA) Policies and employee level signed agreement upon hire

- Montana Department of Public Health and Human Services Office of Epidemiology and Scientific Support *Guidelines for the Release of Public Health Data Derived from Personal Health Information Policy and Procedure*

The Montana Department of Public Health and Human Services 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. The Montana Department ofPublic Health and Human Services acknowledges that CDC/NHSN may terminate the Agreement as a result of this information.

PROVISION AND MANAGEMENT OF THE DATA

The Montana Department of Public Health and Human Services 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.

The Montana Department of Public Health and Human Services agrees to notify CDC in the event that the Montana Department of Public Health and Human Services 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 Montana Department of Public Health and Human Services OR 5 days after CDC/NHSN receives a notice submitted by the Montana Department of Public Health and Human Services.

In addition, upon CDC/NHSN's knowledge of a pattern or practice that constitutes a material breach of this Agreement by the Montana Department of Public Health and Human Services, CDC/NHSN may immediately and unilaterally terminate this Agreement.

CDC requires that in the absence of a conflict with State or local law the Montana Department of Public Health and Human Services 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:

The Montana Department of Public Health and Human Services

CDC/NHSN

Signature

Todd Harwell MPH
Administrator
Public Health and Safety Division
Montana Department of Public Health
And Human Services

Date 1-8-18

Signature

Daniel A. Pollock, M.D.
Branch Chief, Surveillance Branch
CDC Division of Healthcare Quality
Promotion

Date Jan 9 2018