DATA USE AGREEMENT BETWEEN
U.S. Department of Health and Human Services,
Centers for Disease Control and Prevention,
National Center for Health Statistics,
AND
NHAMCS Participating Hospital

The Privacy Rule (45 CFR Part 160 and Part 164, subparts A and E) as mandated by the Health Insurance Portability and Accountability Act (HIPAA, 45 CFR 164.501) allows hospitals to disclose limited data sets (i.e., data sets with no direct patient identifiers) for research and public health purposes if there is a data use agreement between the hospital and the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC). This document serves that purpose, describes how the data will be used and establishes who is permitted to receive or use the data.

Use of Data and Assurances of Confidentiality

NCHS is charged, under Title 42, U.S.C., Section 242k, with supporting statistical and epidemiological activities to improve the effectiveness, efficiency, and quality of health services in the United States. For purposes of health-related research and statistical analysis, NCHS conducts the National Hospital Ambulatory Medical Care Survey (NHAMCS), which collects information about the ambulatory care that is provided by hospital outpatient departments and emergency departments. Specifically, these data are used to describe the patients that utilize hospital outpatient and emergency departments, the conditions treated, and the diagnostic and therapeutic services rendered, including medications prescribed.

According to the Privacy Rule (45 CFR Part 160 and Part 164, subparts A and E), you may release data for NHAMCS to NCHS without patient authorization and without accounting for the disclosures when the data set excludes direct identifiers of the individual patients or relatives of patients, employers, or household members of the patient. No direct identifiers such as patient name, address, telephone number are collected, however, we do collect the medical record number which is only used in the data collection process and is not retained after data collection is complete. We also collect date of visit, patient's birth date, and residential ZIP code, which are not directly identifiable but are considered protected health information under the Privacy Rule. Although the data provided to NCHS are not directly identifiable, a number of Federal laws require that all information we collect be held in strict confidence: Section 308(d) of the Public Health Service Act [42 U.S.C. 242m(d)], the Confidential Information Protection and Statistical Efficiency Act (CIPSEA, Title 5 of Public Law 107-347), and the Privacy Act of 1974 (5 U.S.C. 552a). Every NCHS employee, contractor (e.g., U.S. Census Bureau), research partner, and agent has taken an oath to keep the data private. Any NCHS employee, agent, or contractor, who willfully discloses ANY identifiable information could get a jail term of up to 5 years, a fine of up to $250,000, or both. After data collection, the only persons to be granted access privileges to the protected health information will be NCHS staff and its agents, who have taken an oath and completed annual NCHS confidentiality training.

In addition to the above cited laws, NCHS complies with the Federal Cybersecurity Enhancement Act of 2015 (6 U.S.C. §§ 151 & 151 note). This law requires the Federal government to protect Federal computer networks by using computer security programs to identify cybersecurity risks like hacking, internet attacks, and other security weaknesses. If information sent through government networks triggers a cyber threat indicator, the information may be intercepted and reviewed for cyber threats by computer network experts working for, or on behalf of, the government. The Act requires any personal information that identifies an individual or establishment to be removed from suspicious files before they are shared.
NCHS will create NHAMCS public use data files containing the information you provide. NHAMCS public use files do not contain any protected health information. Prior to any NHAMCS data being released to the public, NCHS will recode the data such that the date of visit is converted to month and day of the week, and birth date is converted to patient's age. Patient's ZIP code is only used on internal NCHS files to match the visit data to characteristics of the patient's residential area, such as median household income or average winter temperature. All information provided is only used for public health and research purposes. NCHS and its agents physically safeguard the data and are bound by the law cited above. No information collected may be used for any purpose other than that described above. Such information may not be published or released to anyone we have not described above if it would identify an individual to which it pertains or the establishment supplying it.

NCHS will be the custodian of the data files and, as such, will be responsible for observing all conditions of use and for establishing and maintaining the security arrangement to prevent unauthorized use of these files. This includes administrative, technical, and physical safeguards. Also, NCHS will be responsible for observing all conditions of use and for specifying authority for access to these files in accordance with the terms of this data use agreement. For more information on how NCHS protects your data see [http://www.cdc.gov/nchs/about/policy/confidentiality.htm](http://www.cdc.gov/nchs/about/policy/confidentiality.htm).

As required by the Privacy Rule [45 CFR 164.514(e)(4)(ii)], NCHS agrees to

- not use or further disclose the data collected under this agreement for any purposes not stated above,
- use appropriate safeguards to prevent other use or additional disclosures,
- report to you any nonagreed disclosures should they occur,
- ensure that any NCHS agents using the data agree to the above conditions, and
- not try to identify patients or sampled hospitals based on the data obtained via this agreement.

More information about the NHAMCS public use data files can be found at [http://www.cdc.gov/NHAMCS](http://www.cdc.gov/NHAMCS). Historically, NCHS has adhered to the requirements presented in this Data Use Agreement and has a strong record for maintaining privacy and confidentiality during data collection and processing.

Thank you for your cooperation.

Jennifer Madans, Ph.D.
Acting Director