**DATA USE AGREEMENT FOR**

**THE NORTH CAROLINA DISCHARGE DATABASES**

**(Agreement for use of Division of Health Service Regulation, North Carolina Department of Health and Human Services Discharge Databases)** *updated 11.21.2023*

This Data Use Agreement (“Agreement”), effective as of \_\_\_\_\_\_\_\_\_ (the “Effective Date,” by and between the University of North Carolina at Chapel Hill (“University”) and \_\_\_\_\_\_\_\_\_\_\_\_ (“User”) establishes the terms and conditions under which User will obtain and use specified limited data sets (“File(s)”), as defined by the Health Insurance Portability and Accountability Act of 1996, as amended (collectively, “HIPAA”) (the “Data”) of the North Carolina Discharge Databases (“Database”) maintained by the North Carolina Division of Health Service Regulation (“DHSR”) and the University of North Carolina at Chapel Hill’s Cecil G. Sheps Center for Health Services Research (“Sheps Center”).

1. USER
   1. The User can be either [check one] an individual researcher

or

an organization responsible for compliance with all terms of this Agreement

by its individual employees (“Authorized Users”) listed in A.2 below. All Authorized Users must be listed in A.2 below and must acknowledge the terms of this Agreement as specified on the signature page.

* 1. The following individuals are authorized to use the Limited Data Sets or any part thereof on behalf of User:

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No other individuals shall have access to the Data or any part or derivatives thereof.

1. **DATA**
   1. Pursuant to the terms and conditions of this Agreement, University grants User the right to access and use following File(s) for the sole purpose of conducting the study entitled \_\_\_\_\_\_\_\_\_\_\_\_\_\_, as approved by the Sheps Center (“Approved Research Project”):

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| **File Name(s) or Description**  **(specify acute care (inpatient), ambulatory surgery or emergency department)** | **Date(s), Years** |
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* 1. User may retain the above-listed File(s) and/or any derivative File(s) of data until,

*(INSERT MM/DD/YYYY)*

hereinafter known as the ***“retention expiration date.”*** User agrees that no later than the retention expiration date, User shall return to Sheps Center or destroy the above-listed File(s) and any derivative File(s) of data and shall not retain any File(s) and/or any derivative File(s) of Data after the retention expiration date. User agrees to certify in writing that destruction of the Data and any derivative File(s) of the Data has been accomplished pursuant to current industry standards for data destruction.

1. **DATA USE**
   1. User agrees not to use Data for any purposes other than the Approved Research Project User agrees that such limited permitted purposes do not include the use of individual establishment Data for commercial or competitive purposes involving those individual establishments, or for determination of the rights, benefits, or privileges of those establishments.

User agrees not to identify, attempt to identify, or contact any specific individual (including, but not limited to patients, physicians, and other healthcare providers) who has been described in or who may have been the source of Data. It may be possible in rare instances, through complex analysis and with outside information, to ascertain from the File(s) the identity of particular persons. User agrees that considerable harm could ensue if this were done; that User will prohibit all attempts to identify or contact any individual who has been described in or who may have been the source of Data; and that User will not release or publish nor permit release or publication of any information that could identify such individuals directly or by inference. User agrees not to unencrypt or attempt to unencrypt any individual-level Data.

* 1. User agrees not to share or publish any data with cell sizes of less than 10 individuals. In a small sample, an identity could be determined indirectly (e.g., a single case of AIDS in a small town). Such a disclosure would be a direct violation of the privacy rights of that individual. User further agrees not report tabulated data in a cell size less than or equal to 10.
  2. User shall not use the Data to disseminate any information that may identify, directly by name or by inference, establishments who have been described in or who may have been the source of Data (including, but not limited to hospitals, healthcare facilities, clinics, surgery centers, long-term care facilities, rehabilitation facilities, substance abuse facilities, psychiatric facilities) without prior written approval from DHSR or the Sheps Center, not to be unreasonably withheld. When the identities of establishments are not provided in the File(s), User agrees not to attempt to use Data to identify or contact any establishment who has been described in or who may have been the source of Data. Methods that may lead to the identification of an establishment might include, but are not limited to:
     + Identifying a facility by name
     + Inferring a facility by county location
     + Inferring a facility by zip code location
     + Inferring a facility by bed size, academic medical center status or specialty
  3. User agrees not to contact any establishment for the purpose of verifying information supplied in the Database. User agrees to refer all questions about the Data in the Database to the Sheps Center only.
  4. User agrees that access to Data shall be limited solely to those individuals listed in A.2 above and who have acknowledged the terms and conditions of this Agreement below, and that the Data, or any part or derivative thereof, shall not be used, viewed, “loaned” or otherwise conveyed to or accessed by anyone other than these individuals.
  5. User acknowledges that the Data consists of sensitive information that University is required to protect and agrees to use appropriate safeguards to protect the Data from misuse and unauthorized access or disclosure, including, without limitation, (i) maintaining adequate physical controls and password protections for any server, system, or device on which the Data may reside, and (ii) taking any other measures reasonably necessary to prevent the Data from being used, viewed, “loaned,” or otherwise conveyed or accessed by anyone other than those individuals who are listed in A. 2 above and who have signed this agreement below.
  6. User agrees that within five (5) business days of becoming aware of any unauthorized access, use or disclosure of Data, User will report the unauthorized access, use or disclosure to Sheps Center in writing. As a condition of continued access to Data, User will fully cooperate with any remediation that the Sheps Center, in its sole discretion, determines is necessary to (i) address any applicable reporting requirements; and (ii) mitigate any effects of such unauthorized use or disclosure of the Data, including, without limitation, measures necessary to restore goodwill with stakeholders, including research subjects, collaborators, governmental authorities, and the public.
  7. User will hold any agent and/or employee of User, including any permitted subcontractor, to the standards, restrictions, and conditions stated in this Agreement with respect to the Data.
  8. User agrees not to make any statement indicating or suggesting that interpretations drawn are those of DHSR or the Sheps Center.
  9. User agrees to comply with all applicable international, federal, state, and local laws and regulations, and IRB restrictions, including, but not limited to, those concerning the privacy and confidentiality of individually identifiable information and export control laws.
  10. For any published research material resulting from User’s use of Data, at least forty-five (45) days prior to submission for publication, User shall provide an abstract and reference to the Sheps Center and DHSR.
  11. In all reports or published material based on Data User shall acknowledge the following source (North Carolina Hospital (ambulatory surgery, emergency room) Discharge Database, Truven Health Analytics, Fiscal Year ####).

1. **OTHER TERMS AND CONDITIONS**
   1. User agrees to indemnify, defend, and hold harmless DHSR and the Sheps Center and the Data sources, from any or all action, claim, or liability, cost, or expense arising directly or indirectly from the use or misuse of the Data by User, its employees, or agents, or arising from User’s violation of this Agreement.
   2. This Agreement shall be governed in all respects by the laws of the State of North Carolina.
   3. User understands and agrees that a violation of any of the terms and conditions of this Agreement may also be a violation of state and/or federal statutes and subject to the criminal, civil and administrative penalties associated with violations of those statutes, in addition to constituting a material breach of this Agreement with attendant legal liabilities. User further understands and agrees that any disclosure of misappropriation of the Data in violation of this Agreement may cause University irreparable harm and that University shall have the right to seek immediate equitable relief to enjoin any unauthorized use or disclosure of the Data, in addition to any other rights and remedies that it may have at law or otherwise.
   4. **All notices, contractual correspondence, and transmission of Data** under this Agreement shall be made in writing and delivered to the following:

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| --- | --- |
| To Sheps Center: |  |
| (address, phone number, fax, email | Sheps Center for Health Services Research  Attn: CCQI Project Manager  725 MLK Jr. Blvd, CB 7590  Chapel Hill, NC 27514  ccqi@schsr.unc.edu  With a required copy to:  Office of Sponsored Programs  Attn: Director of Contracting  104 Airport Drive, Suite 2200, CB 1350  Chapel Hill, NC 27599-1350  ospcontracting@unc.edu |

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| To User |  |
| Address |  |
| Phone |  |
| Email address |  |
| Fax number |  |

* 1. The term of this Agreement shall become effective upon the Effective Date and shall continue in effect through the ***retention expiration date*** specified above or until earlier terminated in accordance with the terms herein.
  2. In the event of a material breach of this Agreement by User, Sheps Center may terminate this Agreement immediately by providing written notice to User. Sheps Center may terminate this Agreement without cause upon thirty (30) days written notice to User. Upon termination by Sheps Center or the expiration of this Agreement, User shall immediately either return to Sheps Center or destroy at Sheps Center’s discretion and directive the above-listed File(s) and any derivative File(s) of Data and shall not retain any File(s) and/or any derivative File(s) of Data. User agrees to certify in writing that destruction of the Data and any derivative File(s) of the Data has been accomplished pursuant to current industry standards for data destruction.
  3. Sheps Center represents that it has the right to disclose the Data. No other warranties, whether express or implied, are made. The Data disclosed to User pursuant to this Agreement is provided “as is.”
  4. Nothing in this Agreement shall be construed to create a partnership, joint venture, agency, employment, or other joint business relationship between the Parties or any of their affiliates.
  5. This Agreement may be amended or modified only by mutual written consent of the authorized representatives of University and User. Both parties agree to amend this Agreement to the extent amendment is required by an applicable regulatory authority. This Agreement is non-assignable and non-transferrable by User without the express written consent of the Sheps Center.
  6. This Agreement contains all the terms and conditions agreed upon by the parties regarding the subject matter of this Agreement and supersedes any prior agreements, oral or written, and all other communications between the parties relating to such subject matter.

The Parties have executed this Agreement as set forth below.

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| --- | --- |
| USER: |  |
| BY: |  |
| NAME: |  |
| TITLE: |  |
| DATE: (mm/dd/yyyy) |  |

The undersigned individuals, identified at A.2 above, are employees of the organization named as a USER above. The undersigned individuals, in consideration of their use of the Data, certify that they have read and acknowledge the terms of this Data Use Agreement for the North Carolina Discharge Databases.

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| Name: | (printed) |
| Signature: |  |
| Date: |  |

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| Name: | (printed) |
| Signature: |  |
| Date: |  |

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| Name: | (printed) |
| Signature: |  |
| Date: |  |

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| Name: | (printed) |
| Signature: |  |
| Date: |  |

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| --- | --- |
| Name: | (printed) |
| Signature: |  |
| Date: |  |

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| THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL | |
| BY: | (signature) |
| NAME: | (Typed) |
| TITLE: |  |
| DATE: (mm/dd/yyyy) |  |