

Office for Oregon Health Policy & Research

DATA USE AGREEMENT FOR RESEARCH

This Agreement is between the Office for Oregon Health Policy & Research (“OHPR”), and the Researcher (“Researcher”) named on the attached Research Data Request.

Both parties to this Agreement are committed to complying with privacy standards and applicable confidentiality laws. This Agreement sets forth the terms and conditions under which information that is provided to Researcher from or on behalf of OHPR will be handled between the Researcher and OHPR and with third parties during the term of this Agreement and after its termination. The Research Data Request is not incorporated into this Agreement except to the extent expressly provided in this Agreement, but OHPR may reasonably rely on the representations in the Research Data Request in making its disclosure decisions. OHPR reserves the right to request additional information from Researcher at any time.

The parties agree as follows:

1. DEFINITIONS

- a. Individually Identifiable Health Information shall have the meaning in 45 CFR 160.103.
- b. Privacy Rule shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and part 164.
- c. Terms used but not otherwise defined in this Agreement shall have the same meaning as those terms in the Privacy Rule.
- d. Public Data means information that is available to the public pursuant to the Oregon Public Records Law, ORS 192.410 to 192.505.
- e. Restricted Data means information obtained by OHPR pursuant to a legal restriction on use or disclosure that prevents or limits OHPR from disclosing the information as Public Data, including but not limited to Individually Identifiable Health Information. Restricted Data also includes any Public Data that has been combined, commingled, aggregated or used in conjunction with Restricted Data.

2. PURPOSE

To acquire access to Oregon Hospital Discharge Data from OHPR, researchers must complete both the Research Data Request as well as this Data Use Agreement. The Data Use Agreement specifies how the Restricted Data can be used and shared with others, and gives OHPR the authority to terminate the Researcher’s right to the data if the agreement is not followed.

Researcher represents and warrants that he or she will use Restricted Data solely for the Research purposes outlined in the attached Research Data Request. Where Researcher requests and obtains both Public Data and Restricted Data, any use or aggregation of the Public Data in conjunction with the Restricted Data shall be deemed to have turned the Public Data into Restricted Data for purposes of the obligations of Researcher under this Agreement.

3. OBLIGATIONS OF OHPR

OHPR will review a Research Data Request to determine whether the information requested is Public Data or Restricted Data.

- a. If the information is Public Data, OHPR will inform the Researcher of the fees that may be charged prior to disclosing any Public Data. Fees will be calculated as provided in OAR 409-021-0115.
- b. If the information is Restricted Data, OHPR will determine whether the information may be disclosed to Researcher. If access is denied in whole or in part, OHPR will inform Researcher of the basis for the denial of access in accordance with the Oregon Public Records Law.
- c. If OHPR determines that Restricted Data may be disclosed, OHPR will inform Researcher of the fees that may be charged prior to disclosing any Restricted Data. Fees will be calculated as provided in OAR 409-021-0115.
- d. In the event OHPR determines that only a portion of the Restricted Data requested in the Research Data Request may be disclosed to Researcher, this Agreement applies to that data actually disclosed to Researcher.

4. OBLIGATIONS AND ACTIVITIES OF RESEARCHER

- a. Researcher agrees not to use or disclose Restricted Data other than as expressly permitted or required by this Agreement or as Required by Law.
- b. Researcher agrees to use appropriate safeguards to prevent use or disclosure of Restricted Data other than as provided for by this Agreement.
- c. Researcher agrees to report to OHPR any use or disclosure of the Restricted Data not provided for by this Agreement of which it becomes aware.
- d. Researcher agrees to ensure that any agent, including any subcontractor, to whom it provides Restricted Data received from OHPR agrees to the same restrictions and conditions that apply through this Agreement to Researcher with respect to such information.

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- e. Researcher agrees the confidentiality of all Restricted Data used for the purposes stated above will be protected as mandated by state and federal laws and regulations, including the HIPAA Privacy Rule.
- f. Researcher agrees that any Restricted Data provided by or on behalf of OHPR will not be physically moved or electronically transmitted unless written authorization is received from OHPR prior to such use.
- g. Researcher agrees that the Restricted Data will not be used for any other purposes other than those stated in the approved Research Data Request unless mutually agreed upon between Researcher and OHPR with written authorization by OHPR prior to such other purpose or use.
- h. Researcher agrees that any use or disclosure of Individually Identifiable Health Information related to behavioral health patient records will also comply with the federal and state standards for confidentiality as defined in 42 CFR Part 2; and ORS 179.505.
- i. Researcher agrees that no findings, listing, or information derived from the Restricted Data file(s) and data will be disclosed to other any other person or entity that is not expressly identified in the Research Data Request, if such findings, listing, reports, or information contain any combination of data elements that might allow the deduction of an individual's identity, without first obtaining written authorization from the appropriate OHPR representative prior to such release or disclosure.
- j. Researcher agrees that access will be limited to those persons who are identified by name in the Research Data Request, and who are directly involved with activities to achieve the purposes in the Research Data Request. Researcher further agrees that access will be limited to the minimum number of individuals necessary to achieve the purpose stated above, and only to those individuals on a need-to-know basis; and that any violations to this Agreement will be reported to OHPR as soon as Researcher is aware of the violation.
- k. Researcher agrees that Restricted Data will be destroyed or returned at least within 14-days after completion of the project identified in the Research Data Request. Researcher will submit, in writing, confirmation that no copy, data, nor parts thereof has been retained, and that the data has been destroyed or has been returned.
- l. Researcher agrees that OHPR will be consulted in the analysis of the data and interpretation of the results, and be allowed reasonable time to review for accuracy any reports or articles based on or developed using Restricted Data, prior to release. Researcher will provide a copy of the final report or document to OHPR at the time of publication, at no cost to OHPR.

5. ADDITIONAL RESEARCHER RESPONSIBILITIES

- a. Researcher agrees that the Restricted Data may be used for internal, research-related purposes only. The Researcher agrees not to sell, lease or copy the Restricted Data, in whole or in part, to any person or entity not affiliated with the organization specified above.
- b. Researcher will not attempt to identify any individual represented in the Public or Restricted Data. Researcher will not attempt to link individual records with Individually Identifiable Health Information from any other source.
- c. If Researcher receives a request from a person or entity that is not a party to this Agreement that requests or seeks to compel the disclosure of the Oregon Hospital Discharge Data, Researcher agrees to immediately notify OHPR by sending a copy of the request or demand to OHPR. Researcher agrees to resist such request or demand, and to provide an opportunity for OHPR to respond. Prior to any disclosure in response to a request or demand, Researcher must receive prior written authorization from OHPR.
- d. If Researcher believes that a disclosure to a person or entity that is not a party to this Agreement is Required By Law, Researcher agrees to immediately notify OHPR by sending a written explanation of the basis for Researcher's belief that such a disclosure is Required By Law. Researcher understands and agrees that it will provide OHPR with a reasonable period of time to respond to Researcher prior to making a disclosure. Where disclosure is required immediately due to imminent danger to a person or society, Researcher must document the basis for the disclosure and to whom the disclosure was made, and provide that documentation to OHPR with 7 calendar days of making the disclosure.
- e. Researcher will not include the name of OHPR in any advertising, sales promotion or other publicity matter without OHPR's prior written approval.
- f. Researcher may not use, reuse, and analyze the Public or Restricted Data, that was developed under this Agreement for subsequent research or other purpose without obtaining another Data Use Agreement from OHPR that expressly authorizes such additional or subsequent use or disclosure.
- g. To the extent that Restricted Data is owned by another person or entity, this Agreement does not operate in derogation of any ownership rights of that entity.

6. NO THIRD PARTY BENEFICIARIES

OHPR and Researcher are the only parties to this Agreement and are the only parties entitled to enforce its terms, with the sole exception of persons or entities that have an ownership interest in the Restricted Data in relation to the exercise of such ownership interest. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.

7. NOTICES

Any communications between the parties or notices to be given under this Agreement shall be given in writing by mail or by facsimile to the addresses indicated in this Section. A facsimile notice should be confirmed by telephone to OHPR at the number provided below.

A. If to OHPR:

**Office for Oregon Health Policy and Research
Research & Data Unit
Attn: Shawna Kennedy-Walters
1225 Ferry St. SE, 1st floor
Salem, OR 97301**

**Tel: (503) 373-1598
Fax: (503) 378-5511
Email: [Shawna Kennedy-Walters](mailto:Shawna.Kennedy-Walters@ohpr.org)**

B. If to Researcher:

_____ (name)
_____ (organization)
_____ (address)
_____ (telephone)
_____ (facsimile)
_____ (email address)

8. TERM AND TERMINATION

a. Term.

This Agreement shall be effective upon execution, and shall remain in effect for the period specified in the Research Data Request.

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b. Termination for Cause

Breach of any term or condition of this Agreement may result in immediate termination of this agreement, and may result in denial of future data use agreements by OHPR. Upon OHPR's knowledge of a material breach of this Agreement by Researcher, OHPR shall either:

- i. Provide an opportunity for Researcher to cure the breach or end the violation, and terminate this Agreement if Researcher does not cure the breach or end the violation within the time specified by OHPR; or
- ii. Immediately terminate this Agreement, if OHPR determines that cure is not feasible or that continuation of the Agreement is not in the public interest as determined solely by OHPR.

c. Effect of Termination

Researcher shall extend the protections of this Agreement to any Restricted Data that it does not destroy or return to OHPR and limit further uses and disclosures of Restricted Data for so long as Researcher and its agents retain Restricted Data.

9. SIGNATURES

By signing this Agreement, the Researcher agrees that Researcher has the authority to enter into this Agreement and Researcher agrees to abide by all provisions set out in this Agreement.

SIGNATURES:

Researcher Signature Date

OHPR Authorized Signature Date