

**DATA USE AGREEMENT BETWEEN
National Center for Health Statistics/CDC
Department of Health and Human Services
And
NSAS Participating Hospital or Freestanding Ambulatory Surgery Center**

The Privacy Rule as mandated by the Health Insurance Portability and Accountability Act (HIPAA) allows hospitals and freestanding ambulatory surgery centers 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 health care provider and NCHS/CDC. This document serves that purpose and 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

The National Center for Health Statistics (NCHS) is charged, under Title 42, United States Code, 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 Survey of Ambulatory Surgery (NSAS), which collects information about ambulatory surgical care provided to patients at hospitals and freestanding ambulatory surgery centers. Specifically, these data are used to describe ambulatory surgery patients, the conditions treated, and the diagnostic and therapeutic procedures received.

According to the Privacy Rule, you may release data for the NSAS 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. The NSAS does not collect direct identifiers such as patient name, address, or telephone number. We do collect date of visit, patient's date of birth, 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, the confidentiality of the data must be protected. As such, all employees of the U.S. Census Bureau, acting as the data collection agents for the NSAS, must first sign an affidavit, a legal document making them subject to the Privacy Act, the Public Health Service Act, and other laws that require the data to be protected. Under section 308(d) of the Public Health Service Act [42 USC 242m(d)], the only persons to be granted access privileges to the protected health information after collection will be staff of NCHS and its contractors who have (a) been authorized to work with the file, (b) signed the Nondisclosure Statement in the NCHS Staff Manual on Confidentiality and (c) have seen the NCHS Confidentiality Videotape. In addition, the Confidential Information Protection and Statistical Efficiency Act (CIPSEA), passed in 2002, provides additional protection of all statistical data collected under a pledge of confidentiality. Under CIPSEA, the penalties for willful disclosure of confidential statistical information (considered a class E felony) are imprisonment for up to 5 years, a fine of \$250,000, or both.

Data files of all sampled ambulatory surgery visits will be released to the public; however, they will not contain any protected health information. For the public use files, date of surgery is reduced to month; birth date is converted to patient's age; and ZIP Code is not included on these files. Patient's ZIP Code is only used internally to match the visit data to characteristics of the patient's residential area such as median household income or urban/rural status. This information is only used for public health and research purposes. No authority can obtain identifiable data from NCHS without prior permission granted to them by the responding hospital or freestanding ambulatory surgery center. NCHS and its agents physically safeguard the data and are bound by statutory confidentiality restrictions of Section 308(d) of the Public Health Service Act [42 USC 242m(d)]. Under this law, 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 www.cdc.gov/nchs/about/policy/confiden.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 CDC contractors using the data agree to the above conditions, and
- not try to identify patients or sampled facilities based on the data obtained via this agreement.

More information about the NSAS public use data files can be found at <http://www.cdc.gov/nchs/about/major/hdasd/nhds.htm>. Historically, NCHS has adhered to the requirements presented in this Data Use Agreement and has never had any inappropriate disclosure of its data. Thank you for your cooperation.

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Director
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