



State of Utah

SPENCER J. COX  
*Governor*

DEIDRE M. HENDERSON  
*Lieutenant Governor*

## Department of Health & Human Services

TRACY S. GRUBER  
*Executive Director*

NATE CHECKETTS  
*Deputy Director*

DR. MICHELLE HOFMANN  
*Executive Medical Director*

DAVID LITVACK  
*Deputy Director*

NATE WINTERS  
*Deputy Director*

### **Public Health Authority Data Request and HIPAA Privacy Rule Authority for Disclosure Assertion**

In recognition of the fact that the Centers for Medicare & Medicaid Services' Medicare Fee-for-Service and Medicare Advantage Programs (Medicare) may only disclose protected health information (PHI) as permitted or required by the Health Insurance Portability and Accountability Act (HIPAA), Standards for Privacy of Individually Identifiable Health Information, Final Rule (Privacy Rule),<sup>1</sup> we are providing the following assertions as justification for our request for PHI for use by the Utah Department of Health and Human Services (Department) in its public health activities. The source of our public health authority and the nature of the public health activities for which we request PHI are described in the cover letter and below. As you know, a HIPAA Covered Entity such as Medicare Programs may disclose PHI to a "public health authority" that is "authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury or disability" and authorized public health activities." In keeping with those provisions, we make the following assertions, and note that the disclosure request will be reviewed by the U.S. Department of Health and Human Services Office of the Assistant Secretary for Preparedness for the purpose of determining the availability of funds to pay for the costs of producing the requested minimum dataset.

- The Department has a legal grant of authority to collect and maintain individually identifiable health information for public health activities.
- The Department is a "public health authority" that is authorized to "promote and protect the health and wellness of the people within the state" and "establish, maintain and enforce rules ... to promote and protect the public health or to prevent disease and illness," "coordinate emergency medical services," and perform "public health activities" as defined in the HIPAA Privacy Rule<sup>2</sup>.

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<sup>1</sup> 45 C.F.R. §§ 160.103 (paragraph (1)(iv) of the definition of "health plan"), 164.500 and 164.502(a).

<sup>2</sup> 45 C.F.R. § 164.512(b)(1)(i)

- The data being requested is the minimum necessary, relevant to, and necessary to support the Department’s work to enhance situational awareness of, outreach and assistance to, and emergency planning for at-risk and vulnerable individuals prior to, during, and in the aftermath of an incident, emergency, or disaster that poses an adverse health and/or public health impact.
- The party that we designate as the recipient/custodian of the requested dataset is either an employee of the Department, or a contractor of the Department, or other as defined by the DUA amendment who is tasked with carrying out our public health authority activities.
- The Department has the appropriate safeguards implemented for all personally identifiable information (PII) and protected health information (PHI) and will also ensure that all individuals with access to the data, including those conducting the public health activities, are HIPAA trained.

Under penalty of perjury, I declare that I am a representative of the Department listed above who is authorized to seek this data on behalf of the Department, and that the statements made in this document are true.

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Signature:

\_\_\_\_\_  
Date:

Tracy S. Gruber

Print Name:

Executive Director

Title:

Contact Information: 288 North, 1460 West, Salt Lake City, Utah 84116, Phone: (435) 772-6550, Email Address: [tracygruber@utah.gov](mailto:tracygruber@utah.gov).

Enclosures:

- Cover letter
- CMS Data Use Agreement (Form CMS-R-0235)
- CMS Data Use Agreement Amendment
- HHS emPOWER Data Request Form- Individual Data Request Checklist
- Secure Portal User Request Form

Cc:

- Dawn O’Connell, Assistant Secretary for Preparedness and Response  
U.S. Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary for Preparedness and Response, 200 Independence Avenue SW, Room 638G, Washington DC 20201

