



HHS Bulletin B-15-001

Health and Human Services Enterprise Data Use Agreements

Purpose

- To provide guidance to Health and Human Services (HHS) agencies regarding when to use the different types of Data Use Agreements (DUA) that have been developed.
- To notify agencies of the extension granted to Community Centers (formerly MHMR) to June 1, 2015 for all HHS Agency DUAs.
- To notify agencies of updates to the DUA website.

Background

Effective immediately, all Health and Human Services Enterprise (HHS) agencies are expanding efforts to protect all types of confidential information and continue compliance with state and federal requirements applicable to confidential information, including HIPAA Omnibus Rule of 2013.

As part of this effort, HHS has developed a uniform data use agreement (DUA) for use across the HHS enterprise. HHS is requesting that all of its contractors with access to HHS confidential information sign and comply with this new DUA. The DUA better outlines the requirements for contractors to protect and safeguard agency confidential information. Information means any communication or record (whether oral, written, electronically stored, or transmitted).

To enhance our compliance with the HIPAA Omnibus Rule and bring uniformity to DUAs, all programs have been asked to:

- By **March 31, 2015**: Obtain a signed copy of the new DUA from contractors for each contract in which the contractor accesses agency confidential data and there is not already a DUA in place dated after February of 2013 (DUA version 7.1 or newer). The Department of Family and Protective Services and the Department of Assistive and Rehabilitative Services have until September 1, 2015, to obtain signed DUAs.
- By **May 29, 2015**: Work with their procurement and contract oversight staff to scan their DUAs into HCATS or their agency centralized contracting management system.



Current Data Use Agreements

- **Data Use Agreement (Version 8.2.1):** This is the general version that should be used for all contractors who access agency confidential information. This is available on the DUA website: http://www.hhsc.state.tx.us/about_hhsc/BusOpp/data-use-agreement.pdf.
- **Governmental Entity Data Use Agreement (Version 8.2.1.g):** This DUA is for use between an HHS agency and another governmental entity, such as a state, county, or municipal agency or health department. This version recognizes that, pursuant to the laws and constitution of the State of Texas, governmental entities are not permitted to indemnify other parties, may have limitations of liability and may not carry commercial insurance. This version can only be used after consulting with Legal to confirm that it is appropriate for your purposes.
- **Data Use Agreement for Intermittent Access by Software Vendor (Version 8.2.1.s):** This DUA is for use when a software vendor has intermittent access to agency confidential data, such as when they help troubleshoot software. This version clarifies the breach notification requirement. This version can only be used after consulting with Legal to confirm that it is appropriate for your purposes.
- **Security and Privacy Agreement for Volunteers and Community Organizations:** This agreement is for use when an agency has a volunteer organization or a volunteer individual who in the process of assisting clients accesses confidential information. This version can only be used after consulting with Legal to confirm that it is appropriate for your purposes.

Data Use Agreements between Covered Entity Agencies (DADS, DSHS, HHSC)

The three covered entity agencies (DADS, DSHS and HHSC) will use the Governmental Entity Data Use Agreement between each other when they exchange protected health information.

Notices

1. Extension for Community Centers:

- HHSC has granted a blanket extension to June 1, 2015, to all community centers (formerly MHMR) to submit DUAs to all HHS agencies. The Texas Council of Community Centers will notify all of their centers of the extension. Please alert your staff of the extension, in case they get questions from a community center.



- Please contact Sylvia Kauffman at Sylvia.Kauffman@hhsc.state.tx.us before you grant any extensions or change deadlines for stakeholders. To avoid confusion, we want to ensure that stakeholders get the same extension for all HHS agency DUAs.

2. Updates to the Internal HHS Data Use Agreement Compliance Project Website:

- **Understanding the Data Use Agreement:** This presentation explains the terms of the DUA and what laws require us to protect and safeguard agency confidential data. This information can be found at: <http://hhscx.hhsc.state.tx.us/data-use-agreement-compliance/docs/understanding-dua.pdf>.
- **Understanding the Information Security Inquiry Form:** This presentation explains why the information security inquiry form is needed. This information can be found at: <http://hhscx.hhsc.state.tx.us/data-use-agreement-compliance/docs/understanding-isi.pdf>.

Bulletin Expiration

This bulletin will expire June 1, 2016.

Inquiries

Inquiries concerning the process delineated in this bulletin should be directed to Sylvia Kauffman at (512) 462-6227 or by e-mail at Sylvia.Kauffman@hhsc.state.tx.us.