

# **Title: Administration of agreements relating to the use and disclosure of Personally Identifiable Information (PII)**

**Issuance Date: July 1, 2024**

(Must be reviewed annually)

## **Applicable Regulations, Guidelines, and AHS Policy:**

### **Federal statute or rule:**

- 45 CFR Parts 160 and 164 (HIPAA)
- 42 CFR §§ 431.300; 42 CFR Part 2

### **Vermont statute or rule:**

- 33 V.S.A. § 1902a
- AHS Rule 08-048; 9 V.S.A. § 2435

### **Other:**

Blueprint Business Associate Agreements

## **Purpose:**

The DVHA collects information in the course of its business that can be used to personally identify the individuals it serves (Personally Identifiable Information or PII). This SOP applies to any instance in which DVHA program staff identify a need to disclose or have been asked to disclose records containing Personally Identifiable Information (PII) to another government body, or to a third party in a manner which is permitted by the laws protecting such PII. Using this SOP, the Department will ensure that its disclosures of PII are made in a permissible manner and subject to appropriate terms and conditions as agreed to in an MOU that has been properly approved, executed and maintained.

This SOP does not apply to disclosures of PII which are permitted without a written agreement and are routinely made in the course of Department business. It also does not apply to the execution of HIPAA Business Associate Agreements with Contractors or non-Governmental Subrecipients.

### Procedure:

#### **A) Initiation Data Sharing (or Denial)**

When receiving a request for PII or when needing to disclose PII, program staff will:

- Identify the data to be disclosed by DVHA;
- Document the origin of the data and the circumstances under which it was collected and provided to DVHA;
- Consult with DVHA Legal to identify any privacy or security considerations applicable to the data;
- Consult with the Contracts and Grants Unit to identify any existing or expired MOUs executed with the other party authorizing the sharing or exchange of such data;
- Consult with DVHA Legal to identify whether an existing agreement authorizes the contemplated information exchange;

If DVHA wishes to decline a request for data, DVHA Legal will provide the requesting party with written notice, stating one or more of the following reasons: the requested disclosure would violate applicable law, contractual obligation, or policy, or would not be in the best interest of DVHA or of the individual(s) whose data is the subject of the request.

#### **B) Preparation for Drafting of Agreement**

If a new or amended agreement is deemed necessary, the program staff will work with DVHA Legal to identify the following elements of the agreement:

- The elements of data to be disclosed;
- For each entity receiving or accessing DVHA's disclosed data, contact information for the person who will execute the MOU, the person receiving the data, the person responsible for safeguarding the data or the systems on which the data will be kept, and the attorney representing the receiving entity;
- The work to be facilitated by the disclosure and the work product or outcome desired.

#### **C) Drafting of Agreement**

DVHA Legal will determine the legal requirements for the disclosure of the PII and will draft a MOU or amendment to an existing MOU to include the necessary terms, conditions, and safeguards for the exchange. If DVHA is to receive PII from another unit of government as part of the contemplated exchange, DVHA Legal will work with attorneys representing the other government unit to ensure that the

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agreement contains all appropriate safeguards as required by law for the other unit's data.

### **D) Approval of Agreement**

DVHA Legal will submit the document to the Procurement Advisory Team (PAT), to review and approve the MOU.

### **E) Execution**

The Commissioner or the Commissioner's designee with duly authorized signing authority will sign the MOU.

### **F) Transfer, Custodianship and Destruction of PII**

The DVHA data team will work with the program to oversee the transfer of PII.

### **G) Filing and Review**

- The Contracts and Grants Unit will maintain copies of the MOUs and will assign a unique number to the MOU.
- The Contracts and Grants Unit will send all data sharing MOUs to their respective business units for annual review. The business units will affirm their continued use and compliance with the MOUs.

### **H) Conclusion/Termination**

Upon termination of the agreement or fulfillment of the Purpose of the agreement:

- The Program staff will work with the Recipient to ensure proper compliance with the data return or destruction terms of the Agreement.
- The Program Staff will provide the Contracts and Grants Unit with documentation of the destruction or return of the data to be maintained in the MOU file according to DVHA's record retention schedule.

## Revision History:

Date	Summary of Revisions
10/4/18	Final draft, approval by area director
11/13/18	Accepted by OMU
2/6/19	COO approval
1/22/2020	Revised draft - converted to new template
2/12/2021	Updated unit Director, changed COO approval date to one year from last approval
11/6/2023	Updated Unit Director, removed subject matter expert.
11/27/2023	OMU review, updated template.

Table 1 Revision History