

Data Exchange Agreement

between

The New York State Department of Health

and

The New York City, New Jersey and Pennsylvania Departments of Health

for

Immunization Information System Data Exchange

Introduction

Background

Many States and territories across the United States have developed an Immunization Information System ("IIS") to collect immunization records for their residents. An IIS is a vital public health tool for monitoring immunization rates and status, and it enables health care providers to access a database of immunization histories for their respective patients.

In 2006, New York State established the New York State Immunization Information System ("NYSIIS") pursuant to Public Health Law ("PHL") § 2168. PHL § 2168 directs the New York State Department of Health to establish a statewide, automated and electronic immunization registry that will (a) collect reports of immunizations; (b) establish the public health infrastructure necessary to obtain, collect, preserve, and disclose information relating to vaccine preventable disease as it may promote the health and well-being of all children in the state; and (c) make the immunization status of children available to the individual to whom any immunization records relate, a parent, guardian, or other person in a custodial relation to a child, local health districts, local social services districts responsible for the care and custody of children, health care providers and their designees, schools, and third party payers. NYSIIS holds records of immunizations administered in New York State outside of the five boroughs of New York City. The New York City Department of Health and Mental Hygiene ("NYCDOHMH") maintains a separate citywide immunization information system, called the Citywide Immunization Registry ("CIR"), that collects records of immunizations administered within the five boroughs of New York City. Under PHL § 2168, NYCDOHMH must provide NYSIIS with access to information contained in the CIR.

Immunization information systems have been established in New York City (NYC) under the NYC Health Code Section 11.07 (24 NYC Rules and Regulations Section 11.07), and in New Jersey under New Jersey Statutes - Title 26 Health and Vital Statistics - 26:4-134 Statewide automated and electronic immunization registry and N.J.A.C. 8:57-3, and in Pennsylvania immunization reporting under Disease Prevention and Control Law, Title 28 Chapter 27 Communicable and Noncommunicable Disease Regulations. In general, the purpose of an immunization information system is to improve the immunization status of all children in their jurisdiction by consolidating immunization information and

sharing it with health care providers, families, and agencies concerned with children's health. New York City, New Jersey and Pennsylvania's systems are called the Citywide Immunization Registry (CIR), New Jersey Immunization information System (NJIS) and the Pennsylvania Statewide Immunization Information System (PASIS), respectively.

This agreement is designed to facilitate secure, electronic exchange of IIS records between and among New York State, including New York City, New Jersey and Pennsylvania. Each of these individual health departments, including the New York City Department of Health and Mental Hygiene, may independently exchange data with each of the other health departments pursuant to the terms of this agreement.

Rationale

Residents of New York, New York City, New Jersey and Pennsylvania travel between these jurisdictions for health care services, including the administration of immunizations.

Currently, if a resident of New York State receives an immunization in New York City, New Jersey or Pennsylvania, the respective jurisdiction's IIS will capture this information, but this information is not shared with New York State. Likewise, if a resident of New York City, New Jersey or Pennsylvania receives an immunization in New York State, New York's IIS will capture the information, but this information is not shared with the respective jurisdiction. As a result, public health officials from New York, New York City, New Jersey and Pennsylvania cannot completely monitor the immunization status of residents who receive health care in the other jurisdictions.

Project Benefits

New York State, New York City, New Jersey and Pennsylvania seek to enable secure, electronic exchange of IIS records. Such an exchange will allow each participant to advance immunization-related outreach, reduce the incidence of illness, disability and death caused by vaccine preventable diseases, further quality improvement and accountability, and further research, epidemiological studies and disease control, including, but not limited to:

- Measuring immunizations more accurately;
- Reducing inefficiencies and costs associated with duplicate vaccines;
- Providing valuable information during a public health alert;
- Limiting resource expenditures by instituting electronic processes for data exchange;
- Enhancing each IIS by learning the unique features of counterparts in other jurisdictions; and
- Benefiting consumers/patients by making patient immunization records electronically accessible.

AGREEMENT

This Data Exchange Agreement ("Agreement") is made effective as of the date last below written (the "Effective Date") by and between the New York State Department of Health ("NYSDOH") and the New York City Department of Health and Mental Hygiene ("NYCDOHMH"), New Jersey Department of Health and Senior Services ("NJDHSS") and the Pennsylvania Department of Health ("PADOH"):

WITNESSETH:

WHEREAS, the NYSDOH, NYCDOHMH, NJDHSS and the PADOH have established secure, electronic Immunization Information Systems; and

WHEREAS, the NYSDOH, NYCDOHMH, NJDHSS and the PADOH seek to exchange the immunization information captured on their respective IIS; and

WHEREAS, the NYSDOH, NYCDOHMH, NJDHSS and the PADOH recognize that the exchange of data must comply with federal and state laws; and

WHEREAS, the NYSDOH, NYCDOHMH, NJDHSS and the PADOH desire to maintain the privacy and security of their immunization information and IISs;

NOW, THEREFORE, the undersigned NYSDOH, NYCDOHMH, NJDHSS and the PADOH agree as follows:

1.0 Definitions

- a. "Authorized User" shall mean the NYSDOH, NYCDOHMH, NJDHSS and the PADOH's employees, agents, assigns, representatives, independent contractors, or other persons or entities authorized to access, use or disclose information from each other's IIS.
- b. "Authorized User Agreement" shall mean the confidentiality agreement the NYSDOH, NYCDOHMH, NJDHSS and the PADOH will require an Authorized Representative of each IIS's Authorized Users to sign before accessing immunization information.
- c. "Data" is a collection of numbers, characters, images or other outputs from devices to convert physical quantities into symbols or images. Data includes numbers, words, or images typically accepted as they stand. Data is typically further processed by a human or entered into a computer (input), stored and processed there, or transmitted (output) to another human, computer or other system to create information.
- d. "Public health" shall mean program(s) that promote, maintain, and conserve the public's health by providing health services to individuals or by conducting research, investigations, examinations, training, and demonstrations. Public health services include, but are not limited to, the control of communicable diseases, immunization, and maternal and child health programs.

e. "Immunization Information" shall mean the immunization information collected by NYSDOH, NYCDOHMH, NJDHSS and the PADOH's IIS.

f. "Significant Breach" shall mean a successful unauthorized access, use, disclosure, modification, or destruction of immunization information, or interference with NYSDOH, NYCDOHMH, NJDHSS or the PADOH's System, of which the NYSDOH, NYCDOHMH, NJDHSS or the PADOH has knowledge or should have knowledge.

g. "State" and "jurisdiction" shall mean any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any geographical territory or possession subject to the legislative authority of the United States.

h. "System" shall mean the software, portal, platform, or other electronic medium controlled or utilized by the NYSDOH, NYCDOHMH, NJDHSS and the PADOH through which or by which the NYSDOH, NYCDOHMH, NJDHSS and the PADOH maintain and exchange information under this Agreement. For purposes of this definition, it shall not matter whether the NYSDOH, NYCDOHMH, NJDHSS or the PADOH controls or utilizes the software, portal, platform or other medium through ownership, lease, license, or otherwise.

2.0 Purpose and Scope

The NYSDOH, NYCDOHMH, NJDHSS and the PADOH agree to permit access to the immunization information contained in each other's IIS.

This Agreement governs how immunization information will be used and disclosed by and between the NYSDOH, NYCDOHMH, NJDHSS and the PADOH.

It is the intent of the NYSDOH, NYCDOHMH, NJDHSS and the PADOH to protect the confidentiality and security of immunization information subject to this Agreement, in accordance with applicable state and federal law.

3.0 Use of and Access to Immunization Information

a. **Permitted Uses and Disclosures.** The NYSDOH, NYCDOHMH, NJDHSS and the PADOH may use immunization information for purposes of outreach, quality improvement and accountability, research, epidemiological studies and disease control. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH agree not to use or further disclose immunization information for any other purpose except as provided for in this Agreement.

b. **Authorized Users.** The NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall only allow access and use of immunization information to Authorized Users. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall, upon reasonable request, provide the names and roles of those persons designated as Authorized Users for purposes of this Agreement. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall use reasonable care in selecting such individuals and shall place appropriate privacy

and security restrictions on their Authorized Users. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall apply appropriate sanctions against any Authorized User who fails to comply with the requirements of this Agreement. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall immediately remove an Authorized User's access to immunization information if the Authorized User no longer qualifies as an Authorized User. Before allowing use or disclosure of immunization information, the NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall require their Authorized Users to execute their respective IIS's Authorized User Agreement, as set forth in Attachment A.

c. Access to Immunization Information

i. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH will provide immunization information dating as far back as the information is generally accessible in electronic format and is maintained on each System. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH are not responsible for the absence of any information in a record. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH acknowledge that the immunization information provided is drawn from numerous sources and may not include a complete record.

ii. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall provide immunization information on a mutually agreed upon schedule. NYSDOH, NYCDOHMH, NJDHSS and the PADOH will generate files or real-time update/query messages from their respective IIS containing immunization records for residents of the other jurisdiction. Once the NYSDOH, NYCDOHMH, NJDHSS or the PADOH receives their respective files, they may download the information to their own IIS. The data transfer specifications, including the specific data elements to be exchanged and the data file format as set forth in current file transfer standards, are available upon request.

iii. If the NYSDOH, NYCDOHMH, NJDHSS or the PADOH becomes aware of any material inaccuracies in its own immunization information or System, it agrees to communicate such inaccuracy to the other party as soon as reasonably possible.

d. Ownership. If immunization information has been added to a System, it may be thereafter integrated into the recipient's database. However, this Agreement does not grant the NYSDOH, NYCDOHMH, NJDHSS or the PADOH any rights in the System, or any of the technology used to create, operate, enhance or maintain the System, of the other jurisdiction.

4.0 Jurisdiction Requirements

The NYSDOH, NYCDOHMH, NJDHSS and the PADOH, whether providing, receiving or using information hereunder, shall:

- a. provide all Authorized Users with appropriate education and training on the requirements of this Agreement;
- b. require that a representative of each IIS's Authorized Users execute the other IIS's Authorized User Agreement prior to accessing immunization information; and
- c. upon reasonable request, provide copies of privacy and security policies and procedures to the other, and demonstrate compliance with the minimum functional standards as defined by the National Vaccine Advisory Committee (NVAC) and any amendments or revisions thereto.

5.0 Privacy and Security Safeguards

- a. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH will protect the confidentiality, integrity and availability of immunization information and prevent the use or disclosure of any immunization information received from or on behalf of the involved parties other than as permitted or required by Federal or State law. To that end, the NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall: (i) provide for identification and authentication of Authorized Users; (ii) provide access authorization; (iii) guard against unauthorized access to immunization information; and (iv) provide security audit controls and documentation.
- b. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH may deny access to immunization information to any Authorized User they have reason to believe accessed, used or disclosed immunization information, other than as permitted under this Agreement.
- c. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH must comply with the privacy and security provisions established within their own jurisdiction, and the minimum functional standards as defined by NVAC and any amendments or revisions thereto, and are not required to adhere to the law or regulations of the Other Jurisdiction.

6.0 Term and Termination

- a. Term. This Agreement shall commence as of the Effective Date, and shall continue in full force and effect for as long as the NYSDOH, NYCDOHMH, NJDHSS and the PADOH elect. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH may terminate participation in this Agreement without cause by providing thirty (30) calendar days written notice to the Other Jurisdictions.
- b. Immediate Termination. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall have the right to immediately terminate this Agreement to comply with any legal order, ruling, opinion, procedure, policy, or other guidance issued, or proposed to be issued, by any federal or state agency, or to comply with any law, regulation, or any requirement of accreditation, tax-exemption, federally-funded health care program participation or licensure which (i) invalidates or is inconsistent with the provisions of

this Agreement; (ii) would cause NYSDOH, NYCDOHMH, NJDHSS or the PADOH to be in violation of the law; or (iii) jeopardizes the good standing status of licensure, accreditation or participation in any federally funded healthcare program, including without limitation the Medicare and Medicaid programs.

c. Termination With Cause. Notwithstanding any other provision of this Agreement, the NYSDOH, NYCDOHMH, NJDHSS and the PADOH may terminate participation in this Agreement if the other party has materially violated its responsibilities under this Agreement, unless the breaching party provides assurances deemed satisfactory by the non-breaching party within fourteen (14) calendar days of receiving notice of such material violation that: (i) reasonable steps are being taken to effect a cure; (ii) such cure will be completed no later than thirty (30) calendar days from notice of such material violation; and (iii) the breaching party has taken reasonable steps to prevent the recurrence of such material violation.

d. Termination of Access to Immunization Information. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH reserve the right to terminate immediately the other party's access to additional immunization information at any time if that party has suffered a Significant Breach of the security of its System or the other party has violated any of the terms of this Agreement, including without limitation accessing any information that the NYSDOH, NYCDOHMH, NJDHSS or the PADOH would not otherwise be authorized to receive pursuant to this Agreement, improperly disclosing immunization information or failing to abide by appropriate policies and procedures.

e. Effect of Termination. Following the termination of this Agreement, any and all immunization information shared up to the effective date of termination shall continue to be subject to the provisions of this Agreement, including, without limitation, provisions regarding privacy and security.

7.0 Warranties and Limitation of Liability

a. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH do not warrant that the performance or delivery of the System conveying the immunization information will be uninterrupted or error-free. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall not be liable for any consequential, incidental, indirect, punitive, or special damages suffered by each other or any other third party. The NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall not be liable for any damages suffered by the other arising out of or related to acts or omissions in accessing, disclosing or using immunization information.

b. Without limiting any other provision of the Agreement, the NYSDOH, NYCDOHMH, NJDHSS and the PADOH and/or their Authorized Users shall be solely responsible for all decisions and actions taken or not taken involving patient care, utilization management, and quality management resulting from or in any way related to the use of the immunization information. The NYSDOH, NYCDOHMH NJDHSS and the PADOH

shall not have any recourse against, and each shall waive any claims against, each other for any loss, damage, claim, or cost relating to or resulting from use or misuse of immunization information.

8.0 Agreement's Compliance with Laws and Regulations

The NYSDOH, NYCDOHMH, NJDHSS and the PADOH in good faith assert and believe that this Agreement complies with all federal, state, and local laws. If any provision of this Agreement is declared void by a court, or rendered invalid by any law or regulation, and if such provision is necessary to effectuate the purposes of this Agreement, the Agreement shall terminate.

9.0 Notices

Any notice required under this Agreement shall be in writing and sent to the address set forth in the signatures area of this agreement, or to such other address as the NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall designate in writing from time to time. Notices to or between the NYSDOH, NYCDOHMH, NJDHSS and the PADOH shall be deemed to have been delivered: (a) by deposit in the U.S. mail when mailed by first class mail; or (b) by deposit with an established courier service; or (c) when received by the NYSDOH, NYCDOHMH, NJDHSS and the PADOH, if hand-delivered.

10.0 Subrogation

The NYSDOH shall indemnify and hold NYCDOHMH, NJDHSS and the PADOH harmless from any claims for injuries or damages resulting from NYSDOH's actions or inactions with respect to immunization information.

The NYCDOHMH, NJDHSS and the PADOH shall indemnify and hold NYSDOH harmless from any claims for injuries or damages resulting from NYCDOHMH, NJDHSS and the PADOH's actions or inactions with respect to immunization information.

11.0 Choice of Law

Each agreeing party shall be governed by the laws of its own jurisdiction and any applicable federal laws.

12.0 Amendment

This Agreement may be modified, altered, or amended only by the express written consent of each jurisdiction.

13.0 Assignment

This Agreement shall be binding on the NYSDOH, NYCDOHMH, NJDHSS and the PADOH, their successors and permitted assigns. The NYSDOH, NYCDOHMH, NJDHSS and the

PADOH shall not assign or transfer this Agreement or any part thereof, without written notification.

14.0 Waiver

No failure or delay by the NYSDOH, NYCDOHMH, NJDHSS and the PADOH in exercising its rights under this Agreement shall operate as a waiver of such rights, and no waiver of any breach shall constitute a waiver of any prior, concurrent, or subsequent breach.

15.0 Integration

This Agreement sets forth the entire and only Agreement between the NYSDOH, NYCDOHMH, NJDHSS and the PADOH relative to the subject matter hereof. Any representation, promise, or condition, whether oral or written, not incorporated herein shall not be binding upon the NYSDOH, NYCDOHMH, NJDHSS or the PADOH.

16.0 Incorporation by Reference

All attachments to this Agreement are incorporated by reference and made a part of this Agreement as if those attachments were set forth in the text of this Agreement.

17.0 Third Party Beneficiaries

This Agreement does not and will not create in any natural person, corporation, partnership, or other organization any benefits or rights, and this Agreement will be effective only as to the NYSDOH, NYCDOHMH, NJDHSS and the PADOH.

18.0 Force Majeure

Notwithstanding any provision hereof to the contrary, in the event of a disruption, delay or inability to complete the requirements of this Agreement because of natural disasters, acts of terror or other similar events out of the control of the NYSDOH, NYCDOHMH, NJDHSS or the PADOH, such jurisdiction shall not be considered in breach of this Agreement.

19.0 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed an original as against the NYSDOH, NYCDOHMH, NJDHSS and the PADOH whose signature appears thereon, but all of which taken together will constitute one and the same instrument.

20.0 Authority to Sign

The NYSDOH, NYCDOHMH, NJDHSS and the PADOH warrant that they have the capacity to enter into and perform the obligations under this Agreement and all activities contemplated herein.

21.0 Survival

The respective rights and obligations of the NYSDOH, NYCDOHMH, NJDHSS and the PADOH under Sections 3, 4, 5, 6, 7, 10 and 11 of this Agreement shall survive the termination of this Agreement to the extent that such provision contemplates continued application after termination of this Agreement.

IN WITNESS WHEREOF, the NYSDOH, NYCDOHMH, NJDHSS and the PADOH have caused this Agreement to be signed by their duly authorized representatives as of the Effective Date.

Signatures:

State/Local Health Jurisdiction/Territory: New York State Department of Health
Name of Program: New York State Immunization Information System

Signed by: _____
Print Name and Title: Sue E. Kelly, Executive Deputy Commissioner
Primary Data Contact (if different): Loretta Santilli, MPH, Program Manager, NYSIIS
Primary Data Contact Address: Corning Tower Building, Room 678, Albany, NY 12237
Primary Contact E-mail Address: las09@health.state.ny.us
Primary Contact Phone Number: 518-473-2839
Primary Contact Fax Number: 518-486-2249
Date: _____

State/Local Health Jurisdiction/Territory: New York City Department of Health and Mental Hygiene (NYC DOHMH)
Name of Program: New York Citywide Immunization Registry

Signed by: _____
Print Name and Title: Thomas Farley, MD, MPH, Commissioner of Health
Primary Data Contact (if different): Amy Metroka, MSW, MPH, Director, Citywide Immunization Registry, Bureau of Immunization, NYC DOHMH
Primary Data Contact Address: 42-09 28th Street, 5th Floor, CN 21 Long Island City, New York 11101-4132
Primary Contact E-mail Address: ametroka@health.nyc.gov
Primary Contact Phone Number: 347-396-2424
Primary Contact Fax Number: 347-396-2559
Date: _____

State/Local Health Jurisdiction/Territory: New Jersey Department of Health and Senior Services
Name of Program: New Jersey Immunization Information System

Signed by: _____
Print Name and Title: Mary E. Dowd, MPH, Commissioner of Health
Primary Data Contact (if different): Angela Sorrells-Washington, J.D., NJIIS Program Manager
Primary Data Contact Address: NJDHSS, 135 East State Street, POB 369, Trenton, NJ 08625

Primary Contact E-mail Address: Angela.Sorrells@doh.state.nj.us

Primary Contact Phone Number: 609.826.4860

Primary Contact Fax Number: 609.826.4866

Date: _____

State/Local Health Jurisdiction/Territory: Pennsylvania Department of Health

Name of Program: Pennsylvania Statewide Immunization information System

Signed by: _____

Print Name and Title: Eli N. Avila, MD, JD, MPH, FCLM, Secretary of Health, Commonwealth of Pennsylvania

Primary Data Contact (if different): Frank Caniglia, Chief, Statewide Immunization Information System, Bureau of Health Statistics and Research, PADOH

Primary Data Contact Address: PA SIIS/PADOH 555 Walnut Street, 6th Floor, Harrisburg, PA 17101

Primary Contact E-mail Address: ccaniglia@pa.gov

Primary Contact Phone Number: 717-783-2548

Primary Contact Fax Number: 717-772-3258

Date: _____