

Deliberation 2020-034 of March 19, 2020 National Commission for Computing and Liberties Nature of the deliberation: Single decision Legal status: In force Date of publication on Légifrance: Saturday July 11, 2020 Deliberation n° 2020-034 of March 19, 2020 bearing single decision and authorizing the company Carte blanche partners to implement automated processing for research, study and evaluation purposes requiring access to national data from the program for the medicalization of information systems (PMSI) (Request no. 918404) Commission Nationale de l'Informatique et des Libertés, Entry by Carte Blanche Partners of a request for authorization of automated processing for research, study and evaluation purposes requiring access to national data from the medicalization program information systems; Having regard to Convention No. 108 of the Council of Europe for the protection of individuals with regard to automatic processing of personal data s of a personal nature; Having regard to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data , and repealing Directive 95/46/EC; Having regard to the Public Health Code, in particular its articles L. 6113-7 and L. 6113-8; Having regard to Law No. 78-17 of 6 January 1978 as amended relating to the , files and freedoms, in particular its articles 66, 72 and following; Considering the law n ° 2016-41 of January 26, 2016 of modernization of our health system, in particular its article 193; Considering the decree n ° 2016- 1871 of December 26, 2016 relating to the processing of personal data referred to as the National Health Data System; Having regard to Decree No. 2019-536 of May 29, 2019 taken for the application of Law No. 78-17 of January 6, 1978 relating to data processing, files and freedoms; Having regard to the decree of March 22, 2017 relating to the ap applicable to the National Health Data System; Having regard to the opinion of the Expert Committee for research, studies and evaluations in the field of health of October 24, 2018; Having regard to deliberation n ° 2019-062 of May 09, 2019 referring to the National Institute for Health Data for an opinion on the nature of public interest presented by the processing envisaged by the company Carte blanche partners; Having regard to the opinion of the National Institute for Health Data of July 8, 2019 on the public interest represented by the processing envisaged by Carte Blanche Partners; Considering the file and its supplements; On the proposal of Mrs. Sophie LAMBREMON, commissioner, and after having heard the observations of Mrs. Nacima BELKACEM, government commissioner, Formulates the following observations: Person in charge of the treatment The company Carte blanche partners is a health platform specialized in visual, auditory and oral health. In order to support policyholders of complementary health insurance organizations that are partners of the company in their care journey, since 2008 it has been classifying hospital establishments based on data available in open-data (data from

the annual statistics of health establishments, etc.) as well as data from the program for the medicalization of information systems (PMSI). On the advisability of resorting to the single decision The Carte Blanche Partners project involves the annual implementation of processing for the same purpose, relating to identical categories of data, in this case PMSI data, and whose categories of recipients are identical. The processing operations described fall under the authorization regime for processing for research, study or evaluation purposes. The Commission considered it appropriate, in view of the elements presented in the application file , to authorize the implementation of this processing on the basis of the provisions of Articles 66 IV, 72 et seq. of Law No. 78-17 of 6 January 1978 as amended (hereinafter the Data Protection Act), within the framework of a single decision. On the application of the provisions related to the SNDSL Since PMSI data comes from one of the databases making up the National Health Data System (hereinafter SNDS), the Commission recalls that all the legal provisions slatives and regulations relating to the SNDS is applicable in this case, and in particular the prohibition on using this data for the purposes described in Article L. 1461-1 V of the Public Health Code: the promotion of the products mentioned in II of article L. 5311-1 in the direction of health professionals or health establishments; the exclusion of guarantees from insurance contracts or the modification of contributions or insurance premiums of an individual or of a group of individuals presenting the same risk. On the legality of the processing The processing carried out by Carte Blanche Partners is part of its commercial activity. It is necessary for the purposes of the legitimate interests pursued by the data controller. processing, taking into consideration the very indirectly identifying nature of the data and the guarantees, particularly in terms of personal rights, provided for by the texts governing the provision of SNDS data. ents are, as such, lawful under Article 6, paragraph 1 point f) of the General Data Protection Regulation (hereinafter GDPR). On the purpose of the processing operations and their character in the public interest The processing operations requiring access to PMSI data are intended to supply a tool for the qualitative classification of healthcare establishments according to their activity (pathologies treated by the establishments) and age groups of their patients. The results obtained from this ranking will allow Carte Blanche Partners to: feed the GuidHospi tool intended to help them to better orient themselves on the national territory; to carry out, each quarter, communications on its institutional site as well as during events for the general public concerning certain pathologies and targeted age groups (Pink October and breast cancer for 16-65 year olds); to feed the process of agreement of health establishments by Carte blanche partners. The Commission recalls that the data and results obtained from the rankings must under no circumstances be used to pursue the purposes described in Article L. 1461-1 V of the Public Health Code or any other purpose which would not present not a public

interest. Subject to this reservation, the Commission considers on the one hand that the purpose of the processing is determined, explicit and legitimate, in accordance with Article 5 paragraph 1 point b) of the GDPR and, on the other hand, that it is in the public interest, in accordance with Article 66 I of the Data Protection Act. On the categories of data processed The Commission recalls that the data controller must only process, for each of the processing operations implemented within the framework of this single decision, the data that is strictly necessary and relevant with regard to the purposes of the processing. In addition to the file allowing all the PMSI data concerning the same patient to be linked (ANO file), the data concerning the following activity are necessary for carrying out these studies: medicine, surgery, obstetrics and odontology (MCO). The processing operations included in the framework of the single decision relate to the national PMSI data for the years 2017 to 2021, provided that they are disseminated by ATIH. The Commission recalls that, in accordance with Article 30 of the GDPR, the data controller must keep the list of processing operations carried out under this single decision up-to-date in the register of processing activities. In addition, the adequacy, relevance and limited nature to what is necessary with regard to the purposes for which the data are processed, the geographical area concerned and the historical depth of the data consulted must be justified in this register for each processing implemented in the framework for this single decision. On the data retention period PMSI personal data cannot be stored outside the platform of the Secure Data Access Center (hereinafter CASD) by the data controller, their export being prohibited. Only anonymous results can be exported. The duration of access to data in the secure platform must be limited to the duration necessary for the implementation of the processing, which cannot be more than three years, from the first effective access. to the data. On the publication of the results The Commission recalls that, when the result of the data processing is made public, the direct or indirect identification of the persons concerned must be impossible, in accordance with Article 68 of the Data Protection Act. The results of the classification carried out within the framework of this single decision will be made accessible, via the Guidhospi tool, to the insured beneficiaries of the network of Carte Blanche partners. Other results will be made accessible to all of civil society on the site institutional Carte Blanche partners or in magazines. On the categories of data recipients Only the data controller and the persons authorized by him have access to the data within the framework of this single decision. The data controller keeps up-to-date documents indicating the competent person(s) within it to issue the authorization to access the data, the list of persons authorized to access this data, their respective access profiles and the procedures for allocation, management and control of authorizations. These categories of persons are subject to professional secrecy under the conditions defined by Articles 226-13 and 226-14 of the Criminal

Code. The qualification of authorized persons and their access rights must be regularly reassessed, in accordance with the methods described in the authorization procedure established by the data controller. On the information and rights of the persons The information of the persons concerned, as to the possible reuse of their data and the methods of exercise of their rights, is ensured under the conditions provided for in Article R. 1461-9 of the Public Health Code, as well as by a statement appearing on the website of the data controller, health insurance organizations and on media allowing it to be brought to the attention of individuals, in particular posters in premises open to the public or documents given to them. Access rights , rectification and opposition are exercised with the director of the body managing the compulsory health insurance scheme to which the person is attached, in accordance with the provisions of article R. 1461-9 of the public health code. On data security and traceability of actions The implementation of personal data processing within the framework of the study is carried out under the responsibility of the data controller, including third parties acting on his behalf, in compliance with the provisions of articles 24, 25, 28, 32 to 35 of the GDPR as well as the decree of March 22, 2017 relating to the security reference system applicable to the SNDS. The data will be made available ion with the data controller via the secure access provider designated by ATIH, namely the CASD. or indirect, of persons is impossible, may be subject to extraction. the three criteria defined by Opinion No. 05/2014 on anonymization techniques adopted by the Article 29 group (G29) on April 10, 2014. Failing that, if these three criteria cannot be met, a study re-identification risks must be carried out. In this respect, the Commission notes that the results concerning fewer than ten stays are systematically excluded and will not be made accessible. However, it draws the data controller's attention to the fact that the deletion of results containing small numbers may not be sufficient to meet the three criteria defined by the above-mentioned opinion no. 05/2014 and that a complete analysis of its anonymisation processes must be carried out, accompanied by a regular reassessment of the risks of re-identification. On the principle of transparency The provision of data from the SNDS and its components is designed in such a way as to account for their use to society civil. To this end, Article L. 1461-3 of the CSP makes access to data from the SNDS and its components subject to the communication to the Platform of health data of several elements by the data controller, before and after the studies. .As soon as the public directory maintained by the Health Data Platform is effective, the data controller undertakes to register all the studies carried out within the framework of this single decision. This registration, to be carried out by the data controller or the person acting on his behalf, before the start of processing, is accompanied by the transmission to the Health Data Platform of a file comprising: the protocol, including the justification for the public interest, as well as a summary, according to the model

made available by the Health Data Platform; the declaration of interests of the data controller, in relation to the subject of the processing. At the end of the studies, the method and the results obtained must be communicated to the Health Data Platform for publication. The recording of processing and the transmission of results are carried out in accordance with the procedures defined by the Health Data Platform. In addition, the Commission takes note of the commitment of Carte Blanche Partners to publish on its website the list of processing implemented within the framework of the single decision as well as the list of communications and publications carried out. It also takes note of the company's commitment to make available to the public on its website all the results obtained each year, once the one-year period has passed, corresponding to the period during which access will be reserved for policyholders who are beneficiaries of the network. Finally, the Commission recalls that at the end of the three-year period, a report containing in particular the list of analyzes carried out within the framework of the single decision as well as the methodology followed in the context of the analyzes must be sent to the Commission. On external audits The head The data controller must carry out an independent external audit internally at the end of the three-year period in order to ensure compliance with the principles laid down by law, in particular compliance with prohibited purposes. This audit must cover the purposes pursued and the use by the data controller of the results of the studies carried out. An audit report must be sent to the chairman of the SNDS audit committee provided for by the Data Protection Act. Authorizes, in accordance with this deliberation, Carte Blanche Partners to implement the processing described above for a period of three years, with the obligation, on the one hand, to submit a report to the Commission at the end of this period and, on the other hand, to carry out an independent external audit. The President Marie-Laure DENIS