



**California Health & Human Services Agency  
Center for Data Insights and Innovation  
Stakeholder Advisory Group  
Data Sharing Agreement Subcommittee  
Charter**

**I. Purpose**

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The Data Sharing Agreement (DSA) Subcommittee will support the California Health & Human Services' (CalHHS') Data Exchange Framework Stakeholder Advisory Group's development of recommendations for the creation of California's data sharing agreement as required by [Assembly Bill 133](#) (AB133)<sup>1</sup>.

**II. Vision Statement**

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Every Californian, and the health and human service providers and organizations that care for them, will have timely and secure access to useable electronic information that is needed to address their health and social needs and enable the effective and equitable delivery of services to improve their lives and wellbeing.

**III. Background**

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Signed by Governor Newsom on July 27, 2021, AB133 calls for the creation of a Data Exchange Framework, to be established by July 1, 2022, that includes a single data sharing agreement and common set of policies and procedures that will govern and require the exchange<sup>2</sup> of health information among health care entities and government agencies by January 31, 2024. The Framework must be designed to enable and require real-time access to, or exchange of, health information among health care providers and payers through any health information exchange network, health information organization, or technology that adheres to specified standards and policies.<sup>3</sup>

The data sharing agreement will build upon, leverage, and/or reference state and national data exchange agreements that are in broad use, programs, requirements, and interoperability efforts including but not limited to the [California Data Use and Reciprocal Support Agreement \(CalDURSA\)](#), the [Data Use and Reciprocal Support Agreement \(DURSA\)](#), previous guidance from the State and [State Health Information Guidance](#)

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<sup>1</sup> Chapter 143, Statutes of 2021

<sup>2</sup> The law defines exchange in the following context: "...exchange health information or provide access to health information to and from every other entity in subdivision (f) in real time as specified by the California Health and Human Services Agency pursuant to the California Health and Human Services Data Exchange Framework data sharing agreement for treatment, payment, or health care operations."

<sup>3</sup> AB133, § 130290(a)(2).

[\(SHIG\), Trusted Exchange Framework and Common Agreement \(TEFCA\)](#), and be developed to align with:

- Health Insurance Portability and Accountability Act of 1996 (HIPAA Public Law 104-191);
- Confidentiality of Medical Information Act of 1996 (CMIA Part 2.6 [commencing with Section 56] of Division 1 of the Civil Code); and
- Other applicable state and federal privacy laws and guidance related to the interoperability and sharing of health information, social determinants of health (SDOH), and other data identified and recommended by the Subcommittee, among and between patients, providers, payers, and the government.

#### Applicable Data, Entities and Timelines

AB133 sets data exchange requirements for the following entities and data types:

- (A) For hospitals, clinics, and physician practices, at a minimum, the United States Core Data for Interoperability Version 1, until October 6, 2022. After that date, it shall include all electronic health information as defined under federal regulation in Section 171.102 of Title 45 of the Code of Federal Regulations and held by the entity.<sup>4</sup>
- (B) For health insurers and health care service plans, at a minimum, the data required to be shared under the Centers for Medicare and Medicaid Services Interoperability and Patient Access regulations for public programs as contained in United States Department of Health and Human Services final rule CMS-9115-F, 85 FR 25510.

AB133 also calls for the Stakeholder Advisory Group to “identity which data beyond health information... should be shared for specified purposes” between the entities identified above and specifically “identify ways to incorporate data related to social determinants of health... into shared health information”.

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<sup>4</sup> Note that the data exchange structure contemplates use of “any health information exchange network, health information organization, or technology that adheres to specified standards and policies.” Also note that, the “Framework is not intended to be an information technology system or single repository of data, rather it is technology agnostic and is a collection of organizations that are required to share health information using national standards and a common set of policies in order to improve the health outcomes of the individuals they serve.”

Notwithstanding any of the enumerated exceptions, AB133 stipulates that the following entities must execute the Framework’s “Data Sharing Agreement” on or before January 31, 2023:

- (1) General acute care hospitals, as defined by Section 1250.
- (2) Physician organizations and medical groups.
- (3) Skilled nursing facilities, as defined by Section 1250, that currently maintain electronic records.
- (4) Health care service plans and disability insurers that provide hospital, medical, or surgical coverage that are regulated by the Department of Managed Health Care or the Department of Insurance. This section shall also apply to a Medi-Cal managed care plan under a comprehensive risk contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code that is not regulated by the Department of Managed Health Care or the Department of Insurance.
- (5) Clinical laboratories, as that term is used in Section 1265 of the Business and Professions Code, and that are regulated by the State Department of Public Health.
- (6) Acute psychiatric hospitals, as defined by Section 1250.

#### **IV. Membership**

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Stakeholder Advisory Group DSA Subcommittee Members will be selected by CalHHS and include individuals representing a diverse set of public and private health care stakeholders with expertise and experience relevant to the design, development, and implementation of health and cross-sector data sharing agreements.

DSA Subcommittee Members will have legal, technical, and operational expertise and experience with:

- HIPAA Public Law 104-191, CMIA Part 2.6 [commencing with Section 56] of Division 1 of the Civil Code, or other applicable state and federal privacy laws and guidance related to the sharing of data among and between providers, payers, and the government;
- CalDURSA, TEFCA, [California Trusted Exchange Network \(CTEN\)](#), or other data exchange agreements in California or nationally; and/or
- Processes, procedures, workflows, and standards for data collection, compilation, and transmission implicated in the development of the Framework.

DSA Subcommittee Members will not have a financial interest, individually or through a family member, related to issues the DSA Subcommittee will advise on. Members will

serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the group.

DSA Subcommittee Members may not assign temporary “proxies” to represent them on the Subcommittee and their organization at meetings.

## **V. Roles and Responsibilities**

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DSA Subcommittee Members have been selected for their expertise and will serve in an important advisory role to the Advisory Group and CalHHS to support the development of a data sharing agreement. The DSA Subcommittee will advance recommendations to CalHHS and the Stakeholder Advisory Group. The DSA Subcommittee does not have decision-making authority.

The DSA Subcommittee will inform the development of a data sharing agreement, review drafts of the data sharing agreement and associated public comments, and advance related recommendations to the Stakeholder Advisory Group. The DSA Subcommittee may consider and provide recommendations on topics including:

- Technical, policy, and operational issues related to the development of a single statewide data sharing agreement, such as, but not limited to data standards and specifications; applicable technical architecture(s); data exchange and transmission protocols; privacy and security requirements; interoperability; information blocking; and disclosure requirements.
- The relationship between the data sharing agreement and policies and procedures for required data sharing.
- Supporting alignment with existing federal and state data sharing laws, regulations, policies, and frameworks (including, but not limited to DURSA, CalDURSA, TEFCA).
- Refining principles and addressing questions raised by the Stakeholder Advisory Group.
- Expectations of and benefits for signatories.
- The role of information sharing networks in supporting data exchange requirements of health care entities.

The DSA Subcommittee may also consider and provide recommendations on health information technology issues, including:

- Addressing the privacy, security, and equity risks of expanding care coordination, health information exchange, prohibitions against information blocking, interoperability, access, and telehealth in a dynamic technological and entrepreneurial environment.
- Developing and/or leveraging policies and procedures consistent with federal and national standards in the exchange of health information and ensuring that health information sharing broadly implements national frameworks and agreements consistent with federal rules and regulations.
- Developing and/or leveraging definitions of complete clinical, administrative, claims, and social determinant of health data consistent with existing and emerging federal policies and national standards.

The DSA Subcommittee plans to meet approximately monthly from November 2021 through June 2022 and conduct its business through discussion and consensus building. In the event that consensus cannot be reached, the DSA Subcommittee will advance options to the Stakeholder Advisory Group with related considerations.

DSA Subcommittee Members will be expected to:

- Consistently attend and actively participate in meetings;
- Inform the DSA Subcommittee Chair and staff if they are unable to attend a scheduled meeting at least 48 hours in advance of the meeting;
- Review shared materials in advance of each meeting;<sup>5</sup>
- Keep statements during meetings respectful, constructive, relevant to the agenda topic, and brief;
- Be respectful of others and the opinions they advance;
- Be solutions-oriented in their deliberations and comments, offering alternatives or suggested revisions where possible; and
- Provide input on draft materials, as requested.

Meetings of the DSA Subcommittee will adhere to principles of inclusion, collaboration, and effectiveness, providing a collegial environment to allow for the expression of diverse and innovative points-of-view from all members. The DSA Subcommittee will advance data sharing agreement design through a person centered, data driven, and equity-lens approach, as reflected in CalHHS Agency's [Guiding Principles](#).

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<sup>5</sup> Materials will be shared with DSA Subcommittee members at least five calendar days prior to meetings, whenever possible.

## **VI. Chairperson**

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The Chief Data Officer of CalHHS will serve as chair of the DSA Subcommittee. Chair duties will include:

- Presiding over DSA Subcommittee meetings;
- Coordinating meeting agendas in consultation with CalHHS designated support staff;
- Reviewing and approving draft meeting summaries; and
- Communicating recommendations, findings, questions, and other materials to the Stakeholder Advisory Group directly or through designated support staff.

The Chair may designate, in their absence or when expedient to DSA Subcommittee business, other Members to perform Chair duties related to DSA Subcommittee business.

## **VII. Conducting Business**

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DSA Subcommittee meetings are subject to the Bagley-Keene Open Meeting Act. Members are responsible to comply with the Open Meeting Act requirements. DSA Subcommittee meeting agendas, minutes, and meeting materials will be posted on the CalHHS Data Exchange Framework [website](#), and all meetings will be open to the public. Meetings may be virtual in accordance with COVID-19 protocols. The public will be able to listen to the meetings via a teleconference line.

Public comment will be taken during meetings at designated times. Public comment will be limited to the total amount of time allocated for public comment on particular issues. Each speaker will have up to two minutes to make remarks. Prior to making comments, speakers will be asked to state their names for the record and identify any group or organization they represent. Due to time constraints, DSA Subcommittee Members will be asked not to respond to public comments.

## **VIII. Key Deliverables**

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The DSA Subcommittee will advise on the development of the following materials:

- Legislative Report (due by approximately Jan 1, 2022);
- Legislative Update (due by Apr 1, 2022); and
- Data Sharing Agreement for incorporation into the Data Exchange Framework which could include policies and procedures to support the Data Sharing Agreement (due by July 1, 2022).

## **IX. Information Accessibility**

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Agendas, minutes, supplemental documents and audio-visual materials to be discussed at meetings will be circulated prior to meeting dates in order to allow sufficient review and consideration by DSA Subcommittee Members prior to open discussion. Meeting agenda, minutes and materials will be in formats that are accessible to all members.