

California Health & Human Services Agency

Data Exchange Framework Data Sharing Agreement Subcommittee

Meeting #3

Tuesday, January 18, 2022
12:00 p.m. to 2:30 pm

Meeting Participation Options

Written Comments

- Participants may submit comments and questions through the **Zoom Q&A box**; all comments will be recorded and reviewed by Subcommittee staff.
- Participants may also submit comments and questions – as well as requests to receive Data Exchange Framework and Data Sharing Agreement Subcommittee updates – to CDII@chhs.ca.gov.

Meeting Participation Options

Spoken Comments

- *Participants and Subcommittee Members* must “raise their hand” for Zoom facilitators to unmute them to share comments; the Chair will notify participants/Members of the appropriate time to volunteer feedback.

If you logged on via phone-only

Press “*9” on your phone to “raise your hand”

Listen for your phone number to be called by moderator

If selected to share your comment, please ensure you are “unmuted” on your phone by pressing “*6”

If you logged on via Zoom interface

Press “Raise Hand” in the “Reactions” button on the screen

If selected to share your comment, you will receive a request to “unmute”; please ensure you accept before speaking

Public Comment Opportunities

- Public comment will be taken during the meeting at designated times.
- Public comment will be limited to the total amount of time allocated for public comment on particular issues.
- The Subcommittee Chair will call on individuals in the order in which their hands were raised.
- Individuals will be recognized for up to two minutes and are asked to state their name and organizational affiliation at the top of their statements.
- Participants are encouraged to use the Q&A box to ensure all feedback is captured or email their comments to CDII@chhs.ca.gov.

Agenda

12:00 PM	Welcome and Roll Call <ul style="list-style-type: none">• <i>John Ohanian, Chief Data Officer, CalHHS</i>
12:05 PM	Meeting Objectives <ul style="list-style-type: none">• <i>John Ohanian</i>
12:10 PM	<u>Public Comment</u>
12:25 PM	Threshold Questions for the Data Exchange Framework (DxF) Data Sharing Agreement (DSA) <ul style="list-style-type: none">• <i>Jennifer Schwartz, Chief Counsel, CalHHS CDII</i>
12:45 PM	<u>DxF DSA Outline</u> <ul style="list-style-type: none">• <i>Jennifer Schwartz</i>
12:55 PM	<u>DxF DSA Content: First Set of Topics</u> <ul style="list-style-type: none">• <i>Jennifer Schwartz</i>
2:25 PM	Next Steps and Closing Remarks <ul style="list-style-type: none">• <i>John Ohanian</i>

Welcome and Roll Call

Data Sharing Agreement (DSA) Subcommittee

Members (1 of 2)

Name	Title	Organization
John Ohanian (Chair)	Chief Data Officer	California Health & Human Services Agency
Ashish Atreja	CIO and Chief Digital Health Officer	UC Davis Health
William (Bill) Barcellona	Executive Vice President for Government Affairs	America's Physician Groups (APG)
Jenn Behrens	Chief Information Security Officer	LANES
Michelle (Shelley) Brown	Attorney	Private Practice
Louis Cretaro	Lead County Consultant	County Welfare Directors Association of California
Elizabeth Killingsworth	General Counsel & Chief Privacy Officer	Manifest Medex
Helen Kim	Senior Counsel	Kaiser Permanente
Patrick Kurlej	Director, Electronic Medical Records & Health Information Exchange	Health Net
Carrie Kurtural	Attorney & Privacy Officer	CA Dept. of Developmental Services

Data Sharing Agreement (DSA) Subcommittee

Members (2 of 2)

Name	Title	Organization
Steven Lane	Clinical Informatics Director Family Physician	Sutter Health Palo Alto Medical Foundation
Lisa Matsubara	General Counsel & VP of Policy	Planned Parenthood Affiliates of California
Deven McGraw	Lead, Data Stewardship and Data Sharing, Ciitizen Platform	Invitae
Eric Raffin	Chief Information Officer	San Francisco Department of Health
Morgan Staines	Privacy Officer & Asst. Chief Counsel	CA Dept. of Health Care Services
Ryan Stewart	System VP, Data Interoperability and Compliance	CommonSpirit Health
Lee Tien	Legislative Director and Adams Chair for Internet Rights	Electronic Frontier Foundation
Belinda Waltman	Acting Director, Whole Person Care LA	Los Angeles County Department of Health Services
Terry Wilcox	Director of Health Information Technology/Privacy & Security Officer	Health Center Partners

Meeting Objectives

Vision for Data Exchange in California

Every Californian, and the health and human service providers and organizations that care for them, will have timely and secure access to usable 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.

Meeting Objectives



- 1 Discuss **threshold questions** pertaining to the development of the DxF DSA
- 2 Introduce a **draft outline of the DxF DSA**
- 3 Discuss an initial set of **DxF DSA topics and draft language**

Public Comment Period

Threshold Questions for the Data Exchange Framework (DxF) Data Sharing Agreement (DSA)

Threshold Questions

Purpose of the Discussion



The goal for this section of the meeting is to get feedback on threshold questions for the following topics:

- 1 Requirement for Individual and Proxy Access
- 2 Social Service Organizations as Business Associates

① Requirement for Individual and Proxy Access

Context



Individuals

Certain organizations are required to provide an Individual with access to their information when requested by the Individual who is the subject of the information.



Proxies

These organizations are also required to provide access to the person who has a legal right to make health care decisions for the Individual if the Individual lacks capacity or competency.

Discussion



Should the DxF Data Sharing Agreement require signatories to provide access to individuals and their proxies (patient representatives)?

1. Should this be limited to signatories with a direct relationship to the Individual? If so, what constitutes a direct relationship between a signatory and an Individual?
2. Should this requirement include Social Services Organizations?

② Social Service Organizations as Business Associates

Context



Many Social Services Organizations need health information to determine eligibility and provide services.

1. Some Social Services Organizations will meet the definition of a Business Associate, but many will not.
2. Many Social Services Organizations, especially small community-based organizations, cannot comply with HIPAA and do not have the resources to become HIPAA compliant.
3. There are serious liability issues for organizations that fail to comply with HIPAA or a Business Associate Agreement.

Discussion



How should the DSA address Social Services Organizations so that:

1. Organizations that do not meet the definition of a Business Associate in HIPAA avoid being labeled as such?
2. It ensures health care provider confidence in the DSA and its processes, facilitating data sharing between providers and Social Services Organizations even in situations where a Social Services Organization may not meet the definition of a Business Associate?

DxF DSA Outline

DxF DSA Outline

Purpose of the Discussion



The objective for this section of the meeting is to review an initial draft of the DxF DSA outline

DxF DSA Outline (DRAFT)

Overview

1. Parties

2. Purpose and Intent

3. Definitions

4. Technology Agnostic

5. Special Compliance Provisions and Applicability of HIPAA

6. Governance

7. Cooperation and Non-Discrimination

8. Requirement to Respond

9. Information Blocking

10. Expectations of Participants (obligations)

11. Legal Requirements

12. Uses and Disclosures

13. Privacy and Security

14. Minimum Necessary

15. Data Quality

16. Authorizations

17. Individual Access Services

18. Term, Suspension, and Termination

19. Compliance and Penalties

20. Dispute Resolution

21. Representations & Warranties

22. General Provisions (e.g., governing law, amendment, new participants, etc.)

Addenda (depending on governance, P&Ps, etc.):

A. Business Associate Agreement

B. Policies and Procedures

C. Onboarding, Implementation, Operations Guide

D. Technical Specifications

E. Dispute Resolution Process

DxF DSA Content: First Set of Topics

DxF DSA Content: First Set of Topics

Purpose of the Discussion



The goal for this section of the meeting is to obtain Subcommittee Member feedback on the first set of DxF DSA topics and draft language.

First Set of Topics

Concepts and Draft Language

1. Breach, Privacy, and Security
2. Technology Agnostic
3. Exchange Purposes
4. Requirement to Respond
5. Authorizations *(time allowing)*



*Transition to draft language
(Word document)*

Next Steps and Closing Remarks

Next Steps

CalHHS will:

- Summarize meeting and circulate notes for review over email
- Develop and revise draft DxF DSA language

Members will:

- Provide feedback on the draft language discussed today by Monday, January 24
- Review meeting notes and provide feedback to CalHHS staff
- Review and provide input on DSA Subcommittee Meeting #4 materials once received

DSA Subcommittee Meeting Schedule

Meeting	Date
DSA Subcommittee Meeting #4	February 23, 2022 @ 11 am – 1:30 pm
DSA Subcommittee Meeting #5	March 22, 2022 @ 12 pm – 2:30 pm
DSA Subcommittee Meeting #6	April 26, 2022 @ 12 pm – 2:30 pm

For more information or questions on the Data Sharing Agreement Subcommittee meeting scheduling and logistics, please email Khoua Vang (khoua.vang@chhs.ca.gov)

Thank You!