# California Health & Human Services Agency

## Data Exchange Framework
## Data Sharing Agreement Subcommittee

# Meeting #4

Wednesday, February 23, 2022
11:00 a.m. to 1:30 pm

CalHHS
California Health & Human Services Agency

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CALIFORNIA HEALTH & HUMAN
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# 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 <u>phone-only</u>** | **If you logged on via <u>Zoom interface</u>** |
|---|---|
| Press "*9" on your phone to "raise your hand" | Press "Raise Hand" in the "Reactions" button on the screen |
| Listen for your <u>phone number</u> to be called by moderator | If selected to share your comment, you will receive a request to "unmute"; please ensure you accept before speaking |
| If selected to share your comment, please ensure you are "unmuted' on your phone by pressing "*6" | |

# 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

| | |
|---|---|
| 11:00 AM | **Welcome and Roll Call**<br>• *Jennifer Schwartz, Chief Counsel, CalHHS CDII* |
| 11:05 AM | **Meeting Objectives**<br>• *Jennifer Schwartz* |
| 11:10 AM | **Public Comment** |
| 11:25 AM | **Data Exchange Framework (DxF) Data Sharing Agreement (DSA) Development Update**<br>• *Jennifer Schwartz* |
| 11:35 AM | **Threshold Questions for the DxF DSA**<br>• *Jennifer Schwartz* |
| 12:05 PM | **DxF DSA Content: Second Set of Topics**<br>• *Jennifer Schwartz* |
| 1:25 PM | **Next Steps and Closing Remarks**<br>• *Jennifer Schwartz* |

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# Welcome and Roll Call

# Data Sharing Agreement (DSA) Subcommittee
*Members (1 of 2)*

| Name | Title | Organization |
|------|-------|--------------|
| **Jennifer Schwartz** *(Chair)* | Chief Counsel | CalHHS, Center for Data Insights and Innovation |
| **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 progress made and **DxF DSA development and finalization approach**

2. Discuss **threshold questions** pertaining to the development of the DxF DSA

3. Discuss a second set of **DxF DSA topics and draft language**

# Public Comment Period

# Data Exchange Framework (DxF) Data Sharing Agreement (DSA) Development Update

# DxF DSA and Policies & Procedures Development

By July 1, 2022, AB 133 requires the establishment of a <u>single data sharing agreement</u> and a common set of <u>policies and procedures</u> that govern and require the exchange of health information.

| DxF Data Sharing Agreement (DSA) | DxF Policies and Procedures (P&Ps) |
|---|---|
| A legal agreement that a broad spectrum of health organizations execute by January 31, 2023 | Rules and guidance to support "on the ground" implementation |

**DxF DSA Components**
- Streamlined document that focuses on the key legal requirements
- Avoids duplication or conflicts with other data sharing agreements

**Example DxF DSA Content**
Parties, purpose, intent, definitions, uses & disclosures, minimum necessary

**DxF P&P Components**
- Detailed implementation requirements
- Evolve and be refined over time through a participatory governance process involving stakeholders

**Example DxF P&P Content**
Technical standards and specifications, compliance and penalties, dispute resolution

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# DxF DSA Development Process

**During the first three meetings, the DSA Subcommittee provided input on key design concepts and considerations to support DxF DSA development. Subcommittee meetings will continue into Spring 2022.**

| Status | Meeting | Activity / Milestone |
|---|---|---|
| ✓ | 1 | Convene DSA Subcommittee; discuss purpose of subcommittee; discuss existing data sharing agreements |
| ✓ | 2 | Discuss key considerations and threshold questions for DxF DSA development |
| ✓ | 3 | Preview draft DxF DSA outline; discuss draft language for first set of topics |
| Feb 23 | **4** | Discuss draft language for **second set of topics** |
| Mar 22 | **5** | Discuss draft language for **third set of topics** |
| Apr 26 | **6** | Discuss draft language for **fourth set of topics; discuss final recommendations** |
| May | | **Release full draft of the DxF DSA for public comment** |
| Jul 1 | | **Release DxF DSA** |

# 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 obtain feedback on threshold questions for the following topics:

**1** Data Quality

**2** Uses and Disclosures

**3** Specially Protected Information

**4** Minimum Necessary

# ① Data Quality

**Context**

The quality of data exchanged, and determining responsibility for assuring accuracy and timeliness, have been issues in data exchange networks. Low data quality may hamper the usability of data and DxF participation.

**Discussion**

1. Some entities may have lower quality data than others. The cost of cleaning and validation may be a challenge for these entities. How do we balance the goal of ensuring accurate and useable data with the goal of reducing barriers to participation?

2. Should participants be responsible for data quality? Should requirements differ by type of entity e.g., HIOs vs CBOs?

3. Should data quality be addressed in: (1) the DSA, (2) policies and procedures, or (3) via other mechanisms?

# ② Uses and Disclosures

## Context

Participants may want to retain, use, re-use, and/or repurpose data received through the DxF. For example, participants may want to de-identify data for use/disclosure in research or business.

## Discussion

1. To what extent should participants be able to retain, use, re-use, and/or repurpose the data received through the DxF?

2. Existing data sharing agreements limit retention, use, and re-disclosure. Should the DxF DSA include any additional requirements for data use, retention, or re-disclosure? Or just require compliance with applicable law?

3. Should the ability to retain, use, re-use, and/or repurpose data be limited to business associates? Other types of participants?

# ③ Specially Protected Information

## Context

Some types of data are specially protected in ways that go beyond the general protections afforded by HIPAA and other law governing health data exchange. An example of specially protected information is substance use disorder information under 42 CFR Part 2.

## Discussion

1. Should the DxF DSA discuss considerations specific to pertinent laws (e.g., Lanterman-Petris-Short Act, Lanterman Developmental Disabilities Services Act, 42 CFR Part 2 and Health and Safety Code 11845.5)?

2. Should the DSA just define and address PHI and PII with the requirement to follow all state or federal laws rather than seek to reference these laws which may change with time?

3. Should the policies and procedures require entities to submit a list of laws that apply to their data or some other solution such as tagging the metadata with this information? Should the DxF DSA?

# ④ Minimum Necessary

## Context

HIPAA requires that covered entities develop policies and procedures that reasonably limit their disclosures of, and requests for, protected health information to the minimum necessary.

## Discussion

1. Should minimum necessary requirements apply to social services organizations or other entities not covered by HIPAA?

2. Should all participants be subject to some kind of minimum necessary standard where the default is to only ask for what is needed?

3. What other expectations should be noted for the minimum necessary topic?

# DxF DSA Content: Second Set of Topics

# DxF DSA Content: Second Set of Topics
## *Purpose of the Discussion*

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

# Second Set of Topics
## *Concepts and Draft Language*

1. Authorizations

2. Special Compliance Provisions and Applicability of HIPAA

3. Cooperation and Non-Discrimination

4. Definitions

*Transition to draft language (Word document )*

# Next Steps and Closing Remarks

# Next Steps

## CalHHS will:

- Summarize meeting and circulate notes for review
- Continue to develop and revise draft DxF DSA language

## Members will:

- Provide feedback on the draft DSA language discussed today (by Wednesday, March 2nd)
- Review meeting notes and provide feedback to CalHHS staff
- Review and provide input on DSA Subcommittee Meeting #5 materials once received

# DSA Subcommittee Meeting Schedule

| Meeting | Date |
|---|---|
| **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!