



MEMORANDUM

To: John Ohanian, Chief Data Officer, CHHS
From: DeeAnne McCallin, Director HIT
Date: March 10, 2022
Re: CPCA Feedback on Data Exchange Framework Advisory Group Meeting #6 (03/03/22)

On behalf of the California Primary Care Association, my comments on the materials & content covered during the March 3, 2022, meeting of the Data Exchange Framework (DxF) Advisory Group (AG) are below.

Governance Model

As was shared verbally during the meeting, it is not clear how much authority the AG has over DxF governance. AB 133 says the following:

“...shall establish the California Health and Human Services Data Exchange Framework that shall include a single data sharing agreement and common set of policies and procedures that will leverage and advance national standards for information exchange and data content, and that will govern and require the exchange of health information among health care entities and government agencies in California...”

“...The stakeholder advisory group shall provide information and advice to the California Health and Human Services Agency on health information technology issues, including... (J) Assess governance structures to help guide policy decisions and general oversight.”

CAHHS' Center for Data Insights and Innovation (CDII), in consultation with the AG as a stakeholder, is to develop policies and procedures that will guide implementation and compliance to the terms within the data sharing agreement. During Meeting #6 on March 3, 2022, a governance model was presented to the AG and feedback was requested. CPCA is viewing the meeting's presented model more akin to an assessment of governance structures instead of a model that the AG should adopt, as the statute does not direct the development of a governance structure. The content presented by CDDI and Manatt, the comments by the AG members, both verbal and via the meeting's virtual chat log, as well as comments from public attendees are all valuable assessment components what should be used to guide the development of policies and procedures (P&P). Said P&Ps should align with the Data Sharing Agreement(DSA). It is expected by CPCA that both the P&P and DSA will be components of the DxF. (slide 19's "Relevance of AB 133 Provisions" and the title of slide 21, "Purpose and Goals of Governance Structure")

Via the P&P, the DxF should include the processes by which CAHHS aligns oversight of the framework in alignment with federal and state (i.e. Confidentiality of Medical Information Act, "CMIA").

AB 133 is silent as to how the DxF will be enforced. Based upon entity type, the DSA should address. (slide 22)

Governance Legal and Contractual Framework

CPCA recommends the following content, from slide 22, be appended to include specificity of entity types and the timing per AB133 if included in the DxF's verbiage. Not all entities within CA are subject to AB133, as some are "encouraged" not "required". Some entities are required to "exchange health information or provide access" by January 31, 2024. Other entities are required to do so by January 31, 2026. And others still are encouraged, time not specified.

Pursuant to the DSA, health and human service entities as specified in AB133 will share data with other health and human service entities in California.

CPCA also recommends that CDII consider that P&Ps should stem from the DSA, not vice versa, also from slide 22.

The DSA will incorporate Policies and Procedures that DSA signatories would be required contractually to comply with.

The last comment we have from content shared on slide 22 is that we do not agree that AB133 empowers the AG to develop a Governance Structure.

In addition to the terms of the DSA, health and human service entities must also comply with other data sharing P&Ps and requirements, developed via the Governance Structure.

Core Governance Functions

In response to slide 23, CPCA has noted via the below table our comments.

Slide 23, 03/23/22	CPCA Comment / Recommendation
1. Harmonization of state law with federal law	Should be a term in the DSA
2. Development of and modification to DSA Policies and Procedures (P&Ps)	Include in the P&P stewardship of the P&Ps (CDDI)
3. Enactment of data sharing P&Ps and Requirements	"Enactment"? Oversight may be more appropriate.
4. Review of Federal standards and national efforts impacting data exchange	The DxF must include alignment (and compliance) to federal standards. Recommend assessing how CA presently monitors (or reviews or aligns) with federal standards relative to health information exchange.
5. Enforcement and monitoring compliance with P&Ps, requirements and guidelines	The DxF should cite that AB133 did not authorize enforcement and monitoring, therefore indicate adherence to federal and state regulations.
6. Dispute resolution	The DxF should cite that AB133 did not address dispute resolution, therefore indicate adherence to federal and state processes.
7. Program development and financing	Does this not fall to CAHSS?

Slide 23, 03/23/22	CPCA Comment / Recommendation
8. Identification and qualification of exchange intermediaries	Do not agree with this as a CDII function. Presumably “exchange intermediary” means a Health Information Exchange organization. Perhaps look to FHIR, APIs, and/or CAHIE. The latter, however, may not be an intermediary that every entity within CA that has health information to be shared (or exchanged) has the technology infrastructure or base to use.
9. Communications and education	The DxF should state that one of the roles of CDII is to handle communications, Education and Outreach.
10. Ongoing review of DSA	The DxF should state that one of the roles of CDII has stewardship of the DSA.
11. Coordination with other branches of state and local government	The DxF should state that one of the roles of CDII is to coordinate with other branches of CA government (State or Local). That is, if HHS has authority over local.

Governance Roles and Responsibilities

In response to slide 30, our comment is that responsibility for ongoing, long term oversight of the DxF is the responsibility of CAHHS via CDII. Routine, ongoing Advisory Groups and Subcommittees adds burden to the entities subject to the DxF when the primary responsibility of these entities should be in the delivery of health care. Calling upon stakeholders as needed, and on occasion, is a reasonable expectation. However the day to day, current, long term responsibilities lie with CAHHS.

Implementing Governance Model

The last slide we are commenting on is slide 31, the verbiage to note is below. The DxF should include programs or functions as laid out in AB133, most notably Subsection (3), A through K.

Establish programs defined in the DxF to support HIE onboarding, technical assistance, development and refinement of SPG, and other activities to support coherence with AB 133 and the DxF.

CPCA appreciates the work that CDII is spearheading so as to see AB 133’s vision, enabling real time access to health information among health care providers and payers, via a Framework that promotes safety and useability of health information of all Californians.