

# Cal HHS Data Exchange Framework Policy and Procedure

<b>Subject: Permitted, Required and Prohibited Purposes</b>	
<b>Status:</b>	<b>Policy:</b>
<b>Effective:</b>	<b>Version</b>

## **I. Purpose**

The purpose of this policy is to (a) set forth the purposes for which Participants in the California Health and Human Services Data Exchange Framework (the “Data Exchange Framework”) are required and/or permitted to exchange Health and Social Services Information under the Data Exchange Framework and (b) set forth certain restrictions on the use by Participants of Health and Social Services Information obtained under the Data Exchange Framework.

## **II. Policy**

By the dates set forth in the Requirement to Exchange Health and Social Services Information Policy and Procedure, Participants in the Data Exchange Framework are required to exchange Health and Social Services Information or provide access to Health and Social Services Information for the Required Purposes set forth in Section III.1 of this policy. In addition, Participants may exchange Health and Social Services Information or provide access to Health and Social Services Information for the Permitted Purposes set forth in Section III.2 of this policy. Participants are prohibited from using Health and Social Services Information for the purposes set forth in Section III.3 of this policy.

Nothing in this policy is intended to restrict a Participant from having different arrangements outside of the Data Sharing Agreement (the “DSA”) provided that the Participant can still comply with the DSA.

## **III. Procedures**

### **1. REQUIRED PURPOSES**

a. Subject to the provisions of the DSA and the Policies and Procedures, Participants are required to exchange Health and Social Services Information and/or provide access to Health and Social Services Information pursuant to the Data Exchange Framework for Treatment, Payment, Health Care Operations and Public Health Activities as those terms are defined herein. Notwithstanding the foregoing, a Participant may only disclose Health and Social Services Information to another Participant for Health Care Operations if each entity either has or had a relationship with the Individual User who is the subject of the Health and Social Services Information being requested and the Health and Social Services Information pertains to such relationship.

### **2. PERMITTED PURPOSES**

a. Subject to the provisions of the DSA and the Policies and Procedures, Participants are permitted to exchange or provide access to Health and Social Services Information for any other purpose, provided appropriate Authorizations are made, if necessary, and the disclosure or use of Health and Social Services Information is permissible under Applicable Law. Such purposes include but are not limited to Social Services Activities and Research activities.

### 3. PROHIBITED PURPOSES

a. Unless otherwise permitted by Applicable Law, Participants shall not, for their own indirect or direct financial benefit, re-use, re-disclose, aggregate, de-identify, re-identify or engage in the Sale of Health and Social Services Information received through the DSA without explicit written authority to do so from the appropriate party. A Participant shall not be considered to be acting for its own benefit if:

(i) The Participant is a Business Associate and has a legally enforceable written agreement authorizing the re-use, re-disclosure, aggregation, de-identification or re-identification of such Health and Social Services Information. This shall not include the Sale of Health and Social Services Information;

(ii) The Participant is performing Individual Access Services at the direction of an Individual User or an Individual User's Personal Representative; or

(iii) The Participant is a Social Services Organization and has a legally enforceable written agreement authorizing the re-use, re-disclosure, aggregation, de-identification or re-identification of such Health and Social Services Information with a government entity, Government Participant or other Social Services Organization. This shall not include the Sale of Health and Social Services Information.

b. Unless permitted by Applicable Law, Participants shall not, under the DSA, be required to exchange or provide access to any information subject to 42 C.F.R. Part 2.

### 4. SPECIFICATIONS

a. In order to support the development of a directory that sets forth how to exchange Health and Social Services Information among Participants, Participants shall provide any and all information set forth in the applicable Specification.

### 5. FEES

a. Participants are prohibited from charging fees to other Participants for any exchange of Health and Social Services Information under the DSA.

## IV. Definitions

“**Health Care Operations**” for purposes of this policy, shall consist of the following activities:

1. Quality Assessment and Improvement activities as described in subsection (1) of the definition of health care operations set forth at 45 C.F.R. § 164.501.

2. Population-based activities relating to improving health or reducing health care costs, protocol development, case management and care coordination and contacting of health care providers and patients with information about treatment alternatives as set forth at 45 C.F.R. § 164.501.

“**Payment**” shall have the same meaning as set forth at 45 C.F.R. § 164.501 of the HIPAA Regulations.

“**Public Health Activities**” shall mean an access, use or disclosure permitted under the HIPAA Regulations and any other Applicable Law for public health activities and purposes, including an access, use or disclosure permitted under 45 C.F.R. § 164.512(b) and 45 C.F.R. § 164.514(e). Public Health Activities excludes activities related to oversight or enforcement of laws, regulations or rules by Governmental Participants.

“**Research**” shall mean a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

“**Sale of Health and Social Services Information**” shall mean the disclosure of Health and Social Services Information in return for direct or indirect remuneration from or on behalf of the recipient of the Health and Social Services Information. Sale of Health and Social Services Information shall not include the disclosure of Health and Social Services Information for the activities set forth in 45 C.F.R. § 164.502(a)(5)(ii)(B)(2).

“**Social Services Activities**” shall mean the Social Services provided by Social Service Organizations.

All other capitalized terms not defined herein shall have the same meaning as set forth in the DSA.

V. **References**

VI. **Related Policies and Procedures**

Individual Access Services Policy and Procedure

Requirement to Exchange Health and Social Services Information Policy and Procedure

VII. **Version History**

<b>Date</b>	<b>Author</b>	<b>Comment</b>
April 21, 2022	CalHHS CDII	Draft for DxF Data Sharing Agreement Subcommittee review
May 12, 2022	CalHHS CDII	Draft for DxF Stakeholder Advisory Group review and public comment