

CalHHS Data Exchange Framework Policy and Procedure

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| Subject: California Information Blocking Prohibitions | |
| Status: | Policy: OPP-[X] |
| Publication Date: | Version: 1.0 |

I. Purpose

California Health and Safety Code section 130290 was enacted in 2021 and establishes the creation of the California Health and Human Services Data Exchange Framework (“Data Exchange Framework”), which requires certain data sharing among Participants. The purpose of this policy is to support the Data Exchange Framework’s commitment to facilitating the timely Access, Exchange, and Use of Health and Social Services Information in compliance with Applicable Law.

II. Policy

This policy prohibits Participants from undertaking any practice that is likely to interfere with Access, Exchange, or Use of Health and Social Services Information for the Required Purposes set forth in the Permitted, Required and Prohibited Purposes Policy and Procedure. This policy applies to all Participants.

This policy shall have no impact on or limit a Participant’s responsibility, if any, to comply with the Federal Information Blocking Regulations or other applicable law.

This policy shall be effective as of January 31, 2024.

III. Procedures

No Participant shall engage in Information Blocking. This policy and procedure shall apply the Federal Information Blocking Regulations (45 C.F.R. Part 171, as may be amended) to all Health and Social Services Information. Participants shall be considered in compliance with this policy and procedure if the Participant meets the Federal Information Blocking Regulations, as outlined below.

For the purposes of this policy and procedure, when the Federal Information Blocking Regulations use the term “electronic health information,” the term Health and Social Services Information shall also apply.

1. **PARTICIPANTS SUBJECT TO THE FEDERAL INFORMATION BLOCKING REGULATIONS**

a. If a Participant is subject to the Federal Information Blocking Regulations (45 C.F.R. Part 171, as may be amended), the Participant shall comply with the Federal Information Blocking Regulations with respect to Health and Social Services Information. The Participant shall be considered in compliance with this policy and procedure if the Participant is in compliance with the Federal Information Blocking Regulations, except as follows:

i. **Fees Exception.** A Participant may not use the Fees Exception in the Federal Information Blocking Regulations (45 C.F.R. § 171.302) to withhold Health and Social Services Information for a Required Purpose in the Permitted, Required and Prohibited Purposes Policy and Procedure.

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ii. **Licensing Exception.** A Participant may not use the Licensing Exception in the Federal Information Blocking Regulations (45 C.F.R. § 171.303) to withhold Health and Social Services Information for a Required Purpose in the Permitted, Required and Prohibited Purposes Policy and Procedure.

2. PARTICIPANTS WHO ARE NOT SUBJECT TO THE FEDERAL INFORMATION BLOCKING REGULATIONS

a. If a Participant is not subject to the Federal Information Blocking Regulations (45 C.F.R. Part 171, as may be amended), the Participant shall comply with the Federal Information Blocking Regulations with respect to Health and Social Services Information as described in this Section. A Participant's Behavior shall not be considered Information Blocking if the Participant meets one of the exceptions from the Federal Information Blocking Regulations, as described below.

b. **Preventing Harm Exception.** A Participant's Behavior shall not be considered Information Blocking if the Participant meets the conditions of the Preventing Harm Exception (45 C.F.R. § 171.201, as may be amended) in the Federal Information Blocking Regulations. For purposes of this policy and procedure:

i. **Type of Risk.** To meet the "Type of Risk" requirement in the Federal Information Blocking Regulations, a Participant may have the risk of harm determined by the professional judgment of a person with a Professional Relationship with the individual instead of a licensed health care provider if a Participant does not staff a licensed health care provider.

ii. **Type of Harm.** To meet the "Type of Harm" requirement in the Federal Information Blocking Regulations, a Participant must establish the type of harm was one that could serve as grounds for the Participant to deny access under applicable law and/or the Individual Access Policy and Procedure.

c. **Privacy Exception.** A Participant's Behavior shall not be considered Information Blocking if the Participant meets at least one sub-exception of the Privacy Exception (45 C.F.R. § 171.202, as may be amended) in the Federal Information Blocking Regulations. For purposes of this procedure:

i. **Denial of Individual's Request for their Electronic Health Information.** If an individual or their Personal Representative requests Health and Social Services Information, a Participant's denial of the individual's request must be consistent with applicable law and/or the Individual Access Policy and Procedure.

d. **Security Exception.** A Participant's Behavior shall not be considered Information Blocking if the Participant meets the conditions of the Security Exception (45 C.F.R. § 171.203, as may be amended) in the Federal Information Blocking Regulations.

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e. **Infeasibility Exception.** A Participant’s Behavior shall not be considered Information Blocking if the Participant meets the conditions of the Infeasibility Exception (45 C.F.R. § 171.204, as may be amended) in the Federal Information Blocking Regulations.

f. **Health IT Performance Exception.** A Participant’s Behavior shall not be considered Information Blocking if the Participant meets the conditions of the Health IT Performance Exception (45 C.F.R. § 171.205, as may be amended) in the Federal Information Blocking Regulations. For purposes of this policy and procedure, the Health IT Performance Exception shall apply to Health and/or Social Services IT Performance.

g. **Content and Manner Exception.** A Participant’s Behavior shall not be considered Information Blocking if the Participant meets the conditions of the Content and Manner Exception (45 C.F.R. § 171.301, as may be amended) in the Federal Information Blocking Regulations.

IV. Definitions

Any term used but not capitalized in this policy shall have the same meaning as its capitalized equivalent set forth below.

“**Access**” means the ability or means necessary to make Health and Social Services Information available for exchange or use.

“**Behavior**” means any act or omission by a Participant.

“**Exchange**” means the ability for Health and Social Services Information to be transmitted between and among different technologies, systems, platforms, or networks.

“**Federal Information Blocking Regulations**” shall refer to regulations set forth in Part 171 (Information Blocking) of Title 45 of the Code of Federal Regulations.

“**Health and/or Social Services IT**” means hardware, software, integrated technologies or related licenses, intellectual property, upgrades, or packaged solutions sold as services that are designed for or support the use by Health Care Organizations, Social Service Organizations or patients for the electronic creation, maintenance, access, or exchange of Health and Social Services Information.

“**Individual**” means a patient or a person who is the recipient of services, including Social Services.

“**Information Blocking**” means any practice that is likely to interfere with access, exchange, or use of Health and Social Services Information for a Required Purpose set forth in the Permitted, Required and Prohibited Purposes Policy and Procedure.

“**Interfere with**” or “**interference**” means to prevent, materially discourage, or otherwise inhibit.

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“**Professional Relationship**” means the person who makes the determination is an employee, contractor, or agent of a Participant and has either a current or prior direct working relationship with the individual or sufficient professional knowledge and interaction with the Health and Social Services Information of the individual’s file maintained by the Participant to make a determination as to the potential risk of harm from releasing the information. Professional relationship shall specifically exclude Qualified Health Information Organizations or other data exchange intermediaries that facilitate the exchange of Health and Social Services Information between Participants.

“**Social Services**” means the delivery of items, resources, and/or services to address social determinants of health and social drivers of health, including but not limited to housing, foster care, nutrition, access to food, transportation, employment, and other social needs.

“**Use**” means the ability for Health and Social Services Information, once accessed or exchanged, to be understood and acted upon.

V. References

Individual Access Policy and Procedure

Permitted, Required and Prohibited Purposes Policy and Procedure

VI. Resources

[The Office of the National Coordinator for Health Information Technology. Cures Act Final Rule: Information Blocking Exceptions](#)

VII. Version History

| | Date | Author | Comment |
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| | January 10, 2023 | CalHHS CDII | Draft for public comment |