California Health & Human Services Agency

Data Exchange Framework
Data Sharing Agreement Subcommittee

Meeting #2

Wednesday, December 22, 2021
11:00 a.m. to 1:30 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 <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** • *John Ohanian, Chief Data Officer, CalHHS*
11:10 AM	**Meeting Objectives** • *John Ohanian*
11:15 AM	<u>**Public Comment**</u>
11:30 AM	**Data Sharing Agreement (DSA) Subcommittee Charter** • *John Ohanian*
11:35 AM	**Data Exchange Framework (DxF) Guiding Principles & the DxF DSA** • *John Ohanian*
11:45 PM	**Key Considerations for the DxF DSA** • *Dr. Rim Cothren, HIE Consultant to CalHHS CDII*
12:10 PM	**Threshold Questions for the DxF DSA** • *Jennifer Schwartz, Chief Counsel, CalHHS CDII*
1:10 PM	**Developing the DxF DSA** • *Jennifer Schwartz; Lammot du Pont, Senior Advisor, Manatt Health Strategies*
1:25 PM	**Closing Remarks** • *John Ohanian*

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 updates to the **DSA Subcommittee Charter**

2 Discuss the **DxF's Principles of Data Exchange** and their relation to the DxF DSA

3 Review **key considerations and threshold questions** pertaining to the development of the DxF DSA

4 Discuss the **process and timeline for DxF DSA development**

Public Comment Period

Data Sharing Agreement (DSA) Subcommittee Charter

Subcommittee Charter
Updates

The DSA Subcommittee Charter has been updated in acknowledgement of the feedback provided by Subcommittee Members at the November meeting

Specific revisions to the DSA Subcommittee Charter include:

- Addition of text stating that the DxF DSA will leverage existing DSAs when possible and will avoid duplication of existing laws and policies.

- Add the clause 'including but not limited to' when listing DSA Subcommittee activities or documents that may be reviewed.

- Add clarifying language on the extent to which technical specifications and standards will be included in the DxF DSA versus other supporting documentation.

The revised DSA Subcommittee Charter is available on the CalHHS website at: https://www.chhs.ca.gov/data-exchange-framework/

Data Exchange Framework (DxF): Guiding Principles & the DxF DSA

DxF Guiding Principles
Overview

CalHHS and the Stakeholder Advisory Group are developing a set of Guiding Principles* that will inform the development of the Data Exchange Framework and its Data Sharing Agreement

The CalHHS DxF Guiding Principles will be core expectations or "rules of the road" that:

- Guide the design and implementation of the DxF and electronic health and human services information exchange in California;

- Support the deliberations and formulation of Advisory Group (AG) and its subcommittees' DxF and DxF Data Sharing Agreement recommendations; and,

- Build trust among data exchange partners

*Note: Principles were informed by the CalHHS Guiding Principles, Consumer and Patient Protection Principles for Electronic HIE in CA, and ONC's TEFCA Principles for Trusted Exchange and align with AB-133 requirements.

DxF Guiding Principles
Full List (DRAFT)

**There are eight principles* that the DSA Subcommittee must consider
when developing recommendations for the DxF DSA**

Principle	Description
1	Advance Health Equity
2	Make Data Available to Drive Decisions and Outcomes
3	Support Whole Person Care
4	Promote Individual Data Access
5	Reinforce Individual Data Privacy & Security
6	Establish Clear & Transparent Terms and Conditions for Data Collection, Exchange, and Use
7	Adhere to Data Exchange Standards
8	Accountability

*Note: The Guiding Principles shown here are being refined as of 12/17/21 and are subject to change.

DxF Guiding Principles
#1-2 (DRAFT)

Principle 1	**Advance Health Equity**	We must develop and implement data exchange policies, processes and programs to better understand and address health inequities and disparities among all Californians. Advancing health equity requires filling disproportionate gaps in data completeness and quality for historically underserved and underrepresented populations and information sharing infrastructure capable of consolidating and curating individual demographic and health information.
Principle 2	**Make Data Available to Drive Decisions and Outcomes**	We must collect, exchange, and use actionable and timely information within and across health and human service sectors, to the greatest extent allowable by law, to: • better understand and manage health needs and manage conditions at the level of the individual, within our communities, and across our populations; • assess the impact of our programs, operations, and payment arrangements so that we may identify opportunities and implement new strategies to improve quality, experience and outcomes of care and services and advance new payment models that support population health improvement and the delivery of value-based care.

CalHHS
California Health & Human Services Agency

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CALIFORNIA HEALTH & HUMAN SERVICES AGENCY

***Note**: The Guiding Principles shown here are being refined as of 12/17/21 and are subject to change.

DxF Guiding Principles
#3-5 (DRAFT)

Principle 3	Support Whole Person Care	We must promote and improve data collection, exchange, and use across health and human services organizations so that we may gain greater insight into the needs of the people we serve and can better meet individuals' whole person care needs, to the greatest extent allowable by law and in alignment with federal and state standards.
Principle 4	Promote Individual Data Access	We must ensure that all Californians and their caregivers have access to their electronic health and human services information.
Principle 5	Reinforce Individual Data Privacy & Security	We must collect, exchange, and use health and human service information in a secure manner that promotes trust, ensures data integrity and patient safety, and adheres to federal and state privacy law and policy.

*Note: The Guiding Principles shown here are being refined as of 12/17/21 and are subject to change.

DxF Guiding Principles
#6-8 (DRAFT)

Principle 6	Establish Clear & Transparent Terms and Conditions for Data Collection, Exchange, and Use	We must conduct all exchange and operations openly and transparently, and communicate clear policies and procedures so that all Californians and the organizations that serve them can understand the purpose of data collection, exchange, and use.
Principle 7	Adhere to Data Exchange Standards	We must adhere to federal, state and industry recognized standards, policies, best practices, and procedures in order to advance interoperability and usability.
Principle 8	Accountability	All entities participating in the collection, exchange, and use of health and human service information must act as responsible stewards of that information and be held accountable for any use or misuse of information other than for authorized purposes in accordance with state and federal law and California's Data Sharing Agreement and Data Exchange Framework policies.

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Key Considerations for the DxF DSA

Key Considerations
Purpose of the Discussion

The goals for this section are to: (1) share our "working assumptions" and (2) get your feedback in three areas:

- Technology

- Role of Scenarios

- Exchange Modalities

Technology

- ✓ The DxF DSA will be technology "agnostic"

- ✓ The DxF DSA will accommodate peer-to-peer arrangements <u>and</u> exchange arrangements utilizing an intermediary (e.g., participation through a Health Information Organization)

Role of Scenarios

Stakeholder Advisory Group identified six scenarios:

1. Acute or Chronic Health Needs

2. Complex Health and Social Needs

3. Population Health and Value-based Care

4. Emergency Response

5. Public Health Response

6. Coordinating Reentry

- ✓ The scenarios will serve as a "floor" for the scope of the DxF DSA

- ✓ The DxF DSA <u>must</u> support all six Scenarios at a minimum

- ✓ The DxF DSA <u>may</u> address other Scenarios not explicitly called for by the AG

Exchange Modalities

✓ The DxF DSA must support ALL the exchange modalities prompted by the Scenarios which may include query-based exchange; message delivery; publish-subscribe arrangements; and bulk data exchange.

Threshold Questions for the DxF DSA

Threshold Questions
Purpose of the Discussion

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

1. Definitions, Exchange Purposes, and Permitted Uses

2. DxF DSA Signatories

3. Addressing Differing Levels of Technical Readiness to Exchange

① Definitions, Exchange Purposes, and Permitted Uses
Legislative Definitions

AB133 requires the DxF DSA to address the exchange of information for treatment, payment, and operations purposes, and strongly encourages that the DxF DSA address public health purposes

Treatment Payment Operations	"On or before January 31, 2024, the entities… shall exchange health information or provide access to health information… in real time… pursuant to the California Health and Human Services Data Exchange Framework data sharing agreement <u>for treatment, payment, or health care operations</u>."
Public Health	"On or before January 31, 2023, the CalHHS shall… encourage the inclusion of county health, public health, and social services… as part of the California Health and Human Services Data Exchange Framework in order to assist both public and private entities to connect through uniform standards and policies. <u>It is the intent of the Legislature that all state and local public health agencies will exchange electronic health information in real time with participating health care entities</u> to protect and improve the health and well-being of Californians."

① Definitions, Exchange Purposes, and Permitted Uses
Legislatively Required Purposes

What should be considered when defining the following terms in the DxF DSA?

- **AB 133 statutory purposes:**
  - Treatment
  - Payment
  - Health Care Operations
  - Public Health

TEFCA Exchange Purposes *(for reference)*

- Treatment
- Health Care Operations (limited to):
  - Business planning and development
  - Quality assessment and improvement
- Payment (limited to):
  - Utilization review
- Individual Access Services
- Public Health (any under HIPAA or applicable law)
- Benefits Determination (federal or state agency determination, may require consent)

① Definitions, Exchange Purposes, and Permitted Uses
Other Exchange Purposes to Consider

Beyond the statutorily required purposes, to what extent should the DxF DSA address the following?

- Social service benefits and information exchange
- Benefits determination, certification, recertification, and enrollment by non-governmental entities
  - For example, CalFRESH Application Assistors, CBOs, non-profits that have contracts with government entities
- Research
- Identification of potential unenrolled beneficiaries of public benefits (not limited to health)
- Authorizations
- Any other permitted by law purpose

Special Considerations

1. Should any of the additional purposes be required?
- If so, which?
- *Example:* Individual Access

2. Should any purposes be limited, expanded?
- If so, which?
- *Example:* Benefits Determination

DxF DSA Signatories
Legislative Mandate

AB133 requires a number of health care organizations to become signatories of the DxF DSA

AB 133 requires the following entities to execute the DxF DSA on or before Jan 31, 2023:

1. General acute care hospitals
2. Physician organizations and medical groups
3. Skilled nursing facilities that currently maintain electronic records
4. Health care service plans and disability insurers
5. Clinical laboratories
6. Acute psychiatric hospitals

② DxF DSA Signatories
Discussion

Question

To what extent should the DxF DSA be developed such that entities not statutorily required to sign the document (e.g., social services agencies, HIOs, CIEs, clearinghouses, CBOs, EMS agencies, vendors) would sign and use the DSA to facilitate exchange?

Approach

The DxF DSA work will focus on mandated signatories given the tight timelines for development and establish a trust framework that other organization types could be comfortable signing.

Differing Levels of Tech Readiness to Exchange
Context and Discussion

Mandated signatories of the DxF DSA have differing levels of technical readiness and resources to support improved data exchange. These differences exist both between entity types (e.g., hospitals and skilled nursing facilities) as well as within a given entity type.

Questions

1. How do we balance the goal of improving meaningful data exchange with the goal of including all required signatories, including those with differing levels of readiness?

2. Should the DxF DSA allow for varying levels of participation depending on technological readiness e.g., read-only access for those unable to contribute data?

3. Should the DxF DSA include language requiring signatories to implement and use supporting exchange technology that they can reasonably be expected to obtain and maintain?

Developing the DxF DSA

Comparison of Key Document Types

The Data Exchange Framework (DxF), the DxF Data Sharing Agreement, and policies & procedures will all play a role in improving the exchange of health and social data in California.

Data Exchange Framework (DxF)	DxF Data Sharing Agreement (DSA)	Policies and Procedures (P&Ps)
A high-level document describing an overarching policy framework and common set of principles that support the effort to improve health data exchange in California	The legal agreement that a broad spectrum of health care organizations will be required to execute by January 31, 2023	Detailed rules and guidance to support "on the ground" implementation

Placement of Topics In <u>and/or</u> Across Documents
Proposed Approach

Data Exchange Framework (DxF)	DxF Data Sharing Agreement (DSA)	Policies and Procedures (P&Ps)
A high-level document describing an overarching policy framework and common set of principles that support the effort to improve health data exchange in California	The legal agreement that a broad spectrum of health care organizations will be required to execute by January 31, 2023	Detailed rules and guidance to support "on the ground" implementation

Examples	***Examples***	***Examples***
• *Governance (High-Level)* • *Benefits of Participation*	• *Governance (Legal Reqs)* • *Cooperation & Non-Discrimination*	• *Governance (Implementation Details)* • *Technical Specifications*

Collecting Input and Drafting the DSA

CalHHS will engage a broad set of stakeholders in the DxF DSA development and finalization process
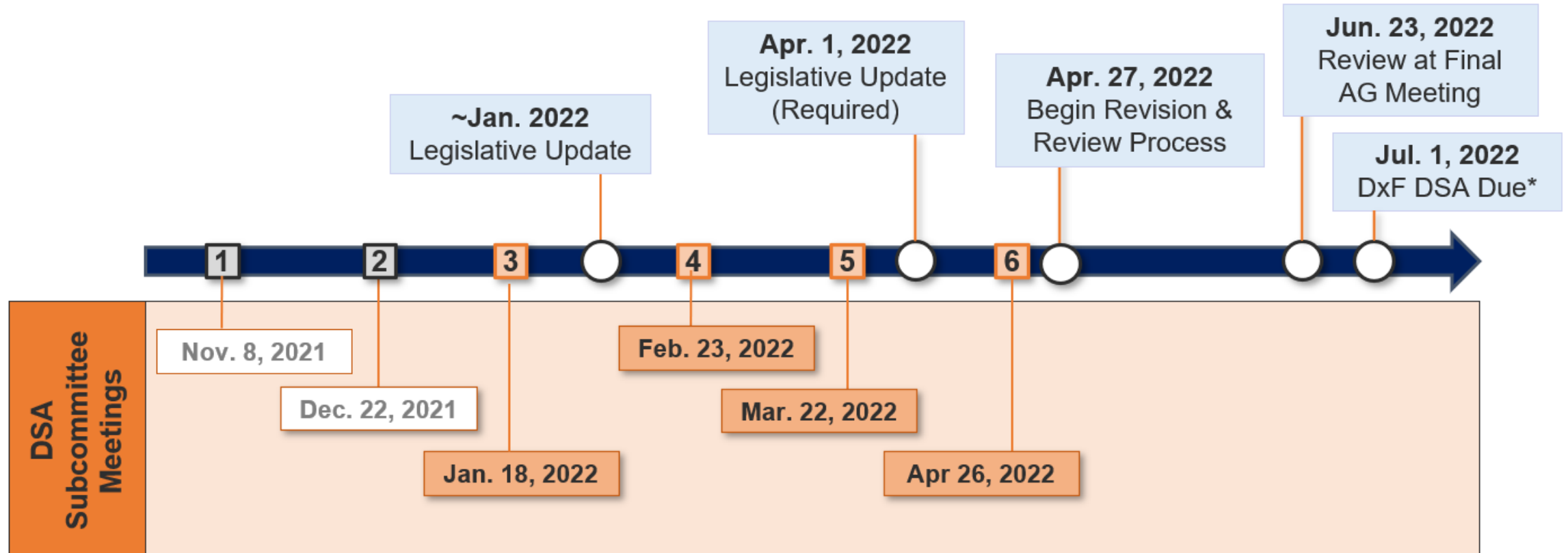
Subcommittee Members will provide ongoing input to support development of the DxF DSA

- *Periodically, DSA Subcommittee Members will receive sections of the draft DxF DSA before meetings and be asked to provide input within 10 days thereafter*

- *Subcommittee Member feedback will be reviewed and incorporated into revised language*

- *The Stakeholder Advisory Group will be provided updates on the activities of the Subcommittee and will provide guidance as needed*

A full draft of the DxF DSA will be shared broadly for stakeholder feedback in Spring 2022

- *After the last meeting of the DSA Subcommittee in April 2022, the full draft of the DxF DSA will be shared for feedback by the Stakeholder Advisory Group, state leadership, and members of the general public*

- *The draft DxF DSA will be reviewed at the final meeting of the Stakeholder Advisory Group prior to finalization*

Subcommittee Tasks & Legislated Timeline

~Jan. 2022
Legislative Update

Apr. 1, 2022
Legislative Update
(Required)

Apr. 27, 2022
Begin Revision &
Review Process

Jun. 23, 2022
Review at Final
AG Meeting

Jul. 1, 2022
DxF DSA Due*

DSA Subcommittee Meetings

1 — Nov. 8, 2021
2 — Dec. 22, 2021
3 — Jan. 18, 2022
4 — Feb. 23, 2022
5 — Mar. 22, 2022
6 — Apr 26, 2022

*Note: Specified entities are required to execute the DxF DSA by Jan 1, 2023

Closing Remarks

Next Steps

CalHHS will:

- Summarize meeting and circulate notes for review over email
- Develop draft DxF DSA language in advance of the next meeting

Members will:

- Review meeting notes and provide feedback to CalHHS staff
- Review and provide input on Meeting #3 materials once received

DSA Subcommittee Meeting Schedule

Meeting	Date
DSA Subcommittee Meeting #3	January 18, 2022 @ 12 pm -2:30 pm
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!