



**California Health & Human Services Agency
Center for Data Insights and Innovation
Data Exchange Framework Data Sharing Agreement Policies & Procedures
Subcommittee
Meeting Summary
Thursday, December 15, 2022, 9:00 a.m. to 11:30 a.m.**

Attendance

Subcommittee Members in attendance: *William Barcellona, Michelle (Shelley) Brown, Jason Buckner, Louis Cretaro, Elaine Ekpo, John Helvey, Sanjay Jain, Bryan Johnson, Diana Kaempfer-Tong, Justin Kaltenbach, Helen Kim, Steven Lane, Lisa Matsubara, Deven McGraw, Jackie Nordhoff, Eric Raffin, Mark Savage, Tom Schwaninger, Elizabeth Steffen, Lee Tien, Belinda Waltman, Terry Wilcox*

Subcommittee Staff and Presenters in attendance: *Cindy Bero (Manatt Health Strategies), Rim Cothren (Independent HIE Consultant to CDII), Lamot du Pont (Manatt Health Strategies), Jonah Frohlich (Manatt Health Strategies), Courtney Hansen (CalHHS/CDII), Helen Pfister (Manatt Health Strategies), Elaine Scordakis (CalHHS/CDII), Jocelyn Torrez (CalHHS/CDII), Olivia Tucker (CalHHS/CDII)*

Public in attendance: approximately 60 public attendees joined this meeting via Zoom video conference or through call-in functionality.

Meeting Notes

Meeting notes elevate points made by presenters, Subcommittee Members, and public commenters during the Data Exchange Framework (DxF) Data Sharing Agreement (DSA) Policies and Procedures (P&Ps) Subcommittee meeting. Notes may be revised to reflect public comment received in advance of the next DSA P&P Subcommittee meeting. Meeting materials, including full video recording, transcription, and public comments may be found on the Center for Data Insights & Innovation (CDII) [Data Exchange Framework website](#).

Welcome and Roll Call

Courtney Hansen, Assistant Chief Counsel, CalHHS CDII, welcomed attendees to the third meeting of the DSA P&P Subcommittee. Courtney reviewed the meeting agenda and introduced Subcommittee Members via roll call.

Vision and Meeting Objectives

Courtney Hansen reviewed the vision for data exchange in California as well as the meeting objectives.

Draft Language for P&Ps in Development

Rim Cothren, Independent HIE Consultant, CDII, provided a high-level overview of the four P&Ps that would be the focus of the day's meeting. These P&Ps address the following topics:

- Technical Requirements for Exchange
- Information Obstruction
- Real-Time Data Exchange
- Early Exchange

Full texts of these draft P&Ps are available on the DxF [website](#).

Technical Requirements for Exchange

Rim Cothren introduced draft language for the Technical Requirements for Exchange P&P.

Comments from Subcommittee Members included:

- The P&P should clarify what entity holds responsibility for ensuring that appropriate authorizations are in place prior to sharing data.
- There should be stronger language around the expectation to support electronic receipt/transmission of Health and Social Service Information (HSSI).
- The P&P should affirm the importance of maintaining data privacy and security and specify how entities can comply with requirements to 'securely destroy' information received about an individual in error.
- Developing example use cases could help to clarify the responsibilities of entities involved in each of the transaction types described in this P&P.
- Direct is one existing transaction standard that is widely used by many entities to support data exchange.
- It would be helpful to include clearer definitions for certain terms (e.g., "appropriate response").
- It would be helpful to clarify Participant expectations for whether data being exchanged should be limited to the 'minimum necessary'.
- Differing opinions on whether hospitals should be required to share ADT notifications directly with both QHIOs and other Participants.
 - Some participants asserted that Qualified Health Information Organizations (QHIOs) can serve as 'digital safety nets' in making sure ADT notifications get routed to the appropriate providers.
- An approach that permits or recommends broadcast requests for data may cause disruption and overwhelm systems with a large number of requests.

Information Obstruction

Courtney Hansen introduced the Information Obstruction P&P noting that it was developed to align with federal rules while expanding those provisions to apply to all DxF Participants and to all HSSI. She noted that this is an updated version of the P&P

that was shared with the DSA P&P Subcommittee in October and has undergone significant revisions, including:

- Adopting a streamlined approach where the P&P heavily leverages federal rules and incorporates them by reference to support continued alignment between state and federal direction.
- Distinguishing between requirements for entities that are already subject to federal information blocking rules from requirements for entities that are not.

Comments from Subcommittee Members included:

- General agreement on updating the name of the P&P to “California Information Blocking Prohibitions” to reflect that this P&P is a state-level policy that leverages yet is distinct from the federal information blocking rules.
- It would be helpful to review whether or not the licensing exception described in the federal information rules should be available to Participants in the Dx/F.
- Within the Preventing Harm exception, it would be helpful to define the term “professional relationship” and to clarify which entities (e.g., QHIOs, social service organizations) are able to have such a relationship with an individual.
- It would be prudent to check existing state requirements to ensure that language in the Preventing Harm exception does not contradict any established law or regulation pertaining to information blocking.
- The safety of the individual should be prioritized so that information is not being shared (e.g., across state lines) in a way that could harm the individual.

Real-Time Data Exchange

Cindy Bero, Senior Advisor, Manatt Health Strategies, introduced the Real-Time Exchange P&P, noting that the purpose of the P&P is to define the concept of “real-time” and describe Participants’ associated obligations.

Comments from Subcommittee Members included:

- The P&P should define the concept of availability (i.e., when data is considered to be available for sharing).
- Alternatively, the P&P language could be simplified to align with federal language (e.g., to note that data must be exchanged “without delay”).
- Data should only be considered available when the appropriate authorization/consent is received.
- Specifying time frames (e.g., 24 hours) may be counterproductive and allow for loopholes (e.g., creating obligations for QHIOs to share new data that becomes available in the 24-hour window after the original request is responded to).
- The P&P should consider and account for technology restrictions that may contribute to unavoidable delays to exchange.
- The P&P should more precisely specify the moment of an admission, discharge, or transfer (ADT) event that data is expected to be made available (e.g., at time of registration).

- The P&P could include scenarios to help Participants understand what is likely or unlikely to be considered Information Blocking under the DxF (similar to scenarios available in [existing federal guidance](#)).

Early Exchange

Helen Pfister, Partner, Manatt Health Strategies, introduced the Early Exchange P&P, clarified that this P&P is not intended to hinder data exchange already taking place, but rather to establish a process for new entities that wish to start using the DSA to exchange data prior to January 31st, 2024, when certain mandatory signatories are required to begin to comply with the DSA. Given the time constraints during the meeting, participants were encouraged to provide any additional feedback over email.

Public Comment

Courtney Hansen opened the meeting to public comment, which included¹:

- Lucy Johns expressed concern that a hospital could query the criminal justice system regarding confidential incarceration records.
- Lucy Johns asked why use of the XDR standard is required, stating that it is an older, legacy standard.

Next Steps and Closing Remarks

Courtney Hansen reviewed next steps and thanked Members for their engagement. She noted the following upcoming meetings:

- DSA P&P SC Meeting #4 January 26, 2023, 9:00 AM to 11:30 AM
- DSA P&P SC Meeting #5 March 9, 2023, 9:00 AM to 11:30 AM

¹ Name spelling approximated based on verbal statements.

Appendix 1. Data Exchange Framework Data Sharing Agreement and Policies & Procedures Subcommittee - Meeting Attendance (Dec 15, 2022)

Last Name	First Name	Title	Organization	Present
Atreja	Ashish	CIO and Chief Digital Health Officer	UC Davis Health	No
Barcellona	William	Executive Vice President for Government Affairs	America's Physician Groups	Yes
Brown	Michelle (Shelley)	Attorney	Private Practice	Yes
Buckner	Jason	Chief Information Officer & Chief Technology Officer	Manifest Medex	Yes
Cretaro	Louis	Lead County Consultant	County Welfare Directors Association of California	Yes
Eisenberg	Matthew	Medical Informatics Director for Analytics and Innovation	Stanford Health	No
Ekpo	Elaine	Attorney	California Department of State Hospitals	Yes
Helvey	John	Executive Director	SacValley MedShare	Yes
Jain	Sanjay	Manager, Data Analytics	Health Net	Yes
Johnson	Bryan	Chief Information Security Officer	California Department of Developmental Services	Yes
Kaempfer-Tong	Diana	Attorney	California Department of Public Health	Yes
Kaltenbach	Justin	Interim Chief Technology Officer	Los Angeles Network for Enhanced Services	Yes
Kim	Helen	Senior Counsel	Kaiser Permanente	Yes
Lane	Steven	Clinical Informatics Director Family Physician	Sutter Health Palo Alto Medical Foundation	Yes
Matsubara	Lisa	General Counsel & VP of Policy	Planned Parenthood Affiliates of California	Yes
McGraw	Deven	Lead, Data Stewardship and Data Sharing, Ciitizen Platform	Invitae	Yes
Nordhoff	Jackie	Director of Regulatory Affairs	PointClickCare	Yes
Raffin	Eric	Chief Information Officer	San Francisco Department of Public Health	Yes
Savage	Mark	Managing Director, Digital Health Strategy and Policy	Savage & Savage LLC	Yes
Schwaninger	Tom	Senior Executive Advisor, Digital Ecosystem Interoperability	Los Angeles Care	Yes
Staines	Morgan	Privacy Officer & Asst. Chief Counsel	California Department of Health Care Services	No
Steffen	Elizabeth	Chief Information Officer	Plumas District Hospital	Yes
Tien	Lee	Legislative Director and Adams Chair for Internet Rights	Electronic Frontier Foundation	Yes
Waltman	Belinda	Acting Director, Whole Person Care LA	Los Angeles County Department of Health Services	Yes
Wilcox	Terry	Director of Health Information Technology/Privacy & Security Officer	Health Center Partners	Yes