



February 14, 2023

John Ohanian  
Chief Data Officer  
California Health and Human Services Agency  
1205 O St.  
Sacramento, CA 95814

**Subject: Feedback on Draft Policies and Procedures**

Dear John:

We appreciate the opportunity to provide feedback on the following draft policies and procedures:

- California information blocking prohibitions
- Technical requirements for exchange
- Real-time exchange
- Early exchange
- Amended privacy standards and security safeguards

In addition to the comments on the attached spreadsheet, we would like to highlight the following:

### **California Information Blocking Prohibitions**

As we have noted in our previous public and written comments, we support alignment of the California Data Exchange Framework (DxF) with national standards and federal law/requirements. This draft does not provide for the use of “fees exception” allowed under federal law for access to health data. The federal government allows actors to provide information technology services for interoperability/data exchange, and to invoice health partners who want to leverage that offering. As a result, it would become cost prohibitive for providers to offer these services without reimbursement. Additionally, it could potentially disrupt the mutually beneficial agreements and data exchange between health systems and medical groups.

### **Technical Requirements for Exchange**

The draft notes that “the Participant Hospital must send electronic Notifications of ADT (admission/discharge transfer) Events to at least one Qualified HIO ...” This would infer that hospitals cannot meet the DxF requirements without onboarding with a QHIO. This is in direct conflict with hospitals using their own technology to meet the DxF requirements. Further, this would result in legal agreements with QHIOs and significant ongoing costs for hospitals to implement and maintain compliance with this proposed requirement.

Also, many hospitals currently contribute all ADT notifications that support compliance with the 2021 CMS interoperability and final access rule to a vendor that may or may not apply to become a QHIO. This requirement could potentially result in requiring hospitals to build duplicative interfaces to comply with the DxF and federal requirements.

### **Real-Time Exchange**

This draft does not specify exact timing expectations. It currently states, “without delay” or “at the time of the event.” Given there are numerous variables that impact real-time data exchange transactions, we support a less-prescriptive approach, given the latency of existing connections and those outside a participant’s control. Additionally, interfaces are often slowed by volume constraints.

The draft also notes, “In response to an Order for services or a Request for Services, Participant(s) must share the Health and Social Services Information associated with the Order or the Request for Services without delay.” Order for services is a broad term that’s not defined in the draft. As such, it could mean anything from a medical referral to social services or imaging orders. Also, there’s no standard in place to perform this type of order and response model, either between the same health providers or between different health systems. This item should be better defined and narrowed to use cases that have demonstrated technical viability and an agreed upon standard of exchange.

### **Early Exchange**

CHA has no additional comments on this issue.

### **Amended Privacy Standards and Security Safeguards**

CHA comments are in the attached spreadsheet.

Thank you again for the opportunity to provide input on the draft policies and procedures.

Sincerely,



Trina A. Gonzalez  
Vice President, Policy  
California Hospital Association

Requested Information	Guidance on how to provide the requested information	Boxes shaded in green are locations for commenters to place information
Commenter's Name (first name, last name)	Please provide your first name and last name. Do not provide prefix, suffix or title (e.g., "Jane Smith" rather than "Ms. Jane Smith, CEO")	Maria, Liu
Commenter's Organization Name (full name)	Please provide the full organization name and not abbreviations. For example, "Association of Community Organizations" rather than "ACO"	Sharp HealthCare
Date That Comments Were Prepared	Please provide the date that you finalized your comments for submission to CalHHS/CDII.	02/07/2023
Comment File Name	Please provide the title of this file using the following convention: [Your Org Name]_[Your Last Name]_[Date Prepared]. For Example: Association of Community Organizations_Smith_Jan 20, 2023.xlsx	SharpHealthCare_Liu_02072023

Do not edit the below table - for CalHHS staff use only	
Documents (i.e., Applicable Worksheets) That You Have Provided Comments On	
Document Name	Status: "Yes" = comments in Worksheet
1. P&P-California Information Blocking Prohibitions	Yes
2. P&P-Technical Requirements for Exchange	Yes
3. P&P-Real-Time Exchange	Yes
4. P&P-Early Exchange	No
5. P&P-Privacy Standards and Security Safeguards	Yes

**General Instructions:** Please use a single row for each individual comment; feel free to add new rows as needed.

Comment #	Applicable Document Version	Applicable Text from Draft "P&P - California Information Blocking Prohibitions" Document	Applicable Page Number(s)	A Brief Title or Summary of Your Comment	Full Text of Your Comment
<p><i>Please provide sequential numbering for your individual comments</i></p>	<p><b>DROP DOWN MENU OF APPLICABLE DOCUMENT VERSION:</b>            1. Jan 2023 version for Public Comment</p>	<p><i>If applicable, please copy and paste the relevant text from draft DxF document in this field</i></p> <p><i>(If responding to a question for public input, please copy and paste the relevant question)</i></p>	<p><i>Please input applicable page numbers in this field (e.g., "3" for a single page; "3-9" for a range of pages)</i></p>	<p><i>Please input a brief title or a high-level summary of your specific comment in this field. Example text: "Clarification of Definition for Government Participant."</i></p>	<p><i>Please input the full text of your comment in this field. Example text:</i></p> <ul style="list-style-type: none"> <li>• <i>What is a Governmental Participant vs a Government Entity?</i></li> <li>• <i>Would a county hospital be considered a Governmental Participant?</i></li> </ul> <p><i>Feel free to include any rationale or explanation for your comment.</i></p>
<p><b>1</b></p>	<p>1. Jan 2023 version for Public Comment</p>	<p>Section III.1.i and section III.1.ii</p>	<p>page 1 &amp; 2</p>	<p>Prohibition of licensing/fees for exchange services</p>	<p>Prohibiting licensing/fees exceptions for Participants could create barriers for interoperability. For example, some provider/physician organizations partner with health systems with more robust IT departments to achieve interoperability. As has been previously noted, CHA urges alignment with federal laws and requirements.</p>
<p><b>2</b></p>	<p>1. Jan 2023 version for Public Comment</p>	<p>This policy and procedure shall apply the Federal Information Blocking Regulations to all Health and Social Services Information</p>	<p>Page 1</p>	<p>Request to align social services timelines with federal activities</p>	<p>Requirements for sharing "social services information" should be delayed until the Centers for Medicare and Medicaid Services (CMS) releases its health equity quality measures for their final rules for other Medicare prospective payment systems and social determinants of health (SDOH) data standards for health and social care interoperability are adopted to ensure data uniformity.</p>

**General Instructions:** Please use a single row for each individual comment; feel free to add new rows as needed.

Comment #	Applicable Document Version	Applicable Text from Draft "P&P - Technical Requirements for Exchange" Document	Applicable Page Number(s)	A Brief Title or Summary of Your Comment	Full Text of Your Comment
<p>Please provide sequential numbering for your individual comments</p>	<p><i>DROP DOWN MENU OF APPLICABLE DOCUMENT VERSION:</i> 1. Jan 2023 version for Public Comment</p>	<p><i>If applicable, please copy and paste the relevant text from draft DxP document in this field</i></p> <p><i>(If responding to a question for public input, please copy and paste the relevant question)</i></p>	<p><i>Please input applicable page numbers in this field (e.g., "3" for a single page; "3-9" for a range of pages)</i></p>	<p><i>Please input a brief title or a high-level summary of your specific comment in this field. Example text: "Clarification of Definition for Government Participant."</i></p>	<p><i>Please input the full text of your comment in this field. Example text:</i></p> <ul style="list-style-type: none"> <li>• <i>What is a Governmental Participant vs a Government Entity?</i></li> <li>• <i>Would a county hospital be considered a Governmental Participant?</i></li> </ul> <p><i>Feel free to include any rationale or explanation for your comment.</i></p>
1	1. Jan 2023 version for Public Comment			Request self service audit reporting provided by QHIOS regarding data usage/access	Sharp strongly urges requirement for QHIOS to enable self service audit reporting functionality for Participants to validate that only minimum necessary data has been accessed and used by other Participants.
2	1. Jan 2023 version for Public Comment	For Hospitals, to notify Participants of ADT Events if requested by a Participant	Page 1	Clarification regarding ADT notification timeframe for post-event requests/interest	Sharp requests adding "in advance" to end of sentence for clarity. ADT event notifications are sent electronically and in real time to recipients who have a need for ADT notifications under HIPAA Privacy Rule, at time of event and require a (admit, discharge, transfer) trigger. Requests made after the event trigger cannot be transacted in such a manner.
3	1. Jan 2023 version for Public Comment	Participants must use a standardized set of attributes and identifiers	Page 1	Clarity needed for what the attributes and identifiers are	Need clarity needed for what and how attributes and identifiers are defined.
4	1. Jan 2023 version for Public Comment	Request for Information is an electronic request by a Participant	Page 2	Clarity needed regarding how Participants make requests	Need clarity on process regarding non-electronic data requests made to Participants; is process meant to be for electronic data requests only or also meant to honor the electronic process when other types of requests are made for data?
5	1. Jan 2023 version for Public Comment	The Participant Hospital must send electronic Notifications of ADT Events to at least one Qualified HIO	Page 5	Adding health information organizations and own technology	This seems to conflict with AB 133 which notes that Participants could comply "using their own technology." Policy should be expanded to allow hospitals to send ADTs using own technology or to health information organizations (HIOs).
6	1. Jan 2023 version for Public Comment	Participants that are hospitals that send electronic notifications of ADT Events to a Qualified HIO must use HL7 Version 2.5 Admit, Discharge, Transfer (ADT) messages or a later, compatible version.	Page 5	Privacy concerns	This may require a new HL7 v2.5 ADT interface to the QHIO instead of using other methods such as Direct Messaging, which are designed to transmit information to specific recipients, which ensures protection of patient information.
7	1. Jan 2023 version for Public Comment	Participants that are hospitals that send electronic notifications of ADT Events to a Qualified HIO must use HL7 Version 2.5 Admit, Discharge, Transfer (ADT) messages or a later, compatible version.	Page 5	Duplicative interfaces	Many hospitals contract with a third party to support the Centers for Medicare and Medicaid Services (CMS) Interoperability and Final Access rule that was published in 2021. In addition, many hospitals participate in a regional HIE. Given it is unknown which organizations will be a QHIO, it may require Participants to build duplicative interfaces to a QHIO.

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Comment #	Applicable Document Version	Applicable Text from Draft "P&P - Real-Time Exchange" Document	Applicable Page Number(s)	A Brief Title or Summary of Your Comment	Full Text of Your Comment
<p>Please provide sequential numbering for your individual comments</p>	<p><b>DROP DOWN MENU OF APPLICABLE DOCUMENT VERSION:</b> 1. Jan 2023 version for Public Comment</p>	<p>If applicable, please copy and paste the relevant text from draft DxF document in this field</p> <p>(If responding to a question for public input, please copy and paste the relevant question)</p>	<p>Please input applicable page numbers in this field (e.g., "3" for a single page; "3-9" for a range of pages)</p>	<p>Please input a brief title or a high-level summary of your specific comment in this field. Example text: "Clarification of Definition for Government Participant."</p>	<p>Please input the full text of your comment in this field. Example text:</p> <ul style="list-style-type: none"> <li>• What is a Governmental Participant vs a Government Entity?</li> <li>• Would a county hospital be considered a Governmental Participant?</li> </ul> <p>Feel free to include any rationale or explanation for your comment.</p>
1	1. Jan 2023 version for Public Comment	to other Participants in a timely manner	Page 1	Clarification on timely manner	Need for clarification for "timely manner," since ability to share depends on both sending and receiving Participant, and technology ability or limitations.
2	1. Jan 2023 version for Public Comment	Participants in the Data Exchange Framework must send Health and Social Services Information to other Participants	Page 1	Align with social services timelines	Align with the timeline for CMS Health Equity measures.
3	1. Jan 2023 version for Public Comment	Programmatic Delay shall mean any delay in the sharing of Health and Social Services Information by a Participant, other than a delay caused by events or circumstances that are beyond the Participant's reasonable control and that the Participant cannot address by using commercially reasonable efforts.	Page 2	Clarify Programmatic Delay	Definition for Programmatic Delay is broad. Recommend aligning with 45.CFR 171.103 and defining Programmatic delay as delay due to issues that Participants are aware of and could have been mitigated by using commercially reasonable efforts.

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Comment #	Applicable Document Version	Applicable Text from Draft "DxF P&P - Early Exchange" Document	Applicable Page Number(s)	A Brief Title or Summary of Your Comment	Full Text of Your Comment
<p><i>Please provide sequential numbering for your individual comments</i></p>	<p><i>DROP DOWN MENU OF APPLICABLE DOCUMENT VERSION: 1. Jan 2023 version for Public Comment</i></p>	<p><i>If applicable, please copy and paste the relevant text from draft DxF document in this field</i></p> <p><i>(If responding to a question for public input, please copy and paste the relevant question)</i></p>	<p><i>Please input applicable page numbers in this field (e.g., "3" for a single page; "3-9" for a range of pages)</i></p>	<p><i>Please input a brief title or a high-level summary of your specific comment in this field. Example text: "Clarification of Definition for Government Participant."</i></p>	<p><i>Please input the full text of your comment in this field. Example text:</i></p> <ul style="list-style-type: none"> <li><i>• What is a Governmental Participant vs a Government Entity?</i></li> <li><i>• Would a county hospital be considered a Governmental Participant?</i></li> </ul> <p><i>Feel free to include any rationale or explanation for your comment.</i></p>

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<p>Please provide sequential numbering for your individual comments</p>	<p><b>DROP DOWN MENU OF APPLICABLE DOCUMENT VERSION:</b> 1. Jan 2023 version for Public Comment</p>	<p>If applicable, please copy and paste the relevant text from draft DxF document in this field  (If responding to a question for public input, please copy and paste the relevant question)</p>	<p>Please input applicable page numbers in this field (e.g., "3" for a single page; "3-9" for a range of pages)</p>	<p>Please input a brief title or a high-level summary of your specific comment in this field. Example text: "Clarification of Definition for Government Participant."</p>	<p>Please input the full text of your comment in this field. Example text:</p> <ul style="list-style-type: none"> <li>• What is a Governmental Participant vs a Government Entity?</li> <li>• Would a county hospital be considered a Governmental Participant?</li> </ul> <p>Feel free to include any rationale or explanation for your comment.</p>
1	1. Jan 2023 version for Public Comment	In the event that a Participant uses, accesses, or discloses behavioral health information...	Page 2	Technical limitations	Compliance could be difficult as there are limited ways to filter behavioral health data based on the nature of the requestor of data.
2	1. Jan 2023 version for Public Comment	In the event a Participant receives information about an Individual in error	Page 2	Request changing to "discovers information" for clarity.	Request changing the word "receives" to "discovers".
3	1. Jan 2023 version for Public Comment				