

CalHHS Data Exchange Framework Policy and Procedure

Subject: Permitted, Required, and Prohibited Purposes	
Status: Final Draft	Policy: OPP-4
Publication Date: July 5, 2022 TBD	Version: 1.01.01

I. Purpose

~~The purpose of this policy is to (a) set forth the purposes for which Participants in the~~ California Health and ~~Safety Code § 130290 was enacted in 2021 and establishes the creation of the California~~ Health & Human Services Data Exchange Framework (the “Data Exchange Framework”). ~~The purpose of this policy is to:~~ (a) set forth the purposes for which Participants in the Data Exchange Framework are required and/or permitted to ~~exchange~~ Exchange and provide Access to Health and Social Services Information under the Data Exchange Framework, and (b) set forth certain restrictions on the ~~use~~ Use by Participants of Health and Social Services Information obtained under the Data Exchange Framework.

II. Policy

~~By This policy requires Participants to, 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~~ Access to Health and Social Services Information for the Required Purposes set forth in Section ~~III.1~~ II.1 of this policy. In addition, Participants may ~~exchange~~ Exchange Health and Social Services Information or provide ~~access~~ Access to Health and Social Services Information for the Permitted Purposes set forth in Section ~~III.2~~ II.2 of this policy. Participants are prohibited from ~~using~~ Using Health and Social Services Information for the purposes set forth in Section ~~III.3~~ II.3 of this policy.

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

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

~~III.~~ Procedures

1. REQUIRED PURPOSES

a. Subject to the provisions of the DSA, the Policies and Procedures, and Applicable Law, Participants are required to ~~exchange~~ Exchange Health and Social Services Information and/or provide ~~access~~ 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~~ request Health and Social Services Information ~~to~~ from another Participant for Health Care Operations if ~~each entity either the requesting Participant~~ 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.

b. Consistent with Health and Safety Code section 130290(b) and Applicable Law, Participants are not required to Exchange abortion or abortion-related services information as part of the Exchange and/or Access required by this section II.1.

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2. PERMITTED PURPOSES

a. ~~a.~~ Subject to the provisions of the DSA and the Policies and Procedures, Participants are permitted to ~~exchange~~ Exchange or provide ~~access~~ Access to Health and Social Services Information, including information subject to 42 C.F.R. Part 2, for any purpose not set forth in Section 3 below, provided appropriate Authorizations are made, if necessary, and the ~~disclosure or use~~ 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. ~~3.~~ PROHIBITED PURPOSES

a. Unless otherwise permitted by Applicable Law or a legally valid agreement, Participants shall not access Health and Social Services Information through the DSA in order to sell such information.

b. Participant shall not access Health and Social Services Information through the DSA in order to unlawfully discriminate or unlawfully deny or limit access to medical services, or prosecute or take any other adverse action against an ~~individual who accesses medical services~~ Individual or another Participant.

~~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, including API endpoints, set forth in the applicable Specification, and shall keep such information updated.

~~5.~~ FEES

~~a.~~ Participants are prohibited from charging fees to other Participants for any exchange of Health and Social Services Information under the DSA, provided that the foregoing shall not prohibit a Qualified HIO from charging fees to Participants who engage in data sharing activities through the Qualified HIO.

III. Definitions

~~“Business Associate” shall mean an organization that is defined as a “business associate” in 45 C.F.R. § 160.103 of the HIPAA Regulations.~~

~~“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~~

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~~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 the following oversight activities: audits; civil, administrative or criminal investigations; inspections; licensure or disciplinary actions; and civil, administrative or criminal proceedings or actions other than enforcement activities by a county health officer that are authorized under Cal. Health & Safety Code § 101030.~~

~~“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~~ [Data Exchange Framework Glossary of Defined Terms](#).

IV. References

~~VI. Related Policies and Procedures~~

Individual Access Services Policy and Procedure

Requirement to Exchange Health and Social Services Information Policy and Procedure

V. Version History

	Date	Author	Comment
	July 1, 2022	CalHHS CDII	Final
	TBD	CalHHS CDII	Amended draft for public input (administrative changes only to: remove language regarding charging of fees and specifications; clarify use of certain terms and ensure consistency with the DxF Glossary of Defined Terms; add reference to HSC § 130290(b); and make certain formatting changes to be consistent with other P&Ps).