The CHHS Data Exchange Framework

On July 5, 2022, the California Health and Human Services Agency (CHHS) published the CHHS Data Exchange Framework. This legal framework is intended to support health information exchange between all health and human services organizations throughout California. By law, physician practices and medical groups must comply with the requirements of the framework by January 31, 2024 (2026 for smaller practices).

This summary document lays out the components of the Data Exchange Framework and will help physician practices and medical groups decide what steps to take next.

BACKGROUND

Assembly Bill (AB) 133, passed by the Legislature as part of the 2021-22 State Budget, requires all health and human services organizations, including physician practices to:

> *exchange health information or provide access to health information to and from every other entity … in real time as specified by the California Health and Human Services Agency pursuant to the California Health and Human Services Data Exchange Framework data sharing agreement for treatment, payment, or health care operations*[1].

As detailed below, this requirement takes effect in January 2024 for most physician practices, and January 2026 for physician practices of fewer than 25 physicians and nonprofit clinics with fewer than 10 health care providers.

To operationalize the requirement, the California Health and Human Services Agency (CHHS) named the Data Exchange Framework Implementation Advisory Committee, of which CMA is a member, to advise on creating a legal framework that would support data exchange. Once completed, the Data Exchange Framework will facilitate exchange between both health entities (physicians, health plans, etc.) and human services organizations (housing, food security, etc.).

1 California Health and Safety Code §130290(b)(1)

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The complete Data Exchange Framework includes a Data Sharing Agreement, which all health and human services organizations will be required to execute. That agreement includes the rules governing data exchange, such as the data elements that can be shared, breach notifications, and privacy and security rules.

The Framework also contains plans for a new Governance Entity, a 5-to-7 member regulatory board that will be appointed by the Governor and the leadership of the State Legislature. Once named, the Governance Entity will have extensive power to set the "rules of the road" for data exchange in the State of California.

This fact sheet summarizes the main components of the Data Exchange Framework. Practices that wish to see more detailed information can visit the CHHS website.

COMPONENTS OF THE DATA EXCHANGE FRAMEWORK

Single Data Sharing Agreement

The centerpiece of the Data Exchange Framework is the Single Data Sharing Agreement (DSA). This document is a contract that all practices are required by law to execute by January 31, 2023.

The intent of the DSA is to act as a contract between physician practices, hospitals, health plans, etc. that they will make data available to each other upon request. The DSA lays out the parameters of how that data exchange should happen, predominantly via accompanying Policies and Procedures – what data elements need to be exchanged, privacy and security standards, and permitted uses of health data. The DSA also lays out practices' responsibility to comply with the HHS Data Exchange Board (see below).

The DSA is loosely based on several previous similar documents – namely, the federal Trusted Exchange Framework and Common Agreement (TEFCA) and the California Data Use and Reciprocal Support Agreement (CalDURSA). Those documents, however, were designed to be signed by health information organizations only. The DSA has been adapted to speak to the needs of practices, hospitals, and other health and human services organizations.

The Policies and Procedures are outlined in Appendix A. The complete DSA, along with all of the Policies and Procedures, can be found at the CHHS Data Exchange Framework Website.

On November 29, 2022, CHHS officially launched the online portal for practices to begin signing the DSA. On or before January 31, 2023, practices should visit https://signdxf.powerappsportals.com/, register, and sign the DSA.

HHS Data Exchange Board

Another major component of the Data Exchange Framework is the creation of an "HHS Data Exchange Board." This new board would have 5-to-7 members, appointed by the Governor and the leaders of the State Legislature. Exact details on the size, scope, and structure of the Governing Board will be worked out during the 2023 Session of the State Legislature.

The role of this new regulatory board is to oversee the function of the Data Exchange Framework. For example, the Board will be empowered to change the DSA and the Policies and Procedures to reflect new laws, changing standards, etc. The Board will also have the authority to enforce compliance with the DSA, although the exact methods of enforcement are not yet specified.

The proposed core functions of the Data Exchange Board are summarized in the chart below:

Proposed Functions of the Governance Entity
Harmonization of State Law with Federal Law
Development of and Modifications to the Data Sharing Agreement Policies and Procedures
Additional Data Sharing Policies and Procedures and Requirements
Review of Federal Standards and National Efforts Impacting Data Exchange
Enforcement of and Monitoring Compliance with Policies and Procedures, Requirements, and Guidelines
Oversee Dispute Resolution and Grievance Process
Program Development and Financing
Identification and Qualification of Data Exchange Intermediaries
Communications and Education
Coordination with Other Branches of State and Local Government

Importantly, the state does not currently have legal authority to create the Data Exchange Board. It will need to be developed in legislation, either in the end of the 2022 Legislative Session or early in 2023. CMA will release more information about this legislation if and when it becomes available.

In the interim, before the Data Exchange Board can be officially named, the state will be forming implementation working groups. The composition of those working groups, and how they will be named, has not been announced as of the writing of this Fact Sheet.

For more detail on the Governance Entity Proposal, please click here.

Technical Assistance for Small Practices

In the 2022-23 State Budget, the Governor and the Legislature agreed to appropriate $50 million for technical assistance to small physician practices, along with some other safety net providers. Supporting inclusion of this funding was the top priority of CMA during the Data Exchange Framework Advisory Group work. As of the writing of this memo, however, there is no detail available about how that money will be spent, or how practices may apply for the assistance. CMA will make this information available to practices when it becomes available.

TIMELINE AND NEXT STEPS

Now that the final Data Exchange Framework has been published, physician practices should begin preparing for implementation. This will begin with all practices executing the Data Sharing Agreement, through a process that has not been announced as of the writing of this Fact Sheet.

This table outlines the timeline for the next phase of the Framework:

Date	Requirement
July 5, 2022	CHHS published the final Data Exchange Framework
January 31, 2023	All health and human services organizations (including physician practices) must execute the Data Sharing Agreement
January 31, 2024	Most health care providers (see table below) must implement the Data Exchange Framework
January 31, 2026	Small and safety net practices (see table below) must implement the Data Exchange Framework

As noted above, all physician organizations are required to execute the Data Sharing Agreement by January 31, 2023. However, some smaller entities are given additional time to comply with the requirements of the agreement. The chart below summarizes which entities must be exchanging data by January 31, 2024, and which ones have two additional years:

January 31, 2024	January 31, 2026
General Acute Care Hospitals	Physician Practices of Fewer than 25 Physicians
Physician Organizations and Medical Groups	Rehabilitation Hospitals
Skilled Nursing Facilities (that currently maintain EHRs)	Long-Term Care Acute Hospitals

Health Plans (including Medi-Cal managed care plans)	State-run Acute Psychiatric Hospitals
Acute Psychiatric Hospitals	Non-Profit Clinics (<10 health care providers)

REMAINING OPEN ITEMS

Despite the Data Exchange Framework being published, there are a few important components that will still be worked out in the weeks and months ahead, either in stakeholder groups or at the Data Exchange Board. Some of these items include:

- **Definition of "Qualified Health Information Organization"**
  The Data Exchange Board will have the authority to determine what constitutes a "Qualified Health Information Organization" or QHIO. The policy intent behind this process is to ensure that any entity that holds itself out as an HIO can perform all the functions needed for the Framework. If, however, the qualifications are made too restrictive, it could force smaller or more innovative technologies out of the California framework.
- **Delegation of Responsibility**
  Many practices will choose to delegate their responsibilities under the Data Exchange Framework to another entity, such as an IPA or a medical group. Other practices may have pre-existing arrangements that cover their responsibilities under the DSA. It is unclear exactly how that will happen, especially for practices that participate in more than one such organization.
- **Updates to Policies and Procedures**
  Once seated, the Data Exchange Board is allowed to impose changes to the DSA and the Policies and Procedures documents. As currently written, the Framework allows these changes to occur at any time, with a 45-day review and 180 days for implementation. CMA has advocated that the state limit any such changes to once per year, happening on a predictable schedule, so practices and vendors can plan for them.

FOR MORE INFORMATION

- California Health and Human Services Agency – Data Exchange Framework Website
- CMA Special Briefing for Medical Groups: The California Data Exchange Framework (YouTube Video)

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Appendix A: Data Sharing Agreement Policies and Procedures

Included with the Data Sharing Agreement are eight (8) Policies and Procedures Documents. These additional documents can be altered over time by the Governance Entity (see above), allowing the Framework to respond to changing conditions, without requiring organizations to execute a new Data Sharing Agreement.

The eight (8) Policies and Procedures Documents are as follows (included links launch the current Policies and Procedures documents on the CHHS Data Exchange Framework Website):

1. **Process for Amending the Data Sharing Agreement**
   Description: This document lays out the procedures that the Governance Entity must follow to develop and disseminate amendments to the Data Sharing Agreement. In general, the Governance Entity will have 45 days to review suggested amendments to the agreement. If they approve a change, it will take effect 180 days later.
   Link: https://www.chhs.ca.gov/wp-content/uploads/2022/07/2.-CHHS_DSA-Amendment-of-DSA-PP_Final_v1_7.1.22.pdf

2. **Modifications to the Policies and Procedures**
   Description: This document describes the process the Governance Entity must follow to amend the Policies and Procedures that accompany the Data Sharing Agreement. The timelines for amendments to the Policies and Procedures are the same as those included in the document above – 45 days for review, 180 days for implementation.
   Link: https://www.chhs.ca.gov/wp-content/uploads/2022/07/3.-CHHS_DSA-Amendment-of-Policies-and-Procedures-PP_Final_v1_7.1.22.pdf

3. **Breach Notification**
   Description: This document summarizes the breach notification requirements that practices must follow. In general, it requires practices to follow existing law. The one new requirement is that practices will have to notify the Governance Entity in the case of a breach.
   Link: https://www.chhs.ca.gov/wp-content/uploads/2022/07/5.-CHHS_DSA-Breach-Notification-PP_Final_v1_7.1.22.pdf

4. **Permitted, Required, and Prohibited Purposes**
   Description: This document generally clarifies that physician practices are allowed to access data for any purpose that is currently allowed by law (treatment, payment, and health care operations). It further stipulates that all participants in the Data Exchange Framework are prohibited from charging fees to other participants (except for health information organizations

charging membership fees).
Link: https://www.chhs.ca.gov/wp-content/uploads/2022/07/6.-CHHS_DSA-Permitted-Required-and-Prohibited-Purposes-PP_Final_v1_7.1.22.pdf

5. **Requirement to Exchange Health and Social Services Information**
Description: This document clarifies that practices have a duty to respond to requests for information, either by providing the requested information or explaining why it cannot be exchanged. It also reiterates that the Framework is "Technology Agnostic," meaning that practices are free to use any technology that can support data exchange.
Link: https://www.chhs.ca.gov/wp-content/uploads/2022/07/7.-CHHS_DSA-Requirement-to-Exchange-Health-and-Social-Services-Info-PP_Final_v1_7.1.22.pdf

6. **Privacy and Security Safeguards**
Description: This document outlines the privacy and security guidelines that practices must follow, which are largely based on HIPAA and the Confidentiality of Medical Information Act (CMIA). As such, it will have a more pronounced effect on entities that are not currently covered by those existing statutes..
Link: https://www.chhs.ca.gov/wp-content/uploads/2022/07/8.-CHHS_DSA-Privacy-and-Security-Safeguards-PP_Final_v1_7.1.22.pdf

7. **Individual Access Services**
Description: This document details the individual's right to obtain their own health information. It stipulates that this right is in accordance with Applicable Law and regulation. For physician practices there is effectively no change.
Link: https://www.chhs.ca.gov/wp-content/uploads/2022/07/9.-CHHS_DSA-Individual-Access-Services-PP_Final_v1_7.1.22.pdf

8. **Data Elements to be Exchanged**
Description: This final document comports with the federal Information Blocking Rules by stipulating that practices must be able to share all data in the United States Core Data for Interoperability (USCDI) Version 1 until October 6, 2022, and then all electronic health information held by the practice. It also confirms that data should be exchanged using national and federal data standards (HL7).
Link: https://www.chhs.ca.gov/wp-content/uploads/2022/07/4_CHHS_DSA-Data-Elements-to-Be-Exchanged-PP_Final_v1_7.1.22.pdf

Appendix B: Frequently Asked Questions

+ **Does the Data Exchange Framework require practices to utilize a state health information exchange (HIE)?**
  NO.

+ **What about physicians who do not use an electronic health record (EHR)? Do they still have to comply?**
  YES. Physicians who work on paper still have to execute the Data Sharing Agreement and respond to requests for information from other health care entities. Exactly how that will happen is still to be decided.

+ **If a practice contracts with a health information organization (HIO), do they need to do anything else?**
  YES. Practices that contract with an HIO (such as Manifest Medex, LANES, Inland Empire HIE, etc.), or who utilize a national network (such as Carequality) are still required to execute the Data Sharing Agreement. These practices, however, will have an easier time complying with the requirements of the Data Exchange Framework, as they are likely already sharing the required data.

+ **Do smaller practices, who don't have to comply with the Data Exchange Framework until 2026, still have to sign the DSA in 2023?**
  YES.

+ **Do physicians have to share their clinical notes with patients?**
  In most cases, YES. Although, that is not related to the Data Exchange Framework. The federal 21st Century Cures Act Final Rule (aka the "Information Blocking" Rule) requires physicians, in most cases, to share clinical notes with their patients. For background on the Information Blocking Rule, please see here: https://www.cmadocs.org/newsroom/news/view/ArticleID/49303/t/Federal-information-blocking-rule-now-in-effect.

+ **Do the Health Information Portability and Accountability Act (HIPAA) and the Confidentiality of Medical Information act (CMIA) still apply under the Data Exchange Framework?**
  YES. All existing privacy laws and regulations still exist under the Data Exchange Framework.

+ **Will the Data Exchange Framework require physicians to share very sensitive data, such as reproductive health or mental health information?**
  NO. All of the existing protections for sensitive data, both in state and federal law, will still apply.

+ **In a medical group setting, does each individual physician have to sign the Data Sharing Agreement, or just the group?**
  Just the group. That is, there is no requirement that a medical group ask all of their member

physicians to execute the agreement. One signature at the group level will suffice. More details on which practices will be required to sign the DSA will come during 2023.

+ **Are organizations allowed to edit or change the Data Sharing Agreement prior to signing it?**
NO. By law, practices must execute the agreement as is, with no changes or amendments.