TEMPLATE LETTER – Please place on letterhead and add details specific to your organization

DATE

John Ohanian

Chief Data Officer

California Health & Human Services Agency

1205 O St.

Sacramento, CA 95814

**SUBJECT: CONCERNS WITH CALIFORNIA’S DATA SHARING AGREEMENT**

Dear John:

ORGANIZATION NAME supports a statewide health information exchange framework in California that will advance seamless care transitions, improve quality, and reduce disparities in care. NAME OF ORGANIZATION, as is the case with so many other hospitals, is already at the forefront of all health care providers in the exchange of data; our organization already executes XXXXX data exchanges per XXXX across California and nationwide.

However, to successfully implement a statewide data exchange framework and to have confidence in signing the state’s [Data Sharing Agreement (DSA)](https://www.chhs.ca.gov/data-exchange-framework/#dxf-data-sharing-agreement-and-policies-procedures), additional work is needed to ensure that scarce resources will be used efficiently and make a significant contribution toward our shared goals. The legally binding agreement that ORGANIZATION NAME has been asked to sign is currently incomplete as it does not satisfactorily provide fundamental safeguards about the exchange of Californians’ personal health information and does not comply with the requirements of the enabling statute, AB 133.

Specifically, the agreement we are being asked to sign does not adequately define the following items:

* **Real-time data exchange** — The DSA states that, “Participants shall engage in the real-time exchange of Health and Social Services Information in accordance with the timeframes set forth in the *Policies and Procedures*.” However, the state has yet to finalize what would constitute as “real-time data exchange.” For example, does this mean access or viewing of information? Another critical unanswered question is whether the state will develop a standard process to evaluate requests and only then allow data to be pushed to the requesting entity or person.
* **Qualified Health Information Organization** — The state has started to develop a program to qualify eligible health information organizations to facilitate data exchange between participants. However, the program will not be developed before Jan. 31, 2023, and this inhibits an evaluation of the capability of our internal systems to comply with the DSA.

In addition, the agreement includes language that does not comply with AB 133, which states the following:

*The California Health and Human Services Data Exchange Framework shall align with state and federal data requirements, including the federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191), the Confidentiality of Medical Information Act of 1996 (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code), and other applicable state and federal privacy laws related to the sharing of data among and between providers, payers, and the government, while also streamlining and reducing reporting burden.*

For example, the fees exception in the federal information blocking rule and breach notification are two DSA requirements that do not align with federal requirements. These additional state requirements will frustrate and prolong reporting and compliance processes — rather than streamlining them — for all health care providers.

We recognize that the California Health & Human Services Agency continues to work on these and other issues. However, the expectation to sign the DSA, would commit NAME OF ORGANIZATION to future policies and procedures before they are known and to contractually comply without context. In order to sign in good faith, we need further understanding of the requirements, so that not only can adequate resources be committed and compliance can be achieved, but the vision of a statewide data exchange can be realized.

We look forward to working with the state to clarify these and other crucial aspects of the agreement, and to participating in even greater data exchange once these critically important safeguards of Californians’ personal health information are in place.

Sincerely,

NAME

TITLE

ORGANIZATION