

Information Blocking Rule FAQ

What is the Information Blocking Rule?

A key provision of the [21st Century Cures Act](#) that Congress passed in December 2016 makes the blocking of health information illegal. CMS and the Office of the National Coordinator for Health IT (ONC) have since published the [Information Blocking Rule](#), which implements this provision. Under the Health Insurance Portability and Accountability Act (HIPAA), covered entities can share protected health information for treatment, payment, or operations, but it is not required. Under the Information Blocking Rule, health care providers must share protected health information with other covered entities and other entities as directed by the patient. The Information Blocking Rule also lays out a set of exceptions (such as protecting patient privacy) where it is considered acceptable to not share information.

What information must be shared?

The official term used in the Information Blocking Rule to identify information that must be shared is electronic health information (EHI). EHI is defined to mean electronic protected health information (ePHI) to the extent that the ePHI is included in a designated record set (DRS) as defined in HIPAA privacy regulations. Simply put, it is the information in the patient's medical record. Until October 2022, however, the rule limits that definition to only a core set of patient data. This core data consists of the data elements that make up the United States Core Data for Interoperability (USCDI). Information about the USCDI is available on [the ONC website](#).

When is it acceptable to NOT share patient information?

The Information Blocking Rule is designed to require all covered actors to share all EHI (see "What information must be shared?") unless an exception can be applied. The rule lays out a set of exceptions that can be applied. These exceptions include preventing harm, protecting privacy, safeguarding EHI security, infeasibility of sharing, and problems with software performance. Details about these exceptions are available in [this ONC fact sheet](#).

What happens if I don't share?

If you are not sharing information based on one of the stated exceptions in the Information Blocking Rule, then you are not information blocking. If no such exception applies, however, then you may be information blocking. The HHS Office of the Inspector General (OIG) would conduct an investigation to determine whether your actions constituted "interference with" the ability to access, exchange, or use EHI (i.e., information blocking). If so, then financial penalties could be applied. As of March 2021, no rules governing penalties for physicians or health care organizations have been issued, so no penalties will be levied until the OIG publishes such a rule.

When does the Information Blocking Rule go into effect?

The Information Blocking Rule will go into effect on April 5, 2021, meaning that physicians and other health care providers will need to comply with the information-sharing provisions beginning in April. However, since the OIG has not published a regulation outlining the penalties for noncompliance, there is currently no process for enforcing these requirements or penalizing physicians and providers who are not in compliance on the effective date.

Additional Resources

- [AMA: What Is Information Blocking?](#)
- [AMA: How Do I Comply With Info Blocking and Where Do I Start?](#)
- [HHS Health IT Portal Page on Information Blocking](#)